

Here are answers to the most common myths and misperceptions we have heard in our conversations about redistricting, past gerrymandering, and proposed reforms such as the Democracy Act.

Myths about Georgia's history of gerrymandering

Myth: Maps drawn by Republicans in 2011 were fairer than maps drawn by Democrats in 2001 because they were pre-cleared by the US Department of Justice under President Obama. Gerrymandered maps drawn by Democrats were struck down by the Supreme Court in 2004 while the 2011 maps were never challenged in court. (Source: many elected officials)

Facts: 1) The state House and Congressional maps drawn in 2001 were also pre-cleared. The Senate map required an adjustment in 2002 to obtain clearance. The 2002 election used these pre-cleared maps. The outcome of the 2002 election was little or no gain for Republicans in the General Assembly despite garnering a majority of the statewide vote. As a result, the court in *Larios v. Cox* overturned the state House and Senate map following the election. Pre-clearance is useful as a deterrent to gerrymandering, but by itself does not always guarantee fairness. "The granting of preclearance was never meant to indicate that a map was either fair or could withstand any court challenge." (Former US AG Eric Holder, quoted in *The Atlantic*, Sept. 2021)

2) In 2001, gerrymandered maps were much easier to detect by observing extremely contrived shapes on the map itself. By 2011, modern software and more comprehensive data allowed maps to be gerrymandered without contrived shapes. Then, the only way to measure the fairness of a map was to observe how it performed in an election, which is outside the scope of pre-clearance by definition. Now, however, we can use statistical benchmarks to evaluate maps in advance.

3) Analysis of the 2012 election results strongly suggests that the maps were created to obtain a partisan outcome. Republicans gained a super-majority in the General Assembly despite garnering a declining share of the statewide vote.

4) The decision to challenge maps in court is not taken lightly and is a significant and costly undertaking. The lack of a challenge to the 2011 maps reflects this. Lack of a challenge is not an indication that a court would have deemed the maps to be fair.

The 2011 maps cannot be considered fair simply because they were pre-cleared and never challenged in court.

Myth: In 2011 Republicans were in charge of drawing the maps for the first time in 100 years and they were drawn fairly. (Source: Senator Bill Cowsert, 8/30/21 hearing)

Fact: Wrong on 3 counts. 1) Republicans undertook an unnecessary mid-cycle redistricting in 2005 to redraw maps that had been drawn by a federal court in 2004. The 2011 redistricting



Prepared by Fair Districts GA, November 2021. Fair Districts GA is a statewide, grassroots organization dedicated to reform of Georgia's redistricting system and the elimination of gerrymandering in Georgia.

was actually not the first time in 100 years. 2) The guidelines used in 2011 actually removed a provision from 2005 that stated: “No district shall be established with the intent or effect of diluting the voting strength of...members of a political party.” The result was a 2012 election yielding a Republican super-majority in the General Assembly despite Republicans garnering a declining share of the statewide vote.

3) Republicans have openly admitted they were gerrymandering. “Don Balfour, another former state senator who served on previous redistricting committees, said during the 2011 cycle committee chairman Mitch Seabaugh offered to sit down with all the members from both parties, hear their concerns, explain the adjustments that needed to occur due to population changes, and worked with them on creating the best maps — that still maintained a Republican majority.

‘Everybody knows how they like their lines to be drawn,’ Balfour said. ‘The problem is it’s all got to fit within 56 sets of lines. Every single legislator — Republican or Democrat — doesn’t want the district [they represent] to become a swing district.’” (source: GPB news story 9/23/21 <https://www.gpb.org/news/2021/09/23/former-lawmakers-provide-insight-georgia-redistricting-process>)

Myth: Maps drawn by Republicans in 2005 were only fixing the mess left by the Democrats

Fact: In 2005 Republicans drew new maps replacing the court-ordered maps used in the 2004 election. The court-ordered maps did not need to be redrawn; the court had fixed the Democrats’ 2001 gerrymander. The 2004 election for State House and Senate was the only one in the last 20 years that used maps not drawn by politicians, and it was much more balanced (seat share vs. vote share) than 2002. Mid-cycle redistricting, unless ordered by a court, is inherently unfair because A) it isn’t working from new census data and B) its only purpose is to make maps more favorable to the party in power.

Myth: Court cases filed against Georgia in 2017 and 2018 were dismissed, implying that the maps must have been fair. (Source: Rep. Bonnie Rich, 8/30/21 hearing)

Facts: The court cases challenged 2015 mid cycle adjustments to some State House districts as unfair to Black voters and candidates. The cases were dismissed before final resolution because Black candidates ultimately prevailed in the 2018 election, rendering the cases moot.

Myth: The federal court overseeing the 2004 map drawing ordered that a draft map which didn’t split cities be redrawn to respect county and precinct boundaries instead.

(Implication: splitting cities is OK if county and precinct boundaries are respected.) (Source: Sen. John Kennedy, 8/30/21 hearing)

Facts: (Awaiting Al Pearson comment)



Myths about the redistricting process in 2021

Myth: The committees are committed to an open, fair redistricting process. They want to take advantage of all available data. (Source: Sen. Kennedy, 6/15/21 and other public hearings)

Facts: The guidelines adopted by the committee provide for continued secrecy in the map drawing process. There is no provision for public comment on the maps, which is the top unanswered request from the public hearings. Also the committee appears to be rejecting the idea of adopting independent benchmarks to demonstrate that maps are fair. Further, the committee does not allow submission of maps, charts, or anything beyond plain text as written testimony.

Myth: The guidelines adopted for 2021 are based on what the committees heard in the public hearings. (Source: Rep. Bonnie Rich, 8/30/21 hearing)

Fact: The guidelines are nearly identical to those from 2011 and contain no improvements for additional transparency and producing fairer maps. The committees completely ignored 15 specific suggestions for improvement offered by 20 organizations across the state in a letter dated April 19, 2021 and submitted for the record during public hearings.

“Georgia legislators approved redistricting guidelines ... that are nearly identical to those passed 10 years ago despite calls from the public for greater transparency.” – AJC, 8/30/21

Interesting bit of history: Guidelines adopted in 2005 for mid-cycle redistricting stated: “No district shall be established with the intent or effect of diluting the voting strength of...members of a political party.” This provision disappeared in 2011.

Myth: Transparency is not required in the process. Voters elected us to do this job, and they trust that we will do it fairly. (Source: TBD, from Susannah Scott LWV)

Facts: Voters do NOT agree. Transparency is one of the top concerns mentioned throughout the public hearings. Given the documented history of gerrymandering by both parties over the past 2 redistricting cycles, politicians cannot be trusted to the job fairly. They have an inherent conflict of interest when they draw their own district lines.

Myth: There may not be time to allow public comment on the proposed maps. (Source: implied in a question from Rep. Richard Smith, 8/30/21)

Facts: These maps will govern our elections for the next decade. Allowing a two-week public comment period, as requested by 20 different organizations, is a worthwhile investment in fair maps. Given that the committees have not provided any timeline, there is no known reason that public comments cannot be taken.

Myth: Keeping counties and precincts whole should override other considerations such as maximizing competitive districts and keeping cities whole. (Source: implied in questions from Rep. Bonnie Rich, 8/30/21 hearing)



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Facts: Counties and precincts are important units of election administration. Minimizing disruption to them is important, but not more important than achieving fair and competitive maps that represent actual communities of interest, such as cities, university communities, or communities centered on ethnic and racial populations. Cities are usually fully contained in a county. Maintaining counties and precincts certainly can't explain the 44% increase in split cities in the 2011 cycle.

Myth: Although we hear a lot of complaints about our process from advocacy groups, the many Georgians who we don't hear from all trust legislators to do the job. (Source: Rep. Ed Setzler, discussion following 11/18/2021 hearing)

Facts: This isn't a myth; it's pure fantasy. Not one person who spoke at any public hearing across the state praised this process. Making the process transparent and fair was the single most frequent request, and the committees ignored it. You cannot assume that everyone who doesn't speak up agrees with you.

General myths about redistricting

Myth: Anyone who believes that there is some magic way of keeping politics out of the redistricting process must still believe in the tooth fairy. (Source: Hans von Spakovsky, Heritage Foundation op-ed, 9/17/2021)

Facts: Anyone stupid enough to make that statement doesn't believe in math. In the last decade of redistricting cases, political science and math professors have demonstrated that independent, non-partisan statistics can be used to objectively evaluate redistricting plans. Perhaps Hans' larger point is that our political system was designed to put politicians in charge of redistricting. It doesn't have to stay that way, as states are demonstrating through the use of independent commissions.

Myth: Imposing a rule that legislators cannot take political interests into account—and the interests of the voters who elected them—when drawing political boundaries would destroy a fundamental element of our democratic system. (Source: Hans von Spakovsky, Heritage Foundation op-ed, 9/17/2021)

Facts: Our democratic system is dysfunctional precisely because politicians have an inherent conflict of interest in drawing maps affecting their own elections. Independent research shows that A) 63% of Americans disapprove of gerrymandering, B) 72% support the Supreme Court setting rules against it, C) 62% support independent redistricting commissions (Source: Campaign Legal Center / ALG Research January 2019)

Myth: In 2019, the U.S. Supreme Court held in *Rucho v. Common Cause* that partisan redistricting...is a political question beyond the reach of the federal courts. Moreover, the court pointed out that partisan redistricting is "nothing new." (Source: Hans von Spakovsky, Heritage Foundation op-ed, 9/17/2021)



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Facts: The court’s majority opinion in *Rucho* also says: “Our conclusion does not condone excessive partisan gerrymandering.” “Excessive partisanship in districting leads to results that reasonably seem unjust.” “The central problem is....determining when political gerrymandering has gone too far.” The court punted because nothing in the Constitution or Federal Law governs partisan redistricting. The Freedom to Vote Act, introduced in 2021, fixes that problem.

Myths about using objective, independent benchmarks

Myth: Fairness is just an adjective for whatever a person’s position is. Fairness, like beauty, is in the eye of the beholder. (Source: Reps. Lynn Smith and Darlene Taylor, 8/30/21 hearing)

Fact: Incorrect. Independent benchmarks can determine the range of Republican and Democratic districts a map should have to correctly reflect the natural partisan preferences of the state. Similar benchmarks can determine the correct number of majority-minority districts, and minority influence districts a map should have to reflect the state’s diversity. These are objective measurements that have been used in gerrymandering court cases by experts.

Myth: Computer algorithms cannot be trusted to judge maps because they have a built-in bias such as achieving some political outcome. (Source: Rep. Ed Seltzer, 8/30/21 hearing)

Fact: The computer algorithms have no political intent built into them. The algorithms are designed to discover the natural political preferences of Georgia, district by district. The algorithms use traditional redistricting criteria such as contiguity, compactness, and compliance with the Voting Rights Act to find potential maps to be included into the collection of possible maps. The algorithms do not use voting to draw the maps. They use the voting data to reveal the natural distribution of political preferences across the state that can be used as a yardstick for partisan fairness.

Myth: Computer-drawn maps would override communities of interest. (Source: Rep. Ed Seltzer, 8/30/21 hearing)

Fact: We do not suggest that computers should draw the final maps. The committees have the difficult job of synthesizing the many requests for preserving communities of interest into maps that honor as many as possible. That task requires human intuition and judgment. The benchmarks simply provide a yardstick for measuring such maps against broader criteria, such as minority representation and partisan fairness. Because the simulation shows that there are literally thousands of maps that meet these criteria, it is our firm belief that maps can be drawn to respect communities of interest and meet the benchmarks.

Myth: Since the Supreme Court decided that pre-clearance is not longer necessary in 2013 (*Shelby v. Holder*), it is safe to assume that redistricting can be fairly accomplished without it.



Fact: Not at all true. The removal of pre-clearance has opened up a flood of voting rights laws in states that used to be subject to preclearance, especially in 2021. Pre-clearance, although not a perfect system for preventing gerrymandering, provides a deterrence. Under pre-clearance, the burden of proof was with states to show that their redistricting plans were fair. Without pre-clearance, the burden of proof shifts to a plaintiff mounting an expensive challenge in federal court. We strongly support passage of the John Lewis Voting Rights Advancement Act.

Myths about using citizens commission for redistricting (as proposed in Democracy Act)

Myth: A citizens' commission would not be accountable to the voters, whereas legislators are.

Fact: Incorrect. The citizen's commission will operate in full view of the public at all times. All of their work will be published on an Internet portal. Voters will even be able to submit their own maps for consideration. Finally, citizens will have the right to appeal a set of maps directly to the GA Supreme Court if they believe maps do not meet the Act's standards. And under current conditions, between 50 and 80% of Georgia's state legislative races only have one candidate, so voters have no way of holding such a candidate accountable anyway. Fairer maps should produce more competitive districts.

Myth: Some believe we can take politics out of the redistricting process by establishing so-called "independent" redistricting commissions that take the power to draw political lines away from state legislatures. All this does is move the politics and partisanship behind closed doors. (Source: Hans von Spakovsky, Heritage Foundation op-ed, 9/17/2021)

Fact: The opposite is true. Citizens' commissions work in full view of the public, use established standards, and must respond to citizen input. In most states with legislative redistricting, the work is done behind closed doors. In Georgia, there are almost no standards and no transparency in the process.

Myth: An act providing for a citizens' commission would hand off the responsibility to a group of uneducated people.

Fact: There will be no shortage of qualified people. Members of the Citizen's Redistricting Commission would be required to apply for these roles and be vetted by a panel of retired judges. Leaders in the legislature have the right to disqualify up to 8 applicants as a further check. Other states employing commissions receive thousands of applicants. Also note that the commission will have the funds to hire experts as needed.

Myth: Districts drawn by a citizens' commission might result in costly litigation that the GA taxpayers should not have to pay for.



Fact: Georgia is already at risk for such litigation. Litigation arises when political parties or citizens challenge maps that were drawn unfairly. A citizens' commission would use non-partisan standards and operate in a completely transparent process. Such an unbiased and transparent method would actually lower the odds of litigation.

Myth: Georgia already uses some of the standards proposed for a citizens' commission.

Fact: The only standards in Georgia law today are compliance with the Constitutions (U.S. and Georgia), compliance with the Voting Rights Act, and contiguity. The legislature has provided guidelines to the reapportionment staff, but they are not legally binding. Further, the guidelines allow drawing district lines to favor incumbents. Finally, because the work is done in secret, the public cannot see whether those guidelines are being followed.

Myth: The Voting Rights Act already functions as a check-and-balance on Georgia's redistricting practices, making a citizen's commission unnecessary.

Fact: Not even close. *Shelby v. Holder* has temporarily set aside the pre-clearance part of the Voting Rights Act. Further, even if it is restored through an updated VRA, lawyers in the Department of Justice would review our redistricting plans. While their scrutiny would be welcome, the lawyers are not Georgia citizens who have a vested interest in a fair process in Georgia.

Myth: If legislators give up their responsibility for drawing districts, wouldn't constituents think that they weren't handling their responsibilities?

Fact: We think citizens will applaud legislators for having the courage to stop the redistricting games. This will actually improve the trust that citizens have in the legislature.

Myths about Fair Districts Georgia

Myth: Fair Districts GA is aligned with the Democratic Party.

Fact: Fair Districts GA operates under strict, non-partisan rules. We are equal-opportunity critics with respect to all the gerrymandering that happens in Georgia. We are reaching out to lawmakers of both parties and independents asking for their support for fair redistricting.



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