

Minority Representation and Redistricting

By

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Senior Honors Thesis

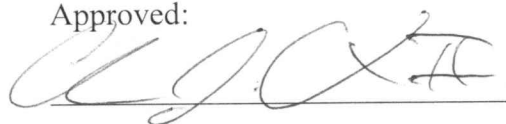
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ABSTRACT

Matthew M. Mengert: Minority Representation and Redistricting

(Under the direction of: Dr. Christopher Clark)

The redrawing of legislative district boundaries is one of most effective ways of elevating the level of minority representation in Congress, but it can similarly be the principal way in which representation and influence are diluted. In this paper, minority representation is evaluated through descriptive representation and substantive representation. Examining the ways in which different bodies redistrict and provide for representation, this study assesses a potential tradeoff that is produced through the creation of districts that provide for descriptive representation. The findings herein suggest that the concentrations of minority populations in districts significantly influence the support of pertinent civil rights legislation. Similarly, the method used to draw the districts produces differing levels of descriptive and substantive representation. This study demonstrates the importance of the close monitoring of redistricting practices, the positive and negative impacts of districts with high levels of minority concentration and provides a framework upon which the decision in *Shelby County v. Holder* can be understood as threatening to the half century of successes provided for by the Voting Rights Act.

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LIST OF ABBREVIATIONS

MMDS	Majority-minority districts
MIF	Majority influence districts
VRA	Voting Rights Act
LCCR	Leadership Conference on Civil Rights
ADA	Americans For Democratic Action
DOJ	Department of Justice
UJO	<i>United Jewish Organizations of Williamsburgh v. Carey</i> (1977)

Minority Representation and Redistricting

By: Matt Mengert

Introduction

Since the United States was founded, the endeavor to perfect a system of representative democracy has been hampered by the inadequate access to equal representation and political influence. Even as limitations to voting have been lifted and access to voting accelerated, the absence of meaningful political influence continues to leave many feeling unrepresented. For African Americans, disenfranchisement and historical injustices barred the access to representation until just a few decades ago. Following a short period of political influence during the Reconstruction era, Jim Crow swept across the South, again alienating African Americans from virtually all elements of social life, particularly stifling their political freedoms and opportunities.

For the better part of the twentieth century, detachment from political influence, especially in the South, was commonplace for non-Whites. Even after Congress passed the Voting Rights Act in 1965, securing basic political rights did not come without heavy resistance. Determined to maintain their political control, Whites continued to limit the influence of minority voters until they could no more.

As a result of the historical injustices, and lingering prejudices, African Americans found themselves unable to meaningfully influence politics and elections. However, across the South, African Americans were slowly able to register to vote – in some cases out-registering White constituencies.¹ Nonetheless, their ability to elect representatives of their choosing was

¹ J. Morgan Kousser, “When African-Americans Were Republicans in North Carolina, The Target of Suppressive Laws Was Black Republicans. Now That They Are Democrats, The Target Is Black Democrats. The Constant Is Race” (unpublished report, December 2017), Microsoft Word file.

outmatched by white majorities. As the in-migration of Hispanics and other foreign-born citizens grew, Congress provided protections against discriminatory practices for language minorities in the 1975 amendments to the Voting Rights Act.²

In 1982, nearly twenty years after the installment of the Voting Rights Act, Congress added another amendment, which mandated states to draw districts to allow minority groups to “participate in the political process and elect representatives of their choice.”³ It would thereafter be improper to neglect highly populated minority constituencies, if configured appropriately. The law, as it was interpreted, provided a discriminatory effects standard to redistricting practices. Following the 1982 amendments, minority parties were given standing on the basis of Section 2 if they were not provided with districts that would reasonably allow for political influence.

Ten years later, in 1992, African Americans were elected to congressional seats in states that hadn’t had a non-White representative since Reconstruction. However, as will be discussed, the Supreme Court confused much of the initial excitement in a number of early 1990s rulings, which effectively limited the ability for states to construct minority districts in the way they had in the previous redistricting cycle. In 1993, the Court ruled in *Shaw v. Reno* that race could not be used as the predominant factor in the construction of districting plans, even if it such considerations were made to promote higher levels of minority representation.

In accordance with the Constitution, every ten years, states must redraw their legislative and Congressional boundaries. In the majority of states, the state legislature is vested with the primary responsibility of drawing the district maps. However, recent history has displayed the harmful effects that gerrymandered and manipulated districts can have on the representation of

² Michael Jones-Correa, “Language Provisions Under the Voting Rights Act: How Effective Are They?” *Social Science Quarterly*, no. 3 (2005): 549–64, <https://doi.org/10.1111/j.0038-4941.2005.00317>.

³ Tinsley Yarbrough, *Race and Redistricting: The Shaw-Cromartie Cases* (Lawrence: University Press of Kansas, 2002), 2.

voters. This paper will examine the ways in which the redistricting process influenced minority representation through four redistricting cycles (1982, 1992, 2002, 2012).

The redistricting process can be beneficial to the representation of minority voters if conducted properly, with well-intentioned motives and accompanied by the necessary framework of understanding. These benefits can extend to groups that would not otherwise have the opportunity to elect representatives of their choosing or meaningfully participate in the political process. By paying particular attention to the representation of the two largest minority groups in the country – African Americans and Hispanics – one can better evaluate how redistricting can influence electoral returns and how the concentration of minority voters across districts can render differing levels of representation.

To date, much of the analysis concerning minority representation assesses one or both of the following types of representation: descriptive representation and substantive representation. Descriptive representation can be understood as representation from elected officials who share a trait with a group of citizens, whether it is racially, ethnically, religiously or so on.⁴ Substantive representation considers whether a representative's political activities (voting, advocacy, etc.) are reflective of a constituent or group of constituents' policy preferences.⁵

As there is an underlying debate regarding the attention to racial data in composing districts, this paper follows from the position that to render the greatest levels of representation for minorities, both descriptive and substantive, the use of racial data in the composition of the districts is necessary and should be optimized to the greatest extent possible. With this in mind, it has become increasingly apparent that the redistricting bodies vested with the data to do so

⁴ Hanna F. Pitkin. *The Concept of Representation* (Berkeley and Los Angeles: University of California Press, 1967), 250.

⁵ Pitkin *The Concept of Representation*, 84-9.

should at all times ensure an absolute safeguard against the intentional use of such data to either discriminate against or suppress the political opportunities of minority voters. As will be evaluated, increased minority descriptive representation may have an adverse impact on substantive representation upon consideration of the relative concentrations of minority voters in surrounding districts.

The following two primary questions will be evaluated:

1. *Which methods used to draw Congressional district lines render the greatest level of descriptive representation for minorities?*
2. *Does the extent to which minority voters are concentrated into districts yield differing levels of the substantive representation that those voters receive?*

Following the 1992 cycle of redistricting, in concert with the legal mandates set forth by the Supreme Court and Congress, the number of minority representatives elected to Congress increased dramatically, with 38 African Americans and 17 Hispanics elected that year.⁶ In the decade that followed, the Court struck down the maps that contained many of the newly created minority districts. These judicial decisions complicated understandings regarding the legislative authority to provide for minority representation. One can address many of these questions and the ways in which scholars have attempted to evaluate the redistricting process and its resultant effect on minority representation in Congress.

⁶ David Lublin, *The Paradox of Representation: Racial Gerrymandering and Minority Interests in Congress* (Princeton: Princeton University Press, 1997), 41.

Extensive research has been conducted on the topic of minority representation, but a considerable amount of this work was carried out during the 1990s and the early 2000s.⁷ Although others have studied the representation of minorities more recently,⁸ considerations of the impacts of racial gerrymandering on minority representation have been increasingly examined alongside partisan gerrymandering. However, the important distinction between race and party should not be misunderstood – partisan biases have increasingly become proxies for racial biases. Such biases are susceptible to evaluative misunderstanding if assessed together, and most certainly if such assessments fail to situate predominant focus and consideration unto minority interests.

Nonetheless, explicit questions regarding the effects of redistricting on minority representation continue to necessitate careful consideration and additional evaluation. In this study, methodological approaches and matters of previous research are coupled with an enhanced spatial approach, the consideration of redistricting methods and a robust congressional sample size. The differing ways in which the bodies responsible for drawing districts (Legislatures, Judiciary, etc.) were evaluated on the basis of the subsequent production of both minority descriptive and substantive representation. As to evaluate substantive representation, districts surrounding those represented by minority officials are examined through the utilization of spatially lagged data. This provides for the opportunity to analyze the minority concentration

⁷ See Charles Cameron et al., “Do Majority-Minority Districts Maximize Substantive Black Representation in Congress?” *American Political Science Review* 90, no. 5 (1996): 794–812; David Canon, *Race, Redistricting, and Representation* (Chicago: University of Chicago Press, 2002), 178; David Lublin, *The Paradox of Representation*, 41; Marvin Overby et al., “Unintended Consequences?” *The Journal of Politics* 58, no. 2 (1996): 540–50; Carol Swain, *Black Faces, Black Interests* (Cambridge: Harvard University Press, 1995); Kenny Whitby, *The Color of Representation* (Ann Arbor: University of Michigan Press, 1995); Kenny Whitby and George Krause, “Race, Issue Heterogeneity and Public Policy” *British Journal of Political Science* 31, no. 3 (2001): 555–72; Kenneth Shotts, “Does Racial Redistricting Cause Conservative Policy Outcomes?” *Journal of Politics* 65, no. 1 (2003): 216–26.

⁸ Christian Grose, *Congress in Black and White: Race and Representation in Washington and at Home* (Cambridge: Cambridge University Press, 2011).

in a given district as the explanatory variable for the support of civil rights legislation in surrounding districts.

The literature review will consider three primary elements. First, it will explore the pertinent legal matters, considering the ways in which scholars have analyzed these matters and their influences on minority representation. The next section considers the literature devoted to understanding the various methods of redistricting, with an assessment of the different ways in which districts tend to be constructed and the potential tradeoffs between partisan gains and minority districts. Finally, the different methods that scholars in this realm have utilized are analyzed to evaluate the representational effects of differing levels of minority concentrations in districts.

Legal Primer: The VRA and Supreme Court Cases

Much of the motivation that can be seen in redistricting plans can be traced back to the Voting Rights Act, its later amendments and a number of significant Supreme Court decisions from the latter half of the twentieth century.⁹ This section will evaluate those pieces of legislation and Court rulings, detailing the ways in which the state legislatures were directed to construct district maps with the intent of increasing minority representation. As later rulings were through to be inconsistent with earlier precedent, one must also consider the ways in which these fluctuations ultimately influenced state practice. Together, these Court rulings and pieces of legislation illustrate the unsettled nature of the mandates set forth unto state legislatures. The juxtaposition between federal oversight and what is ultimately a State practice will become clearer as this section and the paper progress.

⁹ Robert Brischetto, "Latino Voters and Redistricting in the New Millennium." In *Redistricting and Minority Representation: Learning from the Past, Preparing for the Future*, ed. David A. Bositis (Lanham: University Press of America, 1998), 43–104.

Early Supreme Court rulings in *Baker v. Carr* (1962), *Wesberry v. Sanders* (1964) and *Reynolds v. Sims* (1964) were instrumental in defending the “one person, one vote” standard and mandating that population deviations be minimized.¹⁰ These rulings set a legal precedent for later cases pertinent to minority representation, in that the Court found cases regarding redistricting to be justiciable.

Just days after thousands of people marched from Selma to Montgomery in support of voting rights and equal political opportunity, President Lyndon Johnson signed the Voting Rights Act of 1965 into law. The Voting Rights Act intended, firstly, to rid the electoral system of the discriminatory barriers that had hindered African Americans and other minorities from registering to vote and casting ballots.¹¹ These initial efforts were extraordinary as minority voters, particularly Southern African Americans, registered to vote in sizable numbers. Subsequent amendments to the Voting Rights Act focused on protecting minority groups and their opportunities for political influence – redistricting had previously been a route through which this influence had been diluted, but was also thought to be an instrument through which influence could be accumulated.¹² Sections 2, 4 and 5 of the Voting Rights Act had a remarkably profound influence on the redistricting processes that followed.

Section 2 applies to every state and predominantly operates as a protection of minority voting rights. Vote dilution is considered one of the primary ways in which those rights are typically violated. The Supreme Court ruling in *Thornburg v. Gingles* (1986) helped to clarify the circumstances under which minority vote dilution could be detected and rectified.¹³

¹⁰ Canon, *Race, Redistricting, and Representation*, 62.

¹¹ Morgan Kousser, *Colorblind Injustice* (Chapel Hill: The University of North Carolina Press, 1999); Bernard Grofman et al., *Minority Representation and the Quest for Voting Equality* (New York: Cambridge University, 1992).

¹² Grofman et al., 133-35.

¹³ For further information regarding claims against Section 2, see Yarbrough, *Race and Redistricting*, 7-8, 159-162.

For a number of decades, Section 5 required states and counties with histories of voter discrimination – such as racial redistricting, literacy tests, poll taxes and white primaries – to receive preclearance from the Department of Justice for any changes to electoral procedures.¹⁴ Jurisdictions subject to Section 5 were determined by the formula in Section 4(b), which located places that had exposed individuals to discriminatory practices.¹⁵ Compliance with Section 5 of the Voting Rights Act was found to increase minority representation and electoral opportunities for minority groups.¹⁶ In renewing the Voting Rights Act in 1975, Congress included protections for language minorities, which provided needed securities for Hispanics and other language minorities.¹⁷

In *United Jewish Organizations of Williamsburgh v. Carey* (1977), the Court faced a constitutional challenge to a districting plan that split a Hasidic Jewish community in New York into a number of districts with Puerto Rican and African American majorities.¹⁸ The Court ruled that the Voting Rights Act could be used as an instrument to increase the political opportunities of minority voters, and not merely as a remedial tool as it had been utilized for its first decade of existence.¹⁹ This Court ruling singled a change in direction – the redistricting cases and

¹⁴ Kousser, *Colorblind Injustice*, 375; For detailed description of the Courts decisions regarding the unconstitutionality of Section 4 see *Shelby County v. Holder*, 133 S.Ct. 2612 (2013) (the Supreme Court struck down the Section 4 formula, and thus cleared the list of 12 states and jurisdictions that were previously required to have changes to voting procedures approved. As such, Section 5 rests void until Congress determines a new formula for identifying the jurisdictions subject to the preclearance requirement).

¹⁵ Kousser, 70.

¹⁶ Jason Barabas and Jennifer Jerit, “Redistricting Principles and Racial Representation.” *State Politics & Policy Quarterly* 4, no. 4 (2004); Nicholas Seabrook, *Drawing the Lines: Constraints of Partisan Gerrymandering in U.S. Politics* (Ithaca: Cornell University Press, 2017): 100; Thomas Mann, Redistricting Reform: What Is Desirable? Possible?” In *Party Lines: Competition, Partisanship, and Congressional Redistricting* (Washington: The Brookings Institution, 2005): 107-8. See *Ibid.*, Chapter 1.

¹⁷ Stephen Malone, *Beneficial Gerrymanders: The Impact of Majority-Black Districts on African-American Representation in the United States House of Representatives* (Evanston: Northwestern University, 1994).

¹⁸ See *United Jewish Organizations v. Carey*, 430 U.S. 144 (1977); For greater analysis on *UJO* see Kousser, *Colorblind Injustice*, 374, Chapters 1 and 7.

¹⁹ Kousser, *Colorblind Injustice*, 375; Kenny Whitby, *The Color of Representation: Congressional Behavior and Black Interests* (Ann Arbor: University of Michigan Press, 1997): 115; Canon, *Race, Redistricting, and Representation*, 78; Yarbrough, *Race and Redistricting*, 58.

legislation that followed demonstrated the necessity for the redistricting process to facilitate the enhancement of the political and electoral influence of minority voters.

In 1982, new amendments to Voting Rights Act outlined the requirement for district plans to enhance involvement in the political process and the ability for minority voters to elect representatives of their choosing.²⁰ The amendments found districts to be in violation not simply when they could be proved to have a “discriminatory intent,” in addition it outlawed districting plans that showed dilution through “discriminatory results.”²¹ As such, the Court struck down a precedent established in *City of Mobile v. Bolden*,²² which required plaintiffs to only prove the discriminatory intent of a districting plan. Introducing the discriminatory results standards is an example of a way in which the Court acted to foster political opportunities for minorities. Congress provided language in Section 2 of in the 1982 amendments that provided minority groups with protections against districting plans that resulted in the denial or abridgement of voting rights.²³

Four years after the 1982 amendments, in *Thornburg v. Gingles* (1986), the Supreme Court set forth three preconditions that would have to be proven to establish a violation of Section 2. The conditions that the Court established in *Thornburg v. Gingles* (1986) were evaluative of the minority group’s size, residential compactness, voting cohesion and whether or not a minority group was consistently unable to defeat white candidates.²⁴ The Court focused on multimember districts, basing its criticism on the discriminatory effects. In the decision, the

²⁰ Canon, *Race, Redistricting, and Representation*, 66. For further information regarding the 1982 amendments, See 1982 U.S Senate Report 31, 28-29, 97-417 for the language of the “Senate factors” developed in 1982 amendment;

²¹ Yarbrough, *Race and Redistricting*, 74

²² *City of Mobile v. Bolden*, 446 U.S. 55 (1980).

²³ S. 1992, 97th Cong. § 2 (1982), The bill included the following language regarding claims against Section 2: “No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color.”

²⁴ Yarbrough, *Race and Redistricting*, 61, 149-50.

Court recognized and upheld the 1982 amendment, which suggested provided for evaluation of “discriminatory results,” rather than simply “discriminatory intent.”²⁵

Following the 1990 census, state legislatures across the country attempted to adhere to the mandates set forth by the 1982 amendments and *Gingles*. In the 1992 cycle of redistricting, state legislatures created an unprecedented number of majority-minority districts.²⁶ Consistent with the intent of the plans, these majority-minority districts allowed for districts compatible with the electability of minority representatives.²⁷ In many states, non-White representatives were elected for the first time since the beginning of the twentieth century.²⁸ For nearly twenty years, the Supreme Court demonstrated consistent favor towards districting plans that intended to increase minority representation. The Court had interpreted the Voting Rights Act and the Equal Protection Clause in a manner that accelerated the political power of minority voters.

However, in *Shaw v. Reno* (1993), the Supreme Court struck down two newly created majority-minority districts in North Carolina, suggesting that they constituted an impermissible racial gerrymander.²⁹ Departing from precedent,³⁰ the Supreme Court determined that the majority-minority districts were justiciable on the basis of the Equal Protection Clause of the Fourteenth Amendment. The Court cited the bizarre shapes of the districts, the violation of the rights of white voters and disregard of traditional districting principles.³¹ In *Shaw* the Court interpreted the Equal Protection Clause in a way that stymied districting practices that were

²⁵ See *Ibid.*, 8 (Discussion of the objection to multi-member districts and the adherence to previous 1982 legislation).

²⁶ William Miller and Jeremy Walling, “Tom and ‘Gerry’?” In *The Political Battle Over Congressional Representation* (Lanham: Lexington Books, 2013), 14. See Kousser, *Colorblind Injustice*, 377; Note: In *UJO*, Chief Justice Rehnquist had seemingly granted approval of race-conscious districting, which stimulated these efforts and aided in the reluctance to file racial gerrymandering claims against such plans.

²⁷ See Canon, *Race, Redistricting, and Representation*, 146-50; Lublin, *The Paradox of Representation*, 37-8.

²⁸ Kousser, *Colorblind Injustice*, 273-4.

²⁹ Lublin, *The Paradox of Representation*, 39-40.

³⁰ See footnote 24 (Precedent set forth by Chief Justice in *UJO* opinion).

³¹ Yarbrough, *Race and Redistricting*, 70-9; see quotations from O’Connor opinion in *Shaw v. Reno* 509 U.S. 630 (1993). (Traditional districting criteria are suggested to be “compactness, contiguity, and respect for political subdivisions”).

attempting to allocate a greater influence to minority voters – the same group for which the Clause was created.

In the majority opinion to *Shaw*, Justice O’Connor suggested that non-compact minority districts would reinforce stereotypes that minority voters share political interests and that they tend to prefer the same candidates when voting.³² Justice O’Connor maintained that drawing such districts “may exacerbate ... patterns of racial bloc voting,” and would make elected officials “more likely to believe that their primary obligation is to represent only the members of that group.”³³ In an impassioned dissent, Justice White wrote of the importance of minority districts in ensuring the electability of minority representatives, and suggested that many of the speculations within the majority opinion were misguided and inaccurate.³⁴ Much evidence suggested that, in fact, African Americans were politically cohesive and that their unique political attitudes differed from those of White voters.³⁵

The precedent of *Shaw* extended to cases that proceeded after its ruling, in that redistricting plans were no longer permitted to use race as the predominant factor in constructing new district lines.³⁶ Future claims against minority districts thereafter only needed to prove that voters were separated into “different districts on the basis of race, and that the separation lacks

³² For full O’Connor opinion, see *Shaw v. Reno* 509 U.S. 630 (1993), 2827.

³³ *Ibid.*, at line 2877; For explanation of the opinion, see Kousser, *Colorblind Injustice*, 387.

³⁴ Kousser, *Colorblind Injustice*, 387. (In the dissent, Justice White explained that a realistic approach to the situation helps to explain why the districts were needed and created. They were necessary for the purposes of allowing minority voters to influence elections and policy alike. As evidenced by the 1992 elections, they were effective. The creation of the districts proved, to that point, to be the most effective effort to afford minority representation in Congress).

³⁵ Paula McClain and Joseph Stewart, “*Can We All Get Along?*” *Racial and Ethnic Minorities in American Politics*. 6th ed. (Boulder, CO: Westview Press, 2013), 78-102; Kousser, *Colorblind Injustice*, 387; Grose, *Congress in Black and White*, 29-31.

³⁶ See Jonathan Winburn, *The Realities of Redistricting: Following the Rules and Limiting Gerrymandering In State Legislative Redistricting* (Lanham: Lexington Books, 2008), 25; Canon, *Race, Redistricting, and Representation*; Kousser, *Colorblind Injustice*.

sufficient justification.”³⁷ Such a ruling and the classification of “traditional districting principles” were inconsistently applied in racial gerrymandering cases that followed.³⁸

With the 1993 decision in *Shaw*, the Court sent a message to states around the country. If state legislatures were to draw districts that provided minority voters the reasonable opportunity to elect candidates of their choosing, the construction of those districts would have to be made on the basis of something other than race. If race were to be used as the predominant factor, states would have to prove that such was done to fulfill a “compelling governmental interest.”³⁹

Nonetheless, *Shaw* made the task of redistricting with the purpose of affording minorities higher levels of representation a much more difficult endeavor. The ways in which districts were constructed to provide for minority representation would thereafter depend upon the objectives and guidelines that the various bodies responsible for drawing the districts conformed to, which provides fitting reasons to analyze the structural and procedural elements of the redistricting process.

Methods of Redistricting

Although not universally true, the party in control of a state’s legislature typically dictates the responsibility of drawing district lines. States legislatures adhere to distinct redistricting criteria and tend to redistrict with different objectives. Questions remain as to which methods produce the greatest representational outcomes for minority voters, both descriptive and

³⁷ For further reading of the written opinion, see *Shaw v. Reno* 509 U.S. 630 (1993), at 647, 649.

³⁸ With notable inconsistency, the Court ruled in *Voinovich v. Quilter* (1993) that packing minority voters into districts was permissible under Section 2, as it can seek to limit dilution of minority influence (Dudley 2016, 92). In *Miller v. Johnson* (1995), the Court ruled that race could not be used as the predominant factor in the creation of district plans, striking down a number of Black-majority districts (Canon, 80). In *Bush v. Vera* (1996), the Court ruled that race predominated incumbency protection, striking down a Texas redistricting plan that sought to protect incumbents at the cost of Black voter’s ability to elect representatives of their choice (Canon 81; Kousser).

³⁹ See Kousser, *Colorblind Injustice*, Chapter 8.

substantive. Much of this research considers various types of gerrymanders, symmetrical returns and the competitive nature of elections that are characteristic of the various methods.⁴⁰ While this paper will not consider the political outcomes in the same manner, it does utilize similar measures that scholars have devised, but only insofar as to evaluate minority representation.

When states conduct the redistricting process, party interests tend to outshine all others. While the term gerrymandering typically carries a negative connotation as “bad practice,” it is often incumbent in the pursuit of effectively providing for substantial minority representation.⁴¹ Deciphering the differences between the various methods of redistricting and their objectives helps to illustrate which districting methods yield the highest levels of representation and influence for minority constituencies.

Methods: Structures and Outcomes

In evaluating the control of the redistricting process, I refer to the mechanism through which a state’s districts were drawn as the “method” used to draw the districts. Scholars typically assign this method a label of Partisan, Bipartisan, Judicial or Independent.⁴² While the bipartisan method of redistricting receives its own label, it is comparable to the partisan method because state legislative officials, of some capacity, are responsible for the construction of the districts in both methods. Bipartisan control of the districting process is different than the Partisan method

⁴⁰ Nicholas Stephanopoulos, “Race, Place, and Power,” *Stanford Law Review* 68, no. 6 (2016): 1323–1408, http://www.stanfordlawreview.org/wp-content/uploads/sites/3/2016/06/4_-_Stephanopoulos_-_Stan_L_Rev.pdf; Nicholas Stephanopoulos and Eric M McGhee, “Partisan Gerrymandering and the Efficiency Gap,” *The University of Chicago Law Review* 82, no. 2 (2015): 831–900; Gregory Warrington, “Quantifying Gerrymandering Using the Vote Distribution,” Burlington: Department of Mathematics & Statistics, University of Vermont (2017); Seabrook, *Drawing the Lines*, 76-8, 85-90.

⁴¹ Barabas and Jerit, *Redistricting Principles and Racial Representation*.

⁴² See Nicholas Goedert, “Redistricting, Risk, and Representation: How Five State Gerrymanders Weathered the Tides of the 2000s.” *Election Law Journal* 13, no. 3 (2014): 406–18; Justin Levitt and Erika Wood, *A Citizen’s Guide to Redistricting*. New York: Brennan Center for Justice, 2008; Seabrook, *Drawing the Lines*, 65-7.

in that more explicit, neutral redistricting standards emerge from the Bipartisan method, as criteria must generally be agreed upon for the purposes of legislative approval – typically parties approach the agreements in an effort maintain the seats already held by each party.⁴³ This typically leads to lower levels of responsiveness and competition, as safe seats are sought after in as many districts as possible.⁴⁴

Although state legislatures have been, and still are, chiefly responsible for the construction of district boundaries, some state constitutions include provisions allowing for redistricting commissions to preside over the process if legislative plans are not passed by particular statutory deadlines.⁴⁵ Other states have adopted legislation or passed a constitutional referendum bestowing the responsibility of drawing legislative maps to a commission, thus effectively removing the authority and obligation from the state legislature.⁴⁶ In many cases, legal challenges to the constitutionality of district maps produced by partisan and bipartisan bodies or failures to meet statutory deadlines have resulted in judicial entities inheriting the responsibility for composing the districts.⁴⁷

Considerable research has evaluated the common redistricting practices of partisan legislatures – these evaluations are more common than those related to commissions or judicial-drawn districts. Due to the fact that the control of the redistricting process often changes following each census, research has been devoted to identifying the effects of these state-level

⁴³ Seabrook, *Drawing the Lines*, 99.

⁴⁴ *Ibid.*, 100.

⁴⁵ See J. Carson et al., “Reevaluating the Effects of Redistricting on Electoral Competition, 1972-2012,” *State Politics & Policy Quarterly* 14 (2014): 165–77; Levitt, *A Citizen’s Guide*; Seabrook, *Drawing the Lines*, 66.

⁴⁶ Levitt, *A Citizen’s Guide*.

⁴⁷ Richard Engstrom, “The Political Thicket, Electoral Reform, and Minority Voting Rights,” In *Fair and Effective Representation* edited by Wilson Carey McWilliams (Lanham: Rowman & Littlefield Publishers, 2001), 3–67.

transformations.⁴⁸ Similarly, the strategies employed by partisan legislatures are often geared towards the short-term electability of the greatest number of party candidates and also the long-term security of control of the districting process.⁴⁹ Partisan bodies are most commonly responsible for coupling the gerrymandering strategies of “cracking” and “packing.” Cracking can be understood as the splitting of the opposing party’s constituency base into dispersed concentrations of minimal influence, whereas packing is the practice of concentrating opposing party constituents into highly favorable districts for the opposing party. Implementing partisan gerrymanders that interfere with majority-minority districts have either failed to receive preclearance from the DOJ or have been challenged in federal court.⁵⁰

When a single party controls the redistricting process, they tend to leverage partisan majorities to manufacture advantages for candidates of their own party.⁵¹ Scholars maintain that protecting incumbents and party interests places significant limitations on minority representation.⁵² These claims are made on the basis that partisan influences tend to motivate districting plans as to elect the greatest number of delegates from one party and to obstruct the electoral opportunities of the other.⁵³ However, similar research has suggested that bipartisan districting plans may be more harmful to representation than plans devised by a single party.⁵⁴ This is likely because bipartisan compromises strive to safeguard the incumbents of both parties,

⁴⁸ Bruce Cain et al., “From Equality to Fairness: The Path of Political Reform since Baker v. Carr,” In *Party Lines: Competition, Partisanship, and Congressional Redistricting* edited by Thomas E. Mann and Bruce E. Cain (Washington: The Brookings Institution, 2005), 20–23; Seabrook, *Drawing the Lines*, 68-111.

⁴⁹ Seabrook, *Drawing the Lines*, 102.

⁵⁰ Mark Monmonier, *Bushmanders and Bullwinkles: How politicians manipulate electronic maps and census data to win elections* (Chicago: University of Chicago Press, 2001); Seabrook, *Drawing the Lines*, 25.

⁵¹ See A. Yoshinaka, and C. Murphy, “The Paradox of Redistricting: How Partisan Mapmakers Foster Competition but Disrupt Representation,” *Political Research Quarterly* 64, no. 2 (2010), 435–47. doi:10.1177/1065912909355716; Seabrook, *Drawing the Lines*, 80-9; Goedert, “Redistricting, Risk, and Representation”; Levitt, *A Citizen’s Guide*.

⁵² Mann, *Party Lines*, 19-20.

⁵³ Shotts, “Does Racial Redistricting Cause Conservative Policy Outcomes,” 216–26.

⁵⁴ Anthony McGann et al., *Gerrymandering in America: The House of Representatives, the Supreme Court, and the Future of Popular Sovereignty* (New York: Cambridge University Press, 2016), 18, 158-60; Goedert, “Redistricting, Risk, and Representation”; Mann, *Party Lines*, 19-20.

instead of just the representatives from a single party. Due to the relationship between party and race, it is likely that partisan biases in the redistricting process render unique consequences for minority representative relative to the partisan method used to draw the districts.

Maps drawn by commissions and judiciary entities are believed to produce higher levels of electoral competition than those drawn by state legislatures.⁵⁵ Others, however, suggest that the method used to draw districts has only a marginal effect on the competition of elections,⁵⁶ and an even smaller effect on subsequent polarization.⁵⁷ Notably, limited empirical research has been conducted on districts drawn by commissions due to their relative youth in the redistricting landscape. The increased utilization of commissions in the redistricting process is sparking interest and encouraging further exploration.⁵⁸

While many scholars have closely analyzed the effects of these different methods on rates of incumbency, competition, polarization and other areas of interest, it is necessary to consider the ways in which different methods influence minority electoral returns. As such, this evaluation endeavors to address the extent to which the method used to draw district lines influences rates of minority representation, both descriptive and substantive. Borrowing from elements of previous research to date, this study incorporates a dense sample of congressional redistricting, which covers a period of time crammed with significant milestones that influenced changes in minority representation and the redistricting process more generally.

⁵⁵ Carson et al., “Reevaluating the Effects of Redistricting on Electoral Competition”.

⁵⁶ Ibid.; Canon, *Race, Redistricting, and Representation*; Swain, *Black Faces*; McClain, “*Can We All Get Along*”; Grose, *Congress in Black and White*.

⁵⁷ Seabrook, *Drawing the Lines*.

⁵⁸ Ibid., Chapter 4.

Evaluating Minority Representation: Optimal Gains or Inherent Tradeoffs?

No group of voters supports candidates from the Democratic Party more consistently than African Americans and Hispanics.⁵⁹ As such, when voters from these groups are concentrated at high rates – into singular districts – the surrounding districts tend to become overwhelmingly White, and thus Republican.⁶⁰ Scholars suggest that while majority-minority districts have advanced minority representation in select districts, surrounding districts have become increasingly skewed in favor of Republican candidates.⁶¹ As Democrats tend to more consistently favor and support the legislative interests of minority groups than Republicans, the bleaching⁶² of surrounding districts likely effects the substantive representation of minority voters.⁶³ Although illustrative of the potential effects on representation in surrounding districts, previous research has only narrowly evaluated the relationship between the thresholds used to create minority districts and the substantive representation received from legislators in the surrounding districts.

In 1992, as a result of the legal mandates set forth throughout the previous decade, state legislatures across the country – especially Democratic legislatures in the South – purposefully created majority-minority districts in an effort to elect an increased number of minority representatives.⁶⁴ External pressure, some suggest,⁶⁵ came from the Justice Department’s Civil Rights Division, which believed that the construction of the districts was required as a result of

⁵⁹ Stephanopoulos and McGee, “Partisan Gerrymandering and the Efficiency Gap,” 92.

⁶⁰ Ebonya Washington, “Do Majority-Black Districts Limit Blacks’ Representation? The Case of the 1990 Redistricting,” *The Journal of Law and Economics* 55, no. 2 (2012): 251–74; Lublin, *The Paradox of Representation*; Grofman et al., *Minority Representation and the Quest for Voting Equality*.

⁶¹ See Stephanopoulos and McGee, “Partisan Gerrymandering and the Efficiency Gap,” 11; Yarbrough, *Race and Redistricting*, 10; Kousser, *Colorblind Injustice*, 378; Swain, *Black Faces*; Shotts, “Does Racial Redistricting Cause Conservative Policy Outcomes,” 216–26.

⁶² Bleaching refers to the whitening of surrounding districts. Hence, when districts are concentrated excessively with minority constituents, it is often referred to as “bleaching”.

⁶³ Overby et al., “Unintended Consequences,” 540–50; Kousser, *Colorblind Injustice*.

⁶⁴ Seabrook, *Drawing the Lines*, 22-5; Lublin, *The Paradox of Representation*, Chapter 4; (Twenty-five new majority Latino and Black districts were created between 1990 and 1992).

⁶⁵ Yarbrough, *Race and Redistricting*, 9.

the 1982 amendments to the VRA and the *Gingles* decision. Others believe that such pressure was part of an effort from the Bush Administration to maximize Black influence in few districts, creating highly populated White districts favorable to Republican candidates in the surrounding districts.⁶⁶

Irrespective of the exact reason, during the 1992 redistricting cycle, Democratic legislatures, predominantly in control of the Southern states with high minority populations, created more majority-minority districts than originally intended.⁶⁷ The new districts had an immediate effect on the successes of minority candidates – the number of Blacks in Congress increased by the 13 in 1992, the single largest increase to date.⁶⁸ Similarly, the Congressional Hispanic Caucus grew by nearly 40 percent as a result of the newly created districts.⁶⁹ These new additions were encouraging to minority communities and to civil rights advocates, as the increases in descriptive representation provided Blacks and Hispanics with opportunities to influence policy more so than ever.⁷⁰ It is important to note that the number of Judicial drawn districts increased significantly during the 1992 cycle because of the lack of adherence on the part of many states to properly construct minority districts. Republicans drew hardly any during the years I've observed until the 108th Congress.

However, in 1994, for the first time in 40 years, the Republican Party took control of Congress. Opinions vary regarding the influence of the newly created minority districts upon the relatively high number of Democratic incumbents who lost re-election and were replaced by Republican representatives.⁷¹ Those who credit the swing of the House directly to the increased

⁶⁶ Ibid., 10; Kousser, *Colorblind Injustice*, 378-90.

⁶⁷ Engstrom, "The Political Thicket," 3-7.

⁶⁸ Ibid., 10-1.

⁶⁹ Lublin, *The Paradox of Representation*, Chapter 4.

⁷⁰ Grofman et al., *Minority Representation and the Quest for Voting Equality*.

⁷¹ Kevin Hill, "Does the Creation of Majority Black Districts Aid Republicans? An Analysis of the 1992

Congressional Elections in Eight Southern States," *Journal of Politics* 57, no. 2 (1995): 384-401; Swain, *Black*

number of majority-minority districts created in the 1992 cycle of redistricting suggest that the bleaching of surrounding districts diminished the ability of liberal, minority voters to influence the districts.⁷² On the contrary, others attribute the tide of Republican support across the country, more so than the compositions of the new minority districts, to the tilting of control within the House.⁷³

Extensive research was conducted following the mid-1990s shift in the control of Congress. Overwhelmingly, scholars agreed that the newly created majority-minority districts had *some* influence, even if only marginal. For example, Grofman and Handley posits that the new minority districts contributed to just ten of the total 63 seats that the Democrats lost between 1990 and 1994.⁷⁴ Bob Benenson argues that the Democrats lost three seats because of the racial gerrymandering,⁷⁵ Carol Swain suggests five,⁷⁶ David Lublin concludes between six to eleven,⁷⁷ and Kevin Hill believes that just four seats were lost.⁷⁸ Together, these evaluations demonstrated the academic pursuit to address the effect of majority-minority districts and the subsequent increase in minority representation. These studies, while similar in their objectives, consider substantive representation in a much different manner.

Faces, 78-80; Lublin, *The Paradox of Representation*, 112.

⁷² National Association for the Advancement of Colored People. "Report of the NAACP Legal Defense and Education Fund: The Effect of Section 2 of the Voting Rights Act on the 1994 Congressional Elections." Mimeograph, 1994; Swain, *Black Faces*, 78-83; Lublin, *The Paradox of Representation*, 111-14; Washington, "Do Majority-Black Districts Limit Blacks' Representation."

⁷³ John Petrocik and Scott W. Desposato, "The Partisan Consequences of Majority-Minority Redistricting in the South, 1992 and 1994," *The Journal of Politics* 60, no. 3 (1998), 613-33; Grofman et al., *Minority Representation and the Quest for Voting Equality*; Engstrom, "The Political Thicket."

⁷⁴ Lisa Handley et al., "Electing Minority-Preferred Candidates to Legislative Office: The Relationship between Minority Percentages in Districts and the Election of Minority-Preferred Candidates." In *Race and Redistricting in the 1990s*; (Demonstration that replacing two white southern Democrats with one black Democrat and one white Republican, the average ADA score changes only in a 1-point increase. Black mean ADA score is 85, white Dem is 46 and Republican is 6. Therefore two white Dems equals 92, whereas one black and one Republican equals 93).

⁷⁵ Bob Benenson, "GOP's Dreams of a Comeback via the New Map Dissolve." *Congressional Quarterly Weekly Report* 50 (1992), 3580-81.

⁷⁶ Swain, *Black Faces*, 78-80.

⁷⁷ Lublin, *The Paradox of Representation*, 112.

⁷⁸ Hill, "Does the Creation of Majority Black Districts Aid Republicans".

Party Motivations

The method used to redistrict likely has a significant effect on the ways in which majority-minority districts are incorporated into a state's districting plan.⁷⁹ Democratic controlled redistricting processes tend to draw minority districts while simultaneously trying to maintain a Democratic advantage in the surrounding districts.⁸⁰ Creating majority-minority districts does not change the strategy of redistricting plans drawn by Democratic legislatures, but does alter the strategy of Republican drawn maps.⁸¹ This may be because it is easier to persuade White Democrats to vote for Republican candidates than it is to convince Black Democrats to vote for the same candidates.⁸² Plans conceived by Republican legislatures tend to advantage Republican contenders, especially in districts that surrounded majority-minority districts.

Bleaching can be seen throughout Southern states when creating majority-minority districts, even when Democrats create the districts.⁸³ As the White concentration increases and Black voters are concentrated into singular districts, minority substantive representation may be put in jeopardy.⁸⁴

As mentioned, the Republican control of state legislatures with high internal minority populations, in Southern states for example, has only come about recently. It is important to effectively evaluate the relationship between the method of redistricting and resultant minority representation. Due to the fact that Republicans may be less interested in creating districts

⁷⁹ Kenneth Shotts et al., "Gerrymandering, Legislative Composition, and National Policy Outcomes," *American Journal of Political Science* 46, no. 2 (2002): 398–414; Seabrook, *Drawing the Lines*.

⁸⁰ Engstrom, "The Political Thicket."

⁸¹ Shotts et al., "Gerrymandering, Legislative Composition, and National Policy Outcomes"; Shotts, "Does Racial Redistricting Cause Conservative Policy Outcomes".

⁸² McClain et al., "Can We All Get Along," 82-93.

⁸³ Stephen Malone, *Beneficial Gerrymanders : The Impact of Majority-Black Districts on African-American Representation in the United States House of Representatives* (Inverness: Northwestern University, 1994), 58.

⁸⁴ Malone, *Beneficial Gerrymanders*, 58; (The number of districts with less than 10% black population increased by 19 after 1992 redistricting; the Democrats generally control districts when blacks constitute 30-50% of constituency, but they were pulled from districts of that kind to make majority-minority districts. Democrats lost seats from this).

compatible with minority electability or minority influence, careful consideration is necessary. Scholars often disagree regarding the levels of minority concentration within districts and how effective certain levels are at securing descriptive and substantive representation. There are multiple theories as to which percentage, or concentration, of minorities leads to the highest levels of representation.

Thresholds of Concentration

The extent to which minority voters are packed into districts is significant in assessing substantive representation, which should be understood not merely through the creation of minority districts, but upon evaluating the resulting effects in districts adjacent to minority districts. The debate continues as to what thresholds of concentration are necessary for the electability of minority candidates, and furthermore at what levels of concentration minority influence begins to become excessively diluted in surrounding districts.⁸⁵ Significant enough concentrations often translate into legislative support of policies of interest, but this cannot be said for all levels of concentration, nor can it be understood uniformly throughout all regions of the country.⁸⁶

Scholars disagree on the thresholds of concentration necessary to elect minority representatives, some suggest that minority voters must constitute 55 percent of a district's population, while others suggest 65 percent.⁸⁷ Lublin suggests that minority populations of over 40 percent suffice in providing significant influence to minority voters in some parts of the

⁸⁵ Engstrom, "The Political Thicket."; Swain, *Black Faces*; Lublin, *The Paradox of Representation*; Grofman et al., *Minority Representation and the Quest for Voting Equality*.

⁸⁶ William Miller and Jeremy Walling, "Tom and 'Gerry'"; Swain, *Black Faces*; Lublin, *The Paradox of Representation*.

⁸⁷ Swain, *Black Faces*; Lublin, *The Paradox of Representation*.

country, but not necessarily electability.⁸⁸ While minority concentrations around the 40 percent threshold provide for influence in districts,⁸⁹ many argue that minority voters must constitute a majority to successfully allow for the representation of minority groups in Congress.⁹⁰ According to data prior to the 1992 redistricting cycle almost all minority representatives elected to Congress, both African Americans and Hispanics, were elected from districts in which “minority group members constituted a majority of the district.”⁹¹

There are regional differences regarding the concentrations necessary to elect minority representatives as well.⁹² While Lublin⁹³ provides convincing and significant data concerning the electability of minority representatives at various thresholds, other scholars address the electoral implications of districts with lower thresholds of minority concentration.⁹⁴ A study on the 1994 elections concluded that Democrats in the South lost seats in districts with Black populations between 20 and 30 percent at higher rates than districts with Black populations between 10-20 percent.⁹⁵ In non-Southern states, however, black populations between 10-20 percent were shown to significantly increase Democratic electoral chances, relative to districts in Southern states.⁹⁶

This research suggests the difficult nature of projecting electoral returns upon previous results and district demographics. It also illustrates the losses of Black influence as a result Republicans gaining office in districts with Black populations between 20-30 percent. Many agree that Blacks need to be concentrated into districts at higher thresholds in the South than in

⁸⁸ Lublin; *The Paradox of Representation*; Grofman et al., *Minority Representation and the Quest for Voting Equality*.

⁸⁹ Ibid.

⁹⁰ Ibid., Malone, *Beneficial Gerrymanders*.

⁹¹ See Mark Rush, *Does Redistricting Make a Difference* (Baltimore: The Johns Hopkins University Press, 1993), 10; Lublin; *The Paradox of Representation*, 41 (Non-blacks won 5007 of the 5079 elections held in white majority districts between 1972-1994, Blacks won 200 of the 209 races in which blacks constituted a majority in the district).

⁹² Grofman et al., *Minority Representation and the Quest for Voting Equality*; Grose, *Congress in Black and White*.

⁹³ Lublin; *The Paradox of Representation*, Chapters 2 and 3.

⁹⁴ Grofman et al., *Minority Representation and the Quest for Voting Equality*.

⁹⁵ Ibid., 58.

⁹⁶ Ibid., 59.

the non-South to optimally allocate Black concentrations across districts.⁹⁷ Now, with Republicans in control of the districting processes in most states throughout the South, the optimal levels of minority concentration are of great importance. So too is the extent to which minority voters are concentrated in surrounding districts, as this likely effects substantive representation.

As will be illustrated, there are significant differences in the ways in which the different methods concentrate minority constituencies. As a consequence of those differing thresholds of concentration, minority voters are effectively left with different levels of influence in surrounding districts. Due to these differing concentrations, and the effect they have on minority electability and influence, potential tradeoffs between both minority descriptive and substantive representation exists, and will be explored to show how concentration levels affect the levels of representation.

Tradeoffs: Descriptive and Substantive Representation

If the advancement of minority interests in Congress were to be measured simply by the number of minority representatives elected, then one could be assured that majority-minority districts achieve their necessary ends. However, the question persists as to the linkage between increased descriptive representation and substantive representation for minorities.⁹⁸ While descriptive representation has, for quite some time, been the focal point of minority representation and redistricting, it may not necessarily be the most effective way for minority voters to have their policies of interest supported. Thus, it is important to assess the ways in which

⁹⁷ Ibid., 62; Lublin, *The Paradox of Representation*; Kousser, *Colorblind Injustice*; Whitby, *The Color of Representation*.

⁹⁸ Ibid., Washington, “Do Majority-Black Districts Limit Blacks’ Representation”; Cameron et al., “Do Majority-Minority Districts Maximize Substantive Black Representation in Congress?”

minority districts are created and why such districts are created in order to address such a difficulty.

Efforts to evaluate the conditions under which descriptive representation is achievable typically assess the concentrations of minority voters necessary to provide for the electability of minority representatives. On the other hand, substantive representation is typically analyzed through the evaluation of ideological and policy leanings of district representatives, statewide ideologies, and sometimes the leanings of the Congress as a whole.

Scholars have attempted to determine which factors best predict support and advocacy of minority interests, but the utilization of different levels of analysis, varying sample sizes, and different outcome variables have limited the effectiveness and comparability of these studies. While this study utilizes LCCR scores in a consideration of substantive representation, the measures used by previous studies to evaluate similar questions provide valuable insights into the universe of the approaches and assist in understanding the methodological considerations that others have made.

Substantive representation has been evaluated through the use of DW-NOMINATE scores,⁹⁹ which is a measure of liberalism-conservatism. The scores¹⁰⁰ are determined on the basis of aggregated roll-call voting data, and are commonly used in social science and political science research. While DW-NOMINATE scores are effective in analyzing other elements of redistricting and Congress (polarization, party, policy outcomes, etc.), they are likely not the best available measure of minority substantive representation. DW-NOMINATE scores neglect the unique political interests of minority voters, as they are tailored in no particular way to minority interests or issues pertinent to civil rights. For the purposes of analysis, however, these scores are

⁹⁹ Lublin; *The Paradox of Representation*; Grose, *Congress in Black and White*.

¹⁰⁰ Keith Poole and Howard Rosenthal, "D-Nominate after 10 Years: A Comparative Update to Congress: A Political-Economic History of Roll-Call Voting." *Legislative Studies Quarterly* 26, no. 1 (2001) 5–29.

advantageous in many ways due primarily to the comparability across time and the range and variability of scores.

As many studies¹⁰¹ have done before, this study incorporates LCCR scores as the primary outcome variable of analysis in the evaluation of substantive representation. LCCR scores are based on voting records compiled by the Leadership Conference on Civil Rights (LCCR), and assess roll-call voting on legislation pertinent to civil rights issues. LCCR scores are based upon the rate of support for bills pertinent to civil rights issues when they reach the floor for a vote. The number of bills used to calculate the score varies by congressional session, but is typically between 10-20 votes. The scores are calculated on the basis of voting behavior on select bills determined by the Leadership Conference to be a top priority. While this score may fall short of completely capturing substantive representation, it better demonstrate the behavior of representatives in relation to the relevant preferences and legislative voting on minority interests than either DW-NOMINATE or ADA scores.

ADA scores, developed by Americans for Democratic Action¹⁰² are similar to DW-NOMINATE scores in that they are measures of political liberalism. However, they are slightly different because the scoring is limited to key votes on social and economic issues, domestic and abroad. Like DW-NOMINATE scores, ADA scores are not tailored in any particular fashion to issues pertinent to civil rights. The score provides a Liberal Quotient (LQ), which is based on the 20 most important issues in a given session. The total possible score is a 100, as each vote is

¹⁰¹ Cameron et al., “Do Majority-Minority Districts Maximize Substantive Black Representation in Congress?”; Whitby, *The Color of Representation*; Whitby and Krause, “Race, Issue Heterogeneity and Public Policy”; Canon, *Race, Redistricting, and Representation*; Grose, *Congress in Black and White*.

¹⁰² Richard Fleisher, “Explaining the Change in Roll-Call Voting Behavior of Southern Democrats,” *Journal of Politics* 55, no. 2 (1993); M. V. Hood and Irwin L. Morris, “Boll Weevils and Roll-Call Voting: A Study in Time and Space,” *Legislative Studies Quarterly* 23, no. 2 (1998), 245–69; Christine Sharpe and James Garand, “Race, Roll Calls, and Redistricting: The Impact of Race-Based Redistricting on Congressional Roll-Call,” *Political Research Quarterly* 54, no. 1 (2001), 31–51.

worth 5 points.¹⁰³ These scores offer valuable insights into representation and Congress, but are limited in their applicability to minority substantive representation.

Hypotheses:

I arrived at my hypotheses upon evaluating much of the relevant literature and examining the conclusions of other scholars. My personal understandings and experiences with the legislative redistricting process also influenced these hypotheses. As much of the research investigates the necessary means for increasing minority descriptive representation, it seemed increasingly important to take the analysis in this project a step further and to evaluate the extent to which the increases in descriptive representation influences changes in substantive representation within surrounding districts. As partisan influences infuse the redistricting process and partisan gerrymandering intensifies in unprecedented ways, the opportunity to consider the ways in which minority representation may be subject to such partisan factors was the burning theoretical question at the base of this research. As much of the recent literature on redistricting has considered partisan gerrymandering and the Republican legislative control of the districting process in more states now than during much of the previous research, I endeavored to provide an evaluation of how the restricting method has affected minority representation.

The hypotheses consider descriptive representation and substantive representation uniquely. As it relates to descriptive representation, I hypothesize that district maps drawn by Democratic legislatures, commissions, and the judiciary will construct the greatest number of majority-minority districts, thus providing the greatest number of minority representatives. Not only do these bodies have an expressed interest – especially the Judiciary and Democratic legislatures – in enhancing minority representation, but also they were also responsible for the

¹⁰³ Americans for Democratic Action. “ADA Voting Records,” accessed January 10, 2018, <https://adaction.org/ada-voting-records/>

redistricting process in Southern states, during the majority of my study. Again, these states contain the highest minority populations in the country. There is a need to address how well different methods responded to *Shaw* and other mandates, but it is also important to best illustrate how methods vary in their approaches to providing opportunities for minority representation looking ahead to future redistricting cycles.

To study this, redistricting methods were analyzed relative to their generated proportion minority-influence districts, and districts that elected minority representatives. This approach is utilized due to the conclusions drawn from previous scholarly research, which illustrated the extremely high electoral success rates (~95%) of minority candidates in majority-minority districts¹⁰⁴ and, to a lesser degree, minority-influence districts. It is important to understand, on an empirical level, how redistricting can benefit or constrain minority representation. Due to the newfangled, widespread Republican control of the majority of the Southern state legislatures, it is vital to evaluate the ways in which these legislatures have systematically constructed districts geared toward providing minorities with representation.

As for substantive representation, I expect districts drawn by commissions and the judiciary to concentrate minority voters into districts at high enough levels as to provide minority voters with descriptive representation, but not to such extreme levels that minority influence and LCCR scores in neighboring districts are sacrificed. I believe that such a result is likely because of the interests of commissions and the judiciary in providing not only descriptive representation, but also spreading minority influence across surrounding districts, as to more fully participate in the political process. Conversely, I believe that districts drawn by partisan legislatures will be

¹⁰⁴ Lublin; *The Paradox of Representation*, 41 (Between 1972 and 1994, Blacks won 200 of the 209 races in which Blacks constituted a majority in the district).

catered more towards purely creating minority districts, rather than establishing well-dispersed minority influence.

Partisan bodies and the maps they produce, I believe, endeavor to facilitate increased levels of descriptive representation as to comply with the Voting Rights Act and to appease key constituency groups. Such efforts are unlikely to extend to the substantive representation of these groups, as the laws don't require it and the partisan gains may be diminished. I expect that Republican legislatures, which have tended to receive less support from minority voters to create districts favorable to minority voters only to the extent required by law. Insofar as the law is concerned, the mandates and requirements that have historically guided states to provide districts with reasonable prospects of electing minority representatives have neglected the importance of influence in surrounding districts, focusing, I stipulate, too narrowly on the creation of minority districts. This is certainly a pitfall of the VRA, but has become even more of an issue since the ruling of *Shelby County v. Holder* in 2013.

When minority voters are over-concentrated – above the threshold – the influence in the surrounding districts will likely tend to be subsequently diluted, which I believe will result in lower levels of support for issues pertinent to minority interests. I anticipate this over-concentration to be more common among district plans drawn by partisan legislatures. Commissions and districts drawn by the judiciary are likely, I believe, to put aside the competing interests of partisan and racial representation, which subsequently allows for the maximization of minority influence across districts, and more active, general political participation as well.

Due to the geographical variance of political and racial attitudes, I expect the threshold of concentration needed to optimize minority substantive representation to be lower in the North than in the Southern states covered by the VRA. On average, I believe that as the minority

population in a district increases the LCCR scores in the surrounding districts will decrease more significantly when considering states covered by the VRA. This will likely be seen in cases most consistently when minority populations in singular districts exceed 60 percent. Analyzing these thresholds from a regional standpoint will provide valuable insights into the representation at differing levels of concentration.

As the legislation and mandates concerning minority representation focus primarily on the number of minority representatives, there is a need to look at substantive representation specifically. Evaluating surrounding districts in relation to the composition of minority districts will likely to explain whether tradeoffs between the two types of representation exist. If they do, such an illustration will help in defining the thresholds at which these tradeoffs may be most likely to exist, and to what extent they may impact substantive representation.

Data Collection:

Congressional district data was compiled for sixteen individual Congresses from the 98th-113th (1982-2012). The large sample allows for a comprehensive study, which includes historic, legal and partisan changes all embedded within the history of the numbers. This analysis only includes district evaluations for states that have more than one congressional district.

The variables included in the dataset are district specific entries related to the personal characteristics of individual representatives, ideological information, characteristics of the respective congresses, demographics data, longitudinal-latitudinal district specifications, and lagged data, spatial data. The lagged variables are particularly unique to this study of minority representation – this data was coded to aggregate averages of data in surrounding, neighboring districts. The sources consulted to compile the dataset include: Census Bureau, Congressional

Quarterly, The Congressional Quarterly Press, The National Historical Geographic Information System, govtrack.us, Cook's Partisan Score database, voteview.com, Leadership Conference on Civil Rights, Congressional Shapefiles archives and *National Conference of State Legislatures: 50 State Profiles*.

I utilized Nicholas Seabrook's data presented in *Drawing the Lines* (2017) regarding the control of the redistricting process, to code for the individual methods as partisan, bipartisan, independent or judicial. The control of the redistricting process was determined through the recognition of the party control of the state legislature, and statutory or judicial consequences when they occurred. As Seabrook's data concerned only the 1992 and 2002 cycles of redistricting, I compiled the additional data pertaining to the 1982 and 2012 cycles from The Congressional Quarterly's *Almanac of American Politics*, *The National Conference of State Legislatures: 50 State Profiles*, and from John Levitt's resource on Congressional redistricting methods. In coding the 1982 and 2012 redistricting methods, I maintained the criteria established by Seabrook in coding the control of the redistricting process, using a specific set of guidelines that will be made explicitly clear.

To evaluate the effect the percentage of minority voters in a given district has on LCCR scores in the surrounding districts, I coded lagged variables for surrounding districts. To do this, I used cartographic shapefiles of congressional district boundaries, which utilize latitude-longitude, county districts, and legal resources to determine the location of district lines. To determine which districts were surrounding districts, the shapefiles were used to locate districts that shared a boundary with a given district, in a given state. The lagged data was then coded for each district. Accordingly, these spatial lags help to interpret the effect of a change in the neighboring districts' average values, holding other variables constant.

To better localize the impact of the minority concentration in districts on the surrounding LCCR scores, I also coded into the dataset if the state's plans were drawn under the preclearance requirement of Section 5 of the Voting Rights Act. States were coded differently on the basis of whether or not they were fully or partially covered by the Voting Rights Act. These are binary variables, which are used to differentiate the units of analysis in the various models.

Variables of Analysis and Operationalization:

Independent

Variables:

The methods used to draw districts lines were divided into five categories, which were coded as follows: Judiciary (1), Independent Commission (2), Democratic Controlled Legislature (3), Republican Controlled Legislature (4), Bipartisan Legislature (5). As such, each state was assigned as (1-5) for each Congressional election (98th – 113th Congresses). These variables were coded numerically and categorically for the purposes of different quantitative analysis. The following three segments contain explanations as to the specific methodology used to determine and code the “method” of redistricting.

Judiciary and Independent Commission

A state was recorded as (1) if the districting plan was substantially modified or struck down in court. In considering this, I maintained Seabrook's definition of “substantial modification.” District maps that were sent to court, yet upheld by the judiciary, were coded as (2-5). If the state delegated the responsibility of drawing the district maps to an independent commission, the state was coded as such and assigned a (2). Regardless of the form of the commission they were all coded uniformly, as is commonplace in similar research for the

purposes of analysis. Commissions are often bestowed with the responsibility of drawing district lines by a State Constitution, which sometimes instructs the delegation of redistricting duty in the event that the district plan fails to pass through the legislature by a statutory deadline.

Partisan Controlled Legislature

Partisan control either Democrat (3) or Republican (4) was coded for states if a number of conditions were met. If one party controlled all three chambers of the state government, then the state was assigned either (3) or (4). However, if a party controlled both houses of the state legislature (for example: House and Senate), but not the governorship the state was assigned a (3) or (4) if gubernatorial approval was not needed for the passage of the districting plan. For example, if the legislature and Senate are able to override the gubernatorial veto or, as in a handful of states, the governor's approval is not necessary or the governor does not have veto power over the plans, then the state's district plan was passed under either a Democratic Controlled Legislature (3) or a Republican Controlled Legislature (4).

Bipartisan Controlled Legislature

States were coded as Bipartisan Controlled Legislature (5) if a single political party controlled both houses of the state's legislature, but not control the governorship. This is also the case if there is a bipartisan agreement and both legislative bodies approved the plan and signed into law by the governor, or if one party controlled the state house while the other party controlled the state senate and the governor signed the bill into law.

Population Statistics and Thresholds of Concentration

The Black, Hispanic, and non-white district population were also used as independent variables in my analysis. To evaluate the effect of the thresholds of minority concentration, I established five thresholds for the concentration of these population percentages respectively. To establish these thresholds, I simply used the respective population percentages. The thresholds that I established were population concentrations between: 0-20%, 20-40%, 40-50%, 50-60%, and 60%+. I decided upon these thresholds for a number of reasons, but the leading motivation was the consideration of the different thresholds presented in previous literature. I incorporated the spatial lags for this data as well, in that all of the lagged population percentages were coded from the shapefiles, as well as the thresholds.

Dependent Variables

In an effort to test my first hypothesis, I used majority-minority districts (MMDS), minority-influence districts (MIF), and the race of representatives as dependent variables. These variables were coded as binary. If the White population of a district was less than 50 percent, MMDS was coded as 1. Similarly, if the White population of a district was less than 60 percent, the MIF was coded as 1 – in these cases, districts were coded as both a MMDS and a MIF. If the representative in the district was either Black or Hispanic, the race of the representative in the district was coded as 1. While many scholars suggest that minority voters concentrated at lower levels (between 15-40) should constitute what others also refer to as minority-influence districts, I decided to code this variable at the 40 percent threshold.

For my second hypothesis, substantive representation was primarily evaluated on the basis of scores created by the Leadership Conference on Civil Rights (LCCR). The LCCR scores were compiled by the Leadership Conference on Civil Rights and assigned to each member of

Congress in a given congressional cycle. The variable I created from these scores coded a representative with a LCCR score of 100 a LCCR of 1, a representative with a score of 50 a LCCR of .5, a score of 10 a LCCR of .1, and so on. An LCCR score of 100 indicates that the legislator voted consistently with the Leadership Conference on Civil Rights – on all votes in a given congressional session. Notably, the LCCR scores are not comparable across Congresses because the numbers of votes that the scores were calculated from change over time, as do the particular bills that were considered on the floor. In some of the analyses the LCCR scores were lagged with the utilization of the shapefiles.

Control Variables

Due to the significant correlation between LCCR scores, and both party affiliation and the race of legislators, I included both race and party as control variables in the models. As noted in previous research, Democrats do tend to vote relatively consistently with the LCCR agenda, as do minority representatives.¹⁰⁵ I have additionally controlled for the party affiliation of representatives in surrounding districts in an effort to better illustrate the effect of minority concentration on the LCCR score in surrounding districts, which, in this case, is significantly different in surrounding districts controlled by Republicans in comparison to Democrats.

Methodology Selection

To test and convey the results of the discussed hypotheses, a number of different statistical tests and graphical displays were used. To demonstrate the effect of redistricting methods on the creation of majority-minority districts and districts that elected minority representatives, two plots were created with noise adjustments as to illustrate the frequency of

¹⁰⁵ McClain, “*Can We All Get Along?*” *Racial and Ethnic Minorities in American Politics*.

the values without over-plotting. To create these, I ran a “ggplot” in the software R. This software was used to develop not only the plots, but was also used in the development of the regression models and for exploratory data analysis.

To evaluate the statistical significance of the visual representations, I utilized a Chi-Squared test to determine the significance of the creation of majority-minority districts and districts that elected minority representatives. The creation of these districts was tested in relationship to the method used to draw the districts. Such was done in an effort to explore whether some methods, relative to others, created these districts at a greater rate. Using comparability measures, I was able to test the likelihood that the observed creation of these districts was due to chance, or if their creation was dependent upon external factors similar to the ones that have been discussed.

I then used an ordinary least-squares (OLS) regression to test the results of both the creation of majority-minority districts and districts that elected minority representatives. OLS was used in an effort to predict the relationship between the creation of these districts and the methods used to draw the districts. This regression is also effective in identifying the strength of this relationship, which allows for a fuller more predictive understanding of the results. As to help with predicting the creation of these types of districts, OLS can also be used as an effective way to test the strength of the relationship, and to make relative comparisons of those strengths. In this model, Bipartisan drawn maps were omitted and were used as the intercept. Therefore, the predicted values for the methods present in the model are to be understood as relative to the Bipartisan drawn maps.

To test for substantive representation, I again relied on an OLS model. In this case, OLS was advantageous because of the stipulation of a linear relationship between LCCR scores and

surrounding district concentrations. To support the hypothesis that the concentration of minority voters in select districts affects the legislative support of civil rights issues by the representative in the surrounding districts, it is necessary to establish that a relationship between the two exists. The OLS model does just this, as it ascertains the relationship between district concentrations and LCCR scores – the model is also capable of identifying the strength of this relationship. This is necessary in the pursuit of establishing a threshold at which predicted LCCR scores are affected the most by minority concentrations.

In the final model, which examines the effect of the redistricting method on subsequent substantive representation, the methods used to create minority districts with descriptive representation was analyzed in relation to the surrounding LCCR scores. And OLS regression was used for this analysis, as to predict the relationship between the method of districting and substantive representation.

There are limitations of the OLS models used to test for minority representation. Ordinary least squares may be biased in some ways, but as a descriptive model testing for predicted relational values the model does well. Ultimately the OLS tends to reduce variance and additionally holds up well in the presence of new data. Due to the limitations of the OLS, it would not be possible to model the data pertaining to surrounding district concentrations in the same regression as the district concentrations – further exploration and modeling would need to be done to evaluate the two concentrations alongside one another.

Results and Findings

The models demonstrated support for my hypotheses regarding both descriptive and substantive representation. On the whole, clear differences can be seen between the Partisan drawn maps. That is, Democratic plans tend to provide a greater proportion of districts compatible with descriptive representation while still suitable for substantive representative, whereas the Republican drawn plans tend to produce fewer opportunities for descriptive representation and also sacrifice substantive representation in surrounding districts. District maps drawn by the Judiciary, similar to those drawn by Democratic legislatures, provide for relatively high levels of descriptive representation and allow for substantive representation in surrounding districts.

Districts drawn by Bipartisan legislatures did not appear to significantly provide for either descriptive or substantive representation, although the number of districts such legislatures were responsible for was only substantial during one of the four redistricting cycles observed in the study. Districts drawn by Commissions were not suggestive of the hypothesized support and creation of minority influence – such is likely the case due to the few number of districts drawn by Commissions, with a particular absence of districting responsibility in states with high minority populations.

As will be discussed and presented, higher thresholds of minority concentration in surrounding districts were predictive of lower LCCR scores. This is particularly the case in surrounding districts with non-White and Black concentrations in the 40-50% and 50-60% thresholds. From the evaluation of surrounding district concentration, it is additionally predicted that the region of analysis is important – in states covered by the VRA, the concentration of minority voters in surrounding districts tended to decrease the LCCR scores at lower thresholds

than in the other regions. The Hispanic concentrations were not as significant as thought to be, which, as will be explained, the voting cohesion among Hispanic voters may have influenced some of these results.

Changes in Method Over Time

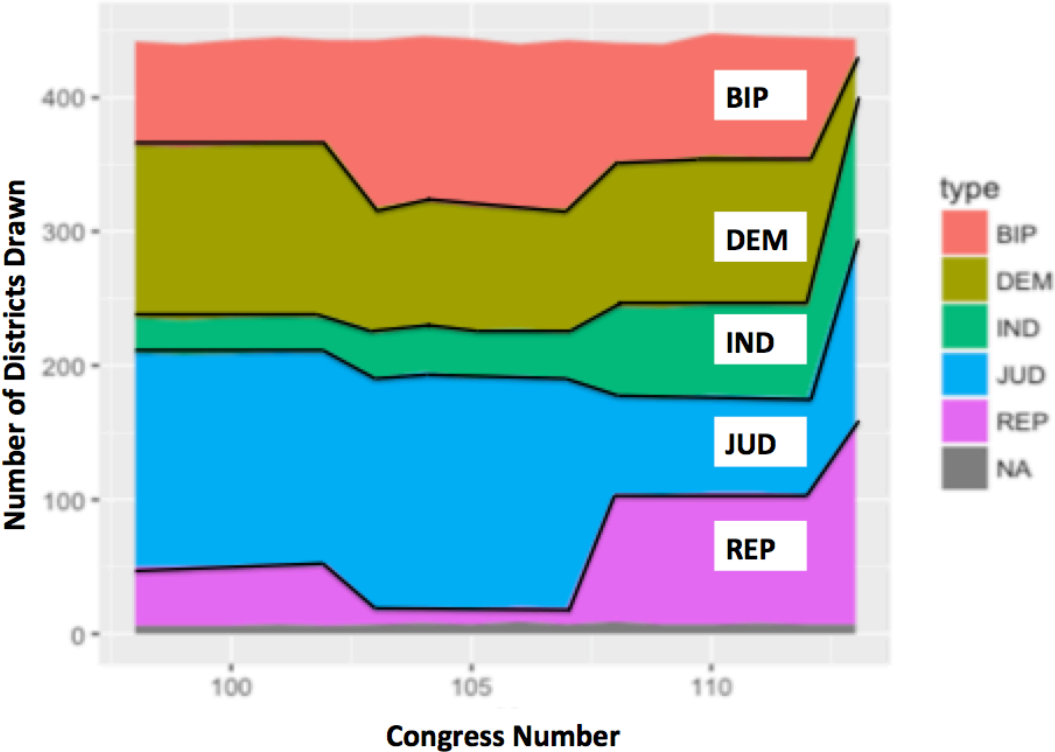
As the results regarding descriptive representation contribute meaningfully to those regarding substantive representation, the findings will be presented in that order. However, before extrapolating on those findings, it is important to illustrate the changes in redistricting methods that occurred between the 98th and 113th Congresses, which included four ten-year periods during which control of the districting process often changes, depending upon state. A graphic illustrating these changes can be seen in **Figure I**.

The most significant observation demonstrated in **Figure 1** is the change of partisan control, over the four cycles, from districts drawn by Democratic legislatures to Republican legislatures. The number of districts drawn by Democrats decreased significantly in the 103rd Congress (1992 redistricting cycle), a decrease that continued until the most recent sample year. In place of Democratic legislative control were not Republican drawn maps, but rather Judiciary-drawn maps. Due to the legal disputes following the 1992 redistricting cycle, the judiciary assumed the responsibility for drawing the maps in many states due to failures to comply with federal laws. However, in the following redistricting cycle in 2002 (108th Congress), Republican legislatures gained control of the redistricting process in many states and have continued to accumulate more control since then.

Notably, there was a short period of bipartisan legislative control during the transition between Democratic legislatures to Republican, which lasted only until the 108th Congress. In

the 2002 redistricting cycle (108th Congress), the number of districts drawn by independent commissions increased as well. **Figure I** demonstrates these changes in greater breadth.

Figure I: Changes in Control of Redistricting Process



Results for Descriptive Representation

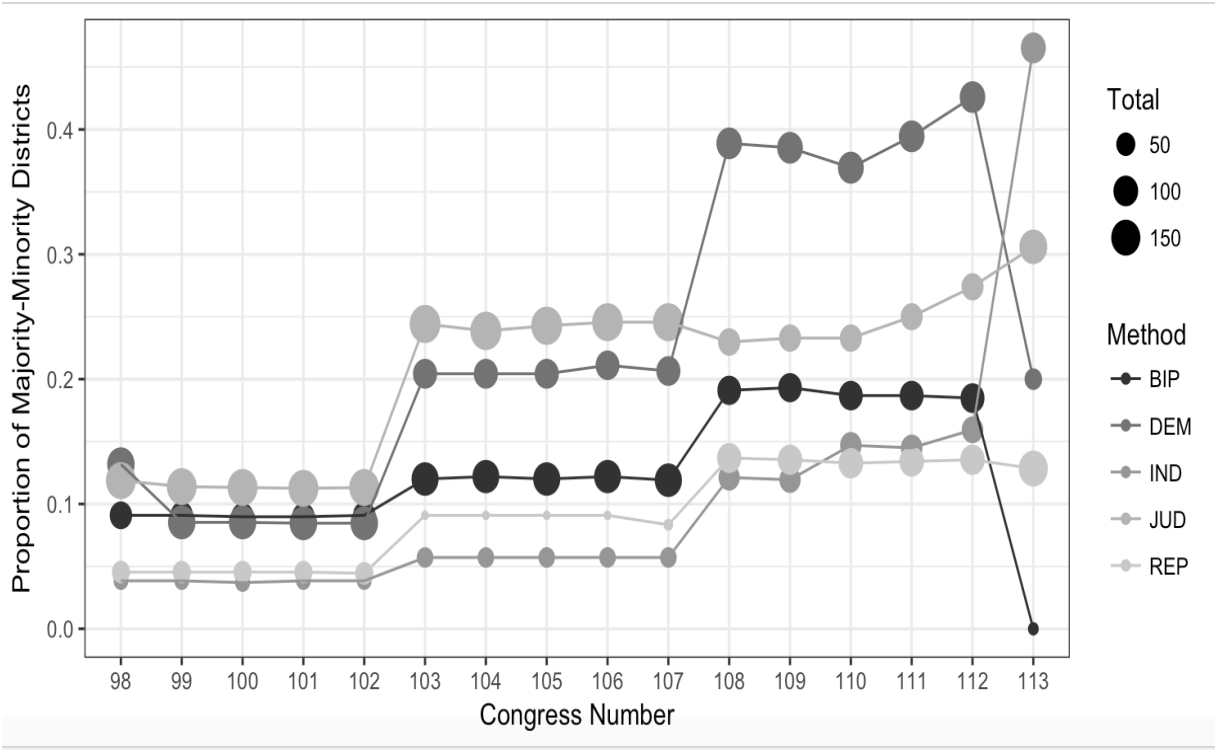
The first hypothesis, stipulated that the method used to draw districts would affect the number and rate of districts that elected minority representatives was supported upon evaluation. To measure descriptive representation, I evaluated the creation of majority-minority districts (MMDS), minority-influence districts (MIF), and districts that were successful in electing minority representatives (MR). To do this, I assessed the redistricting methods relative to the creation of the types of districts mentioned above: MMDS, MIF and MR. First, I considered the

total number of districts drawn by the different methods during each Congress and then calculated the weighted proportion of (MMDS, MIF, MR)¹⁰⁶ that were drawn by the respective methods.

For example, in the 98th Congress, Bipartisan legislatures drew a total of 77 districts. Of those 77, seven were MMDS, six were MIF, and six MR. The weighted proportion of the districts drawn by bipartisan legislatures were as follows: (9.1%), (7.8%), and (7.8%) for MMDS, MIF, and MR respectively. A graphical display of these findings can be found below in

Figure II.

Figure II: Proportion of MMDS Drawn by Each Method



¹⁰⁶ The weighted proportion was calculated as the number of (ex. MMDS/total number of districts drawn by that method). Calculations were made for both individual years and for the whole sample, per method.

From **Figure II** one can see that the proportion of MMDS created by Republican legislatures did not increase relative to the number of districts that Republican legislatures drew from the 108th – 113th Congresses. In fact, even as the Republican Party assumed control of the redistricting process in additional states, the weighted proportion of MMDS that those Republican state legislatures drew went down. The number of districts drawn by Republican legislatures during the 2002 redistricting cycle (108th) was 96. Of those 96, a total of 13 MMDS were created (a 13.5% weighted proportion). In the 2012 redistricting cycle (113th Congress), after taking control of the directing process in 52 more districts, Republican legislatures drew a total of 19 MMDS (a 12.8% weighted proportion).

Districts drawn by Commissions and the Judiciary increased significantly during this same period, from 108th – 113th Congresses. In the 112th Congress, Commissions drew a weighted proportion of 15.9%, whereas the Judiciary drew a weighted proportion of MMDS of 27.4%. In the 113th Congress, Commissions drew 46.4% and the Judiciary drew 30.6%. While the later districts drawn by Commissions show increased efforts to create MMDS, the overall weighted proportion was lower than that of Democratic legislatures and the Judiciary, at 14.6%. Districts drawn by Democratic legislatures had the highest weighted proportions over the whole sample (98-113th Congresses), with a weighted proportion of 22.3% of the total districts drawn as MMDS.

These results help to demonstrate one element of my first hypothesis – being Democratic Legislatures, the Judiciary and Commissions will provide for the highest number of minority electability districts. **Table 1** below highlights the significance of the relationship between the creation of MMDS and the redistricting method. The highest proportion of MMDS were drawn by Democratic legislatures and by the Judiciary, at highly significant levels, as demonstrated by

the $Pr > ChiSq$ column. This column provides the likelihood ratio of the goodness of fit. The contrast results in the second half of the table suggest that the biggest difference between methods in the creation of MMDS was between Democratic legislatures and Judicial drawn districts relative to all other types. In **Table 1**, the comparisons between districting methods with higher Chi-Square values suggest the greatest difference between methods in creating MMDS.

Table I: Chi-Squared Test for Proportion of MMDS

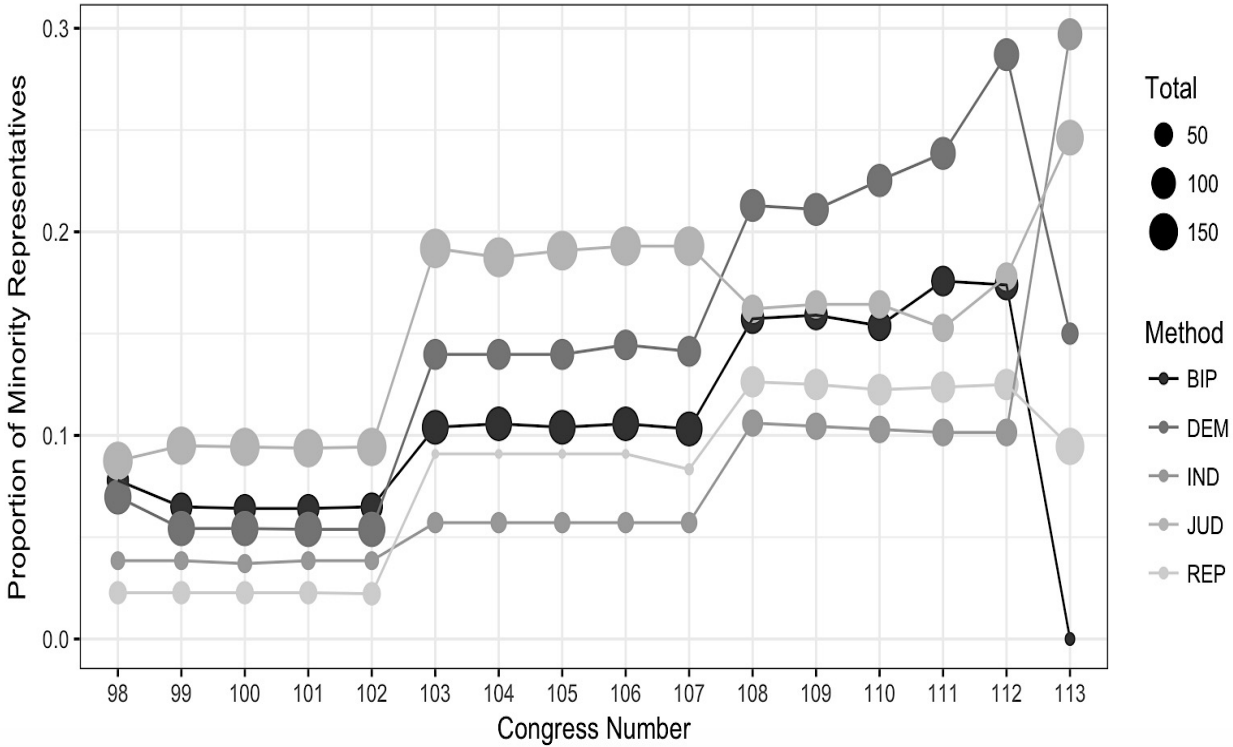
<i>Types</i>	<i>Mean Estimate</i>	<i>Standard Error</i>	<i>Chi-Square</i>	<i>Pr > ChiSq</i>
<i>BIP vs. DEM</i>	0.2247	0.5974	4.30	0.0382
<i>BIP vs. IND</i>	0.3820	0.6678	0.52	0.4714
<i>BIP vs. JUD</i>	0.2284	0.5907	4.25	0.0393
<i>BIP vs. REP</i>	0.4478	0.6686	0.10	0.7539
<i>DEM vs. IND</i>	0.6807	0.3612	4.40	0.0360
<i>DEM vs. REP</i>	0.7366	0.3627	8.04	0.0046
<i>IND vs. JUD</i>	0.3238	0.3500	4.42	0.0354
<i>IND vs. REP</i>	0.5674	0.4697	0.33	0.5634
<i>JUD vs. REP</i>	0.7325	0.3516	8.21	0.0042

<i>Contrast Results</i>				
<i>Contrast</i>	<i>DF</i>	<i>Chi-Square</i>	<i>Pr > ChiSq</i>	<i>Type</i>
<i>DEM vs. Others Except JUD</i>	3	13.65	0.0034	Wald
<i>JUD vs. Others Except DEM</i>	3	14.71	0.0021	Wald

While **Figure II** and **Table I** show the weighted proportion at which MMDS were drawn, by the respective methods, such information only explains one element pertinent to our sphere of research. That is: Which method renders the highest levels of descriptive representation? While the creation of MMDS is believed to translate into the election of minority representatives, such is not always the observed result. As **Figure III** suggests, the creation of MMDS is highly

associated with the creation of districts that elect minority representatives. Higher weighted proportions of the proportion of minority representatives elected from the districts drawn by each method do tend to be related to the frequency at which MMDS are created. However, the extent to which this can be said differs relative to the method used to draw the districts.

Figure III: Proportion of Minority Representatives Elected from Districts Drawn by Each Method



The effectiveness of districts drawn by the Judiciary and Democratic legislatures in electing minority representatives are the highest among the five methods, with 13.1 percent and 12.9 percent total weighted proportions, respectively. The proportion of districts drawn by Republican legislatures that were successful in electing minority representatives was the lowest observed, with a weighted proportion of 9.3% of the districts electing minority representatives.

While this is low in many regards, the number of Republican districts that elected minority representatives was just 1.6 percent lower than the number of the proportion of majority-minority districts that Republicans created¹⁰⁷. The weighted proportion of Democratic legislative districts that drew MR relative to MMDS dropped by 9.4%, whereas the Judicial drawn districts dropped by 6.9%.

Table II exhibits these results in a similar fashion to the Chi-Squared test used in **Table I**. However, the results show that the relationship between districting method and the ultimate election of minority representatives is significantly weaker than the relationship between the creation of MMDS and method. Nonetheless, the Chi-Squared test suggest that districts drawn by Democratic legislatures and by the Judiciary tend to result in a greater number of minority elected officials than other districting methods. This suggests a number of things about minority descriptive representation. It is often used as a political, partisan tool, which Democrats seek to maximize in efforts to appeal to minority constituencies. It is also one of the primary reasons that the Judiciary assumes the responsibility of drawing district maps in the first place – in circumstances when the responsible party has failed to provide for proper representation.

¹⁰⁷ The proportion of majority-minority districts created Republican legislatures between the 98-113th Congresses was 10.9 percent, whereas the number of minority representatives elected from districts created by Republican legislatures during the same time was 9.3 percent.

Table II: Chi-Squared Test for Proportion of Minority Representatives Elected

<i>Label</i>	<i>Mean Estimate</i>	<i>Standard Error</i>	<i>Chi-Square</i>	<i>Pr > ChiSq</i>
<i>BIP vs. DEM</i>	0.3101	0.6070	1.74	0.1877
<i>BIP vs. IND</i>	0.3725	0.6629	0.62	0.4313
<i>BIP vs. JUD</i>	0.3124	0.5991	1.73	0.1880
<i>BIP vs. REP</i>	0.4215	0.6722	0.22	0.6375
<i>DEM vs. IND</i>	0.5691	0.3583	0.60	0.4377
<i>DEM vs. JUD</i>	0.5028	0.2190	0.00	0.9599
<i>DEM vs. REP</i>	0.6185	0.3752	1.66	0.1980
<i>IND vs. JUD</i>	0.4336	0.3448	0.60	0.4385
<i>IND vs. REP</i>	0.5511	0.4602	0.20	0.6561
<i>JUD vs. REP</i>	0.6159	0.3624	1.70	0.1927

<i>Contrast Results</i>				
<i>Contrast</i>	<i>DF</i>	<i>Chi-Square</i>	<i>Pr > ChiSq</i>	<i>Type</i>
<i>DEM vs. Others Except JUD</i>	3	3.16	0.3670	Wald
<i>JUD vs. Others Except DEM</i>	3	3.39	0.3358	Wald

Table III shows an OLS regression of the creation of MMDS and districts from which Black and Hispanic representatives have been elected, relative to the method. This considers the creation of these districts in the country as a whole, and additionally displays the results solely for states covered by the VRA. The observed values in **Table III** suggest that districts drawn by Democratic legislatures and by the Judiciary produced a greater proportion of MMDS and districts that elected minority representatives than the other methods. Districts drawn by Commissions and Republican legislatures tended to create fewer majority-minority districts and districts from which minority candidates were elected.

While these predicted values are consistent across columns 1-4, the predicted values in columns three and four (districts drawn in states covered by the VRA) suggest that the

Democratic legislatures and the Judiciary tend to predict MMDS, whereas the others predict a negative relationship. These results are consistent with those provided in **Figure II** and **Table I**, but the regional consideration offered by columns three and four allow for further inference that such results may be more consistently present in districts covered by the VRA. Columns three and four similarly help to illustrate the effectiveness of MMDS in electing minority representatives, as the predicted values for Democratic Legislatures and the Judiciary are the only method with significant, positive values in the model.

The descriptive representation of minorities *increased* over time and has done so similarly to the increase in the number of majority-minority districts. In the 98th Congress, there were 46 majority-minority and 30 Black and Hispanic representatives. In the 113th Congress there were 115 majority-minority districts and a total of 72 Black and Hispanic representatives. On a very basic level this shows the effectiveness of the Voting Rights Act amendments in 1982, which encouraged states to draw these districts. It also shows the effectiveness of the redistricting process in providing districts able to afford greater levels of minority representation.

Table III: Predicted Values for MMDS and Minority Representatives Elected in Whole Country and in States Covered by VRA

	<i>Dependent variable: MMDS and Minority Representative</i>			
	MMDS in whole country	Minority Representative in whole country	MMDS in VRA States	Minority Representative in VRA States
Democratic Legislature	0.102 ^{***} (0.014)	0.028 ^{**} (0.012)	0.103 ^{***} (0.032)	0.056 [*] (0.029)
Independent Commission	-0.016 (0.017)	-0.007 (0.015)	-0.098 ^{**} (0.040)	-0.049 (0.036)
Judicial Drawn	0.083 ^{***} (0.013)	0.030 ^{***} (0.011)	0.091 ^{***} (0.030)	0.070 ^{**} (0.028)
Republican Legislature	-0.062 ^{***} (0.017)	-0.036 ^{**} (0.015)	-0.098 ^{***} (0.035)	-0.049 (0.032)
99 th Congress	-0.017 (0.026)	0.002 (0.022)	0.004 (0.055)	-0.033 (0.050)
103 rd Congress	0.079 ^{***} (0.026)	0.057 ^{**} (0.022)	0.068 (0.060)	0.045 (0.055)
108 th Congress	0.149 ^{***} (0.026)	0.085 ^{***} (0.023)	0.161 ^{***} (0.059)	0.112 ^{**} (0.054)
113 th Congress	0.205 ^{***} (0.026)	0.116 ^{***} (0.023)	0.279 ^{***} (0.060)	0.138 ^{**} (0.054)
Constant	0.055 ^{***} (0.020)	0.055 ^{***} (0.018)	0.041 (0.044)	0.052 (0.040)
Observations	6,820	6,820	1,153	1,153
R ²	0.048	0.015	0.099	0.051
Adjusted R ²	0.046	0.012	0.084	0.035
Residual Std. Error	0.373 (df = 6800)	0.327 (df = 6800)	0.357 (df = 1133)	0.324 (df = 1133)
F Statistic	18.167 ^{***} (df = 19; 6800)	5.421 ^{***} (df = 19; 6800)	6.562 ^{***} (df = 19; 1133)	3.182 ^{***} (df = 19; 1133)

Note: Dependent variable is consistent with heading of columns; Robust standard errors in parenthesis.

* p<0.1; ** p<0.05; *** p<0.01

Results for Substantive Representation

While creating districts with high concentrations of minority voters tends to increase the likelihood of electability of minority representatives, it is important to evaluate the degree to which those concentrations may affect the support of Civil Rights legislation in surrounding districts. Hence, LCCR scores and minority concentrations are evaluated, in both districts that elect minorities and surrounding districts, in an effort to analyze the effect of various thresholds of concentration and predicted LCCR scores.

In order to examine the effect of surrounding population concentrations on the LCCR scores, three different concentration variables were used. The first examines the effect of surrounding non-White, minority concentrations on the LCCR scores. The second and third evaluate Black and Hispanic concentration.

Upon running OLS regressions with LCCR score as the outcome variable, predicted LCCR scores tend to decrease alongside higher concentrations non-White voters in surrounding districts. The results from this OLS regression can be found below in **Table IV**. The predicted LCCR scores decrease as non-White concentrations in surrounding districts increase – this is relative to the surrounding concentration level of 0-20% non-White and with all else held constant. The predicted decreases in the LCCR scores had the greatest decreases in the 50-60% threshold. In regard to the 60% + threshold, the predicted LCCR score had less of a decrease than the others when compared to the 0-20% threshold.

Table IV: Predicted LCCR Scores for Non-White Concentrations

	<i>Dependent variable: LCCR Score</i>		
	Whole Country	Preclearance for covered states and jurisdictions	Preclearance for only covered states
LCCR Score in surrounding district	0.567*** (0.016)	0.636*** (0.022)	0.563*** (0.036)
Surrounding minority concentration 20-40%	-0.032*** (0.004)	-0.060*** (0.008)	-0.031*** (0.011)
Surrounding minority concentration 40-50%	-0.047*** (0.007)	-0.060*** (0.009)	-0.059*** (0.020)
Surrounding minority concentration 50-60%	-0.051*** (0.009)	-0.071*** (0.011)	-0.050** (0.023)
Surrounding minority concentration $\geq 60\%$	-0.029** (0.013)	-0.061*** (0.015)	-0.049 (0.030)
Republican Rep.	-0.653*** (0.004)	-0.665*** (0.006)	-0.653*** (0.010)
Republican Rep. in surrounding district	0.307*** (0.103)	0.372*** (0.134)	-0.044 (0.275)
Democratic Rep. in surrounding district	-0.002 (0.103)	0.019 (0.135)	-0.374 (0.276)
Minority	0.366 (0.254)	0.393 (0.262)	0.057** (0.028)
Minority rep. surrounded by Republican	-0.189 (0.255)	-0.178 (0.262)	0.127*** (0.046)
Minority rep. surrounded by Democrat	-0.318 (0.255)	-0.350 (0.263)	
Constant	0.415*** (0.103)	0.358*** (0.134)	0.780*** (0.275)
Observations	6,466	3,070	1,093
R ²	0.845	0.863	0.838
Adjusted R ²	0.845	0.863	0.836
Residual Std. Error	0.153 (df = 6452)	0.148 (df = 3056)	0.157 (df = 1081)
F Statistic	2,714.650*** (df = 13; 6452)	1,486.544*** (df = 13; 3056)	508.055*** (df = 11; 1081)

Note: Dependent variable is LCCR score. Robust standard errors in parentheses.

* p<0.1; ** p<0.05; *** p<0.01

Substantive Representation: Black

In relation to the concentration of Black voters, **Table V** similarly demonstrates results that are illustrative of the significance of the surrounding thresholds upon LCCR scores. In relation to the concentration of Black voters in surrounding districts, the predicted LCCR scores decrease continually as concentrations grow. For example, in regard to states fully or partially covered by the VRA, the predicted LCCR scores decrease by (-.033) at 20-40% threshold of concentration, (-.061) at the 40-50% threshold, and by (-.156) at the 50-60% threshold. These predicted values are relative to the LCCR scores in the 0-20% threshold of concentration when all else is held constant. These results support the hypothesis that LCCR scores decrease in relation to higher thresholds of surrounding Black concentrations, but it also suggests that there is a significant relationship between the scores as the concentrations increase. Surrounding district concentrations within the 50-60% threshold produce the greatest predicted decrease in LCCR scores in the whole country sample and the sample of states and jurisdictions covered by the VRA.

In only states covered fully by the VRA, the increase from 20-40% Black concentration to 40-50% concentration produce predicted LCCR scores of (-.025) and (-.100), respectively. Such values suggest that, especially in the core states covered by the VRA, the increase in Black population in surrounding districts from the lower threshold to the higher, the LCCR score is predicted to decrease four times more. Of course, this decrease is in relation to the values of the 0-20% threshold when all else is held constant.

Table V: Predicted LCCR Scores for Black Concentrations

	<i>Dependent variable: LCCR Score</i>		
	Whole Country	Preclearance for covered states and jurisdictions	Preclearance for only covered states
LCCR score in surrounding district	0.570 ^{***} (0.015)	0.655 ^{***} (0.021)	0.578 ^{***} (0.035)
Surrounding Black concentration 20-40%	-0.037 ^{***} (0.005)	-0.033 ^{***} (0.006)	-0.025 ^{**} (0.012)
Surrounding Black concentration 40-50%	-0.092 ^{***} (0.016)	-0.061 ^{***} (0.018)	-0.100 ^{***} (0.033)
Surrounding Black concentration 50-60%	-0.139 ^{**} (0.063)	-0.156 ^{**} (0.067)	
Republican Rep. in surrounding district	0.289 ^{***} (0.103)	0.335 ^{**} (0.135)	-0.011 (0.275)
Democratic Rep. in surrounding district	-0.020 (0.103)	-0.037 (0.136)	-0.350 (0.276)
Republican Rep in district	-0.654 ^{***} (0.004)	-0.666 ^{***} (0.006)	-0.654 ^{***} (0.010)
Minority Rep.	0.348 (0.254)	0.371 (0.263)	0.035 (0.027)
Minority rep. surrounded by Republican	-0.183 (0.255)	-0.176 (0.263)	0.135 ^{***} (0.045)
Minority rep. surrounded by Democrat	-0.310 (0.255)	-0.342 (0.264)	
Constant	0.423 ^{***} (0.103)	0.359 ^{***} (0.135)	0.735 ^{***} (0.275)
Observations	6,466	3,070	1,093
R ²	0.845	0.862	0.838
Adjusted R ²	0.845	0.862	0.836
Residual Std. Error	0.153 (df = 6453)	0.149 (df = 3057)	0.157 (df = 1083)
F Statistic	2,940.432 ^{***} (df = 12; 6453)	1,593.236 ^{***} (df = 12; 3057)	620.337 ^{***} (df = 9; 1083)

Note: OLS. Dependent variable is LCCR score

*p<0.1; **p<0.05; ***p<0.01

Substantive: Hispanic

The OLS regression for the effect of Hispanic concentration thresholds on predicted LCCR scores produced slightly different and less illustrative results. The concentration of Hispanic voters into the various concentration thresholds produced fewer significant results. The relationship between surrounding Hispanic concentrations of 40-50% and LCCR scores, however, did generate significant results. In each observation except the third, states fully covered by the VRA, the 40-50% concentration threshold produced a predicted a decrease in LCCR score. This is the only threshold that had a predicted significant correlation with a change in LCCR score. **Table VI** shows the results for Hispanic concentration thresholds. There are a number of reasons that these results may have been less significant.

There are logical reasons behind the results in **Table VI**. Hispanic voters are not as heavily supportive of Democratic candidates as Black voters are, which is particularly the case for Cubans and El Salvadorians. It is possible that Floridian Cubans, for example, and other Hispanic voters not as closely tied to the Democratic Party are complicating what is being tested here. After all, there are more Hispanic representatives that are Republicans than there are Black Republicans. Due to the fact that Hispanic voters split their votes more consistently than Black voters, the election returns for Hispanic voters likely results in a less significant relationship between high Hispanic concentration and high LCCR scores. Nonetheless, of the observed predictions, 40-50% Hispanic concentration in surrounding districts tends to predict a decrease in LCCR score.

Table VI: Predicted LCCR Scores for Hispanic Concentrations

	<i>Dependent variable: LCCR Score</i>		
	Whole Country	Preclearance for covered states and jurisdictions	Preclearance for only covered states
LCCR score in surrounding district	0.588*** (0.015)	0.681*** (0.021)	0.584*** (0.035)
Surrounding Hispanic concentration 20-40%	-0.003 (0.005)	0.009 (0.006)	-0.005 (0.015)
Surrounding Hispanic concentration 20-40%	-0.027** (0.010)	-0.025** (0.011)	-0.016 (0.027)
Surrounding Hispanic concentration 20-40%	-0.012 (0.019)	-0.014 (0.020)	-0.043 (0.052)
Surrounding Hispanic concentration 20-40%	-0.032 (0.032)	-0.034 (0.031)	-0.043 (0.072)
Republican rep. in surrounding district	0.340*** (0.103)	0.396*** (0.135)	0.011 (0.276)
Democratic rep. in surrounding district	0.008 (0.104)	-0.005 (0.136)	-0.343 (0.277)
Republican rep	-0.655*** (0.004)	-0.667*** (0.006)	-0.654*** (0.010)
Minority rep	0.343 (0.256)	0.348 (0.265)	0.038 (0.028)
Minority rep. surrounded by Republican	-0.178 (0.256)	-0.149 (0.265)	0.132*** (0.046)
Minority rep. surrounded by Democrat	-0.305 (0.257)	-0.310 (0.266)	
Constant	0.368*** (0.103)	0.288** (0.135)	0.711** (0.276)
Observations	6,466	3,070	1,093
R ²	0.844	0.861	0.836
Adjusted R ²	0.843	0.860	0.834
Residual Std. Error	0.154 (df = 6452)	0.149 (df = 3056)	0.158 (df = 1081)
F Statistic	2,676.135*** (df = 13; 6452)	1,453.789*** (df = 13; 3056)	500.300*** (df = 11; 1081)

Note: OLS. Dependent variable is LCCR score

* p<0.1; ** p<0.05; *** p<0.01

LCCR Scores by Method

The effect of the redistricting method on subsequent substantive representation was examined on the basis of the creation of districts from which minority representatives were elected. Of these districts, the surrounding LCCR scores were modeled for each redistricting method. These results are shown in **Table VII**. The predicted LCCR scores in districts that surround those held by minority representatives tend to decrease when drawn by Republican legislatures. When drawn by the Judiciary and by Democratic legislatures, the predicted LCCR scores in the surrounding districts tend to increase. Interestingly, the predicted LCCR scores in surrounding districts, when drawn by Bipartisan legislative bodies, tend to increase most significantly when minority concentrations are above the 60% threshold. These predicted increases are to be understood relative to the 0-20% threshold and with all else held constant.

The data presented in **Table VII**, in conjunction with the previously addressed results regarding descriptive representation, suggest support for the hypothesis that districts drawn by Democratic legislatures and the Judiciary tend to provide descriptive representation with a lower level of sacrifice to substantive representation. For districts that elected minority representatives (successful descriptive representation) drawn by Democratic legislatures and the Judiciary, the predicted LCCR scores in the surrounding districts appear to be uniformly optimized at the 40-50% level of concentration. According to the model, districts drawn by Republican legislatures that provide for increased descriptive representation tend to have predicted LCCR scores in surrounding districts that decrease significantly when concentrated at and above the 40-50% threshold.

Table VII: Predicted LCCR Scores by Method

<i>Dependent variable: LCCR score in surrounding district</i>					
	Democratic Legislature	Republican Legislature	Bipartisan Legislature	Judiciary	Commission
Minority concentration between 20-40%	0.246 (0.218)	-0.328 (0.322)			-0.359 (0.304)
Minority concentration between 40-50%	0.430* (0.240)	-0.661** (0.330)	-0.185 (0.124)	0.385*** (0.129)	-0.325 (0.208)
Minority concentration between 50-60%	0.094 (0.210)	-0.658** (0.311)	0.189* (0.104)	0.145* (0.086)	-0.161 (0.191)
Minority concentration over 60%	0.213 (0.211)	-0.122 (0.272)	0.455*** (0.091)	0.237*** (0.069)	-0.014 (0.195)
District LCCR score	0.302** (0.151)	0.355 (0.418)	0.273 (0.266)	0.084 (0.170)	0.633* (0.342)
Republican Representative	0.059 (0.134)	0.283 (0.254)		0.104 (0.121)	0.452 (0.306)
Constant	0.131 (0.242)	0.331 (0.497)	0.090 (0.280)	0.271 (0.166)	-0.011 (0.352)
Observations	210	82	150	268	84
R ²	0.119	0.240	0.398	0.060	0.255
Adjusted R ²	0.093	0.179	0.382	0.042	0.196
Residual Std. Error	0.277 (df = 203)	0.270 (df = 75)	0.232 (df = 145)	0.267 (df = 262)	0.232 (df = 77)
F Statistic	4.567*** (df = 6; 203)	3.951*** (df = 6; 75)	24.000*** (df = 4; 145)	3.331*** (df = 5; 262)	4.382*** (df = 6; 77)

Note: OLS: Dependent variable is LCCR in surrounding district

* p<0.1; ** p<0.05; *** p<0.01

Conclusion and Discussion:

Since the installment of the Voting Rights Act in 1965, significant progress has been made in efforts to afford minority groups more substantial levels of representation and influence. The number of minority representatives that occupy seats in Congress has increased more than twofold, and the Congressional Black Caucus and the Congressional Hispanic Caucus have gained significant traction. These achievements should be celebrated and revered genuine success stories. However, due to limitations of the electoral system, the influence of minority voters is often hampered in surrounding districts when select, heavily concentrated minority districts are created. Not only is minority influence diminished in surrounding districts, but the chances for Republicans electability in those districts increases due, at least in part, to the high concentration of minority voters in other districts. Such a result in surrounding districts seems to undermine many of the benefits gained from descriptive representation, when the full picture is considered.

This presents a difficult dilemma. Although the number of Black and Hispanic representatives in Congress has increased tremendously over the last 30 years, the average support of pertinent civil rights legislation in Congress has similarly decreased. While the increase in majority-minority districts is by no means the definitive reason for this decline in support of minority interests, such a phenomenon begs the question as to whether or not increased minority representation fulfills the objective of emboldening minority interests. This is the puzzle that this paper has attempted to explore – the potential tradeoff between descriptive representation and substantive representation. It is possible to provide for both descriptive and substantive representation through the careful construction of district plans, but this must be the objective of those responsible for constructing the maps. This meticulous design does not occur

often and is unlikely to occur absent a direct benefit to the party responsible for the districting process.

In accordance with the Voting Rights Act, the Supreme Court and the Department of Justice, state lawmakers, primarily since the 1992 redistricting cycle, have aspired to overtly create districts favorable to the electability of minority representatives. These efforts have been successful and they still are. However, the strategies employed to elect minority representatives are in need of critical reevaluation and reconsideration. As the Voting Rights Act intended firstly to provide equal access to political participation and opportunities to vote, the later amendments heightened the goals of the legislation by requiring state district maps to provide for the electability of minority representatives. The ways in which those districts are drawn necessitate careful monitoring as to ensure that minority voters are not being discriminated against, used as proxies for partisan gains, or purposefully split in efforts to dilute. The ability to monitor and enforce such discrimination, however, has been weakened since the *Shelby* decision in 2013.

In June of 2013, the Supreme Court struck down Section 4 of the Voting Rights Act. *Shelby County v. Holder* (2013) effectively relieved all 12 of the previously “covered” states and jurisdictions, mostly Southern, of their obligations to receive preclearance from the Department of Justice or Federal Court before changing election laws or procedures. Thus, during the next redistricting cycle (2022), states with egregious histories and even recent abuses of biased and prejudiced redistricting, will have the unrestricted opportunity to pass their district maps. Many well-informed, knowledgeable scholars maintain that discrimination and racial biases still influence state practices – predominantly in many of the 12 previously covered states. Justice Ginsburg, in her dissent to the *Shelby* opinion, said that “throwing out preclearance when it has

worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet.”

While the potential for discriminatory redistricting is a major concern, *Shelby* has already allowed for discriminatory changes to procedure, outside of the redistricting realm. North Carolina and Texas, two previously covered states, moved quickly to pass discriminatory voter-ID laws and to change long standing voting procedures shortly after the Court released the decision. Such legislation jeopardizes the pursuit of equality that the Voting Right Act has for so long attempted to facilitate, and likely forecasts the practices that some states may resort to using during the 2022 redistricting cycle.

This is not to suggest that Republican lawmakers across the country are intending on drawing district maps that remove minority representatives from office. Neither is this a suggestion that they necessarily could do this. However, the reality remains that districts that provide for minority electability are vulnerable to the manipulation and degradation of minority influence. As illustrated by the findings of my research, the concentrations of minority voters in given districts have significant observed and predicted effects upon legislative support of civil rights issues in surrounding districts. The over-concentration of minority voters in a limited number of districts constrains the influence that those voters may have otherwise had in surrounding districts. My evaluation suggests that certain thresholds of influence may dramatically affect the degrees with which representatives in the surrounding districts support civil right legislation.

Congress must take explicit action to update the Voting Rights Act in an effort to ensure that minority voters are not discriminated against, taken advantage of and left vulnerable. Although issues of race tend to follow partisan lines, this is about much more than partisanship –

it is about the equal protection of all citizens. Effectively delivering on such an opportunity, to update and enhance the VRA, as six separate congresses have before, is a necessary safeguard to ensuring the security of one of the most fundamental elements of American democracy.

Works Cited:

- Barabas, Jason, and Jennifer Jerit. "Redistricting Principles and Racial Representation." *State Politics & Policy Quarterly* 4, no. 4 (2004): doi:10.1177/153244000400400404
- Benenson, Bob. 1992. "GOP's Dreams of a Comeback via the New Map Dissolve." *Congressional Quarterly Weekly Report* 50 (1992): 3580–81.
<http://library.cqpress.com.libproxy.lib.unc.edu/cqweekly/WR102409002>.
- Brischetto, Robert. "Latino Voters and Redistricting in the New Millennium." In *Redistricting and Minority Representation: Learning from the Past, Preparing for the Future*, edited by David A. Bositis, 43–104. Lanham: University Press of America, 1998.
- Cain, Bruce, Michael P and McDonald, and Karin Mac Donald. "From Equality to Fairness: The Path of Political Reform since Baker v. Carr." In *Party Lines: Competition, Partisanship, and Congressional Redistricting*, edited by Thomas E. Mann and Bruce E. Cain, 20–23. Washington: The Brookings Institution, 2005.
- Cameron, Charles, David Epstein, and Sharyn O'Halloran. "Do Majority-Minority Districts Maximize Substantive Black Representation in Congress?" *American Political Science Review* 90, no. 5 (1996): 794–812. doi:10.2307/2945843.
- Canon, David. *Race, Redistricting, and Representation: The Unintended Consequences of Black Majority Districts*. Chicago: University of Chicago Press, 1999.
- Carson, J. L., M. H. Crespín, and R. D. Williamson. "Reevaluating the Effects of Redistricting on Electoral Competition, 1972-2012." *State Politics & Policy Quarterly* 14, no. 2 (2014): 165–77. doi:10.1177/1532440013520245.
- Engstrom, Richard. "The Political Thicket, Electoral Reform, and Minority Voting Rights." In *Fair and Effective Representation*, edited by Wilson Carey McWilliams, 3–67. Lanham:

- Rowman & Littlefield Publishers, 2001.
- Fleisher, Richard. "Explaining the Change in Roll-Call Voting Behavior of Southern Democrats." *Journal of Politics* 55, no. 2 (1993): 327–41. doi:10.2307/2132268.
- Foster-Molina, Ella. "Historical Congressional Legislation and District Demographics 1972-2014." Harvard Dataverse, V1, (2013). doi:10.7910/DVN/CI2EPI.
- Goedert, Nicholas. "Redistricting, Risk, and Representation: How Five State Gerrymanders Weathered the Tides of the 2000s." *Election Law Journal* 13, no. 3 (2014): 406–18. <https://doi-org.libproxy.lib.unc.edu/10.1089/elj.2014.0261>
- Grofman, Bernard, Lisa Handley, and Richard Niemi. *Minority Representation and the Quest for Voting Equality*. New York: Cambridge University Press, 1992.
- Grose, Christian R. *Congress in Black and White: Race and Representation in Washington and at Home*. New York: Cambridge University Press, 2011
- Handley, Lisa, Bernard Grofman, and Wayne Arden. "Electing Minority-Preferred Candidates to Legislative Office: The Relationship between Minority Percentages in Districts and the Election of Minority-Preferred Candidates." In *Race and Redistricting in the 1990s*, edited by Bernard Grofman, 13-38. Bronx: Agathon Press, 1998.
- Hill, Kevin A. "Does the Creation of Majority Black Districts Aid Republicans? An Analysis of the 1992 Congressional Elections in Eight Southern States." *Journal of Politics* 57, no. 2 (1995): 384–401. doi:10.2307/2960312.
- Hlavac, Marek. Stargazer: Well-Formatted Regression and Summary Statistics Tables. *R package version 5.2.1*. 2018 <https://CRAN.R-project.org/package=stargazer>
- Hutchings, Vincent L. "Issue Salience and Support for Civil Rights Legislation among Southern Democrats." *Legislative Studies Quarterly* 23, no. 4 (1998): 521–44. doi:10.2307/440238.

- Hood, M.V. III and Irwin L. Morris. “Boll Weevils and Roll-Call Voting: A Study in Time and Space.” *Legislative Studies Quarterly* 23, no. 2 (1998): 245–69. doi:10.2307/440282.
- Jones-Correa, Michael. “Language Provisions Under the Voting Rights Act: How Effective Are They?” *Social Science Quarterly* 86, no. 3 (2005): 549–64. <https://doi.org/10.1111/j.0038-4941.2005.00317>.
- Kousser, J. Morgan. *Colorblind Injustice : Minority Voting Rights and the Undoing of the Second Reconstruction*. Chapel Hill: The University of North Carolina Press, 1999.
- “When African-Americans Were Republicans in North Carolina, The Target of Suppressive Laws Was Black Republicans. Now That They Are Democrats, The Target Is Black Democrats. The Constant Is Race.” Unpublished report, last modified December 2017. Microsoft Word file.
- Levitt, Justin, and Erika Wood. *A Citizen’s Guide to Redistricting*. New York: Brennan Center for Justice, 2008.
- Lewis, B. Jeffrey, Brandon DeVine, Lincoln Pitcher, and Kenneth C. Martis. *Digital Boundary Definitions of United States Congressional Districts, 1789-2012*. [Data file and code book]. (2013). Retrieved from <http://cdmaps.polisci.ucla.edu> on [February 12, 2018].
- Lublin, David. *The Paradox of Representation: Racial Gerrymandering and Minority Interests in Congress*. Princeton: Princeton University Press, 2008.
- . 1999. “Racial Redistricting and African-American Representation: A Critique of ‘Do Majority-Minority Districts Maximize Substantive Black Representation in Congress?’” *American Political Science Review* 93, no. 1: 183–86. doi:10.2307/2585769.
- Malone, Stephen. *Beneficial Gerrymanders : The Impact of Majority-Black Districts on African-American Representation in the United States House of Representatives*. Evanston:

- Northwestern University, 1994.
- Mann, Thomas E. "Redistricting Reform: What Is Desirable? Possible?" In *Party Lines: Competition, Partisanship, and Congressional Redistricting*, edited by Thomas E. Mann and Bruce E. Cain, 92–114. Washington: The Brookings Institution, 2005.
- McClain, Paula, and Joseph Stewart. "*Can We All Get Along?*" *Racial and Ethnic Minorities in American Politics*. Sixth. Boulder: Westview Press, 2014.
- McGann, Anthony, Charles Smith, Michael Latner, and Alex Keena. *Gerrymandering in America: The House of Representatives, the Supreme Court, and the Future of Popular Sovereignty*. New York: Cambridge University Press, 2016.
- Miller, William, and Jeremy Walling. "Tom and 'Gerry'?" In *The Political Battle Over Congressional Representation*, edited by William Miller and Jeremy Walling, 9–26. Lanham: Lexington Books, 2013.
- Monmonier, Mark. *Bushmanders and bullwinkles: how politicians manipulate electronic maps and census data to win elections*. University of Chicago Press, 2001.
- National Association for the Advancement of Colored People. "Report of the NAACP Legal Defense and Education Fund: The Effect of Section 2 of the Voting Rights Act on the 1994 Congressional Elections." Mimeograph, 1994.
- Overby, L Marvin, and Kenneth M Cosgrove. "Unintended Consequences? Racial Redistricting and the Representation of Minority Interests." *The Journal of Politics* 58, no. 2 (1996): 540–50. doi:10.2307/2960239.
- Petrocik, John R., and Scott W. Desposato. "The Partisan Consequences of Majority-Minority Redistricting in the South, 1992 and 1994." *The Journal of Politics* 60, no.3 (1998): 613–33. doi:10.2307/2647641.

- Pitkin, Hanna. *The Concept of Representation*. Berkely and Los Angeles: University of California Press, 1967.
- Poole, Keith T, and Howard Rosenthal. “D-Nominate after 10 Years: A Comparative Update to Congress: A Political-Economic History of Roll-Call Voting.” *Legislative Studies Quarterly* 26, no. 1 (2001): 5–29. doi:10.2307/440401.
- Redistricting Provisions : 50 State Profiles*. Denver, Co.: National Conference of State Legislatures, 1989.
- Rush, Mark. *Does Redistricting Make a Difference*. Baltimore: The Johns Hopkins University Press, 1993
- Seabrook, Nicholas R. *Drawing the Lines: Constraints of Partisan Gerrymandering in U.S. Politics*. Ithaca: Cornell University Press, 2017.
- Sharpe, Christine Leveaux, and James C. Garand. “Race, Roll Calls, and Redistricting: The Impact of Race-Based Redistricting on Congressional Roll-Call.” *Political Research Quarterly* 54, no. 1 (2001): 31–51. doi:10.1177/106591290105400102.
- Shotts, Kenneth W. “Does Racial Redistricting Cause Conservative Policy Outcomes? Policy Preferences of Southern Representatives in the 1980s and 1990s.” *Journal of Politics* 65, no. 1 (2003): 216–26. doi:10.1111/1468-2508.t01-1-00010.
- Shotts, Kenneth W, I thank David Austen-Smith, David Baron, Jonathan Bendor, Patrick Brandt, Bruce Cain, Brandice Canes-Wrone, et al. “Gerrymandering, Legislative Composition, and National Policy Outcomes.” *American Journal of Political Science* 46, no. 2 (2002): 398–414. doi:10.2307/3088384.
- Stephanopoulos, Nicholas. “Race, Place, and Power.” *Stanford Law Review* 68, no. 6 (2016): 1323–1408. http://www.stanfordlawreview.org/wp-content/uploads/sites/3/2016/06/4_-

Stephanopoulos-_Stan._L._Rev.pdf.

Stephanopoulos, Nicholas O, and Eric M McGhee. "Partisan Gerrymandering and the Efficiency Gap." *The University of Chicago Law Review* 82, no. 2 (2015): 831-900.

<http://www.jstor.org/stable/43410706>.

Swain, Carol. *Black Faces, Black Interests: The Representation of African Americans in Congress*. Cambridge: Harvard University Press, 1995.

The Leadership Conference, *The Leadership Conference on Civil and Human Rights Voting Record 98th-113th Congresses*. Washington: LCCR. <https://civilrights.org/our-advocacy/#voting-record>.

Warrington, Gregory. "Quantifying Gerrymandering Using the Vote Distribution." Burlington: Department of Mathematics & Statistics, Univeristy of Vermont (2017):

<https://arxiv.org/abs/1705.09393>.

Washington, Ebonya. "Do Majority-Black Districts Limit Blacks' Representation? The Case of the 1990 Redistricting." *The Journal of Law and Economics* 55, no. 2 (2012): 251–74.

doi:10.1086/661991.

Whitby, Kenny. *The Color of Representation: Congressional Behavior and Black Interests*. Ann Arbor: University of Michagan Press, 1997a.

———*The Color of Representation: Congressional Behavior and Black Interests*. Ann Arbor: University of Michagan Press, 1997b.

Whitby, Kenny J., and George A. Krause. "Race, Issue Heterogeneity and Public Policy: The Republican Revolution in the 104th US Congress and the Representation of African-

American Policy Interests." *British Journal of Political Science* 31, no. 3 (2001): 555–72.

doi:10.1017/S0007123401000217.

- Winburn, Jonathan. *The Realities of Redistricting: Following the Rules and Limiting Gerrymandering In State Legislative Redistricting*. Lanham: Lexington Books, 2008.
- Yarbrough, Tinsley E. *Race and Redistricting: The Shaw-Cromartie Cases*. Lawrence: University Press of Kansas, 2002.
- Yoshinaka, A, and C. Murphy. “The Paradox of Redistricting: How Partisan Mapmakers Foster Competition but Disrupt Representation.” *Political Research Quarterly* 64, no. 2 (2010): 435–47. doi:10.1177/1065912909355716.