



**CROWD**  
**ACADEMY**  
HANDBOOK

Knowledge of  
the Crowd.  
Redistricting  
Together.



CHAPTER 1

Introduction  
to the **CROWD**  
**Academy** and  
Redistricting



*be an advocate*



**The year 2020 is a presidential election year, and that event will capture much of the attention of grassroots advocates across the country, particularly advocates focused on civic engagement. But 2020 is a significant year for another reason: this is the year that experts, attorneys, advocates and communities will prepare for redistricting—the process of assigning new election districts at every level of government, that follows every decennial census.**

**Redistricting has often been a closed-door activity, with the technology and expertise jealously guarded by a few individuals. But CROWD Academies and other initiatives are working to ensure that, that will no longer be the case.**

Redistricting affects the ability of voters to cast meaningful ballots and redistricting ultimately determines the quality of their representation in government. After the return of the census data in 2021, government bodies that elect representatives using districts will apply this information to adjust district boundaries to account for population changes and shifts. These districts are used in the U.S. Congress, where districts include hundreds of thousands of Americans, to small town councils where districts group a few dozen individuals. Because redistricting affects who gets elected to governmental bodies, the decisions about boundaries also affect policies that these governmental bodies ultimately enact. Anyone who cares about the way that laws affect communities should care about redistricting. Redistricting has often been a closed-door activity, with the technology and expertise jealously guarded by a few individuals. But CROWD Academies and other initiatives are working to ensure that, that will no longer be the case.

The Southern Coalition for Social Justice (SCSJ), in partnership with grassroots partners across the South, is hosting **CROWD (Community Redistricting Organizations Working for Democracy) Academies**, the South's largest community-based effort to organize voters to engage in line drawing. These Academies will help guarantee a major public presence in the redistricting process.

Much has changed since the start of the last decennial redistricting cycle in 2011. Perhaps most important, the United States Supreme Court's 2013 decision in *Shelby County v. Holder* diminished the special protections of the Voting Rights Act of 1965 that applied in parts of the South with records of discrimination. Section 5, discussed in more detail later in this text, was a major voting rights tool that blocked proposed laws that would leave voters of

color worse off in exercising political power than they had been under the previous redistricting plan. Another major legal shift came with the Supreme Court's 2019 ruling in *Rucho v. Common Cause*. The Court ruled that federal courts would no longer be allowed to hear partisan gerrymandering lawsuits. This means that the fight against partisan discrimination is now left to state government to resolve, making grassroots activism for expanding state legal protections more important.

The shifts in the law are happening at a time when voting rights experts predict significant demographic shifts and changes in the South. The United States is becoming more racially diverse, and the census reports should reveal new places where new districts might be drawn to allow voters of color to elect their preferred candidates. At the same time, other areas in which voters of color have enjoyed the ability to elect their preferred candidates may lose population, and advocates will need to consider how to minimize the harm to those communities in the redistricting process. Finally, more than ever, partisan players are litigating in the voting rights realm, which could strain resources for supporting grassroots education, advocacy, and community-driven litigation. Energized and engaged activists in this arena will attract more resources, and the CROWD Academies will help to support the key work of those activists.

With fewer protections available from the Voting Rights Act this cycle, advocates must approach redistricting community education and advocacy in a more strategic, efficient way. Section 5 provided advocates and litigators a notification system to monitor and act when appropriate, on redistricting changes proposed in formerly covered jurisdictions (voters in 16 states, mostly in the South, were subject in whole or part to Section 5's protections). Section 5 also bought affected communities and experts time to review and assess proposed changes before they were enacted. Under the current system, redistricting changes in covered states now will go into effect immediately upon passage. This increases the pressure on communities to object to problematic plans during the legislative process and, if unsuccessful, to litigate those plans immediately after passage.

Moreover, without the notification element and the extra time afforded by Section 5, advocates must equip and support communities across the South to act as the "eyes and ears" to protect the right to vote, and to engage meaningfully in the redistricting process. The need for work ranges from de-

mystifying the process, to monitoring official meetings, to producing, analyzing and advocating for maps. There are simply not enough experienced voting rights advocates to be in every community, but those advocates can provide support—technical, legal and base-building—so that communities themselves can utilize the tools those experienced advocates use. And those communities that are already deeply familiar with the electoral systems and how those systems are structured to serve (or not) their best interests, will be well positioned to participate in the redistricting process and advocate for their own best interests.

CROWD Academies create lasting infrastructure and an informed community that is more equipped to interact with elected officials and prepared to advocate for redistricting plans and policies that serve their interests. The infrastructure created by this program will enable communities to advocate effectively in the redistricting process at all levels of government in 2021–2022, and in future redistricting cycles. That is, the theory of change is base-building and locally-oriented. Every community has the capacity to effectively advocate in the redistricting process when provided the proper tools and support. This engagement will allow grassroots activists to fight for fair districts, to achieve their policy goals via representative government, and to hold their representatives accountable.

Here is how the CROWD Academies will work: anchored by redistricting experts and in-state partners leading democracy organizing on-the-ground, this program will first train **CROWD Academy Scholars** (grassroots leaders who attend a regional two-day CROWD Academy). These Scholars will be trained and equipped to conduct “Redistricting 101” trainings in their communities and neighboring regions. Additionally, out of the Academies, the CROWD ACADEMY Partners (SCSJ and its grassroots partners) and community leaders will identify and train at least one Academy Scholar per Academy to serve as a **CROWD Academy Redistricting Fellow** in the 2020–2022 redistricting cycle happening at every level relevant to their community. Ideally, CROWD Fellows will be hosted at a partner organization with a presence in the region

where they will be working. The program will roll-out in three phases:

- 1. CROWD Scholars training and CROWD Fellows identification:** in each state in which the CROWD Academy will be operating, sponsors will conduct regional CROWD Academies (~30/40 attendees per academy) to educate and train leaders to be able to replicate redistricting training for grassroots communities. Amongst those Academy attendees, approximately 1 attendee per Academy will be designated and trained as a regional fellow.
- 2. CROWD Fellow training & support:** Fellow(s) receive orientation, equipment (computer and mapping software) and build relationships with technical assistance providers (map drawers, tech support and legal experts). CROWD Scholars will begin connecting the CROWD Fellows with interested activists they have identified in their “Redistricting 101” events, and the CROWD Fellows will begin developing in-depth relationships with activists in their regions.
- 3. CROWD Fellows lead:** With ongoing support from CROWD Academy sponsors and partners and CROWD Scholars, CROWD Fellows will implement regional community engagement support, working with community members to flag problematic maps and advocate for fair and racially equitable maps. The CROWD Fellows will serve as liaisons to voting rights litigators and other partners with communication and advocacy expertise that might assist community groups in their efforts.

Finally, the **CROWD Academy Handbook** is designed to be a comprehensive resource for CROWD Scholars and Fellows. When CROWD Scholars go out into their communities to prepare their friends and neighbors to participate in the redistricting process, they should have the resources necessary to answer as many questions as possible. But beyond the Handbook, CROWD Scholars

CHAPTER 2

# Redistricting *Data &* *Redistricting* *Principles*



## Data Collection and Distribution: The Decennial Census

Census data is collected every 10 years during years that end in "0" (e.g., 2000, 2010, 2020, etc...), and for the current cycle, every household will receive an invitation to participate in the Census by April 1st, 2020, also known as "Census Day." Over the next several months, individual respondents submit their demographic data, and census takers follow up with households that have not yet responded. By December, the Census Bureau delivers the results to the President of the United States for review.

Between February and April 1<sup>st</sup> of the following year (at the absolute latest), the Census Bureau releases the P.L. 94-171 Census Redistricting Data Summary File to the governor and legislative leadership in each state to be used for redistricting purposes. P.L. 94-171 refers to **Public Law 94-171**, enacted in 1975, that "directs the Census Bureau to make special preparations to provide redistricting data needed by the 50 states."<sup>1</sup> Redistricting experts often will use the shorthand term "PL data" to refer to this data set.

The P.L. 94-171 data include two kinds of files: tabulation files and geographic files. The **tabulation files**, which contain the demographic data collected by the Census, are presented in four tables:

1. A count of all persons by race
2. A count of the population 18 years and over by race
3. A count of Hispanic or Latino and a count of not Hispanic or Latino by race for all persons
4. A count of Hispanic or Latino and a count of not Hispanic or Latino by race for the population 18 years and over

*be counted*

### The Census Timeline

'20

#### April 1: Census Day

Collection occurs once per decade during the year ending in "0" of each decade.

Every household will receive an invitation to participate in the Census held in December of the same year.

#### December: Census Results Delivered

The Census Bureau delivers results to President for review

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#### April 1: Census Results Delivered

By April 1st of year -1, Census Bureau distributes redistricting data to the states (a file known as P.L. 94-171 Census Redistricting Data Summary File).

'22

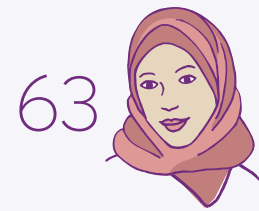
#### Spring / Summer District Lines Redrawn

In most states, districts must be redrawn in time for the next election, meaning district lines must be set by the candidate filing deadline for the state's primary election, in the spring or summer of year -2: 2022, 2032, 2042, etc.

<sup>1</sup> [https://www2.census.gov/programs-surveys/decennial/rdo/about/2010-census-programs/2010Census\\_pl94-171\\_techdoc.pdf](https://www2.census.gov/programs-surveys/decennial/rdo/about/2010-census-programs/2010Census_pl94-171_techdoc.pdf)

### 3 Key Decennial Census Categories for Redistricting

Geographic Files allow people counted in the Census to be associated with a place and are structured as follows:



63

#### Race Combinations

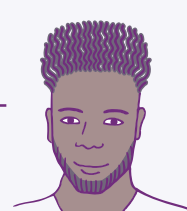
An individual can select a single race or up to all six categories.



126

#### Ethnic Combinations

By choosing either Hispanic or Non-Hispanic, which refer to ethnicity, the total possible combinations is double the race combinations.



18+

#### Voting Age Population (VAP)

Individuals who are 18 years and over by April 1, 2020.

Race and ethnicity are self-identified and self-reported, and they are chosen from the following categories:

- American Indian or Alaska Native
- Asian
- Black or African American
- Native Hawaiian or Other Pacific Islander
- White
- Other
- Hispanic or Latino (Yes or No)

The first six categories correspond to a specific race, while the seventh category, Hispanic or Latino, refers to ethnicity. An individual can select a single race or up to all six categories for a total of 63 possible combinations, which is then doubled to 126 possible combinations by choosing either

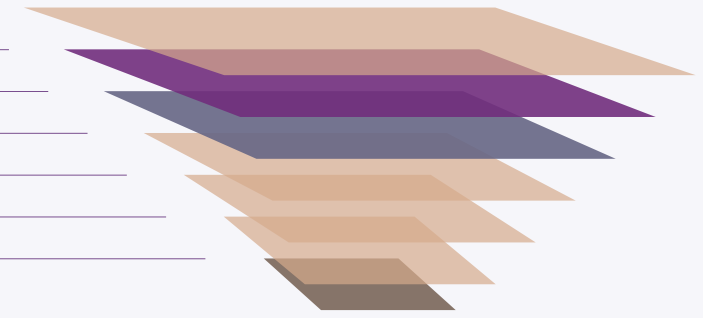
Hispanic or Non-Hispanic since race and ethnicity are separate questions. Individuals are also asked for their age as of April 1<sup>st</sup>, 2020, which is used to determine if they are 18 years and over, which is then used to determine the data set referred to as **Voting Age Population (VAP)**. The decennial census form asks other questions, but these three categories are all that is needed for the purposes of redistricting, and are used to create the four tables included with the P.L. 94-171 tabular data.

The **geographic files** (sometimes referred to as **shapefiles**), the other part of the P.L. 94-171 data, are joined with the tabulation files in order to attach demographic information to a specific location on a map. That is, these files allow the people counted in the Census to be associated with a place. These geographies start at the state level and go into increasingly finer detail down to the

### Main Levels of Geography in a Census

Geographic Files allow people counted in the Census to be associated with a place and are structured as follows:

- State
- County
- Voting Tabulation District (VTD)
- Place (City or Town)
- Tract
- Block Group
- Block



census block, which is the smallest component for all census geography. The main levels of geography provided by the Census Bureau are as follows: State → County → → Voting Tabulation District (VTD) → → → Place (City or Town) → → → → Tract → → → → Block Group → → → → → Block

The levels of geography most typically used for the purposes of redistricting are County, VTD, and Block. Each level of geography nests perfectly into each subsequent level, as shown in the simplified example below:



FIGURE 1 Nested Census Geography

With the basics of census data and geography understood, we can now move on to incorporating political data to enhance our ability to create and analyze electoral districts.



## Political Data

Political data is also important in the redistricting process and is not provided by the Census Bureau. Political data is also not collected the same way or by the exact same geographic units used to collect demographic data in the census. The geographic unit associated with election management and political data is **the precinct**, and the census equivalent to the precinct is **the VTD or Voting Tabulation District**. The Census Bureau does not create the VTD boundaries themselves; rather states will submit to the Census Bureau a special version of their precinct boundaries that nest within census geography. States are not required to participate, but most do since it is a preferred level of geography used for redistricting, owing to the fact that political data is second in importance only to census data when drawing districts. The Census Bureau can then include VTDs in the geographic files that they produced linked with the demographic data.

The types of political data provided by each state include election results, voter turnout, and voter registration demographics such as age, sex, race, and party affiliation. Some states collect the data at both the VTD and the precinct level, but many do not, and this distinction will affect how the data is incorporated into mapping programs, which will be discussed in further detail later on.

The process of accessing political data can differ significantly from state to state. Some states, such as North Carolina, provide the data free to anyone on an FTP site, while Wisconsin requires an official request, and charges thousands of dollars for a single statewide voter registration file. Other states, such as Maryland, stipulate that only voters registered in the state may access the data and explicitly prohibits any commercial use, punishable by misdemeanor. The format of the data can also vary, but it is typically a simple text file that is comma delimited (.csv) or tab delimited. These files require some experience working with databases, but most people familiar with Microsoft Excel should have no problem opening and working with these files to prepare the data for use in mapping programs. Most states will also have geographic files of their precincts that can be used to attach the tabular data to a specific location on a map, similar to how census demographic data are joined to cen-



The types of political data provided by each state include election results, voter turnout, and voter registration demographics such as age, sex, race, and party affiliation.

## What is GIS Software?

According to Brennan Center: "Geographic Information Systems (GIS) software assigns political and demographic data to points or regions of maps, and will allow even less experienced users to draw district lines on-screen with instant feedback about the composition of the district."

sus blocks. These geographic files are important, since they are usually necessary to incorporate the data into mapping programs.

Political data can be incorporated into mapping programs such as Maptitude in one of two ways, both of which involve disaggregating the data down to the census block level. If a state includes VTD information in its political data, the text file can be joined directly to the census VTD layer and then disaggregated down to the census block layer. If a state only includes precinct information in its political data, the text file must first be joined to the state's precinct shapefile, and that shapefile is then spatially joined to the census block layer and disaggregated. It is important to note that disaggregated data cannot be 100% accurate. The accuracy at the block level is not high, but when larger numbers of census blocks are grouped

together, as is often the case when redistricting, the accuracy and reliability of the disaggregated political data increases.

The reasons for incorporating political data are twofold. First, voter turnout and election results data can measure the partisan performance of electoral districts, either during the process of drawing them or analyzing them after the fact. Secondly, Election results data, when combined with census voting age population (VAP) data, can be used to determine the presence of racially polarized voting when evaluating a given jurisdiction's compliance with Section 2 of the Voting Rights Act. This topic will be covered in more detail in other chapters, but racially polarized voting is the tendency of one racial or ethnic group to vote in support of a candidate (often, but not always, a member of the voters' racial or ethnic group) and

the tendency of the majority racial or ethnic group (historically white voters) to vote in support of a different candidate and thus defeat the racial or ethnic group's ability to elect their preferred candidate. Because how a person votes is private—one can never ascertain how, for example, each white or black voter is voting. But, continuing the example, across larger geographies, social scientists can determine that predominantly black areas are voting for a black candidate and predominantly white areas are voting for a white candidate. This is indicative that voting may be racially polarized.

Racially polarized voting can be assessed through one or more of the following statistical tests, in order of increasing complexity:

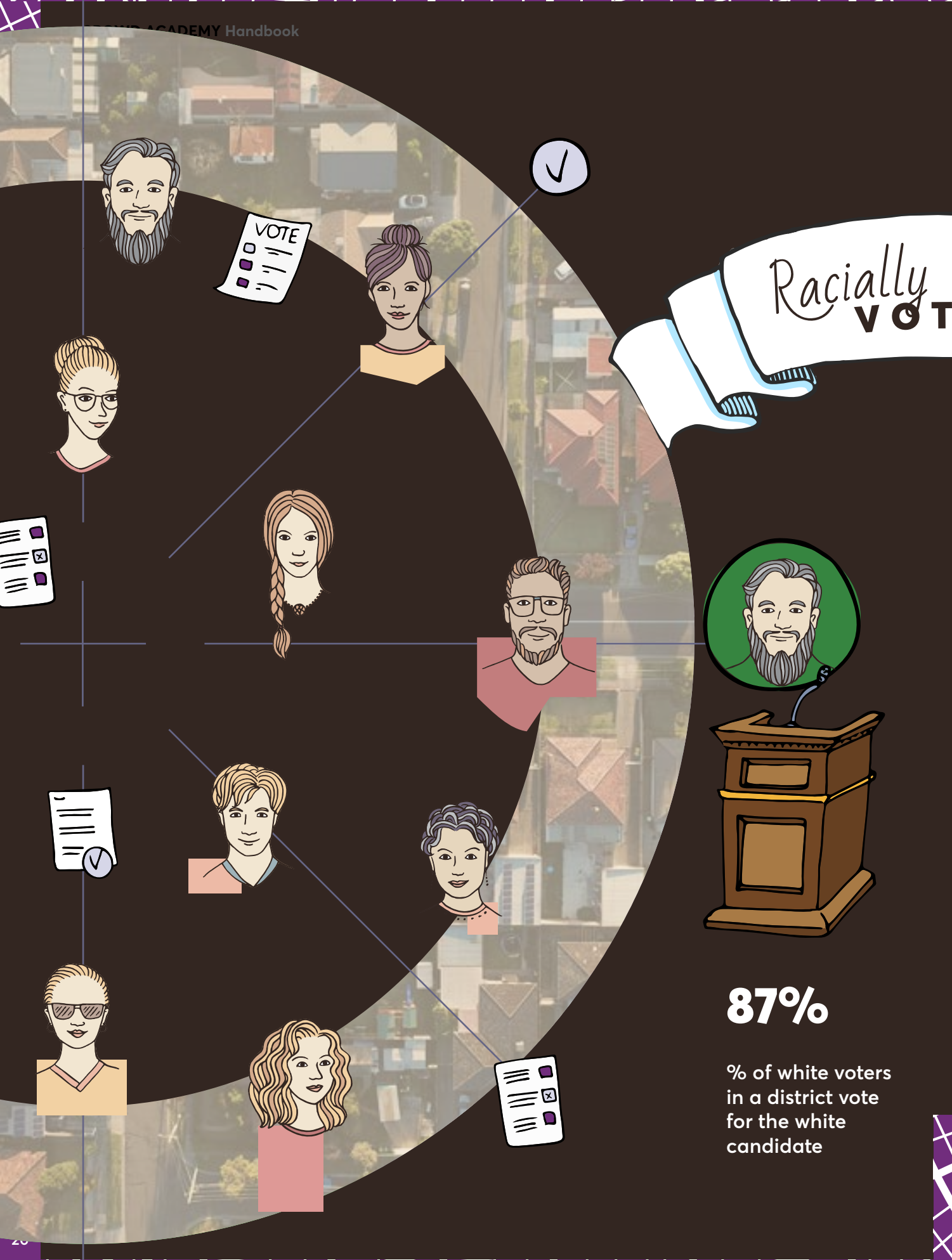
- Homogeneous Precinct Analysis
- Bivariate Ecological Regression Analysis
- Ecological Inference Analysis

These three tests determine the presence of racially polarized voting by looking at precinct level voting patterns where a racially contested election has taken place. Again continuing the example above but adding some specificity, if there is a county commissioner election where 95% of the black voters in a district vote for the black candidate, while 87% of white voters vote for the white candidate, that is evidence of racially polarized voting.

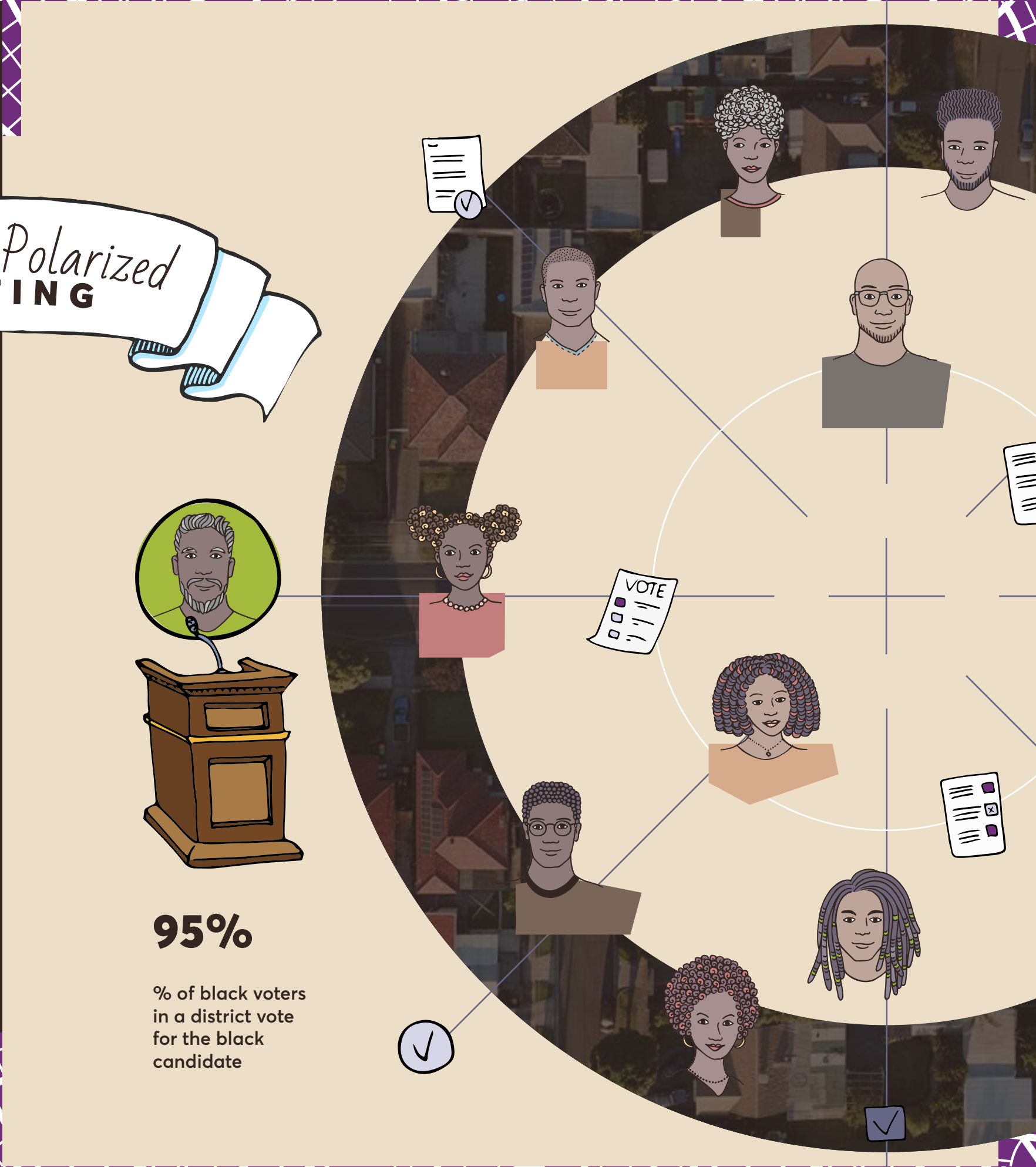
There are two types of elections that can be analyzed using the above techniques, and those are endogenous and exogenous elections. An **endogenous election** is simply one that occurs in the jurisdiction at issue in a VRA Section 2 case. Continuing with the county commissioner example from the previ-

ous paragraph, let's say this particular jurisdiction has at-large, county wide elections with no districts. If the racial composition of the county is such that 1/3 of the Voting Age Population is African-American, yet they are unable to elect an African-American candidate that routinely campaigns for a seat on the county commission, these endogenous elections could be analyzed for evidence of racially polarized voting. An **exogenous election**, on the other hand, is one that overlaps geographically with, but is unrelated to the jurisdiction at issue. One example of this would be a statewide U.S. Senate election with an African-American candidate running against a white candidate, but the election results would only be analyzed in precincts in the county at issue. Another example would be a racially contested city council election within the county.

While both types of elections can be used to test for racially polarized voting, endogenous elections are considered more probative and often hold more weight in court than exogenous elections. There are several reasons for this, one being the possibility that an exogenous election, such as the city council example, may only partially overlap with the entire county, and therefore not all precincts can be used for analysis. The U.S. Senate example may have less probative value since it is a campaign at a much larger scale and may involve different dynamics that are not necessarily representative of the specific jurisdiction in question. That being said, in a situation where there are few racially contested, endogenous elections to draw from, it is often necessary to rely on exogenous elections. For assessing racially polarized voting, the next ideal option is a local, exogenous election, followed by, regional or statewide, exogenous elections. In practice, though, the options for elections useful for meaningfully assessing racially polarized voting may be limited.



# Racially Polarized VOTING



## Redistricting Principles

Now that we have a solid understanding of the data behind redistricting, we will go over commonly used redistricting criteria, which are as follows: **equal population, communities of interest, contiguity, compactness, preservation of political boundaries, preservation of cores of prior districts,** and **avoiding pairing incumbents.** Adherence to each of these criteria, except for equal population, which is federally mandated, varies from state to state in their inclusion as well as level of enforcement (e.g. guidelines vs. constitutional requirements). One way to determine a jurisdiction's practices with respect to traditional redistricting principles is to see if the jurisdiction has ever legislatively-adopted certain criteria or whether there has been any litigation in the jurisdiction that might address the issue. It may be important to observe whether a jurisdiction has sacrificed compliance with traditional redistricting criteria in the past in service of certain goals, such as protecting incumbents or achieving political advantage. In jurisdictions where compliance with traditional redistricting compliance is not mandated or enforced laxly, community organizations can advocate for more strict compliance with these criteria if the community believes this would best serve the community's redistricting aims.



  
*keep the power  
of your voice*

1

# An Ideal Population

If there is a population of **100,000 people** in a jurisdiction, and **5 districts** need to be drawn, **the ideal population for each district is 20,000 people.**



3



4



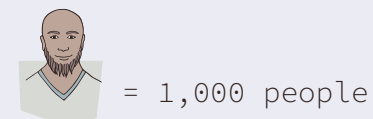
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2



## Equal Population

This criterion is mandated by the US Constitution and requires districts to have roughly the same population, and the strictness of this requirement depends on the type of jurisdiction (US Congressional, State Legislative, Local). The first step is to determine **the ideal population for each district**, which is *the total population of a jurisdiction divided by the total number of districts*. For example, if there is a population of 100,000 people in a jurisdiction, and 5 districts need to be drawn, the ideal population for each district is 20,000 people. The percent deviation from the ideal population helps determine compliance with the law depending on the type of jurisdiction, with the three most common jurisdiction types explained in further detail below:



= 1,000 people

**U.S. Congressional** districts have the strictest requirements, with very few exceptions. All districts must be as close to the ideal population as practicable, which is commonly referred to as “zeroing out the districts,” or “zero deviation.” Using the example from the previous paragraph, this simply means each district has to have exactly 20,000 people. If it is not possible to evenly divide the population, for example, a population of 100,001 instead of 100,000, then 4 districts must have exactly 20,000 people, with the 5th district having 20,001. Below is an example showing the population statistics for the current, zeroed out NC Congressional district plan:

**State Legislative** districts have more flexible population equality requirements, which for many states means no district can have more than ±5% deviation, or the plan overall can have no more than a total deviation of 10%. Sticking with our current example, this means the district populations can range no lower than 19,000 (-5% deviation) and no higher than 21,000 (+5% deviation). There are some exceptions to this rule, and variation by state, but that will be discussed in more detail in the chapter covering federal law applicable to redistricting.

**Local** districts (i.e., county commission or town council districts) are similar to state legislative districts in that the total deviation of the plan generally must be less than 10% overall, but different states may impose different requirements narrowing this. In theory, the 10% cap on population variance means the lowest population a district can possibly have is 18,000 (-10% deviation), and the highest is 22,000 (+10% deviation). In either extreme example, one district could have either ±10% deviation, but all other districts must have perfect zero deviation. It is more common that a plan will have something more balanced, such as the least populated district having -7% deviation from the ideal population, and the highest having +3%. Below is an example showing the out of deviation population statistics for Pitt County, North Carolina local district plan prior to redistricting in 2011:

District	2010 Pop	Ideal Pop	Ideal +/-	% +/-
1	733,499	733,499	0	0.00%
2	733,499	733,499	0	0.00%
3	733,498	733,499	-1	0.00%
4	733,499	733,499	0	0.00%
5	733,499	733,499	0	0.00%
6	733,499	733,499	-1	0.00%
7	733,499	733,499	0	0.00%
8	733,499	733,499	0	0.00%
9	733,498	733,499	-1	0.00%
10	733,499	733,499	0	0.00%
11	733,499	733,499	0	0.00%
12	733,498	733,499	-1	0.00%
13	733,499	733,499	0	0.00%

FIGURE 5 NC Congressional District Deviations (2016-Present)

District	Population		Change		2010 Ideal District	Deviation from Ideal	
	2000	2010	Total	Percent	Population	Total	Percent
1	23136	24300	1164	5.0%	28025	-3725	-13.3%
2	21961	26151	4170	19.0%	28025	-1874	-6.7%
3	2262	28334	5672	25.0%	28025	309	1.1%
4	21894	31349	9455	43.2%	28025	3324	11.9%
5	22168	31680	9512	42.9%	28025	3655	13.0%
6	21957	26334	4377	19.9%	28025	-1691	-6.0%
<b>Total</b>	<b>133798</b>	<b>158148</b>				<b>Maximum Population Deviation:</b>	<b>26.3%</b>

FIGURE 6 Pitt County Commissioner District Deviations (2010)



*your  
community.  
your voice.*

## Communities of Interest

Many states include communities of interest as one of several redistricting criteria that must be taken into account, although communities of interest should be defined before being used in redistricting in order to avoid manipulation. Alabama's Reapportioning Committee Guidelines, for example, broadly define a community of interest as "an area with recognized similarities of interests, including but not limited to racial, ethnic, geographic, governmental, regional, social, cultural, partisan, or historic interests..."<sup>2</sup> Communities of interest are sometimes easy to define, such as neighborhood or media market boundaries, but more often than not, they must be defined with the help of the communities in question. Both kinds of communities of interest data can be useful, but the latter may help craft plans that better address the needs of a particular community. This is why community involvement at the local level is so important in the redistricting process, as it gives map drawers the local knowledge to properly identify and keep whole important communities of interest. One example from Greensboro, North Carolina, is a group of neighborhoods in the northeast part of the city that for many years lacked any grocery store (known as a "food desert"). It was important that this community of interest identify itself so that line-drawers at every level of government could understand how these voters worked together. Good-intentioned line-drawers tried to keep this community unified in districts so as to not undermine their organizing/advocacy capacity. Absent this local input, a map drawer is hard pressed to identify these communities of interest without using proxy data such as the following:

- Zillow Neighborhood Boundary Files
- School District Boundary Files
- Media Market Boundary Files
- USGS Geographic Names Information System (GNIS) Populated Places Data<sup>3</sup>
- Decennial Census Data (e.g., Census Designated Places, Percentage Children, Median Age, Percentage Elderly, Percentage Female Head of Household, Percentage Renters)
- American Community Survey Data (e.g., Language, Ancestry, Educational Attainment, Median Household income)

**One example from Greensboro, North Carolina, is a group of neighborhoods in the northeast part of the city that for many years lacked any grocery store (known as a "food desert").**

<sup>2</sup> <http://www.legislature.state.al.us/aliswww/reapportionment/Reapportionment%20Guidelines%20for%20Redistricting.pdf>

<sup>3</sup> <https://www.tandfonline.com/doi/full/10.1080/00330124.2018.1443477>

### Contiguity

This geographic criterion is very straightforward: All parts of a single district must be connected to the rest of the district. There are a few variations and exceptions, which are described in further detail below:

**Point Contiguity** In this variation, two parts of a district are connected only by a single point. Some states allow for this type of contiguity, while others explicitly forbid it.

**Water Contiguity** Some districts have multiple areas completely separated by water with no connection by land, however this is generally accepted as contiguous for the purposes of redistricting.

**Satellite Annexations** This occurs primarily in municipal redistricting, where an incorporated municipality has one or more "satellite annexations" that are not contiguous with the primary corporate limits. Including those satellite annexations within a city council district is necessary and does not render the plan problematic from a contiguity standpoint.

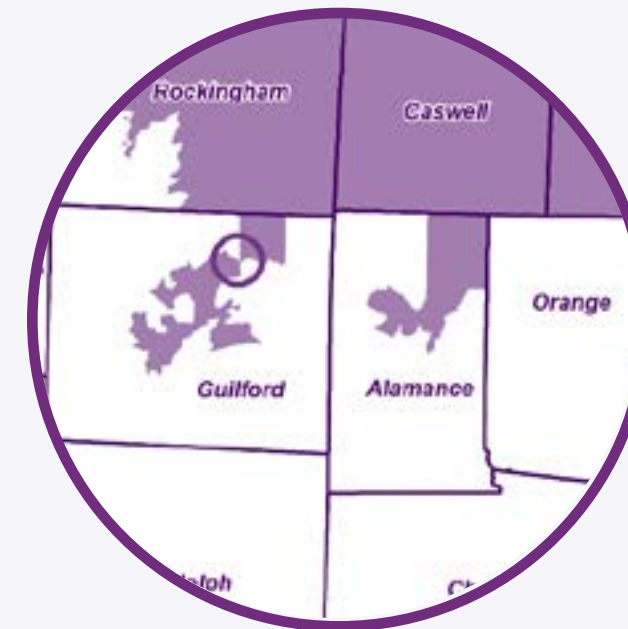


FIGURE 2 Point Contiguity in NC Congressional District 13 (2002-2010)



FIGURE 3 Water Contiguity in VA Congressional District 3 (2016-Present)

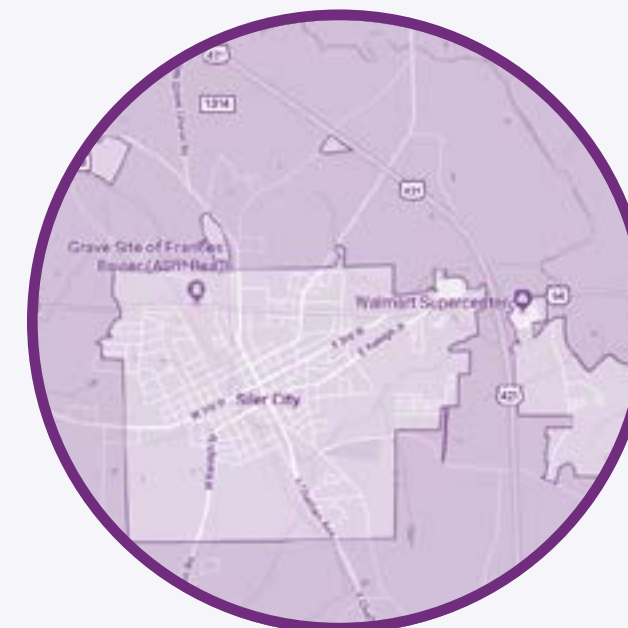


FIGURE 4 Satellite Annexation in Siler City, NC



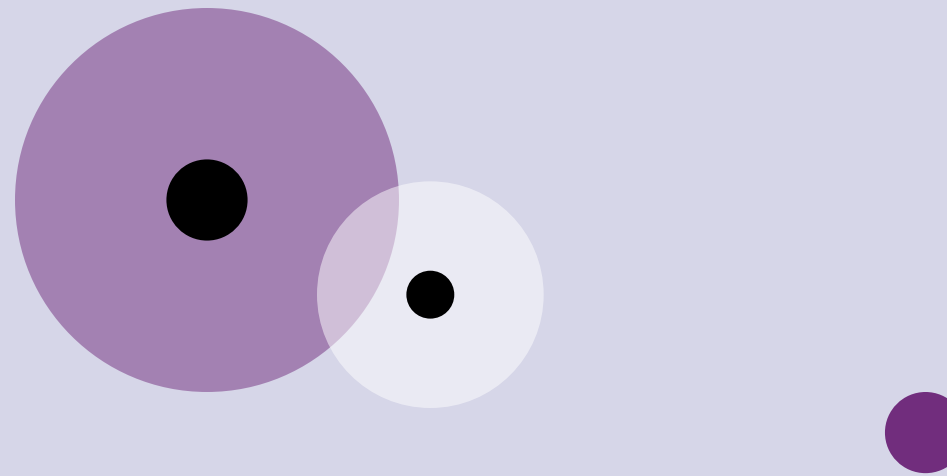


**Maptitude**  
Geographic Information System

## Compactness

In theory, the most compact district is a perfect circle, but in practice this is an unobtainable (and generally undesirable) goal. What we end up with is constrained by existing geographic boundaries, population density, other competing redistricting criteria, and the map drawer's intent. While there is something to be said for the "I know it when I see it" approach to judging a district's compactness, court challenges often use specific measures of compactness that are mathematical formulas or ratios using variables such as area, perimeter length, and population. To date, there are over two dozen measures of compactness; however certain measures are more commonly used, such as the ones included in the popular district building software, Maptitude for Redistricting: Reock, Schwartzberg, Perimeter, Polsby-Popper, Length-Width, Population Polygon, Population Circle, Ehrenburg, and Minimum Convex Polygon.

By itself, the way an individual district rates or "scores" using any of these measures of compactness has limited utility, but when compared to the scores of other districts within a plan or other competing plans, evidence of relative compactness or non-compactness can emerge.



## Preservation of Political Boundaries

Most states have general guidelines on limiting the number of splits to existing political boundaries such as counties, cities, and precincts. This criterion is subordinate to federal law criteria such as Equal Population and adherence to Section 2 of the Voting Rights Act, and as such, it is implemented with a certain level of flexibility.

As a practical matter, excessive jurisdictional splits, of precincts in particular, can create an administrative burden to local boards of elections by multiplying the total number of ballot styles needed for a given election, and increase the likelihood that a voter is assigned to the wrong district. A 2017 very close state legislative election in Virginia had to be decided by random drawing of a name from a "hat" because the district lines split precincts, and many voters were given the wrong ballot. It can also lead to voter confusion and create logistical difficulties for community groups and political organizations, as precincts are the basic building blocks for organizing at the local level. Therefore, it is widely considered essential to good governance to minimize these splits as much as possible.

**A 2017 very close state legislative election in Virginia had to be decided random drawing of a name from a "hat" because the district lines split precincts, and many voters were given the wrong ballot.**



### Preservation of Cores of Prior Districts

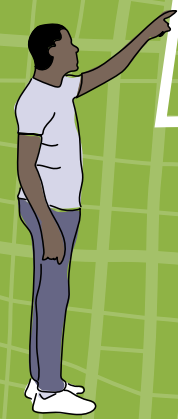
This criterion facilitates historical continuity of representation for voters across multiple redistricting cycles. This is accomplished slightly more easily with state legislative districts compared to congressional districts since, in addition to population changes, the number of congressional districts can and will change for many states after each decennial census. For example, it is widely expected that North Carolina will gain an additional congressional representative in 2020 due to population increases, and will therefore move to a 14-district plan after two decades under a 13-district plan. However, it is also a criterion that can be used to argue against the creation of a new district that creates electoral opportunities for voters of color. The use of the criterion should be deployed carefully.

### Avoiding Pairing Incumbents

This criterion tends to be popular with state legislative representatives who, not coincidentally, are also the parties in charge of redistricting in most states. Although motivated by self-interest, one argument in favor of some incumbent protection is if the incumbent has had a long tenure in the legislature (and thus may be an experienced and effective lawmaker) and has strong ties to their constituents. It is almost inevitable that some incumbents will be paired, as other redistricting criteria often are prioritized above this particular one in importance.

Incumbency pairing can be used for nefarious purposes, even when framed positively as "ignoring incumbency." It can be used as a tactic in partisan gerrymandering by pairing two or more incumbents of the same party in the same district, thereby eliminating all but one of them in a primary. Another method is to place an incumbent in a "safe" district of the other party, all but ensuring their defeat in the general election. These both tend to be particularly effective weapons for eliminating partisan rivals since in almost all cases, a candidate must reside in the district in which they run, and the only way around it is to move to a different primary residence before the filing deadline for an upcoming election.

Additionally, ill-intended mapmakers may pretend to ignore incumbency but then propose plans that disproportionately pair incumbents of color, forcing them to run against each other and likely reducing representation of color. This nearly happened in 2019 when the North Carolina General Assembly proposed to restructure and redistrict the Winston-Salem city council, in the process putting all three African-American women on the council in the same district. That effort was defeated through advocacy.



CHAPTER 3

# Analysis of *Maps*

## Terminology

When analyzing current and proposed maps, several terms that community groups are likely to encounter should be defined and understood.

### Types of Elections

**Plurality/Majority** Plurality voting is the most common electoral system in the country whereby the candidate with the highest number of votes wins. Some jurisdictions never require a candidate to obtain a majority of votes to win. In other cases, where the ultimately successful candidate must obtain a majority of the vote, if no candidate reaches 50%, election officials will conduct what is known as a "run-off" election. In this case, usually, the top two candidates run against each other in a final election to determine the winner.

In other, rarer instances, an "instant-runoff" could occur where voters rank the candidates in order of preference. If a candidate receives over 50%, that candidate wins. However, if no candidate reaches 50%, the candidate with the lowest number of votes is automatically dropped off, and voters who selected that candidate will have their second-place votes added to their next choice. This process is repeated until a candidate reaches 50% and becomes the winner.

**Proportional Representation** The United States has never adopted proportional representation systems as have many other countries, but because fair, community-supported plans may be criticized for attempting to achieve proportional representation, it is important to understand the concept. Proportional representation systems are commonly used for national legislatures with a parliament system. The number of seats won will reflect proportionately the percentage of votes obtained by that party. For instance, if 40% of the electorate supports a political party as their favorite, then approximately 40% of seats will be won by that party.

**Alternative Voting Systems** These systems include methods such as cumulative voting and limited voting. Cumulative voting allows as many votes as there are candidates. A voter may choose to give all their votes to one candidate to maximize that candidate's chance of election or vote for as many candidates as they have votes, or something in between. In limited voting, voters have fewer votes than there are office seats. For example, in a four-seat district, each voter might be allowed to cast two votes, and the winners are the four candidates who receive the highest totals of votes. Systems such as cumulative voting and limited voting may be advantageous to minority communities if they are able to galvanize around a select few candidates and the systems are well understood and supported.



## Methods of Election

**At-Large** This structure lacks any districts and requires the candidates to run and obtain votes throughout the entire jurisdiction. Under certain circumstances, minority voters may not be able to elect a candidate of choice in at-large elections.

**Single Member Districts** With this method of election, candidates run in districts where only voters residing inside the district can vote. Under this structure, care must be taken to ensure that districts are configured in a fair manner that reflects the jurisdiction's voting population, that do not interfere or dilute the voting strength of minority voters, and are not constructed using any impermissible grounds.

**Multimember Districts** This method of election is similar to one employing single member districts except that more than one candidate can run in a single district. Multimember district systems can suffer from some of the same problems as both at-large and single member districts.

**Hybrid/Mixed Systems** Hybrid/Mixed systems have some representatives run at-large while others run in districts. These systems carry with it the advantages and disadvantages of both systems.

## Analyzing Maps Currently in Place

### Representation

One of the reasons why fair and community-involved redistricting is important is that such a process may ensure that a plan allows the election of candidates that advocate for policies that match the will and desire of the voters that they represent. Therefore, **evaluating current and past representation or officeholders and their policies** is important when analyzing current redistricting maps. The race/ethnicity or party of current officeholders may have been influenced by the configuration of the districts or lack thereof (i.e., an at-large system versus a single-member district).

### Identifying Elected Officials

When analyzing current redistricting maps, research should include a background understanding of the current officeholder (you may also want to obtain previous officeholders as well). Information on the current officeholder can be obtained from your **local voter registrar/board of election or online at either the website of the jurisdiction, the county elections office or the state elections office.**

**The information obtained should include the officeholder's name, race/ethnicity, party affiliation (if applicable), possible address, and winning percentage in the past election (or multiple elections).** Although the name may simply identify the particular person, the address may allow you to determine the residential location within a specific district. In local elections, there is usually a residency requirement. Thus, the specific address indicates the district in which they live and that they can legally represent. However, it is not uncommon in some at-large systems that multiple representatives live in the same neighborhood or similar vicinity.

Another bit of useful information includes **the race or ethnicity of the officeholder**. For the most part, ethnicity corresponds to whether the candidate was Hispanic or Latino while race refers to the categories specified by the U.S. Census Bureau covered in Chapter 2. Unfortunately, in many states, race or ethnicity of an officeholder is most likely not available at any local registrar or state election website. In such states, the easiest way to determine this information may be to talk to individuals who are familiar with the race and ethnicity of the officeholder or obtain commercial database data that may have researched and obtained this information. In addition to one of these options, visually viewing city council member photos, for example, along with their surnames may provide additional insight, but will often not be entirely reliable information.

Election results useful for map analysis are also often available from the local elections office/voter registrar or state department of elections. Most local election offices or state department of elections maintain election returns that go back multiple years, if not decades. Election returns will facilitate determining how long the officeholders have been serving and by what vote margins they were elected. Once the race or ethnicity of the officeholder is obtained, a simple analysis can also be made to determine which districts elect certain officeholders of certain racial and ethnic makeup. This information can be useful, specifically, if it can be associated with the minority community's candidate of choice.

Finally, **identify candidates who were not elected**. Obtain their names and their races or ethnicities and losing margins. Analyzing candidates who were not elected may provide insight into whether candidates preferred by voters of color are struggling to be elected in a jurisdiction or district. For instance, a jurisdiction with an at-large election system (i.e., those jurisdictions where every voter in the jurisdiction votes on every candidate) with significant minority population that rarely or never elects the minority candidate of choice, may be experiencing legally-significant racially polarized voting (see Chapter 2). Thus, the jurisdiction may be a candidate to convert to a districting scheme where the jurisdiction is divided into districts with representatives elected from a specific district. On the other hand, a jurisdiction with a **districting system** that routinely elects fewer minority-preferred candidates than corresponds with that minority population's overall make-up of the jurisdiction may be suffering from minority vote dilution and the districts may need to be reconfigured to remedy this problem. In each of these cases, redistricting experts would need to perform analysis to prove these occurrences. However, the local community could be the starting point to draw attention to these important issues.

## Assess Current Leadership

Community groups preparing to engage with the redistricting process should ask themselves other questions, such as, “What good policies have been realized and who was responsible for them?” Quantifying policies that help the community can help define whether the current leadership is in line with the community that the officeholder represents.

The opposite questions should also be resolved: “What bad policies have been enacted and who was responsible for them?” Quantifying policies that hurt the community can help define whether the current leadership is not in sync with the community that the officeholder represents.

In either case, developing a table that lists the policies and rating them good or bad or even neutral can be an easy way to identify and surmise whether an officeholder is beneficial or not to the district’s or jurisdiction’s community.

# Does the community want to draw its own maps or just provide feedback in the construction of new maps?

This topic is discussed in detail in Chapter 6, but in short, one of the questions that a community or community group needs to answer upfront is whether it will develop its own maps or provide input into maps as they are being drawn by the jurisdiction or entity charged with redistricting. If the community desires to draw its own maps, it must ensure that it has the capacity to do so. That means it should have access to the proper software & data (see Chapter 2) plus one or more individuals with the proper technical, redistricting training, and understanding of plan development skills. Also, the community should consider whether it has the resources and time, as well as the ability to build consensus within the community to develop its own plan.

If, however, the community decides to provide input into the generation of maps, it should consider whether it trusts the entity in charge of developing the maps and determine whether litigation is likely. If litigation is likely, having a competing map (to show that alternative plans existed at the time) can be helpful if done in an organized, consensus-driven manner and the map complies with all legal mandates. Regardless of whether a community decides to draw its own map, it must be prepared to analyze and react to proposed maps drawn by governing bodies.

# Analyzing Proposed Maps

## Method of Election

### Characteristics of proposed methods of elections

When analyzing the method of election in a proposed plan, if any significant changes are being made to either the method of election or the type of districts used in the plan, a community group should identify why the change is being proposed and who proposed that change. Lack of transparency in answering questions on this front may be grounds for suspicion that the changes are ill-intentioned.

Community groups should ask whether a change in method of election (i.e., implementing or discarding a majority vote requirement) will make it harder or easier for voters of color to elect their candidate of choice or for the jurisdiction as a whole to obtain representation consistent with its voters' values and preferences. Likewise, a move to or from single member districts should be scrutinized to see whether it will undermine a group's political power. There is no one-size-fits-all answer. In a jurisdiction that is majority Latino, for example, a move from at-large elections to single member districts may not advance Latino political power or the interests of the Latino community. The answers to these questions can often be found in the lived experiences of members of the community, or they may need to be sought from mapdrawing or political science experts. But they are questions that must be asked at the outset when critiquing proposed maps.

### Characteristics of the proposed map

Analysis of a proposed plan should, at the very least, consider how well the map meets traditional redistricting criteria, how the map affects traditionally disenfranchised communities, including voters of color, and what the political ramifications of the proposed map will be.

Traditional redistricting criteria usually include aspects such as equal population, compactness, minimizing political subdivision splits, respect for communities of interest, and sometimes the effect on incumbents.

Equal population is usually evaluated by comparing each district's total population to the plan's **Ideal Population** (see Chapter 2). The closer the district's total population is to the ideal population, the more strictly the district adheres to the one-person-one-vote requirement of the U.S. Constitution. Evaluation of the total population usually involves viewing **the absolute deviation or deviation percentage of the district population** (see Chapter 2). The closer the deviation or its percentage is to zero, the more strictly the district adheres to the one person one vote requirement.

Population deviations between districts are not always problematic, and perfect population equality amongst the districts does not mean that the plan is good for a community or even legal. When looking at both the population deviations of the individual districts and the plan as a whole, the community engaging in the redistricting process should try to identify the reasons for the population deviations. Slight population deviations that enable the creation or protection of a district that enables the election of a candidate preferred by voters of color are desirable and can be legal. Slight population deviations that allow municipalities, precincts, or VTDs to be kept whole are likewise sometimes advantageous. However, communities analyzing population deviations should examine the plan for systematic population deviations that seem to favor or disfavor certain groups. For example, a plan where all white majority districts are underpopulated and all black majority districts are overpopulated districts may illegally advantage white voters. Similarly, a plan where all rural districts are underpopulated and all urban districts are overpopulated districts may likewise illegally advantage rural voters. If a redistricting body cannot or will not explain the reason for population deviations, this may grounds for suspicion and consultation with a legal expert.



**Traditional redistricting criteria usually include aspects such as equal population, compactness, minimizing political subdivision splits, respect for communities of interest, and sometimes the effect on incumbents.**



**Compactness**, which refers to the geographic dispersion or irregular shape of a district, is a common characteristic evaluated during plan analysis. Compactness measures are usually performed using a computer system that compares the district to an assumed perfectly shaped geography such as a circle. In most cases, the areas or perimeter are compared. However, compactness measures also compare districts to other geographic forms, such as a rectangle or convex hull.<sup>1</sup>

There are a variety of methods of measuring compactness (see Chapter 2) and most result in values between zero (0) and one (1), and in rare instances, the value exceeds 1. In both situations, the compactness measurement of “1” is considered a perfectly compact district.

Also, outside of the extremes, it is difficult to label a district very compact or significantly not compact in the abstract. In other words, it is easy to label a district significantly noncompact if it carries with it a measure of .09 or under; it is easy to label a district very compact if it has a measure of .90 or above. However, in some cases, the low compactness measurement may be necessary. An example of low compactness being necessary would be a coastal district where the coastal boundary is very irregular, causing the district to have a poor compactness score using mathematical measures. Another example would be the inclusion of non-contiguous annexed areas (so-called satellite annexations) of a municipality that when included in a district would likely cause a low compactness measure.

When analyzing compactness, it is also important to consider the shape of the jurisdiction or geographic subareas such as cities, towns, precincts, and VTDs that the district attempts to follow. For instance, if a municipality is irregularly shaped—that is, has a notch cut out on one side—one or more of the district’s compactness measures that abut the notch will most likely be impacted. Or, a jurisdiction that annexed several irregular land areas or non-contiguous land areas may also have districts that are affected by the annex.



**When analyzing compactness, it is also important to consider the shape of the jurisdiction or geographic subareas such as cities, towns, precincts, and VTDs that the district attempts to follow.**

<sup>1</sup> The shape of convex hull could be thought of as the shape that is generated if the district was 3-dimensional and a rubber band was wrapped around the district. The shape that is created from the imaginary rubber band is similar to the shape of the convex hull.

Just as with population equality, the first step in a community’s analysis of a proposed plan’s compactness is inquiring of mapdrawers the reasons for a district’s either lack of visual compactness or low score on mathematical compactness measures. It is not the rare case that a district drawn to comply with Section 2 of the Voting Rights Act and thus create new opportunities for voters of color to elect their candidate of choice is not the most visually compact district. But this is not inherently problematic as long as race was not the predominant reason for the district’s shape. Likewise, in states that prioritize keeping counties whole in districts, the irregular shape of counties may lead to some irregularly shaped district. This also is not inherently problematic so long as there is no bias in which counties are kept whole and which counties are split.

**Minimizing political subdivision splits** is a criterion that is designed to keep governmentally designated areas intact as much as possible. Political subdivisions include counties, cities, towns, precincts, voting tabulation districts (VTDs), or other government-designated areas. In some cases, a local government may not have created the area, but the federal government may recognize that area for funding or other such reasons and identify it as a **census-designated place (CDP)**.

While not an absolute criterion, the minimization of the splitting of political subdivisions may serve some important interests. Keeping a town whole, for example, may allow that town to maximize its influence with an elected official. In another example, keeping VTD or precincts whole may make political organizing easier and may reduce the chance of error in election administration.

The splitting of political subdivisions can be viewed by visual analysis; however, the best method is to generate analysis reports using a redistricting mapping software. The software’s report would be capable of identifying which political subdivisions have been split and possibly the population contained within.



**Keeping a town whole, for example, may allow that town to maximize its influence with an elected official.**

Plan Name: Plan Type:		2018 House Plan Analysis A		
County	Voting District	District	Population	
Split VTDs (Continued)				
Cumberland NC	G1	43	8,715	
Cumberland NC	G1	45	339	
Cumberland NC	G10	42	362	
Cumberland NC	G10	44	835	
Cumberland NC	G10	45	13,257	
Cumberland NC	G11	42	6,699	
Cumberland NC	G11	43	1,885	
Cumberland NC	G11	45	22,658	
Cumberland NC	G2	42	995	
Cumberland NC	G2	43	28,836	
Cumberland NC	G2	45	4,451	
Cumberland NC	G3	43	6,976	
Cumberland NC	G3	44	8,156	
Cumberland NC	G3	45	92	
Cumberland NC	G5	42	19,481	
Cumberland NC	G5	44	966	
Cumberland NC	G6	43	647	
Cumberland NC	G6	45	9,810	
Cumberland NC	G8	42	2,297	
Cumberland NC	G8	44	16,491	

FIGURE 3-1 Split VTD Report Example. Source: Maptitude for Redistricting Sample Split County Report

Figure 3-1 displays a segment of a split VTD report for a sample State House plan in North Carolina generated by the software Maptitude for Redistricting. The report reveals several VTDs that are split by multiple districts. For instance, VTD G10 is split by three districts, 24, 44, and 45.


As with other parts of map analysis, community groups analyzing a plan’s compliance with this traditional redistricting criterion should not simply count the number of split governmental entities: it should ask why political subdivisions were split. While it is often not possible to entirely respect all political subdivisions (i.e., split no towns or VTDs), a community group should carefully examine the choices made by mapdrawers as to which political subdivisions were divided. A well-intentioned mapdrawer committed to a transparent and participatory process should be willing to justify all such decisions with non-discriminatory explanations.

The **communities of interest** criterion can be one of the most ambiguous characteristics of a redistricting plan, and will almost certainly be so if the term was not concretely defined before the redistricting process commenced or if the jurisdiction did not establish a measurement strategy for preserving communities of interest. An unavoidable truth is that even well-meaning individuals may disagree on the contours of a community of interest. Commonalities such as racial, ethnic, geographic, governmental, regional, social, cultural, transportation, or historical aspects of jurisdiction could be considered communities of interest.

That said, the most popular and well-defined community of interest is a neighborhood or local residential subdivision. These areas can be geographically constrained and can be compared from one plan to another by the number of neighborhoods that are split. Also, neighborhoods usually contain common socioeconomic and even many times culturally similar voters.

Communities of interest could consist of areas where: English is a second language, agricultural concerns dominate, transportation connects the area, or even poverty issues are concentrated. All of these commonalities may bind these areas together as a rationale for preserving them within the same district boundaries.

Therefore, analyzing the proposed plan’s respect for communities of interest first involves reviewing relevant data for an analysis that usually comes in two different forms. If geographically defined areas such as neighborhoods or subdivisions are analyzed, then a review of boundary data of neighbors is needed to view and determine whether they have been split. While visual analysis is sometimes possible to determine split neighborhoods, generating a



Communities of interest could consist of areas where: English is a second language, agricultural concerns dominate, transportation connects the area, or even poverty issues are concentrated.

mapping software report that lists the split neighborhoods is often advantageous.

In practice, neighborhoods are commonly accepted as a community of interest that should be kept whole where possible. However, if other commonalities such as language, agricultural concerns, or a need for organizing around crime prevention might be significant, relevant data on each of those interests is a starting point in the analysis—that is, one should ask whether those interests encompass a specific geographic area. In many cases, public input is the best source for determining whether a community of interest can be defined and indeed exists.<sup>2</sup>

Then, when communities of interest have been defined and identified, communities should analyze a proposed plan's respect for using communities of interests. This is often a visual examination where the map is examined to see whether the community of interest area is included or not within a district, or if it is split by a district line. Community advocates again should not be afraid to ask a mapdrawer to defend treatment of different communities of interest, particular if the community advocates defined those communities for mapdrawers at the outset.

Because many jurisdictions consider **incumbency protection** a traditional redistricting criterion, community groups should be prepared to analyze a proposed plan on this criterion. If a jurisdiction disavows any attention or intention to protecting incumbents, community members may need to obtain the addresses of the incumbents in order to assess how the map rates on this criterion. Whether incumbency protection is a stated goal or not of the mapdrawer, community groups should examine whether there is any potentially discriminatory pattern to the pairing of incumbents (that is, the placement of multiple incumbents in one district). As a general matter, a fair redistricting plan should be designed to ensure voters elect their representatives, not so that elected officials choose which voters are in their district in a manner that ensure their continued re-election. The latter is antithetical to democratic norms. But should a community decide to forcefully advocate for the abandonment of incumbency protection or non-pairing as a redistricting criterion, it should also ensure that if that advocacy is successful, the change is not used in a manner detrimental to communities of color or disproportionately disadvantage or a region or a particular party.



**Community advocates... should not be afraid to ask a mapdrawer to defend treatment of different communities of interest...**

<sup>2</sup> Michael Li And Yurij Rudensky, "Rethinking the Redistricting Toolbox", *Howard Law Journal*, 2019 Vol. 62 No. 3



One of the most important, albeit complex, assessments that must be conducted of a proposed plan is the plan's effect on voters by **race or ethnicity**. Simply raising or even lowering race or ethnicity percentages for one or more districts does not necessarily generate a better plan. The analysis goes far beyond the percentage of race or ethnicity alone.

However, one of the first steps should be identifying the number of majority-minority districts or the number of districts that are effective for minority voters (that is, enables the election of a minority-preferred candidate even if the minority group does not constitute a numerical majority in the district). The community should assess whether majority-minority or super-majority-minority districts are necessary to enable the election of candidates preferred by voters of color. Sometimes some of these questions can be answered based on community knowledge and examination of simple demographic data often provided with a proposed map, but there will be times when expert analysis is necessary to answer even these threshold questions (discussed more below).

Next, there are other visual assessments which center on race or ethnicity that could be undertaken by anyone with some understanding of redistricting. Specifically, community members can visually analyze a proposed plan to see whether any precincts or VTDs seem to be improperly or discriminatorily split on the base of race or ethnicity.

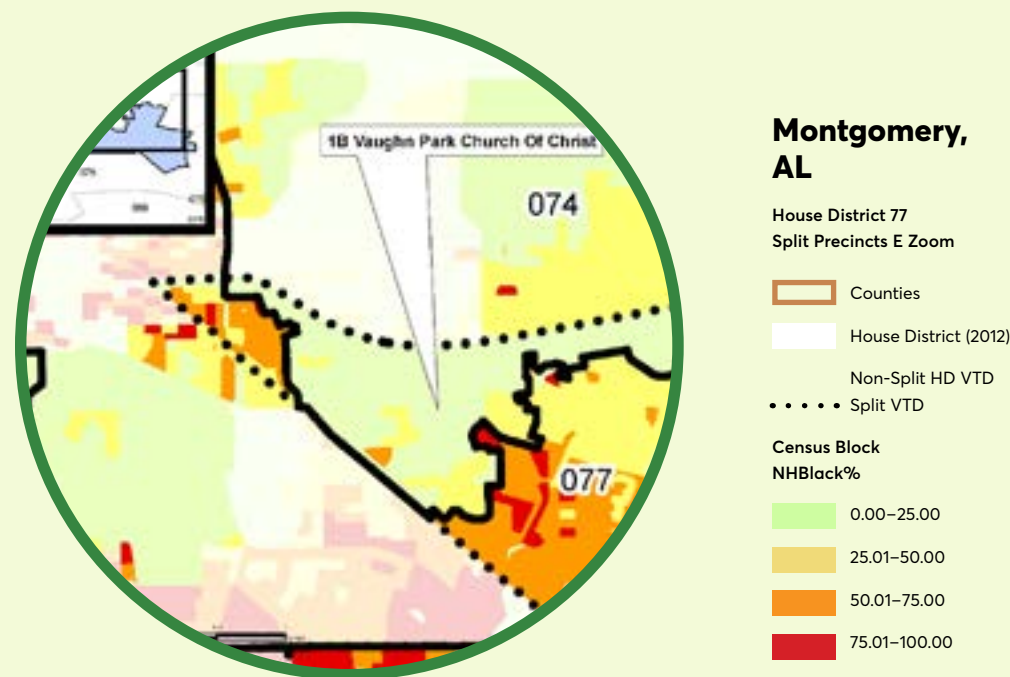


FIGURE 3-4 Alabama HD77 Split VTDs along Racial Lines. Source: Tony Fairfax Map Analysis on HD77 for the Alabama Democratic Conference

Figure 3-4 presents an example of a Alabama state house district (HD) plan that splits a VTD along racial lines (Black). The boundary lines for the 2012 version of HD77 splits a VTD (1B Vaughn Park Church of Christ), shown with the dotted lines, and places practically all of the majority Black census blocks (designated by orange and red color) into the majority Black district (HD77). Ultimately, a court determined the plan split multiple VTDs along racial lines and constituted an unconstitutional racial gerrymander. Practically, this racial gerrymander resulted in **“packing”** Black voters and limiting their overall political power. Packing refers to placing an excessive amount of a minority population group into a district and thus having the effect of diluting minority voting strength in the adjacent districts.

Thus, **packing** was the outcome while splitting VTDs along racial lines was the technique used to implement the packing and racial gerrymandering was the ultimate legal violation. It is important to note that one split precinct or VTD that happens to be split along racial lines does not necessarily lead to a constitutional violation. It is usually a pattern of multiple split precincts or VTDs that indicate a racially gerrymandered district.

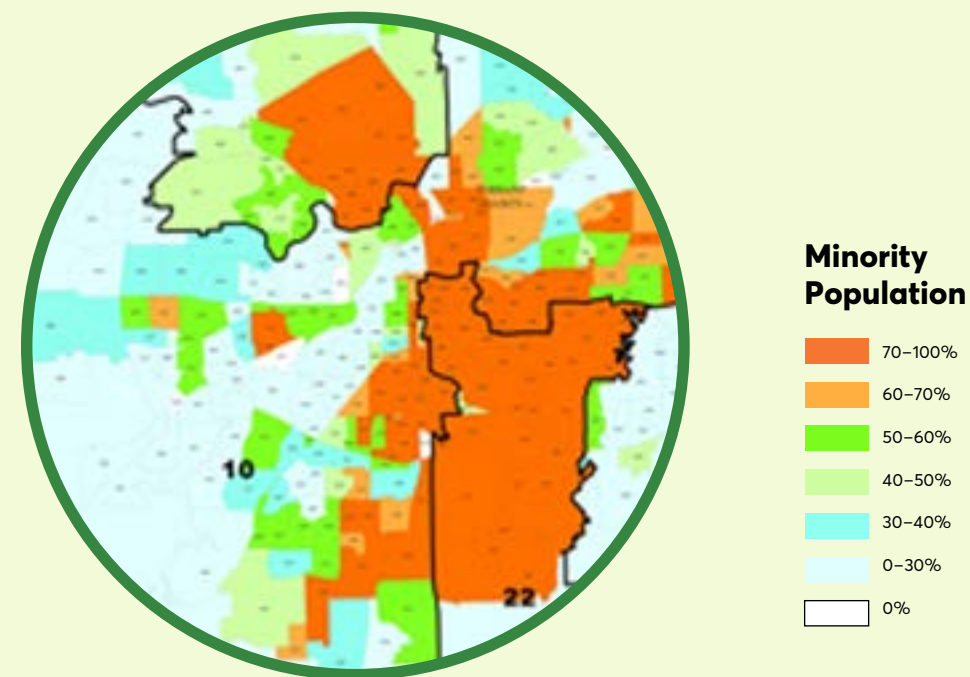


FIGURE 3-5 Example of Cracking of Minority Voters. Source: MSNBC.com Zachary Roth, 01/09/14 (partial image)

The visual indication of packing can also be quantified as well. Maptitude can generate a **summary report** documenting the number of splits along racial lines as well as the minority population that was split and placed within the packed districts.

Another visual analysis using race or ethnicity that could be performed relates to **“cracking.”** Cracking refers to dividing a minority voting group into two or more districts<sup>3</sup> with the effect of diluting minority voting strength and rendering voters of color unable to elect their candidate of choice in any district. In some cases, cracking will be observed by comparing a previous plan to a proposed plan. However, in certain circumstances, potential cracking can be observed by viewing only a single plan. Figure 3-5 shows a congressional district plan in Texas that depicts the minority population divided (cracked) into three different districts. The green, orange, and red areas represent majority-minority areas that are clearly divided into districts 10, 22, and 9 (district label 9 not shown).

<sup>3</sup> Cracking may be a tactic used to undermine the political strength of communities of interest or political parties.

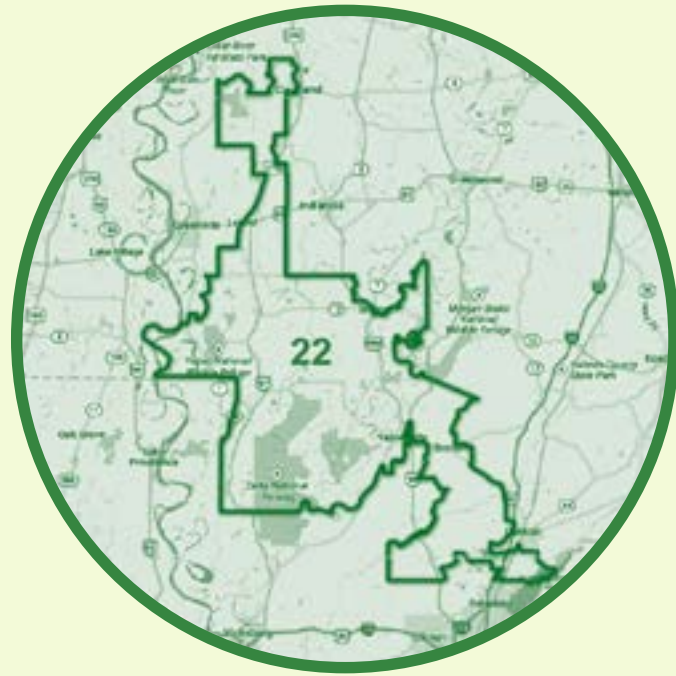


FIGURE 3-6 Mississippi State Senate District 22. Source: Ballotpedia.org

That said, similar to packing, the image alone is not necessarily sufficient to render a plan or a district illegal or unconstitutional. Communities will want to supplement that visual analysis with determining the race and ethnicity percentages of the districts. Ultimately, to defeat such nefarious linedrawing, it may be necessary to demonstrate that an alternative plan could be developed with a different configuration that did not crack the minority population.

One other plan analysis pertaining to race or ethnicity detects the disenfranchisement of voters via a process called **"stacking."** Stacking occurs when lower turnout minority voters are included in a district which has an appearance of being majority-minority (viewing voting age population). However, in reality, because of the low voting turnout propensity, the district is not majority-minority. For example, Figure 3-6 depicts the original 2012 drawing of Mississippi State Senate District 22 where "stacking" occurred.

Senate District 22 was drawn at 51% Black VAP, however, when reviewing Black turnout percentage, the districts was actually in the low 40% Black in turnout. The approximately 100-mile-long district consisted of Black voters who were poorer on average than those throughout the state and were combined with white voters who were wealthier than average. Such socioeco-

omic differences meant that white voters were more easily able to and thus more likely to vote than black voters. Furthermore, when examining a plan for stacking, community groups should examine whether adjacent districts are significantly higher in minority population than the potentially stacked district. This was the case for Mississippi State Senate District 13. That adjacent Senate District 13 contained a Black population of 70%. This discrepancy between the districts may provide an indication that one of the districts was configured in order to dilute voting strength.

Finally, as suggested above, there are times when analyzing proposed plans for the race or ethnicity will require expert assistance. Political scientists many times utilize techniques such as **Homogeneous Precinct Analysis**, **Bivariate Ecological Regression Analysis**, and **Ecological Inference Analysis** to understand race or ethnic voting behavior or patterns in a jurisdiction. These methods can determine the voting propensity of racial and ethnic groups as well as whether proposed districts will allow minority voters to elect a candidate of choice.

**Homogeneous Precinct Analysis**, which is the simplest of the three, centers on the evaluation of precincts with a high percentage of a specific race or ethnicity. It also has the advantage of being the analysis is most easily performed by non-experts. First, the analyst identifies precincts that are, for example, heavily black or white. The analyst then examines if, in a racially contested election, the black candidate received large number of votes in heavily black precincts and very few votes in heavily white precincts. While this analysis, in this example, is at least initially premised on the assumption that black voters prefer black candidates, it also shows that a black candidate performed well with black voters. It can be repeated for other racially contested elections. For example, **Table 3-1** presents a fictional 10 precinct jurisdiction. The table contains the Black VAP percentage for each precinct and the percentage of the vote for candidate A.

Using **Homogeneous Precinct Analysis**, the total votes for candidate A would be divided by the total turnout for all precincts above 90% Black VAP. In this example, three precincts are greater than 90% Black VAP (2, 3, and 8). The total vote combined for candidate A in those three precincts is 626 while the total turnout is 687. Thus, using **Homogeneous Precinct Analysis**, the re-

Precinct	VAP	BVAP	BVAP%	Turnout	Cand A	Cand A%
1	432	321	74.25	274	150	54.75
2	283	266	94.01	177	161	90.71
3	513	501	97.62	313	285	91.00
4	502	76	15.13	331	45	13.48
5	312	24	7.69	232	35	15.07
6	296	56	18.95	251	26	10.32
7	404	235	58.24	251	130	51.88
8	322	300	93.11	197	180	91.58
9	397	163	40.98	254	125	49.18
10	548	117	21.35	368	72	19.65

TABLE 3-1 Precinct's % of Black VAP and % for Candidate A

sulting estimated percentage of Black vote for candidate A is 91.09% (626 divided by 687). This demonstrates black political cohesion, and if white voters in heavily white precincts likewise prefer a white candidate, this is evidence of racially polarized voting. One of the challenges of using Homogenous Precinct Analysis can be the lack of precincts sufficiently homogenous (that is, a precinct that is only 60% black or white is not going to be particularly useful in this analysis).

Next, **Bivariate Ecological Regression Analysis** is a statistical process that can also estimate how races or ethnicities vote using aggregate levels of areas, such as precincts. Where Homogeneous Precinct Analysis may use a select set of homogeneous precincts (that usually have greater than 90% VAP of the same race/ethnicity) in a jurisdiction, **Bivariate Ecological Regression Analysis** utilizes data from all or most of the precincts. This analysis requires two types of data to predict aspects of one of them such as turnout or voter preference. Using the previous example of determining the Black candidate of choice, in this instance, Bivariate Ecological Regression Analysis would analyze Black VAP percentages and turnout percentages of "all" precincts

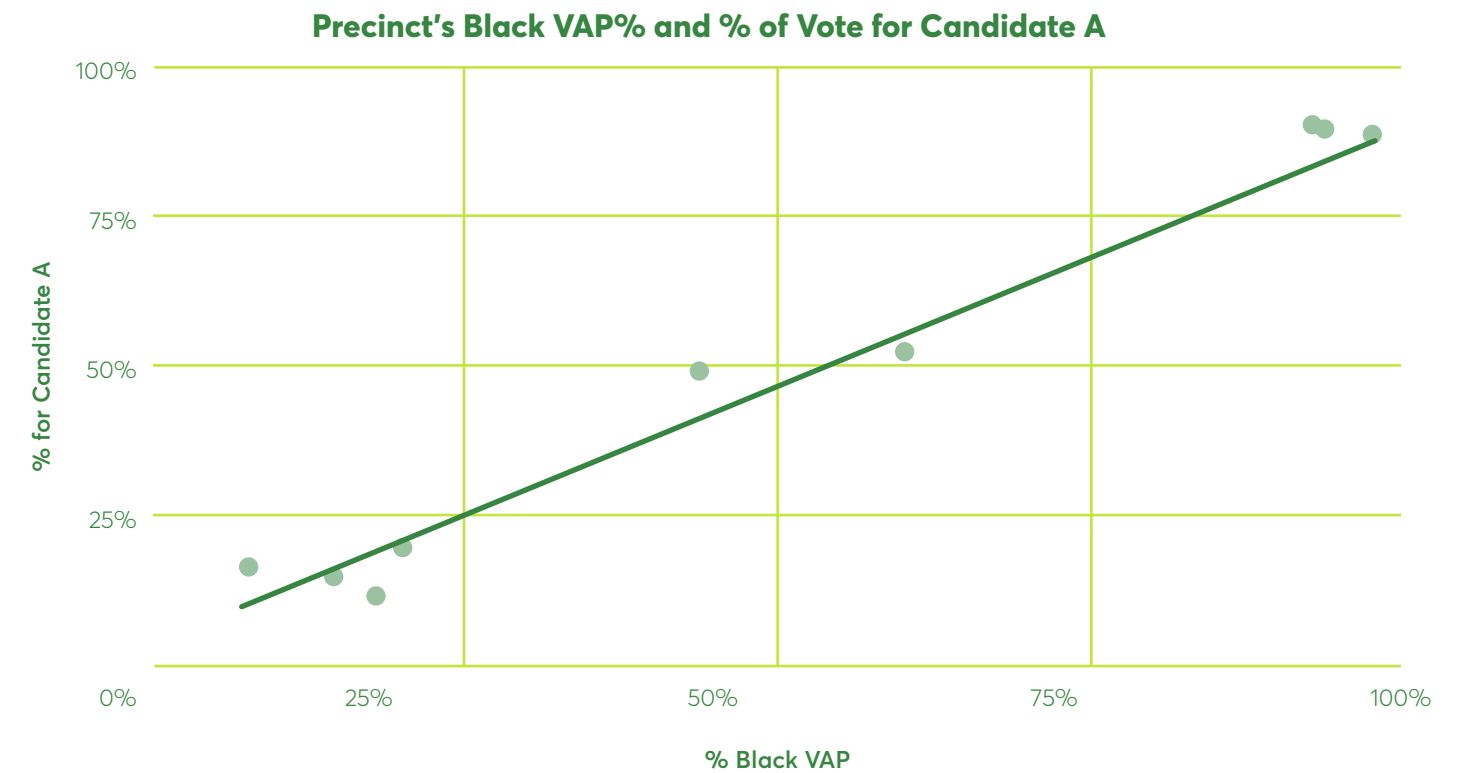


TABLE 3-3 Graph of Precinct's Black VAP% and % for Candidate A

in the jurisdiction. The example determines the Black voters' percentage for candidate A by analyzing the precincts' Black VAP% and candidate A %. For example, Figure 3-3 graphs the same 10-precinct jurisdiction displaying the Black VAP% and percentage for candidate A as well as the linear equation and line produced from the data.

The linear equation generated from the Bivariate Ecological Regression Analysis is  $y = .9141x + .0111$ . The estimated percentage of the Black vote that voted for candidate A is determined where x (or Black VAP%) reaches 100%. Thus, the percentage of the Black voters that vote for candidate A is slightly higher than the Homogenous Precinct Analysis at 92.52%.

**Ecological Inference Analysis** is similar to bivariate ecological regression analysis, but uses additional data for each precinct. This analysis is arguably the most complicated and sophisticated of the methods discussed and a specific example will not be covered in this training document. However, a brief summary of the process includes that the analysis requires the use of statistical software and incorporates the method of bounds into the calculation of

the estimates. Essentially, by analyzing the data's lowest and highest values for each precinct, the predictive accuracy can be theoretically improved. A final step is used on all or a sample of precincts that combines the bound data and maximum likelihood statistics to produce estimates of voting patterns by race.

These racial and ethnic analyses of proposed maps can be used by community groups to identify lines that either intentionally or unintentionally can disadvantage communities of color. The statistical analyses can be used to determine strength of legal claims and can increase a community groups' bargaining power during the legislative process.

The final point of analysis discussed is the analysis of the **partisan characteristics** of a proposed plan. The \*use\* of partisan data or considerations in mapdrawing may be acceptable in some jurisdictions and not acceptable in others. Some jurisdictions have prohibited the use of partisan data in the development of proposed plans. In contrast, others allow or even incorporate partisan measures along with the other statistics of a plan. Regardless, the prohibition on the use of partisan data in line drawing does not mean that a proposed map being analyzed by a community group should not be analyzed for partisan effect, unless that community group is drawing an alternative plan that could be rendered useless because it was informed by knowledge of partisan data.

There are several methods of analyzing partisanship in a proposed plan. These can be classified into five categories, including **Partisan Symmetry**, **Responsiveness**, **Equal Vote Weight**, **Declination**, and the **Efficiency Gap**.<sup>4</sup> **Partisan Symmetry** estimates the number of seats won based upon the number of votes for a party. **Responsiveness** estimates the change in the number



These racial and ethnic analyses of proposed maps can be used by community groups to identify lines that either intentionally or unintentionally can disadvantage communities of color.

<sup>4</sup> Craig F. Merrill, "An Introduction to Partisan Gerrymandering Metrics", League of Women Voters of North Carolina, December 2017

of seats that are won based upon the change in the number of votes for a party. **Equal Vote Weight** computes the difference between a party's median value district vote count and mean (average) district vote count. **Declination** determines the difference in how a party's vote fraction changes between districts it won and districts it lost. **Efficiency Gap** calculates the difference in the number of votes wasted by each party.

Each one provides some type of metric on measuring partisanship contained within a plan. However, most likely, due to its straightforwardness and ease of understanding, the Efficiency Gap has caught the attention of analysts and courts and is included in at least one redistricting software application (i.e. Maptitude for Redistricting).

The Efficiency Gap considers all losing votes by a party as wasted votes. Also, any votes above the votes needed to win are considered wasted votes as well. For a given election, the Efficiency Gap method totals the wasted votes for each district for each party (see Figure 3-2). The total wasted votes for all districts are calculated next. The party with the least wasted votes is subtracted from the one with the most and divided by the total votes for the election. The result is the Efficiency Gap which is usually expressed as a percentage. An Efficiency Gap of 0% would represent perfect partisan fairness for a plan. The developers of the Efficiency Gap, Nicholas Stephanopoulos and Eric McGhee, suggest that an Efficiency Gap above 7% could be considered a partisan gerrymander.



Partisan Symmetry estimates the number of seats won based upon the number of votes for a party.

USER John Adams PLAN NAME Congress Plan C TYPE Congress

Efficiency Gap						
Friday, September 29, 2017 @ 3:35 p.m.						
District	Votes Cast			Votes Wasted		Winner
	Republican	Democrat	Total	Republican	Democrat	
1	52,779	86,130	138,909	52,779	16,675	Democrat
2	93,619	56,965	150,584	18,326	56,965	Republican
3	121,422	56,973	178,395	32,224	56,973	Republican
4	56,723	78,375	135,098	56,723	10,825	Democrat
5	154,751	113,167	267,918	20,791	113,167	Republican
6	185,550	117,574	303,124	33,987	117,574	Republican
7	154,017	95,063	249,080	29,476	95,063	Republican
8	138,272	100,043	238,315	19,114	100,043	Republican
9	163,472	105,146	268,618	29,162	105,146	Republican
10	139,664	66,955	206,619	36,354	66,955	Republican
11	174,881	89,395	264,276	42,742	89,395	Republican
12	106,462	220,378	326,840	106,462	56,957	Democrat
13	192,883	152,322	345,205	20,280	152,322	Republican
<b>Total</b>	<b>1,734,495</b>	<b>1,338,486</b>	<b>3,072,981</b>	<b>498,420</b>	<b>1,038,060</b>	
<b>Seats</b>	<b>10</b>	<b>3</b>	<b>13</b>			
<b>Efficiency Gap</b>	<b>-17.56%</b>					

TABLE 3-1 Precinct's % of Black VAP and % for Candidate A

### Comparing characteristics to the current map/method of election

One of the standard techniques that is used when analyzing proposed plans is comparative analysis. As the name suggests, here, the proposed plan is compared to another plan (or multiple plans), which in most cases, is the plan currently in effect (or sometimes called the benchmark plan). The same characteristics (e.g., total population, race/ethnicity, compactness, minimizing political subdivision splits, and respect for communities of interest) listed above are compared to the current or alternative plan.

Also, whether analyzing a plan standing alone or in comparison with another plan, it is important to understand that is almost never possible (and sometimes not desirable) to maximize a plan's compliance with ALL traditional redistricting criteria. Redistricting often requires prioritizing some criteria over others, and this consideration is discussed in more detail below.

When comparatively evaluating equal population, though, the overall deviation of the proposed plan is compared to the overall deviation of the current plan. Just as advocates were urged earlier to ask the mapdrawer to defend the deviations in proposed districts and plans, mapdrawers should be asked to explain why a proposed plan may increase or decrease the deviations when compared to another plan or the benchmark plan. While there is some validity to the suggestion that a plan with a lower deviation is a "better" plan, that assertion is not universally true. In some instances, each district is compared to another district and evaluated. Significant changes in a district's population deviation compared to a previous or alternate plan can be an indicator of a problem, and the mapdrawer should be asked to justify it.

Because Compactness, to a certain extent, can be quantified, a proposed plan can be compared to the current plans (or other plans), to determine which plan is more compact based on mathematical measures. It is best to compare at least three different compactness measures from each plan. Comparing only one measure may inject systematic bias for or against a plan due to biases incorporated in each compactness measure. Two compactness measurements would allow for a split decision. Using a three-compactness measurement scheme, two measures out of three would define a more compact district. Each district could be counted as more compact, and thus tallied for the complete plan. For instance, the proposed plan had five (5) of seven (7) districts shown to be more compact using three compactness measures.

In addition, analyzing the plans' overall range of compactness is also a useful technique in comparing one plan with another. The overall range of compactness is determined by selecting the lowest and highest value for each compact measure. Using overall ranges, a proposed plan could possibly be shown to exist outside or fit within the range of the compactness measurements of the current plan. If it fits within the plan, it will demonstrate that it is a more compact plan, whereas being outside of the range indicates that it is less compact.



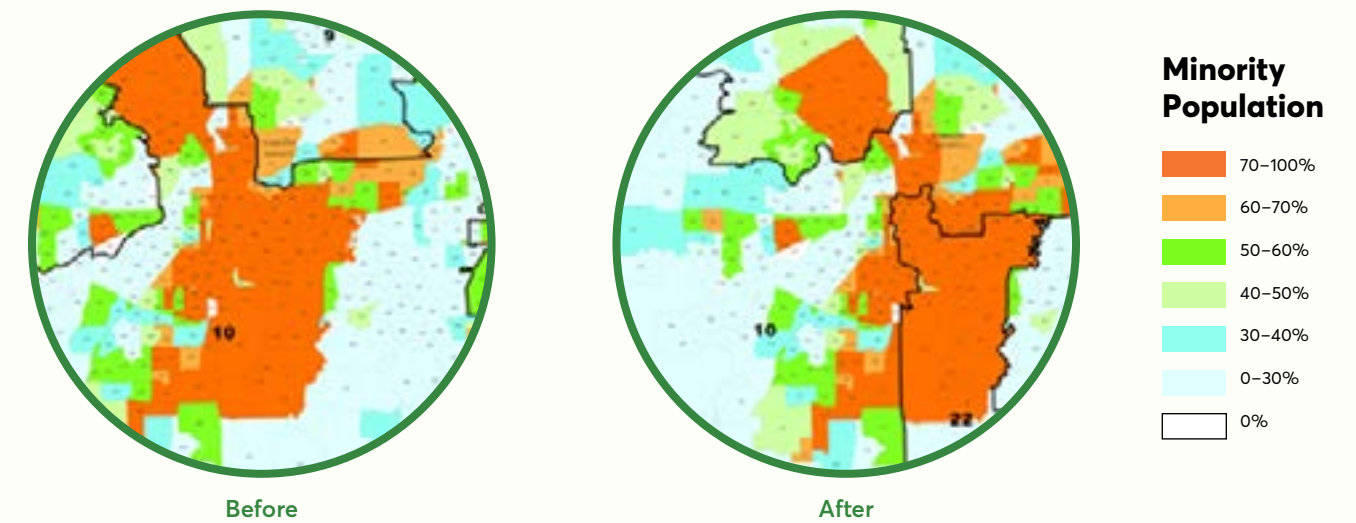
Although it can be numerically shown that there is a difference between compactness measures for districts or overall plans, in practical terms, there may be virtually no difference for small variations in the values. For example, a district with a compactness measure of .36 is virtually the same as one that is .37 or .35. In these cases, it not unreasonable to state that the two districts are relatively equal to each other in compactness.

But just as when talking about the shape of a district standing alone, advocates should remember that compactness is not the most important criteria in redistricting or in comparing plans, but if there is a significant change in a district or a plan's overall compactness, the mapdrawer should be asked to explain the change.

Comparing political subdivision splits is a simple exercise of assessing the number in one plan and comparing it to the number of splits in the other. However, a meaningful comparison requires more. The decision of which municipality to split may have a detrimental effect on communities of color, if predominantly black towns are split and predominantly white towns are kept whole, as an example. Additionally, the nature of the split matters. Some very populous cities may almost always need to be split in redistricting plans. The question there is not, for example, whether Atlanta, Georgia, was split in a State Senate map, or even necessarily how many times it was split, but *how* it was split. Were the municipal splits made along roads or rivers or other geographic markers that might help voters understand where one district ends? To fully utilize this analytical criterion, these are the types of questions that must be asked of mapdrawers.

Comparing plans' respect for communities of interest requires an understanding of the specific community commonalities contained within the districts—both in how they are defined and where they are located. Analyzing neighborhoods or subdivisions or other like geographic areas can be a simple exercise in comparing the number of splits within each district. But just as with political subdivisions, the question may be which communities of interest were split and which were kept whole, and if they had to be split for population equality reasons, how they were split.

**District 10 Before / After GOP Redistricting**



**FIGURE 3-5** Before and After Example of Cracking of Minority Voters.  
Source: MSNBC.com Zachary Roth, 01/09/14 (partial image)

As mentioned above, multiple types of analysis can provide various indications of partisanship (i.e. Partisan Symmetry, Responsiveness, Equal Vote Weight, Declination, and the Efficiency Gap). Comparative analysis of partisanship usually relates to which plan “balances” partisanship in a “fair” manner. For example, the Efficiency Gap provides a final percentage for a plan that indicates partisanship. When comparing plans, the plan that results in the Efficiency Gap value closest to zero percent has a better partisan balance.

Similar to the singular analysis of the proposed plans mentioned above, evaluating race is not as simple as asking whether a district's race or ethnicity percentage is higher or lower in one plan or another, or whether one plan has more majority minority districts than another.

As an example, the 2001 North Carolina State Senate map had no majority-black districts, but it elected between nine and ten black-preferred state senators. The 2011 State Senate map had ten majority black districts, and elected between nine and ten black-preferred state senators. But the creation

of majority black districts was unnecessary as black candidates had been winning in non-majority black districts, and black voters were packed into these majority-black districts on the basis of their race and reducing their overall political power. This is a textbook example of why the 2011 plan was not a “better” plan because it contained more majority black districts.

In addition, once again, a visual inspection can provide insight into evaluating a plan by thematically viewing race or ethnicity (usually using redistricting software to create thematic maps). Figure 3-5 displays a comparison of the 2010 Texas House districts in the Fort Worth area on the left, and compared them to the 2011 Texas House plan for the area on the right to show how the district lines changed in relation to the concentration of racial and ethnic voters. In the 2010 plan, Congressional District 10 showed a considerable amount of minority voters contained within the district.

This can be seen by viewing the majority-minority areas presented in green, orange, and red, which are largely contained within the District 10. However, the 2011 plan divided these majority-minority areas into three separate districts (Congressional Districts 9, 10, and 22).

### Weighting Plan Characteristics

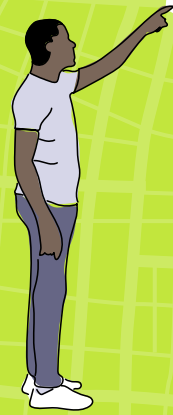
Most of the time, it is fairly straightforward to compare the proposed and current plan with each other and conclude which plan has the best individual characteristics. It may seem easy to conclude that because a proposed plan has a lower overall deviation at 7.5% than the current plan at 9.0% it means that it is a better plan. Or that because the proposed plan splits fewer VTDs than the current plan by splitting 23 as opposed to 34, the proposed plan is superior.

However, what about proposed plans where some characteristics or redistricting criteria are better and others are worse? In addition, what if the reason why a plan has a lower population deviation is the splitting of additional VTDs? In many cases, reducing the population deviation of a district may require splitting political subdivisions (e.g., VTDs). Alternatively, developing a more compact district may mean increasing the population deviation of a district. Likewise, the creation or protection of districts to comply with the Voting Rights Act may require the subjugation of some traditional redistricting criteria. Therefore, there may be justification for why a particular characteristic of a proposed plan seems worse than the current plan, or vice versa. This tradeoff complicates comparing plan characteristics or redistricting criteria with another plan.

Because redistricting invariably requires making some trade-offs, community groups engaged in the redistricting process should be prepared to decide and explain which redistricting criteria are more important to them. If there are state or local laws prioritizing some criteria, the community group may not be completely unrestricted in its decision-making on this front. Compliance with federal law will always supersede compliance with state law/guidelines and non-mandatory redistricting criteria. Likewise, compliance with state law/guidelines will supersede compliance with non-mandatory redistricting criteria. Nonetheless, it is still important for communities organizing around redistricting in order to analyze and critique proposed maps to have frank discussions about which redistricting criteria are the most important to those communities.



**Because redistricting invariably requires making some trade-offs, community groups engaged in the redistricting process should be prepared to decide and explain which redistricting criteria are more important to them.**



CHAPTER 4

Federal Law  
Governing  
*Redistricting*



## Did You Know?

## One Person One Vote

A series of cases that established this criterion as the law of the land.

1962

**Baker v. Carr,**  
369 U.S. 186


'64

**Wesberry v. Sanders,** 376 U.S. 1


'64

**Reynolds v. Sims,** 377 U.S. 533


'73

**Gaffney v. Cummings,** 412 U.S. 735

'83

**Brown v. Thomson,** 462 U.S. 835


2004

**Larios v. Cox,** 300 F. Supp. 2d 1320 (N.D. Ga. 2004) affirmed by Cox v. Larios, 542 U.S. 947 (2004)

'16

**Harris v. Ariz. Indep. Redistricting Comm'n,** 136 S. Ct. 1301


One person one vote (OPOV) is the principle that the Equal Protection Clause of the United States Constitution requires legislative voting districts to have about the same population.<sup>1</sup> It is the basic understanding in our country that each person who casts a vote is equal to every other voter and that all votes should thus carry the same weight. "It is essential to the core theory of a democracy, that the people rule, and do so with equal political authority."<sup>2</sup> Following this principle is essential to achieving a constitutional result when redrawing any electoral map.<sup>3</sup> "The primary consequence of the rule has been its protection of the individual voter, but it has also provided one mechanism for identifying and curtailing discrimination against cognizable groups of voters."<sup>4</sup>

Although one person one vote didn't crystalize until the 1960s, proportional representation with respect to the power of states was "a benchmark for democracy at the national level as early as the late eighteenth and nineteenth centuries."<sup>5</sup> For instance, our Nation's history suggests that "the Framers intended members of the House of Representatives—the only popularly elected federal office at the time—to be elected by people with equally weighted votes."<sup>6</sup> Nevertheless, over time, unconstitutional boundaries have maximized the political strength of rural voters while simultaneously diluting the power of the urban electorate's vote.<sup>7</sup>

<sup>1</sup> *Blacks Law Dictionary*, at 1262 (10th ed. 2014)

<sup>2</sup> <https://constitutioncenter.org/blog/constitution-check-what-does-one-person-one-vote-mean-now/>

<sup>3</sup> See *Evenwel v. Abbott*, 136 S. Ct. 1120, 1132 (2016) The United States Supreme Court has acknowledged that maps can be drawn based on the total population which includes those that don't vote. "Nonvoters have an important stake in many policy debates — children, their parents, even their grandparents, for example, have a stake in a strong public-education system — and in receiving constituent services, such as help navigating public-benefits bureaucracies ... total-population apportionment promotes equitable and effective representation."

<sup>4</sup> <https://definitions.uslegal.com/o/one-person-one-vote-rule/>

<sup>5</sup> ARTICLE:THE FALSE PROMISE OF ONE PERSON, ONE VOTE, 102 Mich. L. Rev. 213, 218

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> 369 U.S. 186, 237 (1962).

<sup>9</sup> 372 U.S. 368, 381 (1963).

<sup>10</sup> *Reynolds*, 377 U. S. 53, 568 (1964).

<sup>11</sup> [https://scholarship.law.ufl.edu/cgi/viewcontent.cgi?article=1340&context=fir\\_at\\_1847](https://scholarship.law.ufl.edu/cgi/viewcontent.cgi?article=1340&context=fir_at_1847).

While state legislators in rural districts "had no interest in redistricting themselves out of office (or out of power)," in 1962, the United States Supreme Court concluded in *Baker v. Carr* that the unequal districts resulting from the Tennessee legislature's refusal to reapportion its seats in the face of large population shifts gave rise to a justiciable (or judicially permissible) lawsuit under the Equal Protection Clause.<sup>8</sup> The following year, the Court established its basic standard in *Gray v. Sanders*: "[t]he conception of political equality from the Declaration of Independence, to Lincoln's Gettysburg Address, to the Fifteenth, Seventeenth, and Nineteenth Amendments can mean only one thing—one person, one vote."<sup>9</sup> Subsequently, the Supreme Court determined that "an individual's right to vote for State legislators is unconstitutionally impaired when its weight is in a substantial fashion diluted when compared with votes of citizens living on other parts of the State."<sup>10</sup>

Today, courts will consider how much voting districts differ from the ideal population for each particular district. The maximum deviation (a special measure of this difference) is the range by which the most overpopulated constituency differs from the most underpopulated constituency in the same state.<sup>11</sup> For instance, if the largest district is two percent larger than the ideal number of voters (if each district had exactly the same number of people) and the smallest district is two percent smaller, the overall range or maximum

population deviation is four percent.<sup>12</sup> The United States Supreme Court uses different standards for congressional districts versus state and local plans. Federal law requires that congressional districts be as nearly equal in population as practicable; state and local plans, on the other hand, are generally allowed to deviate up to ten percent from the ideal population size. The court has established that state level redistricting plans with a maximum population deviation under 10% falls within the category of minor deviations.<sup>13</sup> Challenges to these plans are rarely successful.<sup>14</sup> "A plan with a higher maximum deviation creates a prima facie case of discrimination and therefore must be justified by the State."<sup>15</sup>

In many instances achieving equal population may be impossible. However, the OPOV standard permits limited population differences that are unavoidable after there has been a good-faith effort by line drawers to achieve absolute equality.<sup>16</sup> The standard can also give way in order to make districts more politically fair.<sup>17</sup> The United States Supreme Court has recognized that "[p]olitics and political considerations are inseparable from districting and apportionment."<sup>18</sup> Valid considerations include, maintaining the integrity of various political subdivisions, providing for compact districts of contiguous territory, preserving the cores of prior districts, and avoiding incumbent pairings.<sup>19</sup> These other considerations must be applied in a consistent non-discriminatory manner.<sup>20</sup>

The Supreme Court has acknowledged the value of maintaining political subdivisions such as towns, counties and cities. Addressing the preservation of towns regarding the redistricting of a county legislature, the Court explained that the "needs of a local community as a whole may sometimes justify departures from strict equality."<sup>21</sup> It has also upheld a plan with relatively high standard deviations but that also have carefully drawn districts to avoid cross-city and county boundaries.<sup>22</sup> Respecting existing boundaries may lead to higher standard deviations, but was nonetheless permissible because it served the legitimate policy interest of keeping local communities whole. On the other hand, the Court has rejected plans with high deviations that failed to show that policies were in place to support political boundaries.<sup>23</sup> "[W]here population deviations are not supported by such legitimate interests but, rather, are tainted by arbitrariness or discrimination, they cannot withstand constitutional scrutiny" and will be found unlawful.<sup>24</sup>

<sup>12</sup> *Id.*

<sup>13</sup> See, e.g., *Connor v. Finch*, 431 U.S. 407, 418 (1977); *White v. Regester*, 412 U.S. 755, 764 (1973).

<sup>14</sup> *Harris v. Ariz. Indep. Redistricting Comm'n*, 136 S. Ct. 1301, 1307 (2016).

<sup>15</sup> *Larios v. Cox*, 300 F. Supp. 2d 1320, 1340 (N.D. Ga. 2004) (internal citations omitted).

<sup>16</sup> *Gaffney v. Cummings*, 412 U.S. 735, 741, 2325 (1973).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 752-53.

<sup>19</sup> *Brown v. Thomson*, 462 U.S. 835, 842 (1983); *Larios*, 300 F. Supp. 2d at 1337-38.

<sup>20</sup> *Larios*, 300 F. Supp. 2d at 1331.

<sup>21</sup> *Abate v. Mundt*, 403 U.S. 182, 185 (1971).

<sup>22</sup> *Mahan v. Howell*, 410 U.S. 315, 317 (1973).

<sup>23</sup> *Chapman v. Meir*, 420 U.S. 1 (1975); *Kilgarlin v. Hill*, 386 U.S. 120 (1967).

<sup>24</sup> *Larios*, 300 F. Supp. 2d at 1337-38.



one vote

## Intentional Discrimination

“The central purpose of the Equal Protection Clause of the Fourteenth Amendment is the prevention of official conduct discriminating on the basis of race.”<sup>25</sup>

The Reconstruction Congress framed this provision so that public policy does not discriminate against citizens, who are entitled to full and equal enjoyment of rights. Intentional discrimination (whether based on race or other specific legal categories) violates this principle. Although evidence of discriminatory impact is relevant, it is not the touchstone of the kind of discrimination forbidden by the Constitution. Standing alone, it does not prove a violation of law.<sup>26</sup> Instead, the law or official act must reflect an unjustified purpose to classify people based upon race based for a plaintiff to find relief.<sup>27</sup>

**Invidious discrimination** (the term for these illegal classifications) is often inferred from a review of the relevant facts.<sup>28</sup> One significant factor is whether the effect of the law or government action bears more heavily on one race than another. “Impact provides a starting point and “[s]ometimes a clear pattern, unexplainable on grounds other than race, emerges from the effect of the state action even when the governing legislation appears neutral on its face.”<sup>29</sup> In the absence of such a stark pattern, a court will investigate other factors such as the “historical background of the decision,” especially if there is a series of official discriminatory actions. “This evidence becomes significant when the challenged decision was not made with an apparent discriminatory purpose, yet a clear disproportionate impact results.”<sup>30</sup> The specific



Although evidence of discriminatory impact is relevant, it is not the touchstone of the kind of discrimination forbidden by the Constitution.

<sup>25</sup> *Washington v. Davis*, 426 U.S. 229, 239 (1976).

<sup>26</sup> *Id.* at 242.

<sup>27</sup> *Id.* at 239.

<sup>28</sup> *Id.* at 242.

<sup>29</sup> <https://law.justia.com/constitution/us/amendment-14/06-equal-protection-of-the-laws.html>

<sup>30</sup> [https://scholarlycommons.law.wlu.edu/cgi/viewcontent.cgi?article=2745&context=wlulr\\_at\\_122](https://scholarlycommons.law.wlu.edu/cgi/viewcontent.cgi?article=2745&context=wlulr_at_122)

sequence of events may also reveal the purpose of the challenged action.<sup>31</sup> In addition, “departures from normal procedural sequences or from substantive considerations usually relied on in the past” can be indicators of intentional discrimination. Contemporary statements of decision makers may be examined, and “[i]n some extraordinary instances the members might be called to the stand at trial to testify concerning the purpose of the official action, although even then such testimony frequently will be barred by privilege.”<sup>32</sup>

The **totality of the circumstances approach** is also probative of intent when the governmental actor has a choice between two alternative plans, one less discriminatory than the other.<sup>33</sup> “If the actor chooses the more discriminatory alternative, the choice itself can be considered one of the specific events demonstrative of intent, and in most situations the choice will represent a departure from the norm.”<sup>34</sup> Other relevant circumstantial factors include: whether African Americans have ever been elected in the county in which blacks were a majority of the population but a minority of registered voters; any showing of systemic exclusion of African Americans from the political process; educational segregation and discrimination, combined with continued unresponsiveness of elected officials to the needs of the African American community can indicate the presence of discriminatory motivation.<sup>35</sup>

The United States Supreme Court has determined that a plaintiff is not required to prove the challenged action was based completely on racially discriminatory reasons.<sup>36</sup> In fact, legislative or administrative bodies generally balance numerous competing considerations.<sup>37</sup> This certainly rings true for redistricting plans where factors other than race including, compactness, contiguity, annexed political subdivisions, and communities of interest are typically taken into consideration. If there is proof of a discriminatory purpose as a motivating factor, deference is no longer given to the redistricting plan.<sup>38</sup>

<sup>31</sup> *Id.*

<sup>32</sup> *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 268 (1977).

<sup>33</sup> *Id.* at 124.

<sup>34</sup> *Id.* at 124.

<sup>25</sup> *Washington v. Davis*, 426 U.S. 229, 239 (1976).

<sup>26</sup> *Id.* at 242.

<sup>27</sup> *Id.* at 239.

<sup>28</sup> *Id.* at 242.

<sup>29</sup> <https://law.justia.com/constitution/us/amendment-14/06-equal-protection-of-the-laws.html>

<sup>30</sup> [https://scholarlycommons.law.wlu.edu/cgi/viewcontent.cgi?article=2745&context=wlulr\\_at\\_122](https://scholarlycommons.law.wlu.edu/cgi/viewcontent.cgi?article=2745&context=wlulr_at_122)

<sup>31</sup> *Id.*

<sup>32</sup> CITE

<sup>33</sup> *Id.* at 124.

<sup>34</sup> *Id.* at 124.


<sup>35</sup> *Id.* at 623-24.

<sup>36</sup> *Washington*, 426 U.S. at 267.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*



  
**14th Amendment**  
 COURT CASES



**Intentional Racial Discrimination**

**1976**

*Washington v. Davis*, 426 U.S. 229

**'77**

*Village of Arlington Heights v. Metropolitan Housing Dev. Corp.*, 429 U.S. 252

**'80**

*Mobile v. Bolden*, 446 U.S. 55

**'82**

*Rogers v. Lodge*, 458 U.S. 613



**Racial Gerrymandering**



**1993**

*Shaw v. Reno*, 509 U.S. 630

**'95**

*Miller v. Johnson*, 515 U.S. 900

**'95**

*United States v. Hays*, 515 U.S. 737

**'96**

*Shaw v. Hunt*, 517 U.S. 899

*Bush v. Vera*, 517 U.S. 952

**'99**

*Hunt v. Cromartie*, 526 U.S. 541

**2001**

*Easley v. Cromartie*, 532 U.S. 234

**'15**

*Ala. Legis. Black Caucus v. Alabama*, 135 S.Ct. 1257

**'17**

*Cooper v. Harris*, 137 S.Ct. 1455

**'17**

*Bethune-Hill v. Va. State Bd. of Elections*, 137 S.Ct. 788

**'18**

*North Carolina v. Covington*, 138 S.Ct. 2548



## Racial Gerrymandering

**The Equal Protection Clause of the Fourteenth Amendment** limits racial gerrymanders in legislative districting plans.<sup>39</sup> It prevents a State, in the absence of "sufficient justification," from "separating its citizens into different voting districts on the basis of race."<sup>40</sup> "Just as the State may not, absent extraordinary justification, segregate citizens on the basis of race in its public parks, buses, golf courses, beaches, and schools, . . . it may not separate its citizens into different voting districts on the basis of race."<sup>41</sup>

In 1993 the Supreme Court determined that redistricting is "is one area in which appearances do matter" especially when the districts reach beyond boundaries and politically cohesive areas.<sup>42</sup> A redistricting plan that assigns members of one race to the same district but are widely spread across "geographical and political boundaries, and who may have little in common with one another but the color of their skin, bears an uncomfortable resemblance to political apartheid."<sup>43</sup> This reinforces the perception that members of the same racial group—regardless of their age, education, economic status, or the community in which they live—think alike, share the same political interests, and will prefer the same candidates at the polls.<sup>44</sup> However, states are authorized to recognize communities that have a particular racial makeup, provided its action is directed toward some common thread of relevant interests.<sup>45</sup> If a particular racial group lives in one community, a reapportionment plan that concentrates members of the group in one district and excludes others may reflect wholly legitimate purposes.<sup>46</sup>

To bring a racial gerrymandering claim, "the plaintiff's burden is to show, either through circumstantial evidence of a district's shape and demographics or more direct evidence going to legislative purpose, that race was the predominant factor motivating the legislature's decision to place a significant number of voters within or without a particular district."<sup>47</sup> To meet this threshold, "a plaintiff must prove that the legislature subordinated traditional race-neutral districting principles, including but not limited to compactness, contiguity, respect for political subdivisions or communities defined by actual shared interests, to racial considerations."<sup>48</sup> If race-neutral considerations are the basis for redistricting legislation, and are not subordinated to race, a State can defeat a racial gerrymandering claim.<sup>49</sup>

To bring a racial gerrymandering claim, "the plaintiff's burden is to show... that **race was the predominant factor** motivating the legislature's decision to place a significant number of voters within or without a particular district."<sup>47</sup>

<sup>39</sup> *Cooper v. Harris*, 137 S. Ct. 1455, 1463 (2017).

<sup>40</sup> *Id.* (citing *Bethune-Hill v. Virginia State Bd. of Elections*, 137 S. Ct. 788 (2017))

<sup>41</sup> *Miller v. Johnson*, 515 U.S. 900, 913-14 (1995).

<sup>42</sup> *Id.* at 242.

<sup>43</sup> <https://law.justia.com/constitution/us/amendment-14/06-equal-protection-of-the-laws.html>

<sup>44</sup> [https://scholarlycommons.law.wlu.edu/cgi/viewcontent.cgi?article=2745&context=wluir\\_at\\_122](https://scholarlycommons.law.wlu.edu/cgi/viewcontent.cgi?article=2745&context=wluir_at_122)

<sup>45</sup> *Id.*

<sup>46</sup> CITE

<sup>47</sup> *Id.* at 124.

<sup>48</sup> *Id.* at 124.

<sup>49</sup> *Id.*





<sup>50</sup> *Bush v. Vera*, 517 U.S. 952, 958 (1996).

<sup>51</sup> *Bethune-Hill v. Va. State Bd. of Elections*, 137 S. Ct. 788, 798 (2017).

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Shaw v. Hunt*, 517 U.S. 899, 907-08, 1902 (1996).

Since electoral district lines are race neutral on their face, a deeper dive into the legislative process is necessary before strict scrutiny can be found applicable in redistricting cases.<sup>50</sup> The shape of the district “is relevant not because bizarreness is a necessary element of the constitutional wrong or a threshold requirement of proof, but because it may be persuasive circumstantial evidence that race for its own sake, and not other districting principles, was the legislature’s dominant and controlling rationale.”<sup>51</sup> Parties can utilize evidence other than oddly shaped districts to “establish race-based districting and may show predominance either through circumstantial evidence of ... demographics or more direct evidence going to legislative purpose.”<sup>52</sup> Once it is established that race was the predominate factor in drawing the plan, the court will apply the highest level of scrutiny.

“Strict scrutiny” is the most stringent level of scrutiny applied by the courts to determine if there is an equal protection violation. Strict scrutiny is not triggered where race is merely contemplated to draft a redistricting plan; “nor does it apply to all cases of intentional creation of majority-minority districts.”<sup>53</sup> Under certain circumstances, drawing racial distinctions are permissible to pursue a compelling state interest. “A State, however, is constrained in how it may pursue that end: The means chosen to accomplish the State’s asserted purpose must be specifically and narrowly framed to accomplish that purpose. North Carolina, therefore, must show not only that its redistricting plan was in pursuit of a compelling state interest, but also that its districting legislation is narrowly tailored to achieve [that] compelling interest.”<sup>54</sup>

"A State's interest in remedying the effects of past or present racial discrimination, in the proper case, may justify a government's use of racial distinctions and survive strict scrutiny.<sup>55</sup> However, the state must satisfy two conditions to establish a compelling state interest. First, the discrimination must be identified discrimination.<sup>56</sup> The States must identify the discrimination, public or private, with some specificity before they may use race-conscious relief."<sup>57</sup> Generalized assertions of past discrimination are insufficient because they fail to provide the legislative body with the precise scope of the injury sought to be remedied.<sup>58</sup> Accordingly, efforts to remedy the effects of societal discrimination are not a compelling interest.<sup>59</sup> "Second, the institution that makes the racial distinction must have had a "strong basis in evidence" to conclude that remedial action was necessary, "before it embarks on an affirmative-action program."<sup>60</sup> For instance, in *Shaw* North Carolina legislature drew a district that spanned from parts of Charlotte to Greensboro to rectify the lack of representation of black voters in a geographically compact, cohesive minority population in south-central to southeastern North Carolina. The Supreme Court determined that the map was not narrowly tailored to accomplish the State's goal because the black voters of the south-central to southeastern region would still suffer the same injury despite the new district extending from Charlotte to Greensboro being drawn.<sup>61</sup>

One common reason that state governments argue that a redistricting plan should survive strict scrutiny is the State's efforts to comply with Section 2 of the Voting Rights Act of 1965 (VRA). Section 2(a) of the VRA prohibits any electoral practice or procedure that "results in a denial or abridgement of the right of any citizen ... to vote on account of race or color."<sup>62</sup> A violation exists if the totality of circumstances shows that the political processes leading to nomination or election are not equally open to a certain class of citizens in that its members have less opportunity to elect representatives of their choice.<sup>63</sup> The Court affords states "a limited degree of leeway" to use race as the primary factor in a redistricting plan to satisfy Section 2 of the VRA.<sup>64</sup> Typically the State will draw a majority-minority district or district in which black voters or other people of color make up the majority of voters in the district.<sup>65</sup>



**Section 2(a)  
of the VRA  
prohibits  
any electoral  
practice or  
procedure  
that "results  
in a denial or  
abridgement  
of the right  
of any citizen  
... to vote on  
account of race  
or color."<sup>62</sup>**

<sup>55</sup> *Id.* at 909-10.

<sup>56</sup> *Id.* (internal citations omitted).

<sup>57</sup> *Id.* (internal citations omitted).

<sup>58</sup> *Id.* (internal citations omitted).

<sup>59</sup> *Id.* (internal citations omitted).

<sup>60</sup> *Id.* (internal citations omitted).

<sup>61</sup> *Id.*

<sup>62</sup> 52 U.S.C. § 10301 (2019).

<sup>63</sup> *Id.* § (b).

<sup>64</sup> *Bush*, 517 U.S. at 977 (1996).

<sup>65</sup> See, e.g., *Id.*

For the district to survive strict scrutiny there must be a "strong basis in evidence," for concluding that creation of a majority-minority district is reasonably necessary to comply with Section 2, and the districting that is based on race "substantially addresses the § 2 violation."<sup>66</sup> "Moreover, the district drawn in order to satisfy § 2 must not subordinate traditional districting principles to race substantially more than is reasonably necessary to avoid § 2 liability."<sup>67</sup>

States also use Section 5 of the VRA to justify the use of race as the predominant factor in drawing a redistricting plan. The Supreme Court has acknowledged that section five has a limited substantive goal: "to ensure that no voting-procedure changes would be made that would lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise."<sup>68</sup> The court will determine whether the state went beyond what was reasonably necessary to avoid retrogression.<sup>69</sup>

The correlation between race and political behavior is another major consideration in racial gerrymandering cases. For example, in North Carolina the overwhelming majority of black voters are Democrats. While there is a large population of white Democrats in the State, black voters tend consistently to support Democratic candidates while white Democrats will have a greater likelihood to support some Republicans. This phenomenon makes it difficult to determine if the General Assembly used race or political behavior as a predominate factor in drafting a redistricting plan. Congressional District 12 in North Carolina has been at the center of this issue for multiple decades. During the 1990s a racial gerrymandering claim was unsuccessful, in part, because it could not be determined that black voters were placed in District 12 because of their race or their loyalty to Democratic candidates.<sup>70</sup> On the other hand, two decades later, the district was found unconstitutional because the evidence showed that the General Assembly very carefully packed black voters in the redrawn 12th Congressional District.<sup>71</sup> The evidence showed that a black voter was three to four times more likely than a white voter to cast his ballot within District 12's borders regardless of party affiliation.<sup>72</sup>

<sup>66</sup> *Id.*

<sup>67</sup> *Id.* at 909-10.

<sup>68</sup> *Id.* at 983.

<sup>69</sup> *Id.*

<sup>70</sup> *Easley v. Cromartie*, 532 U.S. 234, 257 (2001).

<sup>71</sup> *Cooper v. Harris*, 137 S. Ct. 1455, 1474-75 (2017).

<sup>72</sup> *Id.*

## Section 2 of the VRA

### Thornburg v. Gingles

Section 2 of the Voting Rights Act prevents the use of district lines that deny minority voters an equal opportunity "to participate in the political process and to elect representatives of their choice."<sup>73</sup> **Section 2 is applicable to both intentional and unintended unfair electoral processes and policies with demonstrable discriminatory effects.**<sup>74</sup> Courts apply a test determine whether "districts are drawn in a manner that takes decisive political power away from a cohesive minority bloc otherwise at risk for discrimination."<sup>75</sup> The three-part test derives from the Supreme Court case *Thornburg v. Gingles*, thus the test is commonly referred to as the Gingles conditions.<sup>76</sup> The first Gingles condition basically tests whether there is a sizable minority population that is geographically distributed so that the voters could control a district.<sup>77</sup> A majority of voters belong to a geographically compact racial, ethnic, or language minority community.<sup>78</sup> Although compactness has never been precisely defined in this context, it generally applies to populations of people that are not spread far apart and where the boundaries are fairly regular without portions of the boundaries spreading out in several different directions.<sup>79</sup>

The second *Gingles* condition concerns whether the minority population usually votes together for the same type of candidate, based on a shared sense of political or social identity.<sup>80</sup> "This is a nuanced test: not whether the community usually votes for Democrats or Republicans (or others), but whether they would, given a fair mix of candidates, tend to vote *cohesively* for the same *type* of Democrats or Republicans (or others)."<sup>81</sup>

The third *Gingles* condition tests whether the rest of the population in the area usually votes together for a candidate representing different political interests than the minority population's candidate of choice.<sup>82</sup> "If so, this would mean that the minority's preferred candidate would almost always lose—if the minority community's voting power were not specifically protected.<sup>83</sup> Together, the second and third conditions are known generally as 'racially polarized' voting."<sup>84</sup>

<sup>73</sup> <http://redistricting.ils.edu/where.php>

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *Thornburg v. Gingles*, 478 U.S. 30, 50 (1986)

<sup>78</sup> <http://redistricting.ils.edu/where.php>

<sup>79</sup> *Id.*

<sup>80</sup> *Gingles*, 478 U.S. at 50.

<sup>81</sup> <http://redistricting.ils.edu/where.php>

<sup>82</sup> *Gingles*, 478 U.S. at 50.

<sup>83</sup> <http://redistricting.ils.edu/where.php>

<sup>84</sup> *Id.*

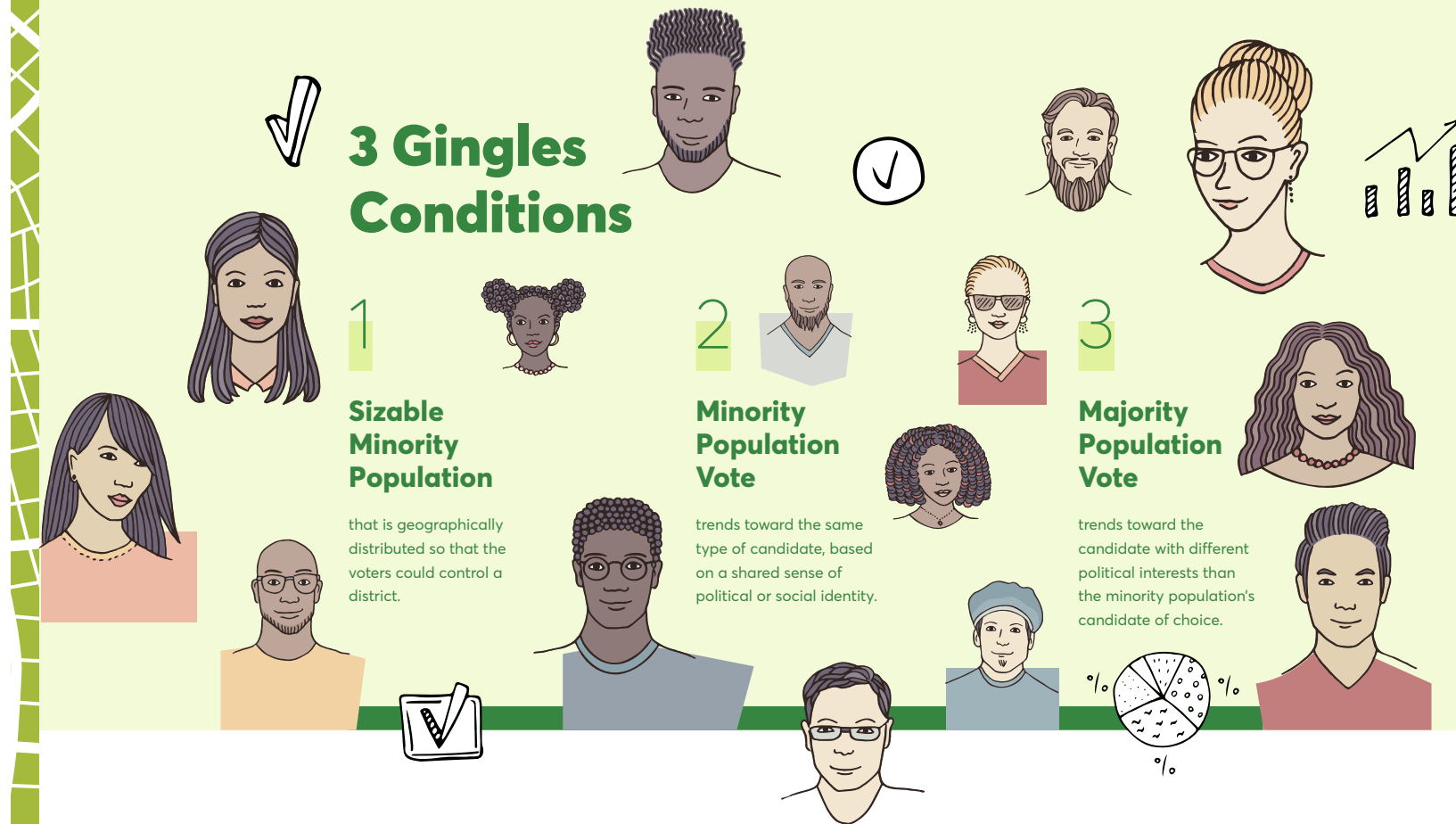
<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*



If all three conditions described above are met with evidence, the court reviews the "totality of the circumstances" to determine whether the minority vote has been diluted.<sup>85</sup> **Rough proportionality** is another important factor that is taken into consideration. Rough proportionality determines "whether minorities have the opportunity to elect representatives of their choice in a number of districts roughly proportional to the percentage of minority voters in the population as a whole."<sup>86</sup> Section 2 does not guarantee proportionality.<sup>87</sup> However, under circumstances in which a minority group is able to elect a percentage of representatives equal to the percentage of the minority group's eligible voting population, courts are reluctant to find a violation of Section 2 even if the three *Gingles* conditions are met. On the other hand, if the minority group does not have such an opportunity, courts will be more open to finding a Section 2 violation.<sup>88</sup> "For those drawing the lines and seeking to avoid legal trouble, the usual technique involves protecting substantial minority populations in racially polarized areas, by drawing district lines so that those minorities have the functional opportunity to elect a representative of their choice."<sup>89</sup>

## Racially Polarized Voting (RPV)

Racially polarized voting exists when voters of different racial or ethnic backgrounds exercise distinct candidate preferences in an election.<sup>90</sup> It means simply that voters of different groups are voting in opposite directions, rather than in a coalition.<sup>91</sup> RPV does not mean voters are racist, it only measures the outcomes of voting patterns and determines whether patterns exist based on race/ethnicity.<sup>92</sup>

"Voting is polarized when (1) the political preferences of majority-race and minority-race voters diverge substantially and (2) the racial majority votes with enough cohesion to usually defeat the minority's candidates of choice."<sup>93</sup> These points are defined as **"preference polarization" and "voting power" requirements.**<sup>94</sup> Since *Thornburg v Gingles*, plaintiffs have been required to satisfy both conditions and also propose a remedial district at the outset of their case.<sup>95</sup> The analysis centers on the individual voters within a jurisdiction.<sup>96</sup> Even in circumstances in which the governing body is well intentioned, the individual voters across the county may behave in a way that blocks minority representation.<sup>97</sup> Once the *Gingles* test is satisfied the court applies the liability standard prescribed by statute: "whether the totality of circumstances indicates that plaintiff-race voters have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice."<sup>98</sup>

<sup>90</sup> [http://mattbarreto.com/papers/polarized\\_voting\\_wa.pdf](http://mattbarreto.com/papers/polarized_voting_wa.pdf)

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> <https://ccis.ucsd.edu/files/journals/8racially-polarized-voting.pdf>

<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*



## Coalition districts

In some areas of the country various groups of people live in close proximity and share similar interests. In certain circumstances these groups of people could be placed into the same district combining to create a majority enabling the group to elect a representative of their choice.<sup>99</sup> Where more than one protected minority groups are combined to form a majority in a district **a coalition district** is created.<sup>100</sup> Efforts to create coalition districts where no racial or protected language minority group is populous enough to form a majority in a district alone ensures compliance with the VRA and avoids diluting minority-voting strength.<sup>101</sup>

The first *Gingles* precondition is generally established through the use of Census data which identifies where individuals live in an area. Based on this data, line drawers can determine where two (or more) minority groups together constitute more than 50% of the citizen voting age population in a particular area.<sup>102</sup> These areas can serve as coalition districts. Communities, organizers, and voting rights organizations should also work together to find candidates that appeal to different minority groups to enable them to combine together to create coalition districts.

<sup>99</sup> [https://www.law.berkeley.edu/files/Coalition\(1\).pdf](https://www.law.berkeley.edu/files/Coalition(1).pdf)

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> *Vieth v. Jubelirer*, 541 U.S. 267, 281 (2004)

<sup>104</sup> *Id.* at 306.

<sup>105</sup> *Id.* at 311.

<sup>106</sup> *Id.* at 367 (internal citations omitted).

<sup>107</sup> *Id.* at 313.

## The Promise of Partisan Gerrymandering Limitation

Before the United States Supreme Court determined that partisan gerrymandering was non-justiciable and could not be addressed by the Supreme Court, the court hinted that limitations could be placed on partisan gerrymandering if a workable standard was brought before the Court. In *Vieth v. Jubelirer*, 541 U.S. 267, 306 (2004), the United States Supreme Court addressed claims of partisan gerrymandering during a Pennsylvania election. A plurality of the United States Supreme Court held, however, that the existence of the alleged political gerrymandering was a political question thereby prohibiting judicial intervention.<sup>103</sup>

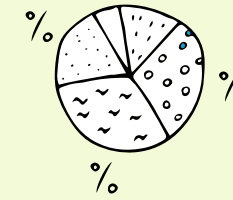
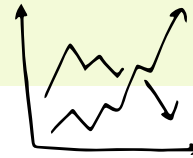
Justice Kennedy wrote a concurring opinion reasoning that he would not deny all possibility of judicial relief if some limited and precise rationale were found to correct an established violation of the Constitution in some redistricting cases.<sup>104</sup> Justice Kennedy noted that while no standard had emerged in *Vieth*, the case should not be taken to prove that none would emerge in the future.<sup>105</sup> Justice Kennedy further reasoned that "[w]here important rights are involved, the impossibility of full analytical satisfaction is reason to err on the side of caution ... [a]llegations of unconstitutional bias in apportionment are most serious claims, for we have long believed that the right to vote is one of those political processes ordinarily to be relied upon to protect minorities."<sup>106</sup> Justice Kennedy further explained "if suitable standards with which to measure the burden a gerrymander imposes on representational rights did emerge, hindsight would show that the Court prematurely abandoned the field."<sup>107</sup>



Effects of Section 5 on

## Black Political Participation and Representation

The effects that Section 5 has had on Black Registration Rates since 1965.



+30%

### Black registration rates

Percent that Black registration rates rebounded above white registration rates between 1960 and 2010 in former Confederate states.

+43

### AA representatives in government

Increase in African-Americans in the U.S. House and Senate between 1965 (5) and today (48).

+10K

### AAs holding offices

As compared to fewer than 1,000 offices in 1965.

## Section 5 of the VRA

Section 5 of the VRA was enacted to freeze changes in election practices or procedures in areas across the country which had well-documented records of race discrimination in politics.<sup>108</sup> New procedures were to be reviewed by the United States Attorney General, or by way of a lawsuit whose jurisdiction would be in the United States District Court for the District of Columbia. The purpose of the review—otherwise known as “preclearance”—was to ensure that new practices or procedures would not have a discriminatory purpose or effect.<sup>109</sup>

The United States Supreme Court reasoned that:

Section 5 was a response to a common practice in some jurisdictions of staying one step ahead of the federal courts by passing new discriminatory voting laws as soon as the old ones had been struck down. That practice had been possible because each new law remained in effect until the Justice Department or private plaintiffs were able to sustain the burden of proving that the new law, too, was discriminatory ... Congress therefore decided, as the Supreme Court held it could, to shift the advantage of time and inertia from the perpetrators of the evil to its victim, by freezing election procedures in the covered areas unless the changes can be shown to be nondiscriminatory.<sup>110</sup>

<sup>108</sup> <https://www.justice.gov/crt/about-section-5-voting-rights-act>

<sup>109</sup> *Id.*

<sup>110</sup> *Miller v. Johnson*, 515 U.S. 900, 926 (1995).

Jurisdictions covered by Section 5 included “Alabama, Alaska, Georgia, Louisiana, Mississippi, South Carolina, and Virginia, In addition, certain political subdivisions (usually counties) in four other states (Arizona, Hawaii, Idaho, and North Carolina.)”<sup>111</sup>

Section 5 served as key legislation to ensure the franchise could be exercised by black voters. While the Section 2 eliminated the discriminatory tests in place in 1965, Section 5 disrupted the habitual practice by affected States of simply replacing discriminatory practices with new provisions.<sup>112</sup> “Black registration rates in the former Confederate states rebounded from 30 percentage points below white registration rates in 1960 to equal or greater than white registration rates in 2010.<sup>113</sup> Black turnout in elections followed a similar pattern.”<sup>114</sup> Only five African Americans were in the U.S. House and Senate in 1965; yet, today there are 48.<sup>115</sup> “Since 1965, African-Americans went from holding fewer than a 1,000 offices nationwide to over 10,000.”<sup>116</sup>

On June 25, 2013, the Supreme Court blunted the effect of the VRA in *Shelby County v. Holder*.<sup>117</sup> Shelby County, Alabama filed suit urging that Section 5 of the Voting Rights Act is unconstitutional. “The Supreme Court ruled that the coverage formula in Section 4(b) of the Voting Rights Act—which determines which jurisdictions are covered by Section 5—is unconstitutional because it is based on an old formula.”<sup>118</sup> As a result, Section 5 is inoperable until Congress enacts a new coverage formula.<sup>119</sup>

<sup>111</sup> *Id.*

<sup>112</sup> <https://campaign-legal.org/update/five-decades-section-5-how-key-provision-voting-rights-act-protected-our-democracy>

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

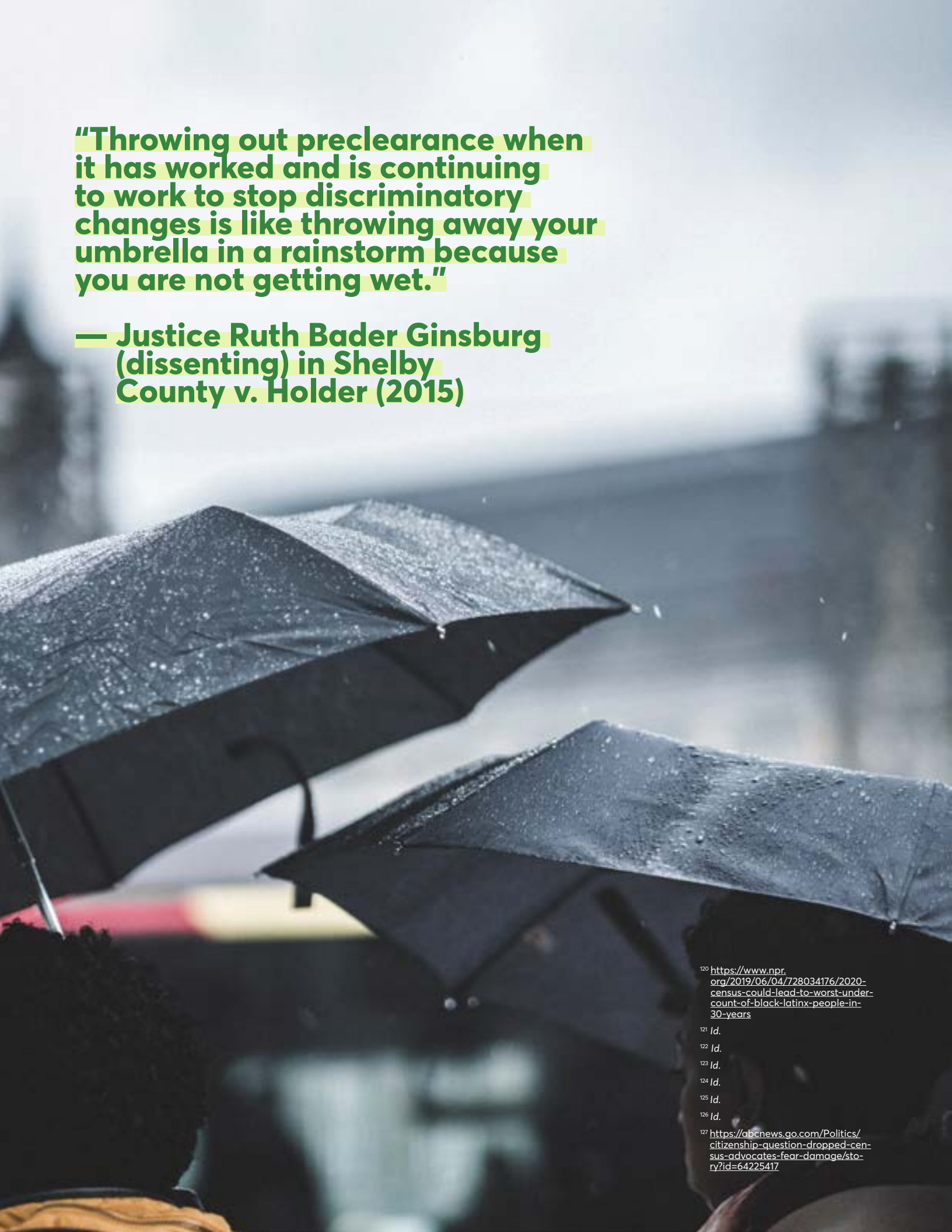
<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

<sup>117</sup> <https://www.brennan-center.org/legal-work/shelby-county-v-holder>

<sup>118</sup> *Id.*

<sup>119</sup> *Id.*



**"Throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet."**

**— Justice Ruth Bader Ginsburg (dissenting) in *Shelby County v. Holder* (2015)**

## **Potential Exacerbated Census Undercount Even Without the Citizenship Question**

Traditionally, certain demographics in our society including people of color, low income citizens, and even children have been under counted by the decennial census. In 2020 an inaccurate census could impact some of the country's most difficult to count populations the hardest.<sup>120</sup> A study conducted by Urban Institute reveals that the 2020 census could lead to the worst undercount of black and Latinx in the country since 1990 Census.<sup>121</sup> The study projects as many as 2.2 million (3.57%) Latinx people around the country could be undercounted in 2020.<sup>122</sup> "Children under the age of 5 ... also face an undercount as high as 6.31%, or about 1.3 million young children."<sup>123</sup>

In 2020 the United States Government will apply new ways of conducting the census that have not been thoroughly tested which could further cause the count to be inaccurate.<sup>124</sup> Now, all households will be required to complete an online form. The government will also be expanding the use of existing government records to help complete questionnaires for households that don't respond themselves.<sup>125</sup> To make matters worse, uncertainty with respect to funding has forced the Census Bureau to cancel two of the three field tests for the 2020 census, including test runs designed for rural and Spanish-speaking areas.<sup>126</sup>

Although civil rights groups successfully blocked the addition of the proposed citizenship question to the census, the mere discussion of the question, coupled with the executive branch policies on immigrants at the southern border, and mass shootings targeting the Latinx community have left people on edge.<sup>127</sup>

<sup>120</sup> <https://www.npr.org/2019/06/04/728034176/2020-census-could-lead-to-worst-undercount-of-black-latinx-people-in-30-years>

<sup>121</sup> *Id.*

<sup>122</sup> *Id.*

<sup>123</sup> *Id.*

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

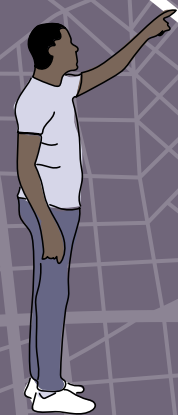
<sup>127</sup> <https://abcnews.go.com/Politics/citizenship-question-dropped-census-advocates-fear-damage/story?id=64225417>



CHAPTER 5

State Law  
Governing  
Redistricting:  
*See State  
Supplement*





CHAPTER 6

Organizing  
Around  
Redistricting  
***Education*** and  
Advocacy

The next three chapters of this text are intended to provide CROWD Scholars with some practical tools in their efforts to support public engagement in the redistricting process. This chapter focuses on organizing efforts related to redistricting, while chapters 7 and 8 delve into legislative advocacy and communications, respectively. Of course, these three elements of public and civic engagement are highly inter-related, so the material in each chapter should be synthesized by the reader as a cohesive approach to supporting communication engagement.

There is no one-size-fits-all approach to effective organizing, advocacy and communications efforts. Advocates on the ground will have to assess what will work best given their local situations. That being said, the next three chapters will provide CROWD Scholars with a toolbox of approaches, tips, and strategies that can be deployed as Scholars and their partners see fit. CROWD Academy Partners also stand ready and willing to help on-the-ground advocates assess what organizing, advocacy, and communications strategies will best serve each communities interest.

This chapter is divided into two main components: (1) EDUCATION: organizing to broadly education communities about the redistricting process; and (2) MOBILIZATION: organizing a cohesive group with shared goals and objectives to engage in legislative advocacy.



## Community Education: A Prerequisite to Community Engagement on Redistricting

As the saying goes, knowledge is power. Citizens who have had no exposure to or basic education on redistricting cannot effectively organize around a cohesive advocacy strategy. Indeed, even those who have some experience but have not engaged the issue in the last decade will need to update their knowledge. In order to mobilize around any advocacy initiative, there must first be a base of community members armed with a strong understanding of the issue. Thus, the first step to organizing is to build local power by ensuring that as broad a swath as possible of community members comfortably understands the redistricting process. That, of course, is where the outreach that CROWD Scholars will perform is critical. After attending the two-day CROWD training, all Scholars will be prepared to present 1-2 hour "Redistricting 101" education events in their communities and surrounding areas. Later effective organizing efforts depend heavily on this educational outreach.

Many of the "Redistricting 101" trainings that CROWD Scholars offer over the next two years will be presentations they may be invited to give by, for example, a local elected official who wants to encourage redistricting engagement, a neighborhood association that wants to ensure that its interests are represented in redistricting, or a host of other individuals and organizations. These invited presentations will be invaluable to introducing or re-introducing redistricting concepts to a community. Such gatherings can also be self-selecting to bring individuals and groups that are already highly engaged in the civic/political process together specifically to support this initiative. This is not a bad outcome. Indeed, there is abundant opportunity for such individuals to elevate their current advocacy work by understanding the intersectional nature of redistricting. Local issues are intertwined with local maps. The CROWD Academy theory of change posits that when advocates at the grassroots level build power and engage the legislative process around redistricting, they will be far better positioned to achieve their policy goals than "experts" who may parachute into the community for redistricting advocacy or litigation. At these invited presentations, populated by engaged activists, the Scholar's



**The first step to organizing is to build local power by ensuring that as broad a swath as possible of community members comfortably understands the redistricting process.**

presentation and efforts may be more focused on the technicalities of redistricting advocacy and reinforcing the intersectional lens recommended by the CROWD Academy.

But the hope is that the Scholars will also attempt outreach to community members who may not already be engaged in some other sort of issue advocacy. Thus, the Scholars may need to employ basic organizing strategies to identify and entice potential attendees to a presentation that they organize. And at those presentations, the Scholars may need to focus more heavily on the need for community engagement and offer tips on skills to engage individuals who do not typically work on issue advocacy.

When it comes to organizing in order to reach the maximum number of community members as possible, there are three types or styles of organizing one can utilize:

- Individual or Grassroots Organizing:** Individual community members engage in a democratically-governed, values-driven process that catalyzes the power of individuals to work collectively to make changes they want to see in their communities. Organizers believe that community members can be experts, and that expertise is not the sole domain of professionals. A first-generation Asian-American small business-owner can be an expert on the redistricting process for her district, through her own experience or by conducting community-led action research in her local business community. Organizers inspire community leaders—everyday people—to speak up for themselves in the political process. In this way, organizing differs fundamentally from most advocacy work: Grassroots or community organizing is bottom-up, meaning community members themselves identify the issues, propose the solutions, and drive both strategy & execution. A major theme of community organizing—and of the CROWD curriculum—is leadership development at the local level.
- Grasstops Organizing:** Bringing together a diverse group of individuals interested in learning about redistricting and hopefully being engaged in redistricting processes at all level of government can be greatly expedited and facilitated by working with "grasstops" community leaders (organizational leaders, community members in positions of power, respected elders in the community, etc...). Individuals who would be considered "grasstops"

will already be recognized as community leaders and will be able to help recruit greater attendance at educational events and encourage further engagement after those events.

- **Organizational Outreach:** This approach is not to be confused with coalition building, which will be discussed later and is a critically important organizing and advocacy capacity. At this stage, however, reaching out to organizations in the communities being targeted for redistricting education events, regardless of the organizations' focuses, is a great way to ensure that invitations to educational opportunities reach a wide audience.
- **Organizing tactics:** Regardless of what type of organizing an advocate chooses, it is important that the tactics be grounded in a well-thought-out campaign plan. When choosing the tactics a group of CROWD activists (community members who have attended a Redistricting 101 training or have otherwise expressed interest in working with the CROWD Fellow in a more in-depth way) will use, Scholars and Fellows should keep in mind that they need to be part of a broader strategy which is in turn dictated by their local campaign plan goals, whether the campaign is Scholar-driven to generate attendance at Redistricting 101 events or Fellow- and community-driven to generate support for redistricting coalition building or legislative advocacy.
  - » **Door-to-door canvassing:** Door-to-door canvassing is a time-honored tactic that can be used for a wide variety of advocacy or civic engagement outcomes, including expanding membership, conducting surveys and grassroots organizing to influence a campaign target. Canvassing involves knocking on doors in a specific neighborhood to educate and engage residents. Research has shown that a well-run door canvass to educate citizens and even influence their attitudes about a given issue can be highly impactful. Sometimes these face-to-face conversations will be limited to learning more about the views of the community. In other cases, the canvassers can offer educational information on an advocacy issue.
  - » **Street canvassing:** The same technique as door-to-door canvassing, except street canvassing plays the process out by soliciting conversations with passers by encountered on a particular street where the canvasser has stationed themselves for a period of time.

- » **Phonebanking:** This tactic requires a list of contacts, available for a fee from the board of elections. Whether the list is generated through compiling the networks of the organizers' contacts or a list obtained from an official source like the board of elections, phonebanking is an excellent tactic to recruit attendees for a Redistricting 101 event.
- » **Tabling:** Tabling involves setting up a branded table (showing group name and offering informational resources, such as one page informational sheet) at a central location where community members are known to gather, such as a farmer's market or community potluck. 2 or 3 representatives of the coalition sit at the table inviting conversations with passers-by about redistricting and encourage them to add their name and contact information to a sign-up sheet, which can be used to build a list of invitees to a Redistricting 101 event.
- » **House parties:** Redistricting 101 events can be held at a private home with snacks and refreshments, or they can be held in shared community spaces willing to accommodate this kind of event, like a church basement or barbershop.
- » **Online organizing:** This tactic operates by focusing on building a strong digital presence on the web as well as on social media. More details of this method will be discussed in Chapter 7. Examples may include SEO (search engine optimization), #trending on Twitter, or viral memes.
- » Town hall meetings, tele-town halls online or accountability sessions.
- » **Texting campaign:** Texting campaigns are extremely efficient, especially for kicking off an advocacy effort with a strong start by presenting a well-coordinated group of advocates to the public. This tactic not only is fast, but it has higher contact rates than email and it's very personalized. Done well, this tactic projects a show of strength.
- » **Visibility tactics:** Visibility tactics can include chalking, posters, banners, dropping literature door to door.



After the Scholar has been invited to give a Redistricting 101 presentation in a community, or has advertised a Redistricting 101 event and recruited attendees, the Scholar will then prepare for that community education event. That preparation should include:

- 1.** The presenting Scholar should contact their CROWD Academy Fellow (if Fellow has been identified) to let them know that a Redistricting 101 event is being conducted. The Fellow may also want to attend.
- 2.** The presenting Scholar should utilize the sign-sheet provided by the CROWD Academy Partners to capture the names and contact information of individuals attending the Redistricting 101 event.
- 3.** The presenting Scholar should either print CROWD Academy handouts for each attendee (provided on a thumb drive at the Academy) or request that CROWD Academy Partners mail the Scholar the needed number of handouts. Fellows can also hand out accompanying talking points and other resources if they are involved in the events.
- 4.** After the Redistricting 101 event, the Scholar should share the sign-in sheet with the Fellow, along with any assessment of individuals and groups that are particularly interested in redistricting advocacy so that the Fellow can follow up with those individuals.

Different Scholars will have different capacities to offer Redistricting 101 events, but every event conducted dramatically increases the number of citizens who have been exposed to enough redistricting education to pursue further engagement if they so desire. This is critical to the theory of change embraced by the CROWD Academy.

## Community Mobilization: Organizing for Successful Legislative Advocacy

After the CROWD Scholars and, perhaps to a lesser extent, the CROWD Fellows have conducted extensive educational training in the communities within their larger region, the CROWD cohort (Scholars and Fellows) should be able to identify communities or individuals who are energized to delve deeper into redistricting advocacy. Of course, just because a person attends a Redistricting 101 event and does not express interest in deeper engagement does not mean they cannot later be mobilized to support the advocacy efforts of those willing to take the lead in working with the Fellows on advocacy efforts.

The CROWD Fellows and Scholars should work together to pull together follow up meetings in jurisdictions where there is a critical mass of energized citizens. These later meetings will be referred to as meetings amongst CROWD activists. In jurisdictions where the Scholars or Fellows assess a need for community engagement in redistricting, but the Redistricting 101 events have not produced a critical mass, the Scholars and Fellows may need to employ some of the organizing tactics described in this first section of this chapter to reach that critical mass.

In gathering community members for mobilization, Fellows in particular should consider the following questions, and seek answers from the activists:

- Who are the key partners (individuals and/or organizations) that the CROWD Fellow should be contacting?
  - » Who is already doing advocacy work in the redistricting or democracy space?
  - » When activists are assembled, are there valuable but absent voices?
  - » Who might be considered “trusted messengers” to bring further activists into the group?
  - » How can the CROWD Fellow center those directly affected by community problems?

- How can the CROWD Fellows, Scholars and Partners align key partners (structurally) for effective advocacy?
  - » Does it make sense to create an “umbrella organization” to encompass the CROWD activists working on the issue to make coalition-building easier and to avoid potential conflict?

The answers to these questions will provide a basis for building coalition and alignment amongst the CROWD activists preparing to mobilize for redistricting advocacy.

**Coalition Building:** Coalitions are formed by building relationships of mutual confidence with individuals who then coalesce around a set of shared values, usually pertaining to a particular political or social issue. These community groups can then bolster their competence and capacity by former deliberate partnerships with other community groups or organizations that complement their strengths. The take home here is that while both will be critical to effective organizing & advocacy around redistricting, organizing organizations is not the same as organizing individuals.

Initial planning methods for coalition building will vary depending on the extent to which the mix of CROWD activists assembled is comprised of individuals or organizations. Note that organizations can and should play varying roles in the CROWD efforts. Even if organizations cannot commit large amounts of time or resources to the redistricting advocacy campaign, it may be able to lend its name to the campaign as an endorser, which can still be quite valuable.

Organizing around any issue, but especially redistricting engagement and advocacy, tends to work better when the campaign is represented by the various different communities or stakeholders affected by that issue. Pulling these diverse communities together at the beginning may seem intimidating, but building a broad alliance is crucial to establishing a more intersectional lens to the broad issue of redistricting. Whatever the core local issues in a given community are, there likely is some advocacy work to be done specific to those concerns in the redistricting process. The goal of early organizing work should be to bring diverse voices to the table for community engagement in order to identify just what the core local issues are and how to advocate for those interests in redistricting.



**Organizing around any issue, but especially redistricting engagement and advocacy, tends to work better when the campaign is represented by the various different communities or stakeholders affected by that issue.**

When the CROWD Fellow, perhaps supported by CROWD Scholar(s), convenes their first meeting of CROWD Activists, the following agenda items are suggested:

- Introductions
- Explaining the campaign
- Assessing your community
- Brainstorming allies
- Developing an initial strategy
- Creating subcommittees and roles
- Next steps



**It can be advantageous to make sure the activists actually include people who do not have campaign experience along with those who do.**

Some Fellows might choose to save some of these items for a second meeting, and instead keep their first meeting focused on the first three or four bullet points. How the first meeting should be structured depends on the capacity of the people involved. It may be better to keep it short, or it could be more effective to define the local campaign more deeply right away. The CROWD Fellow on the ground should be the one to make this assessment.

The following sections include more detail on each of the agenda items listed above.

## Introductions

Go around the group and ask all the activists to introduce themselves. Ask each person to share his or her name, why they are interested this campaign, and what other grassroots campaigns, if any, they have supported (to any degree) in the past.

It can be advantageous to make sure the activists actually include people who do not have campaign experience along with those who do. The presence of both experience levels will infuse the fresh energy of newcomers to organizing while simultaneously taking advantage of experienced organizers' skills and experience.

## Explaining the campaign

Hand out one-page descriptions of the CROWD Academy and of grassroots-driven redistricting advocacy and go over it with the group. The Fellow or someone else very familiar with the CROWD strategy should lead this part of the meeting. CROWD Partners can help prepare Fellows and provide resources.

## Assessing the community

The Fellow should invite the activists to reflect on the landscape of the city or town. Are residents educated on racial and social justice issues? What kind of issues-based campaigns have there been in recent years? Are there strong, organized groups already working on these issues? Are there civic engagement networks to tap into? How can the group build on what already exists? Which communities have been traditionally excluded, thus requiring extra outreach? What messaging will resonate with the people in your community?

The CROWD Fellow should either identify the following data points for current and past officeholders or delegate that task to an activist at the meeting: What is the officeholder's name? What is the officeholder's address? What is the officeholder's winning percentage in the most recent election (include multiple elections cycles, if applicable)? What is the race or ethnicity of the officeholder?

Likewise, the CROWD Fellow should also assess current leadership or ask for assistance in doing so: What good policies have been realized and who was responsible for them? What bad policies have been enacted and who was responsible for them? Develop a table that lists the policies and rate them good or bad or even neutral. This can be an easy way to surmise whether an officeholder is responsive or not to the district's or jurisdiction's community. What are the names and affiliations of the members of the local legislative body? Based on what you know about them, who can you expect to be receptive to your efforts? Who can you expect to be obstructive to your efforts? Who might be on the fence? If the members represent specific wards or districts, have you connected with people from each ward?



**Organizing around any issue, but especially redistricting engagement and advocacy, tends to work better when the campaign is represented by the various different communities or stakeholders affected by that issue.**

You might not know the answer to every one of these questions before or even by the end of the first meeting of CROWD activists, but write down what answers the group does know and make a plan to research any questions that remain.

## Brainstorming Allies & Identifying Opponents

To get started on building the network for CROWD advocacy work, the CROWD Fellow and the CROWD activists the Fellow has assembled should begin to brainstorm allies who might be able to help them build a strong, diverse coalition representing as many different community voices as possible—especially those groups directly affected by the core local issues, including the following:

- Refusal of legislative bodies to recognize demographic growth of minority groups by drawing maps that do not reflect the increase in voting power that growth communities ought to see, as has happened with black and Latino communities after the last decennial census. The 2020 census anticipates registering a significant degree of growth among the Asian population.
- Environmental groups advocating to address toxic waste issues plaguing the community, or advocacy groups seeking assistance with relief and recovery aid from legislators after a local disaster.
- Parent and education rights groups advocating to address crumbling schools in public school districts.
- Gun violence activists such as Moms Demand Action.

When trying to identify potential allies, the following discussion questions may be useful:

- Who are the group's likely allies?
- What is their self-interest?
- Who might be an unlikely ally?
- Of these, which will you prioritize in your efforts?



The 2020 census anticipates registering a significant degree of growth among the Asian population.

Fellows might also consider reaching out to teachers, professors, students, civic groups, neighborhood associations, religious leaders, union locals, political party chapters, librarians, and attorneys.

Similarly, in identifying potential opponents, the following discussion prompts can be utilized:

- Who are your potential opponents?
- Of these, which will you prioritize in your efforts?
- What is the purpose of their opposition?
- What tactics and arguments might they use?
- What will your strategy be to counter the opposition?

## Developing an initial strategy

Whether you consider it at your initial meeting or wait until your coalition includes a few more people, strategy should be laid out fairly soon after deciding to start a campaign.

The Midwest Academy Manual for Activists defines strategy as, "a method of gaining enough power to make a government or corporate official do something in the public's interest that [they do] not otherwise wish to do." A strategy is more than just a plan—it's a means of building collective power in order to entice a specific decision making body to take a particular action.

This definition, along with the Midwest Academy's Strategy Chart, provides a good starting point for developing a strategy that will be successful in your community. The strategy chart has five columns:

- Long-term, intermediate, and short-term goals
- Organizational considerations
- Constitutions, allies, and opponents
- Decision-makers (targets)
- Tactics



A strategy is more than just a plan—it's a means of building collective power in order to entice a specific decision making body to take a particular action.



## Midwest Academy Strategy Chart

After choosing your issue, fill in this chart as a guide to developing strategy. Be specific. List all the possibilities.

Goals	Organizational Considerations	Constituents, Allies and Opponents	Targets	Tactics
<b>1</b> List the long-term objectives of your campaign	List the resources that your organization brings to the campaign. Include number of staff, facilities, reputation, canvass, etc.  <i>What is the budget, including in-kind contributions, for this campaign?</i>	<b>Who cares about this issue enough to join in or help the organization?</b> <ul style="list-style-type: none"> <li>Whose problem is it?</li> <li>What do they gain if they win?</li> <li>What risks are they taking?</li> <li>Into what groups are they organized?</li> </ul>	<b>Primary Targets</b>  <b>A target is always a person. It is never an institution or elected body.</b> <ul style="list-style-type: none"> <li>Who has the power to give you what you want?</li> <li>What power do you have over them?</li> </ul>	<b>For each target, list the tactics that each constituent group can best use to make its power felt.</b>  <b>Tactics must be:</b> <ul style="list-style-type: none"> <li>in context</li> <li>flexible and creative</li> <li>directed at a specific target</li> <li>make sense to the membership</li> <li>be backed up by a specific form of power</li> </ul>
<b>2</b> <b>State the intermediate goals for this issue campaign. What constitutes victory?</b>  <b>How will the campaign:</b> <ul style="list-style-type: none"> <li>Win concrete improvement in people's lives?</li> <li>Give people a sense of their own power?</li> <li>Alter the relations of power?</li> </ul>	<b>List the specific ways in which you want your organization to be strengthened by this campaign. Fill in numbers for each:</b> <ul style="list-style-type: none"> <li>Expand leadership group</li> <li>Increase experience of existing leadership</li> <li>Build membership base</li> <li>Expand into new constituencies</li> <li>Raise more money</li> </ul>	<b>Who are your opponents?</b> <ul style="list-style-type: none"> <li>What will your victory cost them?</li> <li>What will they do/spend to oppose you?</li> <li>How strong are they?</li> <li>How are they organized?</li> </ul>	<b>Secondary Targets</b> <ul style="list-style-type: none"> <li>Who has power over the people with the power to give you what you want?</li> <li>What power do you have over them?</li> </ul>	<b>Tactics include:</b> <ul style="list-style-type: none"> <li>media experts</li> <li>actions for information and demands</li> <li>public hearings</li> <li>strikes</li> <li>voter registration and voter education</li> <li>lawsuits</li> <li>accountability sessions</li> <li>elections</li> <li>negotiations</li> </ul>
<b>3</b> <b>What short-term or partial victories can you win as steps toward your long-term goal?</b>	<b>List internal problems that have to be considered if the campaign is to succeed.</b>			

As the CROWD Activist group fills in the chart, the CROWD Fellow can use the information collected while assessing the community and brainstorming allies to start developing a strategy for the redistricting advocacy campaign. Filling in the chart will help the group go further into detail and think through the steps to be taken.

After completing a chart, create a timeline for carrying out the strategy. The timeline can, and probably will, change throughout the campaign, so be sure to build in extra time. Remember to use the timeline as a guide to stay on track, but remain willing to adapt and improvise as you move forward.

## Creating subcommittees and roles

Depending on the needs and capacities of each local group of CROWD Activists, subcommittees or roles will differ. Below are four roles of effective facilitation that can be played by one to four people, depending on capacity. These descriptions offer a sense of tasks any organizer ought to keep in mind for engaging a group at a meeting or event.

- **Outreach:** builds connections and relationships with trusted messengers.
- **Facilitator:** responsible for keeping the team on track through the planning process and establishing mechanisms for accountability. The facilitator also ensures that logistics for internal events are coordinated and roles are clearly assigned.
- **Secretary:** documents topics at meetings, with careful attention to determinations resolved, and outstanding issues.
- **Communications:** responsible party for coordinating with media outlets and ensuring that messaging is consistent with the group's agreed upon messages. Monitors opportunities for the group to deliver their message with high impact and public media items that require the group's response.



## Success Story: Southern Echo and Education-Driven Redistricting

After the civil rights movement of the 1960's, the old methods utilized by white supremacists to suppress the black vote could no longer pass as a viable means for keeping black voters from the ballot box. In order for white supremacy to retain exclusive control over the political and educational systems, complicit legislative bodies relied increasingly on redistricting to neutralize any potential for the black community to gain influence over the political process by exercising the right to vote. In Mississippi, this resulted in communities whose legislative bodies were so entrenched with white supremacy that the state legislature still continued to refuse ratifying the 13th Amendment—passed by the U.S. Congress in December 6, 1865—as late as 1995.

In 1990, Southern Echo joined forces with the umbrella organizations of the Mississippi Redistricting Coalition and the Delta Redistricting Working Group to provide training, technical and legal support to grassroots communities. Hundreds of black citizens became involved in the redistricting process. There

was grassroots participation in public hearings at the state, county and municipal levels. Additionally, these local activists engaged in drawing their own district plans that could offer the black community a reasonable opportunity to elect a black candidate of choice.

Electoral power gained as a result of this grassroots organizing effort was significant. After 18 months of struggle led by those grassroots organizations and individuals, the Mississippi State Legislature adopted a Redistricting Plan in 1992 which created the maximum number of electable black districts. In the 1992 special legislative elections, black citizens turned out in record numbers to double the size of the Legislative Black Caucus from 21 in 1991 to 42 in 1993. At the county level, the black community elected 30% of all the county supervisors in the state. There was also a significant increase in the election of black candidates for municipal and other county offices, and especially for justice, circuit and chancery court judgeships. In the 1995 elections, the Legislative Black Caucus increased to 45. In 1999 statewide elections the African-American community retained every one of the 45 caucus seats and increased the number of African-American county supervisors and judges.

The role of community organizing was key to these gains. After the 1990 census, Southern Echo held redistricting training workshops in 20+ counties in Mississippi, so that grassroots level activists would have a clear vision that the election of accountable black public officials was essential to the empowerment of the community; an effective strategy that aimed to ensure every redistricting plan must create the maximum number of electable black districts; and a program of work designed to build a broad coalition of leaders, activists, and grassroots organizations armed with the information and skills necessary to impact the formation of public policy through the redistricting process at the county and state levels.

County redistricting committees were formed in ten Delta counties to work on redistricting on the county and municipal level. The statewide Mississippi Redistricting Coalition and the Delta Redistricting Working Group—umbrella organizations comprised of representatives from the ten Delta counties—were formed to enable grassroots community activists, organizations, leaders and

public officials from African-American communities to work together on legislative and congressional redistricting, under a common umbrella that helped avoid the organizational jealousies often associated with coalitional work. The umbrella structure allowed these groups to enjoy the capacity benefits of a coalition without compromising their county redistricting efforts.

These grassroots communities, supported with ongoing organizing, legal and technical assistance by Southern Echo, led the statewide organizing efforts and negotiations. Importantly, they required their lawyers to accept the leadership of the community throughout the decision-making process. This allowed county organizations to work independently at the county level, without compromising their local agendas when they collaborated with other counties statewide on redistricting efforts.

As a result of the foundation laid during the legislative redistricting, an organized African-American community with legal and technical assistance from Southern Echo provided the leadership in the development of the 1991 Congressional redistricting plan that retained congressional district in the Mississippi Delta that would enable the election of a black-preferred candidate. This success was won notwithstanding the determined resistance to a black district from the National Democratic Party and some State AFL-CIO leaders. After the legislative redistricting plan was approved by the federal court in the spring of 1992, Southern Echo immediately held a series of non-partisan workshops across the state to inform people of the new legislative district lines and how to run unity caucuses to prevent the splitting of the black vote that would enable white candidates to win.

Between 1994–1998, Mississippi’s ultra-conservative Republican governor and right wing leaders in the legislature introduced a package of proposed laws designed to diminish the impact of the black vote, and therefore the power of the black community, on the formation of public policy. Several attempts to pass this through the initiative and referendum petition process were defeated due to lack of support by registered voters in the 2nd Congressional District, rooted in the Mississippi Delta. In a mere 30 day stretch, Southern Echo held 68 meetings in 40 communities in the Delta and hill country to educate

grassroots members of the black community and white farmers on the referendum initiative to reduce the size of state legislature in order to force the need for new maps to be drawn.

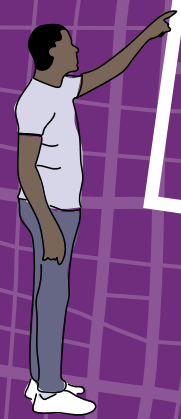
During this same period, the Mississippi legislature failed to adopt the National Voter Registration Act (a.k.a. “motor voter”) three times. The motor voter bill had resulted in more than 45,000 newly registered voters, but the federal act required states to adopt the NVRA for those registrations to be valid in state elections. In 1998 Southern Echo revived the alliances built during the redistricting work it had done a few years prior, and educated the public through issues of a bulletin called “Legislative Struggles” and a motor voter brochure. They also brought local community activists to the legislature to engage the legislative process directly. A federal court later ordered that all voters registered under the NVRA could also vote in state elections.

Prior to the 1990–1992 redistricting process, the only legislation acknowledging the concerns of the black community was the creation of a holiday to honor Dr. King. After the objectives of the grassroots organizers in the 10 working groups were achieved, a cascade of legislative successes that reflected the voices and votes of the black community brought major shifts in power to the historically excluded African-American community members. The year 1997 witnessed the first major appropriations bill for education passed in a generation. In 1999, the State Legislature adopted the NVRA or motor voter bill. The new millennium ushered in Senate Bill 2488 to create a system designed to hold local districts accountable for low performance on standardized tests. The Mississippi Education Working group drafted amendments to provide for the systematic participation of parents and community leaders in the evaluation of local schools. Additionally, they developed and implemented improvement plans for the schools.

These fundamental powers shifts and their impacts on education policy would not have been possible were it not for the successful redistricting advocacy that secured maps that protected black communities in Mississippi.

CHAPTER 7

Engaging in  
the *Legislative*  
Process at  
All Levels of  
Government



The following chapter lays out guidance for mobilizing to engage in the legislative process. This phase of CROWD Academy advocacy work will follow the education phase. At this point, the **CROWD Scholars and Fellows will have invested much time and effort into community education** and situating coalitions for redistricting education. But this phase is critical. This is where **all that work gets translated to results.** Also, as an aside, as used throughout this chapter, the term “legislative body” or “legislative decision-maker” does not refer solely to state legislatures. Instead, it refers to the policy making group that is tasked with redistricting.



**mobilize**

## Demystifying Interactions with Legislative Bodies

Beyond the perceived complexity of redistricting, one of the other biggest hurdles to community engagement in redistricting is when community members feel uncomfortable or intimidated by the prospect of interacting with the legislative bodies or decision-makers tasked with redistricting. These bodies can range from state legislatures to town councils. But the ability to interact with policy makers is a skill set used by advocates in so many other realms of policy advocacy—redistricting should not be any more intimidating.

As discussed in chapter 6, one of the easiest ways to understand and effectively communicate with these bodies is to do a bit of “homework.” Understanding who the decision-makers are, how long they have been serving, and what kinds of policies they have supported in the past can make it easy for an advocate to decide who to approach first. Furthermore, the confidence that the well-prepared advocate exudes will demonstrate to the representative that their constituency stands ready to call the representative for the redistricting process as well as outcomes.

Also, advocates should not underestimate how unfamiliar decision-makers themselves may be with the redistricting process. For many elected officials engaged in redistricting, this may be their first redistricting cycle. They may not have had the benefit of going through previous cycles in their current capacity. When an advocate likely knows more about the process than the legislative actor, this can be a powerful and valuable strategic advantage. Community members are more than capable of interacting with these decision-makers, and the CROWD Academy seeks to build that confidence so every person who decides to become engaged in redistricting feels comfortable advocating with these governmental actors.



**When an advocate likely knows more about the process than the legislative actor, this can be a powerful and valuable strategic advantage.**

## Ensuring Access to Tools Necessary for an Effective Advocacy Strategy

Developing an effective advocacy strategy begins with an assessment of every redistricting coalition’s capacities. For the purposes of making this assessment, the necessary capacities can be broken down into the six distinct advocacy capacities listed below. Some advocacy groups may not have internal access to all of these capacities, which is why it is essential to partner and share expertise to effectively advocate for fair and racially equitable maps and map-drawing processes. This becomes especially significant in a post-*Shelby* world, where the notification system on which voting rights advocates in many Southern states previously relied no longer exists. CROWD Academies seek to fill this gap by bringing together, and/or supporting partners who have expertise in data & demography, voting rights law, communications, and organizing/advocacy to build and share each of these capacities and create effective advocacy infrastructures. It is imperative that Academy attendees and fellows be equipped with the right strategies, information and tools to succeed.

## Six Advocacy Capacities Needed to Successfully Organize Around Fair Maps in Redistricting:

- **Map Analysis & Advocacy:** Analyze current and proposed plans. Integral to this analysis will be a deep understanding of the impacted communities. The Academy fellows are being trained and made available to help community members with this process.
- **Community Advocacy/Strategy Development:** Engage the communities in analyzing current & proposed plans, and potentially drawing winnable maps & plan alternatives that preserve their voice in the political process. Academy attendees serve an important role in facilitating access between interested community members and the fellows.
- **Coalition & Stakeholder Alliances:** Build and maintain strong broad-based coalition and stakeholder alliances.
- **Communications Strategies:** Design and implement communications strategies.
- **Grassroots Organizing:** Build an active grassroots network by establishing relationships of mutual confidence among like-minded individuals in the community who share common ground or interests.
- **Resource Development:** Generate resources, such as infographics, direct-action templates, or toolkits.

Generally, every organizing effort should be understood as having three phases: planning, execution, and evaluation. Each of the six advocacy capacities listed above should be assessed for access, cost, and projected strengths/weaknesses when applied to organizing efforts within the particular local environment in which they will be deployed. Avoid the common pitfall of treating redistricting as a once-a-decade event. Census taking is a once-a-decade event which informs redistricting. In many states, particularly those where CROWD Academies will be conducted in preparation for the redistricting after the 2020 census, redistricting has been a much more frequent event. Furthermore, even when new maps are not being formally proposed, current maps or systems of election should be continuously monitored over the intervening years between each decennial census.



**Avoid the common pitfall of treating redistricting as a once-a-decade event.**



1

### Pro-Tips: Questions to Ask Before the Redistricting Legislative Process Begins

#### 1 Determine when the redistricting legislative process happens.

The process for municipalities/governmental entities with elections in the odd years (2021) can occasionally happen on an expedited basis. With districted jurisdictions that have their next elections in an even-numbered year (2022), because the census data are released in 2021, the process will likely happen in the first legislative session following receipt of census data and be completed prior to filing period for 2022 primaries.

2

#### 2 Make contact with someone in legislative body to establish timeline for process.

#### 3 Advocate for earlier start/more transparency.

*be specific*

4

#### 4 Arrange meetings \*before\* the legislative process starts to discuss what the community wants out of the redistricting process and results.

## Alignment Around a Shared Strategy

Engagement with the legislative process surrounding redistricting is most effective when organized at the group or community level, rather than on the individual level. When redistricting education and engagement efforts start too late in the cycle, it is often the best that advocates can do to turn out individual citizens to redistricting hearings and provide them with generalized public comments, if that. CROWD Academies encourage discussion amongst advocates and community members far in advance of any legislative advocacy or hearings in order to build as much alignment as possible. For example, one problem that can be caused by lack of alignment and organizing before engaging in legislative advocacy could be wildly divergent descriptions of communities of interest. If individuals are urged to attend public hearings and advocate that line-drawers respect communities of interest, but none of those individuals define a community of interest or the each provide their own, highly variable definition of a community of interest in their region, ill-intentioned map-makers will likely use this to the community's disadvantage. They will say, "See? Communities of interest are not a broadly understood and agreed upon redistricting criteria, so we cannot possibly respect those communities!" Or they will pick the proffered community of interest definition that most suits their redistricting interests, regardless of what might best serve the most community members. This hurdle can be avoided by group decision-making before legislative advocacy begins. Moreover, even once the redistricting process has begun, continued alignment on goals and communications with legislative bodies will increase the likelihood of success.

To that end, there are at least three buckets of information around which coalitions working on redistricting should try to build alignment. Those are: (1) information that decision-makers should have in the redistricting process; (2) process outcomes the group would like to see; and (3) substantive outcomes the group would like to see.

## Information that the organized group wants decisionmakers to have

At times, with ill-intentioned actors, redistricting decision-makers will rely on ignorance in defense of unfair maps or methods of election. Coalitions working on redistricting should decide in advance what information they need to provide to those in charge of the process to avoid this "defense". With well-intentioned actors, the more information that coalitions can provide to inform the decision-makers, the better equipped they will be to make the best possible decision. Particularly, information and data less readily available can be important to convey. Advocates must decide together which are the communities of interest most in need of protection. They should define these communities of interest using geographic markers which are as specific as possible—indicating the bounds, to the best of their ability, using roads, rivers, or any other visible boundaries. Advocates should decide whether there are economic engines—companies, schools, recreation centers, or any other beneficial entity or site—that those communities benefit from having in their district. Giving information like this to decision-makers early in the process allows them a chance to either listen to the community or not, but may open up avenues for a challenge to the maps later if they do not.

Likewise, the community working on redistricting should decide whether it wants to offer a map of its own for legislative consideration or just provide feedback or critique of legislatively-proposed maps. Either option may have its own advantages and disadvantages. The process of drawing a single community-supported or "unity" map can be very educational and consensus-building. There is little that provides deeper understanding of how redistricting works than actually drawing lines and seeing the outcomes. However, building consensus around a single community-proposed map can be difficult. Opponents will critique that map, and ask community advocates to defend it on every possible grounds. Any weakness in the community-proposed map can be exploited by ill-intentioned line-drawers to justify their failure to adopt it. That of course does not mean that a community should not offer a map—the coalition simply needs to weigh the relative risks and make a decision that best serves their unique interests.

Likewise, a community coalition should decide if it will additionally provide specific feedback on legislatively-proposed maps, either in addition or in



lieu of developing its own map. Will that feedback be offered regarding the process by which the maps were developed, or the substance of them? Will positive feedback be given in addition to negative feedback? Again, ill-intentioned decision-makers may try to exploit positive feedback. Will feedback be delivered via written commentary or in-person at hearings? As with many topics in this text, the answers to these questions are highly variable depending on a community's needs and whether the legislative body engaged in redistricting is likely to act in good faith.

## What process goals does the organized group want to demand?

Often in redistricting, advocates may be very focused on the outcomes they desire—that is, whether the districts themselves reflect racial and partisan fairness, or respect communities of interest. But the process by which those outcomes are achieved can be just as important, and when that process is well-defined and transparent, it can increase the odds of better outcomes. Thus, community members should decide on the process demands they will deliver to map-drawers, both with respect to the data that those decision-makers will use and prioritize, as well as what the community expects in terms of openness and transparency of the redistricting process itself.

### Defining the criteria used and prioritized

Earlier in this text, traditional redistricting criteria were defined and discussed. Many times, though, there may be some flexibility in which criteria are prioritized or even used, and thus can be a powerful input-point for community advocates. After determining what criteria are mandated, or whether the priority of those criteria has been formally established, advocates should review the list of traditional redistricting criteria and decide which ones are most important to them. They should not hesitate to list the order in which they would like those criteria to be considered or prioritized.

Likewise, the community should decide if there are criteria or considerations that they do not want decision-makers to consider. It is rarely advisable or even legal for racial data to be excluded from consideration, but if the Voting Rights Act does not compel the drawing of any particular district, a community might demand limits on how racial data should dictate how lines are drawn—i.e., no precincts split predominantly on the basis of race. While all

political data cannot be excluded because it would leave mapmakers unable to assess Voting Rights Act compliance, community advocates might consider whether consideration of electoral data could be used to ensure fairness, or whether map-drawers would just abuse the availability of that data. Incumbent residences are another consideration that advocates may want to exclude from the data used by legislative bodies. If these topics are discussed in advance of the legislative process, advocates will have time to build alignment and present a more unified message to decision-makers.

### Demands re: Transparency and Participatory Process

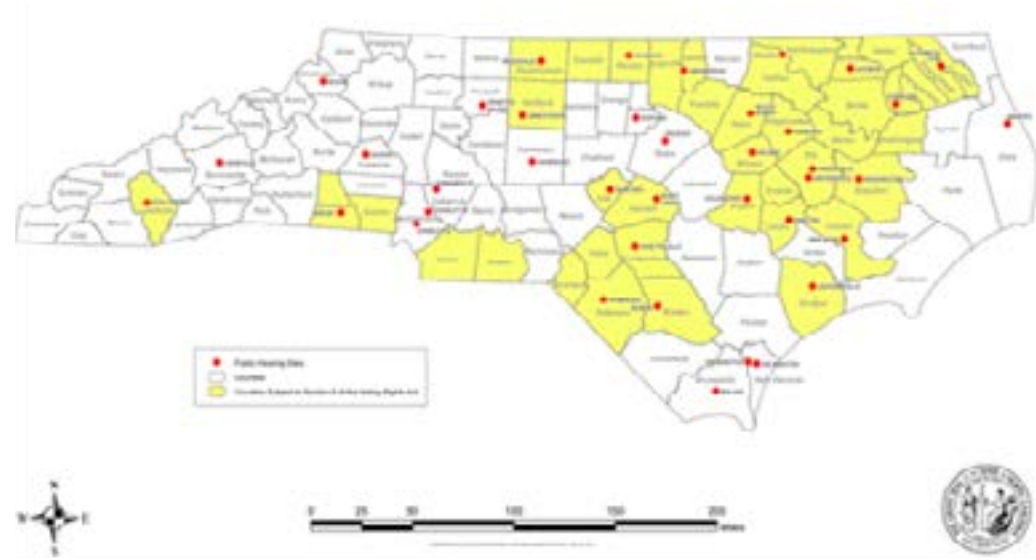
Advocates should decide what kind of process they want to see employed to develop new electoral maps, what elements of such a process are most important to them, and communicate that decision to the legislative body in advance of the commencement of the redistricting process. Even a community that is well-versed in the law and mechanics of redistricting will struggle to influence the maps if the legislative process is not transparent or fails to provide opportunities for meaningful public input. Communities must push their elected officials to adopt best practices to make sure the processes and criteria for collecting public input and ultimately drawing the lines results in a fair, representative map.

Some hallmarks of an inclusive and accountable legislative process include:

- **Public Input** The redistricting body should provide several opportunities and methods for the public to provide their input about their communities and the district lines drawn around them, both before and during the redistricting process.

In order to receive truly representative input from the public, the redistricting body must ensure that the methods for providing public input are widely accessible. For statewide redistricting efforts, such as for state legislative and congressional districts, the legislature should provide public hearings at geographically diverse locations throughout the state. While there is always room for improvement, the geographic locations in which North Carolina held its redistricting hearings last cycle offer a good example of the type of diversity that should be provided in a state:

## 2011 Redistricting Public Hearing Sites



Source: North Carolina General Assembly Redistricting Archives – 2011 Redistricting Process <https://www.ncleg.gov/Files/GIS/ReferenceDocs/2011/2011%20Public%20Hearing%20Site%20Map.pdf>

Adequate notice must be provided to make sure not only that the community is aware of the opportunity to participate in the process, but also to provide community members enough time to make any arrangements so that they may attend. For example, H.R. 1, a federal redistricting reform bill seeking to write redistricting best practices into law, would require that 14 days notice be provided for any public hearing<sup>1</sup>. Notice should be provided through both digital and print publications to reach the broadest possible population, regardless of internet literacy.

Accessibility requires that hearings are held at a time and place that accommodate the schedules of working people, such as after typical business hours or on weekends. Options for remote access to each public hearing—such as through a live video or audio stream, and a method to submit comments remotely—such as a web portal, should additionally be provided for individuals who cannot attend hearings in person but want to be involved in the process. Opportunity to submit public comment should remain open throughout the entirety of the redistricting process.

To maximize opportunities to receive input, the redistricting body can begin to hold public meetings or hearings before receiving the data from the census bureau to hear the general concerns and values of various communities, and open up the public comment period at this time. But pre-data

and pre-map public hearings alone are not sufficient. After the census data has been received and after maps have been proposed, redistricting bodies should hold listening tours (keeping in mind geographic diversity) to hear from individuals about the features of their communities and the ways in which their populations have changed that cannot be captured by population figures alone. For example, a new housing development or the introduction of a new job-providing industry in a region might represent a common interest that ties parts of a town or multiple towns together in a way that they were not tied together in the previous decade. Take note of the steps taken by the redistricting body to raise awareness of the public meetings or hearings they arrange, as advocates can play a role in alerting the public to this opportunity when the redistricting body does not. The failure of the redistricting body to take adequate steps to ensure the public is aware of opportunities may be an area where the process needs to improve.

Once the map-drawing process has begun, the redistricting body should provide a mechanism whereby the public can submit their own proposed maps, in addition to comments. A significant period for submission of feedback and alternative proposals, as well as an additional round of public hearings, should follow the release of any draft map published by the redistricting body. No map should be voted on as final if the public has not been given the opportunity to voice their concerns.

- **Incorporating Feedback** Providing opportunities for public feedback would be of little use if the redistricting body did not consider and incorporate the feedback that it received. Even where the redistricting body does take the time to consider critiques of its maps and proposed changes, communities will likely feel disincentivized or discouraged from providing feedback in the future if the redistricting body fails to explain how public input was considered, and why certain input was or was not incorporated into any subsequent proposed maps. Accordingly, redistricting bodies should not only give due consideration to the feedback that they receive, but should also take steps to inform the public about how their feedback ultimately impacted the maps that have been produced.

<sup>1</sup>H.R. 1, § 2413

One way that redistricting bodies can make the public aware of the impact their feedback has had on the proposed maps is by publishing a report simultaneously with any proposed maps that explains in writing how the maps address public comments and concerns. This is the method that the United States House of Representatives has sought to implement through H.R. 1. In addition to producing a written report, the California Citizens Redistricting Commission, which has won awards for its radically transparent process, has devised an even more interactive, engaging, and responsive method for incorporating public feedback—the Commission in many cases incorporates public feedback and provides its explanations for doing so live, in video-broadcasted public meetings. Community members giving feedback can review maps together with those in charge of drawing the maps, and literally watch as their feedback is considered and attempts are made to incorporate requested changes into the maps. Examples of this process at work can be found in the extensive video archives on the Commission’s website (<https://wedrawthelines.ca.gov/view-er/>) or YouTube channel (Citizens Redistricting Commission). Incorporating feedback in this way not only makes the process clearer to the public, but also incentivizes public participation in the redistricting process because it makes clear to individuals that their input is valued and can make a concrete difference.

- **Transparency** While the open, public incorporation of feedback is a good start, every aspect of the redistricting process must be *transparent*—that is, open to public scrutiny—to ensure that communities have all of the information they need to be involved in the process, and to ensure that the redistricting body is fully accountable to the community for which it is drafting district lines. As an added bonus, building as much transparency as possible into the redistricting process promotes increased trust in that process, and in the governmental unit engaging in that process. There are several steps that a redistricting body can and should take to increase the transparency of the redistricting process, and the redistricting body can pass procedural rules to bind itself to these transparency measures.

As a starting point, the redistricting body should provide an easily accessible public website and/or terminal that will serve as the location where all redistricting-related information can be accessed by the public. In addition to providing notices of public hearings or a public comment portal,

this website should be used to make all proposed maps and relevant statistical data available to the public. Additionally, all contracted experts involved in developing this data should be identified to the public, as well as their compensation levels and where the funds used to pay for their services were sourced from (i.e. campaign funds, taxpayer dollars, etc.). This information is the bare minimum required for individuals and communities to evaluate whether a proposed map represents their interests. Beyond this bare minimum, redistricting bodies should also conduct their decision-making process within the public eye, including disclosure of all underlying data, information, and communications considered in the actual construction of proposed maps.

- **Predetermined Criteria** Another way a redistricting body can make itself more accountable to the people it represents in the redistricting process is by publishing the criteria that it will use in drawing the maps *before* they begin drawing them. While transparency and forthrightness by a redistricting body is important, it is crucial that, in addition to alerting the public to the criteria selected beforehand, the redistricting body also selects only those criteria that will result in a fair and representative map. Not all criteria are created equal, and willingness to be transparent about use of a bad criterion will not undo the negative effects that bad criterion will have on a map.

As discussed, certain criteria are required by law and therefore must be used by the mapdrawers. Redistricting bodies should nonetheless make a commitment to abide by and prioritize these mandatory criteria:

In addition to reaffirming their commitment to these mandatory requirements, redistricting bodies can expand upon them, providing more protection than might be required by federal law. For example, while the Voting Rights Act can require that districts be drawn to protect a single minority group, courts are divided about whether the Voting Rights Act requires protection of multiple minority groups that vote together as a coalition. Redistricting bodies can alter their Voting Rights Act Compliance criteria to explicitly allow for protection of minority groups acting in coalition and to promote the creation of coalition districts.

## What outcomes do organized community groups want to demand?

One of the greatest challenges in redistricting engagement is that the kinds of districts which communities may desire or wish to demand will vary widely from jurisdiction to jurisdiction. Perhaps one of the greatest challenges advocates will confront in this process is the wide degree of competing opinions regarding the kinds of districts communities wish to achieve from jurisdiction to jurisdiction. Consultation with CROWD Academy Fellows and legal support teams will be critical in informing a group's decision on what outcomes it should expect and request. For example, because of population changes, it may not always be possible to maintain the core of a pre-existing district, even if the community liked that district and it provided effective representation. Likewise, even in an instance when a district that provides an underserved racial group with the opportunity to elect its candidate of choice is desperately needed and morally justifiable, such a district may not be feasible to draw in a manner that complies with the exacting standards of Section 2 of the Voting Rights Act. That does not mean that the district is not allowed to be drawn—it just means that the jurisdiction may not be compelled to draw it.

But some outcome possibilities that community advocates should consider, in consultation with Fellows and legal support, include:

- » preventing destruction of minority opportunity districts
- » creation of new opportunity districts
- » moving from at-large to single-member districts
- » respecting communities of interest
- » and many others

The CROWD Academies were designed to provide community advocates with the information and access to resources necessary to determine what kind of outcome demands community groups can make and reasonably expect to produce results.

## How to Address Lack of Alignment

Coalition building, particularly when the coalition includes numerous stakeholders bearing different concerns, requires a level of alignment that allows those various divergent concerns to be melded into one coherent agenda for advocacy by the group. This will enable it to operate united as one coalitional entity. CROWD Scholars must not be disheartened by the lack of alignment they may confront at the beginning of their preparations to engage the legislative process. This is to be expected, especially if they managed to organize effective outreach to the variety of voices that should be represented in any given CROWD coalition. Certainly advocates will want to be mindful to resist any inclination within the group to pretend competing interests or alignment challenges don't exist when conducting internal goal-setting.

Dealing with these potential alignment challenges in the process of internal goal-setting is a crucial step because it is key to sending the most cohesive demands possible. Failure to do so may leave a group open to having its credibility attacked and undermined by the legislators who prefer that the community's advocacy agenda not impinge upon their own self-interested intentions for redistricting. Indeed, legislators have been known to claim that the community of interest criterion is not a practicable one, because there is no agreed upon definition of a community of interest.



...the process of internal goal-goal setting is a crucial step because it is key to sending the most cohesive demands possible.

## Additional Considerations for Legislative Advocacy Strategy Implementation

Many of the strategies and steps for successful implementation of redistricting legislative advocacy have already been discussed, but there are a few other considerations that community groups may take into account.

### Strategies for Demanding Data Needed for Detailed Map Analysis

The effective loss of Section 5 of the Voting Rights Act has been a devastating development in the realm of voting rights. Section 5 required covered jurisdictions to explain their redistricting plan—to explain how it would not injure communities of color, that it was not developed with discriminatory intent, that the process was open and participatory, etc. That allowed advocates to test justifications and highlight weaknesses. However, it is possible that the fact that many formerly-covered jurisdictions had to comply with the additional demands of Section 5 the last time they redistricted, those jurisdictions may be “used” to comply with those demands and may be willing to continue with the same procedures they have always used. That is, anecdotally, some jurisdictions have commented to voting rights advocates that going through the Section 5 preclearance process was not that burdensome and in fact lent legitimacy to the jurisdiction’s adopted plan if precleared. Thus, while the odds might not be high, advocates should consider asking jurisdictions to voluntarily comply with the kinds of information they would have to submit in order to obtain preclearance, but to just make that information publicly available.

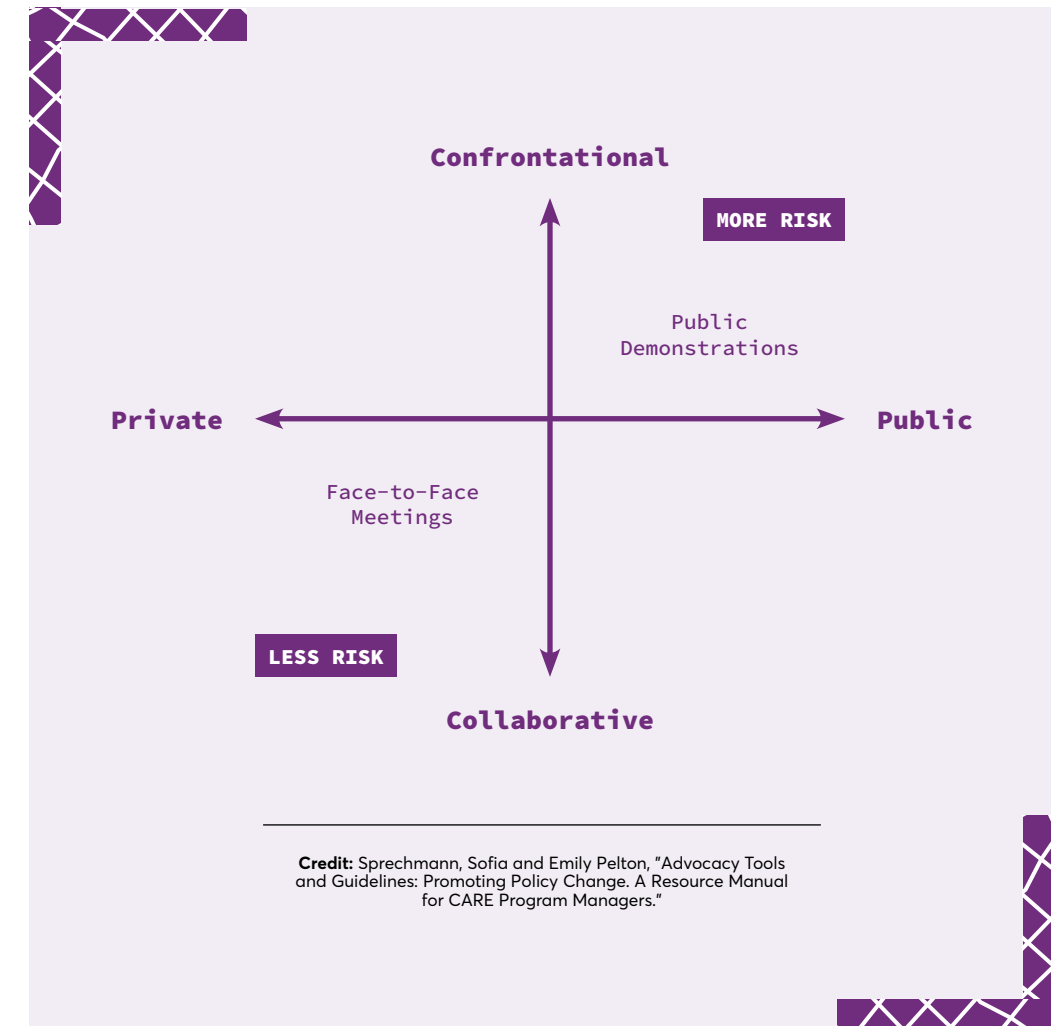
### What Would a Jurisdiction Need to Submit For Section 5 Preclearance

To satisfy the Attorney General and obtain preclearance, a jurisdiction would have to provide evidence on the following considerations:

- The extent to which malapportioned districts deny or abridge the right to vote of minority citizens.
- The extent to which minority voting strength is reduced by the proposed redistricting.
- The extent to which minority concentrations are fragmented among different districts.
- The extent to which minorities are over concentrated in one or more districts.
- The extent to which available alternative plans satisfying the jurisdiction’s legitimate governmental interests were considered.
- The extent to which the plan departs from objective redistricting criteria set by the submitting jurisdiction, ignores other relevant factors such as compactness and contiguity, or displays a configuration that inexplicably disregards available natural or artificial boundaries.
- The extent to which the plan is inconsistent with the jurisdiction’s stated redistricting standards.

## Assessing the Need for an Outside / Inside Strategy

Strong grassroots organizing provides coalitions with an opportunity to deploy a simultaneous outside/inside strategy. The “outside” part of the strategy refers to utilizing public means of persuasion through confrontational direct action activities, like sit-ins in front of the legislative building or staging some other form of public protest. These strategies tend to carry with them a higher level of risk, but if executed well, the reward will be a higher impact. Public methods often draw earned media attention, resulting in a process shone on the issue itself and the response of the target(s). The “inside” piece requires activists to identify individuals with relationships to decisionmakers to lobby on their behalf for the desired advocacy objectives. This method carries less risk because it happens behind closed doors. When coordinated simultaneously, two sides of a single strategy, this combination of tactics can enhance the level of impact a coalition can have on decision-makers.



## Post-Implementation Strategy Analysis—Metrics of Success and Building Capacity for Future Organizing Efforts

A commitment to remain willing to adapt and improvise will also allow advocates to maximize the benefit to be gained from evaluating successes. Evaluation is a crucial part of any organizing campaign. There is one golden rule of evaluation: do not wait until the end of your campaign to do it. As you execute your strategy and tactics, assess and evaluate your efforts. Efforts should be evaluated and assessed real-time during the execution of strategy and tactics. There are many methods to conduct evaluation, but even the following simple approach will do—ask the group members to answer the following three questions:

1. Is our strategy achieving the desired results—are we closer to the goal?
2. What is working and what is not—internally and externally?
3. Are the tactics employed (actions) helping the group gain support?

Evaluation of the strategy and its results may lead a group to conclude that the reason they have not met its goal is because the strategy was not fully developed. For instance, perhaps the “target” of the group’s efforts may not have had the power to make the change the group sought, or maybe the timing of the campaign was not quite right; or a group might conclude that the strategy and tactics used were correct, but not sufficient in number or frequency.

When an assessment indicates that the strategy is not working, it means that some aspect of the approach needs revision. Again, evaluation is an absolutely necessary tool in effective organizing, and that evaluation should be used to adjust accordingly. Changing strategy based on evaluation is completely acceptable, even encouraged.


Every grassroots advocacy group should keep in mind that there are two kinds of success to track—internal and external success. External success is defined by whether the group has achieved its goals and objectives; Internal success is defined by what the group has *learned* in pursuit of those goals and objectives. Even when external successes are few, internal successes are often the key to unlocking a coalition or group’s ability to fulfill its external goals in the future. In the organizing world, it is indeed typical that a campaign will have been implemented multiple times before its objectives are achieved. Often, the first few times advocates cycle through a campaign without much external success, they find that those cycles are the most packed with internal successes. Each organizational advance made in the way of internal success translates to a leap closer the external goals, until they finally are within reach.



CHAPTER 8

Communications  
***Strategies*** Used in  
the Redistricting  
Process





Redistricting in a post-Section 5 world and more generally, in the current political climate in the South, comes with no guarantees. A community educated and mobilized to hold decision-makers accountable is in the best position to achieve the best community-desired outcomes. But “wins” should not be so narrowly construed. Changing the dialogue around and awareness of unfair redistricting policies and products is a powerful outcome, in and of itself, and community efforts to deploy effective communications strategies help secure those gains. Indeed, even a “win” in terms of a desirable district being enacted carries less weight if not accompanied by a strategic, coordinated communications campaign.

In any sort of effort to achieve a particular outcome through a public process, the phrase “controlling the narrative” is a familiar refrain. Parties are often described as successfully “controlling the narrative” or not. A narrative is typically reflected in the public discourse pertaining to a given issue, process or event. Invariably, there are multiple—even contradictory—stories that can be told about that same focus point. The story that gains the most traction with the most people tends to be the one that ultimately shapes the narrative, and thus determines how the issue is framed, understood and treated by society. Deployment of a well-crafted communications strategy is the best method

of positioning an advocate or community group as the actor who achieves and maintains the most control of the narrative. The right communications strategy facilitates a shared contextual framework among people learning or engaging in the issue, and that shared framework can do wonders in support of a particular advocacy goals. For instance, consider how it frames the issue of climate science differently when advocates or the media refer to the problem as “climate change” rather than “global warming.” Use of strategic terminology and, more broadly, communications strategy can help those unfamiliar with the issue to have a deeper understanding, and can disrupt potential avenues of criticism or attack.

Successful advocacy depends upon the organizers’ ability to effectively utilize proven communications strategies in an effort to achieve and maintain control of the narrative around redistricting. It is important to remember that there are various different communications strategies to choose from. Even more importantly, communications efforts must be tailored to a specific target audience in order to achieve the greatest impact. This means that any compelling communications strategy should incorporate careful consideration of matching the messaging, method of delivery and narrative tools to each particular audience the communications is intend to influence.



*participate  
in the process*

## Potential Audiences for Redistricting Communications

It is perhaps too easy to assume the only audience for redistricting advocacy that matters is the body making decisions during the next redistricting cycle—whether that is a town council, school board, or the state legislature. These bodies are certainly important audiences, but they are not the only ones that need to be targeted, and communications directed towards additional distinct audiences including allies (potential or actual), opponents, and unengaged constituencies must also be thoughtfully delivered.

While the hope is certainly that public engagement will pressure line-drawers to make the right decisions—ones that best serve the interests of the historically disenfranchised and dismissed communities within the jurisdiction,—such an outcome may not always be feasible. Nonetheless, advocates can lay the proper groundwork to ensure accountability regardless. To this end, the officials or staff tasked with redistricting should be made aware of (1) the fact that community members are aware of and, indeed, well-educated about the redistricting process; (2) the community will be advocating for specific results, be it outcome or process results; (3) that community advocates have access to legal and technical resources which they will avail themselves of if the line-drawers are not responsive; and (4) that community members will hold line-drawers accountable at the ballot box or in the courts if they are not responsive to community needs. In short, community members must publicly demand a participatory and responsive process, and make clear that this is not an idle request or threat. Transparency can translate into accountability. The more eyes line-drawers feel watching them, the more likely they are to be responsive to community members' demands.



**Community members must publicly demand a participatory and responsive process, and make clear that this is not an idle request or threat.**

## Audiences for Redistricting Communications

### Allies—Growing the coalition/number of supporters.

Messaging should be developed for allies—both current and potential—as a distinct target audience. The goals of messaging to allies should be two-fold: (1) to mobilize known allies whose prior or ongoing work is compatible with your own advocacy goals and (2) to recruit and mobilize new allies. This two pronged approach to messaging for allies will help grow the coalition by increasing the number of supporters and lifting up agendas that fit together as part of the same agenda a community can pursue through redistricting by raising their voices together. This is exactly what CROWD Academy partners LA Kaminski, Jovita Lee, and Marques Thompson discovered was true of their own advocacy efforts in Duplin and Sampson Counties in eastern North Carolina. Read more about their success below!

### Opponents—Who can be persuaded and what are elements of commonality?

Opponents should also be considered as a potential target audience. This includes obstinate opponents who advocates would expect to be fully committed in their opposition to a community redistricting advocacy agenda as well as those who might be persuadable. Using an intersectional approach to redistricting engagement and communications, as promoted by the CROWD Academies, can create the space for persuasion or at least present the strongest framing for an inclusive and fair process. For example, most parents, regardless of their political or ideological persuasions, want to feel like they have a say in their children's education. Advocating for an open redistricting process for school board districts, allowing everyone a fair say in the representatives setting school policies, can be a message that even opponents cannot challenge.



**Advocating for an open redistricting process for school board districts, allowing everyone a fair say in the representatives setting school policies, can be a message that even opponents cannot challenge.**

### Unengaged Constituents—People who have not had the opportunity to learn about redistricting yet

Finally, messaging should always be developed with the specific goal of bringing unengaged constituents into the fold. This target audience may be local community members who are currently engaged in other local issues such as local education needs or racial justice matters with which the community is already engaged. Levels of engagement may vary, depending on the level of grassroots organization in a given community. For instance, some communities have churches where community members mobilize on certain local issues regularly enough to offer a strong preexisting infrastructure for redistricting advocacy. Other communities might have advocates that have managed to establish a particular issue as a local priority but have not yet managed to mobilize around that issue. Whatever the level of engagement, every community has at least a few concerns that it would consider a priority. An important way communications strategy can build capacity for redistricting advocacy is to engage in listening tours or other tactics to let the community identify its concerns and identify ways those issues may intersect with redistricting. Listening tours can then be followed by education and mobilization tactics that are most suited to this target audience.

## Choose the Redistricting Narrative or Narratives, Depending on Audience and the Specific Interests of the Community Engaged in the Redistricting Process, and the Messengers for those Narratives

Different narratives will resonate with different audiences. The narratives adopted should be informed by the community's goals and shared interests, as well as the audience being targeted with the narrative.

As has been discussed in the organizing and legislative advocacy chapters, it can be extremely effective to have a designated speaker or speakers be agreed upon before engaging in narrative development, and having those speakers be well-versed in the narrative itself. And although there is not a one-size-fits-all approach to this issue, groups engaged in redistricting organizing and advocacy should ask themselves the following questions: Can a pre-determined spokesperson address the needs and interests of the group? If so, how will the group define itself to the public? Is the conveyor of the narrative part of the group working on this particular redistricting issue or is the conveyor being brought in after the work has been done?

There may be voices that have earned the trust of their communities such as an individual who the community recognizes as a successful advocate from other settings or a organizational entity such as an NAACP branch whose work has established significant local credibility—Can these trusted messengers be utilized to deliver communications on behalf of the redistricting advocates? This can often be a way to save time by capitalizing on the trust that the community has already vested in a familiar individual or group, rather than having to start from scratch in relationship building as groups with less recognition within the community. Can different voices or spokespeople be used for different audiences? Organizers have found in many instances that different audiences may tend to be more or less receptive, depending on the identity of the messenger.



**There may be voices that have earned the trust of their communities...**



Narrative theme is an important consideration, too. Beyond demanding specific outcomes or processes, the larger framing employed in how advocates tell their story about redistricting in their area can maximize the impact of messaging around an issue. So part of the planning process for redistricting engagement should include asking: what themes does the community want to emphasize in redistricting communications? There is no one or “correct” answer to this inquiry. Some examples of themes that could shape the narrative are:

- Fairness and racial equity as guiding principles in developing a new plan/system for election; this theme is particularly powerful in an area that has a history of serious failure when it comes to fairness and racial equity
- Intersection of redistricting with a particular issue(s) already recognized as a local priority, i.e. education, environment, or safety concerns
- Dark money in politics and its intersection with redistricting; This issue tends to overlap with the intersectional approach discussed throughout the Academy—for instance, media coverage of environmental redistricting work in eastern North Carolina drew connections between dark money, environmental destruction and redistricting by highlighting that candidates who received campaign contributions from the corporate owners of environmental hazards were also the candidates who most supported proposed legislation that would limit the ability of citizens to file nuisance lawsuits. This was an unmistakable attack by corporate interests on the power of citizens to push back against them, because such lawsuits had been very successful in enabling citizens to use the courts as a tool for accountability prior to the introduction of the proposed legislation.



**There may be voices that have earned the trust of their communities such as an individual who the community recognizes as a successful advocate...**

## What themes does the community want to emphasize in redistricting communications?

These are just a few examples, not an exhaustive list. It is important to get any redistricting advocacy coalition to discuss how the chosen theme has or has not been utilized or received in previous redistricting cycles. Next, the group discussion should turn to developing a sense of what it would look like for the upcoming map (and the process of developing it) to embody the chosen theme.

At the end of the day, while the history of redistricting throughout the country and certainly in the South has been one of a tool used to suppress the voices of voters of color, each community has its own unique experiences, shared values and goals,

and story it wants to tell. Advocates and organizers should allow for sufficient space for community members to discuss how the redistricting process has directly affected them in past cycles and what story they want to tell about that history. Traditionally silenced voices should be lifted up, and an equity-conscious communications strategy is careful to ensure these voices have the agency to tell their own story.

## Redistricting Communications Success Story

After running into each other at the same community events in these two counties over and over again, organizers LA Kaminski, Jovita Lee and Marques Thompson finally realized that there was a narrative gap in their each of their communications strategies, particularly when it came to thinking about how to create structural change. They each had been organizing in the same communities for different reasons. LA had been organizing and educating eastern North Carolina communities around opposition to CAFOs (Concentrated Animal Feeding Operations, e.g. hog farms) as the democracy campaigner for an environmental advocacy group called Friends of the Earth. Marques was organizing around fair and accessible elections as the Eastern North Carolina organizer for Democracy NC. Jovita had been working on opposition to the Atlantic Coast Pipeline, the Mountain Valley Pipeline Southgate, off-shore drilling and CAFOs as the State Campaigner for the Center of Biodiversity. The same communities seemed to be suffering from a recurring cycle of harm affected by these issue areas. One year CAFOs was the dominant concern of the community. Another year, the most pressing concern was the pipeline. Yet another year, Hurricane Florence brought flooding that resulted in communities swamped with pig excrement, without any assistance from public officials with the cleanup. Throughout these challenges, advocates had struggles ensuring that county election officials offered sufficient voting locations and opportunities in rural eastern NC. Environmental issues and democracy issues seemed to be converging on the same communities which found themselves repeatedly victimized with little power or access to relief. CAFOs and pipelines often were located in the backyards of the same communities that tended to be disempowered and disenfranchised from the democratic process. Not only have these communities been used as a dumping ground for industrial waste, but the very same folks have also been the ones who are

**Too often, the narrative around redistricting is limited by talking about maps only in partisan or racial terms, without giving enough attention to defining and defending communities of interest.**

deprived of their voice when districts are drawn detrimentally based on race, as has been the practice far too often in North Carolina.

It became increasingly clear that to advocate effectively on any one of these issues, a new, more intersectional approach was needed. In order to develop a new communications strategy, LA, Jovita and Marques began by coming together to conduct a series of listening tours in Eastern NC. Through the listening tours, they learned that the communities knew the issues well, but that they did not realize how they were all connected. They were well-versed in the environmental concerns that affected their health and their properties. They were also aware of the ways in which gerrymanders are a problematic and pervasive reality in redistricting, especially in North Carolina. Community members had not previously considered the ways in which the environmental issues were converging with democracy issues in ways that explained why these particular communities were so directly impacted, over and over again. The next step was to conduct education and mobilization tours that focused on issues by reframing them as interconnected. This narrative shift is an excellent example of a communications strategy that reveals an opportunity for connecting and multiplying the impact of multiple strands of advocacy work.

Too often, the narrative around redistricting is limited by talking about maps only in partisan or racial terms, without giving enough attention to defining and defending communities of interest. On top of that, those who currently benefit from a position of authority in redistricting have made a sustained and thus far too successful communications effort to peddle a narrative that frames redistricting as inaccessible to anyone who is not a professional in the field. Shifting the narrative as these three organizers have done through a careful reinvention of their formerly separate communications strategies is emblematic of the intersectional lens CROWD hopes community advocates can employ in their redistricting engagement.

## Controlling or Influencing the Narrative in the Redistricting Process, Especially Via Media

Once the various audiences have been identified, and the appropriate messaging targeted at each audience has been settled, advocates should next then focus on influencing the narrative part of their message. One key to narrative control is sustained substantive engagement with various forms of media. These media outlets can include local or national print or television news, radio shows, and social media platforms such as Facebook or Twitter. Advocates need to make regularly recurring investments in the content and news media cycle. When an issue arises or there is a new redistricting-related development, advocates should make their best effort to get ahead of expected news media interest. This can be done by being the first to frame the development within the broader narrative. Additionally, that framing should be more frequently repeated in a greater variety of media avenues than any other competing framing. A nationally familiar example of competing narratives seeking to frame the same issue can be found in the controversy around voter ID. Two competing narratives sought to frame a voter ID requirement at ballot boxes as either a voter fraud prevention tactic or a voter suppression tactic in recent years. While this battle is ongoing, opponents and proponents of voter ID try to flood the media market with their framing of the issue.

In addition to rapid response tactics to address new developments that will come up organically as community members engage in advocacy work, advocates should also plan to deploy certain messaging along the standard timeline their local government bodies use for redistricting. Community members working on redistricting can and should propose a story in time for it to be in newspaper or on TV the weekend before a redistricting-related hearing or vote. If media coverage of that event is already likely, advocates should conduct early outreach to the journalists or commentators likely to cover the event to make sure that the community's perspective is represented.



**When an issue arises or there is a new redistricting-related development, advocates should make their best effort to get ahead of expected news media interest.**

## Mechanisms of influencing the narrative

Regardless of the audience, communication with that audience should be early and often. Letters to the editors and op-eds can be very effective ways of ensuring that widely-supported and vetted messages are broadly heard. For letters to editors, advocates, or supportive community members will need to submit responses to articles or opinion pieces the same or next day after those articles are published, or plan in advance to write letters/op-eds to be published sometime during the week before the expected redistricting-related event. Advocates can and should also make use and distribute information via social media. It can be useful to stay current on how various social media platforms are used, and by whom. For example, general wisdom currently has it that Facebook users skew towards the older demographic, whereas younger users tend to use Snapchat. Twitter tends to be where people go to have politically-oriented discussions, while Instagram has become a place where users will find more lifestyle-oriented content. Note that it is always a good idea to double check the current trends on which demographics gravitate towards which social media platforms, and how users tend to interact with those platforms in terms of content type and optimization (i.e. pictures tend to get more views than text alone, while videos get still more views in social media posts; add a puppy or kitten, and views are even more likely to increase! Content type, length, etc., are all factors that will influence your social media reach in very specific, predictable ways). These trends are very dynamic, and thus advocates should stay up to date on the most current snapshot.

In addition to optimizing content on social media, it can be beneficial to understand SEO (search engine optimization). Deliberate SEO initiative can be extremely useful in elevating your messaging to appear in top Google search results when certain search terms are used. In the example of environmental redistricting, this means considering what the most likely search terms are for people interested in learning more about the intersection of environmental and redistricting issues. While SEO is a very technical skill which can become extremely expensive rather quickly, simply running likely search terms in Google can be an efficient method of gauging current levels of interest in



**Twitter tends to be where people go to have politically-oriented discussions...**

a particular topic. Google offers very accessible guides on more precise use of their search engine to specify searches to reflect certain geographic areas or time frames, in addition to offering instructions on fun search methods like Google image search. These tools are available for free to anyone with an internet connection and can all be rather useful in assessing the landscape for your advocacy work.

This text is, of course, meant to offer a variety of options for advocates, not prescribe necessary digital communications for successful redistricting advocacy. Any efforts that can be made to establish a digital presence on various platforms, such as a trending hashtag on Twitter or viral internet meme, ahead of the issue or new development and over the long game will help advocates with their cause. Advocates should produce quality content (or obtain such content from redistricting fellows or CROWD Academy conveners) that informs the audience of gerrymandering and other redistricting issues and offers solutions to these identified problems. This capacity for effective communication will build trust among targeted audiences.

Additionally, we should partner with other organizations to hold forums, community events. Large events will help to spread the word about shared narrative. These events can entice more media coverage of redistricting and community engagement in redistricting. These events can be utilized to tell the stories of people impacted by redistricting-related issues.

Finally, redistricting advocates should also consider signing on to letters addressing redistricting related issues, particularly those addressed to legislative leaders. While discussed in the legislative advocacy strategy chapter, the attendance of meetings in large numbers can also be a powerful communication strategy, especially when documented well, either by or for local media outlets.

**Advocates should produce quality content ... that informs the audience of gerrymandering and other redistricting issues and offers solutions to these identified problems.**





## Story-telling to Control the Narrative

Regardless of the way in which a community attempts to influence the redistricting narrative, it is very effective to utilize elements of storytelling to reinforce the chosen narrative. The following are important story-telling components to incorporate into any narrative:

### The Conflict

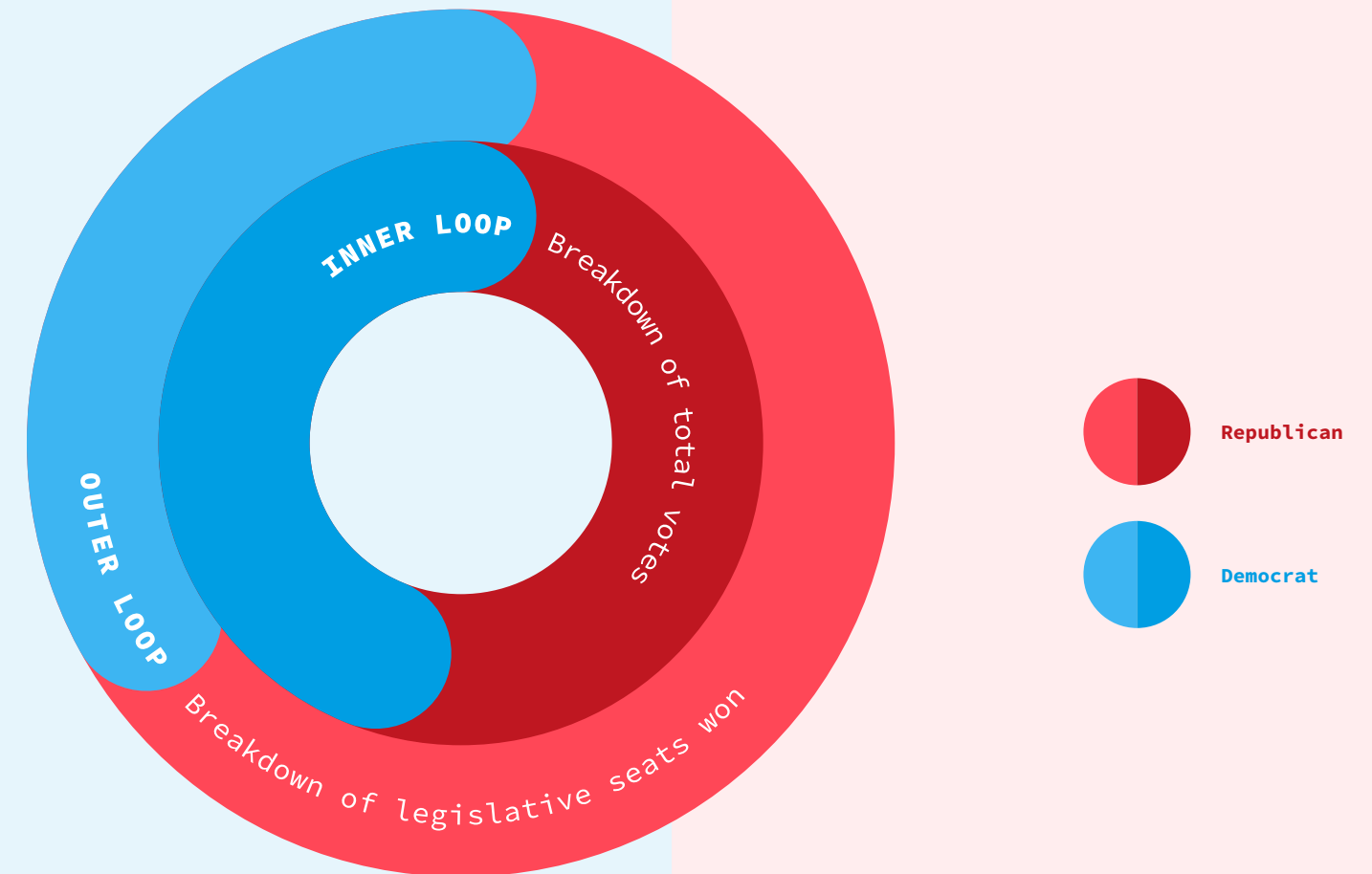
The "conflict" is the backbone of narrative: what defines the drama, point of view, and makes the story interesting. The conflict here may concern the gutting of the Voting Rights Act and/or the history of voting maps being drawn unfairly, particularly to the disadvantage of communities of color. The dilution of voting power that gerrymandering creates for voters forced to cast a ballot in an unfairly-drawn district defines the drama surrounding this conflict. As a result, representatives responsible for making decisions that are important to their constituents are allowed to ignore their constituents' demands because there is no fear of being voted out of office.

### The Characters

The "characters" are the subjects, protagonists, and narrators of stories. The protagonists are the voters in the South, in the particular state, or in the particular county or town that are at risk of having their vote silenced. In many ways, the protagonists of the narrative are the same individuals who constitute our audience: the individuals that are interested in learning more about redistricting and ensuring that it is done fairly in their community. The subjects include the history of gerrymandering and its impact on the country, layers of protection such as Section 5 of the Voting Rights Act being eroded over time, the latest United States Supreme Court decision failing to provide protection for voters, and lastly, options for addressing this issue. CROWD Academy attendees, fellows, community advocates and partner organizations are the narrators of the story. These individuals and groups have been fighting these issues for decades and have witnessed the impact of maps being drawn unfairly.



**CROWD Academy attendees, fellows, community advocates and partner organizations are the narrators of the story.**



### Imagery

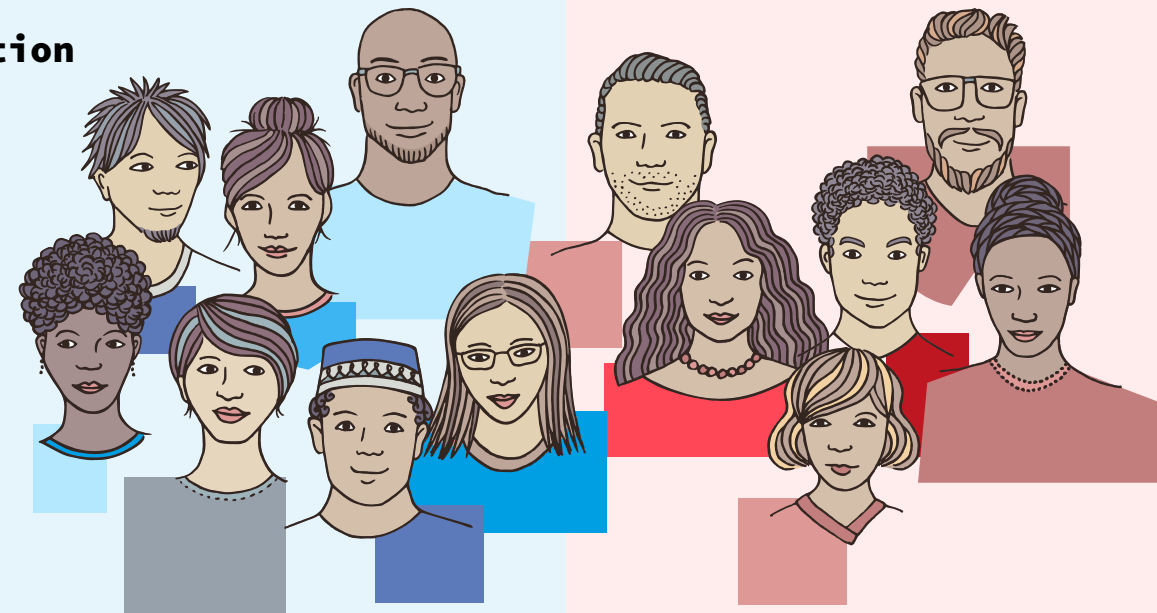
"Imagery" is language designed to capture imagination with metaphor, anecdote, and descriptions that speak to the senses and make the story tangible. The maps themselves are powerful images that can be used to narrate this story. Diagrams and graphics, like the ones above, can be powerful in showing, for example, how many seats the dominant political party or racial group that controls the legislative body has obtained despite voter turnout.

### Foreshadowing

"Foreshadowing" involves the ways that a story provides hints to its outcome. The history of gerrymandering foreshadows the potential for even more people to be disenfranchised if nothing is done to make certain that redistricting is done fairly. For example, the courts have often been inadequate safeguards for communities of color. Absent intervention—here, increased community engagement and oversight—that detrimental trend could be reasonably expected to continue, resulting in a loss of so many of the representational gains made by voters of color over the last few decades.

# Gerrymandering in NC

## 2010 Election



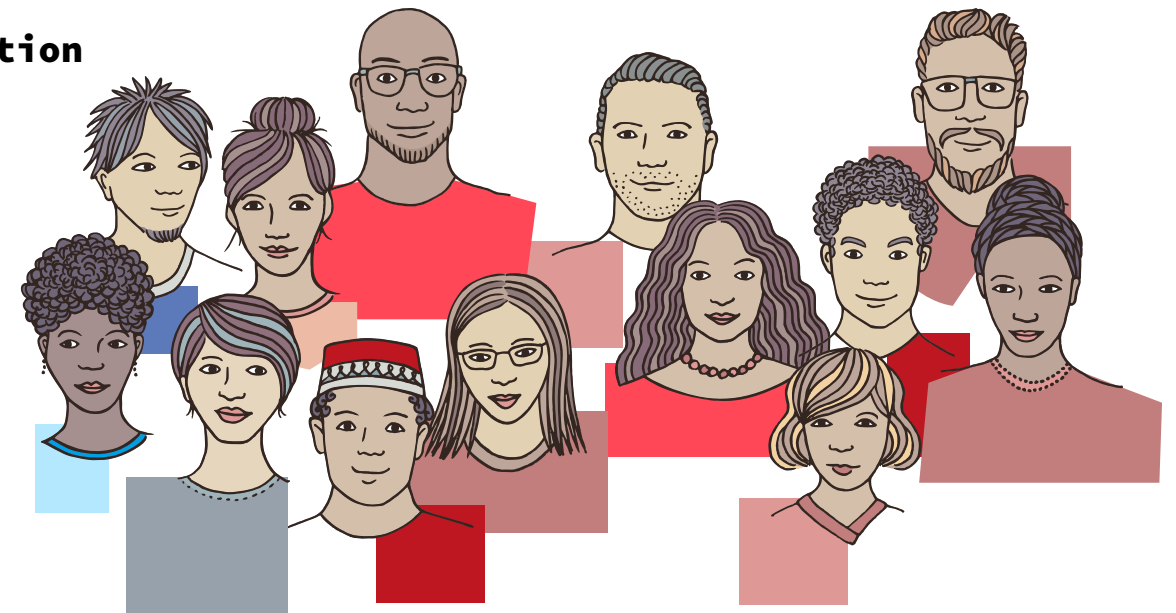
7 Congressional Seats 45 % Democratic Votes

6 Congressional Seats 54 % Republican Votes

### Underlying Assumptions

Lastly, "underlying assumptions" are unstated parts of the story that must be accepted in order to believe the narrative is true. One underlying assumption is that some politicians currently in power have demonstrated the capability to draw maps unfairly and silence those that will not vote for them in order to retain power. Voters have to check their power otherwise even more votes could be suppressed than the previous decade. Advocates and communicators should be aware of the underlying assumptions they are relying upon and those they may need to rebut.

## 2018 Election



3 Congressional Seats 48.4 % Democratic Votes

10 Congressional Seats 50.03 % Republican Votes

# Glossary

## A

**Abridgement** the act or process of abridging; to reduce or lessen in duration, scope, authority, etc.; diminish; curtail.

## B

**Bivariate Ecological Regression Analysis** a statistical process that can also estimate how races or ethnicities vote using aggregate levels of areas, such as precincts.

## C

**Case Law** the collection of past legal decisions written by courts and similar tribunals in the course of deciding cases, in which the law was analyzed using these cases to resolve ambiguities for deciding current cases.

**Census-Designated Place (CDP)** a concentration of population defined by the United States Census Bureau for statistical purposes only.

**Coalition District** where more than one protected minority groups are combined to form a majority in a district.

**Communities of Interest** refers to a group of people with a common set of concerns that may be affected by legislation. Examples of communities of interest include ethnic, racial, and economic groups and can vary by state.

**Compactness** refers to the principle that the constituents residing within an electoral district should live as near to one another as possible. Compactness can be measured as a ratio of the circumference of a district and its total area

**Comparative Analysis (Benchmark Plan)** this technique compares the proposed plan to another plan (or multiple plans), which in most cases, is the plan currently in effect.

**Contiguity** All parts of a single district must be connected to the rest of the district. It refers to the rule that electoral districts in a state be physically adjacent. A district is considered contiguous if all parts of the district are in physical contact with some other part of the district.

**Cracking** refers to dividing a minority voting group into two or more districts with the effect of diluting minority voting strength and rendering voters of color unable to elect their candidate of choice in any district

**Crossover District** a district in which a minority group does

not constitute a majority, but the group's voters still have an opportunity to elect their preferred candidate, in this case due to predictable levels of support from the typically white voters in the majority.

**Cumulative Voting** allows as many votes as there are candidates.

## D

**Declination** determines the difference in how a party's vote fraction changes between districts it won and districts it lost.

**Disaggregating** to separate (an aggregate or mass) into its component parts; reveal patterns that can be masked by larger, aggregate data

## E

**Ecological Inference Analysis** uses even more information about each precinct than bivariate ecological regression analysis by incorporating the method of bounds into the calculation of the estimates.

**Efficiency Gap** calculates the difference in the number of votes wasted by each party.

**Electoral District** a territorial subdivision for electing members to a legislative body. Ex., election district, legislative district, voting district, constituency, riding, ward, division, precinct, electoral area, circumscription, or electorate.

**Endogenous Election** one that occurs in the jurisdiction at issue in a VRA Section 2 case.

**Equal Vote Weight** computes the difference between a party's median value district vote count and mean (average) district vote count.

**Exogenous Election** one that overlaps geographically with, but is unrelated to the jurisdiction at issue.

## F

**File Transfer Protocol (FTP) Site** Computer that allows downloading (and uploading in some cases) of files by the use of an FTP site over the internet.

## G

**Geographic Files (e.g. shapefile)** files that are joined with the tabulation files in order to attach demographic information to a specific location on a map.

## H

**Homogeneous Precinct Analysis** The simplest method for estimating voting behavior by race/ethnicity is to com-

pare voting patterns in "homogeneous precincts" – that is, election precincts that are composed of a single racial/ethnic group.

## I

**Incumbent** an official who is currently holding office.

**Influence District** a district in which minority voters are not a majority and do not have an opportunity to elect their candidate of choice, but they do have an opportunity to help choose the winner from among the majority white or Anglo (and sometimes other) candidates contesting that election.

## L

**Limited Voting** voters have fewer votes than there are office seats.

## M

**Maximum Deviation** is the range by which the most over-represented constituency differs from the most underrepresented constituency.

**Method of Bounds** is used in combination with maximum likelihood statistics to produce estimates of voting patterns by race.

## O

**One Person One Vote (OPOV)** the principal that the Equal Protection Clause of the United States Constitution requires legislative voting districts to have about the same population.

## P

**Packing** concentrating the opposing party's voting power in one district to reduce their voting power in other surrounding districts.

**Partisan Symmetry** estimates the number of seats won based upon the number of votes for a party.

**Persuasive Authority** legal writings that may help guide a court in reaching a decision, but which are not binding.

**Point Contiguity** In this variation, two parts of a district are connected only by a single point.

**Political Boundaries** the boundaries of other governments, such as cities, towns, or counties, and political divisions, such as city council wards or state legislative districts. In drawing electoral districts, a state may take these political boundaries into account in order to keep existing constituencies within one district rather than splitting them across multiple districts.

**Political Subdivisions** are local governments created by the states to help fulfill their obligations. They include counties, cities, towns, villages, and special districts such as school districts, water districts, park districts, and airport districts.

**Precedent** is a principle or rule established in a previous legal case that is either binding on or persuasive for a court or other tribunal when deciding subsequent cases with similar issues or facts. (See, Case Law)

**Preservation of Cores of Prior Districts** refers to maintaining districts as previously drawn, to the extent possible. This leads to continuity of representation.

**Prima Facie Case** a case in which the evidence produced is sufficient to enable a decision or verdict to be made unless the evidence is rebutted.

## R

**Racially Polarized Voting** exists when voters of different racial or ethnic backgrounds exercise distinct candidate preferences in an election.

**Reapportionment** the reassignment of representatives proportionally among the states in accordance with changes in population distribution

**Responsiveness** estimates the change in the number of seats that are won based upon the change in the number of votes for a party.

**Rough Proportionality** determines "whether minorities have the opportunity to elect representatives of their choice in a number of districts roughly proportional to the percentage of minority voters in the population as a whole.

## S

**Satellite Annexations** This occurs primarily in municipal redistricting, where an incorporated municipality has one or more "satellite annexations" that are not contiguous with the primary corporate limits.

**Stacking** Stacking occurs when lower turnout minority voters are included in a district which has the appearance of being majority-minority (viewing voting age population).

**State Legislative Districts** Up to a ten percentage point deviation, under certain circumstances.

**Statutory Laws** is the term used to define written laws, usually enacted by a legislative body.

**Strict Scrutiny** is the most stringent level of scrutiny applied by the courts to determine if there is an equal protection violation.

## T

**Tabulation Files** contain the demographic data collected by the Census, which are presented in four tables.

**Totality of Circumstances** A test originally formulated to evaluate whether a defendant's constitutional rights were violated in the eliciting of a confession. It concentrates on looking at all the circumstances surrounding the alleged violation.

## V

**Voting Age Population (VAP)** refers to the set of individuals that have reached the minimum voting age for a particular geographical or political unit.

**Voting Rights Act (VRA) of 1965** a landmark piece of federal legislation in the United States that prohibits racial discrimination in voting.

**Voting Tabulation District (VTD)** the wide variety of small polling areas, such as election districts, precincts, or wards, that State and local governments create for the purpose of administering elections.

## W

**Water Contiguity** Some districts have multiple areas completely separated by water with no connection by land, however this is generally accepted as contiguous for the purposes of redistricting





Districting  
of the People,  
by the People,  
for the People.