Cognizability as the Neglected Fourth C of Good Government Redistricting Criteria

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Everyone who has ever studied redistricting is aware of the three Cs of what are commonly referred to as *good government* redistricting criteria, namely contiguity, communities of interest, and compactness. But there is a much neglected fourth C, *cognizability*.

The idea of *cognizability* is introduced in my expert witness report in *Pope v. Blue*, 809 F. Supp. (WDNC. 1992).[[1]](#endnote-1) Grofman (1993: 1261) defines *cognizability* as “the ability to characterize the district boundaries in a manner that can be readily communicated to ordinary citizens of the district in commonsense terms based on geographic referents.” However, my attempt to introduce this term to the redistricting literature was a complete failure until first Bowen (2014), and then Phillips and Montello (2017: 32), and most recently Wang et al. (2022) referenced the idea (and my previous work) in the context of having citizens identify the geography that they saw as part of their community, using overlap of such identifications to define communities of interest.[[2]](#endnote-2)

The concept of cognizability can also be relevant in providing a justification in representational terms for a different standard redistricting criteria, that of non-fragmentation of existing political subunit boundaries, in a way that is different from simply the claim that political subunits are themselves communities of interest. Arguably, cognizability of district boundaries facilitates identification of and with the district, which allows for better representation and perhaps may lead to greater civic participation. [[3]](#endnote-3)

A clear operational test for *cognizability* has yet to be developed.[[4]](#endnote-4) In the discussion of cognizability in Phillips and Montello (2017) and Wang et al (2022 forthcoming) cognizability is only used in the context of identifying communities of interest. But the survey methodologies introduced in these articles to identify citizen’s “mental maps” of the geographic boundaries of their community of interest, and thus the *mappability[[5]](#endnote-5)* of COIs for redistricting purposes could, I think, easily provide the basis for operationalizing the concept of cognizability.[[6]](#endnote-6) Such methodologies might become grist for expert witness testimony in defending/attacking plans as violating the *Shaw v. Reno* standard of race not being a preponderant motive by asserting that the plans do/do not implement voter perceptions of the community/communities of which they are a part.

REFERENCES

Bowen, Daniel C. 2014. “Boundaries, Redistricting Criteria, and Representation in the U.S. House of Representatives.” *American Politics Research* 42(5): 856–895.

 Grofman, Bernard. 1993. “Would Vince Lombardi Have Been Right If He Had Said: “When it Comes to Redistricting, Race Isn't Everything, It's the Only Thing?” *Cardozo Law Review* 14.

Grofman, Bernard and Jonathan Cervas. 2021. ZIP Codes as Geographic Bases of

Representation. *Election Law Journal 20(2):* 215-223.

Miller, Peter, and Bernard Grofman. 2018. Public Hearings and Congressional Redistricting: Evidence from the Western United States 2011-2012. *Election Law Journal*. *17(1): 21-38*.

Phillips, D. W., and Daniel R. Montello. 2017. “Defining the Community of Interest as Thematic and Cognitive Regions.” 61 *Political Geography* 61.

### Pildes, Richard H. and Richard. G. Niemi. 1993.“[Expressive Harms," Bizarre Districts," and Voting Rights: Evaluating Election-District Appearances After *Shaw v. Reno*](https://www.jstor.org/stable/1289795).” *Michigan Law Review*  92 (3): 483-587.

Romney, K. S. Weller, and W. Batchelder. 1986. “Culture as Consensus: A Theory of Informant Accuracy.” *American Anthropologist*. 88 (2): 313-338.

Wang, Samuel H., Sandra J. Chen, Richard Ober, Bernard Grofman, Kyle T. Barnes, and Jonathan Cervas. 2022 forthcoming. “Turning Communities of Interest into a Rigorous Standard for Redistricting*” Stanford Civil Rights Civil Liberties Law Review***.**

1. This case can be seen as a precursor to *Shaw v. Reno* 509 U.S. 630 (1993) in that it also dealt with North Carolina’s CD 12.However, the legal challenge to the North Carolina map in *Pope v. Blue* was focused on partisan not racial grounds; the lawsuit was dismissed because the trial court found that plaintiffs had failed to make a credible allegation that, in the language of *Davis v. Bandemer*, 478 U.S. 1010 (1986), the state's redistricting plan had caused them to be "shut out of the political process.” [↑](#endnote-ref-1)
2. Phillips and Montello (2017: 32) provide a number of other examples of authors who proposed the notion of self-reported communities of interest. [↑](#endnote-ref-2)
3. ###  This point can be thought of as a counterpoint to ideas in Pildes and Niemi (1993) about expressive harms due to districts that are drawn simply with race in mind.

 [↑](#endnote-ref-3)
4. In a recent research note in *Election Law Journal* Jonathan Cervas and I (2021) consider ideas of cognizability in the context of using zip codes as the basis for drawing districts. Until we started writing that essay, except for the ZIP code which is entirely the University of California, Irvine, neither of us had any idea what are the boundaries of any ZIP code in the city (Irvine), including the ZIP code in which the home of one of us is located.We observe that there are pieces of seventeen ZIP codes are contained in the City of Irvine, but the majority of voters in some split ZIP codes, such as 92630, which is predominantly in Lake Forest, CA, do not live in Irvine. Indeed, in our best judgment, only two ZIP codes of the seventeen are wholly contained within the City of Irvine, CA (92604, 92617). But the City of Irvine is wholly within California CD 45, and that, in our view, matters a lot more for the *cognizability* of that CD to the residents of Irvine than knowing a particular ZIP code.Since I have become a long term resident of California, my own mental map of the area I live in is based largely on knowing what cities good restaurants/good doctors are located in within what I consider my “cruising range,” and how to use the freeways to get to them. In this I illustrate an observation by Oxford mathematical economist, Peyton Young (personal communication, 2006), that “in California, the shortest district between any two points passes through a car.” [↑](#endnote-ref-4)
5. *Mappability* is a term introduced in Miller and Grofman (2018) to refer to citizen feedback on redistricting maps that comes in a form that might actually be directly useful to mapmakers in crafting changes in district lines in that the proposed change(s) could be precisely identified on a map. These authors show that relatively small changes that could be implemented without drastic reconfiguration of district boundaries were more likely to be adopted by mapmakers doing revised plans after receiving citizen input than suggestions that required major changes. They also found that most citizen recommendations were not mappable, and thus virtually certain to be disregarded. [↑](#endnote-ref-5)
6. There is also a larger literature in cognitive psychology and cognitive anthropology on mental maps Also potentially relevant is Romney, Weller and Batchelder (1986) [↑](#endnote-ref-6)