Michigan COMMENTARY

LEGISLATIVE REAPPORTIONMENT IN MICHIGAN

By Bernard Apol

> *GERRYMANDER: drawing of political lines by the party in power so as
> to perpetuate its power; designing a district to fit a voting
> pattern.*
>
> *William Safire*

Included in the fallout from the decennial census is the redrawing
(reapportioning) of legislative district lines at all levels of government:
U.S. House districts, state legislative districts, county commission districts,
and single-member city council districts. In districts represented by
officials elected on partisan ballots, the political parties have a great deal
at stake when district lines are redrawn. Each party wants the lines drawn so
it will have the most advantage during the following decade in getting its
people elected to office. Following the 1990 census, Michigan Democrats and
Republicans will struggle for control over how state legislative districts are
redrawn. They will fight in the legislature and, if necessary, in the state
and federal courts. This paper touches on Michigan's recent legislative
reapportionment history, forecasts the **partisan strategies** designed to affect
the coming reapportionment, examines **options for redistricting,** and **analyzes
population shifts** that could tilt the geographic balance of power within the
state legislature. Although this paper focuses on the reapportioning of state
legislative districts only, it is worth noting that, as a result of the 1990
census, Michigan stands to lose one and possibly two of its eighteen
congressional seats, reducing the state's clout in the U.S. Congress.

Legislative redistricting will not occur until 1991 (at the earliest), but
the prospect is already whetting the appetites of the state's Republican and
Democratic politicians. Because there is so much at stake in reapportionment,
in the next four or five years look for the following to occur.

* The Democrats, now in control of the state House, will make an all-out
  effort also to gain control of the state Senate in the 1990 election.
* The Republicans, who now control the state Senate, will make an all-out
  effort in the 1988 and 1990 elections also to gain control of the state
  House of Representatives.
* Each party will try to name strong candidates for the supreme court
  seats up for election in 1988 and 1990.
* People will gnash their teeth about, but make little progress on, a
  mechanism to draw districts objectively.

How Can Reapportionment Affect the Political Parties?

Picture a fictional county that has a population of 300,000. In it is a
city of 150,000. Pretend that a House district is comprised of 100,000 people;
hence, the county is entitled to three House districts. Pretend also that 60

percent of the city voters are Democrats and 60 percent of non-city voters are Republicans; in other words, there is an equal number of Democratic and Republican voters in the county, but more of the Democrats live in the city and more of the Republicans live in the out-county area. Below are two possible plans for creating the three House districts.
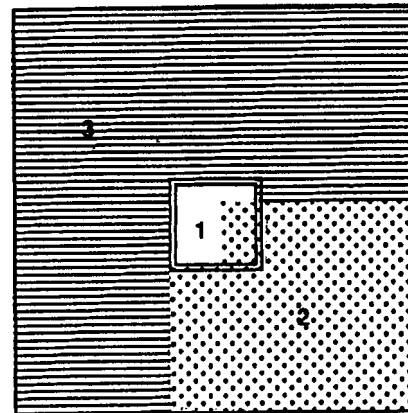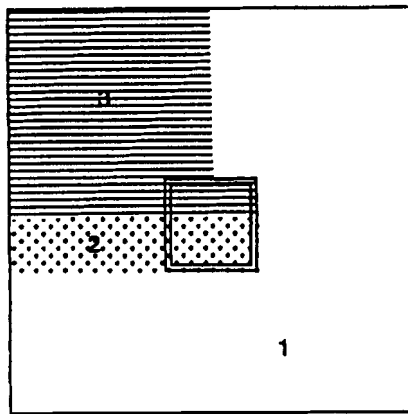
| | = city boundaries | | = district #2 |

| | = district #1 | | = district #3 |

	PLAN A			PLAN B	
District	Number of Democrats	Number of Republicans		Number of Democrats	Number of Republicans
1	30,000	70,000		70,000	30,000
2	60,000	40,000		40,000	60,000
3	60,000	40,000		40,000	60,000
TOTAL	150,000	150,000		150,000	150,000

Note that Plan A carves out one Republican and two Democratic districts. Plan B carves out one Democratic and two Republican seats. To maximize partisan gain, each party tries to draw boundaries that concentrate as many voters as possible of the opposite stripe in the fewest possible districts. In the example above, the Republican plan (Plan B) concentrates the Democratic voters of the city in one district, and the Democratic plan (Plan A) concentrates most of the Republican voters of the out-county area in one district. Partisan masterminds will play with census data and historical voting patterns, broken down by precincts, until the benefit to their party is maximized.

The History of Reapportionment in Michigan

Until the landmark U.S. Supreme Court ruling decreeing "one-man, one-vote" [Reynolds v. Sims, 377 U.S. 533 (1964)], land area was as important as population in mapping Michigan legislative districts. Like many other states, Michigan had adopted the federal model of representation: upper house (Senate) districts were based on governmental jurisdictions, and lower house (House of Representatives) districts were based both on land and population. Just as every state, regardless of size, is entitled to two U.S. senators, in Michigan,

the counties, regardless of size, were given predominant weight in apportioning state Senate seats. An example of the weighting of counties comes from the 1940s. The four westernmost Upper Peninsula counties comprised a single state Senate district, population 72,350. Meanwhile, Wayne County's 18th Senate district had a population of 528,234.

The state constitution ratified in 1963, but written before Reynolds v. Sims, devoted whole pages to reapportionment. The constitution set up a bipartisan commission on legislative reapportionment but provided that if this bipartisan group could not agree on a plan, any member of the commission could submit his or her own plan to the supreme court, which could order the adoption of one of those plans. The constitutional provisions gave considerable weight to land area as well as population, violating the "one-man, one-vote" principle later articulated by the U.S. Supreme Court.

In April 1964, after the reapportionment commission failed to agree on a plan, the state supreme court adopted the Republican-sponsored Hannah-Brucker reapportionment plan. Hastily, the secretary of state prepared district maps and petition requirements for legislative candidates who would be running in the 1964 primaries and elections. But in June, the U.S. Supreme Court, in Reynolds v. Sims, required that both houses of a state legislature be districted on the basis of population, allowing some variances if they were based "on rational state policy."

Michigan Democrats immediately challenged the Hannah-Brucker plan, which the state supreme court threw out, and the Democratic-sponsored Austin-Kleiner plan was adopted. That plan adhered strictly to population equality, showing little concern for municipal and county boundaries. Again, the whole process of mapping districts and setting petition requirements had to be carried out, causing the 1964 primary election to be moved from August to September to accommodate election procedures. In combination with the Johnson presidential landslide, the Democrat's Austin-Kleiner plan resulted in a momentous shift of power in the state legislature in the 1964 elections. The GOP, which historically had controlled the legislature, went from a majority to a minority in both the Senate and the House.

	Senate		House	
	1962	1964*	1962	1964
Republicans	23	15	58	37
Democrats	11	23	52	73

*Four seats were added to the Senate by the 1963 constitution.

Following the 1970 census, the reapportionment commission again was unable to agree on a redistricting plan, which forced the state supreme court to intervene. The court adopted the Hatcher-Kleiner plan, similar to the 1964 Austin-Kleiner plan. The court hinted strongly, however, that it did not enjoy being coerced into the partisan issue of reapportionment. Michigan Supreme Court justices are nominated by political parties but elected statewide without any such designation. Members of the high court struggle to avoid partisanship in their decisions; reapportionment, by its partisan nature, forces justices into political roles.

Current Apportionment

Following the 1980 census, the reapportionment commission once again failed to agree on a redistricting plan. And once more, jurisdiction fell to

the state supreme court.   This time, the court balked; it declared all the reapportionment provisions of the 1963 state constitution invalid (in 1964 the court had ruled that the population inequalities of the state constitutional provisions were invalid), abolished the reapportionment commission, and authorized the state legislature to draw its own plan.   The principle was sound, but the legislature did not have enough time to write a plan to take effect for the 1982 elections.   The court appointed an agent to draw up a plan consistent with certain guidelines (see Addendum).   The resulting plan was adopted and will remain in effect through the 1990 elections.

To most people, the supreme court guidelines are of little import; to political map drawers, they have great meaning.   Democrats, for example, feel that the 1982 guidelines permit too much variation in population among districts.   (The plan drawn under these guidelines resulted in a 16.24 percent variation between the most and least populous Senate districts and a 16.34 percent variation between the most and least populous House districts).   They initially feared that the newly configured Senate districts would give the Republicans 19 to 22 of the 38 seats.   (This did not happen; the Democrats won a 20-18 majority in the first election under the plan.)   Republicans in Michigan tend to favor the supreme court guidelines because compact districts and respect for county, city, and township boundaries tend to concentrate urban, Democratic voters in the fewest districts.   This concentration is evidenced by the fact that, under the current plan, the GOP tends to win outstate districts by about 15 percent margins, and the Democrats tend to win inner city Detroit districts by margins exceeding 80 percent.   In 1986, the GOP won a majority of Senate seats (20-18), but the Democrats won a majority of votes cast for all Senate candidates; unfortunately for the Democrats, many of those votes were cast in districts where the Democrats were concentrated, and their candidates won by a landslide, thus diluting the overall effect of their majority.

Scenarios for 1991

Since the Michigan Supreme Court has thrown out the constitutional apportionment provisions, including the commission, who will draw up the 1992 redistricting plan?   According to Spencer Abraham, Republican State Chair, the next redistricting will "largely be determined by the partisan composition of the legislature and governorship."   Rick Wiener, Democratic State Chair, agrees: "Control of the legislature--particularly control of the state Senate--is particularly acute.   The primary battleground will be the legislature."

If, and it is a big if, the Democrats control both legislative houses and the governorship in 1991, the legislature likely will write a reapportionment plan that minimizes population variances but permits greater breaking of county, city, and township boundaries.   This will enable Democrats to divide their urban voters among more districts and cut into the GOP majorities in rural areas.   If too much breaking of boundaries occurs, however, look for the Republicans to challenge the plan in the state supreme court, arguing that the plan contravenes the court's 1982 guidelines.

If--another big if--the Republicans control both houses and the governorship in 1991, the plan adopted for Senate districts will look very similar to today's maps; but for the House, it likely will diminish the number of urban, Democratic house districts by redrawing the lines so each of these districts includes the largest possible number of Democrats.   Thus, which party controls the houses of the legislature will be particularly important in 1991; this will be reflected in hard-fought campaigns in 1988 and 1990.

What if neither party controls both legislative houses and the governorship? When asked that question, Wiener responded: "Look for both parties to race into the courts." Abraham believes that if the legislature cannot agree on a plan, "the [supreme] court would be back where it was [in 1982]--commissioning a plan or coming up with a system for doing it."

While the partisan backgrounds of justices typically have little or no bearing on decisions, the political parties believe that "controlling the court" is in their best interest in case reapportionment is thrown to that body. Therefore, the parties will seek to nominate strong candidates and may factor into their nominating process a judgment about how likely a candidate is to vote the party line on reapportionment and how electable that candidate is.[1]

Can districts be drawn without partisan advantage? Most people do not think so. Former state supreme court Chief Justice Thomas E. Brennan says: "The struggle for power occurs every ten years. If one party loses, it thinks: 'Next time, we'll win.' It's become a winner-take-all system. There's so much [self-]interest among legislators that to get an honest cop is next to impossible." Wiener goes farther. "You can't, nor should you, take politics out of politics," he says.

Brennan floated a concept years ago that he felt would better manage reapportionment. In his plan, the state supreme court would establish certain guidelines, for example, districts must be contiguous, or population variances cannot exceed a certain percentage. Then, Republican and Democratic leaders would take turns drawing districts. One party in each house would draw the first district. The other party would draw the next district, which would have to border on the last drawn. If a party felt that the guidelines had been violated, the court would referee. Then, on to the next district, with the parties alternating in drawing the lines until the 110 House districts and 38 Senate districts had been established. In Brennan's view, "it's best to have an adversarial relationship."

While Brennan's plan is not without flaws, many people feel that some new system of districting is in order. One alternative is proportional representation, which removes the factor of district lines by seating candidates in the legislature in the same proportion as votes were cast for all the candidates of each political party. If one party wins 55 percent of all votes cast, that party would be entitled to 55 percent of all seats in the legislative body. (In the coming months, Public Sector Consultants will publish a commentary on proportional representation and why it merits consideration.)

Population Shifts

Because of the "one man, one vote" rule, population shifts can be very important. The Michigan Department of Management and Budget (DMB) projects that the population shifts within Michigan during the 1980s will not be dramatic. Certainly, the 1990 census will show substantial population gains in many townships and some cities and villages; likewise, several cities and

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[1]Only one of the present seven justices participated in the key 1982 decision: Charles Levin (a self-nominated Independent); he must win reelection in 1988 to have a role in the next reapportionment. A Republican-nominated justice, James Brickley, is also up for election in 1988. And in 1990, the terms of two Democratic-nominated justices, Patricia Boyle and Michael Cavanagh, expire.

selected townships and villages will have lost population. But unless the projections are inaccurate, population shifts in the 1980s will be insufficient to produce big legislative gains or losses for any particular area of the state.

In 1980, the five counties in the industrial corridor along I-75 (Wayne, Oakland, Macomb, Genesee, and Saginaw) held 51 percent of the state's population, 19 of 38 Senate seats (50 percent), and 57 of 110 House seats (51.8 percent). In 1990, these counties are projected to contain 49 percent of the state's residents. Basing seats strictly on population, and not breaking county lines, the area would be entitled to 18.6 Senate and 53.8 House districts: perhaps a loss of three House seats but probably no change in Senate seats.

Breaking down the I-75 corridor area by county, the gain or loss of seats, based strictly on population, seems quite insignificant. Exhibit 1 shows the apportionment of Senate and House seats if DMB's population projections are accurate and if seats are apportioned strictly on the basis of population.

Exhibit 1

EFFECTS OF POPULATION SHIFTS ON I-75 CORRIDOR COUNTIES

	1980 Senate Seats	1980 Senate Entitlement By Population[1]	1990 Senate Entitlement By Projection[2]		1980 House Seats	1980 House Entitlement By Population[1]	1990 House Entitlement By Projection[2]
Wayne	9	9.59	8.73		29	27.76	25.26
Oakland	4	4.15	4.27		12	12.01	12.36
Macomb	3	2.85	2.91		8	8.24	8.44
Genesee	2	1.84	1.78		5	5.34	5.17
Saginaw	1	.93	.89		3	2.70	2.60
TOTAL	19	19.36	18.58		57	56.05	53.83

SOURCE: Public Sector Consultants, Inc.

[1] Based on 1980 U.S. Census data.

[2] Based on 1985 Michigan Department of Management and Budget projections.

Wayne County stands a good chance of holding onto its nine current Senate seats, notwithstanding its projected loss of 181,000 people during the 1980s. This is because it is currently underrepresented in the Senate. But Wayne County could lose 3 or 4 of its 29 House seats as a result of the population loss and because it is currently overrepresented in the House.

Detroit may be the biggest loser in reapportionment. The U.S. Census Bureau estimates the city's population in 1986 at 1,086,220, a loss of 116,000 people since the 1980 census. Assuming that Detroit holds onto the 1986 population base, and the state as a whole gains 125,000 people (as DMB projects), the percentage of the state's population living in Detroit will decline from 13 percent in 1980 to 11.6 percent in 1990. Detroit could then

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lose one of its five current Senate seats and three or four of its sixteen House seats. If Detroit's population suffers greater losses, more legislative seats will be in jeopardy.

Exhibit 2 divides the state into areas large enough to be affected by population shifts. Exhibit 3 summarizes population gains and losses projected for each area.

Exhibit 2

AREAS OF THE STATE LARGE ENOUGH TO BE AFFECTED BY POPULATION SHIFTS

SOURCE: Public Sector Consultants, Inc.
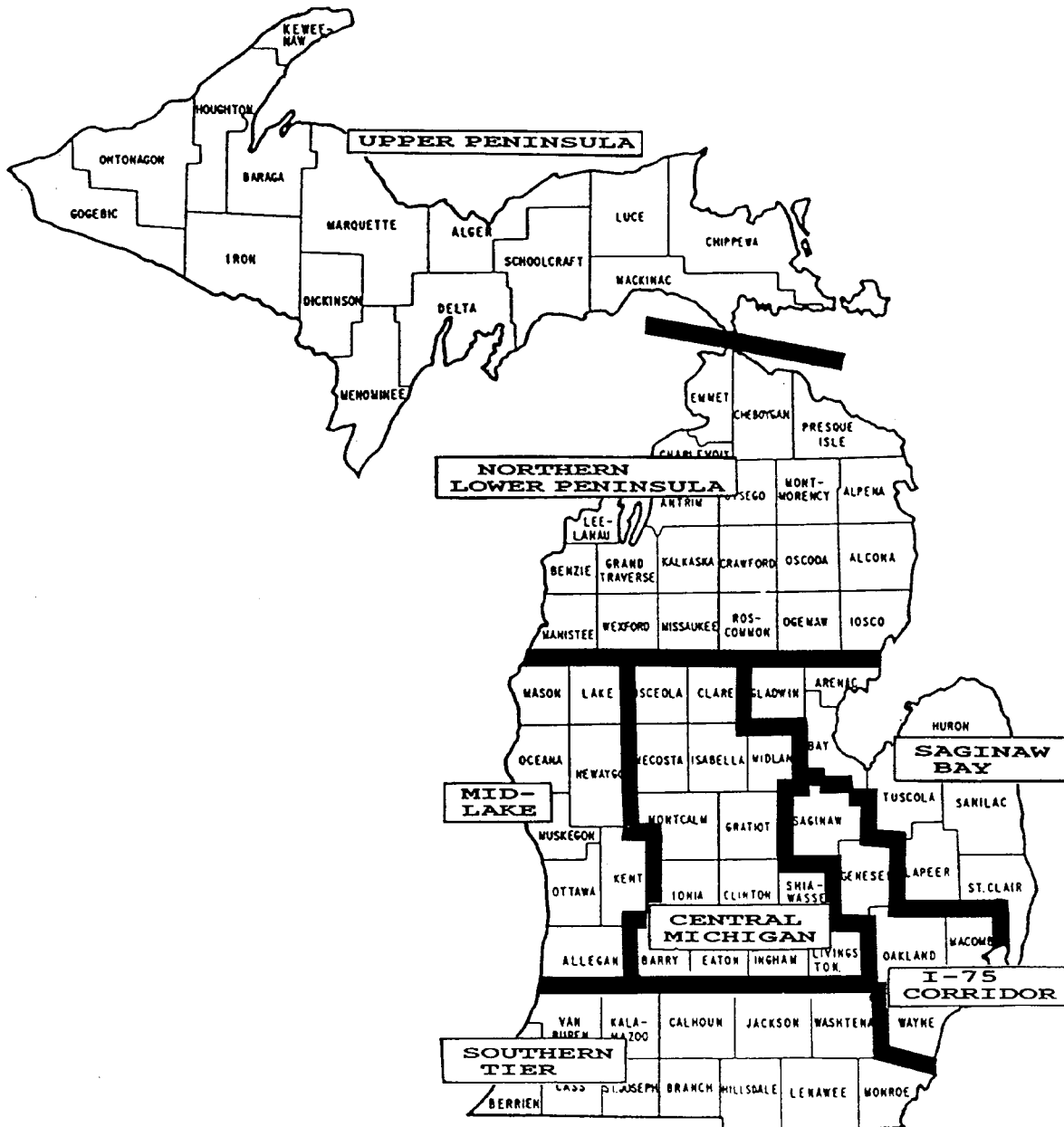
PSC Public Sector Consultants, Inc.

Exhibit 3

POPULATION SHIFTS WITHIN AREAS OF MICHIGAN

	1980 Population[1]	1990 Projected[2]	1980 Percentage of State Population[1]	1990 Percentage of State Population[2]	Percentage Change	Population Change
Upper Peninsula	319,757	325,000	3.4	3.4	0	+5,243
Northern Lower Peninsula	385,224	441,300	4.1	4.7	+.6	+56,076
Saginaw Bay	497,593	522,400	5.3	5.5	+.2	+24,807
Central Michigan	984,177	1,046,400	10.6	11.1	+.5	+62,223
Mid-Lake Michigan	931,819	1,003,100	10.1	10.7	+.6	+71,281
Southern two tiers	1,420,716	1,453,100	15.3	15.5	+.2	+32,384
I-75 corridor	4,722,792	4,596,200	51.0	49.0	-2.0	-126,592
STATE TOTAL	9,262,078	9,387,500	99.8%	99.9%		+125,422

SOURCE: Public Sector Consultants, Inc.

[1]Based on 1980 U.S. Census data.

[2]Based on 1985 Michigan Department of Management and Budget projections.

The relatively small shifts in population among these areas indicate little change in the geographic balance of power in the next decade's legislature, which will meet into the 21st century. Outstate Michigan may gain one Senate seat at best and about three House seats; the northern lower peninsula, central Michigan, and the mid-Lake Michigan counties may gain one House seat each. If DMB county population projections hold up, only Oakland County's gain during the 1980s, projected at 44,000, is enough to merit even an additional one-half House seat.

Of course, the DMB population projections are just that--projections. In Oakland County, for example, the DMB predicts that the 1990 population will be 1,055,300. But the Oakland County planning department estimates that the 1987 county population already stands at 1,114,112, about 61,000 people above the state projections for 1990.

Conclusion

The coming reapportionment of the Michigan legislature may determine the direction of public policy into the next century; at the very least, it will influence which party controls the legislature. Undertaken with partisan aims, redistricting can add or subtract numerous seats for either party.

At no point in any decade is the control of the legislature and governorship more important to a political party than it is in years that end in 1 or 2, when district maps change to reflect the new census. Hence, the next two state elections (1988 and 1990) will be as hotly contested as any since 1980.

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Guidelines for the 1990 reapportionment may or may not respect local government boundaries. All things being equal, city or township boundaries should be respected. The more homogeneous a constituency (that is, all urban residents or all suburban residents), the easier it is for a representative truly to represent his/her electorate in legislative voting. Population variance in districts, however, should be much closer to zero than the current 16 percent.

Population gains and losses, outside the city of Detroit, may play a small role in redistricting. Unless population projections are wrong, no large area of the state seems likely to gain or lose very many seats. One Senate seat and perhaps three or four House seats may be shifted outstate from Detroit. Current geographic legislative blocs are likely to remain intact outside Detroit. But projections have been known to be wrong; only the final 1990 census and partisan fortunes in the legislature will determine the fate of geographic balance, incumbents, and the political parties in the state legislature during the last decade of this century.

Bernard Apol, now retired, was state elections director from 1967-1980. He joined the Michigan Department of State in 1953 and served in 1964 and 1971-1972 as executive director to the state reapportionment commission. In 1961, Mr. Apol served as administrative assistant to the president of the Michigan Constitutional Convention. In 1982, he was appointed by the Michigan Supreme Court as its agent in drawing district lines consistent with its guidelines. Mr. Apol holds a bachelor's degree in economics from Calvin College and a master's degree in political science from the University of Michigan.

ADDENDUM

MICHIGAN SUPREME COURT GUIDELINES
FOR REAPPORTIONMENT (1982)

* Districts are to be compact and contiguous. (For example, Detroit and Traverse City cannot be put in the same district by gerrymandering.)

* Population of districts can vary by up to 16.4 percent. (The maximum population divergence thus far permitted by the U.S. Supreme Court.)

* County lines should not be broken except to prevent a population divergence exceeding 16.4 percent.

* When a county line must be broken, the fewest number of cities or townships must be shifted into the next district.

* A redistricting plan breaking the fewest county lines and staying within 16.4 percent population variance will be approved.

* If a county is entitled to more than one legislative district, city or township lines must be respected except to prevent a population variance exceeding 16.4 percent.

* If a city or township line must be broken, the two districts created should have equal population.

* If a city or township is entitled to more than one district, district lines must be drawn to achieve the maximum compactness within a population range of 98-102 percent.