

## CHAPTER THREE

# Gerrymandering of Chicago Wards

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While Pool Noodle, Water Slide, and Lobster might elicit fun memories of a Florida summer for many Chicago residents, the City Council's extensive gerrymandering is overwriting such memories. These evocative terms have been used to describe the shapes of Ward 36 (Pool Noodle and Water Slide) and Ward 2 (the crustacean).<sup>1</sup> Approved in May 2022, the controversial ward map for the city of Chicago allows for 16 Black-majority wards, 14 Latino-majority wards, and 1 Asian-American-majority ward.<sup>2</sup> The reason for controversy? the disproportionate growth of different racial populations in the city and, according to the Latino Caucus of the Chicago City Council, the lack of equal consideration in redistricting, which resulted in only one more Latino seat than their previously designated number.<sup>3</sup> Still, in a 43-7 vote, the map was approved.

### What is Gerrymandering?

Gerrymandering is the manipulation of the borders of a constituency to favor a certain party's electoral outcome or dilute the voting power of a particular group, whether racial, linguistic, or another.<sup>4</sup> The etymology of the word comes from Governor Elbridge Gerry's 1812 redrawing of a Massachusetts Senate election district,

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<sup>1</sup> Ward, J. (2022, August 30). *Chicago's proposed 'Pool noodle' ward slammed by current alderman, roasted on social media*. Block Club Chicago. Retrieved October 18, 2022, from <https://blockclubchicago.org/2022/05/10/chicagos-proposed-pool-noodle-ward-slammed-by-current-alderman-roasted-on-social-media/>

<sup>2</sup> Board, C. S. T. E. (2022, May 13). *City Council's ward remap gives Chicago another 10 years of gerrymandered mess*. Times. Retrieved October 18, 2022, from <https://chicago.suntimes.com/2022/5/12/23065497/city-Councils-ward-remap-black-lantino-caucus-census-gerrymandered-mess-editorial>

<sup>3</sup> *Chicago City Council votes 43-7 to approve new ward map after racially polarizing debate*. WTTW News. (n.d.). Retrieved October 19, 2022, from <https://news.wttw.com/2022/05/16/chicago-city-Council-votes-43-7-approve-new-ward-map-after-rationally-polarizing-debate>

<sup>4</sup> Encyclopædia Britannica, inc. (n.d.). *Gerrymandering*. Encyclopædia Britannica. Retrieved October 18, 2022, from <https://www.britannica.com/topic/gerrymandering>

which looked like a salamander to cartoonist Elkanah Tisdale<sup>5</sup>; hence, "Gerrymander." Historically, states and cities redraw their maps following a census to appropriately represent the population changes. In practice, what is an "appropriate" redistricting is often only so from the point of view of the current majority political party: "Rather than voters choosing their representatives, gerrymandering empowers politicians to choose their voters."<sup>6</sup> This reversal of the redistricting process creates a situation whereby a party temporarily holding the political reins can cement its power. While some redrawing is a necessary response to population shifts, using tactics to benefit a particular political party hampers the proper, intended functioning of a democracy.

### **Methods of Gerrymandering**

Traditionally gerrymandering is practiced through three methods:<sup>7</sup>

1. "Cracking" involves splitting a group of people with similar characteristics into multiple districts to undermine their voting power.
2. "Packing" refers to the process of joining together population sets in such a way that they possess a majority within their (often oddly shaped) districts and, therefore, have the power to elect the leader of their choice.
3. "Stacking" involves diluting the voting powers of minorities by placing them in districts with large populations of a political majority – in the typical case, Black and Brown people are wedged into a district with an overwhelmingly White population.

Even as a governing political party declines in overall popularity, strategic cracking, packing, and stacking can help maintain their hold on power.

### **Unequal Impact of Gerrymandering**

Communities of color frequently bear the brunt of redistricting or re-warding (which is not the same as rewarding, in meaning or outcome). Redrawing constituency lines that are discriminatory against a particular race is prohibited by law. According to

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<sup>5</sup> Magazine, S. (2017, July 20). *Where did the term "gerrymander" come from?* Smithsonian.com. Retrieved October 18, 2022, from <https://www.smithsonianmag.com/history/where-did-term-gerrymander-come-180964118/>

<sup>6</sup> 7971, & 206. (2022, October 5). *Gerrymandering explained*. Brennan Center for Justice. Retrieved October 31, 2022, from <https://www.brennancenter.org/our-work/research-reports/gerrymandering-explained>

<sup>7</sup> *Cracking, stacking, and packing: What are they and why do they matter?* MyLO. (2021, September 2). Retrieved October 18, 2022, from <https://my.lwv.org/georgia/cracking-stacking-and-packing-what-are-they-and-why-do-they-matter>

the *Voting Rights Act of 1965*, Section 2, “No...standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color”.<sup>8</sup> Simply put, it is unconstitutional to practice racial gerrymandering. However, the 2019 Supreme Court case, *Rucho v. Common Cause*,<sup>9</sup> mandates that partisan gerrymandering is “a political question beyond the reach of federal courts.” And while race-based gerrymandering is prohibited, majority-minority districts can be created to make it possible that minorities can elect leaders of their choice; this process is not gerrymandering, it reflects an underlying purpose for redistricting: making sure the elected body is representative of the community.

Majority-minority districts are Congressional districts where most constituents are a part of a racial or ethnic group that is a minority in the broader constituency.<sup>10</sup> These districts are structured such that the citizens of these Congressional districts have a reasonable chance of electing representatives of their own group. Majority-minority districts are safeguards against unconstitutional, racial gerrymandering (whereas partisan-influenced redistricting is considered non justiciable by the Supreme Court). The correlation between people of a particular race and their alignment with a specific political party complicates the situation, and hence, partisan gerrymandering disproportionately impacts the voting power of racial and ethnic minorities. That is, partisan gerrymandering prevents communities and groups from having equal opportunities to influence the choice of their political representatives; indeed, this inequality is the strategic purpose underlying gerrymandering.

Both the Democratic and the Republican parties have practiced partisan gerrymandering in the past. However, favorable conditions at the time of redrawing have made Republicans more successful in their recent endeavors: Republicans were in power when the maps were being drawn and that gave them a competitive advantage over the Democrats in several states. For example, in 2011, in the state of Michigan, at the time of map redrawing, the Republicans not only controlled the state

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<sup>8</sup> Voting rights act. Ballotpedia. (n.d.). Retrieved November 12, 2022, from [https://ballotpedia.org/Voting\\_Rights\\_Act](https://ballotpedia.org/Voting_Rights_Act)

<sup>9</sup> 588 U.S.; 139 S. Ct. 2484; 204 L. Ed. 2d 931

<sup>10</sup> *Majority-minority districts*. Ballotpedia. (n.d.). Retrieved October 18, 2022, from [https://ballotpedia.org/Majority-minority\\_districts](https://ballotpedia.org/Majority-minority_districts)

legislature but also the governor's office.<sup>11</sup> Further, unlike the people supporting the Democratic party, who tend to concentrate in urban areas, the people supporting the Republican party are spread far and wide in suburban and rural areas. This population spread makes it easier for the map drawers to pack and crack.

## How Is Redistricting Performed?

Since the process of redistricting is similar at all levels of the government -- i.e., Congressional redistricting is like redistricting of wards -- analyzing the politics behind this process at the state or national level can offer insights into how it's done in the city of Chicago. This analytical approach can help in crafting a policy that can make ward redistricting an equitable process.

According to Ballotpedia, the various methods of redistricting fall into three categories:<sup>12</sup>

1. The legislature, which constitutes all elected members of the state House, is responsible for drawing maps.
2. A commission holds the final authority on how to redistrict. This commission can be of two types:
  - a. A politician commission where members can also hold office and run for elections.
  - b. A non-politician commission where members cannot hold an elected office during their tenure on the commission.
3. A hybrid type where the legislature and a commission have a joint responsibility to draft and implement a map.

In most states, the elected legislatures are responsible for drawing Congressional district boundaries, which provides the incumbents with some influence that can be used to extend their tenures or support the dominance of their parties. Some of the states where the legislatures are responsible for redistricting include Wisconsin and Pennsylvania.<sup>13</sup> In other states, Supreme Court decisions and

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<sup>11</sup> Business Insider. (n.d.). *Analysis: Partisan gerrymandering has benefited Republicans more than Democrats*. Business Insider. Retrieved November 2, 2022, from <https://www.businessinsider.com/partisan-gerrymandering-has-benefited-republicans-more-than-democrats-2017-6>

<sup>12</sup> *State-by-state redistricting procedures*. Ballotpedia. (n.d.). Retrieved October 18, 2022, from [https://ballotpedia.org/State-by-state\\_redistricting\\_procedures](https://ballotpedia.org/State-by-state_redistricting_procedures)

<sup>13</sup> *Redistricting in Wisconsin*. Ballotpedia. (n.d.). Retrieved October 18, 2022, from [https://ballotpedia.org/Redistricting\\_in\\_Wisconsin#State\\_process](https://ballotpedia.org/Redistricting_in_Wisconsin#State_process); *Redistricting in Pennsylvania*. Ballotpedia. (n.d.). Retrieved October 18, 2022, from [https://ballotpedia.org/Redistricting\\_in\\_Pennsylvania#State\\_process](https://ballotpedia.org/Redistricting_in_Pennsylvania#State_process)

the public-support for more equitable mapping have led to the formation of independent redistricting commissions, with a diverse set of members that more accurately mirror the community. States have started resorting to commissions for both Congressional redistricting and for state-office district boundaries. States like Connecticut, Indiana, and Ohio<sup>14</sup> have a system in which a commission -- officially known as the "backup commission" -- can take over in case the state legislature cannot reach a redistricting decision for Congressional districts.<sup>15</sup> The inability to finish and approve the line-drawing by a certain deadline, for instance, might authorize action by the backup commission. Some states employ an alternative backup system: Oregon, for instance, empowers the Secretary of State to step in when the legislature deadlocks regarding the final version of the map.

The state of Illinois offers another hybrid approach. The main responsibility for redrawing the electoral lines lies in the hands of the legislature. The governor has the right to veto the map. However, if this process fails to produce a map, an eight-member backup commission takes over. If this commission is still unable to decide on a map, "the Illinois Supreme Court must select two individuals (from different political parties) as potential tiebreakers. The secretary of state must then appoint one of these individuals to the backup commission to break the tie."<sup>16</sup>

Seven states have independent commissions for Congressional redistricting, including the states of Arizona, California, Michigan, and New York.<sup>17</sup> The significant number of states with independent commissions indicates an interest in reducing the political influence over redistricting.

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<sup>14</sup> *Connecticut*. All About Redistricting. (2021, July 15). Retrieved October 18, 2022, from <https://redistricting.ils.edu/state/connecticut/?cycle=2020&level=Congress&startdate=2022-02-15>; *Indiana*. All About Redistricting. (2022, January 20). Retrieved October 18, 2022, from <https://redistricting.ils.edu/state/indiana/?cycle=2020&level=Congress&startdate=2021-10-04>; *Ohio*. All About Redistricting. (2021, February 6). Retrieved October 18, 2022, from <https://redistricting.ils.edu/state/ohio/?cycle=2020&level=Congress&startdate=2022-02-19>

<sup>15</sup> *Who draws the lines?* All About Redistricting. (2021, August 4). Retrieved October 18, 2022, from <https://redistricting.ils.edu/redistricting-101/who-draws-the-lines/#backup+commissions>

<sup>16</sup> *Redistricting in Illinois*. Ballotpedia. (n.d.). Retrieved November 2, 2022, from [https://ballotpedia.org/Redistricting\\_in\\_Illinois](https://ballotpedia.org/Redistricting_in_Illinois)

<sup>17</sup> *Who draws the lines?* All About Redistricting. (2021, August 4). Retrieved October 18, 2022, from <https://redistricting.ils.edu/redistricting-101/who-draws-the-lines/#independent+commissions>

## Commissions and Redistricting

The trend of having commissions do the redistricting has been prevalent since the late 1950s;<sup>18</sup> however, certain milestones thrust commissions into the limelight. Before the prevalence of commissions, the responsibility of redistricting generally fell on the legislature. The most famous argument concerning non-political commissions was noted in the 2015 US Supreme Court case *Arizona State Legislature v. Arizona Independent Redistricting Commission*.<sup>19</sup> The Arizona legislature argued that it was unconstitutional to let a body of non-elected members decide on electoral borders. The Court, however, ruled 5-4 in favor of the commission. Justice Ruth Bader Ginsburg, with the support of Justices Breyer, Kagan, Sotomayor, and Kennedy, famously wrote "that the voters should choose their representatives, not the other way around. The Elections Clause does not hinder that endeavor."<sup>20</sup>

The opposing argument was made in an essay by Susan Myrick<sup>21</sup> of the Civitas Institute, a conservative think tank in North Carolina. Myrick said that faceless bureaucrats should not decide the fates of constituency-boundaries through an opaque process; rather, the legislature, which can be held accountable for its misadventures by the people, rightly holds the redistricting power. Even so, confidence in the virtues of electoral competition might be tempered by the consideration that gerrymandering takes place essentially only once a decade, and if successful, reduces the competitiveness of elections.

Yet another mechanism for map drawing exists in Maryland, where a 9-person group assists the Governor in drafting a plan for both Congressional and state legislative districts; the plan is then forwarded to the legislature for approval.<sup>22</sup> Maryland's approach is paralleled in some other states, where advisory commissions

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<sup>18</sup> Beth Hladick, B. W. (n.d.). Creation of redistricting commissions. Retrieved November 6, 2022, from <https://www.ncsl.org/research/redistricting/creation-of-redistricting-commissions.aspx>

<sup>19</sup> 576 [U.S.](#) 787 (2015)

<sup>20</sup> *Supreme Court of the United States*. (n.d.). Retrieved October 19, 2022, from [https://www.supremecourt.gov/opinions/14pdf/13-1314\\_3ea4.pdf](https://www.supremecourt.gov/opinions/14pdf/13-1314_3ea4.pdf)

<sup>21</sup> Myrick, S. (2018, May 10). *Susan Myrick*. Civitas Institute. Retrieved October 18, 2022, from <https://www.nccivitas.org/author/susan-myrick/>

<sup>22</sup> *Cracking, stacking, and packing: What are they and why do they matter?* MyLO. (2021, September 2). Retrieved October 18, 2022, from <https://my.lwv.org/georgia/cracking-stacking-and-packing-what-are-they-and-why-do-they-matter>

and non-politicians contribute to suggesting district boundaries, but where the final decision lies in the hands of the legislature.

## Recent Legislation in the US Congress

Multiple options, then, are available for redistricting, and letting the legislature take it on is a popular choice. But reformers, concerned about the threat that gerrymandering poses to a fair electoral process, often propose using an independent commission instead. The independence of the commission would seem to preclude partisan motives from driving the line drawing. Certain proposals tabled in the U.S. Congress have the goal of advancing the establishment of redistricting commission in all states. In the 117th Congress, Bill H.R.1, the For the People Act of 2021, requires "states to establish independent redistricting commissions to carry out Congressional redistricting;" the bill has passed the House and was received by the Senate on March 11, 2021, according to Congress' bill-tracking website.<sup>23</sup> (A similar objective exists in a Senate version, Bill S.1, For the People Act of 2021).<sup>24</sup> Further, the Bill H.R.80 of the 117th Congress (the "John Tanner Fairness and Independence in Redistricting Act" (2021-2022)) states:

1. "Each state must establish an independent redistricting commission to develop redistricting plans that meet specified criteria. If such a plan is not enacted into law, a state's highest court may select a plan developed by the state's commission. If the state court does not select a plan, a U.S. district court must develop a plan.
2. The Election Assistance Commission must make payments to states to carry out redistricting."<sup>25</sup> (According to Congress' bill-tracking website, the bill was introduced on March 1, 2021, and then referred to the Subcommittee on the Constitution, Civil Rights, and Civil Liberties)

Financial compensation for an independent redistricting body avoids creating an "unfunded mandate," where states would be forced to bear the costs of setting up

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<sup>23</sup> *H.R.1 - 117th Congress (2021-2022): For the People Act of 2021*. (n.d.). Retrieved October 19, 2022, from <https://www.congress.gov/bill/117th-congress/house-bill/1>

<sup>24</sup> *H.R.1319 - 117th Congress (2021-2022): American Rescue Plan Act of 2021*. (n.d.). Retrieved October 19, 2022, from <https://www.congress.gov/bill/117th-congress/house-bill/1319>

<sup>25</sup> *H.R.80 - John Tanner Fairness and Independence in Redistricting Act*. (n.d.). Retrieved November 12, 2022, from <https://www.congress.gov/bill/117th-congress/house-bill/80>

these commissions; however, ironically, this bill which granted sufficient funding didn't have enough momentum to pass through the houses and reach the Oval Office. The consistent introduction of bills that require independent redistricting commissions indicates a willingness on the national level to see some change. Such national trends have the capacity to push public opinion and Chicago aldermen into implementing something similar.

## **Redistricting in Chicago**

The new ward map of Chicago includes designated districts that ease the path for certain minorities to elect alderman of their choice. For example, the Asian-American ward near Chinatown makes it easier for the people of the ward to elect an Asian-American alderman – a result that might have been hard to achieve had the area been split into multiple wards, in none of which would Asian-Americans constitute a majority of the electorate. Ward designations and the subsequent boundary decisions were undertaken by the City Council through a "backroom deal"<sup>26</sup> when the alternative to this mechanism was a city-wide referendum. Avoiding the referendum required the approval of 41 Aldermen (40 out of 50 aldermen + 1).<sup>27</sup> This level of support had to be reached within a tight, couple-of-days' timeline and was achieved after a complex set of opaque negotiations that will probably never see the light of day.

Several organizations have popped up in the city of Chicago and other large metropolitan areas asking for new processes for redrawing ward boundaries. The Chicago Community Trust, one of the more active participants in this issue, published an article calling for a remapping process that is "Transparent, Incorporates Community Voice, and Strengthens Resident Representation."<sup>28</sup> The article was written by a lifelong resident of Englewood, Alex Ivory.

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<sup>26</sup> Byrne, J. (2022, May 11). *Chicago ward map proposal blasted as 'backroom deal' and a loss for city's Latinos; agreement means voters won't decide on new boundaries*. Chicago Tribune. Retrieved October 18, 2022, from <https://www.chicagotribune.com/politics/ct-chicago-ward-map-deal-20220510-yvfcvqjqmvdkffrdzjfcub6my-story.html>

<sup>27</sup> Rhodes, D. (2022, May 10). *11th-hour remap deal emerges with 41-plus votes, dimming threat of referendum*. Block Club Chicago. Retrieved October 18, 2022, from <https://blockclubchicago.org/2022/05/09/11th-hour-remap-deal-emerges-with-41-plus-votes-dimming-threat-of-referendum/>

<sup>28</sup> Bandera, M., & Ramirez, A. (2022, May 7). *The importance of a city ward remapping process that is transparent, incorporates community voice, and strengthens resident representation*. The Chicago Community Trust. Retrieved October 18, 2022, from <https://www.cct.org/stories/the-importance-of-a-city-ward-remapping-process-that-is-transparent-incorporates-community-voice-and-strengthens-resident-representation/>



## Redistricting in Chicago (Englewood and Lincoln Park)

The most observable example of a neighborhood multifurcated into several districts is that of Englewood, which is a predominantly African American south side neighborhood -- nearly 92% of Englewood's population is African American.<sup>29</sup> Englewood's 3.09 mi<sup>2</sup> area is non-uniformly divided into 5 wards, each with its own Alderman.<sup>30</sup> Lincoln Park, one of the more affluent neighborhoods on the north side of the city, at 3.17 mi<sup>2</sup> is similar in size to Englewood. Lincoln Park is predominantly white (80.0% of residents), and it primarily falls within one district (Ward 43).<sup>31</sup> The contrast between ward representation in Englewood and Lincoln Park signals common occurrences for some communities being oddly distributed into various wards, while others are kept together. An argument made by one Alderman in favor of communities being divided into various districts is that there is no choice: Chicago has 77 communities and 50 wards, so it is mathematically impossible to keep communities from fragmenting into multiple wards.<sup>32</sup> (Communities, here, refer to areas with similar historical evolution and general similarity. The mission of designation of communities in Chicago was led by sociologist Robert E. Park and the designated areas of these communities usually don't change.) The alternative of offering one ward per community runs up against the problem that communities with a large population would be effectively underrepresented under such a system. Further, this alternative is precluded by a legal maximum of 54,000 constituents in a Chicago ward, a cap on the number of people a ward can contain.<sup>33</sup>

Not only are some wards fragmented, but the shapes of the fragments are also occasionally quite wild, in the spirit of the original gerrymander. The creation of oddly shaped wards has helped aldermen retain their seats and power and been used to

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<sup>29</sup> *CMAP Community Data snapshot | Englewood - Illinois*. (n.d.). Retrieved October 29, 2022, from <https://www.cmap.illinois.gov/documents/10180/126764/Englewood.pdf>

<sup>30</sup> Stecklow, S. (2019, January 30). *Without representation*. South Side Weekly. Retrieved October 18, 2022, from <https://southsideweekly.com/without-representation-englewood-ward-gerrymandering/>

<sup>31</sup> *CMAP Community Data Snapshot | Lincoln Park - Illinois*. (n.d.). Retrieved October 29, 2022, from <https://www.cmap.illinois.gov/documents/10180/126764/Lincoln+Park.pdf>

<sup>32</sup> *Chicago ward, Community Area, and neighborhood maps*. City of Chicago: Chicago Ward, Community Area, and Neighborhood Maps. (n.d.). Retrieved October 18, 2022, from [https://www.chicago.gov/city/en/depts/dgs/supp\\_info/citywide\\_maps.html](https://www.chicago.gov/city/en/depts/dgs/supp_info/citywide_maps.html)

<sup>33</sup> *Ask Geoffrey: Why is Chicago divided into 50 wards?* WTTW News. (n.d.). Retrieved November 2, 2022, from <https://news.wttw.com/2019/02/27/ask-geoffrey-why-chicago-divided-50-wards>

punish recalcitrant City Council members. Clayton Guse of Time Out New York writes "Alderman Bob Fioretti annoyed [then Mayor] Rahm [Emanuel] so much that he was mapped out of his own ward."<sup>34</sup>

### **Redistricting in Chicago (4<sup>th</sup> Congressional District)**

Gerrymandering practices also have their defenders, even disinterested defenders. Liliana Scales<sup>35</sup> of the Chicago Sun Times is of the opinion that certain ward creations are done with good intent, to help minorities effectively elect a leader of their choice. One example from the city's past is of the 4th Congressional district, which resembled, well, earmuffs. Illinois's rising Latin-American population amounted to almost 20% of the state population by 1990; a somewhat proportional presence of Latinx representatives seems like a reasonable aspiration. The creation of the earmuff-shaped ward in the early 1990s helped the members of the Latinx community elect a representative of their choice, which would not have been likely with more standard district shapes.

The 4<sup>th</sup> Congressional district was not redistricted to protect an incumbent or to try to dilute minority votes. It was devised, rather, with the notion of promoting Latinx representation in the Illinois Congressional delegation. This remapping was achieved after activism by the Illinois Latino Committee for Fair Redistricting and the Mexican American Legal Defense and following the decision in a crucial 1991 legal case, *Hastert v. State Board of Elections*.<sup>36</sup> The plaintiffs in *Hastert* argued that the proposed updated maps of the city didn't adequately represent the population changes. The courts ruled in their favor, and Illinois ended up with the 4<sup>th</sup> district being created as a super-majority Latin-American district, clubbing populations from the Chicago neighborhoods of Humboldt Park, Pilsen, Logan Square, and Little Village.

The map also retained the pre-existing African-American districts. Without the drawing of these "earmuffs", the Latin-American community in Illinois would have

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<sup>34</sup> Guse, C. (2015, October 31). *Chicago's most gerrymandered wards*. Time Out Chicago. Retrieved October 21, 2022, from <https://www.timeout.com/chicago/blog/chicagos-most-gerrymandered-wards-040115>

<sup>35</sup> Chicago Sun-Times. (2020, March 12). *Why Chicago's 4th Congressional district - those 'earmuffs' - are about fairness and not gerrymandering*. Times. Retrieved October 21, 2022, from <https://chicago.suntimes.com/2020/3/11/21164850/illinois-4th-Congressional-district-gerrymandering-voting-rights-act-census-liliana-scales>

<sup>36</sup> 777 F. Supp. 634 (N.D. Ill. 1991)

had a muted representation in Congressional elections. The strange borders of the 4th Congressional district, along with the rest of the district boundaries, were endorsed by the Federal Court, as meeting: “the constitutional requirements of population equality and fairness to racial and language minorities, while achieving a politically fair projected distribution of congressional seats across party lines.”<sup>37</sup> The 4th district is a case of non-partisan line drawing, and it falls within the legal bounds of the Federal Voting Rights Act as it helps empower the voice of minorities.

### **Prison Gerrymandering**

A secondary issue that stems out of gerrymandering concerns prison populations. In general, prisoners cannot vote. Yet, if they are included in the population of the district that contains the prison, the non-incarcerated population that is eligible to vote receives an enhanced voice. “Residents of districts with prisons are able to elect the same number of representatives despite in reality having comparatively fewer voting-eligible members of their community.” Anamosa, Iowa acts as a good example to show how prison gerrymandering dilutes the votes of those districts without prisons. Anamosa, in 2005, had 4 wards with 1400 individuals each.<sup>38</sup> Of these wards, one ward had 1300 incarcerated individuals, who had no right to vote. So, it left the ability to elect an alderman for that ward to those 100 individuals (1400 total residents with voting rights – 1300 incarcerated individuals without voting rights). Each vote in the other districts represented 1 in over 1300 eligible voters, compared to 1 in 100 eligible voters in the ward with the prison.

As for the City of Chicago, the location of the Cook County prison and the dubious consideration of inmates as official voters in the prison’s district were noted by Joel Jacobs in Medill Reports. When the redistricting was performed in 2011, the map drawers included a hook-like extension within the borders of the 24<sup>th</sup> county. “As a result, jail inmates accounted for approximately one in six people in the new

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<sup>37</sup> Chicago Sun-Times. (2020, March 12). *Why Chicago's 4th Congressional district - those ' earmuffs' - are about fairness and not gerrymandering*. Times. Retrieved October 21, 2022, from <https://chicago.suntimes.com/2020/3/11/21164850/illinois-4th-Congressional-district-gerrymandering-voting-rights-act-census-liliana-scales>

<sup>38</sup> Kaplan, A. (2022, June 20). *Alisa Kaplan: Is Chicago's government structure in need of an overhaul? New Project gives us hope for reform*. Chicago Tribune. Retrieved October 29, 2022, from <https://www.chicagotribune.com/opinion/commentary/ct-opinion-chicago-reform-charter-ethics-joe-ferguson-20220620-cmyhloglincyzh55zetosycmze-story.html>

24<sup>th</sup> Ward.”<sup>39</sup> With almost 5,500 inmates (on average), this magnifies the power of each eligible voter, since the wards were drawn based on populations of 54,000 people each. The recommended suggestion in the Medill Reports to deal with prison gerrymandering is to considering prisoners to be a resident of the ward where their permanent address is located. This approach was included in the Bill HB0203 introduced in Illinois’ 101<sup>st</sup> General Assembly, the “No Representation Without Population Act.” The bill would require the Secretary of State to “reflect the incarcerated persons at their residential address, rather than the address of the facility in which the person is incarcerated.”<sup>40</sup> The latest action on the bill was “Session Sine Die” in the House on January 13, 2021. (Sine Die “is used to describe an adjournment when the date to reconvene is not specified.”)<sup>41</sup> Addressing prison gerrymandering while dealing with partisan gerrymandering is important for increasing electoral equity.

### **Redistricting in Large Cities (Other than Chicago)**

To understand how the process of redistricting of wards takes place in cities of similar size, demographic, and urban-suburban divide, I compare the recent electoral maps of the cities of Las Vegas, New York, Los Angeles, New Orleans, San Diego, Jersey City, and Houston.

### **Las Vegas**

What happens in Vegas should not necessarily stay in Vegas, especially when it comes to some meaningful parts of their redistricting practices. The city charter of Las Vegas mandates that “the community’s wards must be within five percent population of one another.”<sup>42</sup> This five percent number is in line with the recommendations from the 2020 Census: Redistricting File (Public Law 94-171 Dataset) that “requires the

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<sup>39</sup> *As ward redistricting approaches, where will jail inmates count?* Medill Reports Chicago. (2020, January 28). Retrieved October 29, 2022, from <https://news.medill.northwestern.edu/chicago/as-ward-redistricting-approaches-where-will-jail-inmates-count/>

<sup>40</sup> Illinois General Assembly - bill status for HB0203. (n.d.). Retrieved October 29, 2022, from <https://www.ilga.gov/legislation/BillStatus.asp?DocNum=0203&GAID=15&DocTypeID=HB&LegID=114071&SessionID=108&SpecSess=&Session=&GA=101>

<sup>41</sup> Lang, T. (2015, January 5). What is a sine die adjournment? Congressional Institute. Retrieved November 12, 2022, from <https://www.congressionalinstitute.org/2015/01/05/what-is-a-sine-die-adjournment/>

<sup>42</sup> *Home*. City of Las Vegas. (n.d.). Retrieved October 21, 2022, from <https://www.lasvegasnevada.gov/News/Blog/Detail/redistricting#:~:text=Redistricting%20is%20a%20process%20where,%20Dec%205%202021.>

Census Bureau to provide states the opportunity to identify the small area geography for which they need data in order to conduct legislative redistricting.”<sup>43</sup> Furthermore before they advanced the proposed map to the City Council in 2022, a 3-member panel of Vegas lawmakers discussed the proposed map in a public hearing. The intention of this hearing? To incorporate the suggestions of the public in the map confirmation process.

## **New York City**

The Big Apple, on the other side of the country, also has practices that the city of Chicago could emulate; for instance, the New York City charter mandates that the redistricting of the city be done by an independent redistricting commission after every decennial census.<sup>44</sup> A set of public meetings and hearings also offer the public the opportunity to contribute to the redistricting process. A July 15, 2022 hearing, for example, was slated "to hear testimony from the public concerning the adoption of a [redistricting] resolution."<sup>45</sup> NYC’s process of adoption of the map is fascinating: the commission, upon utilizing the detailed set of facts from the census and factoring in the laws, drafts a map and sends it to the City Council. The Council can only object to the plan once, which is accompanied by them sending their recommended modifications back to the commission. After the final plan is confirmed, neither the mayor nor the City Council can object to the confirmed plan. An interesting caveat in this situation here is that the members of the Council are appointed by the mayor from both the Republican and Democratic parties and are expected to work in the Council while putting their political affiliations aside. (Are people successful in divorcing their political identity from the self that drafts the commission?) Most recently, a plan was submitted to the City Council on October 6, 2022, to provide districts for the next 10 years. This back-and-forth process between the Council and the commission takes about 10 months.<sup>46</sup>

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<sup>43</sup> Bureau, U. S. C. (2021, October 8). *2020 census: Redistricting file (public law 94-171) dataset*. Census.gov. Retrieved October 26, 2022, from [https://www.census.gov/data/datasets/2020/dec/2020-census-redistricting-summary-file-dataset.html#:~:text=Public%20Law%20\(P.L.\),order%20to%20conduct%20legislative%20redistricting](https://www.census.gov/data/datasets/2020/dec/2020-census-redistricting-summary-file-dataset.html#:~:text=Public%20Law%20(P.L.),order%20to%20conduct%20legislative%20redistricting).

<sup>44</sup> *Chapter 2-A - districting commission*. A. (n.d.). Retrieved October 22, 2022, from <https://nyccharter.readthedocs.io/c02A/>

<sup>45</sup> *Participate. july-15-2022-hearing*. (n.d.). Retrieved October 21, 2022, from <https://www1.nyc.gov/site/districting/public-meetings-hearings/july-15-2022-hearing.page>

<sup>46</sup> *Home*. Citizens Union. (n.d.). Retrieved October 21, 2022, from <https://citizensunion.org/2022-city-Council-redistricting/>

Gerrymandering can still find a way in through loopholes in the New York city system: strange boundaries are far from unknown in the metropolis. A July 2022 preliminary map created by the redistricting committee was replete with oddities, such as connecting an upscale neighborhood of Manhattan with an area in Queens, and “cracking” some Latin-American neighborhoods.<sup>47</sup> The safeguards that are in place seem to establish effective limits on gerrymandering in New York City; the City Council of Chicago could take inspiration from the New York City process.

## **Jersey City**

Close to New York City is Jersey City, which also relies on a commission for redistricting. The Governor of New Jersey appoints 6 members to the Council: 3 Democrats and 3 Republicans. It is interesting to note that only the two major parties get such representation; I believe this is due to the comparative, miniscule representation of the other parties. Additionally, the most populated and the least populated districts must differ in populations by no more than 10%. One ironic detail of Jersey City redistricting is that if an incumbent alderman no longer resides in the ward they have been representing because of post-census district boundary changes, they become ineligible to run in their “old” ward until they move back within the new borders.<sup>48</sup> To avoid such awkward relocations from happening, some cities require the redrawn borders to generally to cohere with salient existing separators, such as major roadways and neighborhood boundaries.

## **Los Angeles**

Redistricting in Los Angeles was connected to a national news story in October 2022. The City Council President of the City of Los Angeles stepped down, on October 12, 2022, upon being pressured by her former Council colleagues and President Joe Biden in response to racist remarks made during the redistricting

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<sup>47</sup> Mays, J. C. (2022, September 20). *The redistricting mess comes to New York's City Council*. The New York Times. Retrieved October 21, 2022, from <https://www.nytimes.com/2022/09/20/nyregion/redistricting-city-Council-nyc.html>

<sup>48</sup> *City Ward redistricting*. The City of Jersey City. (n.d.). Retrieved October 21, 2022, from <https://www.jerseycitynj.gov/CityHall/CityCouncil/citywardredistricting>

process.<sup>49</sup> The City Council, after this news, began the process of modifying the city charter to install an independent commission for future redistricting.<sup>50</sup>

## San Diego

San Diego's charter also requires the creation of a redistricting commission every 10 years, with the condition that it remains independent of both the City Council and the mayor's office. The commission mandate is to avoid gerrymandering, to ensure that the elected body is representative of the city, while still responding to the population shifts recorded in the census figures. The charter also indicates that "identifiable communities of interest" are to be preserved.<sup>51</sup>

## Houston

For redistricting after the 2020 census, the Houston City Council invited boundary suggestions from the people: "Residents may also submit their own redistricting plan to the Planning & Development Department by July 20."<sup>52</sup> Redistricting in Houston was performed not only using the inputs from the public but also other contributory parties like the Planning and Development Departments, demographers, and the city's Legal Counsel.

## New Orleans

New Orleans, Louisiana, has taken a data-intensive approach to redistricting. The city charter requires the City Council to redistrict within 6 months of the census results being updated. The objective is to ensure that the 5 Council districts are equal in size and allow representation for the constituents of those districts. To ensure that these constraints are met, the city of New Orleans has partnered with a Geographic

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<sup>49</sup> Los Angeles Times. (2022, October 12). *Nury Martinez resigns from L.A. City Council in wake of Audio Leak Scandal*. Los Angeles Times. Retrieved October 22, 2022, from <https://www.latimes.com/california/story/2022-10-12/la-me-nury-martinez-resigns>

<sup>50</sup> Romine, T., & Salahieh, N. (2022, October 19). *La City Council elects new president amid the fallout from leaked racist audio*. CNN. Retrieved October 21, 2022, from <https://www.cnn.com/2022/10/19/us/los-angeles-city-council-new-president-after-scandal/index.html>

<sup>51</sup> *Redistricting commission*. The City of San Diego. (n.d.). Retrieved October 21, 2022, from <https://www.sandiego.gov/redistricting-commission>

<sup>52</sup> *City Council redistricting*. Let's Talk Houston. (n.d.). Retrieved October 21, 2022, from <https://www.letstalkhouston.org/redistricting>

Information System (GIS) and data analytics firm named FLO Analytics.<sup>53</sup> With the support of FLO's data scientists, GIS professionals, and experts, the City Council outsources some elements of the redistricting process, which are then complemented by inputs from the public and approved by the Council.

## **Technology and Gerrymandering**

Worryingly, gerrymandering has become more sophisticated, as highly capable technology is being employed to reliably identify district bounds that are favorable to the party in power – to the detriment of representative democracy and the well-being of the community. Using data science on the outcomes of census reports and then drawing districts to benefit a particular body has the potential to yield outcomes that are designed to misrepresent society. Biased line drawing traditionally took place by hand, and later was enhanced with some inputs from computers. With the advancement of computing technology, which can handle more sophisticated software such as GIS, the process became almost fully digitized, needing minimal manual input. The GIS software company Caliper played a critical role in aiding this transition, by fomenting a sharp reduction in the cost of cartographical technology. The game-changer in the computerization of gerrymandering was the introduction of the Maptitude software by Caliper; this powerful, low-cost mapping tool became a favorite for party-biased remapping exercises.<sup>54</sup>

## **Wasted Votes and the Efficiency Gap**

Better data and data processing is a major factor in increasingly biased political representation. In Wisconsin, for example, Republicans received 48.6% of votes statewide in the 2012 elections, but they were rewarded with 60% of the seats.<sup>55</sup> This increased gap was also considered an outcome of the “wasted votes.” Wasted votes are those votes that don't help to elect a candidate. For example, if 3 candidates A, B, and C, get 1000, 500, and 50 votes respectively, wasted votes would equal 550 votes

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<sup>53</sup> *New Orleans City Council*. Redistricting - New Orleans City Council. (n.d.). Retrieved October 22, 2022, from <https://Council.nola.gov/redistricting/>

<sup>54</sup> II, V. R. N. (2017, October 31). *How redistricting became a technological arms race*. The Atlantic. Retrieved November 12, 2022, from <https://www.theatlantic.com/politics/archive/2017/10/gerrymandering-technology-redmap-2020/543888/>

<sup>55</sup> Ingraham, C. (2021, November 24). *Analysis | why the Supreme Court's decision to review Wisconsin's gerrymandering is such a big deal*. The Washington Post. Retrieved October 29, 2022, from <https://www.washingtonpost.com/news/wonk/wp/2017/06/19/why-the-supreme-courts-decision-to-review-wisconsins-gerrymandering-is-such-a-big-deal/>



since they didn't help elect a candidate. Also, from a broader definition, 499 votes for A were wasted since they only needed 501 votes to win. These wasted votes are a product of a measurement mentioned by Eric McGhee and Nicholas Stephanopoulos called the "Efficiency Gap." This gap "represents the difference between the parties' respective wasted votes in an election, divided by the total number of votes cast."<sup>56</sup> This number is further used to measure the extent of gerrymandering practices in place.

### **Project Redmap and the Need for Human-Technology Interaction**

The difference in population representation and its subsequent conversion to seats in the legislature, achieved through partisan gerrymandering, has been an outcome of a structured program called "Project Redmap." Redmap (from Redistricting Majority Project)<sup>57</sup> was initiated by the Republican Party in 2010 to employ technologically advanced methods to increase Republican control of political districts through remapping. Not surprisingly, on the receiving end of this project are the political minority communities that get gerrymandered through data-driven cracking, packing, and stacking.

Data science has been proven to be helpful in producing unrepresentative legislatures, but the tool itself could be put to the service of fair and transparent redistricting. The important questions to consider in this case are: how much of this process is being publicly shared? Are the outcomes of the data analysis available publicly? And is there a feedback mechanism to ensure that public opinion is factored in after the council receives initial approval? While every process has its flaws, transparent and technologically sound approaches would advance the objective of reducing partisan gerrymandering.

Independent, non-political commissions appear to constitute current best practice in terms of producing equitable redistricting outcomes. Most US jurisdictions, however, continue to employ systems that are more receptive to partisan manipulation. The independent body's mandate would be to produce a new map that reflects demographic changes, while being uninfluenced by political interventions and partisan preferences. While it is true that utilizing technologically advanced methods to redistrict is an ideal way to progress, it is important to have a commission approve

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<sup>56</sup> Efficiency gap. Ballotpedia. (n.d.). Retrieved November 13, 2022, from [https://ballotpedia.org/Efficiency\\_gap](https://ballotpedia.org/Efficiency_gap)

<sup>57</sup> Kolbert, E. (2016, June 20). The G.O.P. plan that turned America red. The New Yorker. Retrieved November 13, 2022, from <https://www.newyorker.com/magazine/2016/06/27/ratfcked-the-influence-of-redistricting>

the map, so that it also factors information, which Artificial Intelligence potentially ignores, like the desire of historic communities and neighborhoods to be within the same wards and therefore be represented by one alderman.

### **Establishing a Commission for Redistricting in Chicago**

Chicago does not have a charter that provides detailed rules for city government. Most government practices are either based on tradition or improvisational response to situations. A Chicago Tribune article by Alisa Kaplan<sup>58</sup> argues that Chicago-specific problems could be a result of the unique (perhaps outmoded?) structure of City governance. While the institution of a City Charter for Chicago might allow for wholesale changes, smaller steps could still improve the redistricting mechanism.

### **Chicago Advisory Redistricting Commission (CARC)**

Fortunately, several activist organizations in the City of Chicago have made the equitable redistricting of wards their priority. The most prominent organization is “Change Illinois”, and its project is called the “Chicago Advisory Redistricting Commission,” or CARC. Change Illinois, a coalition of activists, CEOs, policy advocates, and community organizers, aims to make the government more efficient and make elections more “ethical”.<sup>59</sup> To address the process of gerrymandering, they created an independent group of non-political people to draft a citizen-led map: the group claims to have no political ties to either the mayor or the aldermen and actively seeks public input. Furthermore, to make more people understand the significance of this project, Change Illinois cites examples like park maintenance, light repair, crime, and CTA station renovations, which usually lie under the discretion of the aldermen, as key issues that could remain unaddressed if redistricting dilutes the vote within a neighborhood.

The Advisory Redistricting Commission has its own charter, which seems to have been derived from a variety of successful examples.<sup>60</sup> The charter states that the

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<sup>58</sup> Kaplan, A. (2022, June 20). Alisa Kaplan: Is Chicago's government structure in need of an overhaul? New Project gives us hope for reform. Chicago Tribune. Retrieved November 13, 2022, from <https://www.chicagotribune.com/opinion/commentary/ct-opinion-chicago-reform-charter-ethics-joe-ferguson-20220620-cmyhloglincyzh55zetosycmze-story.html>

<sup>59</sup> Chicago Advisory Redistricting Commission. (n.d.). Retrieved October 29, 2022, from <https://chicagoswards.org/>

<sup>60</sup> *The commission*. Chicago Advisory Redistricting Commission. (n.d.). Retrieved October 29, 2022, from [https://chicagoswards.org/the-commission#block-yui\\_3\\_17\\_2\\_1\\_1627670839332\\_42472](https://chicagoswards.org/the-commission#block-yui_3_17_2_1_1627670839332_42472)

Commission should consider public input, follow the redistricting criteria mentioned in the charter, and “act with integrity, fairness, and efficiency.” This body is comprised of 13 independent commissioners, each representing a different community. The only criterion for commissioner eligibility is that the candidate must have been a continuous resident of the city for the last 5 years; however, there are many criteria for disqualification, such as: being a candidate for an electoral post, being a member of a political party, being a lobbyist, or having an immediate family member who meets any of the disqualifying criteria. Selection of commissioners from a list of recommended candidates is also undertaken by an independent body, which must keep the diversity of races, economic backgrounds, geographical area, and so on, within consideration. The selectors are required to interview all the recommended candidates. Commissioners who do not attend at least 75% of the commission meetings are removed. The rather strict and specific criteria for the selection of commissioners is intended to ensure the legitimacy of the body and those in it.<sup>61</sup>

### **Operations of CARC**

Change Illinois is financing the operations of the Advisory Redistricting Commission in its entirety, including the costs related to hiring legal counsel, tech staff, mapping experts, administration, compensation to the commissioners, and programming. The Advisory Redistricting Commission is meant to carry out its operations as if it’s a public body: hold meetings that are accessible to the public, abide by the Illinois Freedom of Information Act, and have no communication, outside of the public meetings, between members and people who have an interest in influencing the map in unfair ways. In particular, seeking public input is considered a crucial part of the map re-drawing process.

Adoption of the Commission’s map also involves a multi-step, formal process. The Commission releases the first draft of the map for comments from the public, which are taken into consideration and a revised map is prepared and released. More back and forths might follow, whereupon the refined draft is recommended to the City Council. But not just the map: “the Commission shall also release data used to create or evaluate the map as well as a brief report outlining how the map was drawn.” This data release also involves disclosing the adopted criteria, which according to the Advisory Redistricting Commission is, in the order mentioned on their charter: 1.

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<sup>61</sup> *The commission*. Chicago Advisory Redistricting Commission. (n.d.). Retrieved October 29, 2022, from <https://chicagoswards.org/the-commission>

Equal Population, 2. Geography and Continuity, 3. Communities of Interest (with factoring in situations where communities have active relationships with political parties), and 4. Compactness, while maintaining the rules and regulations stipulated in the federal and state laws and constitutions.

## Conclusion

Chicago possesses immense potential to experiment with policies that help elect a government body that is representative of the diverse population of the city. Transitioning into a situation where an independent, non-political body performs redistricting would be the most effective solution to counter partisan gerrymandering. Furthermore, seeking inspiration from cities and states that have enacted such committees (and included these practices in their charter) would be a meaningful point of departure. Gaining the support of non-profit organizations that have long established records in promoting fair redistricting would also be worth undertaking. Lastly, setting up a timeline to ensure that a strong system is in place before the next redistricting seems like the best method to ensure that the redistricting maintains the integrity of each vote.

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*Editorial note:* For a related op-ed in the *Chicago Policy Review*, please see <https://chicagopolicyreview.org/2023/01/23/chicago-policy-vs-council-politics/>.