MEMORANDUM

Date: July 30, 2021

To: The Honorable Chair and Members
   Pima County Board of Supervisors

From: C.H. Huckelberry
       County Administrator

Re: Justice Court Reprecincting

Earlier this week I provided the Board with a response to concerns expressed by Justice Court Judges Douglas Taylor and Alexander Ball regarding the justification for eliminating a Justice Court precinct. It included a brief explanation of the process that must occur as part of eliminating a Justice Court precinct, which involves the “reprecincting” or reassigning of the area that is part of the precinct to the remaining precincts. Today’s memorandum provides more details on the reprecincting process, as well as preliminary map options.

State and Federal Requirements for Justice Court Reprecincting

Reprecincting of Justice Court precincts is very different than redistricting Board of Supervisor districts. Board redistricting is statutorily required every ten years following the release of the decennial census data. It is driven by the requirement to balance the population of the supervisorial districts to within 10 percent of each other. Board redistricting occurred last in 2011, following the release of the 2010 census data.

While the Board of Supervisors is authorized by state statute to change or abolish any Justice Court precinct or reprecinct the County (ARS§22-101.A.1), it is not required to do so unless Judicial Productivity Credits (JPCs) exceed 1,200 credits in one or more precincts. If and when this exceedance occurs, the Board is required to create sufficient courts or redraw the Justice Court precinct boundaries to reduce the JPCs below the maximum (ARS§22-125.H.2). The last time Justice Court reprecincting occurred was in 2004, after JPCs per Judge for the Consolidated Justice Court far exceeded this maximum. At that time, the Board added two new precincts, bringing the consolidated court to eight judges. This was after a decade or more of increased crime nationally and locally.

To be clear, the Board is not required to abolish or eliminate a Justice Court precinct if JPCs decline or indicators show declining workloads. However, if the Board does decide to eliminate a precinct,

1 ARS §22-101.A. The board of supervisors shall divide the county into justice precincts and name or number them, and may change or abolish any justice precinct or redistrict the county, but abolition of a precinct shall not take effect until expiration of the term of office of the justice and constable then in office.

2 ARS §22-125.H. The judicial productivity credits for a justice court precinct shall not exceed twelve hundred credits. If the total judicial productivity credits of a justice court precinct exceed twelve hundred credits, the county board of supervisors shall create sufficient courts, or redraw the justice court precinct boundaries according to section 22-101, in order to reduce the judicial productivity credits for any precinct which exceeds that limit.
then it is necessary to reprecinct or redraw the remaining precinct boundaries to incorporate the area of the eliminated precinct into one or more of the remaining precincts.

There is no statutory guidance for reprecincting when eliminating a Justice Court precinct, except that the elimination cannot take effect until the expiration of the term of office of the justice of the peace and constable then in office. As I stated in my July 27, 2021 memorandum to the Board, Justice Precinct 5 is the only precinct within the Consolidated Justice Court where the constable and the justice of the peace both have terms expiring in 2022. The next opportunity will not occur until 2024. However, to eliminate JP5 such that it takes effect after the expiration of their terms, the Board must act to adopt new Justice Court precinct lines before October 1 of this year, 2021. Statutorily, October 1 is the deadline for Elections Department to transfer the new lines and corresponding voter precincts to the Recorders offices in time for the 2022 election cycle.

In addition to State law, the revised Justice Court precincts must comply with the Equal Protection Clause of the 14th Amendment of the Constitution and Section 2 of the Voting Rights Act of 1965.

**Equal Protection Clause:**
No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. (Constitutional principles of one person, one vote and non-discrimination).

**Voting Rights Act, Section 2:**
Prohibits voting practices or procedures that discriminate on the basis of race, ethnicity or membership in a language minority group, and, in particular, government action that would leave such groups in a lesser position of being able to elect candidates of their choice. Language minority groups are defined as American Indian, Asian American, Alaskan Natives or of Spanish heritage.

The Equal Protection Clause has been interpreted by the courts to mean that race should not be the predominant factor in redistricting (reprecincting) unless there is a “compelling government interest.” Avoiding a violation of Section 2 of the Voting Rights Act is a compelling government interest. To determine if a reprecincting plan violates Section 2, the courts have required the use of a 3-part test (referred to as the Gingles analysis):

1. A “minority group” must be “sufficiently large and geographically compact to constitute a majority” in some reasonably configured district [precinct]...
2. The minority group must be “politically cohesive,” ... and
3. A district’s white majority must “vote [ ] sufficiently as a bloc” to usually “defeat the minority’s preferred candidate.”

If all three parts of this test are met for one or more precincts, then the reprecincting plan could be in violation of Section 2 and may require the intentional drawing of a majority-minority precinct or precincts that are likely to be able to elect a preferred candidate.

Years of redistricting litigation across the nation has resulted in a record of court decisions that provide guidance on the most relevant data to use when running this analysis. Staff ran the analysis on the existing justice court precincts and have concluded that our existing boundaries are not in
violation. JP 2, 4, and 9 do appear to include minority groups that are sufficiently and geographically compact to constitute a majority. But a review of election outcomes in these precincts for Justice of the Peace and Constables since the last reprecincting in 2004 found that white candidates do not have a history of defeating Hispanic candidates in these precincts, except for one primary race in 2008. Therefore, the simplest way to remain in compliance with the Voting Rights Act is to not make substantial changes to the boundaries of precincts 2, 4, and 9. Note that these results are considered interim as staff will have to re-run Part 1 of the test will have to after the relevant 2020 Census data is made available.

Data for Reprecincting

Other than the data required to conduct the above Voting Rights Act test, there are no other required data for reprecincting. A survey of other Arizona counties found that they use JPCs to either balance the JPCs across precincts or to ensure that none of the revised precincts exceed the maximum of 1,200 credits. This is a relatively straightforward exercise for other counties since their courts are not consolidated. In Pima County, all cases are filed into Justice Court Precinct 1. This was an administrative decision made at the time of consolidation. Upon filing, the Court randomly assigns the cases to one of the eight JPs. To officially determine JPCs, the Administrative Office of the Court’s determines the JPCs for the entire Consolidated Court and divides them by eight.

In an attempt to map the Consolidate Justice Court cases by precinct and determine the actual JPCs of each precinct, we asked the Justice Court staff to provide us a data file for all civil cases with the defendant’s address, and for misdemeanor cases, the address of where the incident occurred. The Court provided the data files; however, they could not provide the addresses for thousands of civil filings, and for the criminal cases, the incident locations were truncated in the court’s database for hundreds of cases. As a result, staff could only map 29 to 49 percent of the overall case filings, depending on the case type. In the future, we will ask the Superior Court to require the Justice Courts to collect address data and enter it into the case management system for every case filing. In addition, law enforcement should be directed to file the case by the precinct in which the crime occurred, as is the practice in every other court in Arizona.

Absent having JPCs data, other data that may be relevant for reprecincting is total population per judicial precinct, Constable papers served, and voter registration data. It also makes sense to consider other common redistricting principles, such as geographical compactness and contiguity, natural boundaries, and communities of interest, but again these are not required.

Preliminary Map Options

Those most impacted by the elimination of JP 5 and the reprecincting of the remaining precincts are obviously the Justice Court, Justices of the Peace, and Constables. I was contacted early on by retired Justice Court Judge Paula Aboud, who volunteered to submit a map. Presiding Constable Michael Stevenson also offered to submit a map. I have written to the Consolidated Justice Court Administrator twice on this topic, and my staff has requested an opportunity to meet with her to discuss how best to solicit input from the Consolidated Justice Court.

To date, three preliminary maps have been developed. Each of these is attached to this memorandum, including a map of the current Justice Court precincts. Also attached are summary data tables for
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each. Please keep in mind that these are only preliminary and still need to be shared with the Constables, the Consolidated Justice Court Administrator, and Ms. Aboud for input. The demographic data that accompanies each map will also be updated after the 2020 census data is released in August. It is anticipated that final maps and recommendations will be provided to the Board by the end of August in preparation for action by the Board at a meeting or meetings in September to meet the October 1 deadline. A full reprecincting schedule is attached.

The three maps are named as follows:

- Option 1: Prepared by former Justice of the Peace, Paula Aboud
- Option 2: Prepared by County Administration Staff
- Option 3: Prepared by the Presiding Constable Michael Stevenson

The building blocks for the maps are voter precincts, meaning that each map moves certain voter precincts to and from existing Justice Court precincts. The new or revised Justice Court precincts are shown in a solid color. The voter precincts that were moved are outlined in blue. Each map includes basic before and after data table in the lower right corner. The more detailed data set for each is included after the maps.

Note that none of the maps impact JP3, Ajo Justice Court, because Ajo is not part of the Consolidated Court. Staff and Ms. Aboud attempted to prepare maps that did not impact the Green Valley Justice Court as the Green Valley precinct is also not part of the Consolidated Justice Court. However, as a result of the Federal requirements concerning the Voting Rights Act, it became difficult to reallocate all of JP5 into the adjacent JP2, 8 and 1, without substantially impacting JP2. As a result, all three maps recommend sending some of the voter precincts from JP5 to JP7 Green Valley. Without JPC data per Consolidated Justice Court precinct, we are unable to determine how this will impact the workload of the Green Valley Justice Court and will work with the Green Valley Justice Court to provide additional resources if necessary. It is also worth noting that there are large voter precincts in JP5 with very low population (i.e. voter precincts that include the Coronado National Forest and Saguaro National Park to the east, and the largely uninhabited Cienega Valley to the southeast.) Geographically, these appear to be large changes, but the actual impact is small based on low population.

The following includes a summary of the key drivers for each option, based on descriptions provided by those who developed the maps. My staffs’ preliminary observations of each are also included.

Option 1

Drivers - The main driver for Option 1 was to even out the populations of the Justice Court precincts based on the principles of equal representation. The more equal the population, the fairer it may be for candidates. Lesser populated precincts may result in a lesser required number of signatures for a candidate to gather, than greater populated precincts. Option 1 was also intended to maintain geographic integrity and generally keep the revised precincts in the same general geography as the current precincts.

Preliminary Observations – Population doesn’t always correlate to voter registration. The number of registered voters is the basis for the number of signatures a candidate must collect. For example, the
number of registered voters in JP10 is over 60 percent greater than the number in JP9 even though the populations of each are similar under this option (57,194 JP9: 95,002 JP10). In addition, it appears that 13 voter precincts in JP2 were moved. This may be problematic based on the conclusion from the Voting Rights Act test, which was to not make substantial changes to the boundaries of JP2. This option increases JP7, Green Valley Justice Court precinct, by about 30,000 people. Overall, the map appears to be a valid option if the impacts to JP2 can be addressed.

Option 2

Driver - For Option 2, staff considered balancing the total population among the Consolidated Justice Court precincts, but to a much lesser extent than Option 1. Because the Court is consolidated and the workload is supposed to be shared, staff were not as concerned with balancing the population. In addition, staff focused on minimizing the impact to JP7, Green Valley Justice Court, and making as few changes as possible to JP2, 4 and 9 because of the Voting Rights Act.

Preliminary Observations – Option 2’s estimated population per Consolidated Justice Court precinct varies from a low of 121,755 to a high of 151,942, and the number of registered voters varies from 57,530 to 111,779. No changes were made to JP9. Only 3 voter precincts were added to JP4 and 5 voter precincts to JP2, in an effort to remain in compliance with the Voting Rights Act test. This option increases JP7, Green Valley Justice Court precinct, by about 12,119 people.

One concern with Option 2 is that it significantly increases the Constable’s workload in JP 6. As these are only preliminary maps, the Constables may have recommendations on how to improve this map after they have a chance to review it. Moving more voter precincts from JP6 to JP1, similar to the Constables map, may help. Or, as I’ve suggested in the past, the Constables could consolidate and develop a system to more equitably share the workload. Consideration could also be given to hiring a deputy constable to assist with the increased workload in JP6, to be funded by some of the savings from eliminating the Constable in JP5.

Option 3

Driver - The priority for Option 3, prepared by the Presiding Constable was to efficiently and effectively be able to service the precincts minimizing county resources expended, and to attempt to better balance Constable caseloads (papers served). County resources include the time and cost for traveling to serve papers in geographically large precincts.

Preliminary Observations – Option 3’s estimated population per Consolidated Justice Court precinct varies from a low of 106,231 to a high of 156,766, and the number of registered voters varies from 53,073 to 103,116. In addition, it appears that 11 voter precincts in JP2 were moved. This may be problematic based on the conclusion from the Voting Rights Act test, which was to not make substantial changes to the boundaries of JP2. This option increases JP7, Green Valley Justice Court precinct, by about 26,000 people. Overall, the map appears to be a valid option if the impacts to JP2 can be addressed.

Summary
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In summary, preparations to eliminate JP5 due to the reduced workload of the Consolidated Justice Court, and to reassign the voter precincts that currently make up JP5 to the remaining Justice Court precincts, is well underway. The attached preliminary maps are only that - preliminary. We will solicit formal comments from the Constables, the Consolidated Justice Court Administrator, and former Justice of the Peace Paula Aboud. Anyone else who is interested in providing input may certainly do so. Such input will be considered, and maps amended accordingly. Assuming the 2020 census data is released in August, the demographic data for any and all map options will also be updated, with a recommendation transmitted to the Board by the end of August. The Board can then consider the changes at a meeting or meetings in September, which will meet the October 1 statutory deadline for Elections to transmit the revised precinct boundaries to the Recorders office for the 2022 election cycle.

The Elections Department is proceeding with a consolidation of certain voter precincts in preparation for the 2022 Election cycle, and will likely place these changes on the Board’s September 21 agenda. These changes could impact proposed revisions to Justice Court precincts as the voter precincts are used as the building blocks for these. This effort will be coordinated and minor adjustments to boundaries will be made as necessary.

If you have any questions about this process, please contact me or my Executive Assistant, Nicole Fyffe.

CHH/sp

Attachments

c: The Honorable Jeffery Bergin, Presiding Judge, Pima County Superior Court
   The Honorable Michael Stevenson, Presiding Constable
   The Honorable Gabriella Cazares-Kelly, Pima County Recorder
   Jan Lesher, Chief Deputy County Administrator
   Teresa Underwood, Court Administrator, Pima County Consolidated Justice Court
   Brad Nelson, Elections Director
   Nicole Fyffe, Executive Assistant to the County Administrator
   Diana Durazo, Special Projects Manager, Pima County Administrator’s Office
   Lisa Royal, Executive Assistant to Deputy County Administrator
Justice of the Peace Reprecincting Schedule 2021

Lead: County Administrator’s Office
Participants: Consolidated Justice Court, Constables, Elections, Recorder, County Attorney, IT

| Thru June 25th | A. Review of legal requirements.  
| | B. Identification of data to be considered for reprecincting  
| | 1. Collection and mapping of case filling address data to calculate Judicial Productivity Credits per precinct.  
| | DATA INCOMPLETE.  
| | 2. Constable papers filed per precinct  
| | 3. Data necessary to run analysis to evaluate compliance with Section 2 of the Voting Rights Act (Gingles Test) – Demographics and Election Results for JPs and Constables in majority-minority precincts.  
| | 4. Voter registration data.  
| | C. Continue meetings with interested participants upon request.  

| June 25-July 29 | Develop 3 or more draft maps. For each map: (1) Estimated total population for each JP; (2) demographics; (3) voter registration info; (4) Constables # of papers served. Document any other considerations for each map. Ensure each is compliant with Section 2 of the Voting Rights Act.  

| July 29-August 6 | Seek input from Consolidated Justice Court Administrator, Constables and other participants on draft maps.  

| August 6-18 | Review input, update maps, and finalize recommendations to County Administrator. Coordinate changes with Election Department’s consolidation of voter precincts.  

| Before 8/25 (Clerks agenda deadline) | County Administrator transmits recommendations to Board.  

| September 7 | BOS holds a public hearing and considers approval of the revised Justice Court precinct lines.  

| September 21 | Alternative BOS approval date if continued from Sept 7 meeting, or if the BOS prefers two public hearings. Final BOS approval must occur prior to Oct. 1 per State deadline for transferring changes from Elections to Recorder.  

| January 2, 2022 | Per ARS 16-412, the Recorder must transfer voters to the new precincts and provide notice to voters, such that the new precincts become effective no later than January 2, 2022 for elections in 2022.  

NOTE: Per the Census Bureau, the 2020 Census data will not be released until August. Staff will use the most current estimates available and will update the maps and data tables when available.
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NOTE: Demographics will be updated once the Census P.L. 94-171 data are released in August.