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## Crystalizing Community: “Communities of Interest” and the 2020 Michigan Independent Citizens Redistricting Commission

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# CRYSTALIZING COMMUNITY: “COMMUNITIES OF INTEREST” AND THE 2020 MICHIGAN INDEPENDENT CITIZENS REDISTRICTING COMMISSION

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By Edward Webre Plaut and Elizabeth Powers<sup>1</sup>

## ABSTRACT

*The Michigan Independent Citizens Redistricting Commission (MICRC) met for the first time in 2020 after it was created via ballot initiative in 2018. The MICRC included thirteen Michiganders tasked with drawing state house, senate, and congressional districts. The newly amended Michigan Constitution charged the MICRC with incorporating a new criterion previously unknown to Michigan redistricting: communities of interest. Communities of interest (COIs) have played a role in redistricting law across several states, gaining prominence after the Supreme Court’s landmark decision in Shaw v. Reno as an ostensibly race-neutral “traditional districting principle.” However, the concept is difficult to define. This Note is the first to study the MICRC’s attempt to codify the cultural, historical, and economic interests of communities across Michigan, as defined by Michiganders themselves. Although the MICRC worked tirelessly to review the flood of public comments, it will need to modify its approach for the next redistricting cycle. We propose several substantive and procedural changes to improve the COI review process, including firming up a thematic, “bottom-up” approach, strengthening public outreach efforts, and modernizing the comment database.*

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## INTRODUCTION

“[W]e’re gonna knock Humpty Dumpty off the wall, and then at the end, we’re gonna try to put him back together in a way that everybody is going to dislike. And once we do that, then we have done our job.” – Commissioner Steven Lett<sup>2</sup>

In 2018, Michigan voters successfully passed a ballot initiative that created the Michigan Independent Citizens Redistricting Commission (MICRC). This constitutional amendment charged the MICRC with drawing the state’s legislative and congressional districts every decade.<sup>3</sup> The MICRC would consist of thirteen commissioners, four from each major political party and five non-affiliated commissioners from around the state.<sup>4</sup> At its core, the MICRC sought to “put everyday Michiganders in charge of drawing the voting district lines. . . .”<sup>5</sup> The Michigan Constitution directed the commissioners to consider seven criteria “in order of priority.”<sup>6</sup> Third in that list was a directive that the districts “shall reflect the state’s diverse population and communities of interest.” The Michigan Constitution generally defines communities of interest (COI) as “populations that share cultural or historical characteristics or economic interests.”<sup>7</sup> Although the definition provided some guidance, the ballot initiative drafters intentionally left the concept open-ended with the hope that public submissions from around the state would “identify, show, and explain where Michigan’s communities of interest are” to help guide the MICRC’s work.<sup>8</sup>

The Commission met for the first time during the 2020 redistricting cycle. By design, the commissioners were ordinary citizens without any experience in voting rights law or redistricting. The commissioners were unsure of how to approach public comments and had many conceptual questions about the concept of “communities of interest” more generally. Should the MICRC be deferential to all submissions it received,

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2. MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF MORNING SESSION - SEPT. 18, 2020, at 95, [https://www.michigan.gov/-/media/Project/Websites/MiCRC/Transcripts/19\\_18\\_20\\_AM\\_ICRC\\_Meeting\\_Transcript\\_HR.PDF?rev=21a86865670d42e6975224610e5da190](https://www.michigan.gov/-/media/Project/Websites/MiCRC/Transcripts/19_18_20_AM_ICRC_Meeting_Transcript_HR.PDF?rev=21a86865670d42e6975224610e5da190) [<https://perma.cc/4K79-WM7W>].

3. See FAQ, MICH. INDEP. CITIZENS REDISTRICTING COMM’N, <https://www.michigan.gov/micrc/about/faq> [<https://perma.cc/NL6B-MAJK>]; MICH. CONST. art. IV, § 6.

4. See MICH. CONST. art. IV, §§ 6(1)–(2).

5. 2021 *Communities of Interest Engagement Program*, VOTERS NOT POLITICIANS (2021), <https://votersnotpoliticians.com/coi/> [<https://perma.cc/UHV2-MGZ2>].

6. MICH. CONST. art. IV, § 6(13).

7. MICH. CONST. art. IV, § 6(13)(c).

8. VOTERS NOT POLITICIANS, *supra* note 5.

regardless of facial inaccuracy or conflicting testimony? Should it set its own internal definitions of an acceptable community? How should the communities be incorporated into the mapping software, and how should the MICRC draw district lines to best represent them?

Several panels of voting rights and redistricting experts gave the commissioners a redistricting crash course. The panels insisted commissioners engage the public through online submissions and public forums to understand what a community of interest meant in Michigan.<sup>9</sup> Specifically, the panels instructed the commissioners to assess COIs' location, size, and shared policy interests. The panels explained that the MICRC would have to engage with COIs through a "bottom-up" approach, defined as soliciting public comments from around the state and allowing Michigan communities to self-define.<sup>10</sup> Even with the panels' guidance, the commissioners lacked both definitional and procedural clarity on how to approach COIs and handle the overwhelming number of public comments in the redistricting process.

While the MICRC succeeded in representing many classic examples of COIs,<sup>11</sup> the Commission failed to codify a clear definition of a "community of interest" or a public comment review process. The MICRC's final approach was one driven by feeling; commissioners drew the maps around communities that "felt" right, whether through some mix of recalled public testimony, personal experiences, or aesthetic preferences. Working with insufficient staff, the commissioners had to review diffuse streams of public comment from different platforms on their own.

The MICRC's first redistricting attempt presents an opportunity to analyze and develop budding COI doctrine within independent redistricting commissions. This Note, the first to study in detail the MICRC's public record regarding COIs, outlines the MICRC's approach to soliciting, organizing, interpreting, and codifying the thousands of public comments representing Michigan's COIs. We hope to highlight where the MICRC's work succeeded and failed. Further, we hope to provide policy recommendations to improve the public comment and community mapping process. In short, this Note suggests that future commissions should still strive for a bottom-up approach to COIs, but that they must

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9. MICH. INDEP. CITIZENS REDISTRICTING COMM'N, TRANSCRIPT OF AFTERNOON SESSION - SEPT. 17, 2020, [https://www.michigan.gov/-/media/Project/Websites/MiCRC/Transcripts/19\\_17\\_20\\_PM\\_ICRC\\_Meeting\\_Transcript\\_HR.PDF?rev=da36fcd3c8d40d693f12e477bb2d289](https://www.michigan.gov/-/media/Project/Websites/MiCRC/Transcripts/19_17_20_PM_ICRC_Meeting_Transcript_HR.PDF?rev=da36fcd3c8d40d693f12e477bb2d289) [<https://perma.cc/3DGH-NCPV>] (meeting with experts from Michigan State's Institute for Public Policy and Social Research, University of Michigan's Center for Local, State, and Urban Policy, and former members of the California Citizens Redistricting Commission).

10. See *infra* Section I.C.2.

11. See *infra* Section II.D (describing COIs such as school districts, tribal communities, and communities on vulnerable floodplains).

also make the process more manageable for the commissioners. We urge the MICRC to balance public involvement and commissioner workload in future redistricting cycles to effectively satisfy its constitutional mandate to ensure COI protection.

In Part I of this Note, we outline the background of the MICRC and “communities of interest” as a legal and scholarly concept. In Part II, we chronicle the MICRC’s approach to COIs, noting many of the communities that emerged from its work. In Part III, we provide many procedural policy suggestions, particularly on how to better approach public outreach and comment, as well as substantive critiques of the MICRC’s final approach to COIs.<sup>12</sup>

### I. BACKGROUND ON COIS

The November 2018 amendment creating the MICRC prescribed seven redistricting criteria for the commissioners “in order of priority.”<sup>13</sup> One criterion required that the MICRC’s maps “reflect the state’s diverse population and communities of interest,”<sup>14</sup> introducing the “communities of interest” criterion to Michigan redistricting. Of the seven criteria listed, COIs were third, only behind federal requirements (such as the Voting Rights Act) and contiguity of districts. Proposal 18-2 elevated “communities of interest” over other redistricting criteria like avoiding disproportionate partisan and incumbent advantage, maintaining jurisdictional lines, and ensuring reasonable compactness.<sup>15</sup>

Voters Not Politicians (VNP), the 501(c)(4) organization responsible for Proposal 18-2, maintained that accounting for such COIs was important enough to justify their prioritization.<sup>16</sup> In a “Virtual Town Hall” to generate awareness for the new constitutional criteria, Kevin

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12. After we completed this Note, a three-judge panel in the Western District of Michigan found the MICRC’s maps, particularly the districts in the Detroit-area, violated the Equal Protection Clause of the Fourteenth Amendment. *Agee v. Benson*, No. 1:22-cv-272, 2023 WL 8826692 (W.D. Mich. Dec. 21, 2023). This ruling makes the MICRC’s approach to COIs all the more worth studying in future research: To what extent did the Commission’s discussion of COIs blur the lines with excessively race-conscious redistricting? Our Note delves into the MICRC’s *procedure* for codifying COIs and the potential changes that could improve their *process*. The federal court’s ruling in *Agee* creates fertile ground for further researching the Commission’s *substantive* approach to COIs.

13. MICH. CONST., art. IV, § 6(13)(a)–(g).

14. MICH. CONST., art. IV, § 6(13)(c) (“Districts shall reflect the state’s diverse population and communities of interest. Communities of interest may include, but shall not be limited to, populations that share cultural or historical characteristics or economic interests. Communities of interest do not include relationships with political parties, incumbents, or political candidates.”).

15. MICH. CONST., art. IV, § 6(13)(a)–(g).

16. *The Voters Not Politicians Platform*, VOTERS NOT POLITICIANS, <https://votersnotpoliticians.com/work/> [<https://perma.cc/MH6H-CFDS>] (last visited Oct. 29, 2023).

Deegan-Krause—a VNP board member and Wayne State University professor—explained that COIs were ideally meant to make the redistricting process more representative of Michigan communities than of partisan interests.<sup>17</sup> Above all, Krause noted that the MICRC’s goal was to “get partisanship out” and “get community in.”<sup>18</sup> While the MICRC’s goal, according to Krause, was clear, its process remained a puzzle. This Part summarizes the legal and academic discussion of COIs until this point. It also discusses how other states have used COIs while redistricting. It concludes with the MICRC’s introduction to (and confusion with) the concept before it began drawing its maps.

### A. What is a Community of Interest?

“Community of interest” is difficult to define. Generally, its use in redistricting is designed to ensure legislatures reflect the heterogeneous policy interests of diverse voters.<sup>19</sup> The Supreme Court has treated COIs as a legitimate and important “traditional districting principle” in recent decades.<sup>20</sup> The Court’s modern study and discussion of COIs is largely tied to the line of cases following its decision in *Shaw v. Reno*, in which the Court found that the Equal Protection Clause of the Fourteenth Amendment prevented the predominance of race as a deciding factor in districts over other traditional districting principles.<sup>21</sup> COIs, along with other districting criteria like compactness and respect for jurisdictional lines, could serve as an alternative, race-neutral criterion so long as the community was “defined by actual shared interests” between community members.<sup>22</sup> As Michael Li and Yuriy Rudensky outline, giving “teeth” to COIs in redistricting “requires both organization and factual evidence[.]”<sup>23</sup> As such, the “community” and the “interest” at the heart of

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17. Voters Not Politicians, *Communities of Interest and Michigan’s New Redistricting Process: Town Hall* (Presented by VNP), YOUTUBE (Apr. 12, 2021), <https://www.youtube.com/watch?v=Lu3tE-mddmM> [<https://perma.cc/F8J4-ZCJN>].

18. *Id.*

19. Nicholas O. Stephanopoulos, *Redistricting and the Territorial Community*, 160 U. PA. L. REV. 1379, 1392 (2012) (arguing voters should be “less confused and more politically engaged” if their district boundaries reflect common interests). *See also* Karcher v. Daggett, 462 U.S. 725, 754 (1983) (Stevens, J., concurring) (defining a “politically salient class” as “one whose geographical distribution is sufficiently ascertainable that it could have been taken into account in drawing district boundaries.”).

20. *See, e.g.*, Miller v. Johnson, 515 U.S. 900 (1995); Bush v. Vera, 517 U.S. 952 (1996); Rucho v. Common Cause, 139 S. Ct. 2484 (2019).

21. *See* Shaw v. Reno, 509 U.S. 630 (1993).

22. Miller, 515 U.S. at 916.

23. Michael Li & Yuriy Rudensky, *Rethinking the Redistricting Toolbox*, 62 HOW. L.J. 713, 732–34 (2019).

each COI can be a broad swath of uniting demographics or policy initiatives, so long as they are not race-based.<sup>24</sup>

Recent Supreme Court cases have affirmed the Court’s role in scrutinizing quality COIs. In *Allen v. Milligan*, the Court assessed Alabama’s redistricting approach under the Voting Rights Act and reasserted COIs as a race-neutral redistricting principle.<sup>25</sup> The majority ruled out Alabama’s poorly justified Gulf Coast COI as pretext for maintaining the region’s “political advantage”<sup>26</sup> while also noting that the Court should not engage in “beauty contest[s]” in which it would make the final decision on which mutually exclusive COIs to incorporate into final maps.<sup>27</sup> Despite its apparent willingness to intervene in cases of weak COIs, the Supreme Court has not articulated a concrete rule that dictates when it will do so.<sup>28</sup>

Congress has also expressed the importance of COIs. The draft language of H.R.1—Congress’ (currently stalled) attempt to revive the Voting Rights Act (For The People Act of 2021)<sup>29</sup>—includes a provision for establishing independent redistricting commissions very similar to the MICRC.<sup>30</sup> As in Michigan, protection for COIs are highly prioritized, behind only reauthorized federal requirements.<sup>31</sup> Supporters of the bill in Congress likely view COIs as an essential component of redistricting.<sup>32</sup>

24. The requirement of the Fourteenth Amendment to not have race “predominate” does not excuse map makers from ignoring race entirely in redistricting. In order to comply with Section 2 of the Voting Rights Act, districts must still not have the effect of undermining the vote of cohesive minority voting blocs. This necessarily requires race-conscious mapping. *See generally* *Allen v. Milligan*, 599 U.S. 1, 21–22, 30–33 (2023).

25. *Id.* at 32 n.5 (describing the Alabama Black Belt as a “historical feature” of the state, not a “demographic one” in finding that it was an acceptable community of interest). While largely outside the scope of this Note, Justice Thomas notes, albeit indirectly, the connection between race as the basis for a COI and race as a requirement of Section 2 of the Voting Rights Act. *See id.* at 58, 64 n.13 (Thomas, J., dissenting). More research is needed on how the use of COIs might comply with (or fall short of) constitutional and statutory requirements in redistricting.

26. *Id.* at 21 (calling Alabama’s COI evidence “partial, selectively informed, and poorly supported.”).

27. *Id.*

28. The majority’s decision in *Allen* seemed dependent on the finding of the district court, which itself was based on limited expert testimony. *See generally id.* The Court’s “defined by actual interests” rule from *Miller v. Johnson* is more specifically bound to analyses of race in redistricting. 515 U.S. 900 (1995).

29. For the People Act of 2021, H.R. 1, 117th Cong. (2021).

30. *Id.* § 2401.

31. *Id.* § 2403(4). Ahead of COIs are one person/one vote, the Voting Rights Act of 1965, and an amended version of Section 2 of the Voting Rights Act of 1982. *Id.* § 2403(1)–(3). Unlike Michigan, the bill allows for consideration of political subdivisions (e.g., county, city, and township lines) as distinct COIs. *Id.* § 2403(4).

32. *Id.* § 2403(4).



### B. Other State Approaches to COIs

The Michigan Constitution's COI definition is consistent with other states' attempts to define the malleable concept.<sup>33</sup> The Michigan definition, like other states, appears to be drawn from Professor Nicholas Stephanopoulos's general framework for COIs, which includes "territorial communities"<sup>34</sup> as a criterion to mitigate partisan gerrymandering. Professor Stephanopoulos's general approach to defining salient political communities entails: "(1) a geographically defined group of people who (2) share similar social, cultural, and economic interests and (3) believe they are part of the same coherent entity."<sup>35</sup> The Alaskan Supreme Court recently adopted Stephanopoulos's definition of COIs as part of its decision to outlaw partisan gerrymandering under the Alaskan Constitution.<sup>36</sup> Like Alaska, many states that incorporate COIs have express provisions that allow for COIs.<sup>37</sup> Generally, states that do incorporate COIs into redistricting tend to use a bottom-up approach to COIs: definitions of community interests come from the communities themselves rather than redistricting officials.<sup>38</sup>

New York, Virginia, and California are prime examples of states attempting to incorporate bottom-up COI analysis into redistricting. Unlike the MICRC, New York and Virginia's commissions are purely advisory, which means that their recommended maps are not binding.<sup>39</sup> By contrast, California's commission is similar to Michigan's in that

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33. More research is needed akin to this Note that assesses the actual incorporation of COIs into the redistricting process for these commissions. How did the maps incorporate the communities? How did commissioners approach conflicting COIs? Did they set internal metrics or define the concept internally?

34. See Stephanopoulos, *supra* note 19, at 1385.

35. *Id.*

36. *In re 2021 Redistricting Cases*, 528 P.3d 40, 88 (Alaska 2023).

37. See, e.g., HAW. REV. STAT. ANN. § 25-2 ("Where practicable, submergence of an area in a larger district wherein substantially different socio-economic interests predominate shall be avoided."); IDAHO CODE ANN. §§ 72-1506-08; N.Y. CONST. art. III, §§ 4-5; *Glossary*, ARIZ. INDEP. REDISTRICTING COMM'N, <https://irc.az.gov/faq-0/glossary> [<https://perma.cc/7FUA-LDZZ>] (last visited Oct. 27, 2023).

38. For example, Idaho's Redistricting Commission is subject to the state's Open Meetings Act, requiring its commission to attend open public meetings around the state. IDAHO CODE ANN. §§ 74-204-208; 2021 *Commission for Reapportionment*, Idaho Leg., <https://legislature.idaho.gov/redistricting/2021/> (last visited Feb. 23, 2024). See also N.Y. CONST. art. III, § 4(c). Some states have public comment portals akin to Michigan's. See DRAW MY CAL. CMTY., <https://drawmycalcommunity.org/> [<https://perma.cc/YAR3-6V67>] (last visited Jan. 22, 2024). But see *Graham v. Thornburgh*, 207 F. Supp. 2d 1280, 1294-96 (D. Kan. 2002) (deferring to the state legislature's determination of a community of interest where evidence demonstrates that the plan is justifiable in light of the state's redistricting guidelines).

39. See Derek A. Zeigler & Jose Urteaga, Note, *Is There Anything Left in the Fight Against Partisan Gerrymandering? Congressional Redistricting Commissions and the "Independent State Legislature Theory"*, 122 MICH. L. REV. 561, 586-87 (2023).

commissioners have complete autonomy and their maps are binding.<sup>40</sup> While more research studying the procedural effectiveness of other state approaches is needed, the MICRC can learn from other commissions’ processes.<sup>41</sup>

Despite its statutory obligations to incorporate COIs, it is unclear how successful the Virginia Commission was in its first attempt at redistricting.<sup>42</sup> The Virginia Commission struggled to solicit submissions to its online portal, receiving only 66 COI submissions from the public.<sup>43</sup> Further, the Virginia Commission is highly susceptible to political forces, making it a subpar example for independent Commissions like the MICRC.<sup>44</sup> By contrast, the New York Commission is more politically insulated, despite not being as independent as Michigan’s Commission, making it a more promising example for the MICRC.<sup>45</sup> New York, like Michigan, is also obligated to conduct hearings on proposed plans throughout the state and to provide draft plans and data at least thirty days before the first hearing.<sup>46</sup> Additionally, the New York Commission allowed public commenters to screenshare to the commission Zoom call and explain using map visuals of their communities.<sup>47</sup> Commentators have suggested that, even with these extensive public comment requirements and initiatives, the New York Commission failed to meaningfully incorporate the communities that spoke up in these public comment periods in previous cycles.<sup>48</sup> While there is not yet extensive analysis of New York’s incorporation of COIs for this most recent districting cycle, the New York Commission has made notable adjustments in an effort to increase public participation and incorporate public comments. The

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40. *Id.*; CAL. CONST. art. XXI, § 2.

41. *See supra* note 33.

42. *See* VA. CODE ANN. § 24.2-304.04(5).

43. *MyDistricting: Virginia*, VA. REDISTRICTING COMM’N, [https://www.virginiaredistricting.org/legdistricting/virginia/community\\_links](https://www.virginiaredistricting.org/legdistricting/virginia/community_links) [<https://perma.cc/26Q6-G2VC>] (last visited Jan. 22, 2024).

44. *See* Zeigler & Urteaga, *supra* note 39, at 592–93 (noting how the Virginia legislature effectively controls the entire commission).

45. *See id.* at 598–99 (noting how New York state legislators are forbidden from serving on the commission but do get to appoint a majority of its members).

46. N.Y. CONST. art. III, § 4(c). The commission is required to conduct meetings in Albany, Buffalo, Syracuse, Rochester, and White Plains, in each of the five boroughs of New York City, and in each of the counties of Long Island. *Id.*

47. *Virtual Public Hearing*, N.Y. STATE INDEP. REDISTRICTING COMM’N, at 1:07:30–1:14:00 (Dec. 5, 2021), <https://totalwebcasting.com/view/?func=VIEW&id=nysirc&date=2021-12-05&seq=1> [<https://perma.cc/V53M-ZV82>] (allowing Columbia student and New York City native Jason Kao explain the communities around the neighborhoods he grew up).

48. Glenn D. Magpantay, *So Much Huff and Puff: Whether Independent Redistricting Commissions Are Inconsequential for Communities of Color*, 16 ASIAN PAC. AM. L.J. 4, 27 (2011) (“The Commission, typical of other IRCs, did embark on an outreach effort and conducted several hearings as part of its public input process. But the Commission did not heed any of the calls from the community, notwithstanding extensive community testimony and a demonstration.”).

New York Commission has updated its public portal using the Metric Geometry and Gerrymandering Group's (MGGG) Districtr tool. Its portal has thousands of public comments, draft map submissions, and submitted testimony.<sup>49</sup>

Although there is limited research on the California Commission's approach to COIs, it appears from our research to be the most robust and successful of any state.<sup>50</sup> Unlike the commissions in New York, Virginia, and Michigan, the California Commission places "jurisdictional lines" (city limits, county lines, township borders, etc.) as a distinct but equal criterion to COIs.<sup>51</sup> The decision to explicitly distinguish between jurisdictional communities and COIs (and the effect of this distinction on redistricting) is not yet well-studied.<sup>52</sup> However, scholars have shown that California's attempt to distinguish the two criteria (while keeping them at the same level of priority) appeared to confuse commissioners in the 2010 redistricting cycle.<sup>53</sup> The California Commission also expanded its constitutional definition of COIs as broadly as possible. Although California's constitutional definition only mentions shared "social and economic interests," the Commission appears to have expanded this understanding of "social interests" to include cultural, ethnic, and religious groups as well.<sup>54</sup>

More so than other state commissions discussed, the California Commission extensively aggregated and analyzed public comments to elucidate its COIs.<sup>55</sup> Even where the available data sets lacked insights into particular religious or community groups, the California

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49. *Public Comment Portal*, N.Y. STATE INDEP. REDISTRICTING COMM'N., <https://www.nyirc.gov/archived-submissions> [<https://perma.cc/WD43-TGDB>] (last visited Jan. 29, 2024).

50. While there is analysis of the California commission's COI efforts during the 2010s redistricting cycle, there does not appear to be research from this decade's cycle. See Karin MacDonald & Bruce E. Cain, *Community of Interest Methodology and Public Testimony*, 3 U.C. IRVINE L. REV. 609 (2013).

51. See CAL. CONST. art. XXI, § 2.

52. See Li & Rudensky, *supra* note 23, at 3 (noting that "protections for counties and political subdivisions" is often lumped in with COIs but not explicitly outlining the effects of the distinction). See also Stephen Markman, *The University of Michigan Guide to Gerrymandering*, WALL ST. J. (June 25, 2021, 5:36 PM), <https://www.wsj.com/articles/the-university-of-michigan-guide-to-gerrymandering-11624656985> [<https://perma.cc/2S8Q-D45R>] (arguing that Michigan should rely on political subdivisions over COIs for a better process).

53. See MacDonald & Cain, *supra* note 50, at 633 (arguing that when geographic and community of interest criteria "were in conflict, the Commission tipped the balance on the side of the COIs").

54. See MICH. INDEP. CITIZENS REDISTRICTING COMM'N, TRANSCRIPT OF AFTERNOON SESSION - SEPT. 17, 2020, *supra* note 9, at 85-86 (former-commissioner Barabba describing the Northern California Hmong and Sikh communities included in the commission's mapping process).

55. See MacDonald & Cain, *supra* note 50, at 626 ("The Commission's technical consultant had one team member in each meeting who summarized each public comment into a spreadsheet. A numbered code was created for every speaker, and supporting information or exhibits that were provided by speakers were likewise coded so they could be referenced along with the respective testimony. The public hearing database was updated at each input hearing and made available to the commissioners in spreadsheet format and in PDF format to the public.").

commissioners used extensive comments to include such communities in its maps.<sup>56</sup> The public comment mapping portal and comment process was vigorous, like that of New York’s: the Commission offered intuitive mapping tools for voters to submit maps of their communities as well as to present and describe these communities to the Commission over Zoom.<sup>57</sup> By the time the public comment period had closed in 2011, the portal had more than 1,300 public comments addressing COIs.<sup>58</sup> California’s process was by no means perfect: there were issues in compiling the many comments for review, including many duplicates and discrepancies between final reports and the actual number of public comments. Still, the California Commission’s robust staff was able to review every individual COI comment.<sup>59</sup> This Herculean effort improved its chances to incorporate, rather than just receive, the many COI comments.

Based on its actual implementation, the California Commission’s approach to COIs is likely the closest to Michigan’s. Both commissions use a bottom-up approach to deduce relevant COIs from thousands of submitted public comments. Although the MICRC operated without the California Commission’s level of staff support, it aspired to solicit and incorporate COIs into its maps much as its sister commission seemed to do. Members of the California Commission directly advised the MICRC commissioners that creating “as inclusive as possible” COI procedures and policies was essential to satisfying its COI mandate.<sup>60</sup>

### C. MICRC’s Introduction to and Confusion with COIs

The MICRC commissioners were meant to represent Michiganders who did not have previous political involvement.<sup>61</sup> Therefore, their complete inexperience with redistricting and voting rights law, let alone communities of interest, was intentional.<sup>62</sup> Because of their inexperience,

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56. Members of the California Commission spoke to the Michigan commissioners on their first day on their ability to find COIs using public comments. See MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF AFTERNOON SESSION - SEPT. 17, 2020, *supra* note 9, at 85–91.

57. See DRAW MY CAL. CMTY., <https://drawmycacommunity.org/> [<https://perma.cc/YAR3-6V67>] (last visited Jan. 22, 2024). See, e.g., We Draw the Lines CA, *June 10, 2021 Meeting Video*, YOUTUBE (Mar. 6, 2023), <https://www.youtube.com/watch?v=2wDdIdWToos> [<https://perma.cc/33TX-J2CM>].

58. MacDonald & Cain, *supra* note 50, at 626.

59. See *id.* at 626–27.

60. *Id.* at 88–89.

61. The Michigan Department of State invited members of the California Commission to discuss the ways they incorporated the many thousands of COI and map comments they received into its final maps. See MICH. INDEP. CITIZENS REDISTRICTING COMM’N, *supra* note 9, at 85–92.

62. See generally MICH. CONST. art. IV, § 6 (outlining the many requirements and disqualifications for commissioners).

the MICRC participated in a boot camp featuring redistricting and voting rights experts and academics from around the state and country. However, this introduction to COIs created more questions than it answered. The commissioners were often confused throughout the inconsistent training sessions. This Section outlines how many of the downstream issues that plagued the Commission's ability to implement COIs stemmed from the MICRC's introduction to the concept itself.

Boot camp experts provided working definitions for how the MICRC might understand COIs by outlining the requirements of the Voting Rights Act, one person/one vote, and the 2018 Michigan constitutional amendment.<sup>63</sup> Although the experts tried to give the commissioners a concrete definition of a COI, their guidance created confusion. The open-ended definition of COIs concerned commissioners who were worried about the incoming deluge of data and testimony.<sup>64</sup> But these concerns were dismissed by state officials, and thus the MICRC decided to pursue a community-defined approach to COIs. It was this approach that led to many of the early difficulties in the mapping process.

The boot camp began with the MICRC's first meeting on September 17, 2020, where Michigan Secretary of State Jocelyn Benson invited VNP Executive Director Nancy Wang to speak to the commissioners on the task ahead.<sup>65</sup> In her speech, Wang recounted the success of the 2018 ballot initiative and outlined the work ahead for the MICRC.<sup>66</sup> Without specifically defining "communities of interest," Wang alluded to the importance of the criterion to VNP and the many communities around Michigan "that are so excited to be giving their input to tell you about the boundaries of the communities so that they can be kept intact."<sup>67</sup> For Wang and VNP, the presence of the commissioners alone was not enough for the

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63. The commissioners heard from a number of voting rights experts, including University of Michigan Law Professor Ellen Katz, Loyola Marymount University Law School Professor Justin Levitt, and former Michigan Director of Elections Christopher Thomas. See generally MICH. INDEP. CITIZENS REDISTRICTING COMM'N, TRANSCRIPT OF MORNING SESSION - SEPT. 18, 2020, [https://www.michigan.gov/-/media/Project/Websites/MiCRC/Transcripts1/9\\_18\\_20\\_AM\\_ICRC\\_Meeting\\_Transcript\\_HR.PDF?rev=21a86865670d42e6975224610e5da190](https://www.michigan.gov/-/media/Project/Websites/MiCRC/Transcripts1/9_18_20_AM_ICRC_Meeting_Transcript_HR.PDF?rev=21a86865670d42e6975224610e5da190) [https://perma.cc/Q2Y6-PYAM].

64. See, e.g., MICH. INDEP. CITIZENS REDISTRICTING COMM'N, TRANSCRIPT OF 1:00 PM MEETING - Apr. 22, 2021, at 9-14, [https://www.michigan.gov/%20-/media/Project/Websites/MiCRC/Transcripts1/MiCRC\\_4\\_22\\_21\\_Mtg\\_Transcript.pdf?rev=3506a513ccfc48578720cc180aea6898](https://www.michigan.gov/%20-/media/Project/Websites/MiCRC/Transcripts1/MiCRC_4_22_21_Mtg_Transcript.pdf?rev=3506a513ccfc48578720cc180aea6898) [https://perma.cc/TJL2-2E83].

65. MICH. INDEP. CITIZENS REDISTRICTING COMM'N, TRANSCRIPT OF MORNING SESSION - SEPT. 17, 2020, at 20-21, [https://www.michigan.gov/-/media/Project/Websites/MiCRC/Transcripts1/9\\_17\\_20\\_AM\\_ICRC\\_Meeting\\_Transcript\\_HR.PDF?rev=448d53ac61d5457fa6d8eff8cc66a785](https://www.michigan.gov/-/media/Project/Websites/MiCRC/Transcripts1/9_17_20_AM_ICRC_Meeting_Transcript_HR.PDF?rev=448d53ac61d5457fa6d8eff8cc66a785) [https://perma.cc/ZG6A-CFRT].

66. *Id.*

67. *Id.* at 21.

process to be truly public: the “very fair and impartial” work of the Commission also needed to be a “community-driven process.”<sup>68</sup>

The MICRC then met with multiple experts for a crash-course on redistricting. These experts consistently highlighted the importance of COIs in the scheme of constitutional criteria, but offered often conflicting perspectives on how to best deal with public input. John Chamberlain from the Center for Local, State, and Urban Policy (CLOSUP) at the University of Michigan’s Ford School of Public Policy reiterated, with some qualifications, VNP’s view of the COIs process in his presentation.<sup>69</sup> Unlike VNP, Chamberlain and the CLOSUP Report argued that the MICRC should cabin the open-ended definition of community, requiring the shared interest “to have some connection to legislation.”<sup>70</sup> Additionally, CLOSUP offered a procedural decision to make the process easier on the MICRC: “articulate a clear definition of a COI” in advance so that the public knows how to participate in the MICRC’s outreach efforts.<sup>71</sup> Michigan’s former Director of Elections Christopher Thomas echoed this sentiment, recommending that until the MICRC had a definition “nailed down, [it] really can’t move forward.”<sup>72</sup> Thomas understood the ambiguity of the criterion and reminded the commissioners that inevitably, it was their decision to make: “Beauty is in the eye of the beholder, and you are the beholder, so. . . .”<sup>73</sup>

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68. *Id.*

69. See generally John Chamberlin, Alissa Graff, Sarah Gruen, Safiya Merchant, Nick Najor, Gerson Ramirez, & James VanSteel, *The Role of Communities of Interest in Michigan’s New Approach to Redistricting: Recommendations to the Michigan Independent Citizens Redistricting Commission*, U. MICH. CTR. LOC., STATE, & URB. POL’Y (Aug. 2020), <https://closup.umich.edu/policy-reports/18/the-role-of-communities-of-interest-in-michigans-new-approach-to-redistricting-recommendations> [<https://perma.cc/QE87-Z4GL>] [hereinafter CLOSUP Report]. But see Stephen Markman, *Memorandum to Michigan Independent Citizens Redistricting Commission*, HILLSDALE COLL., [https://info.hillsdale.edu/redistricting?\\_gl=1\\*108hedz\\*\\_ga\\*MTEyNDM2OTg3MC4xNjkwODMxNjAo\\*\\_ga\\_FBJP6CFLDM\\*MTY5MDgzMTYwMy4xLjAuMTY5MDgzMTYwMy42MC4wLjA](https://info.hillsdale.edu/redistricting?_gl=1*108hedz*_ga*MTEyNDM2OTg3MC4xNjkwODMxNjAo*_ga_FBJP6CFLDM*MTY5MDgzMTYwMy4xLjAuMTY5MDgzMTYwMy42MC4wLjA) [<https://perma.cc/SA35-VMJW>] (last visited Jan. 29, 2024) (responding to the CLOSUP report and advocating for a jurisdictional approach, arguing that the term “community of interest” “historically has meant in Michigan—electoral boundaries built upon counties, cities, and townships, the genuine communities of interest to which all citizens of our state equally belong.”).

70. See MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF AFTERNOON SESSION - SEPT. 17, 2020, *supra* note 9, at 42; see also CLOSUP Report, *supra* note 69, at 2 (arguing that COIs should be linked to “common bonds” over “public policy issues” that require the need to have a legislative district together).

71. See CLOSUP Report, *supra* note 69, at 6.

72. MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF MORNING SESSION - SEPT. 18, 2020, *supra* note 63, at 101.

73. *Id.* at 94.

### 1. Mapping Tools and the RFP Process

With conflicting and limited explanation on how to approach COIs, the MICRC was charged with choosing mapping tools. Specifically, the commission had to make a request for proposal (RFP) for tools that could satisfy the constitutional criteria set out in the 2018 amendment. In January 2021, months after the MICRC training boot camp, Rob Surber in the Department of Technology, Management, and Budget explained the basics of Geographic Information Systems (GIS)<sup>74</sup> and what the MICRC should look for in a contractor.<sup>75</sup> Mr. Surber explained what GIS was, how it worked, the costs involved, and the possibilities of using it to incorporate COIs into the maps.<sup>76</sup> Although the presentation noted that the MICRC needed to ensure that they were “drawing boundaries around those communit[ies] of interest and not splitting them for representation in the redistricting process,” it did not otherwise specify how COIs would be identified using the tool.<sup>77</sup>

In what would prove to be a consequential decision, the MICRC ultimately chose Election Data Services, which provided the CityGate GIS tool, from the RFP finalists.<sup>78</sup> But the MICRC also engaged with Moon

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74. A Geographic Information System (GIS) “is a computer system for capturing, storing, checking, and displaying data related to positions on Earth’s surface. By relating seemingly unrelated data, GIS can help individuals and organizations better understand spatial patterns and relationships.” *GIS (Geographical Information System)*, NAT’L GEOGRAPHIC EDUC., <https://education.nationalgeographic.org/resource/geographic-information-system-gis/> [<https://perma.cc/V88T-PJXB>] (last accessed Jan. 31, 2024). GIS “uses data that is attached to a unique location.” *What is a Geographic Information System (GIS)?*, U.S. GEOLOGICAL SURV., <https://www.usgs.gov/faqs/what-geographic-information-system-gis> [<https://perma.cc/P34C-H4BL>] (last accessed Jan. 31, 2024). It started as a desktop program and required more specialized knowledge to operate; in recent years, it has become more Internet-based. MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT – JAN. 21, 2021, at 13–19, [https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts/1\\_21\\_21\\_ICRC\\_Meeting\\_Transcript\\_Q.pdf?rev=f11546ee108e4a0a0f6dbcfb208f3cc&hash=DAB69F4B8B60B1AFC3D3C1DB293F13AD](https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts/1_21_21_ICRC_Meeting_Transcript_Q.pdf?rev=f11546ee108e4a0a0f6dbcfb208f3cc&hash=DAB69F4B8B60B1AFC3D3C1DB293F13AD) [<https://perma.cc/AA9V-2R6J>].

75. See MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT – JAN. 21, 2021, *supra* note 74; see also Rob Surber, *Redistricting Tools and RFP Considerations*, DEP’T TECH., MGMT. & BUDGET (Jan. 21, 2021), [https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/MISC2/Rob\\_Surber\\_PowerPt\\_on\\_Redistricting\\_Tools\\_and\\_RFP.pdf?rev=68b578420385496dbe4855dco7690d58&hash=AoDFDD8067B7F23AC70BB37F9F78E1A7](https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/MISC2/Rob_Surber_PowerPt_on_Redistricting_Tools_and_RFP.pdf?rev=68b578420385496dbe4855dco7690d58&hash=AoDFDD8067B7F23AC70BB37F9F78E1A7) [<https://perma.cc/2Q2V-JVK8>].

76. See generally Surber, *supra* note 75.

77. See MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT – JAN. 21, 2021, *supra* note 74, at 15–18 (stating, respectively, that “you need to be able to add authoritative data” to make sure the maps do not split COIs; that the tool’s tables needed to provide ongoing feedback regarding COIs; saying that compactness was a measure of fairness in ensuring COIs remained together; recommending that community of interest reports should be printed or displayed on the screen).

78. The budget for Election Data Services was estimated to be \$949,000. See MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT – FEB. 23, 2020, at 8, [https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts/2\\_23\\_21\\_MICRC\\_Committee\\_Meeting\\_Transcript.pdf?rev=cf138e53824449d89c159226a333179&hash=BB6A49F68C8F970D579B17EF9F9E7E96](https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts/2_23_21_MICRC_Committee_Meeting_Transcript.pdf?rev=cf138e53824449d89c159226a333179&hash=BB6A49F68C8F970D579B17EF9F9E7E96)

Duchin’s MGGG Redistricting Lab, which created a tool allowing users to draw their own districts and submit comments.<sup>79</sup> Correctly predicting the unruly flow of public comments, the MICRC sought flexibility in their choice of mapping tool, noting that it should be able to add data throughout the process.<sup>80</sup> This approach could have reflected the MICRC trying to balance its concerns. The Commission did not yet know how to handle COIs, but it still needed to move forward with tools to start drawing the maps.<sup>81</sup> Perhaps the MICRC chose to prioritize having a mapping service in place rather than having every criterion finalized, since the maps, of course, reflect all seven criteria, not just COIs.

## 2. No Internal Definitions

The commissioners were faced with a definition dilemma. While Wang and VNP called for a bottom-up approach, in which COIs self-defined, many experts from the boot camp advised commissioners to make final decisions and definitions on communities in a more involved, top-down approach.<sup>82</sup> The question became: should the MICRC define what constitutes a COI in advance of the public hearings, or should it let the term be entirely community-driven?

Initially, the MICRC advisors and some of the commissioners were open to setting an internal COI definition,<sup>83</sup> with Commissioner Douglas

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[<https://perma.cc/8E6D-EHhk>]. The budget for MGGG was \$50,000, per our conversation with Dr. Duchin. The Commission received correspondence from Dr. Duchin about MGGG providing services, per the Commission’s January 28 meeting. MICH. INDEP. CITIZENS REDISTRICTING COMM’N., TRANSCRIPT – JAN. 28, 2021, at 4, [https://www.michigan.gov/micrc/-/media/Project/Websites/MICRC/Transcripts/1\\_28\\_21\\_ICRC\\_Meeting\\_Transcript\\_Q.pdf?rev=dc72bfd4293b4538b8e03adicbffb424&hash=CF2D1ED47248ED6013EB731445C4AF78](https://www.michigan.gov/micrc/-/media/Project/Websites/MICRC/Transcripts/1_28_21_ICRC_Meeting_Transcript_Q.pdf?rev=dc72bfd4293b4538b8e03adicbffb424&hash=CF2D1ED47248ED6013EB731445C4AF78) [<https://perma.cc/WY8N-BWJU>]. The Commission pointed her to the RFP process. Ultimately, Dr. Duchin’s lab was hired, and it does not appear the result of a formal RFP, but more specifically for the public commenting and map drawing features. In other words, her tool was not used to draw the maps as a whole, although MGGG’s tools do have the capability to do so. Dr. Duchin shared with us in our meeting that the MGGG lab continues to keep the District portal open with their own time and resources.

79. See *District and Public Mapping*, MGGG (Jun. 28, 2022), <https://mggg.org/posts/district-public-mapping> [<https://perma.cc/4JEJ-N3H5>].

80. See Surber, *supra* note 75, at 15.

81. Conversely, one could view the decision of whether to pursue a bottom-up or top-down approach as a threshold question. In other words, the Commission should make a decision regarding the approach and choose the tool that can best support that approach.

82. See *Michigan Redistricting Map Analysis*, MICH. STATE U.: INST. FOR PUB. POL’Y. & SOC. RSCH. 25 (Dec. 2021), <https://ippsr.msu.edu/sites/default/files/SOSS/data-publications/FINALInterimReportWebUpdated22-compressed.pdf> [<https://perma.cc/MW29-W7GA>] [hereinafter IPPSR Report] (defining “bottom-up” approach to COIs).

83. For example, Executive Director of the MICRC, Suann Hammersmith, said “[I]t’s really important for this Commission to determine what their definition is of communities of interest



Clark even proposing minimum community size requirements.<sup>84</sup> The MICRC's General Counsel Julianne Pastula eventually made the final decision on a COI design philosophy<sup>85</sup> during Executive Director Suann Hammersmith's April 2021 presentation on the MICRC's initial COI process.<sup>86</sup> Hammersmith reiterated that the MICRC needed to let the community self-define, but stopped short of adopting a concrete COI definition.<sup>87</sup> Still, the MICRC treated Pastula's advice on the question of a minimum threshold as a prohibition against defining COIs in advance, never setting an internal standard based on the amendment language at any point in the process.<sup>88</sup> While Pastula's guidance was consistent with the philosophy of a bottom-up approach, the commissioners seemed to continue to feel both hamstrung and confused by the differing expert opinions. In short, the MICRC was not ready to wrangle the nebulous COI criterion.

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beyond what is in the Constitution which is pretty vague." MICH. INDEP. CITIZENS REDISTRICTING COMM'N, TRANSCRIPT - FEB. 11, 2021, at 12, [https://www.michigan.gov/-/media/Project/Websites/MiCRC/Transcripts1/2\\_11\\_21\\_ICRC\\_Meeting\\_Transcript\\_Q.pdf?rev=24bc0cb37c3b44e5a93938b0f33a13fo](https://www.michigan.gov/-/media/Project/Websites/MiCRC/Transcripts1/2_11_21_ICRC_Meeting_Transcript_Q.pdf?rev=24bc0cb37c3b44e5a93938b0f33a13fo) [<https://perma.cc/ZVS3-8WWR>]. At another meeting, Executive Director of CLOSUP, Tom Ivacko, said, "And finally an even more challenging issue you should start to consider is how you eventually will deal with potentially competing [communities of interest] or simply overwhelming number of [submissions] if that turns out to be the case." MICH. INDEP. CITIZENS REDISTRICTING COMM'N, TRANSCRIPT - MAR. 25, 2021, at 23-25, 36, [https://www.michigan.gov/-/media/Project/Websites/MiCRC/Transcripts1/MiCRC\\_Transcript\\_3\\_18\\_21.pdf?rev=d6c85f2536434aaa381be2b8813221f](https://www.michigan.gov/-/media/Project/Websites/MiCRC/Transcripts1/MiCRC_Transcript_3_18_21.pdf?rev=d6c85f2536434aaa381be2b8813221f) [<https://perma.cc/J8HG-4HJD>].

84. See MICH. INDEP. CITIZENS REDISTRICTING COMM'N, TRANSCRIPT - FEB. 11, 2021, *supra* note 83, at 12-14 ("We will have to take the definition out of the Constitution and enhance it somewhat on how we are going to apply it to redistricting. And the size limitation and the Constitution doesn't talk about. We don't want a community of interest of 25 people I don't believe. You know.").

85. When Commissioners Clark and Szetela again asked if the commissioners could set internal definitions or cut-offs, General Counsel Julianne Pastula "advise[d] against that." MICH. INDEP. CITIZENS REDISTRICTING COMM'N, TRANSCRIPT OF 1:00 PM MEETING - APR. 22, 2021, *supra* note 64, at 28.

86. See *Communities of Interest Process*, MICH. INDEP. CITIZENS REDISTRICTING COMM'N (Feb. 11, 2021), [https://www.michigan.gov/-/media/Project/Websites/MiCRC/MISC4/MiCRC\\_Communities\\_of\\_Interest\\_Process.pdf?rev=0bbo4d0437204cae9cd7b781d58acf8d](https://www.michigan.gov/-/media/Project/Websites/MiCRC/MISC4/MiCRC_Communities_of_Interest_Process.pdf?rev=0bbo4d0437204cae9cd7b781d58acf8d) [<https://perma.cc/53NM-6FTM>] (last visited Jan. 31, 2024).

87. MICH. INDEP. CITIZENS REDISTRICTING COMM'N, TRANSCRIPT OF 1:00 PM MEETING - APR. 22, 2021, *supra* note 64, at 33 ("[W]e want to make sure we can explain the concept of the community of interest. So citizens can understand and advocate for their community of interest."); see also MICH. INDEP. CITIZENS REDISTRICTING COMM'N, TRANSCRIPT - MAY 25, 2021, at 5, [https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts2/05\\_20\\_21\\_MICRC\\_Gaylord\\_Hearing\\_Transcript.pdf](https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts2/05_20_21_MICRC_Gaylord_Hearing_Transcript.pdf) [<https://perma.cc/77Q8-RKNV>] ("The communities of interest are identified themselves.").

88. In its final report on the Commission's maps, IPPSR called the Commission's approach a bottom-up process, a "laxer form of public input" that had the commissioners "sit back and allow the public [sic] report the communities of interest that mapmakers should consider." IPPSR REPORT, *supra* note 82, at 25-26.

## II. THE MICRC’S APPROACH TO COIS IN PRACTICE

Without a cohesive definition for COIs and with conflicting opinions from panel experts on how to approach COIs, confusion ensued in the actual map-drawing process. This Part tracks the MICRC’s approach to COIs, particularly during its initial months of map-drawing in August and September of 2021. The MICRC’s approach ranged from absolute deference to the public to honoring commissioners’ personal biases. We evaluate some of the MICRC’s final COIs and conclude that the MICRC needed a cohesive design philosophy from the start.

### A. Excessive Deference and Whole-Commission Review

While the commissioners had begrudgingly accepted a bottom-up prescription for COIs before they began mapping, they still needed to determine the actual mechanics and procedures for incorporating COIs into the maps. The agenda for the MICRC meetings from September 2020 through late August 2021 was substantial. The MICRC had to address a wide variety of logistical and planning questions as well as bring the commissioners up to speed on redistricting law.<sup>89</sup>

When mapping actually started, the MICRC struggled to codify a cohesive community evaluation process after the first round of public hearings. The initial COIs review process decided on August 19, 2021 only magnified the open-ended, unfinished nature of the COIs analysis.<sup>90</sup> In this initial process, the whole Commission deliberated each COI comment. But the ultimate decision for weighing and judging the description of the respective communities (particularly when there were conflicts among commissioners) was up to the MICRC more generally.<sup>91</sup> Moreover,

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89. See *supra* Section I.C; see generally *Meeting Notes & Materials Archive*, MICH. INDEP. CITIZENS REDISTRICTING COMM’N, <https://www.michigan.gov/micrc/meeting-notice-and-materials-archives> [<https://perma.cc/AMZ7-4SVD>] (last visited Jan. 31, 2024).

90. MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF 12:00 PM MEETING - AUG. 19, 2021, [https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts1/MiCRC\\_Transcript\\_08-19.pdf?rev=b31b43d24ded4154bc7fa3075f4b83f6&hash=499ED591061DAFB474F636A5E5659607](https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts1/MiCRC_Transcript_08-19.pdf?rev=b31b43d24ded4154bc7fa3075f4b83f6&hash=499ED591061DAFB474F636A5E5659607) [<https://perma.cc/YB96-L9XF>]; see also MICH. INDEP. CITIZENS REDISTRICTING COMM’N, MICRC MAPPING PROCESS AND CONSIDERATIONS V.8.17 21–22 (Aug. 10, 2021), [https://www.michigan.gov/-/media/Project/Websites/MiCRC/Procedure/MiCRC\\_Final\\_Mapping\\_Process\\_v817.pdf](https://www.michigan.gov/-/media/Project/Websites/MiCRC/Procedure/MiCRC_Final_Mapping_Process_v817.pdf) [<https://perma.cc/T98P-3GG5>]. The three steps boiled down to: first, determine if the commission can set the boundaries of the community and fit it into a district; if not, determine if the commission can obtain enough information to do so; and third, if there is enough information, determine whether the community of interest can be included in the mapping process.

91. See MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF 12:00 PM MEETING - AUG. 19, 2021, *supra* note 90, at 23–25 (comments of Executive Director Suann Hammersmith).

each decision to accept or deny a COI only added that COI to a database for reference in mapping. It did not guarantee that the COI actually made it onto the map.<sup>92</sup>

On August 20th, the MICRC put its initial process to the test as it began drawing the State Senate map. The Commission started with an area in southeast and south-central Michigan, including Monroe, Lenawee, and Hillsdale counties in the southeast and the greater Lansing area in south-central Michigan.<sup>93</sup> The first publicly-submitted COI that the MICRC reviewed<sup>94</sup> exemplified the issues the Commission faced early in the mapping process.<sup>95</sup> This first submission, 198920, was hardly a single community. The commenter had combined three communities meant to represent different school districts in the Lansing area: Lansing, Haslett, Okemos, Bath, and Williamston.<sup>96</sup> However, the districts' shapes in the comment "shape file" were inaccurate.<sup>97</sup> Further, it was unclear why the commenter had chosen to submit three overlapping communities to represent incorrectly drawn school districts.<sup>98</sup> The commissioners were stumped,<sup>99</sup> but still accepted COI 198920.<sup>100</sup>

In these initial mapping sessions, deference won out: if the Commission could understand what the commenter's professed COI was and if the map they submitted vaguely represented that community, the commissioners would approve it and move on.<sup>101</sup> Despite the apparent

92. During the initial review process that involved the entire Commission for each community, accepted communities were marked as final in the mapping software database. See MICH. INDEP. CITIZENS REDISTRICTING COMM'N, TRANSCRIPT OF 9:00 AM MEETING - AUG. 20, 2021, at 33, [https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts1/MICRC\\_Transcript\\_08-20.pdf?rev=ccd1655592b43dba03cod6476a8e469&hash=CB6132832EC6F10E75B5222E0F12CE6D](https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts1/MICRC_Transcript_08-20.pdf?rev=ccd1655592b43dba03cod6476a8e469&hash=CB6132832EC6F10E75B5222E0F12CE6D) [<https://perma.cc/9YGD-REUT>].

93. *Id.* at 14.

94. On August 20, the MICRC first reviewed a publicly-submitted COI—but that is not the first date the Commission received public comment regarding COIs. See, e.g., MICH. INDEP. CITIZENS REDISTRICTING COMM'N, TRANSCRIPT - FEB. 11, 2021, *supra* note 83, at 15 ("We have already had some people writ[e] to us, telling us what a community of interest was.")

95. The Commission's early "rubberstamp" procedure created problems with "inaccurate" COIs like 198920, whereas the later commissioner-specific COI approach struggled more with consistency. See *supra* Section II.D.

96. See MICH. INDEP. CITIZENS REDISTRICTING COMM'N, TRANSCRIPT OF 9:00 AM MEETING - AUG. 20, 2021, *supra* note 92, at 27–28.

97. See *id.* at 29.

98. See *id.* at 28–30. There was also no existing "shape file" in the mapping software for the respective school districts that would allow the Commission to quickly correct the shape of the community. *Id.* at 31.

99. See *id.* at 28–32.

100. *Id.* at 35.

101. See *id.* ("So we've looked at the first one. Which encompassed three quite frankly and the questions that were asked and answered are you know are they accurate? Are they I'll say legitimate, can we tell what they are? Yeah, we could. So now we are going to look at another one that is even bigger. Well, okay. That's the same questions. Can we tell what it is, what they are trying to get at? Does it seem reasonable? We will consider it. How we consider it in the end, that's what the debate

inaccuracy of the community boundaries exemplified by this first submission, commissioners were unsure if a bottom-up philosophy required that they defer to the commenter on the scope of their professed community.<sup>102</sup> This evaluative process was a rubber stamp: the Commission approved every community they encountered, no matter its apparent issues.<sup>103</sup>

### B. MGGG and the “Heatmap” Approach to COIs

Executive Director Suann Hammersmith and the Michigan Department of State office saw the issues with the MICRC’s initial approach, notably the time demands to review every single community individually. In response, Hammersmith pitched a new approach using “heatmap” COI data.<sup>104</sup> In collaboration with Dr. Moon Duchin, Tufts University Professor and founder of Metric Geometry and Gerrymandering Group (MGGG), Hammersmith introduced the commissioners to the tools MGGG had prepared for the Commission at the August 26, 2021 afternoon meeting.<sup>105</sup> These tools included a public submission portal and an initial COI “cluster” report which drew from the data submitted in the public submission portal.<sup>106</sup> Despite the heatmap’s potential to

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is about.”). General Counsel Pastula pushed back on this approach and insisted that the Commission needed at least some scrutiny of the community’s asserted common interest and shape. *Id.* at 36. The question also arose as to whether the Michigan capitol should be treated as a COI at all. *Id.* It is likely that the General Counsel was worried that such a rubber stamp, particularly if done for COIs connected by ethnicity, could come up against the Supreme Court’s expectation in *Miller* that communities actually share “tangible” non-racial similarities. *See Miller v. Johnson*, 515 U.S. 900 (1995).

102. *See* MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF 9:00 AM MEETING - AUG. 20, 2021, *supra* note 92, at 31–32 (Commissioner Lett insisted the Commission simply defer to the comment: “One of my favorite things is don’t [overthink] this. We don’t have to assume anything. The person has drawn it. Period.” Commissioner Rothhorn wanted the Commission to intervene in obviously unserious comments, like one spelling “hello” across the state in non-contiguous letter shaped districts).

103. *See, e.g., id.* at 50 (A COI meant to represent “a group of various cities, towns, and Townships” without other information was approved despite excluding areas that confused even the deferential Commissioner Lett).

104. MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF 10:00 AM MEETING - SEPT. 1, 2021, at 26–33, [https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts1/MiCRC\\_Transcript\\_09\\_01.pdf?rev=98cc89b3ce3a4231a7a1d3fc671b5f65&hash=31B752732680262DCDC EE7415FBABF81](https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts1/MiCRC_Transcript_09_01.pdf?rev=98cc89b3ce3a4231a7a1d3fc671b5f65&hash=31B752732680262DCDC EE7415FBABF81) [<https://perma.cc/935X-F7YG>].

105. *See* MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF 1:00 PM MEETING - AUG. 26, 2021, [https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts1/MiCRC\\_Transcript\\_08\\_26\\_mtg\\_1.pdf?rev=02a34dd4f1404a50921ece442a7c4dec&hash=FE28454E5AB95B703A50F22D6182738A](https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts1/MiCRC_Transcript_08_26_mtg_1.pdf?rev=02a34dd4f1404a50921ece442a7c4dec&hash=FE28454E5AB95B703A50F22D6182738A) [<https://perma.cc/QC62-HDRS>].

106. *Id.* MGGG provided an updated report on September 13th. MGGG REDISTRICTING LAB & OPEN-MAPS COAL., COI CLUSTERS FOR MICHIGAN (version 2.0 2021) [hereinafter MGGG REPORT], <https://mggg.org/publications/Michigan-COI.pdf> [<https://perma.cc/U266-ACDZ>].

streamline the Commission's approach, the MICRC ultimately rejected the proposal to formally incorporate the clusters into its review process.

Still, the heatmap's potential was substantial. The public submission portal allowed users to draw COI boundaries as well as Congressional and state maps. This portal, called [michigan-mapping.org](https://michigan-mapping.org), communicated with MGGG's free public mapping software, Districtr.<sup>107</sup> The community drawing option in the portal allowed users to draw COIs over a map of Michigan.<sup>108</sup> Once users were done drawing their COI boundaries and providing a narrative about the map (if they chose to do so), the portal prompted them to provide their name, contact information, and more context about their submission.<sup>109</sup> The portal also allowed users to comment on the COIs that other people drew. This feature allowed users to express their alignment<sup>110</sup> (or disagreement)<sup>111</sup> with other users' COIs.

The MGGG page became active in May 2021; the first public comments about COIs were posted as early as May 5, 2021.<sup>112</sup> The purpose of the MGGG tool was to synthesize the comments into "something useable" because "over 1200 areas is probably too many to think about or to try to vet individually."<sup>113</sup> The researchers measured overlaps by looking at two publicly-drawn COI maps at a time to assess how close or far apart they were.<sup>114</sup> From that analysis, the group found 36 geographical clusters.<sup>115</sup> Within the cluster, the team "used a sorting technique to . . . find

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107. CLOSUP Lecture Series, *How Communities can Promote Their Interests in Michigan's Redistricting: Lessons Learned*, U. MICH. CENTER LOC., STATE, & URB. POL'Y (Sept. 29, 2021), at 18:10, <https://closup.umich.edu/video/2021/how-communities-can-promote-their-interests-michigans-redistricting-lessons-learned> [<https://perma.cc/F2B8-EL8C>]. From 17:15, Professor Moon Duchin, who runs the MGGG Redistricting Lab, speaks about the lab's history. *Id.* at 18:30–18:50. Districtr's website is <https://districtr.org/>.

108. *Id.* at 20:30.

109. *Id.* at 20:50.

110. See, e.g., *Submission c61*, MI PUB. COMMENT PORTAL (May 6, 2021), <https://www.michigan-mapping.org/submission/c61> [<https://perma.cc/7PCF-DZKP>] (advocating for Plymouth and Northville to remain together and urging the Commission not to split the two at Eight Mile Road. Another user replied, "Very smart!").

111. See, e.g., *Submission c6281*, MI PUB. COMMENT PORTAL (Oct. 9, 2021), <https://www.michigan-mapping.org/submission/c6281> [<https://perma.cc/4FM9-YXNE>] (submitting COI boundaries for areas of Detroit. Another user disagrees with the boundaries, and the two engage in a conversation in the comments).

112. See *Dearborn Cultural District*, MI REDISTRICTING PUB. COMMENT PORTAL (May 5, 2021), <https://www.michigan-mapping.org/submission/c38> [<https://perma.cc/R2FB-P3U8>].

113. CLOSUP Lecture Series, *How Communities can Promote Their Interests in Michigan's Redistricting: Lessons Learned*, U. MICH. CENTER LOC., STATE, & URB. POL'Y (Sept. 29, 2021), at 22:28, <https://closup.umich.edu/video/2021/how-communities-can-promote-their-interests-michigans-redistricting-lessons-learned> [<https://perma.cc/F2B8-EL8C>].

114. *Id.* at 23:13. The researchers measured overlaps using "Hausdorff distance."

115. *Id.* at 23:41. Professor Duchin noted that one may cluster "as finely or as coarsely as one wants." The lab "experimented with different scales of clustering in order to produce the most usable product for the Commission."

thematically similar pieces.<sup>116</sup> MGGG provided a final map of the clusters, using both the user-drawn maps and user narratives to create 36 heat maps.<sup>117</sup>

Although the MGGG clusters did not filter out any publicly submitted comments, common themes in the comments would prompt community groupings if testimony was consistent across submissions.<sup>118</sup> If the Commission were to adopt the MGGG process, it would evaluate the communities by cluster instead of working through the individual communities submitted one at a time.<sup>119</sup> The Commission could still use other forms of written, emailed, or in-person comments to supplement the heatmaps for additional context, but use of the heatmaps would speed the process.<sup>120</sup>

The Commission ultimately voted against adopting the software, 5 to 7,<sup>121</sup> citing concerns that communities would be excluded from the review process.<sup>122</sup> Despite rejecting the new process, the Commission continued to occasionally use the heatmap data from MGGG.<sup>123</sup> It was unclear, however, how the Commission consolidated the multiple streams of comments that continued to flow through the MGGG tool.<sup>124</sup>

The COI review process became even murkier after the Commission rejected the more efficient heatmap approach. The commissioners adopted an at-home COI review process to improve the efficiency of the

116. *Id.* at 24:14.

117. MGGG REDISTRICTING LAB AND OPEN-MAPS COALITION, COI CLUSTERS FOR MICHIGAN, VERSION 2.0 (Sept. 13, 2021), <https://mggg.org/publications/Michigan-COL.pdf> [<https://perma.cc/8HMB-ZE69>]. The report sub-organizes some clusters based on narrative themes. *See, e.g., id.* at 36, *Cluster 34—Hillside Area*: “Subcluster 34-1 emphasizes public services and recreation/tourism, while 34-2 highlights the rural/agricultural economy.”

118. MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF 1:00 PM MEETING - AUG. 26, 2021, *supra* note 105, at 11.

119. *COI and Public Comment Process and Considerations v.8.31*, MICH. INDEP. CITIZENS REDISTRICTING COMM’N.

120. MICH. INDEP. CITIZENS REDISTRICTING COMM’N., TRANSCRIPT FOR 10:00 AM MEETING - SEPT. 1, 2021, *supra* note 104, at 26–27.

121. *Id.* at 37–38.

122. Commissioner Szetela and others were concerned that this new process could potentially leave out communities that only voiced their concerns in-person, hastening the “digital divide[.]” *Id.* at 33.

123. MICH. INDEP. CITIZENS REDISTRICTING COMM’N., TRANSCRIPT FOR 5:00 PM MEETING - SEPT. 2, 2021, at 20–21, [https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts1/MiCRC\\_Transcript\\_09\\_02\\_Mtg\\_02.pdf?rev=87557fd1a41f4429bf439da8f7e5a7fc&hash=DA090D51D73828570C95F9E14BEDA17E](https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts1/MiCRC_Transcript_09_02_Mtg_02.pdf?rev=87557fd1a41f4429bf439da8f7e5a7fc&hash=DA090D51D73828570C95F9E14BEDA17E) [<https://perma.cc/G3P8-HST8>].

124. Zoom Interview with Tom Ivacko, Exec. Dir., CLOSUP, Debra Horner, Senior Program Manager, CLOSUP, Mustafa Rasheed, Student Pol’y Analyst, CLOSUP, & Sofia Terenzio, Rsch. Assistant, CLOSUP (Mar. 15, 2023) (on file with authors) [hereinafter Zoom Interview with CLOSUP staff].

mapping process after the September 7th meeting.<sup>125</sup> Commissioners no longer reviewed individual COIs submissions collectively, instead looking over public comments on their own in anticipation of each meeting.<sup>126</sup> Commissioners often bounced between the Districtr and CityGate platforms in search of public comments and data.<sup>127</sup> This process became the final procedure for COIs review.<sup>128</sup>

### C. Disparate Mapping Software and Services

It was often unclear how the MGGG Districtr and CityGate GIS (provided by Election Data Services) tools interacted with each other, if at all. Where the Districtr tool allowed members of the public to *draw* their own maps (sometimes accompanied with textual explanations), the GIS page allowed the public to *react* to maps the Commission had already drawn. The GIS mapping page became active in Fall 2021—after the first draft of maps was released.<sup>129</sup>

The GIS mapping page process<sup>130</sup> began with the Commission uploading separate draft maps onto the mapping page. The mapping page then displayed an overlay of Michigan from Google Maps.<sup>131</sup> The next

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125. MICH. INDEP. CITIZENS REDISTRICTING COMM'N., TRANSCRIPT FOR 12:00 PM MEETING - SEPT. 7, 2021, at 11–15, [https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts/MiCRC\\_Transcript\\_09\\_07.pdf?rev=e6123ba132e44d64b9a84ccbf85ae05a&hash=D2F21D6212A788513B62CBOA81CD9017](https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts/MiCRC_Transcript_09_07.pdf?rev=e6123ba132e44d64b9a84ccbf85ae05a&hash=D2F21D6212A788513B62CBOA81CD9017) [<https://perma.cc/D4XB-NXBE>]. The “Mapping Process and Procedure v9.6” is not available on the Commission’s website, but the at-home review provision is available in a later mapping process document. See MICH. INDEP. CITIZENS REDISTRICTING COMM'N., MAPPING PROCESS AND PROCEDURES V12.28 8 (2021), <https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/MISC5/Mapping-Process-and-Procedures-v12-28.pdf?rev=e000555a38b44160a3136fe658446d24&hash=7ADEA22A21EC81FEF9E5EC21B82C2E59> [<https://perma.cc/9U9U-J8M3>] (“Commissioners to review COIs and public comment prior to the meeting and discuss and consider Communities of Interest and diverse populations within the area being mapped.”)

126. See MICH. INDEP. CITIZENS REDISTRICTING COMM'N., MAPPING PROCESS AND PROCEDURES V12.28, *supra* note 125, at 8.

127. Zoom Interview with CLOSUP staff, *supra* note 124.

128. MICH. INDEP. CITIZENS REDISTRICTING COMM'N. MAPPING PROCESS AND PROCEDURES V12.28, *supra* note 125, at 8.

129. *My Districting Michigan*, CITYGATE GIS (2022), [https://michigan.mydistricting.com/legdistricting/michigan/comment\\_links#](https://michigan.mydistricting.com/legdistricting/michigan/comment_links#) [<https://perma.cc/3HZ8-8JF3>]. To view the earliest submitted maps, select “Congressional,” “State House,” or “State Senate” tabs and sort by creation date. The fourth column, titled “Created Date,” shows that maps were created (or perhaps uploaded) on dates ranging from September 22, 2021, through December 29, 2021.

130. For visuals of this process, please see the Appendix.

131. See *How To View and Comment on a Redistricting Plan*, CITYGATE GIS, <https://citygategis.com/docs/EDGETraining/howtocomment/howtocomment.html> [<https://perma.cc/8RVZ-5GKT>] (last visited Mar. 26, 2024). The how-to video notes: “The commenting tool uses Google Maps.” Washington state is the example used in the video. At :50 seconds, one can see how district borders overlay Google Maps: a variety of colors, representing district boundaries, overlay the state of Washington.

step was for users to submit their comments about the draft map.<sup>132</sup> These comments appeared as dots on the mapping page. The dot showed where the user clicked on the screen—not where the user was commenting from. For example: A user, “John,” commented from Dearborn, Michigan. John would have clicked on the map, pinpointing to Woodward Avenue in Detroit. Their comment would have appeared as a bubble on Woodward Avenue in Detroit, not Dearborn. That bubble, in turn, would have been a certain color, reflecting the user’s thoughts on the proposed district that displayed in the map: red (“dislike”), yellow (“opinion”), or green (“like”).<sup>133</sup> The bubble also displayed a larger comment section if the user included an additional comment.

Both tools—CityGate GIS and MGGG Districtr—had distinct advantages, but many benefits overlapped. The overlay of Google Maps from CityGate allowed community members to interact with the proposal—rather than simply view a static map. The tool also contained a verification feature, which collected emails from commenters to verify their responses. CityGate additionally allowed members of the public to respond to maps that the Commission had drawn, in compliance with the Michigan constitution, and in accordance with principles of community self-determination. Most (if not all) of these features, though, were also available in the MGGG Districtr tool.<sup>134</sup> And because the tools’ data did not interact, these parallel data streams created more redundancy than utility. Further, the MICRC had no formal process to reconcile the two disparate sources of comments and data, making the tools’ overlapping functions even less helpful.<sup>135</sup>

#### D. *Emerging Patterns in the Commission’s Definition of COIs*

Most of the MICRC’s early COIs fit neatly in the constitutional amendment’s criteria.<sup>136</sup> Although the Commission initially rubber-stamped public COI submissions, it ultimately recognized a number of

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132. *Id.* The how-to video notes: “This tool allows you to view and comment on various Redistricting plans. Comments placed by you and others are then aggregated and presented to various stakeholders. Comments placed by you are verified using the email address that you provide. You can provide multiple comments on each plan. Each comment will have to be separately verified.” *Id.* at :28.

133. See “Add Comment” pop-up window that appears after the user clicks a place on the map.

134. Interview with Dr. Moon Duchin (Feb. 11, 2023) (notes on file with the authors). These additional features were not activated in the MGGG Districtr tool, but Dr. Duchin showed us on the back end how the tool is capable of the features.

135. See *supra* Section I.C.

136. MICH. CONST. art. IV § 6(13)(c) (“Communities of interest may include, but shall not be limited to, populations that share cultural or historical characteristics or economic interests.”).



traditional COIs. These COIs included school districts,<sup>137</sup> tribal communities,<sup>138</sup> and those living in shared floodplains.<sup>139</sup> Additionally, Commissioner Brittni Kellom recognized the LGBTQ+ and arts communities near Ferndale, Royal Oak, and Pleasant Ridge.<sup>140</sup>

But two categories of communities emerged as departures from the standard criterion: communities based on jurisdictional lines, and those based on “feel.” Jurisdictional lines became an almost-instinctual first reaction, despite the fact that COIs were codified as a higher priority.<sup>141</sup> The decisions based on feel often did not point to data, specific public comments, or the MGGG clusters. Instead, they came from the commissioners’ personal experiences, either from time spent living in the region or generalized opinions.<sup>142</sup> Because this approach inherently relied on the opinions and memory of the commissioners, it could be difficult to assess whether a particular COI came from public commentary or commissioners’ intuition.

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137. See MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF MEETING - AUG. 20, 2021, *supra* note 92, at 24–36.

138. See MICH. INDEP. CITIZENS REDISTRICTING COMM’N, MICRC MEETING - SEPT. 7, 2021, *supra* note 125, at 28–29.

139. See MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF 5:00 PM MEETING - SEPT. 23, 2021, at 36, [https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts1/MiCRC\\_Meeting\\_Transcript\\_9\\_23\\_21.pdf?rev=911bbd473c5e4075876cbfof080d1e55&hash=753F1F8616B44D5DBF74240D271462ED](https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts1/MiCRC_Meeting_Transcript_9_23_21.pdf?rev=911bbd473c5e4075876cbfof080d1e55&hash=753F1F8616B44D5DBF74240D271462ED) [<https://perma.cc/2HYE-RJ26>].

140. MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF 12:00 PM MEETING - SEPT. 9, 2021, at 49, [https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts1/MiCRC\\_Transcript\\_09\\_09\\_Mtg\\_2.pdf?rev=dob24e00a3ff45608b5df2129689a2fi&hash=3BE62631604230C51E5681812C1934C7](https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts1/MiCRC_Transcript_09_09_Mtg_2.pdf?rev=dob24e00a3ff45608b5df2129689a2fi&hash=3BE62631604230C51E5681812C1934C7) [<https://perma.cc/5TLU-JRRV>].

141. MICH. CONST. art VI, § 6(13)(f). In one instance, Commissioners Lett and Lange argued that the MICRC should take submissions asking to keep jurisdictions together more seriously. MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF 10:00 AM MEETING - SEPT. 1, 2021, *supra* note 104, at 12–13. The meeting records are littered with COIs being subordinated by jurisdictional lines, typically through townships and counties. See, e.g., MICH. INDEP. CITIZENS REDISTRICTING COMM’N, MICRC MEETING - EAST LANSING, MI - AUG. 20, 2021, *supra* note 92, at 78 (“I think Lodi and Scio consider themselves part of Ann Arbor and do not consider [themselves] part of Jackson at all. . . . I think you would be better off shaving Scio, Lodi and Saline and grabbing Webster and going north and west if you are looking for similar communities because like I said Lodi, Scio, Saline Township those are all everybody in those areas considers themselves part of Ann Arbor for the most part, that their subdivisions is going up there.”).

142. For the most part, the Commission relied on commissioners from the specific area it was mapping to check the state of the lines and advise on certain communities and connections they knew were important to that area. See, e.g., MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF 12:00 PM MEETING - SEPT. 9, 2021, *supra* note 140, at 16–27 (Commissioner Juanita Curry advising on communities in the metro Detroit area); MICH. INDEP. CITIZENS REDISTRICTING COMM’N, MICRC MEETING - SEPT. 7, 2021, *supra* note 125, at 61 (Commissioner Lange advising on Lake County).

*E. Midland, Cheboygan, and West Bloomfield as Unique Approaches*

The MICRC’s approach to COIs in the Midland, Cheboygan, and West Bloomfield regions was unique to both COIs’ representational value and constitutional definition. The public hearings in Midland reflected an array of suggested COIs with conflicting interests.<sup>143</sup> Many residents of urban and rural parts of Midland County wanted their respective COIs to be kept distinct from one another.<sup>144</sup> However, other residents, having suffered the effects of recent flooding, wanted the greater Tittabawassee floodplain to be kept together, which would keep Midland County and Midland City whole.<sup>145</sup>

Presented with these two mutually exclusive approaches to COIs, Commissioner Rhonda Lange compromised. Commissioner Lange deferred to different priorities for the State Senate and House maps respectively. When drawing the State Senate map at the September 7th meeting, she cut the most urban areas (Midland City) out of the State Senate district map and instead placed them in a district with other nearby urban areas, namely Saginaw and Bay City.<sup>146</sup> When drawing the House map at the September 23rd meeting, Commissioner Lange purposefully incorporated the entirety of Midland City, even parts that extended beyond the county line, with the rest of Midland County to vindicate the “public comment[s] about watersheds, about flooding, and about keeping the County as whole as possible.”<sup>147</sup>

The Commission took a similar approach with Cheboygan. Many public comments reiterated the desire to keep Cheboygan whole, but the Commission also took into account comments which suggested a greater affinity for the shoreline communities to its east. Others still posited a relationship between Cheboygan, Mackinaw City, and the communities to its west.<sup>148</sup> Again, the Commission split the difference: the State Senate map ran east, and the State House map connected to the northwest.<sup>149</sup>

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143. See MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF MEETING - MAY 25, 2021, *supra* note 87, at 6–30.

144. *Id.* at 7–9.

145. *Id.* at 13, 19, 26, 30–31, 32.

146. MICH. INDEP. CITIZENS REDISTRICTING COMM’N, MICRC MEETING - SEPT. 7, 2021, *supra* note 125, at 59; see also *id.* (“So I’m trying to think of how you can incorporate what we heard from half the people at the public hearings and then the other half of the people. Kind of like a compromise.”); Appendix Image 1.

147. MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF 5:00 PM MEETING - SEPT. 23, 2021, *supra* note 139, at 36 (emphasis added); see also, Appendix Image 2.

148. MICH. INDEP. CITIZENS REDISTRICTING COMM’N, MICRC MEETING - SEPT. 7, 2021, *supra* note 125, at 27. The discussions on Cheboygan also presented difficult issues for defining tribal COIs, as many citizens of tribes in the region live across the metropolitan areas outside of reservations, making the precise contours of the COI hard to define. *Id.* at 28–36.

149. See Appendix Images 3 & 4.

West Bloomfield presented a departure from discrete, single-community COIs like those anticipated by Michigan's constitutional language. Unlike the previously discussed COIs which point to one shared identifying trait at a time, West Bloomfield's asserted interest was its diversity—its unique blend of different identifying traits. Public comments described West Bloomfield as a diverse district with residents of many ethnicities and cultures.<sup>150</sup> The population naturally shares social services, a school district, and the broader West Bloomfield township, but the public comments argued that the area's diverseness itself was the COI.<sup>151</sup> West Bloomfield's coalitional approach to COIs was unique. Typically, COIs might be assembled together, one at a time, to form diverse coalition districts that might share political interests.<sup>152</sup> Instead, West Bloomfield was kept together as a cohesive COI *because* of its existing diversity.<sup>153</sup>

#### F. Evaluating the Commission's Approach

It is difficult to determine the effectiveness of the Commission's approach to COIs for at least two reasons. First, this redistricting was the Commission's first attempt at defining COIs in Michigan. So, there is not enough Michigan-specific data on which to base analyses. H.R.1, though not the law, gives one empirical approach to assessing COIs.<sup>154</sup> The IPPSR Report, commissioned by researchers at Michigan State University, came the closest to this sort of objective metric. The IPPSR Report used the MGGG clusters as a baseline for the number of COIs the Commission broke apart in its maps.<sup>155</sup> Based on the report, the Commission did poorly, doing "slightly below what would be expected from chance" had they not considered COIs at all when drawing the maps.<sup>156</sup> It is unclear

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150. MICH. INDEP. CITIZENS REDISTRICTING COMM'N, TRANSCRIPT OF 12:00 PM MEETING - SEPT. 9, 2021, *supra* note 140, at 28 ("This is an area where it has many Chaldeans and many Jewish people. There [are] also a lot of Black people and a lot of Asian people and a lot of white people. It's truly an inclusive community.") West Bloomfield was another district in which the personal experience of Commissioner Eid drove the districting process.

151. *Id.* at 27–28 (noting that the "robust" public comments from the hearings in Novi suggested that the "diverse community" itself was a COI).

152. See Li & Rudensky, *supra* note 23, at 728–29.

153. See Appendix Images 5 and 6. The decision to keep West Bloomfield together likely also reflected the Commission and public's preference for keeping jurisdictional lines intact, see discussion *supra* Section II.D.

154. H.R. 1 § 2413, 116th Cong. (2019) (requiring that commissions provide a "written evaluation" that measures the success of the planned maps on the required redistricting criteria, including "the degree to which the plan preserves or divides communities of interest.").

155. IPPSR REPORT, *supra* note 82, at 54, 99, 121.

156. *Id.* at 121.

what Congress would expect from these objective reports other than a written evaluation, but the Commission would nonetheless struggle to justify their performance based on the data from the IPPSR Report.

Second, it is difficult to say to what extent the Commission subjectively “succeeded” in its approach to COIs. If the Commission were judged based on its own requirements that communities be “community-defined,” the maps and meeting transcripts reflected that the commissioners attempted to respect community wishes throughout the process. The initial whole-Commission process of individual submission review appeared to cement the “community-defined” philosophy to public submissions that Voters Not Politicians pushed in its early presentation and reiterated in the Department of State’s April 22 presentation.<sup>157</sup> But there was a catch. Even though a community’s formal acceptance into the database was deferential in this initial process, when and why particular communities were incorporated into the map drawing and kept together depended instead on the commissioner in charge of mapping at the time.<sup>158</sup> So, even as the Commission sought a bottom-up approach, the process ultimately became top-down.<sup>159</sup> Commissioners relied on a totality of “data” at hand, crystalizing a COI definition that depended on some mix of their personal beliefs, public comments, and gut feelings. The MICRC took Christopher Thomas’ advice seriously: “[b]eauty is in the eye of the beholder,” and the Commission was the beholder.<sup>160</sup>

### III. ASSESSING EFFECTIVENESS AND POLICY RECOMMENDATIONS TO THE COMMISSION

Given the substantive and procedural challenges with the MICRC’s approach, this Part proposes a number of solutions to improve the COI process in future redistricting cycles. We recommend that the

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157. See MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF MORNING SESSION - SEPT. 17, 2020, *supra* note 65, at 20–21; MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF 1:00 PM MEETING - APR. 22, 2021, *supra* note 64, 27–28.

158. See *supra* note 90 and accompanying text. While in charge of line-drawing, no commissioner ever referred specifically to the “final” communities’ input from the review process to guide their mapping, instead relying on their personal knowledge and recollection of public comments generally. See discussion of commissioners and “feel,” *supra* Section II.D.

159. See MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF MORNING SESSION - SEPT. 18, 2020, *supra* note 63, at 26–28; see IPPSR REPORT, *supra* note 82, at 25. Although Jon Eguia and the IPPSR report correctly suggests that the initial review process for COIs was a bottom-up, deferential approach, the Commission’s decisions on COIs still decidedly depended on the individual beliefs of the commissioners supplemented by public input.

160. See MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF MORNING SESSION - SEPT. 18, 2020, *supra* note 2, at 94.

Commission approach COIs with a more cohesive understanding of its “design philosophy.” We recommend that the Commission adopt a “thematic” COI approach that falls between a bottom-up and top-down approach. Further, we recommend the Commission improve its public outreach efforts, staffing shortages, and comment management tools.

#### A. A “Thematic” COI approach

This Note first recommends that the Commission commit to a bottom-up or top-down approach. Recall that the expert panel which trained the Commission lacked coordinated messaging across their presentations. The spectrum of perspectives, ranging from Commission deference to public submissions to complete Commission control, gave the Commission a shaky foundation on which to approach the new concept.<sup>161</sup> To be fair, the first meetings took place during the tumultuous COVID-19 pandemic, likely contributing to the chaos. Still, expert presentations meant to clarify a confusing concept to individuals new to the field should at a minimum be consistent in their recommendations for the role of the Commission in determining COIs.<sup>162</sup>

Whether the Commission should adopt a top-down or community-defined “design philosophy” is more difficult. VNP, General Counsel Pastula, and the Department of State preferred the “community-defined” approach to communities at first, which included no internal definitions, population thresholds, cut-off dates, and minimal scrutiny of submitted communities. The MICRC’s initial approach of community review, while taking the community-defined philosophy to its most deferential extreme, is infeasible *if done during map-drawing*. Put simply, the map-drawing process moves too quickly to review comments individually. Individualized review of public comments cannot happen on the cutting-room floor. The top-down approach the Commission later adopted is impractical for the opposite reasons. There are potential accountability issues that come with a top-down approach: remember that the commissioners tended to accept individual commissioners’ insights based on “feel.” Further, commissioners often did not reference the available COI databases (or share the same personal experiences), making it difficult for the other commissioners to crosscheck other commissioners’ work.<sup>163</sup>

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161. See discussion of the expert panel *supra* Section I.C.

162. The general tone of the early meetings was often jilted and awkward on Zoom. See, e.g., MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF AFTERNOON SESSION - SEPT. 17, 2020, *supra* note 9.

163. See *supra* Section II.D.

Putting the choice of “design philosophy” issues aside, commissioners are an integral resource for their communities. For example: Commissioner Kellom is from Detroit. Her mapping plans, titled “Magnolia” and “Hickory”, reflected seven districts in which a majority of the Voting Age Population identifies as Black.<sup>164</sup> Detroit residents expressed concern with maps presented by other commissioners. Residents were worried that they would not be adequately represented, suggesting that the efforts of Commissioners Kellom and Curry to represent them as the resident Detroiters on the Commission are essential to an apolitical map-drawing process.<sup>165</sup> Notably, for a truly bottom-up approach, the Commissioners’ expertise would not be weighed any more heavily than that of other members of the public. A commissioner would, for a strictly bottom-up approach, submit their thoughts on a COI to the public comment portal, or speak at a public hearing. The Commission would then weigh the comment exactly the same as every other community member.

This is where clusters—like those developed by MGGG—create the possibility for a more manageable approach. They aggregate thousands of COI comments and drawings, distilling thousands of comments into a more feasible form of the bottom-up approach without the same impracticality concerns.<sup>166</sup> This Note’s proposed design philosophy would be “thematic,” sitting somewhere between true bottom-up and top-down approaches. A thematic design philosophy would provide the Commission with manageable and discrete community cluster themes as a mapping baseline that would better survive H.R.1’s objective scrutiny. Commissioners should not have to choose between a prolonged collective review process or an uneven at-home review process.<sup>167</sup> Instead, the MICRC should adopt a more sustainable approach which uses key themes with software like Districtr.

While many of the individual COI public comments failed to articulate a specific “common bond” of policy that connected them, the MGGG clusters helped identify shared legislative interests of different areas.<sup>168</sup>

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164. IPPSR REPORT, *supra* note 82, at 97.

165. *Id.*

166. See MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF 1:00 PM MEETING - AUG. 26, 2021, *supra* note 105, at 9. Dr. Duchin, when describing the clusters, says: “I want to emphasize for you that we are not doing any filtering at all. This document represents every single piece of input you got from the public. We are doing our best to cluster[,] aggregate[,] distill[,] and describe it to make it more usable for you but no vote, down vote, nothing like that.” *Id.*

167. See CivicCenterTV, *MC Rothhorn gives insight into the Michigan Independent Citizens Redistricting Commission*, YOUTUBE (Jan. 4, 2022), <https://www.youtube.com/watch?v=8krUfepMU38> [<https://perma.cc/BLB3-5EG4>] (“It’s like drinking from a firehose when you’re doing this for the first time.”).

168. See, e.g., MGGG REPORT, *supra* note 106, at 33 (Cluster 31: “Concerns over flooding are cited, among other infrastructure needs. Diverse community with significant Black, Latinx, and Arab-

The commissioners' concerns that using the MGGG data would worsen the "digital divide" could be mitigated by the inclusion (and review) of public hearing testimony at in-person meetings.<sup>169</sup> Even if the Commission does not choose Districtr as the software, it should definitely choose a single software, rather than opting to use two (Districtr and CityGate) simultaneously.

It is worth noting that the Commission's final approach to COIs was effectively an ad hoc version of an aggregating, cluster-based approach. Instead of relying on objective data like that in Districtr, commissioners individually synthesized relevant COIs based on a mixture of public comments and personal knowledge.<sup>170</sup> Commissioners picked and chose which communities to incorporate in an ad hoc manner.<sup>171</sup> Procedural questions—whether the Commission needs to create a definition, set numerical cut-offs, or screen for legitimacy—would become moot if the Commission let data science do the work. Clustering software should be the means to filter out one-off, unhelpful comments and group together otherwise repetitive ones.

### B. Improving Public Comment Input, Output, and Analysis

Even if the MICRC chose and used one cluster-based software, programs like MGGG and CityGate only work with robust public comment.<sup>172</sup> To keep the MICRC in line with its constitutional mandate to represent the public, it must improve its public comment input, output, and analysis.<sup>173</sup> University of Michigan Law School's Professor Nina Mendelson has discussed the importance of comments from individual members of the public, noting "a meaningfully open comment process supports broader public engagement by otherwise underrepresented individuals and communities."<sup>174</sup> Seriously supporting those comments

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American population. The Tri-Cities (Saginaw, Bay City, and Midland) and Flint are mentioned as key urban areas. Historically associated with auto industry. Regional colleges are mentioned."). Actually articulating a policy interest behind specific communities of interest would also likely help survive legal scrutiny. See *Miller v. Johnson*, 515 U.S. 900, 911 (1995).

169. MICH. INDEP. CITIZENS REDISTRICTING COMM'N, TRANSCRIPT OF 10:00 AM MEETING - SEPT. 1, 2021, *supra* note 104, at 33.

170. See discussion *supra* Section II.F.

171. See *supra* Section II.D. for discussion on jurisdictional lines and feel as common themes.

172. See Surber, *supra* note 75, at 15.

173. See, e.g., Southwest Network for Environmental and Economic Justice (SNEEJ), *Jemez Principles for Democratic Organizing* (Dec. 1996), <https://www.ejnet.org/ej/jemez.pdf> [<https://perma.cc/5ZNB-PJ64>].

174. Emily Bremer, *Nina A. Mendelson on the Value of Comments from Individual Members of the Public* (ACUS Update) YALE J. REGUL.: NOTICE & COMMENT (July 14, 2021), <https://www.yalejreg.com/nc/nina-a->

will require a bevy of reforms, including implementing user testing, incorporating remote options, and debriefing public comment hearings.

### 1. Implementing User Testing

Before selecting mapmaking technology for the next redistricting process, the Commission should engage in extensive user experience testing. The Commission could do so by inviting public feedback on a selection of software which would be used to solicit mapping comments. During the 2020 redistricting process, the Commission did not appear to test the MGGG or GIS tools with members of the public before implementation. To be clear, not every step of the redistricting process needs to be run by the public—doing so would mean the Commission would most likely fail its relatively tight constitutional deadlines. But it may be worth soliciting public feedback for tools geared toward collecting public comments.<sup>175</sup> To solicit public feedback, the Commission might start by narrowing down the potential software to, say, three options. They could then send out a survey to Michigan residents asking for their opinions on which tool they liked best. Including an incentive, like a drawing for a cash prize, is likely to improve completion rates.<sup>176</sup> The Commission should seek feedback from users across the state who have different levels of access to technology and comfort levels with technology. In this way, the Commission can seek to have a tool that is as accessible as possible for the public.

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mendelson-on-the-value-of-comments-from-individual-members-of-the-public/ [https://perma.cc/GL7P-N8AE].

175. This public feedback process could start a year or two before the Commission formally begins line-drawing for the next redistricting cycle. See MICH. CONST., art. IV § 6(5) (“Beginning no later than December 1 of the year preceding the federal decennial census, and continuing each year in which the commission operates, the legislature shall appropriate funds sufficient to compensate the commissioners and to enable the commission to carry out its functions, operations and activities, which activities include ... any other activity necessary for the commission to conduct its business”). By selecting vendors early, the Commission can free up more time during map-drawing to analyze and incorporate the comments they receive.

176. Qualtrics Experience Management, *How to Increase Survey Response Rates*, QUALTRICS, <https://www.qualtrics.com/experience-management/research/tools-increase-response-rate/> [https://perma.cc/89HA-EGUP] (last visited Oct. 21, 2023). Qualtrics notes that “[a] small incentive for each respondent is better than a large incentive for a few.” *Id.*



## 2. Incorporating Remote Options

More reforms are needed to improve accessibility to MICRC's public meetings. Prior hearings were often on weekdays during working hours.<sup>177</sup> MICRC could shift some meetings to weekend days or evenings when more people would be available since many people work or are in school during those hours. Additionally, in-person-only meetings could be a barrier to participation.<sup>178</sup> Therefore, the Commission should maintain a remote option (like Zoom) for those who may be unable to meet in person. Many individuals may be working, need childcare, or face health or mobility challenges that limit their ability to attend in-person meetings. Former Michigan Supreme Court Chief Justice McCormack highlighted her belief that a Zoom option for court will lead to "more confidence the public will have in court[s'] decisions."<sup>179</sup>

While some may argue that Zoom has the potential to violate privacy (consider child custody or neglect disputes),<sup>180</sup> redistricting hearings are meant to be as inclusive as possible. These hearings are required by the state constitution.<sup>181</sup> They are also not cases in a court of law, where privacy concerns are potent. Even with the privacy concerns for many legal issues, most hearings are public: often, anyone may join a Zoom proceeding, and in-person court proceedings are frequently open to the public. Further, other state commissions actively incorporate Zoom's screen-sharing feature to allow some public commenters to discuss their COI submissions in greater detail.<sup>182</sup> Providing a Zoom option would additionally stay true to the text of the state constitution, which calls for the use of "technology to provide contemporaneous

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177. See CLOSUP Lecture Series, *supra* note 107 (showing Suann Hammersmith speaking). The second round of public hearings were held on Mondays, Tuesdays, and Thursdays in mid-to-late October 2021. *Id.* at 12:00–13:00.

178. Gita Jackson, *Zoom Court Videos Are Making People's Darkest Hours Go Viral*, VICE (Mar. 18, 2021, 10:46 AM), <https://www.vice.com/en/article/z3va9x/zoom-court-videos-are-making-peoples-darkest-hours-go-viral> [<https://perma.cc/B88E-P37A>] (Justice McCormack highlights the increase in accessibility due to Zoom, especially for people working day jobs and those who need childcare (or both)); see also Jonathan Oosting, *Zoom Hearings Could Become Permanent for Michigan Courts, Burps and All*, BRIDGE MICH. (Apr. 26, 2022), <https://www.bridgemi.com/michigan-government/zoom-hearings-could-become-permanent-michigan-courts-burps-and-all> [<https://perma.cc/YB6N-Q3SE>] (noting the benefits of Zoom for those who commute).

179. Jackson, *supra* note 178.

180. *Id.*

181. MICH. CONST., art. IV, §§ 6(8)–(9) (requiring at least ten public hearings before drafting any plan and at least five public hearings after developing at least one proposed redistricting plan for each type of district).

182. See *supra* Section II.B.

public observation and meaningful public participation in the redistricting process[.]”<sup>183</sup>

### 3. Debriefing Public Comment Hearings

Another logistical reform the next Commission should adopt is debriefing public hearings together. The Commission had internal meetings throughout the May to July 2021 public hearing period, but never as a group discussed the comments made at these meetings.<sup>184</sup> The later public hearing schedule in October, by contrast, built in “Debriefing Sessions” for the Commission to actually reconcile the input.<sup>185</sup> Regardless of how the Commission chooses to evaluate COIs in the next redistricting cycle, it should take the time to collectively evaluate comments from public hearings. Doing so will help commissioners recall and articulate those communities’ concerns in future mapping meetings. Internal debriefing is particularly important to ensure accurate representation for those communities that only come to the Commission’s attention based on commentary from public hearings.

#### C. Hiring Additional Staff for Intake and Analysis

As the Commission considers its process for online comments, it should increase its capacity by hiring more staff. The California Commission has been able to process a similar deluge of public comments because of its robust staff.<sup>186</sup> Particularly if the MICRC wants to allow rolling public comment,<sup>187</sup> the Commission will need to hire staff to help with the intake and organization of public comments.

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183. MICH. CONST., art. IV, § 6(10).

184. See *Meeting Notices and Materials Archives: 2021*, MICH. INDEP. CITIZENS REDISTRICTING COMM’N <https://www.michigan.gov/micrc/meeting-notices-and-materials-archives> [https://perma.cc/WLM6-D33Q] (last visited Mar. 11, 2024). In none of the “MICRC Meetings” during this time period does the transcript show any discussion of the many public hearings attended by the Commission. *Id.*

185. *MICRC Mapping Process and Considerations v.8.17*, MICH. INDEP. CITIZENS REDISTRICTING COMM’N, at 13, [https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Mapping/MICRC\\_Draft\\_Mapping\\_Process\\_V817.pdf?rev=09a120e8b58541f08b19f8569c09745a&hash=38F2484739577F313A0EA1C20F59DADC](https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Mapping/MICRC_Draft_Mapping_Process_V817.pdf?rev=09a120e8b58541f08b19f8569c09745a&hash=38F2484739577F313A0EA1C20F59DADC) [https://perma.cc/TXV2-DM6V].

186. See discussion of California *supra* Section I.B.

187. See MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF 12:00 PM MEETING - AUG. 19, 2021, *supra* note 90, at 21. Commissioner Clark said, “We will still have a constant flow of these comments coming in?” Ms. Julianne Pastula [General Counsel]: Correct[,] and if the Commission again should choose to make modifications to the maps during the 45 day period republication and re[.]notice of that 45 days would need to occur.” *Id.*

The importance of hiring intake staff—or outreach staff—that support COI comment collection cannot be overstated. Dr. Duchin and other COI researchers emphasize that COI development is successful only when it has solid inputs. In a recent report, they state that “COI aggregation is only as good as the outreach effort that supports COI collection.”<sup>188</sup> One crucial outreach effort, Dr. Duchin said in a subsequent conversation, is using intake specialists.<sup>189</sup>

### 1. Additional Staff for Intake: Public Hearings, Mass Outreach, and Iterative Review

Intake specialists should be present at every step of the public comment process. Their presence will make it easier for members of the public to share their thoughts on COI boundaries. Intake specialists should be present at the public hearings. The specialists would ideally be multilingual, providing real-time interpretation. These specialists could also sit down individually with people who want to make a public comment, but who may not feel comfortable speaking publicly. The main point of the specialists’ presence is to improve the meetings’ accessibility by explaining the commenting process to participants in a warm and understandable manner.

Intake specialists should also conduct direct community outreach efforts. The goal would be to help members of the public who may not go to virtual or in-person meetings describe their communities and draw maps. Individuals have varying levels of comfort with online tools or public speaking; intake specialists can provide community members with another method for participation. An intake specialist trained in COI criteria can translate the technicalities of the mapmaking process in an inviting manner, thus helping more community members to engage.

Remember that the Commission is meant to be representative of the entire population of Michigan.<sup>190</sup> Therefore, the tools it uses for public feedback should be fundamentally accessible. One method to prioritize

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188. Erin Chambers, Moon Duchin, Ranthony A.C. Edmonds, Parker Edwards, JN Matthews, Anthony E. Pizzimenti, Chanel Richardson, Parker Rule, & Ari Stern, *Aggregating Community Maps*, SIGSPATIAL '22, Nov. 2023, at 5, <https://dl.acm.org/doi/pdf/10.1145/3557915.3560961> [<https://perma.cc/C5VK-VQVB>].

189. Zoom Interview with Dr. Moon Duchin, Mathematician & Professor, Tufts Univ. (Feb. 11, 2023) (notes on file with authors).

190. See MICH. CONST., art. IV, § 6(2)(i) (“Commissioners shall be selected through the following process...The secretary of state shall circulate the applications in a manner that invites wide public participation from different regions of the state.”).

outreach could borrow from Professor Susan Dynarski’s outreach method to prospective college students. She mailed out University of Michigan college applications to high-achieving, low-income students in the state of Michigan. After the intervention, the University saw a marked increase in applications from (and acceptance of) students in this demographic.<sup>191</sup> The applications were large and colorful—they looked like acceptance packages. These applications also explained to students, in simple terms, that if they were accepted to the University, they would receive full tuition scholarships. All this information was previously true. These students were already eligible for these scholarships if accepted. Professor Dynarski’s research shows that making information more accessible and inviting can have “profound effects on behavior . . . . Research suggests that this is especially true for poor people.”<sup>192</sup> The Commission should consider using a part of its constitutionally apportioned budget to mail out strategically designed information to members of the public. This outreach should also be done early; Commissioner Erin Wagner stated that, “had [the Commission] spent more time in revising maps according to public comment, [the Commission] could have done a much better job than what [they] put forth.”<sup>193</sup>

Once the initial borders of COIs are defined, MICRC might send a mailer to residents in a proposed COI for their feedback on the borders. In doing so, the Commission would add another layer of public review: commenters could approve of (or disagree with) proposed COI borders. As with Professor Dynarski’s mailer, design features could include personalization, large font, contrasting colors, and not too much text.<sup>194</sup> Plain or uninviting mailers risk being “ignored or disregarded as fraudulent.”<sup>195</sup> It should also include a side panel that briefly lists different language options and webpages for each language. That mailer could include a QR code leading to the public comment website. Members of the public could visit the website, view the proposed COI and quickly say “yes, this boundary looks right” or “no, this needs work.” The mailer could also include a phone number to call for more information on

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191. Susan Dynarski, C.J. Libassi, Katherine Micheltore, & Stephanie Owen, *Closing the Gap: The Effect of a Targeted, Tuition-Free Promise on College Choices of High-Achieving, Low-Income Students 2* (Nat’l Bureau of Econ. Rsch., Working Paper No. 25349, 2018), [https://www.nber.org/system/files/working\\_papers/w25349/w25349.pdf](https://www.nber.org/system/files/working_papers/w25349/w25349.pdf) [<https://perma.cc/A3UG-FJD7>].

192. *Id.* at 35.

193. MICH. INDEPENDENT CITIZENS REDISTRICTING COMM’N, REPORT ON 2021 REDISTRICTING 84 (Aug. 18, 2022), <https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/MISC8/Commission-Report.pdf?rev=b81719cd0c8241af8c4ce2b8691365ce&hash=FF6205E81C19EF40CD8285A72EDE42D4> [<https://perma.cc/GBP6-F28Y>].

194. Dynarski et. al, *supra* note 191, at 10.

195. *Id.*

participating in the process, designed to reach populations unable to learn about the process online. The idea would be to reach people who might be unable to attend public hearings or entirely unaware of the redistricting process.<sup>196</sup> Staff members could then take public feedback into account when recalibrating COI boundaries.

Staff members could additionally set up public hearings in areas that are consistently drawn as COIs. For example, the Commission might send staff members to towns within the 36 clusters identified by MGGG. These staff members could provide an opportunity for members of the community to confirm the COI borders or provide alternate suggestions. This method would also increase accessibility for users who are uncomfortable navigating online tools.

Moreover, this would be an iterative process. In an August 2021 MICRC meeting, the Commission expressed an interest in keeping public comment open until the mapping process was complete. After concerns from community members that the MGGG portal would close after a certain time, Commissioner Anthony Eid assured the public that the portal would remain active, noting, “we’ve got literally seven pages of people saying don’t shut the public comment portal tool down. That is never what we were going to do. And we are not shutting it down.”<sup>197</sup> General Counsel Pastula confirmed, saying, “it’s not appropriate to shut the portal down until the Commission’s work has been concluded.”<sup>198</sup> These comments articulate the Commission’s desire to keep public comment flowing as long as possible. The Commission should build on this desire by sending staff into proposed COI areas to confirm COI boundaries. In doing so, the Commission would stay true to its “thematic” approach and draw even more voices into the process.<sup>199</sup>

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196. See, e.g., Hidden Brain, *Success 2.0: The Obstacles You Don't See*, HIDDEN BRAIN MEDIA, at 37:31 (May 15, 2023), <https://hiddenbrain.org/podcast/work-2-o-the-obstacles-you-dont-see/> [<https://perma.cc/CD4Q-D873>] (noting that helping people with the logistics of a decision, such as putting an appointment on someone’s calendar and giving them directions to the appointment, made the action easier and more likely to be completed compared to persuading them of the value of the appointment).

197. MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF 5:00 PM MEETING - AUG. 26, 2021, [https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts1/MICRC\\_Transcript\\_08\\_26\\_Mtg\\_2.pdf?rev=12eca264ab534d74bd2a3bf9c63e2cc5&hash=B4EC1C5647466480F4E94AC3AAD5540F](https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/Transcripts1/MICRC_Transcript_08_26_Mtg_2.pdf?rev=12eca264ab534d74bd2a3bf9c63e2cc5&hash=B4EC1C5647466480F4E94AC3AAD5540F) [<https://perma.cc/TKV8-3BWZ>].

198. *Id.*

199. This iterative process may also serve as a verification of COI borders that the Commission receives from potentially anonymous online commenters.

## 2. Additional Staff for Analysis: Summarizing and Organizing Public Comment

Hiring staff to analyze and organize public comments will also help the Commission define and implement COIs. During the first redistricting process, there were no staff members dedicated to organizing and analyzing public comments.<sup>200</sup> A written record existed for both in-person comments and portal comments—but there was no real-time consolidation nor large-scale thematic<sup>201</sup> organization of these comments.<sup>202</sup> Reviewing each comment takes time. One commissioner suggested adding preparatory time in the Commission’s schedule to review COIs.<sup>203</sup> The commissioner noted: “If we don’t have time to look at those public comments, then we’re not considering them. We are not deliberating on them. We are ignoring them.”<sup>204</sup>

Separate from outreach efforts, additional staff will help time-strapped commissioners by organizing public comments. Organized comments can help commissioners understand public comment trends more efficiently. Comments could be organized by location, theme (language, ethnicity, economics), and content (whether a comment has a response from another user), to name a few examples.<sup>205</sup> These organized comments would act as a real-time guide for commissioners as well as a repository of past comments. This organization should happen at every step of the public comment process: at public hearings, online, and during the iterative COI reviews.

Without additional staff to organize comments, commissioners would be left to recall details of each comment themselves. And with thousands of incoming comments, that recall would be impractical. An organized collection of past comments would allow commissioners to refer to public comments easily to inform the map-drawing process. To be clear,

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200. Conversation with Bruce Adelson, CEO, Fed. Compliance Consulting LLC, in Ann Arbor, Mich. (Nov.15, 2022) (notes on file with authors).

201. According to the August 19, 2021 transcript, the Commission’s executive assistant indexed the written comments by townships and cities, which this paper applauds. To further organize comments, future MICRC staff might also consider sorting comments by theme and subject matter. See MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF 12:00 PM MEETING - AUG. 19, 2021, *supra* note 90, at 27.

202. *Id.* While public comments were provided to the Commissioners, it does not appear that the comments were organized in real time. *Id.* at 10.

203. See MICH. INDEP. CITIZENS REDISTRICTING COMM’N, TRANSCRIPT OF 12:00 PM MEETING - AUG. 19, 2021, *supra* note 90, at 26.

204. *Id.*; see also Magpantay, *supra* note 48 (discussing the New York commission’s struggles at translating community comments into meaningful representation).

205. The MGGG team performed some of this type of organization when developing the 36 clusters. See generally MGGG REPORT, *supra* note 106.

hiring staff to summarize comments would not detract from commissioners' ability to review individual comments.<sup>206</sup> Instead, additional staff would enhance commissioners' capacity. Staff would streamline comments for commissioners, which would in turn aid their review of the comments. Librarians and other individuals with information management skills may be good candidates for the staff role.<sup>207</sup> While compiling printed information, staffers should also organize comments electronically to store for future use (NVivo, for instance, is a software for organizing qualitative text).<sup>208</sup> By compiling and organizing comments, staff would center the public feedback that informs setting COI boundaries. While additional staff require additional funding, the cost is certainly worth it. These additional staff would help ensure that COIs—again, the third-most important constitutional criteria of seven—faithfully reflect Michiganders' voices.

### 3. Language Options and the Importance of Local Media

To make the public comment process as inclusive and representative as possible, the Commission should prioritize translation efforts. The Commission should consult with experts like Dr. Hayg Oshagan, who previously worked with the Commission to engage with minority populations through media. Dr. Oshagan provided the example of New Michigan Media (NMM), which he described as “a conglomeration of the largest minority papers in southeast Michigan.”<sup>209</sup> Dr. Oshagan highlighted that “these media constitute trusted voices in their communities” and are active leaders in their communities.<sup>210</sup> State leaders partnered with NMM for census work—they could also partner with NMM for public comment work. Dr. Oshagan noted that some of this engagement work has already

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206. See MICRC, *Draft Lessons Learned Video*, YOUTUBE, at 5:41–50 (Oct. 27, 2022), [https://youtu.be/wLRa4acKTGw?si=s-7j\\_wfBRRqZYQjh&t=340](https://youtu.be/wLRa4acKTGw?si=s-7j_wfBRRqZYQjh&t=340) [<https://perma.cc/BF4H-ABVV>]. Commissioner Szetela said: “We received 30,000 public comments. I read every single one of them. I listened to every single one of them. But, for me to say as an individual, that I can accurately categorize them or put them on a shelf where they go, I mean, that’s just not realistic for any person. And so while I did my best, and I know others did as well, we really could have helped ourselves by having a tracking system for those comments.” *Id.*

207. See *generally Organizing Files*, UNIV. N. TEX. UNIV. LIBRS., <https://library.unt.edu/digital-projects-unit/standards/organizing-files/> [<https://perma.cc/7CUP-D9LH>] (last visited Mar. 19, 2024).

208. See *generally Statistical & Qualitative Data Analysis Software: About NVivo*, KENT STATE UNIV. LIBRS., <https://libguides.library.kent.edu/statconsulting/NVivo> [<https://perma.cc/P3KY-AZ9L>] (last visited 2022).

209. CLOSUP Lecture Series, *supra* note 107, at 39:40 (Dr. Hayg Oshagan speaking).

210. *Id.* at 39:55. Dr. Oshagan noted: “The publisher of the Arabic paper in Detroit, for example, is akin to a mayor of that community.”

happened: when the Secretary of State’s office saw that 67,000 people had applied to be commissioners, but only 50 members of the Latino community had applied, the office engaged with NMM to increase applications.<sup>211</sup> New Michigan Media also worked on campaigns to promote the Michigan Department of State message to Bengali, Arab, and Latino communities.<sup>212</sup> It is also critical to remember that the Commission must continue explaining the importance of public comment. As Dr. Oshagan noted, “Why should people participate? It is important to explain to people why.”<sup>213</sup> Doing so in a number of languages on the public comment portal—and in mailings to residents—will help expand the reach of the Commission’s work.

#### D. *Natural Language Processing, A.I., and the Future of Technology*

In tandem with the additional staff who would read and organize public comments, the MICRC might consider natural language processing to aid their analysis—but it should be wary of its limitations, especially in its current form. Natural language processing (NLP) is a branch of artificial intelligence “concerned with giving computers the ability to understand text and spoken words in much the same way human beings can.”<sup>214</sup> Here, NLP could analyze thousands of long comments and summarize the main points.<sup>215</sup>

Staff members might then take and categorize the summarized main points. If the Commission receives hundreds of thousands of comments, text mining may analyze the comments in real time. Dr. Duchin and other COI researchers attempted to use natural language processing to analyze COI submissions but ultimately found the NLPs unhelpful.<sup>216</sup> One issue they found was that the NLP had difficulty “[p]icking out subtle categorical differences between COI submissions,” an activity that is “subtle and ambiguous” even for human experts.<sup>217</sup> Members of the public sometimes used idiosyncratic phrases to

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211. *Id.* at 41:38.

212. *Id.* at 41:49.

213. *Id.* at 43:20.

214. *What is Natural Language Processing?*, IBM, <https://www.ibm.com/topics/natural-language-processing> [<https://perma.cc/XFP6-M2WM>] (last visited Mar. 19, 2024).

215. *Id.* (The section entitled “NLP use cases,” then under the heading “Text summarization,” reads: “Text summarization uses NLP techniques to digest huge volumes of digital text and create summaries and synopses for indexes, research databases, or busy readers who don’t have time to read full text.”)

216. Chambers et al., *supra* note 188, at 11.

217. *Id.*



describe their preferences, which challenged the NLPs.<sup>218</sup> For now, MGGG clustering is done by hand.

But technology continues to develop rapidly, and it may increasingly perform complex tasks. In November 2022, a company called OpenAI released a technology called ChatGPT. It is an artificial intelligence (AI) chat bot trained using large amounts of information from the Internet, which gives it vast knowledge and also allows it to have dialogue with its users.<sup>219</sup> ChatGPT, and other tools like it,<sup>220</sup> may potentially aggregate and analyze large amounts of comments, such as COI public comments.

One major drawback to this approach is systemic bias. Text-generating systems have been proven to be biased, particularly against minority groups.<sup>221</sup> Their datasets may be inaccurate, or even where they are accurate, they may reflect historic and existing injustices.<sup>222</sup> AI programmers, who are predominantly white and Asian men, may also have implicit biases that become coded into the AI.<sup>223</sup> And tools like ChatGPT produce data based on the vast Internet, where users regularly espouse racist, sexist, and otherwise biased information.<sup>224</sup> These biases mean that using ChatGPT, without proper monitoring, could lead to biased maps.

ChatGPT can also sometimes provide false information.<sup>225</sup> For example, when prompted to summarize two anonymized public comments from the 2020 Michigan redistricting, ChatGPT mistakenly attributed

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218. *Id.*

219. *What is ChatGPT?*, OPEN AI, <https://help.openai.com/en/articles/6783457-what-is-chatgpt> [<https://perma.cc/6DL8-ZXQB>] (last visited Feb. 20, 2024). See also Sara Khan & Elizabeth Powers, *Efficiency, Ethics and Algorithms: The Implications of AI on the Legal Profession and the ABA Model Rules*, SSRN (Jul. 18, 2023), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4461276](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4461276) [<https://perma.cc/BD36-R8BB>].

220. See Umar Shakir, *Bing, Bard, and ChatGPT: AI Chatbots Are Rewriting the Internet*, THE VERGE (Feb. 17, 2024, 6:23 PM), <https://www.theverge.com/23610427/chatbots-chatgpt-new-bing-google-bard-conversational-ai> [<https://perma.cc/QTY2-CF4E>].

221. Sigal Samuel, *Why it's So Damn Hard to Make AI Fair and Unbiased*, VOX (Apr. 19, 2022, 6:00 AM), <https://www.vox.com/future-perfect/22916602/ai-bias-fairness-tradeoffs-artificial-intelligence> [<https://perma.cc/WEV7-4EBF>].

222. Sarah M. Bender, *Algorithmic Elections*, 121 MICH. L. REV. 489, 496 (2022).

223. *Id.*

224. Zachary B. Wolf, *AI Can Be Racist, Sexist and Creepy. What Should We Do About It?*, CNN (Mar. 18, 2023, 9:29 AM), <https://www.cnn.com/2023/03/18/politics/ai-chatgpt-racist-what-matters/index.html> [<https://perma.cc/2QXX-KCZT>]. See also Khan & Powers, *supra* note 219, at 20.

225. *ChatGPT and Generative Artificial Intelligence (AI): False and Outdated Information*, UNIV. WATERLOO LIBR. (Dec. 5, 2023), [https://subjectguides.uwaterloo.ca/chatgpt\\_generative\\_ai/falseoutdatedinfo](https://subjectguides.uwaterloo.ca/chatgpt_generative_ai/falseoutdatedinfo) [<https://perma.cc/SWQV-GVC8>]; see also Ramishah Maruf, *Lawyer Apologizes for Fake Court Citations From ChatGPT*, CNN (May 28, 2023, 3:28 PM), <https://www.cnn.com/2023/05/27/business/chat-gpt-avianca-mata-lawyers/index.html> [<https://perma.cc/K7AU-7EU5>]; Khan & Powers, *supra* note 219, at 20.

information from one commenter to the other.<sup>226</sup> This small sample shows a potential drawback to tools like ChatGPT, at least in its current state. It may be tempting to use such a tool to analyze large amounts of comments; but without human staff verification, the bot-provided summaries could be flatly wrong. If the Commission develops its COIs based on public feedback, it is essential that AI tools accurately summarize the public feedback.

On the other hand, as the technology improves, the benefits of its use may outweigh the risks. A few months after OpenAI released ChatGPT, the company introduced a version that reportedly provided more accurate results.<sup>227</sup> And ChatGPT is not the only tool available. Perhaps developers will create a tool specifically designed to summarize and analyze public feedback for the purpose of redistricting. Or perhaps there will be technology available at the time of the next redistricting that is currently unfathomable. But some core lessons remain. Any technology used should be as accurate and unbiased as possible. While it is possible that such a technology could cost less than staff salaries, it should nonetheless be subject to frequent, thorough human review. COIs deserve time and investment, so that districts best reflect the will of the people.

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226. One of the authors of this piece pulled two comments from the MGGG District Portal and anonymized them. Anonymization included: changing the commenters' names and re-wording their submissions. Although public comments are public data, it may still be worth anonymizing comments when testing or using ChatGPT. ChatGPT may review conversations, and users cannot delete specific prompts, see What Is ChatGPT, *supra* note 219; see also Mark DeGeurin, *Oops: Samsung Employees Leaked Confidential Data to ChatGPT*, GIZMODO (Apr. 6, 2023), <https://gizmodo.com/chatgpt-ai-samsung-employees-leak-data-1850307376> [<https://perma.cc/N2PH-S3H7>]. After anonymizing the comments, the author uploaded the samples to ChatGPT. In MGGG, the two commenters (let's call them "Michael" and "John") had a conversation about COIs in a certain area of Detroit. Michael raised a specific concern about splitting a voting bloc. But ChatGPT attributed that concern to John, instead of Michael. Conversation on file with the author.

227. Alan Truly, *GPT-4: How to Use the AI Chatbot That Puts ChatGPT to Shame*, DIGIT. TRENDS (July 19, 2023), <https://www.digitaltrends.com/computing/chatgpt-4-everything-we-know-so-far/> [<https://perma.cc/58XP-LQF2>] (describing the difference between GPT-3.5 and GPT-4. GPT-3.5 was the version originally introduced by OpenAI. GPT-3.5 is reportedly less accurate than the updated version, GPT-4. As of the time of this writing, GPT-3.5 is free and GPT-4 requires a paid subscription. *Id.* Also, note that the ChatGPT conversation referenced in footnote 226 was done with the free ChatGPT 3.5 version. Future scholarship might compare the accuracy between GPT-3.5 and GPT-4 when summarizing MGGG comments).

## CONCLUSION

The Michigan Independent Citizens Redistricting Commission created its first-ever set of maps for the 2020 cycle. While the MICRC has room to improve for the next round of mapmaking, it is worth applauding that they completed the maps in a time of extraordinary difficulty. Particularly in Michigan, where extremists plotted to kidnap Governor Whitmer<sup>228</sup> and where some members of the Wayne County Board of Canvassers initially refused to certify election results,<sup>229</sup> the state could have buckled from the immense pressure of a deadly pandemic and presidential election. But the commissioners instead persevered.

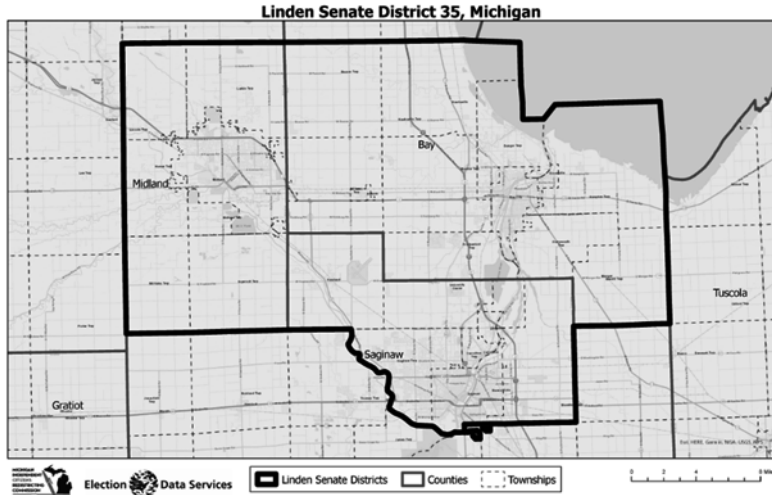
The 2020 MICRC was a learning experience for all involved, the first patina in a hopefully long legacy of Michigan citizen redistrictors. With the next redistricting cycle in a decade, one can only hope to have a MICRC that again takes this duty seriously, and that future researchers continue searching redistricting commission public records for answers to the many open questions that still linger for COIs. With more available data on COI best practices unfolding regularly, redistricting commissions around the country need practical guidance on how to meaningfully include COIs into their maps. Likewise, voters deserve procedures and a Commission that recognizes their communities and listens to their interests.

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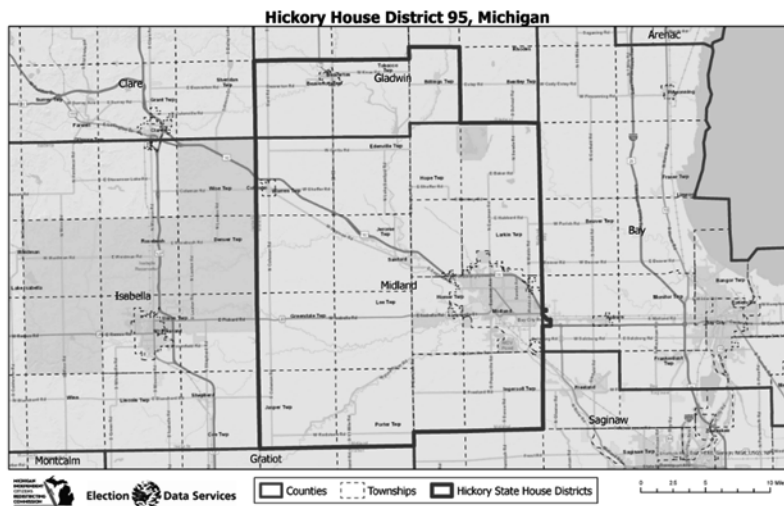
228. Paul Egan & Tresa Baldas, *'Deeply Disturbing': Feds Charge Extremists in Domestic Terror Plot to Kidnap Michigan Gov. Gretchen Whitmer, Create Civil War*, DETROIT FREE PRESS (Oct. 8, 2020, 12:06 PM), <https://www.freep.com/story/news/nation/2020/10/08/militia-members-charged-plot-against-michigan-gov-gretchen-whitmer/5923650002/> [https://perma.cc/6N2B-XNWC].

229. Lauren Gibbons, *Wayne County Canvassers, After Last-Minute Reversal, Certified Election Results. What Happens Now?*, MLIVE (Nov. 18, 2020, 1:01 PM), <https://www.mlive.com/politics/2020/11/wayne-county-canvassers-after-last-minute-reversal-certified-election-results-what-happens-now.html> [https://perma.cc/FDE8-W7TT].

APPENDIX<sup>230</sup>

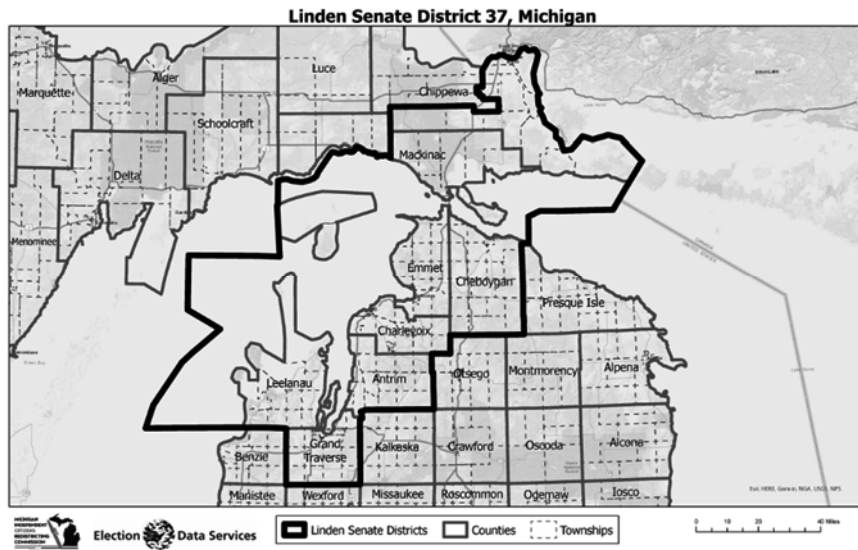


Appendix Image 1: State Senate Map of Tri-Cities Area (Splitting Midland County)

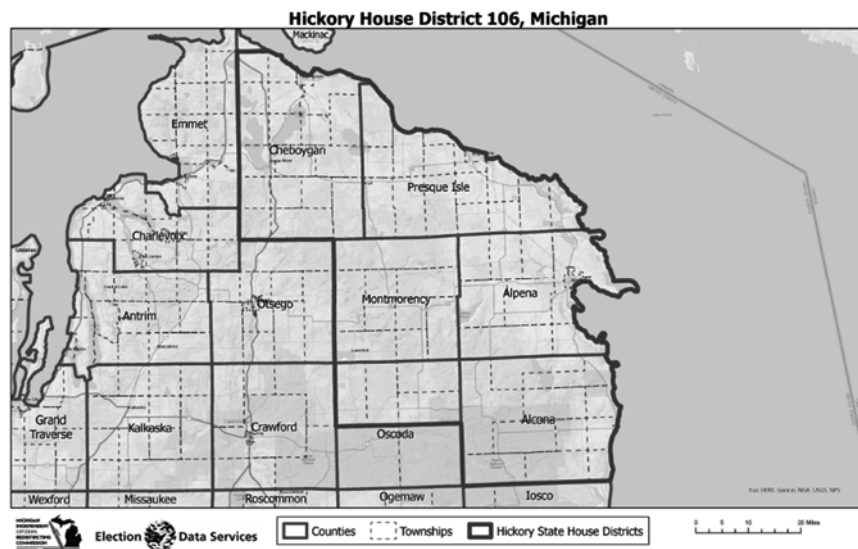


Appendix Image 2: State House Map of Tri-Cities Area (Keeping Midland County Whole)

230. All map images (Appendix Images 1–6) come from the MICRC’s website. *Map Images*, MICH. INDEP. CITIZENS REDISTRICTING COMM’N, <https://www.michigan.gov/micrc/mapping-process/final-maps/map-images> [<https://perma.cc/J3W7-HDRX>]. All MGGG images (Appendix Images 7–8) come from <https://www.michigan-mapping.org> and <https://districtr.org/>. All CityGate images (Appendix Images 9–12) come from [https://michigan.mydistricting.com/legdistricting/michigan/comment\\_links#](https://michigan.mydistricting.com/legdistricting/michigan/comment_links#).

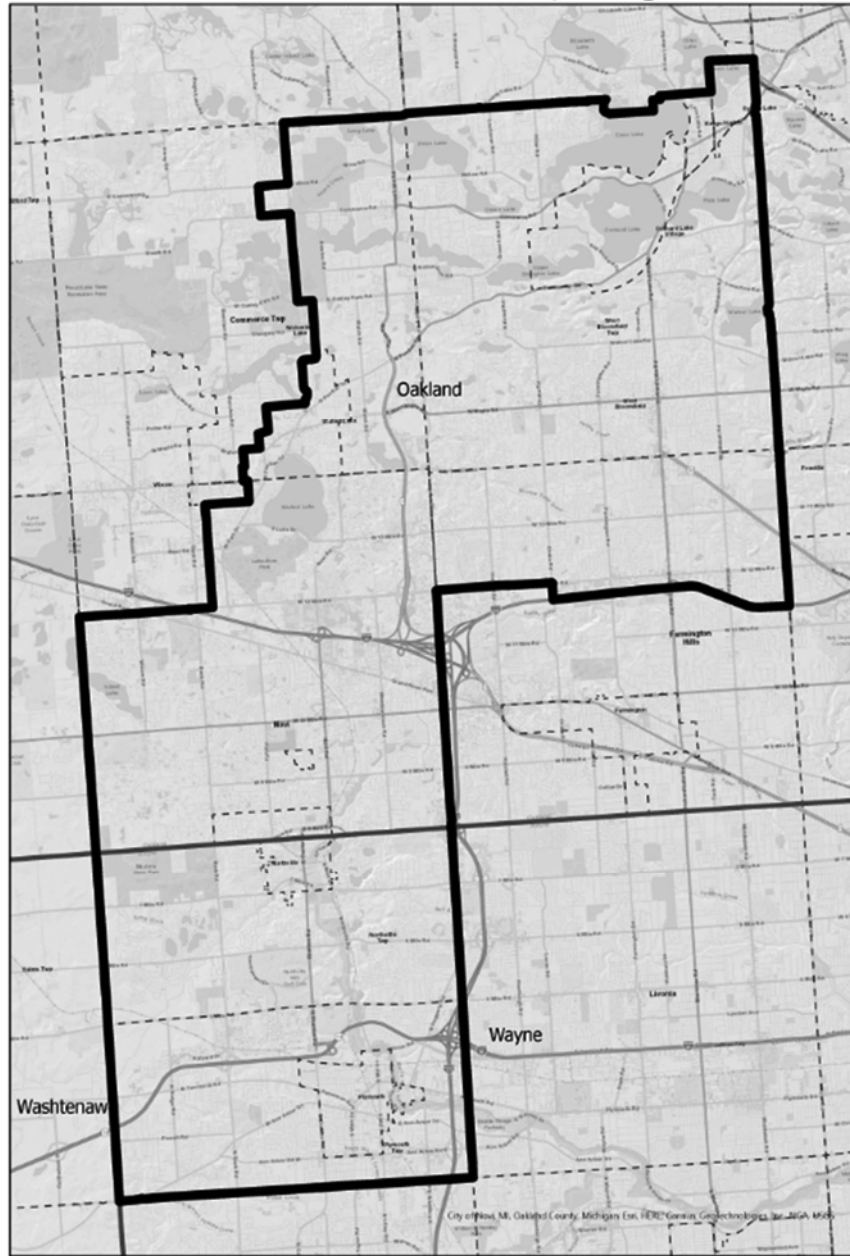


Appendix Image 3: State Senate Map of Northern Lower Peninsula (Cheboygan Kept With Western Communities)



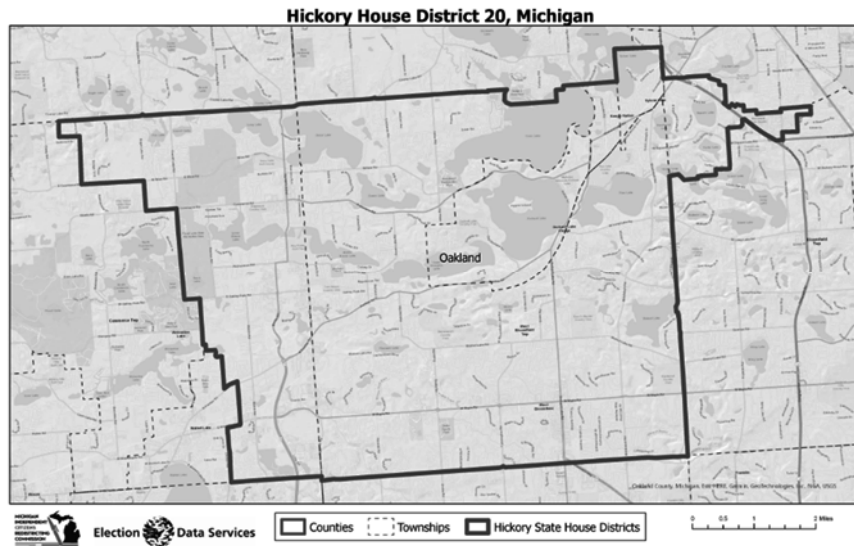
Appendix Image 4: State House Map of Northern Lower Peninsula (Cheboygan Kept With Eastern Communities)

### Linden Senate District 13, Michigan



Legend: Linden Senate Districts Counties Townships





*Appendix Images 5 and 6: West Bloomfield Kept Whole in State House and Senate Maps*

### Collection via public submission portal [michigan-mapping.org](http://michigan-mapping.org)



*Appendix Image 7: The MGGG Districtr Tool, which community members used to draw maps and communities of interest. Districtr's software feeds into the MGGG portal. Users visiting the portal draw the maps using Districtr's software.*

**Dearborn Cultural District**

**Basic Info**

Submitter: ██████████  
 Location: Dearborn City  
 Submitted: 5/5/2021  
 Type: coi  
 ID: c38

**Tags**

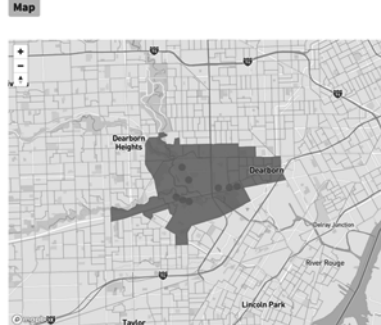
**More Info**

Cultural venues in Dearborn. Important that they be combined in some way for financial support (grants, direct subsidies) for the institutions.

**Comments & Feedback**

No comments have been submitted.

You can pan and zoom in the embedded map with your mouse or the +/- buttons.

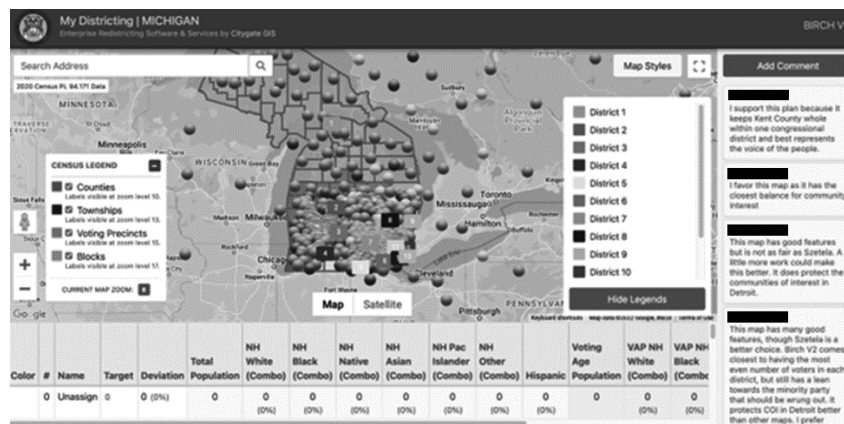


*Appendix Image 8: A community member drew a community of interest map for what they termed the Dearborn Cultural District. They also left a comment supporting those boundaries. This was the very first community of interest map recorded in MGGG Districtr Tool; May 5, 2021.*

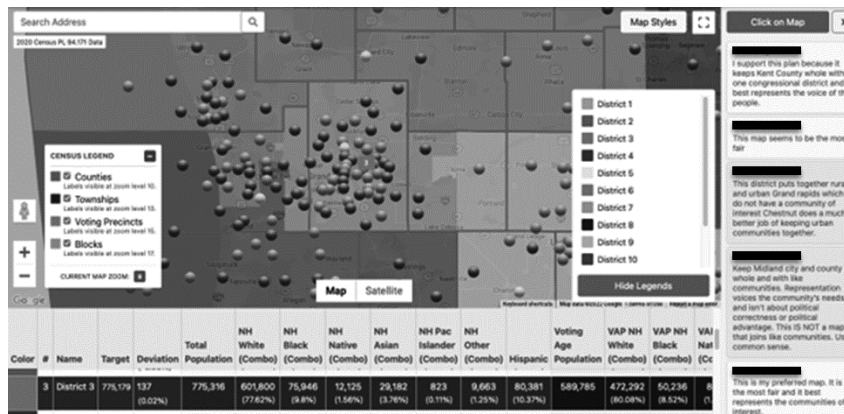
#	Plan	Remark	Created Date	Owner	Tag	# of Comments	Attachment	District Shapes	Comment Link
279	Final Plan Chestnut	Final	2021-12-29	Admin User	Agency Uploaded	0	NO ATTACHMENT	Download	Open
273	Lange Congressional	Published	2021-11-08	Admin User	Agency Uploaded	293	NO ATTACHMENT	Download	Open
275	Szetela Congressional	Published	2021-11-08	Admin User	Agency Uploaded	229	NO ATTACHMENT	Download	Open
254	Chestnut	Published	2021-11-02	Admin User	Agency Uploaded	829	NO ATTACHMENT	Download	Open
253	Birch V2	Published	2021-11-02	Admin User	Agency Uploaded	819	NO ATTACHMENT	Download	Open
252	Apple V2	Published	2021-11-02	Admin User	Agency Uploaded	468	NO ATTACHMENT	Download	Open
243	10-13-21 v1 CD RL	complete	2021-10-14	Admin User	Agency Uploaded	146	NO ATTACHMENT	Download	Open

*Appendix Image 9: Step one of the CityGate GIS process. The Commission’s draft maps were uploaded as an Excel file onto CityGate GIS. Clicking “Open” leads to the particular draft map, such as the Birch V2 map.*





Appendix Image 10: Screenshot of the Birch V2 map. The map boundaries are overlaid onto a Google Map of the state of Michigan. For example, the Birch V2 map is a Congressional map. District 1 overlays the Upper Peninsula and Up North. The dots are individual comments. The dots appear where the user clicks on the map, not where the user is physically located. For instance, a user could place a comment dot in Midland but be physically located in the Upper Peninsula as they make that comment. Clicking on the dot leads to the comments on the right side of the screen.



Appendix Image 11: Screenshot of the Birch V2 map, zoomed in public comment. Public comments in this GIS tool were not available in the MGGG mapping portal, nor vice versa. Some public comments on the GIS tool spoke about COIs, but there is no apparent way to filter for these community of interest-specific comments. The MGGG Districtr tool does provide a filter for community of interest comments.

Also, note the Excel row below the map screenshot. The selected row shows District 3 and its target population, deviation, and race of voters. These data reflect the Michigan constitutional requirement that “[e]ach of the proposed plans shall include such census data as is necessary to accurately describe the plan and verify the population of each district, and a map and legal description. . .” (Mich. Const. Art. IV § 6, (9)).

**Add Comment** ⓘ ✕

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Please fill in the following details to submit your Comments. You can also attached a document if you want to provide more details.

**Your Opinion**

Dislike	Opinion	<b>Like</b>
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**Fullname**

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**Address**

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**City**                      **State**                      **Zip**

Enter your City	Enter your State	Enter your Zipcode
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**Email**

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**Phone**

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**Additional Comments**

Appendix Image 12: Screenshot of information required of commenters from the CityGate GIS tool. An email address was required to verify the user’s comment.

