

# CHAPTER 7

2002	7	653647	614247	638105	0.83	0.88	35
2002	8	653647	730943	738840	0.44	0.56	-1
2002	9	653647	627813	628859	0.68	0.72	20
2002	10	653647	656807	650425	0.53	0.61	6
2002	11	653647	735089	759445	0.46	0.53	-1
2002	12	653647	653304	666459	0.52	0.56	3
2002	13	653647	768478	773095	0.45	0.54	-1
2002	14	653647	786760	840956	0.44	0.55	-1
2002	15	653647	666704	681580	0.41	0.48	-6
2002	16	653647	719475	718791	0.44	0.53	-2
2002	17	653647	628820	634792	0.51	0.57	3
2002	18	653647	656128	665723	0.42	0.48	-6
2002	19	653647	659480	672930	0.39	0.44	-5
2012	7				0.77	0.81	28
2012	8				0.75	0.82	27
2012	9				0.54	0.59	5
2012	10				0.73	0.82	26
2012	11				0.61	0.71	10
2012	12				0.41	0.52	11
2012	13				0.48	0.59	11
2012	14				0.41	0.62	15
2012	15				0.51	0.65	14
2012	16				0.59	0.66	7
2012	17				0.59	0.51	-11
2012	18				0.47	0.51	-4
2012	19				0.61	0.61	6
2012	20				0.41	0.45	-10

Redraw  
2012 - 2020  
District  
Boundaries

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Gaines

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## Revisiting Redistricting: Who Should Be Afraid of Partisan Mapmaking?

By Brian J. Gaines, James H. Kuklinski and Christopher Z. Mooney

Delving into the complicated and often politically fraught process of redrawing electoral district boundaries after each decennial census, this chapter examines whether there is evidence that the purportedly gerrymandered maps played a role in the 2012 election. Using the 2012 U.S. House election, the authors reveal why partisan control of the process should be regarded with suspicion.

### NEED TO KNOW

- For the first time since 1970, Illinois did not have divided government in the first session following a census and reapportionment, and thus Democrats were free to draw any maps they liked.
- After Illinois lost a House seat due to reapportionment, the Democrat-drawn map ensured that Republican incumbents faced fewer familiar voters than Democrats. The new district map produced fewer competitive seats, most of which lean to the Democrats, providing Democratic U.S. House candidates in Illinois a clear advantage.
- Nineteen states, including Illinois, gave complete control to one party or the other in 2011 U.S. House redistricting. Republicans controlled redistricting in 14 states having 164 seats, while Democrats did so in only five states, having a mere 42 seats.
- When one party drew the new U.S. House map in a state after the 2010 census, that party did comparatively well in 2012. Parties that gained control of redistricting in 2011, not having had it in 2001, seem to have engineered larger swings in their own favor.

The 2012 election brought mostly bad news to Republicans, who failed to unseat President Obama despite a poor economy and lost 11 of the 14 U.S. Senate races regarded as “in play.” Their one bright spot was comfortable retention of control of the U.S. House, where they lost only eight seats. The president’s home state was a conspicuous exception to this point that the U.S. House was the best venue for Republicans in 2012: in Illinois, Republicans fell from holding 11 of 19 congressional seats to having only six of 18. More than half of their net losses nationwide can be assigned to the Land of Lincoln. Explanations for how Republicans weathered the storm in the U.S. House and why Illinois was unusually

stormy for them both involve district lines. One cannot forecast U.S. House results, or understand the election outcomes after the fact, without paying attention to where and how the districts were drawn. Most important, in the end, is who drew them.

In 2011, the Institute of Government and Public Affairs published *Rethinking Redistricting: A Discussion About the Future of Legislative Redistricting in Illinois*. The project described in that report began immediately following the 2010 census, and preceding the design of new electoral maps for the Illinois House and Senate and for the U.S. House seats in the state.

One component of the study was a public-opinion survey of registered voters in Illinois, aimed at assessing what they regard as fair redistricting. Unsurprisingly, we found that most did not know how U.S. House and General Assembly districts are drawn. Despite that ignorance, however, they had no difficulty identifying fairness criteria, for both process and outcomes. For instance, nearly 50 percent said they preferred that maps be drawn by an independent, nonpartisan commission whose members do not directly participate in politics; less than 3 percent said that redistricting should be done by the legislature and governor. With respect to outcomes, the respondents preferred that districts take relatively simple shapes and that they follow pre-existing county and city boundaries wherever possible. About 60 percent ranked one of these two goals as the highest priority. The third most popular outcome criterion was that “as many districts as possible should be about equally balanced between Democratic and Republican voters.”

50%

*Of respondents said they would prefer maps to be drawn by an independent, nonpartisan commission whose members do not directly participate in politics.*

Following Pat Quinn’s narrow defeat of Bill Brady in the 2010 gubernatorial election, however, Democrats controlled both chambers of the General Assembly and the governor’s office. For the first time since the 1970 Constitution took effect, Illinois did not have a divided government in the first session following a census and reapportionment, and thus Democrats were free to draw the maps as they liked. Not surprisingly, they did not opt to relinquish control by reforming the system, notwithstanding public preferences for nonpartisan mapmaking. All of the maps they drew—for U.S. House districts and for the state Senate and House districts, the latter having to be nested in the former—are widely regarded as partisan gerrymanders. In other words, observers believe the maps were designed to maximize

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Democratic and minimize Republican seat totals. Certainly, it would be difficult, if not impossible, to argue that the Democrats in control of Illinois state government prioritized any of the criteria cited above as most popular with voters.

So what? There is nothing illegal about triumphant parties using their power to try to lock in their advantages for the future. To the victor go the spoils. Equally, however, there is nothing to celebrate in politicians designing electoral institutions to be deliberately

unresponsive to public sentiment. Hereafter, we try to determine if there is, indeed, clear evidence that the supposedly gerrymandered maps played a role in the outcomes of the 2012 election. We begin by focusing in some detail on Illinois and then widen our domain by considering other states, many of which saw Republicans designing their U.S. House maps unilaterally. To simplify our task, we set aside state legislative electoral maps, which deserve their own analysis. Our larger purpose is to reiterate the sentiment of Illinois registered voters that redistricting done by one party alone is typically detrimental to the standard of “free and fair” elections, often held to be the quiddity of democracy.

### **A Very Brief Primer on Gerrymandering**

Gerrymandering means drawing electoral districts with some express political purpose, and it is thus a highly elastic term. It takes many forms, but it usually refers to three particular politically meaningful criteria: race, incumbency status, and partisan balance.

First, districts can be drawn based on the racial and ethnic composition of the electorate, to concentrate or disperse particular groups. A very rough summary of the complicated and shifting jurisprudence on racial gerrymandering in the U.S. is that, as the 2012-20 maps were being drawn, it was widely understood that the Voting Rights Act of 1965 (renewed and amended in 1970, 1975, 1982, and 2006) *requires* states with sufficiently large black and/or Hispanic

populations to draw as many majority-minority districts as possible.<sup>1</sup> Hence, all discussion of other forms of gerrymandering hereafter is to be understood as manipulation of district boundaries under

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the initial constraint that, in many states, several districts must be constructed to have populations that are mostly minority. Following the 2010 census in Illinois, the presumption was that no U.S. House map would pass judicial scrutiny unless at least three of the 18 districts were majority-black and at least one was majority-Hispanic. The latter, in

particular, cannot be created without violating any standard of compactness (simplicity of shapes), but courts treat this and other such desiderata as secondary, and thus dispensable.

Second, incumbent politicians obviously have strong interests in how their districts are altered, and gerrymandering has often been done with the goal of protecting as many incumbents as possible. This outcome often prevails when the two parties jointly draw a map, thus eliminating the potential for a partisan arrangement. For example, the often bizarrely shaped congressional districts drawn in Illinois in 2001 were largely seen as an incumbent-protection gerrymander. But there is no compelling public policy reason to draw maps that are clearly intended to help or harm incumbents’ efforts to be re-elected. Generally, incumbents do extremely well getting re-elected in American legislative elections, and political scientists agree that there is a substantial incumbency advantage, a

vote bonus accrued by virtue of holding office. The precise size of the bonus varies by time and place, but most estimates are in the broad range of 3-10 percent. In other words, any given legislative candidate can be expected to win several extra percentage points of vote share when running as an incumbent, all else equal. Although there is ongoing debate about what factors explain this bonus, familiarity is clearly one component. In turn, incumbents highly value electorates who already know them, with whom they have cultivated a “personal vote.” For that reason, continuity with old districts is a key trait that assists incumbents, to the detriment of potential challengers.

The third common type of gerrymandering, and perhaps the one most frequently suggested by the term, is the partisan gerrymander. Candidates prefer familiar electorates, but it is even more important for them to be able to run in districts that are friendly in terms of partisan balance. Voting by individuals and vote totals for whole constituencies are never entirely predictable, but there are strong regularities that can be detected in a series of elections. Hence, every district has a “normal vote” that describes its degree of partisan lean.

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*“Candidates prefer familiar electorates, but it is even more important for them to be able to run in districts that are friendly in terms of partisan balance.”*

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However, the incentives for the party as a whole differ. Parties (or party leaders) prefer not to “waste” votes in overly safe districts. The most efficient translation of votes into seats for a given party requires fairly competitive seats that lean only a little in the direction of that party. In turn, if Democrats (Republicans) craft a map to favor

their party, collectively, and harm Republicans (Democrats), collectively, they will draw a small number of extremely safe Republican (Democratic) districts and a larger number of less safe districts that lean in their direction. The result is a partisan gerrymander in which Democrats (Republicans) win a higher number of seats than their total vote in the state would seem to warrant because they win many seats by relatively close margins, while the Republicans (Democrats) who win do so by landslides, essentially wasting votes.

<sup>1</sup> Interested readers might compare *Thornburg v. Gingles*, 478 U.S. 30 (1986), *Shaw v. Reno*, 509 U.S. 630 (1993), *Johnson v. DeGrandy*, 512 U.S. 997 (1994), and *Bush v. Vera*, 517 U.S. 952 (1996) to try to piece together the status quo on when, why, and how majority-minority districts are permitted and/or mandated.

18

Number of U.S. House Seats that Illinois was apportioned following the 2010 census, down from 19 in the years before.

## U.S. House Elections in Illinois in 2012: Breaking Up the Personal Vote Is Not Hard to Do

The first sign that the U.S. House districts for the 2012-20 elections in Illinois were designed to make life difficult for Republican incumbents is which districts were most radically altered. Based on the 2000 census, Illinois was apportioned 19 seats for 2002-10, but the state grew slowly enough, vis-à-vis other states, that the apportionment based on the 2010 census allocated the state only 18 seats. That fact, coupled with fairly large discrepancies in population across the 19 old districts as of 2010, ensured that lines would have to move a good deal. Population shifts differed across seats, and all of the eight seats held by Democrats after the 2010 election were undersized, relative to the new quota (the 2010 Illinois population divided by 18), by an average of 88,461.

By contrast, the 11 Republican-held districts consisted of six that were undersized, by an average of 52,883, and five that were oversized, by an average of 53,413. That contrast suggests that one might have expected the Democratic incumbents to see their constituencies changed more than the Republicans, on average, in a nonpartisan process. After all, simply by trimming, one could have constructed five new districts with 100 percent familiar constituents for the Republican incumbent in the oversized 8<sup>th</sup>, 11<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>, and 16<sup>th</sup> districts.

What the Democratic mapmakers concocted, by contrast, was a map depriving Republican incumbents of familiar constituents at a much greater rate than Democrats. With Jerry Costello having retired, the eight Democratic U.S. Representatives who sought re-election ended up competing in districts having, on average, 74 percent constituents from their old districts. (They all ended up in districts

with the same number as their prior districts as well.) Costello announced his plans to retire after the new map had been signed into law, so one might prefer to include him in the calculation. With 94 percent of the residents in the new 12<sup>th</sup> having lived in the old 12<sup>th</sup>, including him increases the Democratic average to 76 percent. The 11 Republican incumbents, meanwhile, found themselves competing in districts that had, on average, only 42 percent familiar constituents. That figure includes Tim Johnson, who won the primary for the new 13<sup>th</sup> (only 27 percent of which was part of the old 15<sup>th</sup>, represented by Johnson), but withdrew before the general election. The new 16<sup>th</sup> district saw a primary face-off between Republican incumbents Don Manzullo and Adam Kinzinger. Forty-five percent

of the district consisted of territory from the old 16<sup>th</sup> (Manzullo) and 32 percent was drawn from the old 11<sup>th</sup> (Kinzinger). Neither of them could have avoided an intra-party battle without running in a seat having less than 10 percent overlap with his old district. The *highest* continuity value for any Republican was 64 percent, the proportion of the new 18<sup>th</sup> district that was also part of the old 18<sup>th</sup> (both won by Aaron Schock). The *lowest* value for

any Democrat was also 64 percent, for the 4<sup>th</sup> district (the majority-Hispanic seat held by Luis Gutierrez that is utterly safe in the general election for whichever Democrat wins the primary election). No one familiar with the large literature on the personal vote would doubt that the strong bias toward maintaining familiar constituencies for Democrats and not Republicans would be advantageous for the former and disadvantageous for the latter, all else equal.

### Choosing Normal Votes

As important as familiarity is in determining a person's vote for his/her lawmaker, political party matters much more. Thus, the most important feature of a map of legislative districts is the distribution of partisanship. For each district, one can estimate the expected outcome in a "normal" election, that is, an open-seat race where there is no

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incumbency advantage at play, in a year without a strong partisan tide favoring either side, when roughly equal candidates compete, spending about equal amounts. With sufficient data, one can use statistical models to decompose election results into components, including an estimate of the normal vote plus estimates of incumbency advantage, high-quality challenger (or open-seat candidate) effects, spending benefits, and inter-election tides. Unfortunately, one cannot produce such estimates with results from only one election, and so we cannot yet use that method to compare the 2002-10 and 2012-20 maps in terms of normal vote.

Instead, we can consider two simpler estimates of each district's normal vote: the average of Barack Obama's 2008 and John Kerry's 2004 vote shares and the Cook Partisan Voting Index, which is based on those same data, but adjusted to the national outcome.<sup>2</sup> The key feature for both measures is that we use the same data to gauge the districts from the old and new maps, and so focus strictly on how the clumps of partisan voters were re-grouped to alter the partisan composition of the districts.

Whichever measure we use, we reach the same basic conclusion. The top panels of Figure 1 (page 75) show that whereas the old map featured eight districts in the partisan-competitive range, where the mean Democratic presidential vote share was between 45 percent and 55 percent, the new map has only four such districts. Over the 2002-10 period, those eight districts were won by Democrats 37 percent of the time (15/41) and by Republicans 63 percent of the time (26/41), about what one would expect from the 5:3 split on either side of the 0.5 line.

But note that both parties won races from each bin. The Democratic wins included Debbie Halvorson's 2008 win in the 11<sup>th</sup>, where the average Democratic presidential vote was 49.5 percent. In 2010, Republican Bobby Schilling won the 17<sup>th</sup>, where the average of Kerry and Obama's 2008 shares was 54 percent.

Only one race using the new map produced a surprise in terms of this measure of normal vote: Republican Rodney Davis won the new 13<sup>th</sup> district, where the Kerry-Obama average is 52.5 percent. Eleven of the new districts, however, appear to be out-of-reach for Republican candidates, based on recent precedent for how safe a seat has to be in normal partisan vote before one party has no hope of winning, barring extreme scandal.<sup>3</sup>

The bottom panels, based on the Cook Partisan Voting Index, reveal essentially the same basic shift. By this measure, Illinois had 11 competitive seats between 2002 and 2010, nine of which were slightly friendlier to Republicans, plus seven seats safe for Democrats. Now, with a reduction of one seat, there are 10 potentially competitive seats, seven of which lean to the Democrats, plus another two safe Republican seats and six safe Democratic seats. The new "normal" outcomes thus favor Democratic candidates much more than those under the old lines.

### Paint it Blue

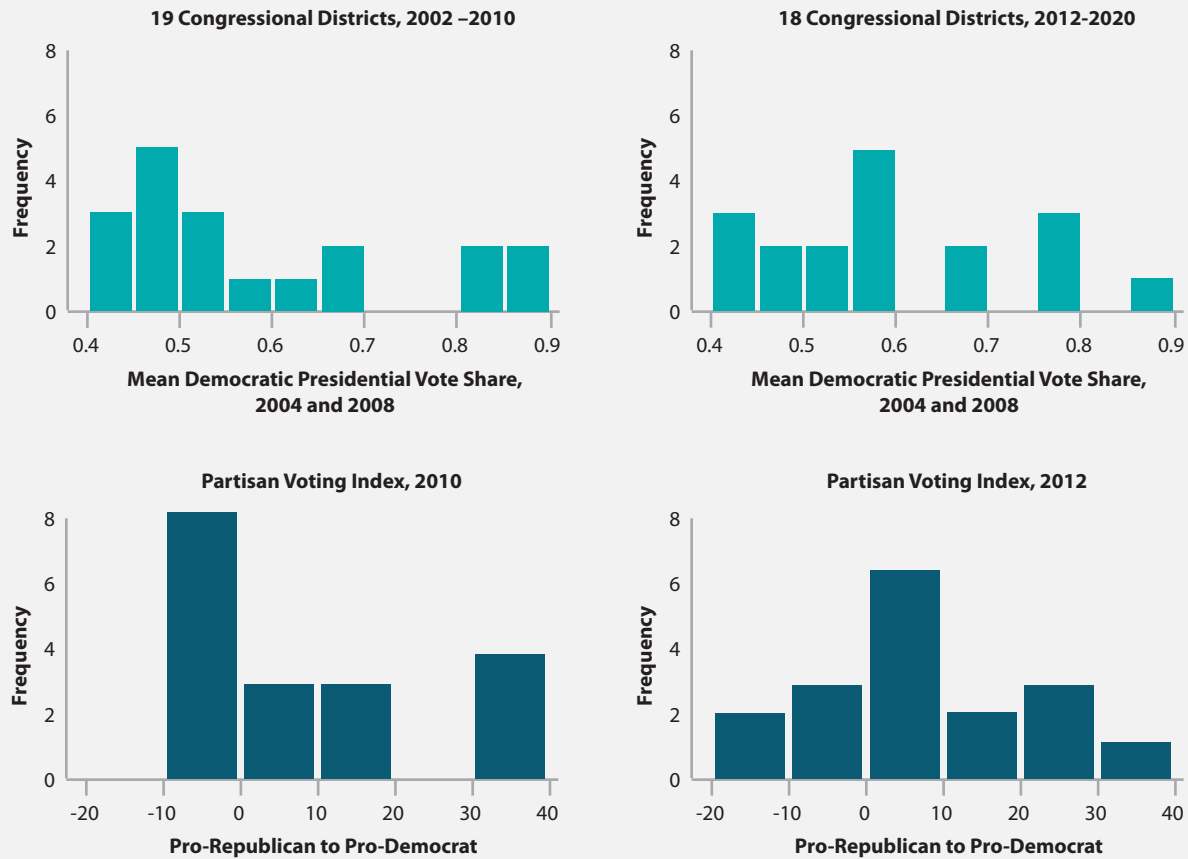
The evidence thus far suggests that the new Illinois U.S. House map was skillfully designed to reduce the number of Republican members in the delegation. The prior map, in place from 2002 to 2010, was a bipartisan, incumbency-protection gerrymander,

<sup>2</sup> Cook's index is computed by the political analyst Charlie Cook. Values for 2010 and the 2004 and 2008 presidential votes shares at the congressional district level for the old maps are reported in *The Almanac of American Politics 2012* (Michael Barone and Chuck McCutcheon). These same data for the new map are reported at [ballotpedia.org](http://ballotpedia.org).

<sup>3</sup> A good example of scandal tipping a district in an otherwise unthinkable direction was the Louisiana 2<sup>nd</sup> district in 2008. The district was about 60 percent black and gave Barack Obama 75 percent of its vote (matching John Kerry's share). But Republican Joseph Cao, a Vietnamese American, narrowly edged nine-term Democratic incumbent William Jefferson, who had been indicted for accepting bribes in 2007 and would subsequently be convicted and sentenced to 13 years in jail. By contrast, in the 2012 race in the Illinois 2<sup>nd</sup>, incumbent Jesse Jackson easily won re-election despite having declined to campaign and taken a leave from House duties. His absence was initially unexplained, and then attributed to medical treatment for bipolar disorder. Shortly after the election, however, he resigned his seat, acknowledging that he is under investigation. Rumors of impending federal indictment for campaign-finance violations continue to swirl at time of writing.

Figure 1

**Normal Vote Distributions of Illinois US House Districts, Before and After the 2011 Redistricting**



Source: Relevant data retrieved from sources identified in note 2.

having been developed by one Republican and one Democratic U.S. Representative, Dennis Hastert and William Lipinski. One prime goal was to avoid depriving Chicago of a seat. Moreover, “Hastert had been generous in using his powers as Speaker to aid (Chicago Mayor Richard M.) Daley, Lipinski and other Chicago Democrats on Chicago issues and projects (so)...(m)aintaining a Republican majority that would keep Hastert in the speakership was in the interest of Chicago Democrats,” according to *The Almanac of American Politics 2012*.<sup>4</sup> Democrats in the state legislature deferred to their federal colleagues, evidently placing more priority on the maps for the General Assembly.

<sup>4</sup> Michael Barone and Chuck McCutcheon, 2011, *The Almanac of American Politics 2012*. Chicago, IL: National Journal, p. 512.

So while neither the old nor the new U.S. House maps can be said to have been created blind to political interests, the purposes were distinct. What happens when a bipartisan, pro-incumbent map is replaced by one intended to help Democrats and harm Republicans? If the mapmakers know their business, seats change hands. Illinois Democrats won 12 of 18 seats (67 percent) in 2012, a gain of more than 14 percentage points over their average during the five elections held on the old map (10 of 19, or 53 percent). This calculation can be regarded as only a preliminary estimate of the effect of redistricting, insofar as there are four more election cycles to come before the current map

*“What happens when a bipartisan, pro-incumbent map is replaced by one intended to help Democrats and harm Republicans? If the mapmakers know their business, seats change hands.”*

will be replaced. The best result for Democrats in the last decade came in 2008, when they won 12 of 19 seats (63 percent), so if 2012 ultimately turns out to be the Democrats' best year under the new map, later analysts might ultimately conclude that the 2002-10 and 2012-20 district lines were not actually much different in partisan lean. That prospect, however, seems quite unlikely. It also seems improbable that the fairly simple analysis above is mistakenly attributing to the map effects that are actually due to presidential coattails, differentials in retirement, personal scandals, or some other factors. We readily acknowledge that we have not attempted a comprehensive statistical decomposition of all forces involved in the recent U.S. House races in Illinois, but the patterns are so dramatic that we have little doubt that they are genuine.

### Redistricting U.S. House Seats Nationwide

Of course, Illinois is not the only state whose 2012 election results were shaped by new maps. In response to the 2010 census, every state was required to redraw its state legislative maps; the 43 states with more than one congressional district had to redraw them, as well. Adopting a nationwide view offers

*"How could Democrats win the White House and augment their majority in the U.S. Senate while failing to make larger gains against the Republican majority in the U.S. House?"*

additional insight into the impact of redistricting on legislative elections because at least two of its dimensions vary among the states: the institution controlling redistricting and, if a partisan process, the party controlling it. In some states, control of the process even differed between U.S. House and state legislative districts. A nationwide view also gives some insight into a puzzle of the 2012 election results. How could Democrats win the White House and augment their majority in the U.S. Sen-

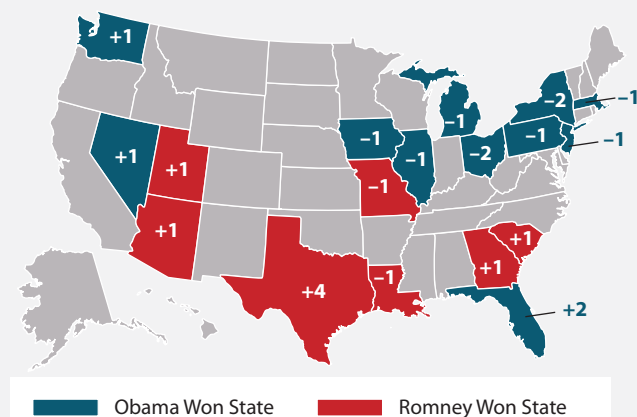
ate while failing to make larger gains against the Republican majority in the U.S. House (where they gained only eight seats, falling far short of taking control)? Redistricting is certainly not the only explanation for this divergence, but it is clearly part of the story.

### Apportionment

Even before the first legislative districts were drawn in 1911, the 2010 census had helped the Republican cause. The first step in the congressional redistricting process is reapportionment, that is, the reallocation of U.S. House seats among states in response to population shifts. Following a decades-long trend, the 2011 apportionment saw the upper Midwest and Northeast lose congressional representation to the South and Southwest. The two exceptions to this pattern were Louisiana's loss of a seat due to the exodus caused by Hurricanes Katrina and Rita and the state of Washington's gain of a seat as its population continued to boom, swollen in part by an exodus from California, which failed to gain any U.S. House seats for the first time since it joined the union in 1850.

Figure 2 shows the 18 states that gained or lost House seats in 2011, with the change in congressional delegation size indicated for each of them. Most of these states gained or lost a single seat, but Ohio and New York each lost two seats, while Florida gained two seats and the Texas delegation increased by four. This map also denotes which of these states Obama (blue) and Romney (red) won in 2012. Although Obama won more electoral votes than Romney (332 to 206), the 26 states (and the

Figure 2  
**2010 Apportionment and the 2012 Presidential Election**





District of Columbia) that he won had lost six electors to Romney's 24 states after the 2010 census. To forecast House elections, one needs to know what regions of each state were growing comparatively quickly (or slowly), but with red states having outpaced blue states in growth, a good first guess is that Republicans should have been poised to gain.

### Who Controlled Redistricting in 2011?

Next, consider redistricting itself. Although Illinoisans understand this process to be highly partisan, with both parties fighting for raw political advantage, it is not done this way in every state. Of course, politicians throughout the country have a great personal and partisan stake in the drawing of legislative maps, but many states have institutions or particular situations that took the partisan edge off the process in 2011. Some states establish nonpartisan or bipartisan commissions to draw their legislative maps, presumably reducing the motivation and opportunity to conduct a partisan gerrymander—although an incumbent protection gerrymander is a strong possibility in such a situation.<sup>5</sup>

**19** States including Illinois gave complete control to one party or the other in 2011 U.S. House redistricting.

Likewise, when the two parties have split control over the redistricting process, they can be expected to abandon a partisan-motivated gerrymander for an incumbent-protection-motivated gerrymander. In other states, the statutory redistricting process broke down in some way, resulting in no maps that the court system accepted as fair. In those states, the courts themselves drew the maps used in 2012, although in several of these states, the expectation is that the regular process will be tried again before 2014. Each of these—nonpartisan or bipartisan commission, or court-imposed districting, which we classify as “nonpartisan” for simplicity hereafter—provides little opportunity for partisan advantage in the process, although we might expect to find incumbents of both parties to be advantaged by them.

On the other hand, 19 states including Illinois gave complete control to one party or the other in 2011 U.S. House redistricting. As can be seen in Table 1, the partisan advantage was not equally distributed: Republicans controlled redistricting in 14 states having 164 seats, while Democrats did so in only five states having a mere 42 seats. Why this great imbalance?

The 2010 off-year election occurred during a weak economy, so we would expect the party of the president to fare poorly in legislative races that year.<sup>6</sup> And it did.<sup>7</sup> The GOP gained 63 seats in the U.S. House—the biggest single-election seat gain by either party since 1948—winning a substantial 49-seat majority. Such success in congressional elections in 2010 could have bidden ill for the GOP in 2012.

**14** vs. **5** Republicans controlled redistricting in 14 states (164 seats), while Democrats did so in only 5 states (42 seats).

When parties enjoy large surges, they tend to win many marginal seats, leading them to have vulnerable freshmen in the following presidential election. Furthermore, because these freshmen would have to run in new districts in 2012, before they had a chance to establish themselves with their constituents, they would likely be especially vulnerable. We have already noted that only two of the five GOP freshmen congressmen from Illinois survived the election of 2012, one by knocking off another Republican incumbent in the primary.

Of course, state gubernatorial and legislative elections have an even greater impact on redistricting, since state officials craft all legislative maps in most

<sup>5</sup> Michael P. McDonald. 2004. “A Comparative Analysis of Redistricting Institutions in the United States, 2001-02.” *State Politics and Policy Quarterly* 4(4):371-95.

<sup>6</sup> Gary Jacobson, *The Politics of Congressional Elections*, 8<sup>th</sup> Edition. Boston, MA: Pearson. Chapter 6.

<sup>7</sup> James E. Campbell. 2010. “The Midterm Landslide of 2010: A Triple Wave Election.” *The Forum* 8(4):3.

states. And the 2010 elections at the state level were every bit as successful for the GOP as were the congressional elections. Of the 6,125 state legislative seats on the ballot that year, Republicans had a net gain of 680 additional seats, leaving them with more seats nationwide than at any time since the 1920s.<sup>8</sup> Even more significantly, 20 state legislative chambers flipped from a Democrat to a Republican majority in 2010. Republicans did equally well in the 37 gubernatorial races in 2010, with a net gain of six for a total of 29 governorships. The 2010 GOP sweep thus helps explain the imbalance in party control over redistricting the following year. Thus, in addition to the leg up they got through reapportionment, the Republicans had this clear advantage going into the map-drawing process.

### The Impact of Redistricting on the 2012 Legislative Elections

Table 1 shows who drew the new maps in place in 2012 and also who drew the maps in effect for the prior decade (see table notes for details on the anomalous cases of states that had multiple U.S. House maps in use over the 2002-10 period). Even though Republicans had to protect more incumbents in marginal districts as a result of the 2010 elections, their control of the redistricting process seems to have shielded them from normal surge-and-decline losses. In particular, the bottom rows of the table show the average proportions of U.S. House seats held by Democrats in the states according to who drew the 2012 maps.

Starting on the left of the table, Republican-controlled states saw almost three-fourths of their U.S. House seats won by Republicans, whereas Democratic-controlled states saw about 60 percent of their seats won by the Democratic candidates. Those numbers alone are suggestive, but somewhat difficult to interpret, given that control of state government is never randomly assigned by a political scientist undertaking an experiment. Naturally,

states in which one party is strong in state legislative races will often exhibit the same partisan lean in subsequent U.S. House races. To try to adjust for state-to-state variation in partisan lean, we divided the proportion of 2012 U.S. House races won by the Democrats by 2012 Obama vote share. These values are shown in the bottom row, and a score near 1 indicates that the U.S. House shares were about on par with the presidential vote performance. The states with Republican-drawn maps saw a large discrepancy—the Democratic House candidates badly under-performed compared to their presidential candidate. In the five states with Democratic maps, by contrast, the Democratic presidential-vote and House-seat shares are about the same.

The remaining columns, however, complicate that simple contrast. Maps drawn by Republicans and Democrats together were markedly better for Democratic House candidates than those created by ostensibly nonpartisan actors. However, both sets of states produced scores fairly close to 1 in their average ratio of Democratic success in House races to Obama share, so this gap could be a fluke of which states fell into each category rather than an indication of systematically more pro-Democratic maps resulting from bipartisan rather than nonpartisan process. However, the seven states that did not feature any redistricting, because they have only one seat, resemble the states controlled by Republicans in terms of both of the measures we computed, casting some doubt on the straight-forward interpretation that the latter demonstrate partisan gerrymandering.

In short, while there is some sign that the large GOP edge in mapmaking power translated into a seat advantage, simple across-state averages are very crude measures. It is difficult to adjust for a state's partisan lean when ceiling effects apply (e.g. Massachusetts elected 10 Democrats and no Republicans in 2010 and nine Democrats and no Republicans in 2012). Moreover, the effect of map-drawing power is likely to be smaller in states with relatively few seats (say, two to five).

To complement the examination of Illinois above, therefore, we selected a few cases of fairly large states where Republicans drew the 2012 map, not

<sup>8</sup> Jeremy P. Jacobs, "Devastation: GOP Picks up 680 State Legislative Seats," *The National Journal*, 8 November 2010.

Table 1

**Who Drew the Maps? Redistricting Control, 2001 and 2011, and 2012 Outcomes**

		<b>2012-2020 United States House Map</b>					<b>Total</b>
		<b>Republicans</b>	<b>Democrats</b>	<b>Bipartisan</b>	<b>Nonpartisan</b>	<b>AL (n/a)</b>	
<b>2002 – 2010 United States House Map</b>	<b>Republicans</b>	5 FL, GA*, MI, PA, VA	-	-	3 KS, TX*, UT	-	8
	<b>Democrats</b>	4 AL, IN, NC, TN	3 AR, MD, MA	-	2 CA, UT	-	9
	<b>Bipartisan</b>	5 LA, OH, OK, SC, WI	2 IL, WV	10 CT, KY, ME, MO, NH, NJ, NV, OR, RI, WA	3 CO, ID, NY	-	20
	<b>Nonpartisan</b>	-	-	1 MS	5 AZ, IA, MN NE, NM	-	6
	<b>At Large (n/a)</b>	-	-	-	-	7 AK, DE, MT, ND, SD, VT, WY	7
	<b>Total</b>	14	5	11	13	7	50
<b>Average % U.S. House Seats to Democrats, 2012</b>		26.5 % (164)	57.5 % (42)	64.2 % (60)	48.8 % (162)	28.6 % (7)	
<b>Average % U.S. House Seats to Democrats/Obama %, 2012</b>		0.56	1.01	1.15	0.94	0.45	

Source: Classifications based on Justin Levitt, "All about Redistricting," Loyola University (Los Angeles) Law School (<http://redistricting.lls.edu/>), accessed November 15, 2012, and *Almanac of American Politics 2012*.

Note: The category "Bipartisan" includes cases of divided government as well as commissions or other bodies that included equal numbers of partisan officials. The "non-partisan" category includes all cases of maps drawn by courts, regardless of whether the judges were associated with parties.

\* In Texas, the 2002 map was drawn by 2 Democratic judges and 1 Republican judge, but the 2004-2010 map was drawn by Republicans only. In Georgia, the 2002 map was drawn by Democrats, the 2004 map was drawn by a court, and the 2006-10 map was drawn by Republicans.

having had control of the lines for the prior decade. Do we find evidence of the new maps having assisted the GOP, mirroring the case of Illinois described earlier? First, consider North Carolina. The 2002-10 elections, fought on a map designed by Democrats, produced six Democrats and seven Republicans three times (in 2002, 2004, and 2006), eight Democrats and five Republicans once (in 2008), and seven Democrats and six Republicans once (in 2010). On average, the map produced a 51 percent Democratic seat share. In 2012, the new Republican-drawn map resulted in nine Republicans and four Democrats. That 31 percent Democratic share represents a 20 percentage point decline.

Ohio went from a bipartisan map in the 2002-10 period to a Republican gerrymander in 2012. Although the state tends to be exceptionally closely fought in presidential races, it has fairly consistently leaned toward the Republicans in U.S. House races. Even so, Republicans were able to squeeze more advantage out of the state with their new lines. The 2002-10 races produced six Democrats and 12 Republicans in 2002 and 2004, seven Democrats and 11 Republicans in 2006, 10 Democrats and eight Republicans in 2008, and five Democrats and 13 Republicans in 2010. In 2012, the new map elected four Democrats and 12 Republicans, so the Democratic seat share dropped 13 percentage points, from 38 percent to 25 percent.



## Conclusion

Precise estimates of the impact of particular gerrymanders are beyond the scope of this chapter. We purposely ignored state legislative maps here only to keep our task simple. Careful analysis of those maps should be informative. We have refrained from estimating complicated vote-seat functions mainly because even simple comparisons can suffice to establish the basic point that electoral maps matter. Where one party drew the new U.S. House map following the 2010 census, that party did comparatively well in 2012. Parties that *gained* control of redistricting in 2011, not having had it in 2001, seem to have engineered large swings in their own favor, as Illinois, North Carolina, and Ohio demonstrate. Control over redistricting is not always a guarantee of electoral success. Sometimes parties forgo the opportunity to try to maximize seat totals. Moreover, finely drawn partisan gerrymanders can backfire when there is a large swing against the mapmaking party, because such a map features fairly small advantages for the favored party, by definition. It is certainly possible to target only select incumbents when altering lines to break up personal votes.

Despite all of these potential complications, the analysis above sheds some light on how the GOP could lose the presidency and suffer losses in almost all of the “toss-up” Senate races in 2012 while simultaneously limiting U.S. House losses, and thus retaining control of the House. Leaders of both parties fully understood the importance of the 2010 state legislative and gubernatorial races for redistricting. Republicans made an extraordinary national effort to win as many of these races as possible, and probably profited from the “good fortune” of having lost the 2008 presidential race.<sup>9</sup> Having now withstood a fairly poor year in 2012, the party could be poised for more gains in 2014, when Democrats can expect the usual “midterm loss.” Long-term forecasts are always risky, but current

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members will now have two years to settle into their new districts to improve their popularity and boost name recognition, so barring major national trends, the GOP majority control of the U.S. House could be safe at least until the next redistricting election in 2022.

One could argue that the 2012 election results illustrate the upside of partisan control of redistricting. The Founders created a separation-of-powers system in part to prevent large waves of enthusiasm from being too quickly translated into policy. They feared excessive volatility and valued deliberation. The House Republican majority in Congress will presumably require a Democratic president and a Democratic Senate to negotiate and compromise on policy. We take this argument seriously, and our purpose in this chapter is not to denounce Democratic control of the Illinois U.S. House delegation or Republican control of the U.S. House. But as we emphasized at the outset, it is, in the end, difficult to defend electoral maps that are expressly designed to exaggerate partisan advantages and insulate elected officials from public sentiment. Any electoral system involving single-member districts will have some redistricting effects. But these can be small when the lines are not driven almost exclusively by partisan considerations. In turn, partisan control of the process of drawing districts should be regarded with suspicion by anyone who is genuinely disinterested in regard to the fates of the parties, but keen on competitive races and responsive elections. Smart politicians armed with the power to fix election results will find the temptation very hard to resist.

The survey results with which we began this chapter show that ordinary citizens, while not particularly informed about the redistricting process, nevertheless believe that redistricting matters and should be done in a nonpartisan manner, with compactness and competitiveness as prevailing criteria. By the standards of the general public, partisan gerrymandering is undesirable and unfair. The current Illinois map is shrewd, and it demonstrates the skill of its Democratic designers, but that is not what the people of the state deserve. The process for redrawing electoral boundaries in Illinois should be revised. ■

<sup>9</sup> Republican State Leadership Committee, “About the Republican Legislative Campaign Committee” (<http://rslc.com/about-the-rlcc>). Accessed November 16, 2012.