



A PUBLIC POLICY JOURNAL
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Inland Empire Counts

We begin this issue of the *Inland Empire Outlook* with an overview of the Rose Institute of State and Local Government's Video Voter: A Guide to California Ballot Measures, a set of videos and papers explaining the twelve California ballot measures. We present here a compact guide to the measures, but have on our website a detailed background paper and a video explaining each ballot proposition. Student research assistants produce the background papers and videos.

The balance of this issue of the *Inland Empire Outlook* examines various issues related to the 2020 Census and the reapportionment and redistricting that will follow. First, we present an article reviewing a number of the important Supreme Court cases on redistricting. While not an exhaustive review, it discusses a number of the important cases to illustrate how the law on redistricting has developed over time.

Next we look at how population growth has varied across the country and which states are likely to lose and gain seats in Congress. Twenty-six states spent nearly \$350 million in outreach to bolster the census count in their

states. California (\$187 million) and New York (\$60 million), both expected to lose at least one seat each, spent the largest amounts.

After that we examine the extensive outreach efforts in the Inland Empire to publicize the 2020 Census and encourage participation. San Bernardino County and Riverside County launched a joint program to ensure a complete count of the region.

Our final article takes up the unique challenges of counting people who are dealing with homelessness. Local governments across the county have developed strategies to count their homeless populations and the Census Bureau coordinated with local officials to improve this count. We outline some of the strategies used by San Francisco, Los Angeles, Riverside, and San Bernardino Counties.

We hope you find this edition of *Inland Empire Outlook* a useful guide. Please visit our website, www.RoseInstitute.org, for much more information on the 2020 ballot measures and other Rose Institute research. ♦

VIDEO VOTER: A GUIDE TO CALIFORNIA BALLOT MEASURES

VIDEO VOTER SERIES 2020



ROSE INSTITUTE
OF STATE AND LOCAL GOVERNMENT
CLAREMONT MCKENNA COLLEGE

California voters will be confronted with twelve ballot propositions this November. The Rose Institute of State and Local Government's *Video Voter: A Guide to California Ballot Measures* is designed to help voters make informed decisions on each of these measures. The non-partisan project explains each ballot measure with an educational video and a brief written analysis. Both make clear what a yes or no vote means, present major arguments from both proponents and opponents, and identify main supporters and opponents. *Video Voter: A Guide to California Ballot Measures* is available at www.RoseInstitute.org.

Eight of the measures Californians will consider in this election cycle were put on the ballot by petition signatures. For ballot measures classified as initiative statutes, organizers must obtain signatures equivalent to either 5% of the votes cast in the most recent gubernatorial election for initiatives and referenda, or 8% for constitutional amendments. The number of signatures required is 997,139 for a constitutional amendment and 623,212 for a statute. Of the eight measures qualifying by petition signatures, six are classified as initiative statutes, including measures increasing penalties for some crimes, allowing local

governments to expand rent control, and designating drivers for app-based companies as independent contractors rather than employees. One measure is classified as an initiative constitutional amendment. It would repeal some of the Prop 13 property tax limits for commercial and industrial properties. One measure is a referendum asking voters to adopt or reject a 2018 law eliminating California's cash bail system.

The second way to place a measure on the ballot is by legislative referral. Four of the 2020 ballot measures are amendments to the California Constitution placed on the ballot by the legislature. The most high-profile of these would repeal a 1996 measure that banned affirmative action by governments, public universities and other public entities. Another closely followed measure would change the commercial and industrial property tax system to be based on current market value rather than original purchase price.

Ken Miller, Associate Director of the Rose Institute and a member of the Government Department at Claremont McKenna College, was in charge of the

project. CMC junior Maya Ghosh led a team of eight undergraduate students to research and produce the twelve videos. They also wrote short background pa-

pers analyzing each video. Read the backgrounders and watch the videos at www.RoseInstitute.org

TAXES AND BORROWING

Prop	Description	Supporting	Opposing
14	Authorizes \$5.5 billion in new general obligation bonds for the California Institute for Regenerative Medicine.	<ul style="list-style-type: none"> • University of California Board of Regents • Medical research center • ALS Association • American Diabetes Association • Parkinson’s Foundation • National Medical Association 	<ul style="list-style-type: none"> • Marcy Darnovsky, Center for Genetics an Society • No on Proposition 14 • <i>Orange County Register</i> • <i>Mercury News</i>
15	Requires that owners of commercial and industrial properties worth more than \$3 million be taxed based on the properties’ current market value rather than based on the property’s purchase price.	<ul style="list-style-type: none"> • Governor Gavin Newsom (D) • Other statewide elected officials • Many school districts and other local governments • California Democratic Party • Organized labor 	<ul style="list-style-type: none"> • California Business Roundtable • California Chamber of Commerce • California Taxpayers Association • Howard Jarvis Taxpayers Association • California Republican Party
19	Changes special property tax assessment rules for eligible homeowners and inherited property. <ul style="list-style-type: none"> • Expands an existing benefit for seniors, the severely disabled, and victims of wild-fires and natural disasters, by letting them transfer the taxable value on their primary residence to a new property when they move anywhere in California. • Narrows the existing benefit for inherited properties. 	<ul style="list-style-type: none"> • California Association of Realtor • California Professional Firefighters • Various local governments, business and real estate groups 	<ul style="list-style-type: none"> • The Howard Jarvis Taxpayers Association • Assemblyman Ken Cooley (D-Rancho Cordova) • Senator Patricia Bates (R-Laguna Niguel)



Image from Flickr

REGULATIONS ON BUSINESS AND THE ECONOMY

PROP	DESCRIPTION	SUPPORTING	OPPOSING
21	Expands local governments' authority to impose rent control measures on residential properties.	<ul style="list-style-type: none"> • AIDS Healthcare Foundation (AHF) • SEIU of California • Housing Is A Human Right (HHR) • Yes on 21 – Renters and Homeowners United to Keep Families in Their Homes • California Democratic Party • Senator Bernie Sanders (D-Vermont) • Our Revolution • Rep. Maxine Waters (D-CA) • Dolores Huerta Foundation 	<ul style="list-style-type: none"> • Governor Gavin Newsom (D) • California Building Industry Association • Building Trades Unions • Veterans Groups • California Chamber of Commerce • Congress of California Seniors • California Rental Housing Association • CA Republican Party
22	Designates app-based rideshare and delivery drivers as independent contractors, rather than employees	<ul style="list-style-type: none"> • California Chamber of Commerce • California Small Business Association • California Black Chamber of Commerce • California Hispanic Chambers of Commerce • CalAsian Chamber of Commerce • California Taxpayer Protection Committee • California-Hawaii State Conference of the NAACP and nine local NAACP chapters • California Police Chiefs Association • California State Sheriffs' Association • Crime Victims United of California • California Peace Officers Association 	<ul style="list-style-type: none"> • International Brotherhood of Teamsters • California Labor Federation, AFL-CIO • Gig Workers Rising • SEIU California State Council • State Building and Construction Trades Council of California • Transport Workers Union of America • United Food and Commercial Workers Western States Council • UNITE HERE • California Teachers Association • Assembly Speaker Anthony Rendon • U.S. Sen. Kamala Harris (D) • Former Vice President Joe Biden • U.S. Sen. Elizabeth Warren (D)



Image by Gerd Atlmann from Pixabay

CRIMINAL JUSTICE

PROP	DESCRIPTION	SUPPORTING	OPPOSING
20	<p>Revises four criminal justice statutes.</p> <ul style="list-style-type: none"> • Increases penalties for some crimes. Revises process for early release of certain inmates. • Changes how people released from prison are supervised in the community • Changes the process considering the release of inmates from prison. • Expands DNA collection from adults for certain misdemeanors. 	<ul style="list-style-type: none"> • Crime Survivors, Inc. • Crime Victims United of California • Crime Victims Alliance • Keep California Safe • Orange County Board of Supervisors • Albertsons Safeway • Peace Officers Research Association of California • Association for Los Angeles Deputy Sheriffs • Los Angeles Police Protective League 	<ul style="list-style-type: none"> • Former governor Jerry Brown (D) • SEIU California State Council • California Labor Federation • Chief Probation Officers of California • ACLU of Northern California • Crime Survivors for Safety and Justice • California Partnership to End Domestic Violence
25	<p>Abolishes cash bail in California.</p>	<ul style="list-style-type: none"> • Governor Gavin Newsom (D) • State Senator Robert Hertzberg (D-Van Nuys) (author of SB 10) • Other Democratic elected officials • California Democratic Party • California Public Defenders Association • Western Center on Law and Poverty Violence 	<ul style="list-style-type: none"> • The bail industry • California Peace Officers Association • District attorneys and sheriffs from a majority of counties • Crime Victims United • NAACP • Howard Jarvis Taxpayers Association



Image from Adobe Stock

HEALTHCARE

PROP	DESCRIPTION	SUPPORTING	OPPOSING
23	Establishes new regulations for chronic dialysis clinics in California.	<ul style="list-style-type: none"> • SEIU United Health Care Workers West • California Labor Federation • California Democratic Party 	<ul style="list-style-type: none"> • DaVita Inc. • Fresenius Medical Care • U.S. Renal Care, Inc. • California Medical Association • Chronic Disease Coalition • Minority Health Institute • California Senior Advocates League • AMVETS Department of California • American Legion Department of California • California NAACP State Conference • Women Voters Alliance

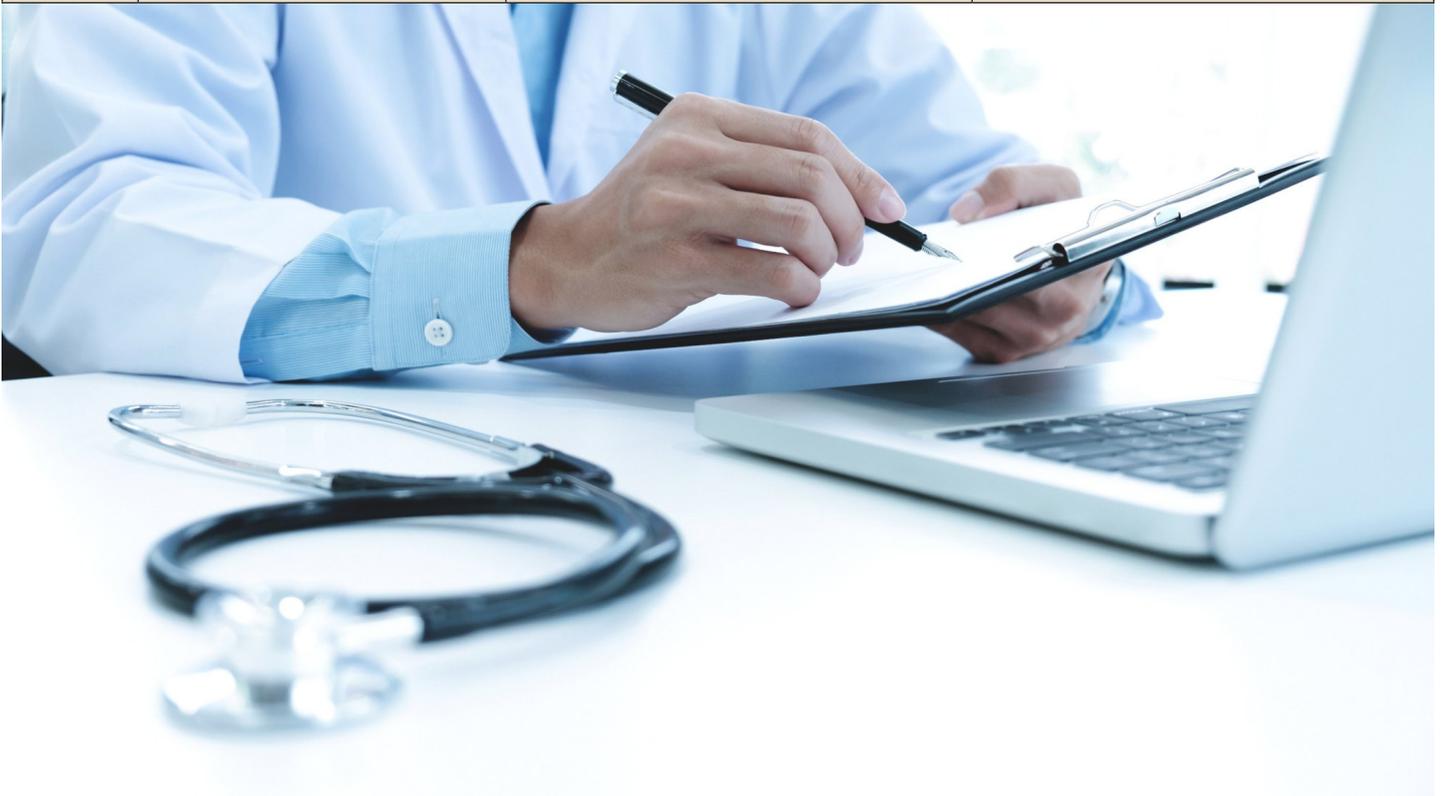
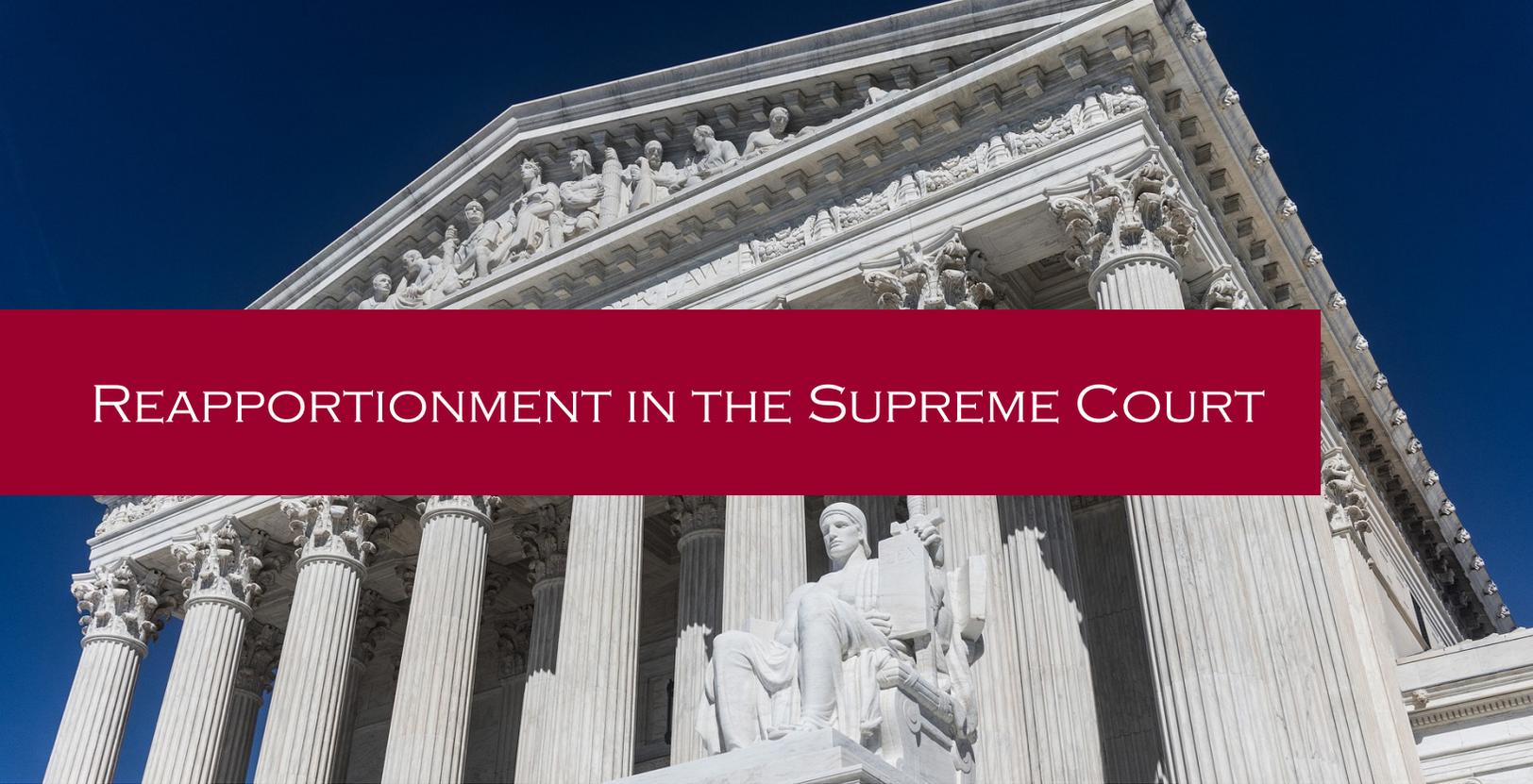


Image from Flickr

OTHER MEASURES

PROP	DESCRIPTION	SUPPORTING	OPPOSING
16	<p>Repeals a 1996 state constitutional amendment requiring that “the state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.”</p> <p>Allows governments, public universities, and other public entities to develop and implement affirmative action programs on the basis of the above characteristics.</p>	<ul style="list-style-type: none"> • U.S. Senator Kamala Harris (D) • Governor Gavin Newsom (D) • Most statewide elected officials • U.C. Board of Regents • Labor organizations • California Democratic Party 	<ul style="list-style-type: none"> • Senator Ling Ling Chang (R-Diamond Bar) • Senator Jim Nielsen (R-Tehama) • Ward Connerly, Californians for Equal Rights • Former Congressman Darrell Issa (R-San Diego) • Chinese American Civic Action Alliance • California Republican Party • Students for Fair Admissions
17	<p>Amends the California Constitution to restore the right of persons convicted of a felony to vote after they are released from state prison and while they are still on parole.</p>	<ul style="list-style-type: none"> • U.S. Senator Kamala Harris (D) • Secretary of State Alex Padilla (D) • California Democratic Party • The ACLU of California • The League of Women Voters of California 	<ul style="list-style-type: none"> • Senator Jim Nielsen (R-Tehana) • California Republican Party
18	<p>Allows 17-year-olds to vote in primary and special elections if they will turn 18 years old by the time of the general election.</p>	<ul style="list-style-type: none"> • Secretary of State Alex Padilla (D) • California Association of Student Councils • League of Women Voters of California • California Democratic Party 	<ul style="list-style-type: none"> • Election Integrity Project, California • Howard Jarvis Taxpayers Association • California Republican Party
24	<p>Amends existing consumer data privacy laws, creates new consumer privacy rights, and establishes the California Privacy Protection Agency to implement and enforce these rights.</p>	<ul style="list-style-type: none"> • Consumer Watchdog • Consumer Action • NAACP • Common Sense • State Senator Robert Hertzberg (D-Van Nuys) • Former presidential candidate Andrew Yang (D) 	<ul style="list-style-type: none"> • ACLU of California • Consumer Federation of California • Public Citizen • Media Alliance • California Republican Party



REAPPORTIONMENT IN THE SUPREME COURT

BY JACOB LEISCHNER '21

Image by Mark Thomas from Pixabay

The right to vote, and have that vote heard, is one of the most fundamental principles of the American republic. Every ten years - following the decennial census - states engage in the process of redistricting, where new district lines are drawn in accordance with newly apportioned congressional seats. As redistricting has such a significant impact on one of our most important rights the subject has naturally come before the Supreme Court a number of times, most recently in 2018 in *Benisek v. Lamone*. Redistricting cases turn on complex questions involving separation of powers, line-drawing responsibility, partisanship, race or a combination of these and other factors. While an exhaustive review of all Supreme Court cases on redistricting is beyond the scope of this article, it will review a number of the important cases to illustrate how the law on redistricting has developed. This article will first discuss some of the earliest Supreme Court rulings considering redistricting and trace the development of bedrock doctrine of “one person, one vote.” It will then examine the most significant redistricting cases where the central question revolved around population, race, independent commissions, or partisanship. Finally, this article will conclude with a brief discussion of the most recent cases that have come before the Court. Article 1, Section 2 of the United States Constitution

outlines the requirement that Congressional seats “be apportioned among the several States...according to their respective” populations as determined by the most recent decennial census. Each state, once their number of seats has been determined, is then responsible for redrawing their own legislative and congressional districts. Traditionally, this allowed state legislatures (and thus, the majority party in the legislatures at the time of the census) to have nearly indiscriminate control over district boundaries. As time progressed, the country’s demographics shifted with large swaths of the population migrating from rural towns to emerging cities. Despite this population shift, states routinely failed to reapportion seats, resulting in districts with vastly uneven political influence.

Illinois was a prime example of this phenomenon. In 1946, the Supreme Court heard – for the first time – arguments challenging and defending the constitutionality of district lines in *Colegrove v. Green*. At the time of argument, Illinois had failed to reapportion its districts since 1901 despite significant internal migration. The petitioners were seeking to enjoin the upcoming election until Illinois had redistricted their boundaries. The Court, however, spurned involvement, holding that apportionment was a political question

where the actual “remedy for unfairness in districting is to secure State legislatures that will apportion properly, or to invoke the ample powers of Congress.”

It was with this precedent – that apportionment was outside the Court’s jurisdiction – that the Supreme Court heard *Baker v. Carr* in 1962. The Tennessee General Assembly had similarly neglected to redraw their district boundaries since 1901, despite five intervening census cycles in which they were expected to do so (there was no reapportionment following the 1920 census due to debate and eventual passage of the Reapportionment Act of 1929). Additionally, by 1960 an individual vote in one of Tennessee’s smaller rural counties was equivalent to 19 votes in one of the state’s larger urban counties. While the *Baker v. Carr* case bore many similarities to its predecessor, the decision effectively overturned *Colegrove*. In a 6-2 decision, the Court established the justiciability of constitutional challenges to state reapportionment, based on the Fourteenth Amendment’s Equal Protection Clause. This decision, affirming the role of judicial review over the redistricting process, had far-reaching

consequences. Most tangibly, within the two years following *Baker* 26 states redrew their district lines, and by 1966 (only four years after the decision) judicial pressure helped increase that number to 46 states. Moreover, *Baker* helped lay the groundwork for the later establishment of the now ubiquitous “one person, one vote” doctrine.

In fact, it would be only two years later that the doctrine would be adopted and made concrete precedent by the Court in *Wesberry v. Sanders*. The plaintiffs were citizens of Georgia’s Fifth District. This simple fact of gross malapportionment was enough for the Warren Court to overturn the federal district court’s ruling on the basis that that such population incongruence made the question justiciable. The Court held that Congressional districts must be drawn so that “as nearly as is practicable one man’s vote...is worth as much as another’s.” This precedent was not established on the basis of the Equal Protection Clause, but was found to be required by Article 1, Section 2, the Apportionment Clause of the Constitution.



Census Bureau Director Robert Groves announces apportionment totals and the states that gained and lost seats in the House of Representatives on December 21, 2010.

Source: Census Bureau, <https://www.flickr.com/photos/uscensusbureau/5280376893/in/photostream/>

Later that same year, the Court decided *Reynolds v. Sims*, which only increased the breakneck pace (relatively for the Court) at which the precedent for the justiciability of apportionment cases was being molded. Alabama, similar to Tennessee in *Wesberry*, had not reapportioned their districts since 1903, despite migration and economic developments that resulted in vastly unequal populations across districts. Alabama's largest state senate district had 41 times the voter population of the smallest. The plaintiff argued that this unduly diluted the voting power of some and amplified that of others – effectively disenfranchising heavily populated areas in the state. In his decision, Chief Justice Earl Warren agreed, but this time the basis of the Equal Protection Clause. Warren argued that because the right to vote is a “fundamental political right” it is a prerequisite to political participation and the securing of other rights. Thus, allowing substantial differences in the influence of a vote is unconstitutional. While the Court did not require districts to be exactly mathematically even, deviations from substantially equal districts must have a legitimate and overriding state interest, such as compactness or preserving groups of interest.

These early Supreme Court cases worked in combination to establish the dual precedents of judicial review over reapportionment plans and the “one-person one-vote” doctrine. While any redistricting case would draw on these principles, later cases had more narrow foci and questions. For analytical clarity, the next sections will group cases by subject matter.

Population

Connecticut voters soon put the *Reynolds* decision to the test in *Gaffney v. Cummings* (1973). Following the 1970 census and subsequent line redrawing, Connecticut state senate districts deviated in total population by a factor of 1.81% and Connecticut House districts by 7.83%. Voters again alleged that this deviation violated the Equal Protection Clause in the 14th Amendment, but this time the Court did not agree. This case turned on the idea of “political fairness” and which political boundaries could justify “deviations from perfect population equality.” Justice Brennan, in a prescient dissent, worried that the plans rejected and accepted by the Court set an arbitrary threshold of 10% deviation for justiciability. Successive cases vindicated Brennan's

concern with many decisions (such as *Chapman v. Meier* (1975), *Connor v. Finch* (1977), and *Voinovich v. Quilter* (1993)) explicitly following the very rule Brennan feared the Court established implicitly.

A decade later, the Court heard *Karcher v. Daggett* (1983) and Brennan now found himself in the majority. After the 1980 Census, the outgoing Democratic party majority in New Jersey passed a congressional map that was approved by the also outgoing Democratic governor. While there was only a total deviation of 0.6984% (about 3,674 people) the lines were clearly drawn to preserve and amplify the power of the Democratic party in the state. The majority of the Court delivered three concurring opinions which held that the burden is on challengers of a state plan to show that population differences could have been eliminated. If they can do so, the burden shifts to the state to demonstrate how the “significant variance between districts was necessary to achieve some legitimate state objective.” Brennan outlined these legitimate state objectives (what we now call “traditional redistricting principles”) as compactness, respect for municipal boundaries, preserving the core of prior districts, and avoiding incumbent contests.

Even with the explication of these principles, simple mathematical calculations of population deviations remained an important metric in assessing equality between districts. States - relying on guidance from the *Wesberry and Reynolds* decisions - almost always calculated a district's population proportion as a function of their total population, but *Evenwel v. Abbott* (heard in 2016) challenged this metric. A federal district court had invalidated Texas' 2011 reapportionment plan on the basis of violations to the Voting Rights Act of 1965. The court put forward an interim plan, which was voted on by the state legislature in November 2012, and then was signed into law shortly after. Not long after, some Texas voters challenged the newly adopted interim plan claiming that it violated the Equal Protection Clause and the Court's “one person, one vote” doctrine because districts were drawn based on total population rather than registered voter population. Thus, the plaintiffs argued that districts had extreme unconstitutional variance in the number of registered voters each contained. In a unanimous decision (though only a six-justice majority opinion), Justice

Ginsburg wrote for the Court that the language in the Fourteenth Amendment, the debates surrounding its passage, and the Court’s use of total population in past decisions allowed total population to be a permissible metric in determining district equity. The Court did not preclude the use of other metrics (such as the count of registered voters), but did not invalidate the use of total population.

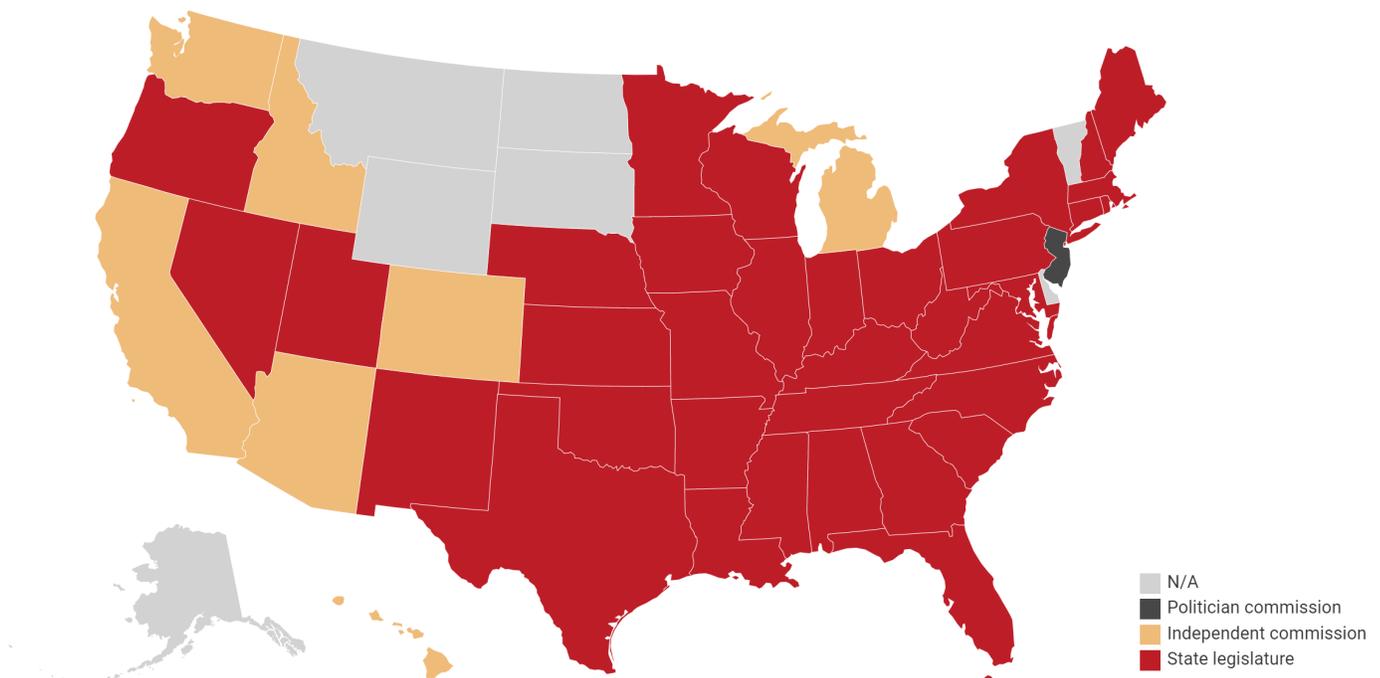
Race

Many of the cases analyzed thus far have been brought forward as violations to the Fourteenth Amendment’s Equal Protection Clause. Redistricting cases as they relate to racial gerrymandering similarly rely on the Equal Protection Clause, but often ask the Court additional questions hinging on the Voting Rights Act. This was the case with *Thornburg v. Gingles* (1986) where Black voters in North Carolina challenged the state General Assembly’s redistricting plan for violating Section 2 of the Voting Rights Act, the Equal Protection Clause, as well as the Fifteenth Amendment. The challengers argued that the redrawn districts unduly diluted the voting power of the state’s Black citizens. The District Court, in agreement with the plaintiffs,

ruled that five of the six districts constituted unlawful discrimination. The Supreme Court unanimously upheld the lower court’s decision. Justice William Brennan Jr. wrote in his opinion that the District Court panel of three judges properly analyzed historical voting data to demonstrate that “minority group members constitute[d] a politically cohesive unit” and that the state’s White voters “vote sufficiently as a bloc usually to defeat the minority’s preferred candidate.” This helped the Supreme Court in turn prove that the North Carolina plan placed “politically cohesive groups of black voters” in districts that were all but sure to regularly defeat Black candidates, a violation of the Voting Rights Act.

Only seven years later, North Carolina’s redistricting plans again came under scrutiny in *Shaw v. Reno*, decided in 1993. Following *Thornburg*, the North Carolina legislature submitted a new reapportionment plan to the Department of Justice for preclearance. It was rejected by the U.S. Attorney General. North Carolina’s next plan created two districts where Black voters would make up the majority, but one of these districts had a “bizarre” shape with sections “no wider than the interstate road along which it stretched.” A group of

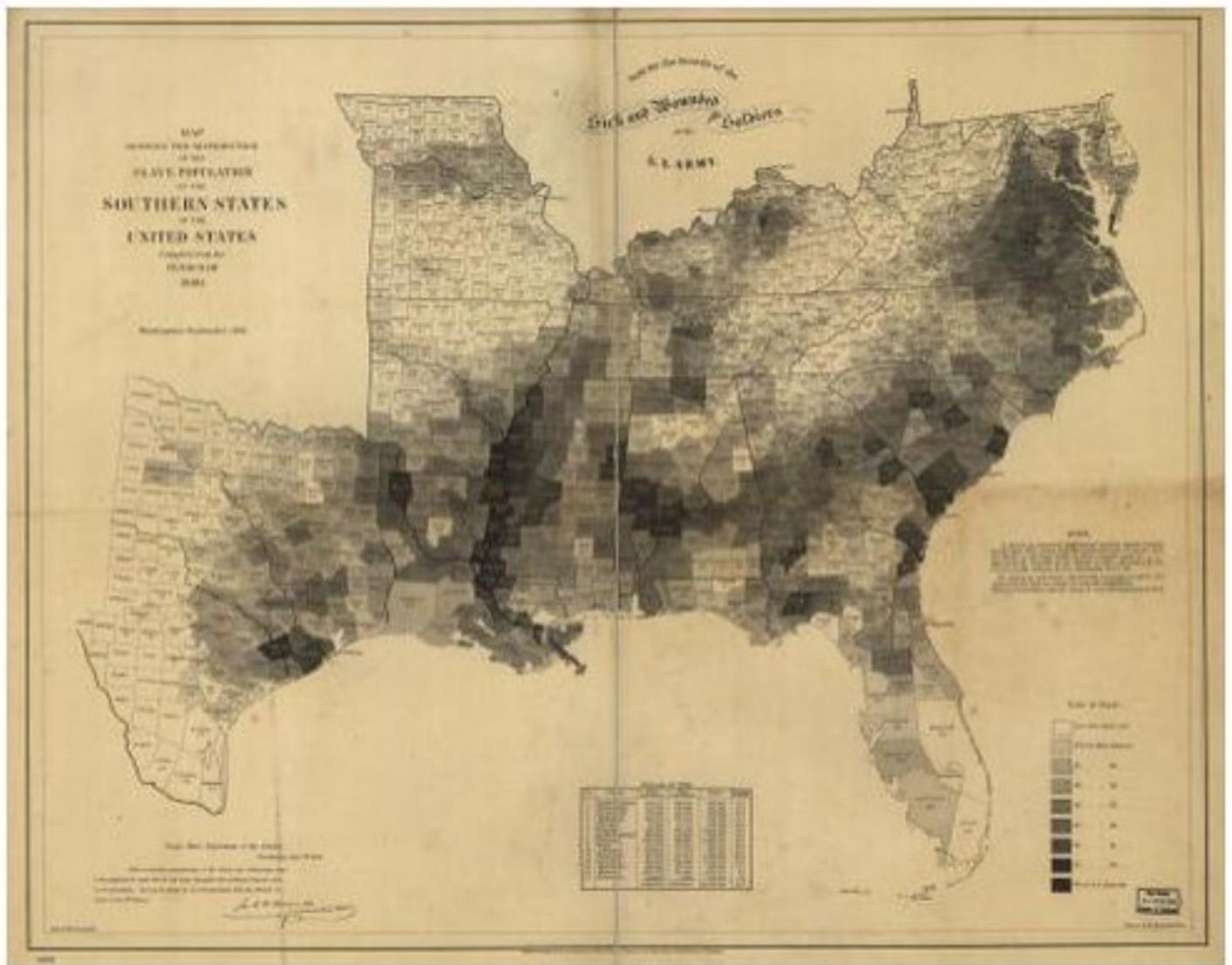
WHO DRAWS THE LINES?



Source: Ballotpedia. https://ballotpedia.org/State-by-state_redistricting_procedures.

North Carolina voters contended that these districts represented unconstitutional racial gerrymandering and thus violated the 14th Amendment's Equal Protection Clause. The Supreme Court ruled in favor of the plaintiffs and held that - despite noble intentions to increase representation - the bizarre shape of the districts seemed to go beyond what would be necessary to secure racial balance in the electorate. The Shaw decision is significant for establishing a precedent to strike down redistricting plans that "cannot be explained on grounds other than race." The Court also established the idea that a district's "bizarre" shape can be a strong, though not conclusive, indication of racial gerrymandering.

Despite *Shaw's* establishment of a racial gerrymandering doctrine, the application of such a doctrine was unclear and led to the Court deciding *Miller v. Johnson* in 1995. Subsequent to the 1990 census, Georgia gained an additional congressional seat. Prior to the 1990 census, Georgia had ten districts only one of which had a Black voter majority despite Black citizens making up 27% of the state's population. With the addition of a new seat (and thus a new district), Georgia was able to create a second majority-Black district. This new district, however, was widely panned as it stretched nearly 6,800 miles without much consideration for the disparate communities it now joined together. Plaintiffs argued that this district was a racial gerrymander, challenging the state's redistricting efforts as a violation of the Fourteenth Amendment's Equal Protection Clause.



Based on data from the 1860 census, this map was the Census Bureau's first attempt to map population density.

Source: Census Bureau, <https://www.flickr.com/photos/uscensusbureau/5579061109/>

Clarifying the *Shaw* rule, the Supreme Court held that a reapportionment map with “irregular borders” could be ample evidence that “race was the overriding and predominant force in the districting determination” - a violation of the Equal Protection Clause. The Court further affirmed that racial gerrymandering claims should be analyzed on a district-by-district basis, not by the entirety of the state, in *Alabama Legislative Black Caucus v Alabama* in 2015.

Independent Commissions

Clearly, there are significant and pressing issues that arise when political actors and bodies are imbued with the power to redraw their own districts. Recognizing these potential pitfalls, a number of states moved redistricting responsibilities to independent commissions. Independent redistricting commissions are either non- or bipartisan, are separate from the political system for which the lines will be used, and are tasked with balancing mathematical equity and traditional redistricting principles. The first state to establish such a commission was Arkansas in 1956 through an amendment to the state constitution proposed and voted on by the state legislature. Currently, 16 states use independent commissions to draw their new district lines or to advise and oversee lawmakers as they draw them.

In 2000, Arizona voters passed a citizen initiative that created an independent redistricting commission to draw congressional and legislative districts. Fifteen years later, the Arizona Legislature challenged the existence of the commission by defending the idea that only Congress and state legislatures have the constitutional power to redistrict as described in the Elections Clause. In the aptly named *Arizona State Legislature v. Arizona Independent Redistricting Commission* (2015), the Supreme Court sided with the commission and voters. It held that “Legislature” in the Elections Clause is not literally applicable when state constitutions have provisions for the people to circumvent it and pass laws directly, as is the case with Arizona’s ballot initiative process.

Partisanship

Many more states, however, do not have independent redistricting commissions and the question of partisan

gerrymandering is often raised. Gerrymandering is the act of redrawing political boundaries to favor one party over another, and can be a significant concern when incumbents are tasked with drawing their own districts. This was the question before the Court in *Davis v. Bandemer* (1986), where Indiana Democrats maintained that the legislative lines drawn in the state’s 1981 plan unduly favored the Republican party. The Supreme Court decided two key points: the justiciability of gerrymandering claims and the standard by which to judge such claims. Beginning with justiciability, the Court held that partisan gerrymandering claims were justiciable because there were salient questions of law, not politics alone. However, Justice White in his majority opinion, added the caveat that those challenging redistricting plans on these grounds had to demonstrate the intent to discriminate on the part of the line-drawers. Simply showing discriminatory effect would not be enough to meet this standard.

From *Bandemer* to 2004 when the Court decided *Vieth v. Jubelirer* (a period of nearly 20 years), no petitioner was able to demonstrate discriminatory intent in the way *Bandemer* required. Similarly, no lower court was able to create a manageable alternative standard.

It was with this discourse on precedent that the Court heard arguments for *Jubelirer*. Following the 2000 census, Pennsylvania was set to lose two Congressional seats. The Republican party (the majority party in the legislature) adopted redrawn lines which would clearly benefit Republican incumbents. A plurality of the Court (a split decision with no majority opinion) held that such partisan gerrymandering claims were not justiciable - overturning the *Bandemer* standard. Four justices justified their decision on the inability of the 14th Amendment to address questions of partisan gerrymandering, but Kennedy argued that partisan claims could potentially be brought forward under the First Amendment. While this case closed the door on cases looking to overturn politically (though not racially) gerrymandered maps on the basis of “one-person, one-vote,” it offered the hope that a judicial solution could be found eventually.

Recent Decisions

Despite the Court’s ruling in *Jubelirer*, cases continue to challenge redistricting plans on political grounds.

Redrawing district lines inherently involves questions of population, party affiliation, race, and responsibility so redistricting cases will continue to make their way before the Supreme Court. This concluding section will address how current redistricting arrangements reflect the Court's historical precedent, and then review some of the most recent cases on redistricting.

For the majority of states, lines are redrawn by their respective state legislatures. In fact, only 16 states use independent, nonpartisan commissions - of the type in question in *Arizona State Legislature v. Arizona Independent Redistricting Commission* - for redistricting. California is one such state. In 2008, California voters approved Proposition 11 (the Voters First Act) which established a redistricting commission comprised of five Democrats, five Republicans, and four non-party-affiliated individuals. The California Citizens Redistricting Commission was responsible for drawing the lines following the 2010 Census.

The number of states relying on commissions may grow this November, with states like Virginia and local governments like Monroe County in New York voting on amendments to require the use of an independent redistricting commission. However, independent commissions are not a one size fits all model. Ohio, for example, utilizes an independent commission, but requires a three-fifths majority vote in the legislature with support from at least half of the minority party for

a new map to pass. Some states have also opted to not use independent commissions and find other ways to reduce partisanship in the process. Missouri requires a "nonpartisan state demographer" to draft maps, which are then submitted for approval to two nonpartisan commissions, with nominees from each party and the governor having exclusive selection power.

Most recently, the Court heard the landmark case *Rucho v. Common Cause* and released an equally landmark decision in 2019. Returning to North Carolina, two organizations (Common Cause and the League of Women Voters of North Carolina) filed suit against the state's 2016 congressional map arguing that it constituted a partisan gerrymander. The district court enjoined the use of the map after November 2018, but their decision was quickly appealed to the Supreme Court. The Court not only was set to consider if the map constituted a partisan gerrymander, but also whether the plaintiffs had standing and whether the claim was judiciable at all. The Court only had to answer one of these three questions. In a 5-4 decision, the Supreme Court held that partisan gerrymandering is a political question that cannot be considered by courts and is thus nonjusticiable. Chief Justice Roberts, in his majority opinion, contended that the framers were aware of the problem of gerrymandering and explicitly imbued state legislatures with reapportionment powers, which are "expressly checked and balanced by the Federal Congress," not the courts. ♦

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POPULATION AND REAPPORTIONMENT

BY KATHERINE ADELMAN '21

Image by Gerd Altmann from Pixabay

Article 1, Section 2 of the United States Constitution directs Congress to apportion representatives among the states according to their respective numbers. “The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct.” Thomas Jefferson, then the Secretary of State, directed the country’s first census in 1790. Marshalls of the U.S. judicial districts conducted the census in the original thirteen states as well as the districts of Kentucky, Maine, Vermont, and the Southwest Territory (Tennessee). The nation’s first census day was August 2, 1790 and we have conducted a national count every ten years since then.

The census is crucial because it helps the government accurately distribute funds, maintain public facilities, provide adequate health and safety resources, and reapportion congressional and statehouse seats. Because it directly affects congressional representation, reapportionment is one of the most visible results of the census.

After every census, there is a reshuffling of seats as states gain or lose representatives as a result of population shifts. Every state is entitled to at least one seat in the House, with the remaining 385 seats allocated based on each state's population. Apportionment is the

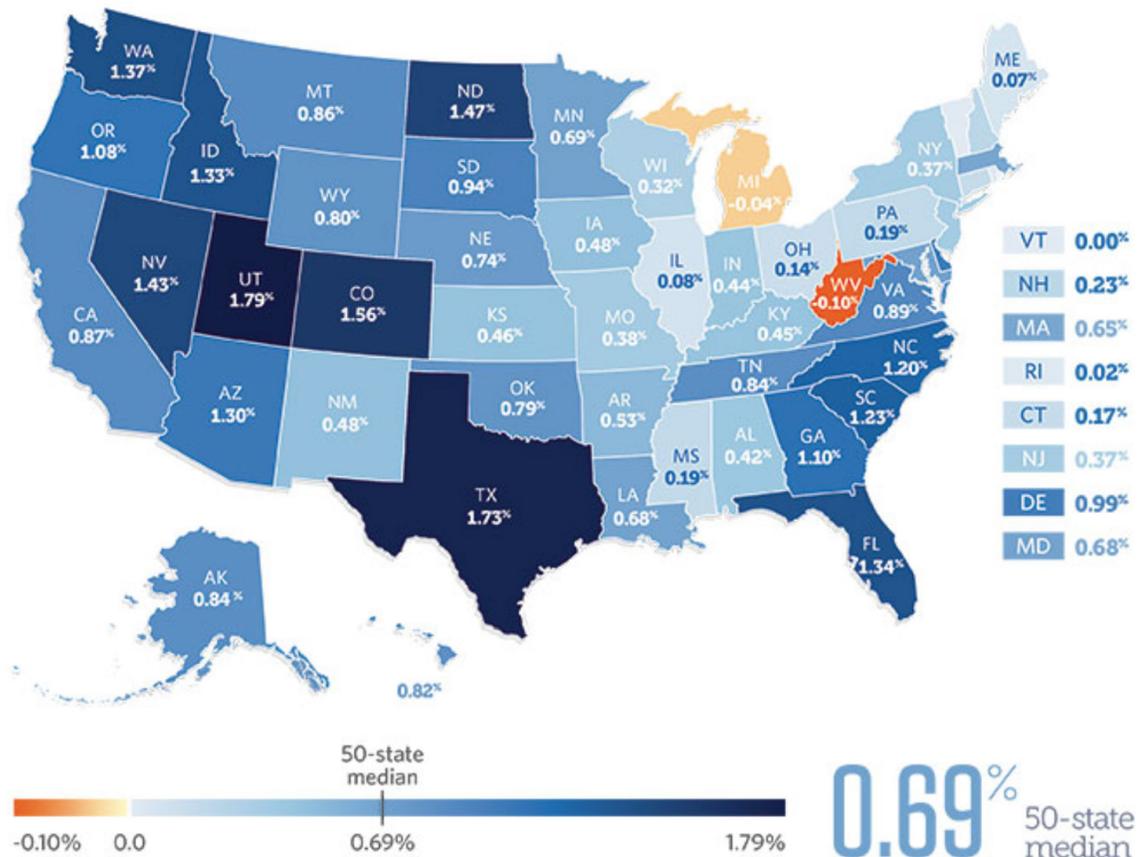
process of redistributing those seats according to newly tabulated census data. The Census Bureau is required by law to send apportionment counts to the president by December 31, 2020. It is the first data from the 2020 Census to be published.

Congress decides the method of apportionment which has changed over time. Since 1941, the U.S. has used the Equal Proportions method, which is a mathematical equation that combines population data with priority rankings (which are based on how many seats a state already has) to distribute seats number 51-435 (with the first 50 seats assigned to each of the 50 states). The priority ranking is calculated by dividing the population of each state by the geometric mean of its current and next seats. The method of Equal Proportions is codified in law at Title 2, U.S. Code.

This year Census Day was April 1. Working from a list of every residence in the 50 states, District of Columbia, and five U.S. territories, the Census Bureau sent invitations to participate in the census in March. The invitations asked people to complete the census questionnaire online, by phone, or by mail. The self-response rate was 67 percent nationwide, with Minnesota at the high end with a rate of 75.1 percent and Puerto Rico (35.7 percent) and Alaska (54.7 percent) bringing up the rear. The Census Bureau then followed up by phone

State Population Growth Varied Widely Over Past Decade

Population growth rate, 2007-17



Source: Pew analysis of U.S. Census Bureau data
 © 2018 The Pew Charitable Trusts

Source: <https://www.pewtrusts.org/en/research-and-analysis/articles/2018/06/20/years-of-slower-population-growth-persisted-in-2017>

and in person with households that did not respond to the census on their own. As of October 16, 2020, the Census Bureau reports that 99.9 percent of households in every state and U.S. territory were enumerated.

In the run up to the census, states had to decide how they would go about encouraging people to participate in the census. For some states, this meant enlisting funds and resources to ensure population counts are as accurate as possible. Other state governments bypassed these opportunities, leaving census outreach initiatives to nonprofits, volunteers, and local governments to take up on their own dime and time. According to the New York Times, for the 2020 Census, 26 states set aside funding ahead of the census count. The 26 states combined are spending nearly \$350 million dollars to increase response rates. California provided

more money than any other state, dedicating \$187 million in an effort to make sure that their population is accurately counted. New York dedicated \$60 million to the cause. At the other end of the spending spectrum is Texas, whose state legislature allocated no funds for census collection efforts. Local governments, civic groups, and philanthropies, however, were actively involved in outreach and encouraging Texans to participate in the Census.

The question of why states like California and Texas are taking different approaches to census collection initiatives relates in part to what each state stands to gain and lose in the reapportionment process. For the first time in its history, California is expected to lose a congressional seat. Texas on the other hand is projected to gain three additional seats. Making sure census data is

2020 CENSUS HOUSING ENUMERATION PROGRESS BY STATE

	Report date: 10/17/2020 As of 10/16/2020, percentage of housing units:		
	Self-responded	Enumerated in Nonresponse Followup (NRFU)	Enumerated
U.S. Total	67.0	32.9	99.9
Alabama	63.6	36.3	99.9
Alaska	54.7	45.2	99.9
Arizona	64.1	35.8	99.9
Arkansas	60.6	39.3	99.9
California	69.6	30.3	99.9
Colorado	70.0	29.9	99.9
Connecticut	70.8	29.1	99.9
Delaware	64.9	35.0	99.9
District of Columbia	63.9	36.0	99.9
Florida	63.8	36.1	99.9
Georgia	62.8	37.1	99.9
Hawaii	63.1	36.8	99.9
Idaho	69.3	30.6	99.9
Illinois	71.4	28.5	99.9
Indiana	70.3	29.6	99.9
Iowa	71.5	28.4	99.9
Kansas	69.7	30.2	99.9
Kentucky	68.2	31.7	99.9
Louisiana	60.4	38.6	99.0
Maine	58.2	41.7	99.9
Maryland	71.2	28.7	99.9
Massachusetts	69.3	30.6	99.9
Michigan	71.3	28.6	99.9
Minnesota	75.1	24.8	99.9
Mississippi	60.4	39.5	99.9
Missouri	65.9	34.0	99.9

	Report date: 10/17/2020 As of 10/16/2020, percentage of housing units:		
	Self-responded	Enumerated in Nonresponse Followup (NRFU)	Enumerated
Montana	60.4	39.5	99.9
Nebraska	71.9	28.0	99.9
Nevada	66.6	33.3	99.9
New Hampshire	67.1	32.8	99.9
New Jersey	69.5	30.4	99.9
New Mexico	58.7	41.2	99.9
New York	64.2	35.7	99.9
North Carolina	63.4	36.5	99.9
North Dakota	65.2	34.7	99.9
Ohio	70.7	29.2	99.9
Oklahoma	61.0	38.9	99.9
Oregon	69.2	30.7	99.9
Pennsylvania	69.6	30.3	99.9
Rhode Island	65.5	34.4	99.9
South Carolina	61.0	38.9	99.9
South Dakota	67.5	32.4	99.9
Tennessee	66.0	33.9	99.9
Texas	62.8	37.1	99.9
Utah	70.9	29.0	99.9
Vermont	60.5	39.4	99.9
Virginia	71.4	28.5	99.9
Washington	72.4	27.5	99.9
West Virginia	56.2	43.7	99.9
Wisconsin	72.2	27.7	99.9
Wyoming	61.1	38.8	99.9
Puerto Rico	35.7	64.2	99.9

Note: Percentages may not sum due to rounding. A limited number of areas were part of the NRFU “soft launch” beginning July 16, 2020, and could have higher completion rates due to more time in the field. Percentages for the U.S. total do not include housing units in Puerto Rico. The Census Bureau continues its post-collection processing and will publish a final update to this table on October 28, 2020.

Source: U.S. Census Bureau, <https://www.2020census.gov/response-rates>

collected in hard to count regions in California could make a difference, especially if states like Texas undercount similar areas in their state. It is also interesting to note that of the 26 states spending money in 2020, 22 of them are controlled by Democrats. Seventeen of the 24 states choosing not to fund the process are controlled by Republicans. The New York Times suggests this could be the case for two reasons. First, states have not historically dedicated this amount of money to census counts. Second, hard to count regions are typically comprised of minority groups who are more likely to vote Democratic. In states like Texas, the New York Times suggests that the debate to fund or not fund the 2020 census was driven by a Democratic hope that a push in spending would help more Democrats get elected to the state legislature.

The Pew Trusts reports that population growth has slowed over the past decade, though state populations have increased in all but two states, Michigan and West Virginia. According to a study by ESRI, both of these states are projected to lose one seat as a result. Northeastern states are seeing population growth slow down as a result of high living costs and a lack of job opportunities. New York, Pennsylvania, and Rhode Island are each projected to lose one seat due to this population shift out of the region. Some predictions even have New York losing as many as two seats. The Midwest has also experienced slowed growth. Four states in this region, Illinois, Michigan, Minnesota, and Ohio, are expected to lose one seat each. California is anticipated to either lose one seat or retain their current number of 53 seats, and some projections list Alabama as a state that could also potentially lose a seat.

The states that take losses the hardest are those that are reduced to a single district. Rhode Island is an example of a state projected to be reduced to a single district state. Additionally, rural power diminishes when smaller, typically rural districts are absorbed into larger, more urban districts. This affects party politics and interests due to the fact that rural districts are typically more Republican while urban districts tend to vote Democratic. It will also be a factor when the redistricting process begins in 2021.

Texas is the biggest winner in the census projections, which by strict population estimates is expected to pick up an additional three seats. Population in the state boomed as low cost of living, a business-friendly climate, and an increase in economic opportunities have made the state a hub of growth. Florida will potentially

pick up as many as two seats. It is important to note that Florida could surpass New York's congressional representative count for the first time. North Carolina is also expected to gain one seat. In the West, Arizona Oregon, Montana, and Colorado are each expected to pick up one seat. This is primarily a result of migration out of nearby California, where a high cost of living and burdensome regulatory environment has made other states more appealing alternatives.

2020 REAPPORTIONMENT PROJECTION, ESRI UPDATED DEMOGRAPHICS			
States Gaining Seats		States Losing Seats	
Arizona	+1	California	-1
Colorado	+1	Illinois	-1
Florida	+1	Michigan	-1
Montana	+1	Minnesota	-1
North Carolina	+1	New York	-1
Oregon	+1	Ohio	-1
Texas	+3	Pennsylvania	-1
		Rhode Island	-1
		West Virginia	-1

Source: ESRI, Reapportionment Projections and the Potential Impact of New States, <https://www.esri.com/arcgis-blog/products/esri-demographics/state-government/reapportionment-projections>

California is doing all it can to retain its 53 congressional seats. As noted earlier, it is spending more on the census count than any other state. Strategists believe that if they focus their efforts on counting historically under counted populations, California has a better chance of holding onto seats. The census has previously undercounted the total population by millions, and should this occur again in a state like Texas, California could beat the odds and avoid a historic upset as they lose a seat for the first time in the state's history. California is also home to a number of competitive districts, especially in its more rural regions. When the redistricting process begins, these regions will see more of the effects, inducing changes that could shape the political makeup of their districts dramatically.

A recent Rose Institute study projects California's 2020

population will be 8.7 percent larger than the 2010 population, crossing the 40 million mark to 40,506,274. Analyzing the state based on nine regions, the study indicates that different regions have grown at significantly different rates: San Francisco Bay Area (11.9 percent growth) and the Southern region (10.7 percent growth) grew the fastest. Los Angeles County's San Gabriel Valley (4.6 percent growth) and Los Angeles County's Downtown/Gateway region (3.9 percent growth) grew the slowest.

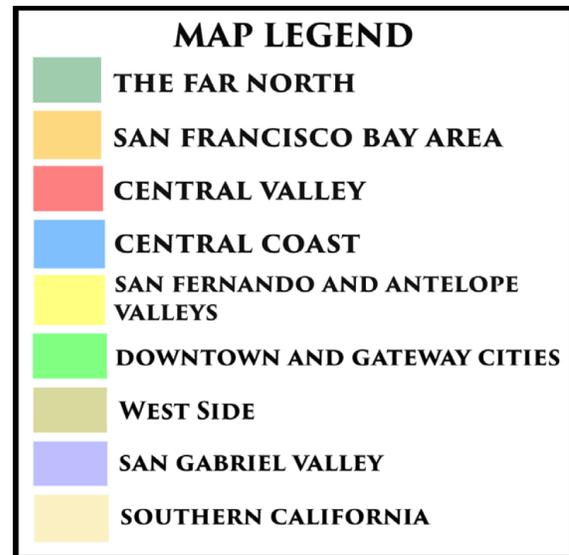
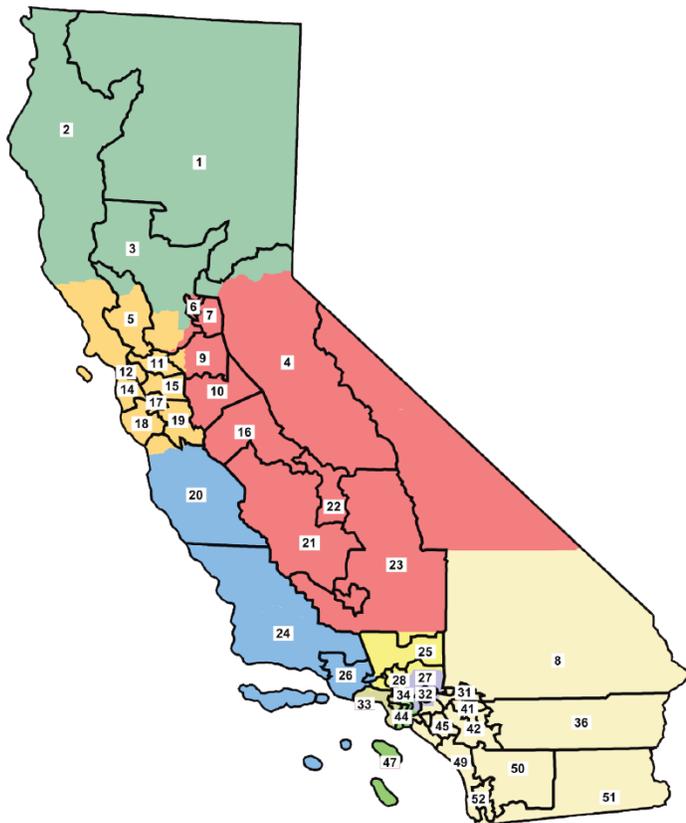
Slower-growing regions are likely to lose representation, as representation follows population into the faster growing regions. In five of the nine regions, population growth was close enough to the statewide average that those regions are unlikely to gain or lose representation, though each may lose a small portion of a congressional district as their contribution to the state's overall loss of a district. The five 'average growth' re-

gions are the Far North, Central Coast, Central Valley, LA Westside, and LA San Fernando/Antelope Valley.

The Southern region's population growth is expected to shield it from a loss of congressional representation, despite the state's overall loss of a district. The fast-growing San Francisco Bay Area is the only region expected to gain congressional representation, even with the expected statewide loss of a congressional district.

The gains in the Bay Area and Southern regions come almost entirely at the expense of LA's San Gabriel Valley and Downtown/Gateway regions. Combined, the two neighboring regions should expect to lose one-third of an Assembly district, half a State Senate district, and half a congressional district. In the San Gabriel and Downtown/Gateway regions, current congressional districts 27, 32, 38 and 40 appear to be most at risk of becoming the district California loses in 2021. ♦

California Congressional Districts: Rose Institute Regional Analysis



Source: Rose Institute of State and Local Government, <http://roseinstitute.org/redistricting/rose-institute-releases-report-on-2020-census-and-population-projections/>

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COUNTING THE INLAND EMPIRE

BY NANDEENI PATEL '21

Image by Gerd Altmann from Pixabay

After facing a major setback in 2010, Riverside and San Bernardino Counties are committed to the process of ensuring a complete count for the 2020 Census. The Inland Empire has been severely underrepresented and underfunded due to failed Census collection efforts. According to Karthik Ramakrishnan of the Center for Social Innovation for UCR (CSIUCR) nearly 25 percent of Inland Empire households failed to mail back their Census questionnaire in 2010, requiring costly in-person follow-ups. More concerning, however, was that 40,000 residents did not receive a Census questionnaire in 2010, requiring yet additional in-person resources. These residents lived at nontraditional addresses, vacant houses, or were located in isolated areas. Luckily, the 2020 Census, although being conducted during a pandemic, finds the Inland Empire with a structured and better-funded outreach plan than it had ten years ago.

The California Complete Count Committee is an advisory panel appointed by Governor Jerry Brown to oversee and coordinate California's education and outreach program for the 2020 Census. It is responsible for spending more than \$154 million on census outreach. Working through local governments, Tribal Govern-

ments, community-based organizations and media, the California Complete Count Committee funded work to complement work being done nationally by the U.S. Census Bureau. The Census Bureau is responsible for canvassing and conducting the actual enumeration process nationally. The California Complete Count Office helps to get the word out about the Census to Californians statewide. It targeted the hardest-to-count Californians through grassroots culturally appropriate outreach and multicultural, in-language media efforts.

The Inland Empire region has been awarded nearly \$2.7 million in state contracts for census outreach, with \$1.48 million allocated for Riverside County and \$1.21 million allocated for San Bernardino County, according to the Center for Social Innovation for UCR (CSIUCR). The two counties have launched a joint campaign to ensure a complete count of the region: IE Counts. IE Counts works in collaboration with the Center for Social Innovation of UCR (CSIUCR). IE Counts has launched the Inland Empire Complete Count Committee (IECCC) to bring together leadership from different sectors to coordinate outreach efforts. The IECCC, led by the director of CSIUCR Karthick Ramakrishnan, is a leadership body designed to boost Census participa-

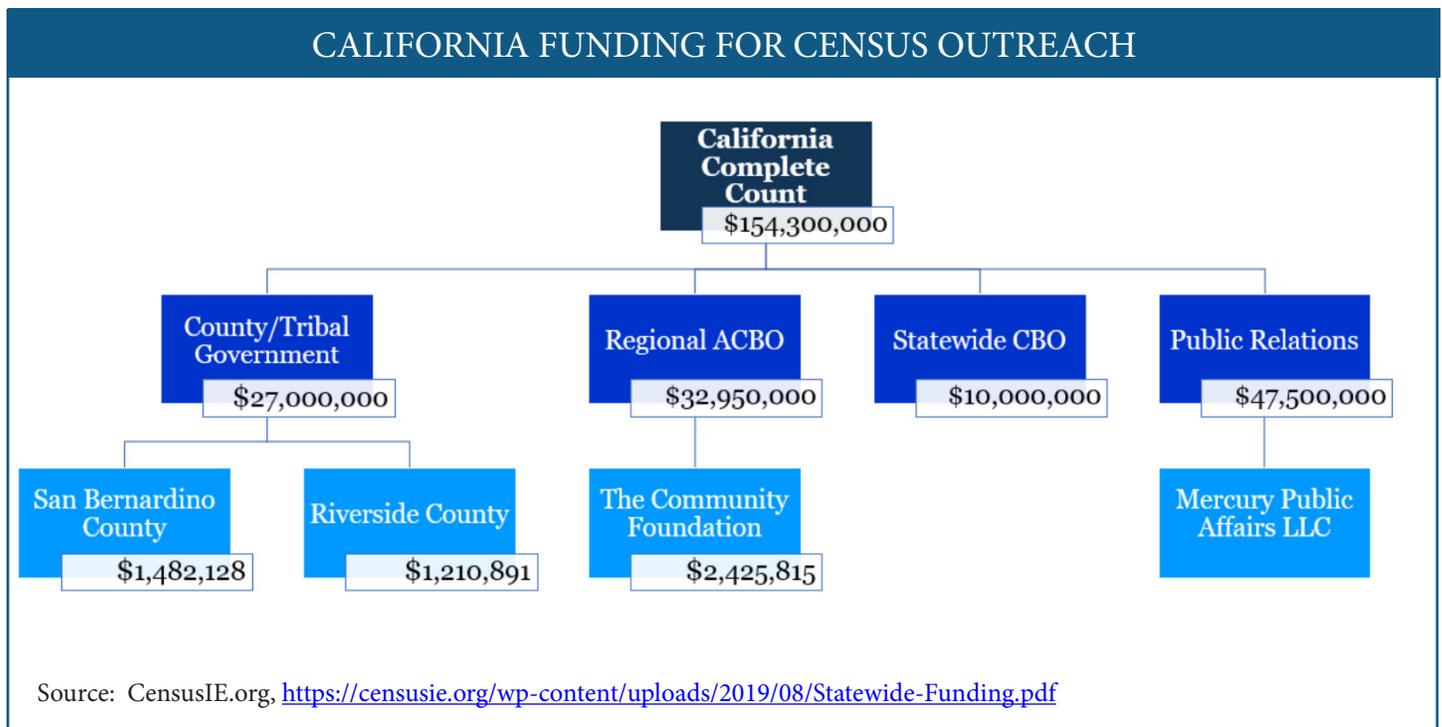
tion for an accurate count. The committee is comprised of leading representatives from the nonprofit, government, education, business and philanthropic sectors. Branching out from the head IECCC are six subcommittees: Education, Recruitment and Training, Media & Marketing, Interagency Coordination, Field Outreach, Stakeholder Expansion & Advocacy, and Data, Research & Evaluation.

One of the focal points of IECCC is the Field Outreach subcommittee which branches out into the Regions Committee and the Hard To Count (HTC) Committee. The HTC Committee has been a primary focus of the IECCC given the 2010 Census’s failure to account for a large rural population. The HTC Committee is in charge of coordinating census outreach for six areas: High Desert Area, San Bernardino Metropolitan Area, Morongo Basin Area, Riverside Central Area, Riverside Southwest Area, and Riverside Eastern Area. Each of these areas has been assigned a regional coordinator responsible for getting a total count in each area. The HTC Committee is also tasked with reaching out to Hard to Count Communities which include the homeless, LGBT, Limited English Proficient, and disabled populations. Hard to Count communities are designated by census tracts and block groups according to their California Hard-to-Count Index, a metric that incorporates 14 variables correlated with an area being difficult to enumerate.

IE Counts has taken a multi-faceted outreach approach that has targeted media outlets, non-profits, and has mobilized college students to join the counting process. IE Counts social media presence has been bolstered with the usage of hashtags like: #StudentsCount, #ChurchesCount, and #TongansCount. IE Counts also conducted job fairs to recruit federal Census workers, ran a Super Bowl ad emphasizing the importance of the Census, and hosted several other outreach events to promote the Census and recruit employees. For example, in the beginning of February, IE Congressman Pete Aguilar hosted a workshop on how nonprofit organizations can help to ensure a full count in San Bernardino.

IE Counts works in collaboration with Census IE. Census IE is a project of the Community Foundation to target the under-served areas and coordinate Census awareness and outreach. The Community Foundation was selected by California Complete Count to serve as the Administrative Community Based Organization to lead Census 2020 efforts in the Inland Empire. Three components comprise the structure of Census IE: backbone organizations, regional coordinators, and partner organizations.

Backbone organizations are local organizations that receive small grants from the Community Foundation, to innovate new tools to support outreach efforts. There



are four backbone organizations: The Community Foundation, Inland Empowerment, CSIUCR, and the National Association of Latino Elected and Appointed Officials (NALEO). The Inland Empowerment, for example, created a community asset map to support event coordination in addition to launching a portal to identify target areas. The Center for Social Innovation of UCR is also sub-contracted by the Community Foundation. CSIUCR provides the Community Foundation with data analysis and research evaluation through a HTC Matrix that shows the HTC population in each sub-region.

Regional Coordinators are assigned to one of seven sub-regions in the Inland Empire to support local collaboration, promote targeted strategies, and work towards manageable goals in their sub-regions. Regional coordinators fulfill three main roles: they convene stakeholders and coordinate activities to reduce overlap and ensure that all HTC communities are accounted for, serve as a resource for training and information, and serve as a pipeline for both bottom-up and top-down feedback. Lastly, partner organizations are those that have committed their energies to ensuring a complete count of the Inland Empire in 2020.

Census IE has applied a four-pronged outreach strategy. First, it aims to integrate the Census into existing points of contacts. This includes collecting pledge cards through events and forums, churches, classes, and community gatherings. This occurred from September 2019 to February 2020. Second, Census IE focuses on canvassing, particularly in communities where undercount is the highest. This occurred from September 2019 to February 2020. Third, Census IE deployed three types of trusted messengers: volunteers, high profile messengers and media spokespeople to encourage IE residents to fill out the Census. This process was ongoing through Census enumeration. Fourth, Census IE promoted the “Get Out the Count” Campaign. This campaign focused on contacting people by phone or text during the self-response period, from March to April 2020.

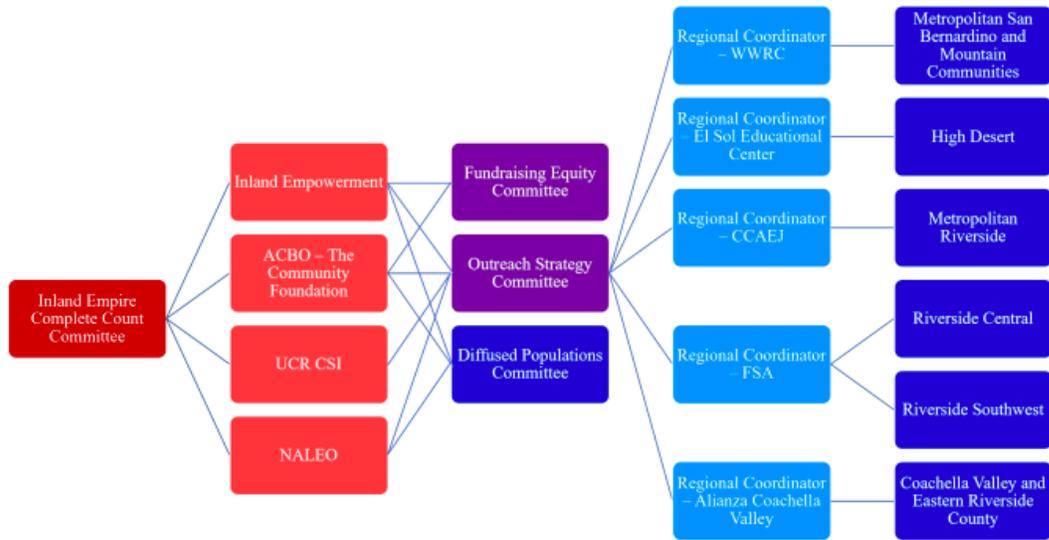
Census IE, in partnership with Riverside and San Bernardino Counties, also launched the Census Champion program. The program aims to identify and equip trusted community members to talk to their peers and media about the 2020 Census. Champions must be committed to the Census process. Thus, the process of becoming Champion requires one to be a trusted

INLAND EMPIRE HARD TO COUNT

Region	Total Population	HTC Population	HTC Percentages	Below Poverty Line	Without Health Insurance	Foreign-Born	People with Disabilities	Renter Occupied Units
High Desert	451,483	165,222	36.60%	33.13%	13.57%	16.33%	12.92%	58.02%
San Bernardino Metropolitan	1,585,334	586,699	37.01%	27.51%	20.12%	29.39%	10.06%	59.76%
Morongo Basin	695,689	185,898	26.72%	24.85%	20.25%	29.38%	9.04%	61.00%
Riverside Central	296,506	56,534	19.07%	31.99%	20.58%	19.85%	16.49%	59.07%
Riverside Southwest	868,306	200,064	23.04%	25.28%	21.59%	27.46%	10.40%	55.63%
Riverside Eastern	463,391	155,196	33.49%	31.73%	24.73%	32.97%	9.96%	48.89%

Source: Inland Empire Areas, <http://iecounts.org/inland-empire-community/>

INLAND EMPIRE COMPLETE COUNT COMMITTEE



Source: Census IE, <https://censusie.org/wp-content/uploads/2019/08/What-is-CensusIE.pdf>

source among their peers, attend a Census 2020 training meeting, and commit to participate in monthly webinars to stay updated on 2020 Census information.

There were supposed to be three key waves of Census outreach. However, the COVID-19 pandemic changed the timeline for Census collection efforts. From mid-March onwards, all households should have received a postcard with instructions on how to participate online, over the phone, through the mail or at questionnaire assistance centers. Residents should have completed the Census at this time. The self-response phase which started in March, continued through October 15, 2020. The non-response follow-up started in May and went on until the 2020 Census deadline of October 15, 2020. IE Counts also held in-person group quarters enumeration and mobile questionnaire assistance before mid-October. In-person group quarters enumeration from July to September was a special process for counting people who lived in group quarters owned or managed by a third party. Mobile questionnaire assistance also occurred on the same timeline, where Census Response Representatives went to key locations like grocery stores in low-response communities to assure that people had the support they needed to complete the Census.

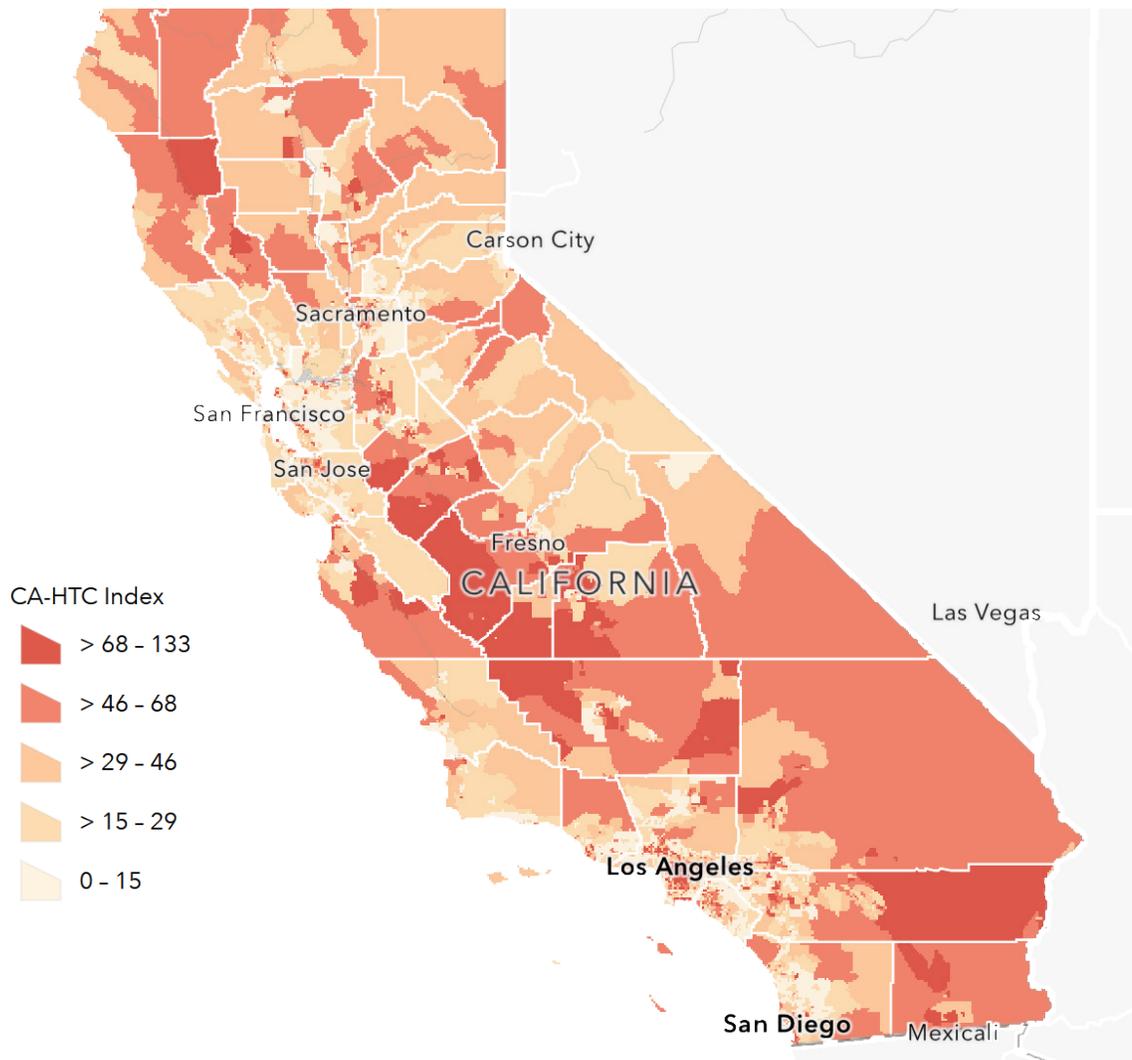
As with all other endeavors, the COVID-19 pandemic severely impacted Census outreach efforts in the IE. In an interview with NPR, Ramakrishnan noted that if people are “no longer able to work and they become housing insecure, it becomes more difficult to reach them.” Ramakrishnan added that he thinks that people who live paycheck-to-paycheck and are struggling to get by will be the most undercounted. Census outreach efforts for over a year and a half in advance of March 2020 positioned the Census for success despite the pandemic.

The Inland Empire Community Foundation (IECF), the Census IE Coalition, and all of its partners took several precautions to protect the Inland Empire census outreach personnel from COVID-19, keep Census outreach teams employed, and ensure that there is a full count for the 2020 census. All outreach strategies became digital with Census organizers hosting virtual community events. For instance, the IECF and the Center for Social Innovation at UCR hosted a regular series of community updates via a Zoom webinar in response to COVID-19. Recently, they discussed the implications of COVID-19 restrictions on voting. The joint effort has been working hard to assure that non-profits are receiving the financial assistance and support necessary to navigate funding from the CARES Act. Ad-

ditionally, all partner organizations working to get a full count for the 2020 Census are working from home. The organizations pushing the Inland Empire Census count forward have reassured its residents that while the threat of a global pandemic is serious, it has never been easier to participate in the Census from home.

The IE Counts and Census IE's emergency response to the coronavirus pandemic shows that the region was fully committed to make sure its residents were supported and counted regardless of the public health and organizational challenges it faced. ♦

CALIFORNIA HARD TO COUNT AREAS MAP



Source: California Hard to Count Areas Interactive Map, <https://census.ca.gov/htc-map/>

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COUNTING THE HOMELESS

BY ZENaida HUERTA '20 & MARIA GUTIERREZ-VERA '22

Image by Matthew Weitunski from Creative Commons

The U.S. Constitution requires an accurate count of the entire U.S. population every ten years. Historically, census counts have been per household; people without homes were simply not counted, erasing critical sections of the American populace.

The Census Bureau first began counting homeless populations in 1970 through hotels and motels in an evening called Transient Night and then sent enumerators to short-term homeless shelters. In 1980, Census enumerators went to areas with high transient populations and encampments, in an effort named Mission Night. Local governments then began providing the Census Bureau the addresses of homeless encampments in 1990. From that information provided by local governments, the Census Bureau found that between 29 and 72 percent of the homeless population had not previously been counted.

The 2020 Census was originally scheduled to count people experiencing homelessness on March 30 and April 1, 2020. The count was, however, delayed until September 22-24 due to COVID-19 shutdowns around the country. The Census Bureau worked with local

groups to identify locations where people are known to sleep. They also counted people at service locations such as shelters, soup kitchens, and regularly scheduled mobile food vans. Services providers decided whether people at their facility would be counted by census taker interviews or the service provider opting to provide the census taker with a paper listing of census response data for each person served or staying at the facility.

The undercounting of homeless populations violates the constitutional requirement that all individuals be counted in the decennial census. Coordinating with local officials is an important part of improving the count and local governments across the country have developed systems for their own homeless counts and outreach. In California, all counties have developed their own strategies to accurately count their homeless populations in recent decades. In addition to the constitutional requirement to accurately count the population, local governments must also follow directives put in place by the U.S. Department of Housing and Urban Development (HUD). HUD mandates cities submit a count of the homeless population every two years; this is meant to track changes through data and shape the

direction of future homelessness programs.

HUD also requires the homeless population be counted through a “point-in-time count.” HUD defines “point-in-time count(s)” as a count of all individuals experiencing homeless, whether they are sheltered or unsheltered, on a single night of the year. Although a “point-in-time count” typically indicates a visual street count, the methodology for a point in time count is left to the city’s discretion. The “point-in-time count” has been criticized as ineffective as it does not consider the movement of homeless individuals. This then raises issues for the Census, as opponents of the “point-in-time” count argue that it severely undercounts the true homeless population. A study using administrative data collected from homeless service providers estimated that the annual number of homeless individuals is 2.5 to 10.2 times greater than can be obtained using a point-in-time count.” To avoid undercounting as much as possible, California counties have added supplemental surveys to assist them in counting their homeless populations.

San Francisco

Currently, San Francisco County counts its homeless population every two years, in accordance with HUD’s directives. San Francisco’s point in time count has four components. First is the general street count, which is administered through the San Francisco Department of Homelessness and Housing Services (SFHSH). The

street count is a visual count in which volunteers canvass the city’s encampments, transit stations, abandoned buildings, and parks. The street count is held in the last week of January, per HUD mandates. The count spans two days: it begins in the evening and continues until the mid-afternoon the next day. Second, on the same night as the street count, canvassers count homeless individuals at San Francisco shelters.

Third, weeks after the street and shelter counts, the SFHSH administers a survey to a sample of the city and county’s homeless population to collect demographic information. San Francisco also hires an independent firm, Applied Survey Research (ASR), to conduct two homeless surveys. ASR and San Francisco HSH work together in improving survey methodology and data collection. San Francisco expanded HUD’s definition of homelessness to include individuals who are “doubled-up” in the homes of family or friends, individuals staying in jails, hospitals, or rehabilitation facilities, and families living in Single Room Occupancy (SRO) units. According to ASR, the survey takers are either currently or formerly homeless, enabling them to communicate with homeless individuals more effectively. Surveyors are recruited through the San Francisco Office of Civic Engagement & Immigrant Affairs Community Ambassadors Program.

Finally, recognizing the difficulties in counting homeless youth, San Francisco also conducts a survey specifically for homeless youth to profile their experiences.



Homeless tents in San Francisco

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Notably, to increase youth participation in the homeless youth survey, volunteer teams are led by youth under the age of 25.

Los Angeles

Los Angeles County's homeless count is overseen by the Los Angeles Homeless Service Authority (LAHSA). Long Beach, Glendale, and Pasadena, however, conduct their own homeless counts and are therefore not included in LA County's effort. LAHSA uses various survey methodologies to project the size of the county's homeless population every two years. LA County has three types of homeless counts: the traditional point-in-time street count, a demographic survey, and a youth count survey. The three-day street count takes place at the end of January and is administered in the evenings.

For the 2020 Homeless Street Count, Los Angeles County increased its training for volunteer counters. To identify homeless residents of LA County, LAHSA uses a standard "ABC" acronym. "A" stands for "appearance," which relies on the physical appearance of an individual and may include factors such as disheveled hair. "B" stands for "behavior" and pertains to the overall behavior of an individual, such as running a gen-

erator out of a parked RV. "C" stands for "condition," which is as open-ended as it sounds, pertaining to the "general visual condition of an individual."

However, the visual ABC criteria potentially undercounts the population as it excludes homeless residents who may be couch surfing or do not externally signal homeless status. For instance, someone walking around at night without a shopping cart may be homeless, but he or she will likely not be counted if his or her appearance, behavior, and condition does not match that of a typically homeless individual. Undercounting is a large risk in Los Angeles County because protocols indicate that locations like vacant buildings and darkened alleys are off limits to volunteers and other participants because of safety concerns.

LAHSA's second point-in-time count is a demographic survey, a joint effort with the University of Southern California. The methodology to divide geolocations and project populations in the county was based on statistical inference drawn from 2017 data. The purpose of LAHSA's demographic survey is to collect data on the sample of homeless adults in LA County that would otherwise not be found in the traditional visual count and to determine the multiplier for the number of homeless residents living in cars, makeshift shelters,



Tenting on skidrow.

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Image by Vinson Tan from Pixabay

etc. to project the population for the next year. First, census tracts were divided into 15 service planning areas in the county. Then, binary indicators are assigned to each of the 15 service planning areas to indicate hotspots of homelessness in the county. These binary indicators calculated how many surveyors would go to each location in the county. Finally, the data was used to project the population for the following year.

Lastly, LAHSA's youth survey also serves as a point-in-time count. The Youth Count is a survey-based count of unsheltered transition-age youth (TAY), unaccompanied minors, and young families. First, LAHSA identifies hotspots for youth homelessness. Not to be mistaken for the ABC acronym used to identify homeless individuals in a visual count, the ABC acronym in the youth survey categorizes 16 census tracts in LA County based on the likelihood of identifying homeless youth. "A" census tracts contain drop-in centers and youth hotspots identified by youth and youth providers. "B" tracts have historic youth count data and street count youth data. "C" tracts do not have hotspots or historic youth count data. Second, based on the letter assigned to each census tract, LAHSA determines which tracts to survey from each group. In "A" tracts, volunteers attempt to survey 100% of the homeless youth population. In "B" tracts, 50% of homeless youth are selected randomly to survey. In "C" tracts, 10% are selected randomly. Third, once the homeless youth surveys are collected, LAHSA multiplies the survey responses by

sample weights. According to LAHSA, sample weights are calculated by taking the inverse of the probability of selection. To incentivize high participation, homeless youth are given \$10 VISA gift cards for completing the survey.

Inland Empire - San Bernardino and Riverside Counties

Homelessness is increasing in the Inland Empire, increasing the need for accurate homeless counts within the region's counties. The IE Business Daily reports that between 2018 and 2019, "visible" homelessness rose by 22% in Riverside County. It rose by 23% in San Bernardino County. In an attempt to accurately count unsheltered residents in the Inland Empire, both San Bernardino and Riverside counties utilized ESRI Survey123 software for ArcGIS.

San Bernardino County made two major changes in its 2019 count. Through ESRI, whose headquarters is located in the county in Redlands, California, the county incorporated mapping into its homeless street count and subpopulation survey and specifically targeted undercounted areas.

San Bernardino County's homeless count has two components: a street point-in-time count and subpopulation survey. These are administered by the San Bernardino County Homeless Partnership, the San Bernardino County Office of Homeless Services, and

the Institute for Urban Initiatives. Unlike San Francisco and Los Angeles counties, which largely conduct their counts in the evening, San Bernardino County conducts its count early in the morning from 6:00am to 10:00am in one day. As part of the visual count in San Bernardino County, volunteers offer homeless individuals hygiene kits.

San Bernardino simplified the way surveyors administer its subpopulation survey by using ESRI's Survey 123 for ArcGIS in 2019, replacing surveys collected with traditional pen and paper. To administer the street count and subpopulation survey, San Bernardino County divided the county into three regions: West Valley, East Valley, and High Desert. Each of the three regions were divided into 20 planning communities. Before the count begins, the 60 total planning communities are each designated as red, yellow, or green implementation areas. Each of the 60 planning communities have "key persons teams," comprised of community leaders who are knowledgeable about that particular community's homeless population, specifically, where that community's homeless population congregates.

The key-persons teams also rank the implementation areas inside their respective planning communities. Red Areas were defined as implementation areas where there are no homeless persons. Yellow Areas were defined as implementation areas where only professional outreach workers might go due to concerns with its safety and accessibility. Green Areas are implementation areas where homeless populations have been identified. Volunteers were only sent to Green Areas in San Bernardino County.

Riverside County's unsheltered point-in-time count has four components: a street count, a service-based count, a follow-up count and survey, and a youth count. In 2019, the street count was conducted from 5:30am to 9:30am in one day. The service-based count, held at food-banks and agencies that commonly provide services for unsheltered individuals, spanned three days, from 8:00am to 1:00 pm. Likewise, the youth count spanned three days and was held from 2:00pm to 8:00pm. The follow-up count and survey were conducted in the seven days following the initial street count to count unsheltered individuals living in unincorporated



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areas of the county. Before the counts began, law enforcement and city officials identified common locations for homeless individuals. Once these areas were identified, they were mapped to make plots for volunteers to canvass. Volunteers were briefly trained beforehand. According to Riverside County, the geolocation components of their surveys created more precise reporting of counts in the county. Further, the county partnered with UC Riverside for assistance in data visualization and analysis.

To motivate the effort, local news outlets in Riverside County sought 700 volunteers for the count. Before conducting the count, volunteers are required to attend a training, which covers the purposes of the homeless count and how to use the survey app. Volunteers participating in the Youth Count must also attend sensitivity trainings, which cover issues of youth LGBT homelessness and child abuse. All volunteers, regardless of which count they are assisting with, must bring a smartphone or tablet, and expect to walk a minimum of two hours. Similar to San Bernardino County, Riverside County conducts its visual point in time count in a single morning, from 5:30am to 9:30am. Its youth count, however, is conducted on three consecutive nights, from 2:00pm to 8:00pm.

Riverside County officials aimed to interview every homeless individual during the street point-in-time count, but varying circumstances made that goal impossible. Instead, about one-third of the data points

from the point-in-time count were observational surveys. These surveys recorded the “perceived gender, ethnicity, age, physical description” of homeless individuals. As such, individuals who were either unwilling or unable to be surveyed were still included in county totals. Methodologies used for the youth point-in-time count were identical to the traditional point-in-time count survey.

Undergraduates at UC Riverside cleaned and processed the point-in-time count data using Python. They also reverse-geocoded data to municipalities and other county precincts using ArcGIS, and created visualizations using Tableau. Rather than target specific locations for homeless populations, Riverside targeted specific demographics, including veterans, children, families with children, young adults, the elderly, and those who are chronically homeless.

Conclusion

The challenges in counting unsheltered people in California are numerous. Recognizing that many homeless individuals may not fall under traditional criteria, California counties, including San Francisco, Los Angeles, San Bernardino, and Riverside, have innovated their homeless counts, supplementing the traditional street count with a number of surveys conducted through universities, geospatial information systems, and independent research firm partnerships. ♦

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STUDENT CONTRIBUTORS:



Jacob Leischner '21



Katherine Adelman '21



Nandeen Patel '21



Maria Gutierrez-Vera '21



Zenaida Huerta '20

EDITORIAL STAFF

Andrew E. Busch, PhD

Director

Kenneth P. Miller, PhD, JD

Associate Director

Bipasa Nadon, JD

Assistant Director

Marionette S. Moore

Administrative Assistant

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Associate Student Manager

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