

Redistricting Bootcamp

CAALAC
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Agenda

- Census Status
- Overview of Process
- Procedural Requirements
- Best Practices
- Substantive Requirements
- Potential Challenges to Maps

Census Status



- Typically, the redistricting data is released by April 1 of the year following the decennial census
- COVID-19 affected the timing
- Deadline to complete redistricting was extended by AB 1276, which took effect on January 1, 2021

Overview of Process

- **General Provisions**—Elections Code §§ 21000 et seq.
- **General Law Cities**—Elections Code §§ 21600 et seq.
- **Charter Cities** — Elections Code §§ 21620 et seq.

Default Deadline—Redistricting Done Before 2031

- If city has a regular election occurring after January 1, 2022, and before July 1, 2022, the boundaries of the council districts shall be adopted not later than 174 days before that election.
- If a city does not have a regular election occurring after January 1, 2022 and before July 1, 2022, the boundaries shall be adopted not later than 205 days before the city's next regular election occurring on or after July 1, 2022

Charter City Deadline

- The default deadlines apply **unless**:
 - A charter city adopts a different redistricting deadline by ordinance or in its city charter before October 1, 2021, and October 1 of each year ending in the number one thereafter

What if you miss the deadline?

- The City shall “immediately” file a petition with the superior court to draw the map.
- If the City doesn’t file within five days, a resident of the City may file the petition and recover fees
- Exception: Charter City may adopt **in its charter** a different method to adopt a map if a deadline is missed

General Law / Charter Cities

- The districts must be drawn so that they are “substantially equal in population as required by the United States Constitution.” (§ 21601, subd. (a); § 21621, subd. (a).)
 - Based on total population of residents of the city based on the census
 - Exception: Incarcerated persons are not counted unless last known place of residence of the individual is within the city

General Law / Charter Cities



- The boundaries must comply with the United States Constitution, the California Constitution and the federal Voting Rights Act of 1965

Redistricting Commissions

- General Law cities can use all three
- Charter Cities can only use advisory to hold meetings before map drawn— unless charter permits otherwise

- Advisory
- Hybrid
- Independent

Criteria for All Cities

- The FAIR MAPS Act mandates using the following criteria **in order of priority**:
 1. Districts are geographically contiguous
 2. The “geographic integrity” of local neighborhood or “local community of interest” shall be respected “in a manner that minimizes division”
 3. Easily identifiable and understandable by residents

Criteria for All Cities (con't)

4. If practicable, and when not in conflict with prior criteria, district shall be drawn to encourage geographical compactness in a manner that nearby areas of population are not bypassed in favor of more distant populations
5. Districts shall not be drawn to favor or discriminate against a political party.

Public Hearing Requirements

- At least four hearings, and at least one held **before** the council draws a map
- At least two hearings **after** council drafts a map
- At least one hearing or workshop on a Saturday or Sunday or on a weekday after 6 pm
- Location accessible to individuals with disabilities

Public Hearing Requirements

- If a hearing is consolidated with a regular or special meeting with other substantive items on the agenda, the hearing shall begin at a fixed time regardless
- Council may have staff or a consultant conduct one public workshop in lieu of one of the hearings
- May establish an advisory redistricting commission to conduct the public hearings

Resident Participation

- **Five days' notice** required for public hearings
- Draft map must be published **at least seven days** before it is adopted as a final map
- Live translation must be provided upon 72 hours' notice
- Public Access to Demographic/Mapping data/software

Resident Participation

- Must accept testimony and proposed maps in writing and electronically
- Must record hearings or summarize in writing all public comments and council deliberations
- City must create and maintain a website **for 10 years** that contains specific information

Best Practices

Operationally

- Get your software and demographer(s) in place now
- Have staff start building the required web site now
 - <https://www.sos.ca.gov/elections/helpful-resources/redistricting>
- Decide whether an advisory, hybrid or independent commission will be used and, if so, start the process of forming it now
- Start developing your calendar now

Best Practices

Public Outreach

- Leverage existing organizations to reach their members regarding hearings
 - Consider developing outreach “tool kits”
- Solicit proposed maps
 - Be clear about what maps will NOT be considered

Substantive Requirements Overview



- Elections Code § 21601: “Substantially equal in population as required by the U.S. Constitution”
- Compliance with U.S. and California Constitutions
- Compliance with the federal Voting Rights Act of 1965
- Five statutory factors in order of priority

“Substantially Equal”

- Constitutional principle of “one person, one vote”
- Under federal law, “substantially equal” allows some deviation from absolute equality
 - 10% population differences are okay
 - Larger deviations might be okay, but not presumptively so
 - Deviations exceeding 16.4% probably never justifiable
- Local jurisdictions may require greater population equality
 - San Francisco: 1% from the statistical mean
 - Los Angeles County: “reasonably equal population”

Constitutional Compliance

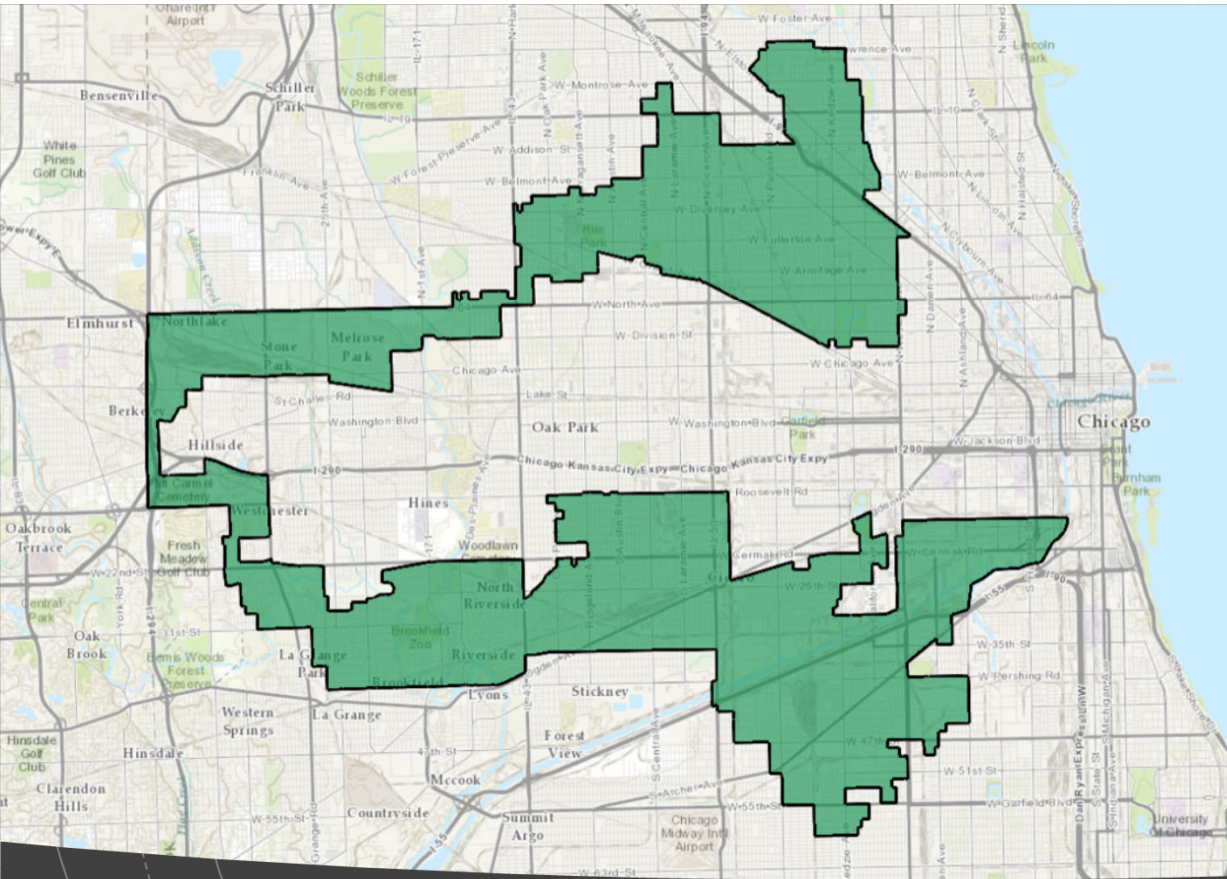
- U.S. Constitution: 14th Amendment Equal Protection
 - Intentional discrimination: consider if plan is irrational on its face, or race was a predominant motivating factor
 - Federal courts lack standing to hear challenges regarding partisan gerrymandering
 - *Rucho v. Common Cause*
 - *Lamone v. Benisek*
- California Constitution
 - Cal. Const. Art. XXI requires “reasonably equal” districts
 - Standard for cities is now “equal population” in line with U.S. Constitution

Compliance with VRA

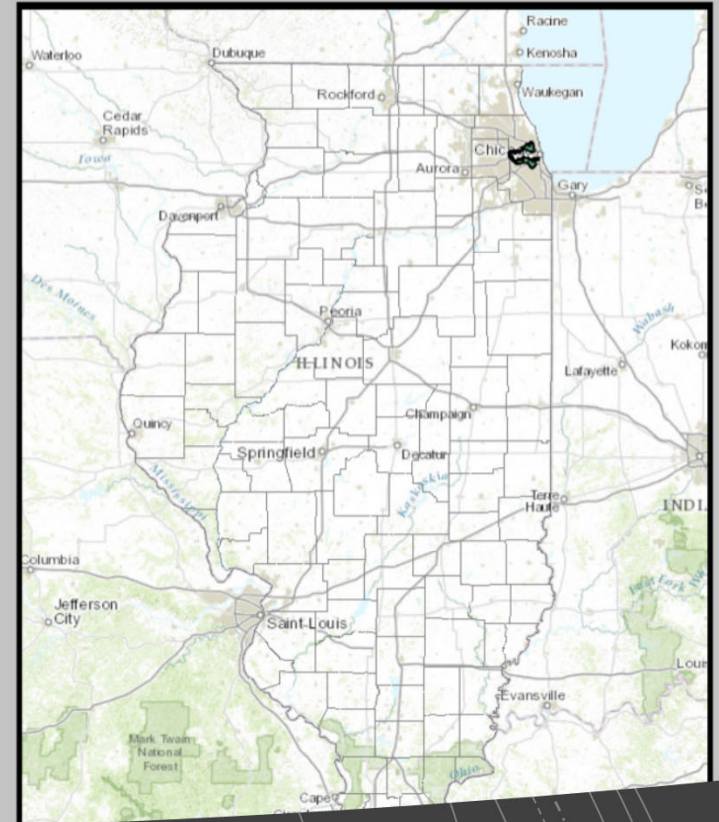
- Often called out in redistricting ordinances to ensure protection of minority voting rights
- Section 2: no local government's redistricting map can deny or abridge the right to vote on account of race, color, or membership in a language minority group
- "Cracking" or "packing" minority votes
- Minority vote dilution
 - *Thornburg v. Gingles*' 3-prong test
 - Majority-minority districts
 - Minority coalition districts

Five Statutory Factors

- Geographically contiguous
- Respect local neighborhoods and communities of interest
- Boundaries that are easily identifiable and understandable to residents
- Geographical compactness
- Shall not favor or discriminate against political parties



Illinois US District 4



What NOT to do Chicago Earmuffs

Pennsylvania Goofy Kicking Donald Duck

83rd Congress



1952

88th



1962

93rd



1972

98th



1982

103rd



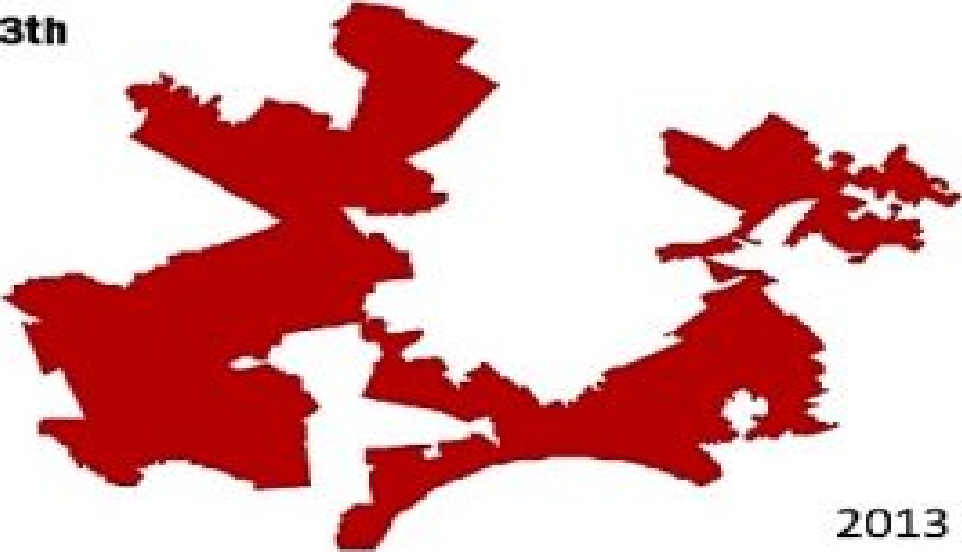
1992

108th



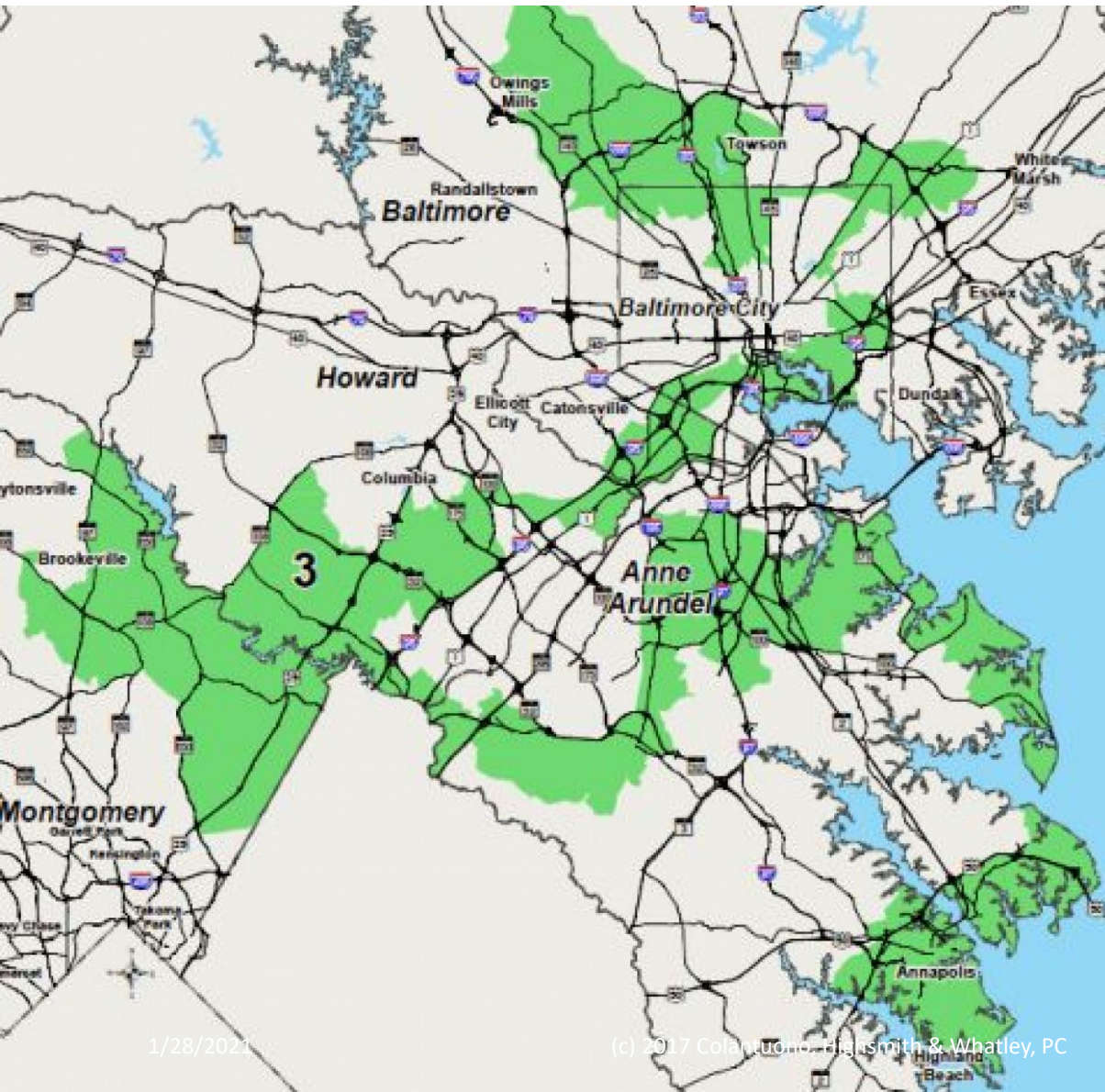
2002

113th



2013

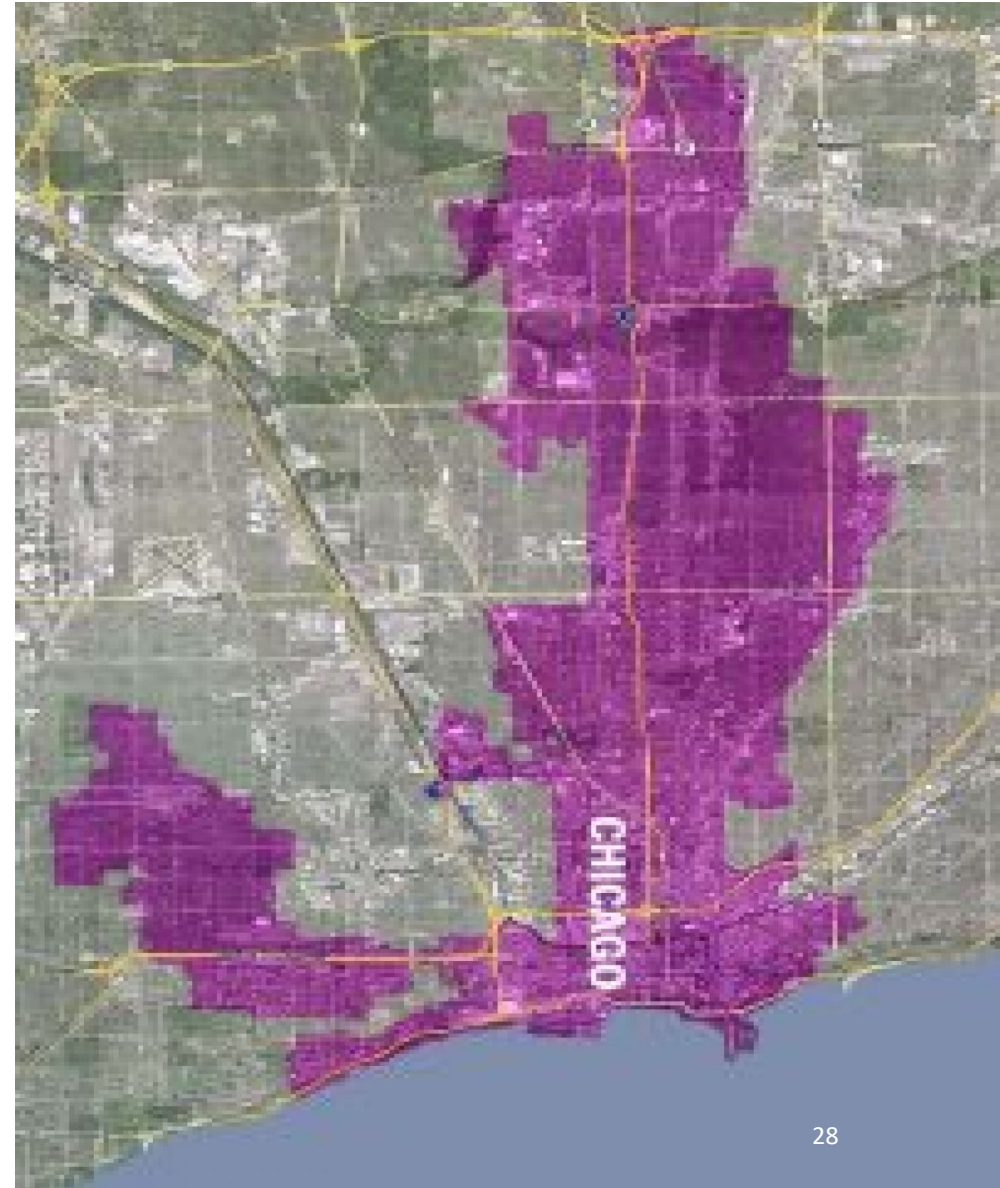
Baltimore Praying Mantis



1/28/2021

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Chicago Bevis Eating Pizza



Legal Challenges to the Map

- Federal vs. State court
- Potential challengers of district maps
 - Non-profit community groups (MALDEF, Common Cause, League of Women Voters)
 - Legislative bodies, where independent commission
 - Residents
- Trial
 - Standard of Proof
 - Direct vs. Circumstantial Evidence
- Referendum process