

## **Redistricting Commissions: What Works**

Redistricting reform is in the spotlight more than ever. Voters could see measures to create redistricting commissions on the ballot in 2018 in Michigan, Missouri, Ohio, Colorado, and Utah (and perhaps other states), and bipartisan grassroots efforts are underway in other states to fix the mapdrawing process ahead of the next round of redistricting in 2021.

But not all redistricting commissions are equally effective. To assess the strength of earlier redistricting reforms, the Brennan Center interviewed a diverse group of more than 100 stakeholders who were involved with redistricting seven jurisdictions that use some form of commission to draw maps. These included both state-level redistricting commissions (Alaska, Arizona, California, Idaho, Iowa, New Jersey, and Washington) and municipal commissions (Austin, San Diego, and Minneapolis).

The structure, design, and operation of these commissions varied greatly, ranging from commissions that included direct political appointees and, in some cases, even elected officials, as in New Jersey, to commissions, like California's, whose goal it was to have ordinary citizens serve as members. The commissions also varied in size, their map approval processes, and their substantive rules.

What we found was a compelling case that putting commissions in charge of redistricting can significantly reduce many of the worst abuses associated with redistricting and improve outcomes and satisfaction across the stakeholder spectrum – but only if commissions are carefully designed and structured to promote independence and incentivize discussion and compromise.

This paper provides an overview of our key findings, which will be the subject of a more comprehensive empirical study to be released in Spring 2018.

### **Findings and Recommendations**

Based on our research, the Brennan Center recommends that reforms creating redistricting commissions include the following elements in order to maximize their independence and effectiveness:

- An independent selection process that screens applicants not only for disqualifications or conflicts of interest (such as being a lobbyist) but that also makes qualitative assessments about the fitness of applicants to do the job. While not absolutely required, including an element of randomness in the process also can be an important additional safeguard against

gaming of the process by interested parties. In our study, the strength and independence of the selection process was, by far, the most important determinant of a commission's success.

- Clear, prioritized criteria for mapdrawing that establish the ground rules that commissioners must follow when designing a map. While the specifics of the rules differed between successful commissions, these differences ultimately seem to have been less important to the success of the commission than the fact that there were clear and, in most instances, prioritized rules.
- A commission size of between 9 to 15 members to ensure geographic, political, and ethnic diversity. In addition to allowing for greater representativeness, larger commissions in our study also did better in safeguarding against deadlock and the risk of rogue-actor effect by ensuring that no individual commissioner had an outsized say. By contrast, the smaller commissions in our study tended to draw a larger number of complaints both about unrepresentativeness as well as more charges that the process had become tainted or otherwise gamed. On the other hand, too many commissioners can create logistical difficulties and make it harder to reach decisions.
- Map-approval rules that facilitate and incentivize negotiation and compromise, such as a requirement that a map obtain at least some support from each major political block in order to win passage. By contrast, states that used a tiebreaker model popular in earlier reforms experienced much lower levels of satisfaction, mainly because the tiebreaker tended to end up siding with one party or the other, resulting in a winner-take-all effect. Likewise, commissions where one or more sides saw little risk from failure had less success.
- Strong transparency requirements that make commission proceedings as accessible and assessable as possible and encourage public input. These requirements were particularly helpful in large, demographically complex jurisdictions where commissioners are unlikely to have up-to-date, firsthand knowledge of all parts of the jurisdiction. By making sure that the work of the commission does not occur behind closed doors, transparency requirements help ensure that community and civil society groups were able to police the integrity of the process.
- An enforceable guarantee of adequate funding to enable the commission to hire sufficient professional staff, consultants, and experts of its choosing.
- An appointment timeframe that allows new commissioners adequate time to ramp up, hold public hearings, obtain feedback on initial proposed maps, make any necessary adjustments, and draw final maps. Building in sufficient time for commissioners to do their work can be especially important where commissioners are drawing multiple statewide maps (congressional, legislative, etc.)

Our research showed a clear dividing line between satisfaction with commissions that had all or substantially all of these attributes and those that did not. We found:

- Dissatisfaction was especially great with commissions where a map could be approved over the unified objection of a minority based on the vote of a tiebreaker. While in theory, a tiebreaker might function as a mediator and help broker a compromise

between major factions, the result in practice has tended to be a dissatisfactory winner-take-all process.

- A wide range of stakeholders also expressed much less satisfaction with, and trust in, the results produced by commissions where elected officials decided who would serve on commissions or played a substantial role.

By contrast, we also found that two concerns that often are raised in debates about creating commissions did not seem to be major factors in the commissions we examined.

- Citizen commissioners who were not closely involved with the political process seem by consensus to have performed competently, despite concerns in some quarters that they would lack the sophistication to navigate the complicated process of redistricting and deal as equals with political actors. Some concerns remain about whether the quality and strength of citizen commissioners this cycle will be repeated every decade absent concerted recruitment efforts, but this cycle at least suggests that where those efforts are undertaken that the result can be commissioners with both high integrity and skills.
- Likewise, the feeling among many stakeholders was that citizen commissioners took the demands and interests of communities of color seriously and made efforts to address them. Although communities of color did not get all that they wanted, concerns that commissioners would prioritize things like compactness or political boundaries over the representational concerns of communities of color were not borne out in this map cycle.