



Redistricting

Not really a four-letter word

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**Waco City Council
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Redistricting — The Basics

The council's redistricting authority is largely, but not entirely, unlimited

- **Limitations on that authority involve constitutional and legal principles:**
 - **The 5th, 14th and 15th Amendment equal protection guarantees**
 - **The Federal Voting Rights Act of 1965, as amended in 1975 and 1982**
 - **State Law Requirements, such as:**
 - **The Texas Constitution,**
 - **The Texas Election Code, the Local Government Code and the Government Code,**
 - **The City's Charter and Ordinances.**

The Constitutional Limitations

A plan must satisfy the equal protection guarantees of the 5th, 14th and 15th amendments

- Equal protection, in this context, requires equity in representation

The “Prime Directive” — Balance population

- **Redistricting must avoid plans that result in:**
 - **Over Representation** — too few residents gives to each increased influence
 - **Under Representation** — too many results in less influence
- Population equity does not require “perfect” equality
- It is judged against a principle commonly referred to as “One-Person One-Vote”
 - Counter intuitively, one-person one-vote refers to warm bodies, not voters

Avery v. Midland County, Tex. — ”The Poster Child”

390 U.S. 474, (1968)

One-Person One-Vote applies to local governments

“[T]he Constitution imposes one ground rule for the arrangements of local government: a requirement that units with general governmental powers over an entire geographic area not be apportioned among single-member districts of substantially unequal population.”

The Midland County Commissioners Court, like others, is composed of five members:

- The County Judge who is elected at large from the entire county and 4 Commissioners who are chosen from single member geographic districts
- **The population of the four commissioner precincts was:**
 - One with 67,906, containing most of the city of Midland
 - Three rural districts with populations of 852; 414; and 828, respectively

Q What was the problem?

Q How near to equal must population be balanced?

One-Person One-Vote

- **The determination is based on the population variance:**
 - (1) between that of the highest and lowest populated districts, and**
 - (2) among all districts**
- Variance is measured in terms of the maximum and average deviation from an ideal district
- The maximum deviation — the percentage of the variance between the highest and lowest populated districts — **may not exceed 10%, without a compelling justification**
- The average deviation — the mean of the average variance of all districts collectively — **is subject to no specific limitation, but a common ceiling is +/- 3 or 4%**

2001 Waco Council district lines – per 2010 Census Count

Ideal	24961						
	Total	White	Black	Other	Hispanic	Total Minority	Var. / Dev.
	<u>124805</u>	<u>57217</u>	<u>26954</u>	<u>3687</u>	<u>36947</u>	<u>67588</u>	
		45.85%	21.60%	2.95%	29.60%	54.15%	
District	total	white	black	other	hispanic	total minority	
1	23090	6695	10433	505	5457	16395	1871. (7.50%)
		29.00%	45.18%	2.19%	23.63%	71.00%	
2	22803	9833	2105	1162	9703	12970	2158. (8.65%)
		43.12%	9.23%	5.10%	42.55%	56.88%	
3	28332	15538	5095	1168	6531	12794	3371 (13.51%)
		54.84%	17.98%	4.12%	23.05%	45.16%	
4	21055	4821	6058	229	9947	16234	3906 (15.65%)
		22.90%	28.77%	1.09%	47.24%	77.10%	
5	29525	20330	3263	623	5309	9195	4564 (18.28%)
		68.86%	11.05%	2.11%	17.98%	31.14%	
Max. Var. 8470 Max. Dev. 33.93% Bd of Est. 28.28%							

Plans Must Avoid Unlawful Discrimination

The 5th and 14th amendments prohibit the federal and state governments from drawing distinctions among individuals based solely on differences irrelevant to any legitimate governmental objective, including race and ethnicity

This guarantee was specifically extended to the right to vote by the 15th amendment

§1 “The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.”

§ 2 “The Congress shall have the power to enforce this article by appropriate legislation.”

Congress exercised this power through the Voting Rights Act (VRA) of 1965, as amended:

- **In 1975** — brought Texas under the mandatory preclearance provisions for the first time
- **In 1982** — added discriminatory “effect” to “intent” as a violation of the VRA

The Voting Rights Act

Dilution - VRA §2

- **Packing** — concentrating population to avoid creation of impair minority influence
- **Cracking** — splitting an insular minority concentration to impair minority influence

Retrogression — VRA §§ 4 and 5

- Preclearance, was intended to prevent states from staying a jump ahead of the law
- While preclearance is no longer required, retrogression remains a viable factor

The “Poster Child” for retrogression — *Gomillion, v. Lightfoot*, 81 S.Ct. 125, 126 (1960)

Act 140 would have transformed the City of Tuskegee from a square “into a strangely irregular 28-sided figure” with the effect of removing from the city all save 4 or 5 of its 400 Black voters while not removing a single white voter or resident.

- **Meaningful public input can protect against inadvertent violation of the VRA**

Current Waco Council Districts – per 2010 Census Count

Ideal	24961						
	Total	White	Black	Other	Hispanic	Total Minority	Var / Dev.
	<u>124805</u>	<u>57217</u>	<u>26954</u>	<u>3687</u>	<u>36947</u>	<u>67588</u>	
		45.85%	21.60%	2.95%	29.60%	54.15%	
Dst.	total	white	black	other	hispanic	total minority	
1	24755	7313	10857	529	6056	17442	206 (0.83%)
		29.54%	43.86%	2.14%	24.46%	70.46%	
2	25403	10809	2705	1197	10692	14594	442 (1.77%)
		42.55%	10.65%	4.71%	42.09%	57.45%	
3	25068	14210	4321	1122	5415	10858	107 (0.43%)
		56.69%	17.24%	4.48%	21.60%	43.31%	
4	25117	6022	7131	276	11688	19095	156. (0.62%)
		23.98%	28.39%	1.10%	46.53%	76.02%	
5	24462	18863	1940	563	3096	5599	499 (2.00%)
		77.11%	7.93%	2.30%	12.66%	22.89%	
Max Var	941		Max Dev	3.77%		Bd of Est.	3.14%

2020 Estimate (+/-10% error) 138,183

Ideal District = 27,637 +2,675

Q How likely is Waco's growth to affect every Council District equally?

Traditional Redistricting Criteria

Caveat: The “Horns of the Dilemma” — Plans must also avoid reverse racial Gerrymanders

“Districts that are bizarrely shaped and noncompact, and that otherwise neglect traditional districting principles and deviate substantially from the hypothetical court-drawn district, for predominately racial reasons are unconstitutional.” *Bush v. Vera*, 116 S.Ct. 1941 (1996)

- **Maintaining the Core of Existing Districts** — for the benefit of those represented
- **Protecting Incumbency** — again, for the voters who chose the incumbent
- **Use of Existing Election Precincts** — once more for the voters, to reduce confusion
- **Maintaining Communities of Interest** — this does not apply to partisanship
- **Compactness and Contiguity** — Waco’s connection to T.S.T.C.
- **Use of Natural or Physical Boundaries** — something that can be seen on the ground
- **Duties of the office** — largely ignored, except for offices such as Texas’ county commissioners in counties w/out unified road systems

In summary, the process involves:

- **Determining whether redistricting is required, based on the 2020 Census**

If redistricting is required, any plan must:

- Balance population among the Council Districts;
- Comply with the equal protection guarantees of the Constitution;
- Consider traditional redistricting criteria;
- Navigate the dilemma created by the dual requirements of:
 - Satisfying the Voting Rights Act, while
 - Avoiding a reverse racial Gerrymander;
- Provide for meaningful public input.

My job is to get the Council as close as the law allows to whatever plan it determines best serves the needs of Waco

The following slides may be of interest but are not part of the planned presentation.

Changing Demographics

The statewide and local impact





Texas

2000 Census

20,851,820

2010 Census

25,145,561

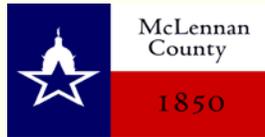
+20.59%

2020 Estimates

29,677,668

+18.02%

Local growth in the last 20 years has been steady, but at about half the state's rate



McLennan County

213,517

234,906

+10.01%

253,066

+7.73%



City of Waco

113,726

124,805

+8.87%

138,183

+9.68%

2010 Census

124,805

2010 Census Ideal District = 24,961

2020 Estimate (+/-10% error)

138,183

2020 Census Ideal District = 27,637

+13,327

+2,675

Texas and McLennan County's population estimates

+/- 10% margin of error

	Year	Total	White	Black	Hispanic	Asian	Other	Total Minority
State of Texas	2020	29,677,668	12,138,523	3,557,892	11,804,659	1,525,540	651,054	17,539,145
			40.90%	11.99%	39.78%	5.14%	2.19%	59.10%
	2050	47,342,105	13,523,839	6,030,839	20,191,750	5,782,879	1,812,842	33,818,266
			28.57%	12.74%	42.65%	12.22%	3.83%	71.43%
McLennan County	2010	234,906	138,295	35,117	55,471	3,220	2,803	96,611
			58.87%	14.95%	23.61%	*	*	41.13%
	2020	253,066	137,975	35,568	69,520	4,496	5,507	115,091
			54.52%	14.05%	27.47%	1.78%	2.18%	45.48%
	2030	269,381	135,851	36,484	83,726	6,286	7,034	133,530
			50.43%	13.54%	31.08%	2.33%	2.61%	49.57%
	2040	281,304	130,455	36,357	97,393	8,566	8,533	150,849
			46.38%	12.92%	34.62%	3.05%	3.03%	53.62%
2050	289,847	123,523	35,241	109,497	11,360	10,226	166,324	
		42.62%	12.16%	37.78%	3.92%	3.53%	57.38%	
* Not computed the same as in the estimates								