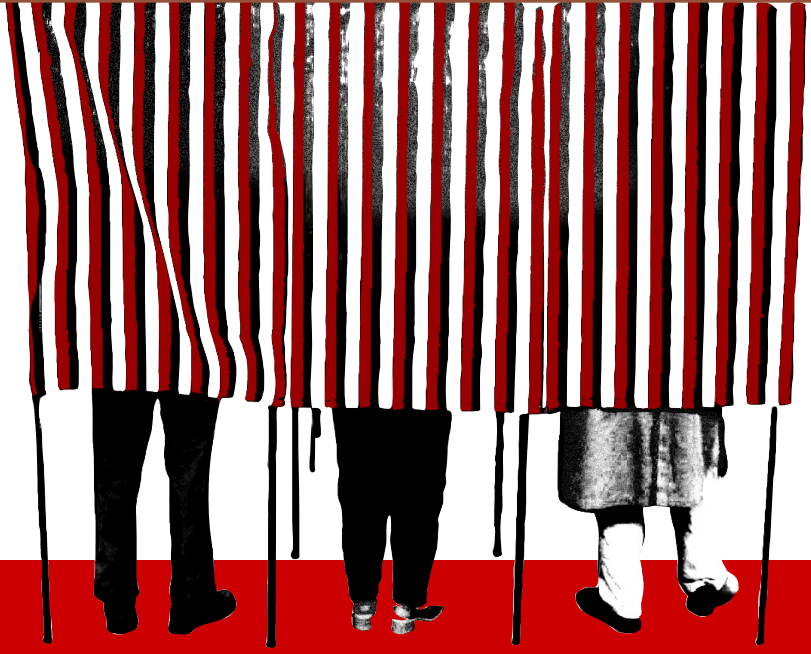

A GUIDE FOR PROTECTING VOTING RIGHTS DURING REDISTRICTING

DRAWING THE LINE

SOUTHERN POVERTY LAW CENTER

Drawing the Line

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"So long as we have enough people in this country willing to fight for their rights, we'll be called a democracy."
— Roger Baldwin

Introduction

As you read these words, the future of your right to vote is at stake. Your community, your state, and the country are now drawing election district lines in a way that will determine how your vote is counted for the next ten years.

Those who draw the district lines get to decide who is in each district, what elections the people in each district get to vote in, and what group will control those elections for years to come. The Florida vote count during the last Presidential election taught us that it's essential for everyone to be involved in the election process.

If you care about fair elections — if you want to make sure that your voice is heard — it is important to get involved in the redistricting process. This manual shows how you can.

Purpose of Manual
This redistricting manual is not designed for lawyers or legislators who already know their way around the redistricting process. Instead, it is designed to help the people who are affected—and often harmed—by the redistricting process: minority voters, lay people, community activists, and others who have a stake in the way the lines are drawn. This manual will help you understand the redistricting process, why it is important, and how you can get involved.

Overview of Manual
This manual is divided into two sections. The first section focuses on the current status of redistricting. Chapter One explains what "redistricting" is. Chapter Two addresses voting rights injuries and some redistricting devices that can cause these harms. These devices are weapons that could be used to silence you, and you need to be aware of them to

fight them. Chapter Three explores redistricting laws, how they affect you, and how you can use them to protect your voting rights.

The second section of the manual provides a background of the redistricting process so you can understand why America goes through this cumbersome process every ten years. Chapter Four looks at the concept of "one person, one vote," and Chapter Five examines the history of the Census.

With the information in this manual, you can take action to make sure that your voice is heard.

Chapter One | Redistricting — Generally

What is "redistricting"?
In the United States, many officials are elected from "districts," which are geographical subdivisions of states, counties, and cities. All of the districts that are used to elect officials to the same body must, by law, contain the same number of people (see Chapter Four). But people move around and, over time, the population in each district varies. These differences in population need to be corrected periodically. When the Census is taken (see Chapter Five), it shows just how much the population in each district has shifted, and the district lines must be redrawn so that each district in a jurisdiction once again contains an equal number of people. This process is called "redistricting."

Redistricting and Different Types of Election Systems
Elected officials can be elected from several types of election systems, two of which are discussed here. One type is the "at-large election system," where officials are elected from the entire jurisdiction. For instance, if a city has a five-member town council and an at-large election system, then the entire city can vote for each member of the town council. Generally, at-large election systems are not required to redistrict.

Another type of election system is the "single-member district election system." In this type of system, a jurisdiction is divided into districts, and each district elects one official. For instance, if a city has a five-member town council and a single-member district election system, then the city will be divided into five districts, and voters in each district will elect one member of the town council. Many offices are elected from single-member district election systems,

including offices at the state, county, city, and school boards levels. Single-member district election systems must redistrict after each Census so that the population in each district will be the same.

Reapportionment and Redistricting at the Congressional Level
"Reapportionment" and "redistricting" are voting concepts with different meanings. "Reapportionment" refers to the division of a number of seats among districts; "redistricting" refers to the drawing of district lines to equalize population. Although these concepts are distinct, people often use their names interchangeably.

Reapportionment: The United States House of Representatives has 435 seats, and these seats are divided or "apportioned" among the states based on the population of each state. This process differs from the U.S. Senate, where each state has two senators regardless of its population (see Chapter Four). As the population in each state increases or decreases, the number of seats that each state has in the U.S. House of Representatives also may increase or decrease through a process called "reapportionment." Reapportionment occurs after the Census is taken every ten years, when we find out the population in each state. For example, the 2000 Census showed that the population had increased in Texas, Georgia, North Carolina, and Florida, and each of these states gained seats in the U.S. House of Representatives. On the other hand, Mississippi's population had decreased, and it lost a seat.

Redistricting: Each state is divided into congressional districts, one for each seat that the state has in the U.S. House of Representatives. Each district within a state must have almost exactly the same number of people in it to comply with the one person, one vote rule (see Chapter Four).

After the 2000 Census, the number of congressional districts in some states has changed because of population shifts that affected the state's number of seats in the U.S. House of Representatives. These states must redistrict to accommodate the new number of congressional seats, and each district must have almost exactly the same number of people. For states that are keeping the same number of seats in the U.S. House of Representatives, the 2000 Census shows that their districts no longer have equal populations. This means that these congressional district lines need to be redrawn so that each district in a state will contain the same number of people.

Each state controls the redistricting that occurs in its own districts, even though this redistricting affects federal congressional elections. This means that the district lines are drawn by state legislators (or state commissions) rather than by members of Congress. States usually address congressional redistricting by passing state laws. Typically, the state house and state senate must both pass a redistricting bill, and the governor must sign the bill into law.

Reapportionment and Redistricting at the State and Local Levels
State and local offices that are elected from districts must redistrict in the wake of each Census. Each district must have roughly the same number of people, so if the population has shifted, the lines must be redrawn so that each district contains approximately the same number of people. Generally, new district lines are enacted by passing a law in that jurisdiction (for example, a state law or a city ordinance).

The rules for redistricting are more exacting at the congressional level than at the state and local levels. Congressional districts must come closer to having the same number of

people in each district than state and local districts need to, although state and local governments must make an "honest and good faith" effort to have an equal population in each district (see Chapter Four).

What You Can Do: State and local governments usually hold public redistricting hearings. At these hearings, government officials seek input from the public, and you can voice your opinions before any redistricting decisions have been made.

1. Find Out When State and Local Hearings Will Be Held: Contact your state and local officials to find out the schedule for public redistricting hearings. These hearings may have already started, so find out this information as soon as possible.

2. Attend Hearings and Learn About Proposed Redistricting Plans: At the hearings, you will have the opportunity to see what redistricting plans are proposed.

3. Share Your Views: At the hearings, voice your opinions and concerns. Let your legislators and peers know what you think of proposed redistricting plans. Tell them what factors you think should be considered when the new lines are drawn.

4. Present a Redistricting Plan: At the hearing, you can even present your own redistricting plan (see Resource Organizations, Appendix A).

Chapter Two | Vote Injury — Denial and Dilution

The United States has a long history of discriminating against minority voters. Many different mechanisms have been used to prevent members of minority groups from exercising their right to vote, including whites-only primaries, poll taxes, literacy tests, good character tests, and felon disenfranchisement laws, to name a few. The use of these mechanisms resulted in vote "denial" and "dilution" for many minority members.

"Vote denial" occurs when a person is prevented from casting his or her vote. "Vote dilution" happens when a person is able to vote, but his or her vote does not count equally to the votes of others. "Minority vote dilution" refers to the use of voting practices (including redistricting plans) that minimize the voting strength of racial and other minorities. Where a minority group is generally unified in its support for one candidate, dilution occurs when government mechanisms decrease the effectiveness of the group's votes by preventing them from being aggregated in a way that would successfully lead to the election of the minority-preferred candidate.

The Voting Rights Act of 1965 was carefully constructed to address vote denial and dilution tactics. For example, the Act specifically banned the use of literacy tests. The Act virtually ended outright denial of minority voting rights, but it has not been as successful regarding vote dilution. The Act has made significant progress in decreasing the effectiveness of certain dilutive devices, but it has not yet

existence entirely. Today there are many more elected officials who represent minority voters than there were prior to the Act, but there is still progress to be made. For instance, only four African Americans have been elected to the Senate in the history of the United States, two during the 1800s (during Reconstruction) and two in the 1900s.

"Racial bloc voting" is a phenomenon that affects vote dilution. "Racial bloc voting" (also referred to as "racially polarized voting") means that members of the same racial group tend to vote the same way. Many people assume that racial bloc voting occurs among minority members without realizing that it is also prevalent in white communities.

Vote dilution continues to this day in many different forms, and it can occur in both at-large election systems and single-member district election systems. Below are several types of dilution devices of which you should be aware. These devices may already be implemented in your jurisdiction, or they could be used in the future. If these devices exist or are proposed in your district, you can take steps to get rid of them (see Chapter Three).

At-large dilutive devices: At-large election systems can be dilutive devices. In the words of the U.S. Supreme Court, "[a]t-large voting schemes…tend to minimize the voting strength of minority groups by permitting the political majority to elect *all* representatives of the district." *Rogers v. Lodge*, 458 U.S. 613, 616 (1982). But at-large election systems are not always considered dilutive devices. If a plaintiff challenges the validity of this type of election system by bringing a claim under Section 2 of the Voting Rights Act or the Fourteenth Amendment of the U.S. Constitution, then he or she must satisfy the elements of those claims (see Chapter Three).

If you live in an at-large election system, look out for the following additional dilutive devices.

1. Majority-vote requirement: If racial bloc voting exists in both the majority and minority communities, then this requirement can minimize or cancel out a minority group's votes. Usually, a candidate simply has to receive the most votes to win an election. Under a majority-vote requirement, a candidate must receive a majority of the votes to win (usually this means more than half of the votes cast). If no candidate receives a majority, then a run-off election is held.

This device can dilute minority votes in the following manner. Suppose that a city is majority white, with whites comprising sixty percent of the population and blacks making up the remaining forty percent. In an election, one black candidate and several white candidates run for the same office. The several white candidates split the white vote. The black candidate receives more votes than any of the white candidates, but she fails to win a majority of the votes, and a run-off election must be held between the black candidate and the second-place white candidate. In the run-off, most of the white voters vote for the white candidate, and the white candidate receives a majority of the vote, even if she receives no black votes. The white candidate wins the run-off election and takes office, even though she had fewer votes than the black candidate in the first election.

2. Staggered terms: This device allows for the election of just a few of the seats of an elected body every few years, instead of the election of all of the seats simultaneously. With fewer seats up for election, majority voters have a better chance of uniting against a minority-preferred candidate.

3. Candidate-slating processes: These processes allow chosen groups to run together as a "slate." Political insiders often control who will be put on a slate, and these insiders have typically been white. If the people who control the slate refuse to put minority-preferred candidates on the slate, then these candidates cannot be elected.

4. Anti single-shot provisions: These provisions compel voters to cast a vote for every open seat, even if voters do not want to support more than one candidate. A voter who casts a vote for less than the entire number of seats open (a "full slate") will not have his or her ballot counted. Requiring minority voters to vote for a full slate dilutes their voting strength by preventing them from concentrating their support behind one candidate.

5. Residency districts: These provisions require candidates to reside in certain areas of the jurisdiction, even though the seats they are running for will be voted on by voters from the entire jurisdiction. Residency districts force more head to head contests between white and minority candidates, and they remove the option of single-shot voting.

Dilutive devices in district election systems: Single-member district election systems are, by definition, made up of districts, and the way the districts are drawn can result in vote dilution through "gerrymandering." "Gerrymandering" refers to the drawing of election districts, often unusually shaped, for political advantage.

The term "gerrymander" originated in 1812, when Massachusetts' state senate district lines were redrawn. The new district lines were drawn by the political party of then-Governor Elbridge Gerry, and they were designed

so that his party would retain power. Some of the districts were oddly shaped. When painter Gilbert Stuart saw a map of one of the districts, he remarked that it looked like a salamander. A newspaper editor replied, "Better to say a *Gerry*-mander!"

If you live in a single-member district election system, be on the lookout for the following gerrymandering dilutive devices:

1. Packing: This device dilutes minority votes by packing as many minority voters into as few districts as possible to minimize the number of representatives that they can elect.

Let's say, for example, that a minority group makes up thirty percent of a county. The county commission has ten commissioners, and each one is elected from one of ten districts. The minority vote in the county could be diluted by "packing" minority voters into one district, where they would be the majority in and influence the election outcome of that one district, but they would have no influence in any other district. Although minority voters make up thirty percent of the county population, their votes would be diluted because they would influence the outcome in only ten percent (one of ten districts) of the elections.

2. Cracking (also called "fracturing"): This device dilutes minority votes by dividing minority neighborhoods into as many districts as possible, thereby preventing minority voters from becoming a majority in (or significantly influencing the vote of) any one district.

3. Stacking: This device dilutes minority votes by combining heavy concentrations of minority population (often sufficiently large to have their own districts) with greater white

population concentrations. By doing this, legislators create district-wide white majorities and decrease the number of minority voters who can be put in other districts.

Chapter Three | The Law and What it means to you

This chapter explores two primary aspects of American law that protect voters' rights: the Voting Rights Act of 1965 and the U.S. Constitution. These laws can be confusing, even to lawyers who practice in this field. This discussion is provided to help you understand some of the key concepts that will arise during the redistricting process, and at the end of the chapter, you will find concrete examples of how you can make these laws work for you (see section IV, "What the Law Means to You"). In particular, you can use these laws to (1) prevent the implementation of dilutive voting practices; (2) challenge these practices if they are implemented; and (3) learn about obstacles that you may face if you want to have majority-minority districts drawn.

This chapter begins by outlining the substantive components of these voting rights laws, then it discusses the role that race plays in each one. Then the most important part of the chapter (see section IV) addresses how you can use these laws to protect your voting rights.

I. The voting rights act of 1965

The Voting Rights Act (the "Act") is considered the most important and successful civil rights law in American history. Enforcement of the Act virtually ended outright denial of voting rights to minorities, and it made significant inroads in shattering white-only politics. The Act signaled a second time in history when minority voters could go to federal court to protect their rights and actually win (the first peri

od was during the Radical Reconstruction after the Civil War). Some people even refer to this period as the Second Reconstruction.

Prior to the enactment of the Voting Rights Act, many states employed vote denial and vote dilution mechanisms to prevent minority members from exercising their right to vote (see Chapter Two). Minority rights advocates tried to combat these discriminatory measures, but they met with little success until the passage of the Act in 1965.

The Voting Rights Act was carefully constructed to meet discriminatory tactics head on and to thwart them in a way that had not been previously possible. Through the Act, Congress sought to deprive state and local governments of known tools for keeping minority members away from the polls. For example, the Act banned the use of literacy tests and other impediments to voting. The Act has been amended several times, with significant amendments in 1982.

The Voting Rights Act contains two parts that are relevant to redistricting, Section 5 and Section 2.

A. Section 5
Section 5 of the Act prevents the enforcement of new laws or practices that would worsen or cause "retrogression" in minority voting rights. "Retrogress" is a technical term that is used in the voting rights field, and it means "to move backward, to decline." (For the sake of clarity, the manual uses the term "worsen" instead of "retrogress.") Redistricting plans, like all proposed voting changes, are subject to the constraints of Section 5.

Limitations: Section 5 is limited in two respects. First, this provision is temporary, and it will expire in 2007 unless

Congress decides to renew it. If Congress does not extend Section 5, this round of redistricting will be the last one subject to Section 5's protections.

Second, Section 5 applies only to "covered" jurisdictions. Although the South was Congress' chief target in enacting Section 5, the Southern states were not the only ones to be brought within its reach. Congress designed Section 5 to apply to those states that had a history of discrimination in voting. The following states are covered in their entirety by Section 5: Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, and Virginia. Section 5 also applies to parts of the following states: California, Florida, Michigan, New Hampshire, New York, North Carolina, and North Dakota. Although these latter states are only partially covered, they must obtain preclearance for any congressional or state legislative redistricting plans. For more information about Section 5's coverage, visit the U.S. Department of Justice website at www.usdoj.gov/crt/voting/index.htm.

Scope: Section 5 applies to any new voting rule or procedure. Its application is wide ranging, covering everything from changes in polling place locations to redistricting plans.

Protection: Section 5 protects minority voting rights by "freezing" current laws and practices in place. When a governmental entity in any covered jurisdiction passes any new voting rule or procedure that changes the "frozen" status quo, the proposed voting change must be "precleared" by the federal government before the change can take effect. The purpose of this preclearance requirement is to freeze election laws until the federal government determines whether a proposed new voting rule is free of racial

discrimination. If the federal government determines that the new law worsens minority voting rights, then the new law will not be precleared and cannot be enforced.

Preclearance: "Preclearance" can occur in one of two ways. First, a state or local government may submit its proposed election changes to the U.S. Department of Justice. Second, the state or local government may submit its proposed election changes to the U.S. District Court for the District of Columbia for preclearance. The first method is used far more frequently. The second method is more expensive and time-consuming, and state and local governments tend to resort to it only if the Justice Department has denied preclearance of the proposed voting change.

All of the changes submitted to the Justice Department are listed on the Department's website approximately every two weeks. See www.usdoj.gov/crt/voting/index.htm.

The Preclearance Process: When a state or local government adopts a new voting change or redistricting plan, it must follow these steps to obtain preclearance from the Justice Department:

1. *Written Submission*: The state or local government must submit the voting change or redistricting plan in writing to the Justice Department.

2. *Content*: The state or local government's written submission must contain information regarding the following areas: (a) the government must explain what voting changes will occur, why those changes will be made, and how those changes could impact minority voters; (b) the government must prove to the Justice Department that the voting change will not worsen minority voting rights; and (c) the

government must provide the Justice Department with a list of people to contact in the minority community.

3. *Review*: Once the Justice Department receives a state or local government's submission, it has sixty days to decide whether the government has met its burden of proving that the submitted voting change does not worsen minority voting power. The Department may require the submission of additional materials and take an additional sixty days after their receipt to review those materials.

4. *Public Comments and Objections*: Public comments and objections from the minority community must be made during the Justice Department's sixty-day preclearance review period.

5. *Decision*: The Justice Department can either preclear the proposed voting change or object to it. If the state or local government fails to carry its burden of proving that the proposed plan does not worsen minority voting rights, then the Justice Department is legally obligated to "object" to the submission. If the Department determines that the plan will not worsen minority voting rights, then it will preclear the plan. If the Department does nothing, then the proposed submission will be precleared automatically.

6. *After the Decision*: If the Justice Department objects to the proposed plan, the submitting government can try to gain judicial preclearance by filing an action in the District Court for the District of Columbia.

Department of Justice: The Voting Section of the U.S. Department of Justice has designated members of its staff to act as liaisons to each of the states covered by Section 5 of the Voting Rights Act. These people serve as points of

contact for jurisdictions and others seeking information about the Justice Department's activities. To contact the Department of Justice, you can visit their website at www.usdoj.gov/crt/voting/index.htm or call toll free at (800) 253-3931.

Measuring Retrogression in a Proposed Redistricting Plan: To determine whether a proposed redistricting plan worsens minority voting rights, the Justice Department compares the new plan with a "benchmark." The benchmark is usually the plan that was used for the last election. To serve as a valid benchmark, the previous plan must have been precleared (or have been in place since the jurisdiction became covered under Section 5).

The new redistricting plan cannot contain any provision that would provide minority voters with less representation than they received under the benchmark plan. The Justice Department compares the new plan with the benchmark plan to determine whether there has been a worsening of minority voting rights. The Justice Department makes its analysis using the most recent Census population figures.

B. Section 2

Section 2 of the Act is a nationwide prohibition against voting systems and devices that result in vote dilution. It allows minorities to sue in federal court to challenge racially unfair election practices without having to prove a government's intent to discriminate. If you think that a proposed redistricting plan or voting law will dilute your vote, Section 2 can give you a weapon — through a lawsuit—to fight it.

Minority Vote Dilution Claims: "Minority vote dilution" means that the votes of a minority group do not have the same weight as the votes of the majority group and, as a result, the minority group has less opportunity than the

majority group to elect representatives of its choice. This type of dilution occurs where the majority group does not (for the most part) vote for the candidate supported by the minority group, and where the state or local government aggregates the votes of the majority and minority voters such that the votes of the minority group are outweighed by the votes of the majority group.

As amended in 1982, Section 2 applies a "results test" to minority vote dilution claims. This means that plaintiffs do not have to prove that the state or local government implemented the discriminatory plan with the intention of diluting minority votes. Instead, minority plaintiffs only have to show that the plan *results* in the dilution of minority votes.

To succeed on a minority vote dilution claim, a minority member must demonstrate that his or her minority group has less opportunity than the majority group to elect representatives of its choice. This showing requires an examination of a "totality of the circumstances," which includes satisfaction of the *Gingles* preconditions followed by an examination of the Senate Factors, both of which are described below.

Preconditions that Must Be Shown To Establish a Vote Dilution Claim: To succeed on a minority vote dilution claim, minority plaintiffs must first demonstrate the following three preconditions, as established by the U.S. Supreme Court in 1986 in the case *Thornburg v. Gingles*, 478 U.S. 30 (1986). If plaintiffs cannot meet these three preconditions, then a court may reject their claims.[1]

1. Plaintiffs must prove that the minority group is sufficiently large and geographically compact to constitute a majority in one or more single-member districts.

2. Plaintiffs must show that minority voters are politically cohesive, meaning that they tend to vote for the same candidates.

3. Plaintiffs must demonstrate that the white majority votes as a bloc "usually to defeat the minority's preferred candidate."

If they can satisfy these three preconditions, then the court will analyze the "Senate Factors" described below.

To satisfy the first precondition, plaintiffs must present to the court a redistricting plan that demonstrates that the minority group can make up a majority in at least one district. A district complies with this first precondition if it is "*reasonably* compact and regular, taking into account traditional redistricting principles such as maintaining communities of interest and traditional boundaries." *Bush v. Vera*, 517 U.S. 952 (1996) (emphasis in original). Courts often assess the "compactness" of a district by looking at its shape and comparing it with the shape of other districts in the jurisdiction.

To satisfy the second and third preconditions, plaintiffs must demonstrate racially polarized voting. These preconditions are satisfied when plaintiffs show that there is a "consistent relationship between [the] race of the voter and the way in which the voter votes" among both minority voters and white voters. *Thornburg v. Gingles.* To determine whether voting in an area is racially polarized, experts are often called in to analyze prior elections. Elections for the office at issue and those that provide voters with a racial choice are the best elections to analyze.

To determine whether racially polarized voting exists, the following questions are asked: Is the minority vote cohesive—that is, do minority voters tend to vote as a bloc for the same candidate? Do white voters tend to vote for a different candidate than the one preferred by minority voters? Are minority-preferred candidates usually defeated?

Factors that *May* Be Shown To Strengthen a Minority Vote Dilution Claim: Once the *Gingles* factors are satisfied, the court will examine several other factors to assess the strength of a vote dilution claims. These factors are listed in the U.S. Senate Judiciary Committee Report accompanying the passage of the 1982 amendments to Section 2 of the Voting Rights Act and are called the "Senate Factors." A minority plaintiff does not need to show all of these factors for a court to find that vote dilution has occurred. The court will make its determination of vote dilution based on its assessment of a "totality of the circumstances." The "Senate Factors" include the following:

1. The extent of any history of official discrimination against blacks or other minorities that impacted their right to register, vote, or otherwise participate in the democratic process;

2. The extent to which voting is racially polarized (this analysis is already addressed by the *Gingles* preconditions);

3. The extent to which the state or local government uses unusually large election districts, majority vote requirements, anti-single shot provisions, or other voting practices or procedures that may enhance the opportunity for discrimination against blacks or other minorities (see chapter two);

4.Whether there is a candidate-slating process and the extent to which blacks or other minorities have been denied

access to that process (see chapter two);

5. The extent to which blacks or other minorities bear the effects of discrimination in such areas as education, employment, and health, which hinder their ability to participate effectively in the political process;

6. The extent to which political campaigns have been characterized by overt or subtle racial appeals;

7. The extent to which blacks or other minorities have been elected to public office in the jurisdiction.

The Senate Factors include two additional factors, but these have been considered by courts to be less relevant than the preceding seven factors. The remaining two factors follow:

8. The extent to which there is a significant lack of responsiveness by elected officials to the particularized needs of the black or minority community;

9. The extent to which the policy underlying the use of the voting qualification, standard, practice, or procedure is tenuous.

If the court determines that the *Gingles* preconditions are satisfied and that a "totality of the circumstances" shows that the minority group does not have the same opportunity as the majority to elect representatives of its choice, then the court will find in favor of the plaintiffs on their minority vote dilution claim.

II. U.S. Constitution
A. Reconstruction Amendments
After the Civil War, the United States faced the job of rebuilding the Union, a process known as "Reconstruction."

Ratified in 1865, the Thirteenth Amendment brought an official end to slavery. The Fourteenth Amendment, ratified in 1868, made African Americans full citizens and provided them with equal protection of the laws. The Fifteenth Amendment gave black men the right to vote in 1870.

The Southern states were not firmly behind the ratification of these amendments. In fact, the northern states had to make ratification of these amendments a precondition to the Southern states' re-entry into the Union. The Reconstruction Amendments were ratified, and the Fourteenth Amendment, in particular, has become a strong tool to enforce voting rights.

B. 14th Amendment Equal Protection Clause
Generally: The Fourteenth Amendment to the U.S. Constitution guarantees to all citizens "equal protection of the laws." Plaintiffs can bring claims under this clause to challenge election districts on the grounds that they dilute minority voting strength, Rogers v. Lodge, 458 U.S. 613 (1982), and that they constitute "political gerrymandering" by discriminating against a political group, *Davis v. Bandemer,* 478 U.S. 109 (1986).

Minority Vote Dilution Claims: plaintiffs bringing constitutional minority vote dilution claims must prove (1) that the challenged election district was implemented or maintained with the intent to dilute the minority group's voting strength; and (2) that the challenged election district had the effect of diluting the minority group's voting strength. *Rogers v. Lodge*. It is very difficult for plaintiffs to satisfy the "intent" prong of this test because they have to show what was in the heart or mind of the people who enacted the plan. The plaintiffs do not have to show that racial discrimination was the sole or main purpose, but they must show that it was

a substantial or motivating factor in the decision-making process. *Hunter v. Underwood*, 471 U.S. 222 (1985). A showing of discriminatory effect is not enough. This type of claim is more difficult for a plaintiff to bring than a Section 2 minority vote dilution claim because Section 2 does not require a showing of discriminatory intent.

"Political Gerrymandering" Claims: Plaintiffs bringing "political gerrymandering" claims usually bear the burden of demonstrating that the redistricting plan was meant to, and in fact did, exclude an identifiable political group from participation in the political process. To succeed on a political gerrymandering claim, plaintiffs must prove two elements: (1) that the district lines were drawn with the intention of discriminating against an "identifiable political group," and (2) that the district lines had an actual discriminatory effect on that group. *Davis v. Bandemer.* As with minority vote dilution claims, the "intent" prong of this test is difficult to satisfy.

It is also an uphill battle for plaintiffs to meet the "effects" part of the test. The discriminatory effect that must be proved is that the election system "will consistently degrade a voter's or a group of voters' influence on the political process as a whole." *Davis v. Bandemer*. For a group to win a political gerrymandering lawsuit, it must show that it has been "shut out" of the political process over a period of several elections. Almost all groups that have brought political gerrymandering lawsuits have lost because it is almost impossible to satisfy the "consistent degradation" test.

Emergence of New Redistricting Rules: After the 1982 Amendments to the Voting Rights Act, progress was made toward giving a voice to minority voters who were previously unheard. During the 1990s round of redistricting, districts were

drawn to give minority voters the opportunity to elect candidates of their choice. Through the creation of majority-minority districts (districts where minority members make up more than half of the population or more than half of the voting age population), the number of minority representatives at congressional, state and local levels increased.

Then white voters began to claim that the process had gone too far. They argued that the efforts to draw majority-minority districts were too extreme and violated white voters' rights. White voters—often failed candidates dissatisfied with the election outcomes—challenged these districts in a series of lawsuits.

In 1993, white plaintiffs challenged majority-minority districts in North Carolina, and a similar lawsuit was filed in Georgia in 1995. These cases, along with several others, went to the U.S. Supreme Court, and through them the Court developed a new body of law. *Shaw v. Reno,* 509 U.S. 630 (1993); *Miller v. Johnson,* 515 U.S. 900 (1995). These new rules altered the traditional application of the Fourteenth Amendment Equal Protection Clause, and these new rules will have to be followed during this round of redistricting.

The New "Racial Gerrymandering" Redistricting Rules: Through the *Shaw/Miller* cases and their progeny, the U.S. Supreme Court developed an "analytically distinct" basis or "cause of action" for plaintiffs challenging "racial gerrymanders." A "racial gerrymander" is "the deliberate and arbitrary distortion of district boundaries for [racial] purposes." *Shaw v. Reno.* This cause of action has been used to challenge majority-minority districts.

Under this "analytically distinct" cause of action, plaintiffs must show that race was a "predominant factor motivating the legisla

ture's decision to place a significant number of voters within or without a particular district." *Miller v. Johnson.* But, unlike plaintiffs who bring minority vote dilution claims under the Fourteenth Amendment, racial gerrymandering plaintiffs (usually white) do not have to prove that the legislators enacted the challenged district with an intent to discriminate, and they do not have to demonstrate that the challenged district had a discriminatory effect. Racial gerrymandering plaintiffs also do not face the same burden as political gerrymandering plaintiffs because the former need not show that they are members of a politically cohesive group that has been (or will be) consistently underrepresented in light of their share of the jurisdiction's population.

Courts have developed tests for assessing racial gerrymandering claims, but these tests are not always very clear. In fact, one North Carolina racial gerrymandering case has gone to the U.S. Supreme Court four times! The U.S. Supreme Court itself has struggled with the contours of this cause of action.

But in basic terms, the test established by the U.S. Supreme Court to examine a racial gerrymandering challenge breaks down into the following four-part test:

1. Do the challenged district lines violate or subordinate "traditional districting principles"? If no, then the district lines are constitutional, and the court does not have to go through the other parts of the test. If yes, then the court goes to the next part of the test.

"Traditional districting principles" refers to concepts that have, over time, been considered by courts to be important considerations when district lines are drawn. This name is somewhat misleading because these concepts are neither truly traditions nor principles.

Adherence to these "principles" is not required by the Supreme Court, and the state has discretion regarding whether to respect "traditional districting principles." *Shaw v. Reno*. But if "traditional districting principles" are respected, then it is easier for the district to withstand a racial gerrymander challenge. In the words of the Supreme Court, these principles are "objective factors that may serve to defeat a claim that a district has been gerrymandered on racial lines." *Shaw v. Reno.* "Traditional districting principles" include the following concepts:

- Compactness — refers to the "shape" or "regularity" of a district.
- Contiguity — refers to the idea that all land in the district should be touching (unless separated by water).
- Preserving the core of existing districts — refers to the preservation of geographic or population centers by creating new district lines that are the "least changed" from the old ones.
- Respecting political subdivisions — refers to the drawing of district lines along the boundaries of political subdivisions, such as county or city lines.
- Incumbency protection — refers to the drawing of district lines that will help keep the incumbent in office.
- Partisan politics
- Preserving or recognizing communities of actual shared interest

The "bizarre" shape of a district "may be persuasive circumstantial evidence that race for its own sake, and not other districting principles, was the legislature's dominant and controlling rationale in drawing its district lines." *Miller v. Johnson.*

2. Is race the predominant reason that the district lines violate the "traditional districting principles"? If no, then the

district lines are constitutional, and the court stops here. If yes, then "strict scrutiny review" will apply, and the court must go on to parts 3 and 4 of the test.

Race can be a factor that was considered when the district lines were drawn, but it cannot be the "predominant" factor. The burden is on the plaintiffs to show that the challenged redistricting plan "subordinated to race traditional race-neutral districting principles." *Miller v. Johnson.* "[S]o long as they do not subordinate traditional districting criteria to the use of race for its own sake or as a proxy, States may intentionally create majority-minority districts, and may otherwise take race into consideration, without coming under strict scrutiny." *Bush v. Vera*.

If race was the predominant reason that the district lines violate "traditional districting principles," then the district lines are subjected to "strict scrutiny review." Parts 3 and 4 of the test apply "strict scrutiny review."

3. Is there a "compelling governmental interest" that justifies the district lines' violation of the "traditional districting principles"? If no, then the district lines are unconstitutional. If yes, the court must go to Part 4 of the test.

A "compelling governmental interest" is an "interest of the highest order." Compliance with the Voting Rights Act (Section 5 or Section 2) can be a compelling governmental interest that satisfies this prong of strict scrutiny review. A state or local government can also have a compelling governmental interest in "eradicating the effects of past discrimination," but the state must provide a "strong basis in evidence" of such past discrimination. *Shaw v. Hunt,* 517 U.S. 899 (1996). Past societal discrimination will not suffice, and specific examples must be shown.

4. Are the district lines "narrowly tailored" so that they address the compelling governmental interest? If no, then the district lines are unconstitutional. If yes, then they are constitutional.

If the compelling governmental interest prong is satisfied, the state or local government must then demonstrate that the district lines were "narrowly tailored" to address the governmental interest. This means that the remedy must fit the injury that occurred, and it must use the least restrictive means of fixing the problem. Some important questions to ask when analyzing whether district lines are narrowly tailored include the following: Is the district in the location where the polarized voting exists? Does the district pack in too many minority voters for no good (non-racial) reason? In simple terms, is the district too "bizarre" in shape for no good reason?

A redistricting plan that creates a majority-minority district to comply with the Voting Rights Act would satisfy the compelling governmental interest prong, but if the district is widely dispersed and does not satisfy the first *Gingles* precondition, the plan might not be considered narrowly tailored, and it could be considered unconstitutional.

Racial gerrymandering claims are typically brought by white plaintiffs who must satisfy all four of these prongs to succeed on their claims. But remember, these plaintiffs do not have to show discriminatory intent, discriminatory effect, or consistent degradation, so their burden is easier to satisfy than the burden for plaintiffs bringing minority vote dilution or political gerrymandering claims.

III. Race and voting rights laws

Race has never been a simple issue in our nation's history, and this complexity holds true in the context of voting

rights. The rules governing how race should be considered in redistricting seem to contradict each other. In essence, race must be considered in some cases, but it cannot be considered too much.

The Role of Race in Redistricting: The U.S. Supreme Court has noted that "the legislature always is aware of race when it draws district lines, just as it is aware of age, economic status, religious and political persuasion, and a variety of other demographic factors." *Shaw v. Reno* (emphasis in original). This awareness is allowed (indeed, expected), but it is not permissible to make race the predominant factor and subordinate traditional districting principles unless there is a compelling governmental interest and the district lines are narrowly tailored to address the compelling governmental interest. According to the Supreme Court, it is possible to consider race without making it the predominant factor, but the Court acknowledges that "[t]he distinction between being aware of racial considerations and being motivated by them may be difficult to make." *Miller v. Johnson*. For instance, "[i]f district lines merely correlate with race because they are drawn on the basis of political affiliation, which correlates with race, there is no racial classification to justify." *Bush v. Vera.* But if consideration of political affiliation is just a proxy or substitute for consideration of race, then there is in fact a racial classification to justify.

Race must be considered for Section 5 purposes to determine whether a law or redistricting plan will worsen minority voting rights. Race is also considered for Section 2 purposes, to determine whether minority vote dilution occurs.

Equal Protection Clause: As discussed above, different standards have emerged for different types of Equal Protection challenges, and these differences seem to be triggered,

at least in part, by race. The burden on a plaintiff bringing a minority vote dilution claim is very high because he or she must demonstrate that the legislators had a discriminatory intent when they enacted the challenged law. He or she also must show that the challenged law had a discriminatory effect. In the context of political gerrymandering claims, the burden on the plaintiff likewise is high because of the required showings of intent and consistent degradation, and virtually none of these claims has been successful.

But where plaintiffs challenge majority-minority districts, the Supreme Court has created an exception to the usually high Equal Protection burden. *Shaw v. Reno, Miller v. Johnson.* In racial gerrymandering cases, plaintiffs do not have to show any intent to discriminate, any discriminatory effects, or any consistent degradation.

In its majority opinion in *Shaw v. Reno*, the Court said that the strict minority vote dilution burden did not apply to racial gerrymandering claims. Minority vote dilution claims challenge election systems that are "not classif[ied] on the basis of race" and therefore are subject to the higher burden, whereas racial gerrymandering claims do challenge systems that are based on race, and therefore have a lesser burden. But as the minority opinion notes, in minority vote dilution cases, plaintiffs often challenge election practices where "race is consciously utilized by the legislature for electoral purposes," yet those plaintiffs must meet the higher burden. The majority fails to address this point. The minority opinion chastises the majority as follows:

The consideration of race in "segregation" cases is no different than in other race-conscious districting; from the standpoint of the affected groups, moreover, the line-drawings all act in similar fashion. A plan that segregates being function

ally indistinguishable from any of the other varieties of gerrymandering, we should be consistent in what we require from a claimant: proof of discriminatory purpose and effect.

Shaw v. Reno (White, J., dissenting).
Regarding the different burdens for political gerrymandering and racial gerrymandering claims, the majority opinion in *Shaw v. Reno* states the following:

This Court has held political gerrymanders to be justiciable under the Equal Protection Clause. But nothing in our case law compels the conclusion that racial and political gerrymanders are subject to precisely the same constitutional scrutiny. In fact, our country's long and persistent history of racial discrimination in voting—as well as our Fourteenth Amendment jurisprudence, which always has reserved the strictest scrutiny for discrimination on the basis of race—would seem to compel the opposite conclusion.

Shaw v. Reno.
In effect, a double standard exists where plaintiffs in racial gerrymandering lawsuits, who are usually white, face an easier burden than other people bringing Equal Protection claims, including minority members who challenge discriminatory election practices. The existence of these different burdens is somewhat troublesome, particularly given that the primary purpose of the Equal Protection Clause was to end discrimination against former slaves.

This discussion is intended to point out some idiosyncrasies in our Supreme Court jurisprudence. To navigate through the redistricting process, it is important to be aware of such obstacles. Although the process may seem confusing, two things are clear: state and local governments must consider race when trying to comply with the Voting Rights Act,

but they cannot make race the predominant factor and subordinate traditional districting principles unless there is a compelling governmental interest and the remedy is narrowly tailored. The role of race is illustrated in the following statement by the Court in *Shaw v. Reno*:

[W]e think it ... permissible for a State, employing sound districting principles such as compactness and population equality, to attempt to prevent racial minorities from being repeatedly outvoted by creating districts that will afford fair representation to the members of those racial groups who are sufficiently numerous and whose residential patterns afford the opportunity of creating districts in which they will be in the majority.

IV. What the law means to you
This section shows you how these laws can protect your voting rights. You can use these laws in several ways: (a) to prevent the implementation of dilutive voting practices; (b) to challenge dilutive voting laws that have been enacted; and (c) to learn about obstacles you may face if you want majority-minority districts to be drawn.

A. Preventing the Enactment of Dilutive Practices
Section 5: If you are in a jurisdiction that is covered by Section 5 of the Voting Rights Act, then you can prevent the implementation of dilutive voting practices through Section 5. If a voting law worsens a minority group's voting rights, then the law should not be precleared by the Department of Justice.

What You Can Do: Proposed redistricting plans fall within the scope of Section 5, and they must be precleared to be implemented. Once a plan is passed by your state or local government, you can participate in the process in the following ways:

1. Obtain Section 5 Submissions that Affect You: These submissions are public documents, and you can obtain them from either the Justice Department or the government that submitted the plan for preclearance.

2. Review Section 5 Submissions: Review the proposed redistricting plan to see whether you think it will adversely affect a minority community. Compare the proposed plan with the one that already exists (which is probably the benchmark plan that will be used by the Department of Justice). Consulting with an attorney who is experienced in this field of law would be helpful at this point.

3. Make Comments and Objections: After the government submits its proposed plan to the Justice Department, the Department has 60 days to review it, and the Department accepts comments and objections from the public during this time. Whether you are in favor of or opposed to the plan, let the Justice Department know what you think. You can write to the Justice Department by addressing letters to Chief, Voting Section, Civil Rights Division, Department of Justice, Post Office Box 66128, Washington, DC 20035-6128. You can also call the Justice Department at (800) 253-3931 or (202) 307-2767 and ask to speak to someone who covers your state. The earlier that you provide your input, the better.

4. Speak to Your Community: In its submission, the state or local government has to provide the Justice Department with names of people to contact in affected minority communities. Because the submission is a public document, you can find out who these people are. Speak to these people and find out what they think about the proposed redistricting plan. The Justice Department will contact them, so it is important that you know where they stand. If you disagree with their views of the plan, let them know your thoughts.

5. Make Sure the Justice Department Acts: If the Justice Department does not do anything, then the plan will automatically be precleared. If you object to the proposed plan, contact the Department to urge them to act.

6. Obtain a Copy of the Justice Department's Decision: After the Justice Department makes its decision, you can obtain a copy of the decision by contacting the Justice Department (see #3 above) or your local government officials.

Interaction with other laws: The Section 5 non-retrogression rule has limited impact. If a district's lines are precleared by the Justice Department, those lines could still be subject to challenge under either Section 2 of the Voting Rights Act or the U.S. Constitution (see below).

If a majority-minority or opportunity district is created and precleared, it could still be challenged on one of these other grounds. If you think that a precleared district is harmful to you, you may still be able to sue under these other laws, even though it was precleared by the Justice Department.

B. Challenging Dilutive Voting Practices

This section provides an overview of ways that you can challenge dilutive voting practices. This section is not intended as legal advice. If you are considering bringing a challenge to dilutive voting practices, the manual authors recommend that you consult a voting rights attorney.

Section 5: If a dilutive redistricting plan is passed in an area covered by Section 5 without obtaining preclearance from the Justice Department, the state or local government could be sued under Section 5. Contact the Department of Justice if you think that this is occurring.

Section 2: Minority vote dilution practices can be challenged under Section 2 of the Voting Rights Act. This section allows you to bring suit in federal court without having to prove an intent to discriminate by the government that enacted the law. You only need to show a discriminatory result. To have standing to sue under Section 2 on a minority vote dilution claim (that is, to be able to bring a minority vote dilution claim), you need to be a member of the minority group.

You should find out the following information: Do you live in an at-large or single-member district election system (see chapter one)? Are there any dilutive devices at work in your district, or are any such devices proposed (see chapter two)? Will proposed districting plans dilute your vote—that is, will they "pack," "crack," or "stack" your minority community? See chapter two for more information about what you should look out for.

Equal Protection Clause: Third, you could challenge a discriminatory voting practice under the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. But generally, in this type of case, you need to prove both discriminatory intent as well as discriminatory results, which is a much greater burden than that of Section 2. As with a Section 2 minority vote dilution claim, you need to be a member of a minority group to bring an equal protection minority vote dilution claim.

C. Considerations for Majority-Minority Districts

Section 2: You may favor districts that allow minority members to elect candidates of their choice, such as districts where minority members make up the majority of the district's voting age population (called "majority-minority districts").

To successfully create such districts under Section 2, you need to satisfy the three *Gingles* preconditions, as well as to show by a "totality of the circumstances" that the minority group has not had the same opportunity as the majority group to elect representatives of its choice. Examine the Senate Factors and see which apply to the minority group and the proposed district. For more information about drawing a district, see appendix A.

Equal Protection Clause: You also need to anticipate a *Shaw/Miller* racial gerrymandering challenge. To withstand such a challenge, it is important to make sure that, at the time the district lines are drawn, one of the following conditions is satisfied: (1) race is not a predominant consideration; or (2) traditional districting principles are not subordinated to race; or (3) if race is a predominant consideration and traditional districting principles are subordinated, there is a compelling governmental reason for doing so, and that the majority-minority district lines are narrowly tailored to address the compelling governmental interest.

Chapter Four | One Person, One Vote

The rule: The "One Person, One Vote" rule requires that each district in a single-member district election system contain an equal number of people. This rule is also called the "no malapportionment rule." Under this rule, the geographic size of a district does not matter; instead, it is the population size that is important. The U.S. Supreme Court has stated the rationale for this rule as follows:

Legislators represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests. As long as ours is a representative form of government, and our legislatures are those instruments of government elected directly by and directly representative of the people, the right to elect legislators in a free and unimpaired fashion is a bedrock of our political system.

Reynolds v. Sims, 377 U.S. 533 (1964).
History: The one person, one vote rule did not take effect until the 1960s. Prior to then, when states and local governments divided up political power, they did not have to consider the number of people being represented in each district, and districts had very different population sizes.

Unequal representation exaggerated the voting power of some and minimized the voting power of others. For example, for years Illinois did not change its congressional district lines to adjust for population changes revealed by each decennial Census. By 1940, the Illinois congressional districts contained vastly different numbers of people. One congressional district containing 112,000 people was given one seat in the U.S. House of Representatives, whereas

another district with 914,000 people also had only one seat.

Prior to 1962, federal courts could not address malapportionment issues because they were considered issues solely for the legislature to decide. In 1962, the U.S. Supreme Court decided that federal courts could address malapportionment issues. Subsequently, the U.S. Supreme Court ruled that the 14th Amendment's guarantee of "equal protection of law" was violated when a small number of people in one district enjoyed the same political power as a large number of people in another district. Every person's vote must count equally: One Person, One Vote. This rule applies both to congressional districts (through Article I, Section 2 of the U.S. Constitution) and to state and local election districts (through the 14th Amendment to the U.S. Constitution).

Application of the "One Person, One Vote" Rule: This rule has implications for congressional, state, and local levels.

Congressional Level: The "congressional district rule" requires strict equality of population for each congressional district. This rule comes from Article I of the U.S. Constitution, and it requires congressional districts to be "as mathematically equal as reasonably possible." *White v. Weiser*, 412 U.S. 783, 790 (1973).

State and Local Levels: State legislatures and local governing bodies (including county and city governments and school boards) must also comply with the one person, one vote rule, but they are permitted more leeway than allowed for congressional districts. State and local governments are required to make an "honest and good faith" effort to provide for an equal population distribution in each district. They can have an overall deviation of up to ten percent with little, if any, justification. If the overall deviation exceeds ten

percent, then the state or local government must justify the deviation "based on legitimate considerations incident to the effectuation of a rational state policy." *Mahan v. Howell,* 410 U.S. 315, 325 (1973). If the overall deviation is greater than 16.4 percent, the plan will likely fail, regardless of any justification.

To determine whether districts comply with the one person, one vote rule, the population of each district is compared with the "ideal population." The "ideal population" equals the total population of the jurisdiction divided by the number of districts. The "overall deviation" equals the population of the largest district minus the population of the smallest district. If this number is greater than ten percent of the population, then the state or local government must provide a justification.

What you can do: You can play an important role by helping to monitor whether the one person, one vote rule is complied with in the redistricting plan that is chosen. Or, you can contact one of the technical redistricting groups in Appendix A: Resources.

1. Determine the Ideal Population for Districts in the Jurisdiction: To determine the ideal population, take the total population of the jurisdiction and divide that number by the number of districts.

2. Find Out How Many People Are In Each District Under Each Proposed Redistricting Plan: For each proposed redistricting plan, find out the answers to the following questions: How many people are in the district with the most people? By what percent does this district deviate from the ideal population? How many people are in the district with the least people? By what percent does this district deviate from the ideal population?

3. Compute the Overall Deviation: For each proposed plan, determine the "overall deviation" by comparing the deviation of the district with the greatest population to the deviation of the district with the least population.

4. Find Out the "Justifications" for Deviations: If the overall deviation of a proposed plan is greater than 10 percent, then the state or local government could have a problem—under those circumstances, the state or local government would have to justify the deviation to the Department of Justice (see chapter three). If a proposed redistricting plan contains an excessive deviation, ask proponents of the plan for their justification.

Chapter Five | The Census

Yesterday: America's decennial census finds its origins in the founding of our nation. The founding fathers wanted to unify the thirteen original states under one federal government, but problems arose because each state differed greatly in terms of geographic size, population, wealth, and slavery policies. The founders faced a dilemma: how could they make sure that each state had a voice in the running of the nation, without giving any one state too much power?

The founders devised a solution by creating a bicameral federal legislature — that is, a federal legislature with two separate bodies: the Senate and the House of Representatives. Each state would have equal representation in the Senate, but representation in the House of Representatives would be based on each state's population. This compromise allowed the thirteen states to be joined as the "United States" of America.

Because representation in the House of Representatives was based on each state's population, there had to be some way to count the population in each state. The Census was created to be a national count of (theoretically) every person in the country every ten years. This Census is required by Article I, Section 2 of the U.S. Constitution.

The nation's egregious history of slavery figures importantly in the early Census counts. When the U.S. Constitution was drafted, representatives of the Southern states wanted slaves to be counted as part of the population for purposes of the Census. If the slaves were counted, then these states would have greater representation in the U.S. House of Rep

resentatives. Delegates from the non-slave states opposed this increased representation among the slave states because they wanted to keep their political power. Another compromise was reached, accommodating the institution of slavery. Slaves would be counted in the Census, but instead of being considered "whole" persons, each slave would be counted as three-fifths of a person (60 percent). This compromise was also written into Article I, Section 2 of the U.S. Constitution. After the Civil War, black people in America were counted as whole persons in the Census.

Today: The Census count is important because money and political power are distributed based on the Census numbers. Both congressional representation and approximately $200 billion in federal funds are allocated based on the Census data.

In theory, the Census counts all people in the United States, but practical constraints and human limitations prevent every person from being counted. The "undercount" is the term used for those persons who are not counted. Minorities are disproportionately affected by the undercount, in part because they have a greater incidence of homelessness, incarceration, transience, poverty, and distrust of government. Examples of the disproportionate nature of the undercount include the following:

- Blacks are twice as likely as whites to be missed by the census count.
- In 1990, the black undercount was 4.5 percent, whereas the white undercount was 1.6 percent.
- In 1990, the undercount missed one of every ten black males.
- In 1990, the undercount missed 7 percent of black children.

In practical terms, this undercount means that minorities and minority interests are given fewer federal funds and less

political power than those who are counted accurately.

Modern statistical methods have been used to "correct" the Census numbers to reflect a more accurate count. Generally, the major political parties' official positions on the use of "corrected" census data coincide with their self-interests. Republicans oppose using the "corrected" Census numbers for redistricting because undercounted minorities usually do not vote Republican, whereas Democrats favor using the "corrected" Census numbers because undercounted minorities usually vote Democratic.

The Census Bureau decided not to release the "corrected" 2000 Census numbers to the public in time for state and local legislative redistricting. The Bush Administration did not urge the Bureau to do so.

What You Can Do:

1. Obtain Census Data that Affects You: This information is available at www.census.gov.

2. Find Out Information for Drawing Majority-Minority Districts: If you are interested in having a majority-minority district drawn, you need to know certain Census information (see appendix A). How many people live in the relevant jurisdiction? What is the ideal number of people for each district? This number equals the total population in your jurisdiction divided by the number of districts (see chapter four). How many members of your minority group live in the jurisdiction? Is this number large enough to support a majority-minority district for any of the elected offices? Remember, there are many different types of districts, including congressional districts, school board districts, city council districts, and county commission districts. A minor

ity group might not have the numbers to support a majority-minority district at the statewide level, but it just might at the county or city level.

3. Inform Your Elected Officials: Let your elected officials know about this information and, more importantly, let them know that you know it! They will probably take your concerns more seriously if they know that you are checking up on them. You can do this at redistricting hearings (see chapter one).

4. Respond to the Next Census: When the Census is next taken in 2010, make sure that you—and make sure that your family, friends, and neighbors respond. There is strength in numbers, and you want to make sure that the Census data accurately reflect the number of people in your community.

Appendix A | Resources

Throughout this manual, the authors suggest that you get involved in the redistricting process in many different ways, including obtaining information, examining legal issues, and drawing districts. The following resources are provided to help you accomplish these tasks.

1. For assistance with obtaining information and/or questions about legal issues, the following organizations may be able to help you:

Advancement Project
1100 17th Street NW, Suite 604
Washington, DC 20036
(202) 728-9557

American Civil Liberties Union
125 Broad Street
New York, NY 10004-2400
www.aclu.org
(212) 549-2500

American Civil Liberties Union
Voting Rights Project
2725 Harris Tower, 233 Peachtree Street
Atlanta, GA 30303
404-523-2721
fax: 404-653-0331

Brennan Center for Justice at NYU School of Law
161 Avenue of the Americas, 12th Floor
New York, NY 10013
www.brennancenter.org
(212) 998-6730
fax: (212) 995-4550

Center for Constitutional Rights
666 Broadway, 7th Floor
New York, NY 10012
(212) 614-6464
fax: (212) 614-6499

Lawyers Committee for Civil Rights Under Law
1401 New York Avenue NW, Suite 400
Washington, DC 20005
www.lawyerscommittee.org
(202) 662-8600

League of Women Voters
1730 M Street NW, Suite 1000
Washington, DC 20036-4508
www.lwv.org
(202) 429-1965
fax: (202) 429-0854

Mexican American Legal Defense and Educational Fund
634 South Spring Street, 11th Floor
Los Angeles, CA 90014
www.maldef.org
(213) 629-2512
fax: (213) 629-0266

NAACP Legal Defense and Educational Fund, Inc.
99 Hudson Street, Suite 1600
New York, NY 10013
(212) 965-2200, (800) 221-7822

NAACP Legal Defense and Educational Fund, Inc.
1444 Eye Street, NW, 10th Floor
Washington, DC 20005
(202) 682-1300

NAACP Legal Defense and Educational Fund, Inc.
1055 Wilshire Boulevard, Suite 1480
Los Angeles, CA 90017
(213) 975-0211

National Asian Pacific American Legal Consortium
1140 Connecticut Avenue, NW, Suite 1200
Washington, DC 20036
www.napalc.org
(202) 296-2300
fax: (202) 296-2318

National Association for the Advancement of Colored People
4805 Mt. Hope Drive
Baltimore, MD 21215
www.naacp.org
(410) 486-9180

Native American Rights Fund
1506 Broadway
Boulder, CO 80302
www.narf.org
(303) 447-8760
fax: (303) 443-7776

Puerto Rican Legal Defense and Education Fund
99 Hudson Street, 14th Floor
New York, NY 10013
(212) 219-3360

Southern Regional Council
133 Carnegie Way NW, Suite 900
Atlanta, GA 30303-1024
www.southerncouncil.org
email: info@southerncouncil.org
(404) 522-8764
fax: (404) 522-8791

Southwest Voter Registration Education Project
403 E. Commerce, Suite 220
San Antonio, TX 78205
www.svrep.org
(800) 404-VOTE, (210) 222-0224
fax: (210) 222-8474

2. For assistance with drawing districts, contact the following organizations:
Southern Regional Council
Fair Representation — Technical Redistricting Services
133 Carnegie Way NW, Suite 900
Atlanta, GA 30303-1024
www.src.w1.com/frep-d.html
email: info@southerncouncil.org
(404) 522-8764
fax: (404) 522-8791

American Civil Liberties Union
Voting Rights Project
2725 Harris Tower, 233 Peachtree Street
Atlanta, GA 30303
(404) 523-2721
fax: (404) 653-0331

Southern Poverty Law Center
400 Washington Avenue
Montgomery, AL 36104
www.splcenter.org