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First the basics:

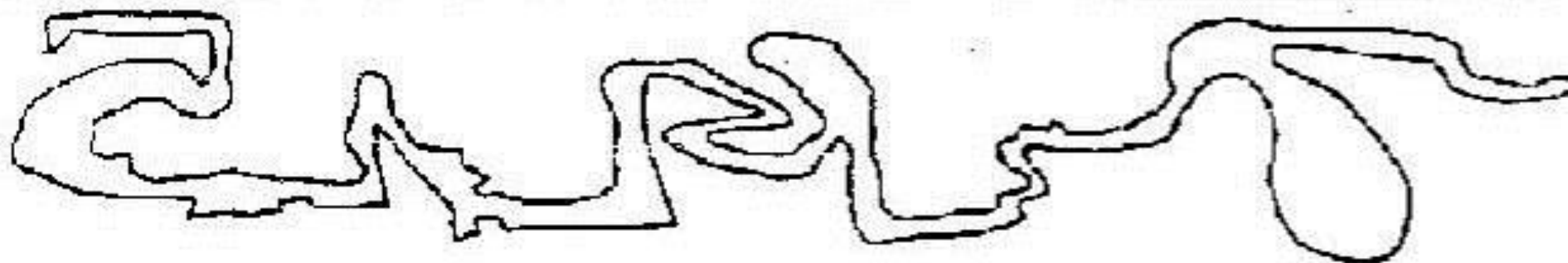
How can we differentiate between
lines drawn by politicians
and lines drawn by babies or
monkeys?



Drawn by eight-month-old baby playing with crayon.



Drawn by chimpanzee playing with felt-tip pen.



Drawn by politicians playing with new congressional districts.

Redistricting Authority in United States

Legislative Redistricting Process in US:

- There are 13 states that give first and final authority for legislative redistricting to a group other than the legislature. (AK, AZ, AR, CA, CO, HI, ID, MO, MT, NJ, OH, PA, WA)
- It is often assumed that independent commissions will be less partisan than legislatures when conducting redistricting. This may or may not be true: it depends largely on the design of the board or commission.

Redistricting Authority in United States

Congressional Redistricting Commissions

- Only six states (AZ, HI, ID, MT, NJ and WA) give first and final authority for congressional line drawing with a commission.
- Indiana employs a "fallback" commission if the legislature is unsuccessful in passing a congressional plan.

Redistricting Authority in United States: Iowa

Iowa Redistricting System:

- Iowa conducts redistricting unlike any other state. The Iowa system does not put the task in the hands of a commission.
- Nonpartisan legislative staff develop maps for the Iowa House and Senate as well as U.S. House districts without any political or election data, including the addresses of incumbents.
- Legislature initially gets to vote on plans (approve or disapprove in first two rounds of plans).

States That Ban Use of Political Data?

- **Banning use of political data—only a few states do so. (ID, IA, MT, NE (by legislative resolution), and AZ (which excludes political data at first but allows its use later as a check to ensure compliance with the other necessary criteria).**
- **Often, political data are needed to ensure partisan fairness or competitive districts.**
- **Also, political data (and incumbency residence) often needed to show VRA compliance.**

Four Legal Requirements that Come into Play

- **U.S. Constitution: 1 person, 1 vote**
- **Voting Rights Act**
- ***Shaw v. Reno* Racial Gerrymandering Doctrine**
- **Political Gerrymandering—remains justiciable**

Redistricting Process in U.S.

- **Process—demographic data /population shifts.**
- **2010 census data issued to states on a rolling basis starting in February 2011 (VA and NJ get data first due to off year elections).**

Preparing for Redistricting

- Gathering of electoral data—why is this done?
- Maximize political party advantage
- Protect incumbents.
- Identify possible opponents.
- Manipulate political outcomes.

Criteria Considered by Legislatures

Redistricting criteria—some defined in state constitutions and state law; others are just historical.

Examples:

- contiguity
- respect for political subdivisions (counties/cities)
- compactness
- preserve the core of existing districts (least change)
- protect or preserve communities of shared interests
- protect incumbents (since power is often allocated based on seniority (e.g. Congress), this criterion can be very important (TX example from 2003).

The “Public” Process of Redistricting

- **Legislature solicits public input.**
- **A series of public hearings (oftentimes a farce).**
- **Hearings end and then legislators draw plans ignoring public comment (often transcripts aren’t even prepared of the public hearings)**
- **Legislature adopts plan behind closed doors.**

Reform measures Pending Now

Redistricting reform measures pending in U.S. now:

CA, FL, MN, OH, IN, PA

Bringing Transparency to the Redistricting Process

- **Legislative redistricting should be the most open process, but it is the most closed.**
- **CLC has drafted model transparency legislation for redistricting.**

The Politics of Redistricting

- Most political decision made by legislators each decade. Inherent conflict of interest for legislators to pick their voters?
- Partisans marginalize opponents, select individuals to be in or out of the district (potential opponents, mother in law)
- Also, a real good partisan gerrymander can be cost effective, creating districts that are safe such that incumbents face no opposition and need not spend as much \$ to get re-elected as they would in a competitive district.

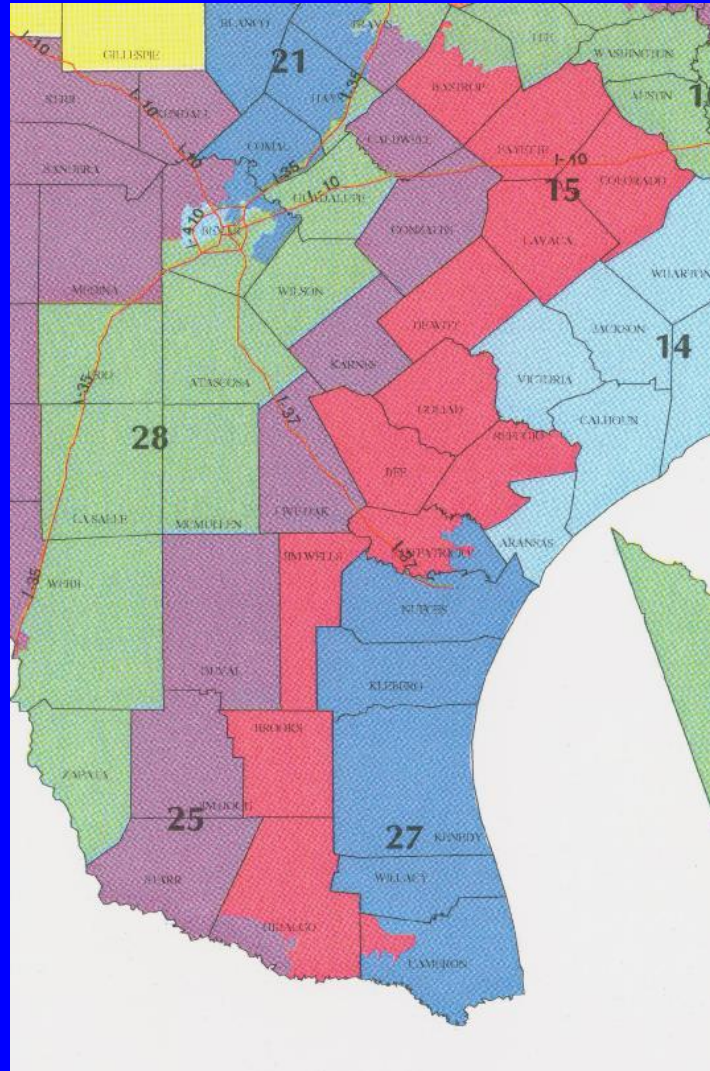
Recent Examples of Legislative Gerrymandering

Q. 2003 Texas Re-Redistricting—why else redistrict in mid-decade and replace a perfectly legal map with a new one?

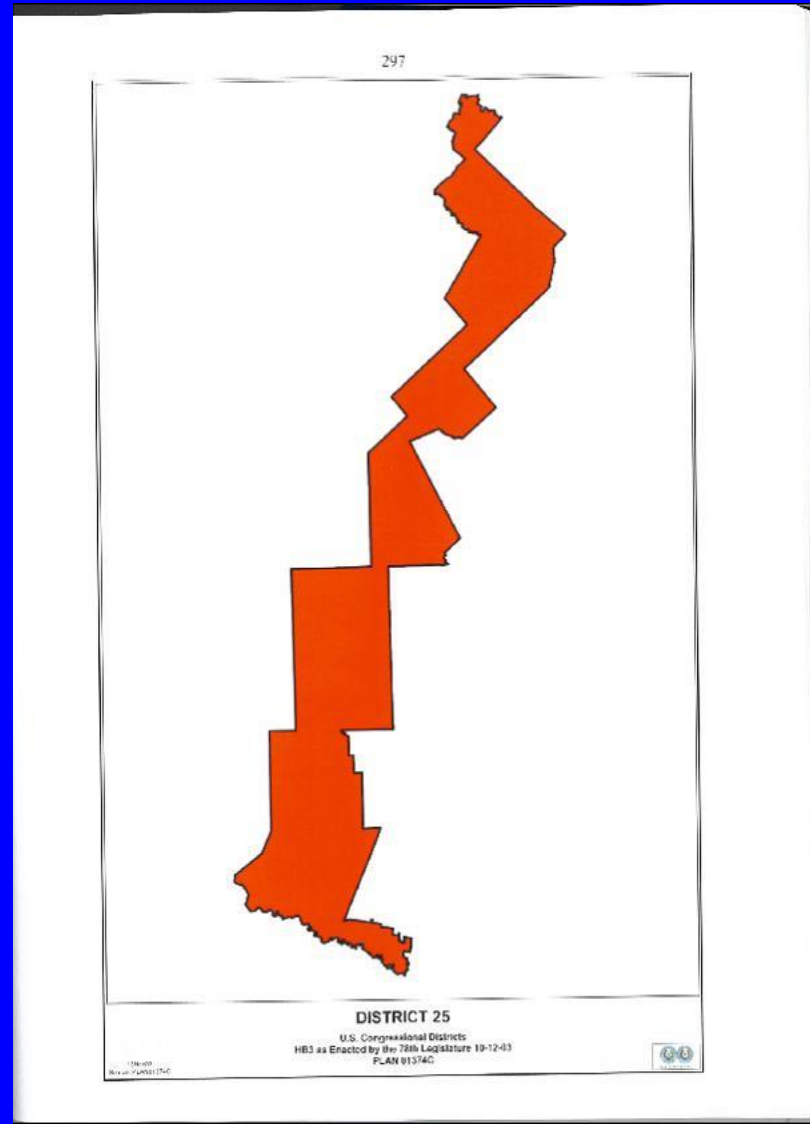
A. To seize the political power you now have and maximize your party's advantage

- Rep. Tom DeLay: “I’m the Majority Leader and I want more seats” (Source: Washington Post, 1/19/2003).
- In defending DeLay’s 2003 gerrymandering efforts, U.S. Senator John Cornyn had this to say: “Everybody who knows Tom knows that he’s a fighter and a competitor, and he saw an opportunity to help the Republicans stay in power in Washington.” (Source: Jeffrey Toobin, The New Yorker, March 6, 2006).

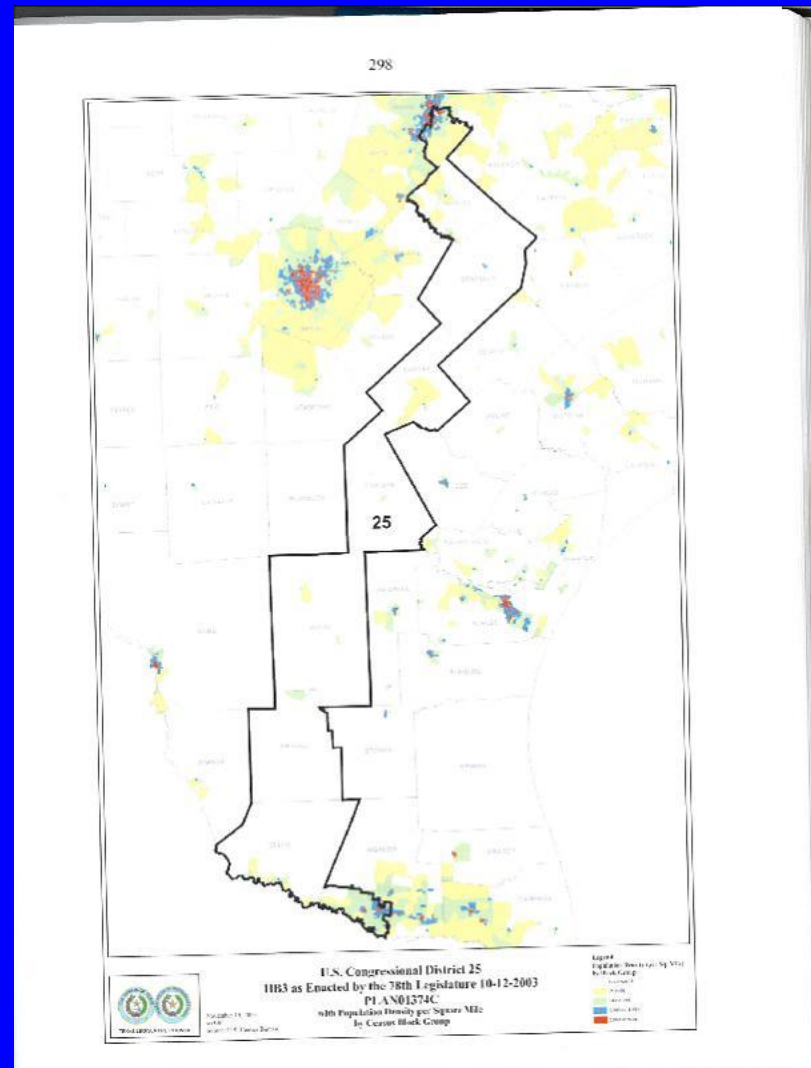
South Texas Congressional Districts Redrawn in 2003



TX CD 25 as Drawn in 2003 and approved by the courts



TX CD 25 as Drawn in 2003 **showing population density**



DFW Metroplex Pre-2003 Gerrymander

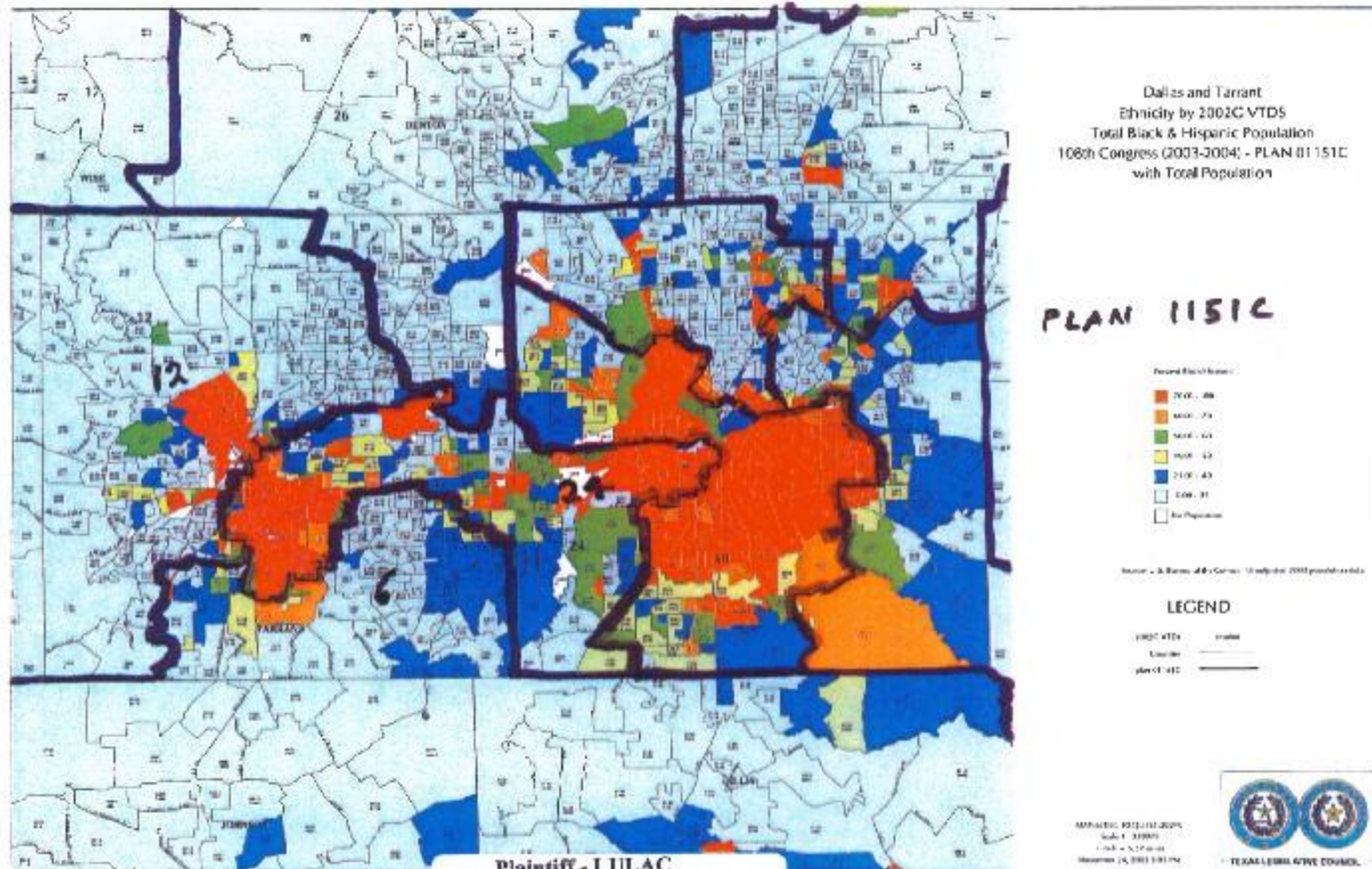


Exhibit No. 4

PLAN 1374 C



Source: U.S. Department of Labor, "Unemployed 2008" (http://doh.gov).

2001.11.18. 10:00



Motive for Re-Drawing TX Districts in DFW Metroplex

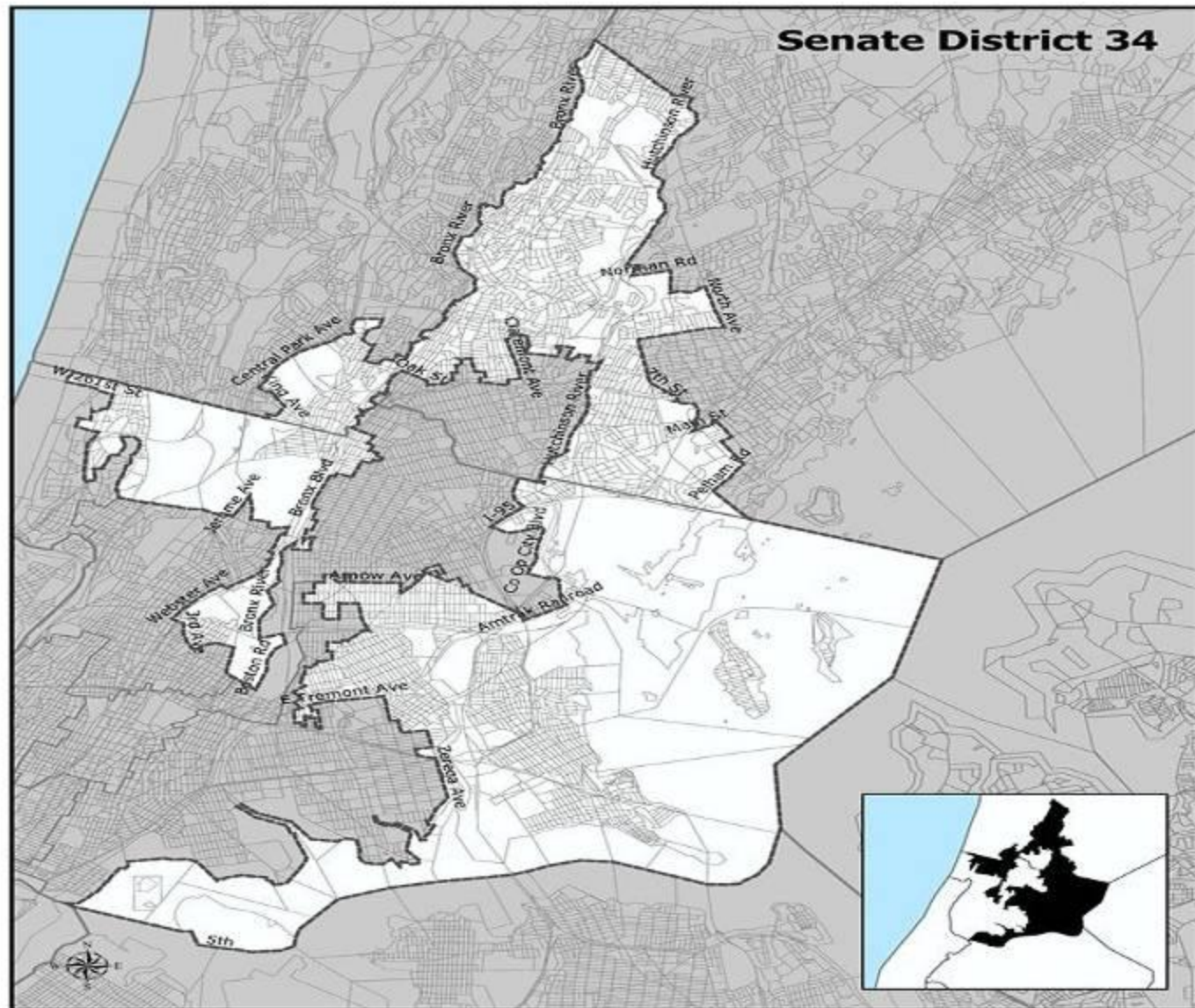
- “Joby Fortson, an aide to Representative Joe Barton, a Texas Republican, sent a candid e-mail to a group of colleagues ... which was disclosed in the course of subsequent litigation, offers a ‘quick rundown’ on each of the seats in the delegation. Fortson begins his description of the district where Martin Frost, the senior Democrat in the state, would have to run with the words ‘Ha ha ha ha ha ha ha ha ha ha. . . . His district disappeared.’”

Source: Jeffrey Toobin, The New Yorker, March 6, 2006.

Recent Examples of Legislative Gerrymandering

NY State Senate District 34 : “In the years the Republicans controlled the Senate, former Senator Guy Velella, a Bronx Republican, had his own war room to choose voters block by block. The result is an inkblot that would confuse even Hermann Rorschach. In the last redistricting in 2002, Mr. Velella even managed to excise the house of a former challenger, Lorraine Coyle Koppell, from the district. Mr. Velella lost his seat after 18 years only when he was convicted of bribery in 2004 and was forced to resign.”
(Source: NY Times, November 11, 2009)

NY State Senate District 34



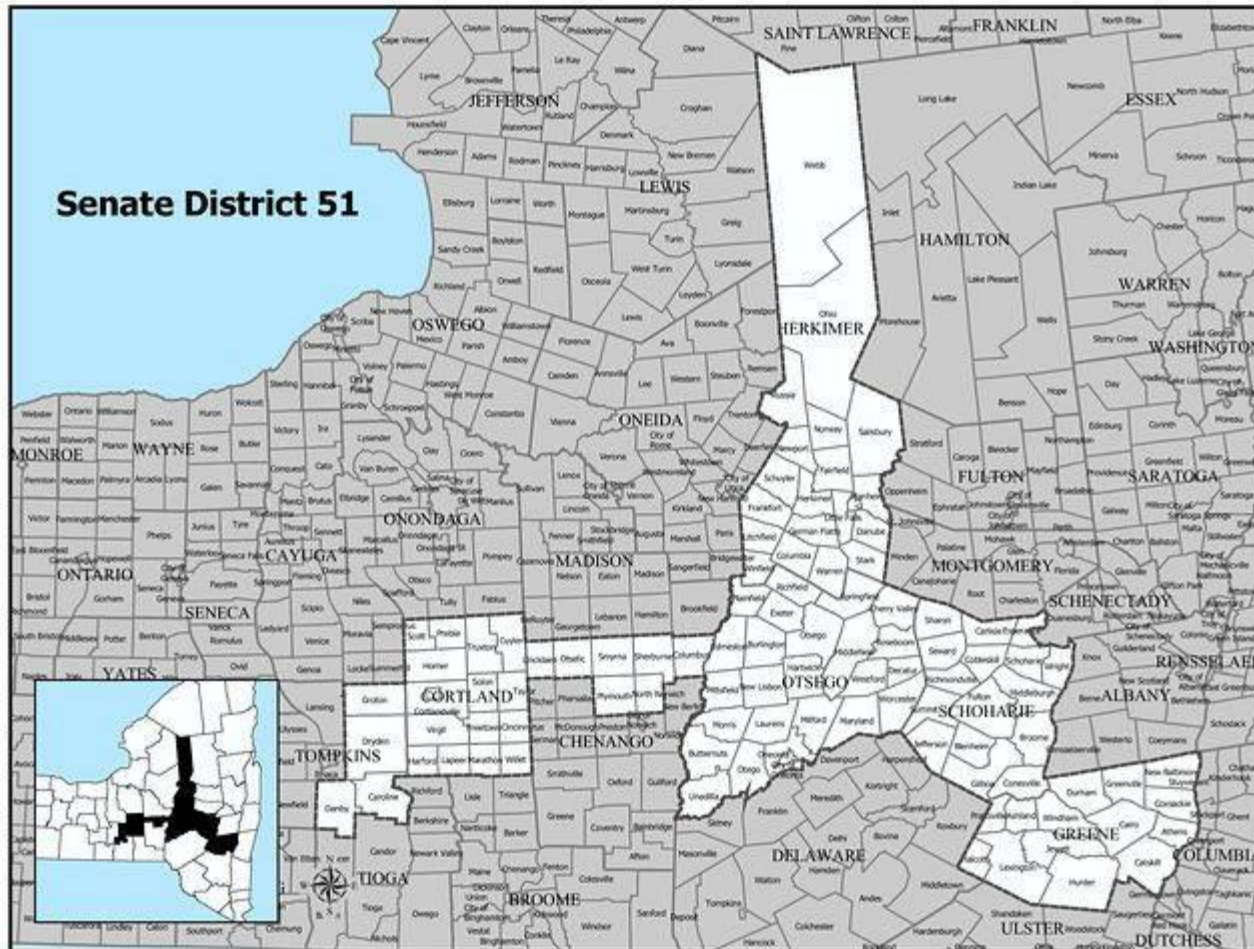
Recent Examples of Legislative Gerrymandering

“Of all the tricks that New York’s legislators use to hang on to office, the one that works best — for the politicians, that is — is redistricting. Mapmaking in Albany is a dark art form designed to make absolutely certain that incumbents in the majority party are safe from electoral competition (a k a democracy).” ...

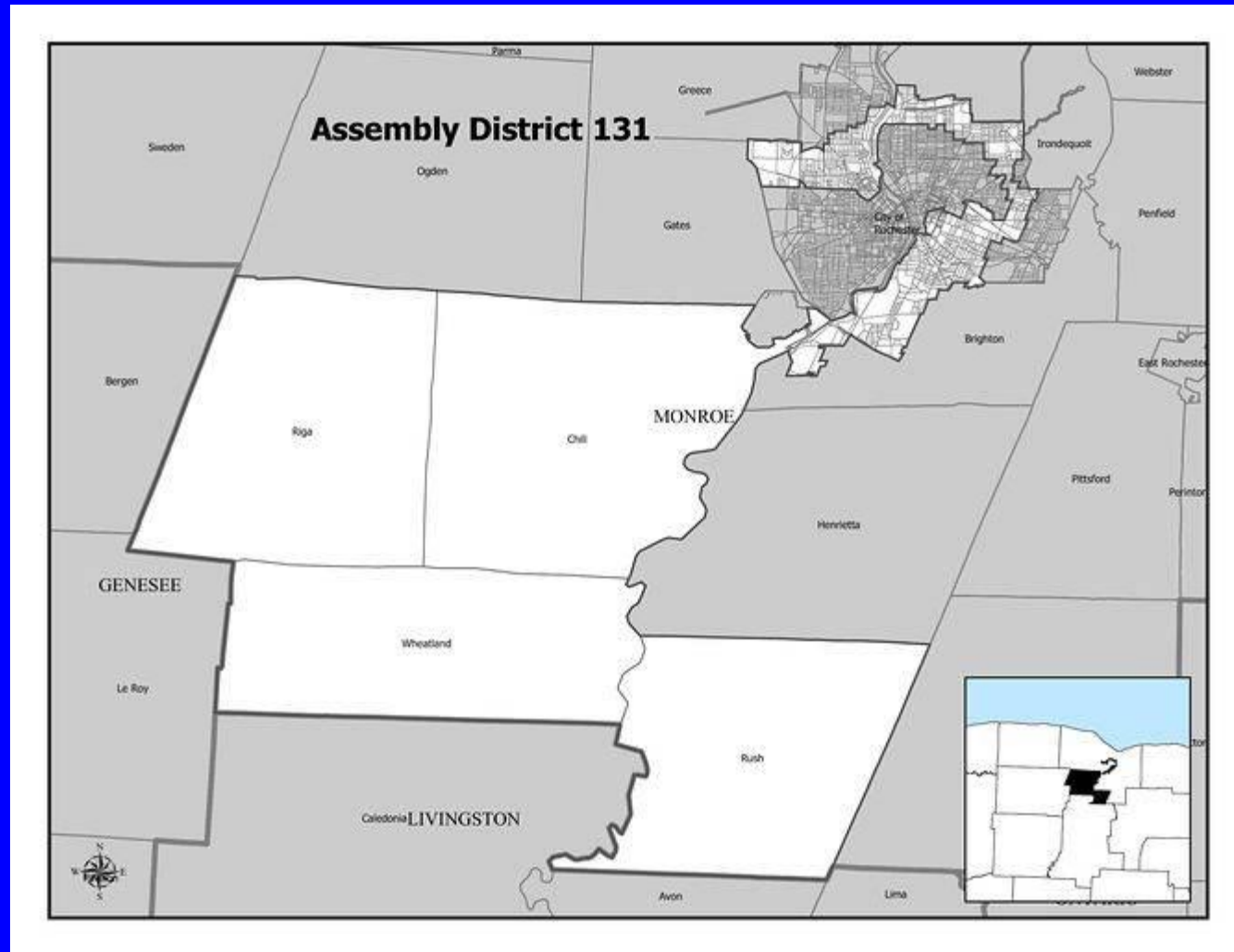
“This process has worked so well for so many politicians that the New York Public Interest Research Group reports that in 2008 more than half of the state’s 212 legislators were re-elected with more than 80 percent of their districts’ votes. In 57 districts, the incumbents ran unopposed. New faces appear rarely, usually when a lawmaker retires, dies or, increasingly, gets convicted of abusing the public trust.”

(Source: NY Times, November 11, 2009)

NY State Senate District 51



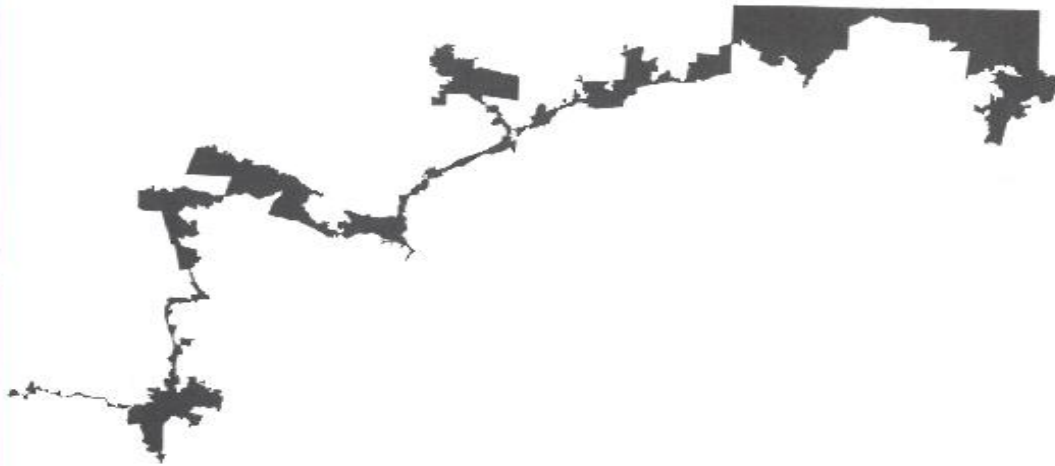
NY State Assembly District 131



Examples of Districts from 1990's
Found Violative
of the *Shaw v. Reno* Doctrine

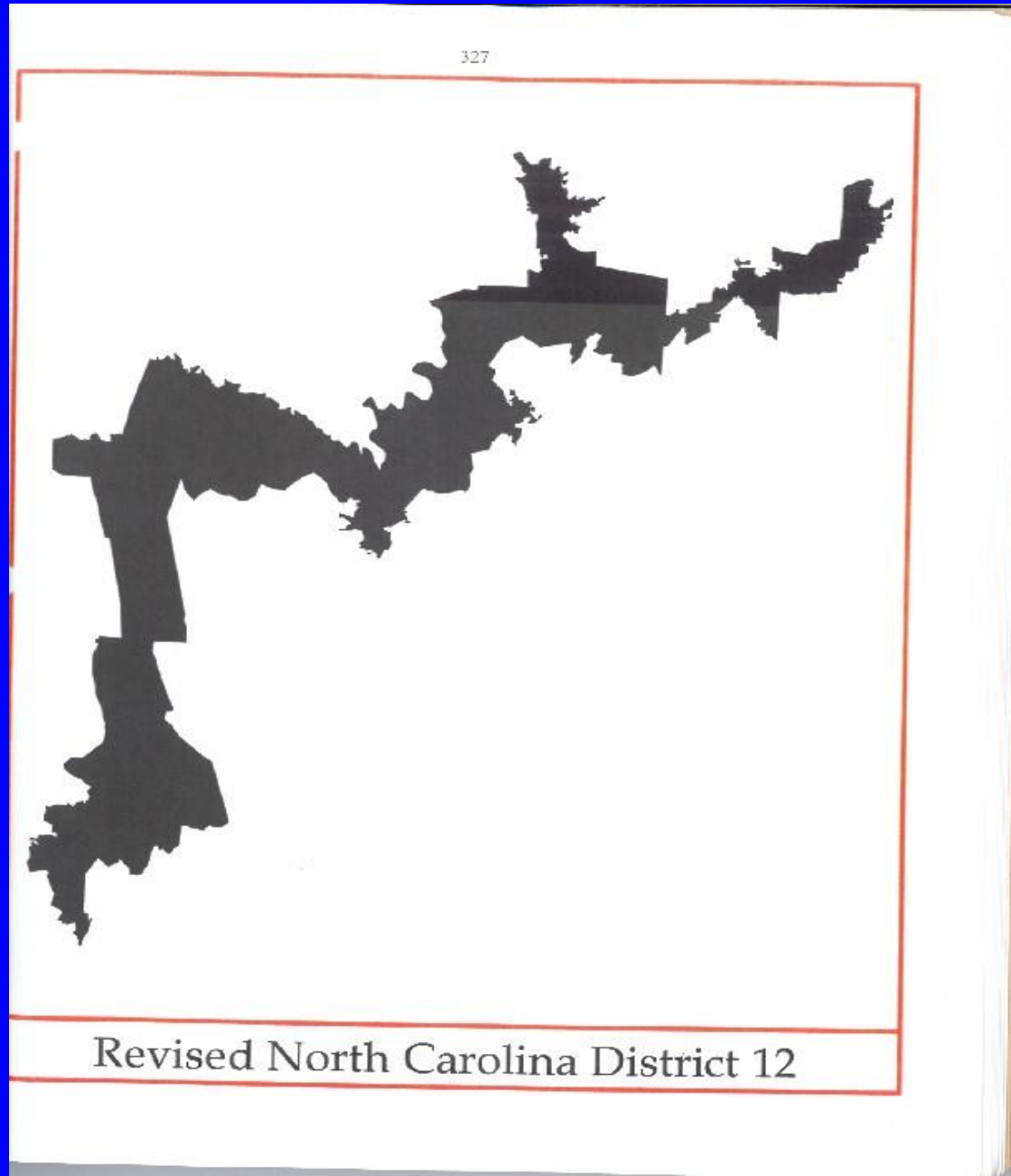
NC CD 12: Pre-Shaw v. Reno

326



Original North Carolina District 12

NC CD 12: Post-Shaw v. Reno





TEXAS CONGRESSIONAL DISTRICT 18



TEXAS CONGRESSIONAL DISTRICT 29



TEXAS CONGRESSIONAL DISTRICT 30

Examples of Districts from 1990
and 2000 Round of Redistricting Found
Not to Be Violative
of the *Shaw v. Reno* Doctrine



TEXAS CONGRESSIONAL DISTRICT 3

WHAT'S CHANGED?

Politically, Stakes are High

CONGRESS IN 1991:

• **DEMOCRATIC** MAJORITY

CONGRESS IN 2000:

• **REPUBLICAN** MAJORITY

CONGRESS IN 2010:

• **DEMOCRATIC** MAJORITY



Partisan Control of Southern Legislatures

<u>State</u>	<u>Assembly/House</u>	<u>Senate</u>	<u>Governorship</u>
Alabama	Democratic	Democratic	Republican
Arkansas*	Democratic	Democratic	Democratic
Florida*	Republican	Republican	Republican
Georgia*	Republican	Republican	Republican
Kentucky	Democratic	Republican	Democratic
Louisiana	Democratic	Democratic	Republican
Maryland*	Democratic	Democratic	Democratic
Mississippi	Democratic	Democratic	Republican
Missouri	Republican	Republican	Democratic
North Carolina*	Democratic	Democratic	Democratic
Oklahoma	Republican	Republican	Democratic
South Carolina*	Republican	Republican	Republican
Tennessee	49 D, 49 R, 1 Carter Co. Rep.	Republican	Democratic
Texas*	Republican	Republican	Republican
Virginia	Republican	Democratic	Republican
West Virginia*	Democratic	Democratic	Democratic

* = one party control of all three



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