



EMPOWERING TEXAS LATINOS: ENSURING FAIR REPRESENTATION FOR A GROWING MAJORITY

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EXECUTIVE SUMMARY

As the voting-age Latino population in Texas grows, the persistent underrepresentation of this demographic group at federal and state levels remains a pressing concern. This policy brief describes the impact of racial and partisan gerrymandering on Latinos in Texas. We examine two cases, the Dallas-Fort Worth Metroplex and the Greater Houston Metropolitan Area, where racial gerrymandering allegedly occurred and is currently being contested in courts, effectively diluting the voices of Latino voters.

Drawing new district boundaries (redistricting) is an opportunity to establish legislative districts that represent a state's population that changes over time. Redistricting to favor one political party over another, influencing who gets elected, is known as gerrymandering, a practice which unfairly disadvantages certain population groups. District maps drawn during the Texas Legislature's special session in 2021 amplified the impact of gerrymandering. Although the 2020 Census showed the citizen voting age population growth between 2010 and 2020 was four times greater for Latinos than for Whites/non-Hispanic Whites, lawmakers failed to create any new majority Latino districts.

Recent Census Bureau data confirms that Latinos now make up the largest share (40.2%) of the population in Texas. This demographic shift highlights the urgency for policies that ensure equal participation in the political process for all population groups.

Through the evaluation of the history of redistricting and metrics of fairness on the most recent district maps, it is evident that the maps currently in place are a result of the lack of policy to ensure a fair electoral process.



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POLICY RECOMMENDATIONS

- 1 Fair Federal Redistricting Laws.** The U.S. Congress must reinstate the preclearance clause to establish fair election practices across the country.
- 2 Texas Independent Redistricting Commission.** In the absence of fair federal redistricting laws, it is up to individual state legislatures to establish mechanisms for creating fair districts. The Texas Legislature should establish an Independent Redistricting Commission (IRC) to draw district maps.

BACKGROUND

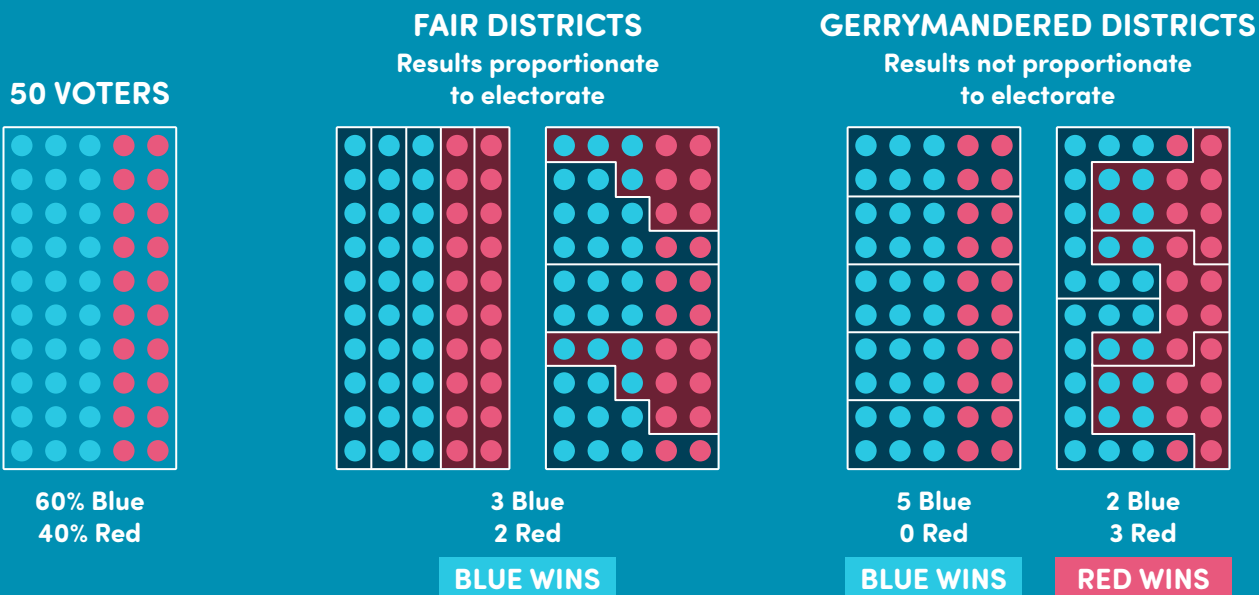
Gerrymandering has created an on-going legal battle since the Supreme Court of the United States (SCOTUS) first ruled on a gerrymandering case in 1993. Since then, other SCOTUS rulings have set precedents for how courts respond to electoral boundary cases. One key gerrymandering case that changed the national course of redistricting was *Shelby County V. Holder*, which altered the Voting Rights Act. The Voting Rights Act was signed into law in August of 1965 by President Lyndon B. Johnson in order to remove the political sway of Jim Crow laws in the South and other discriminatory practices across the country. The statute was passed by Congress to ensure that states complied with the 15th Amendment's provision that the ability to vote would not be restricted due to race. For Black and Brown communities, the law essentially created new avenues for equitable participation in all facets of the political system. Within the Voting Rights Act, there are several major components to accomplish this, including Sections 2, 4, and 5. Section 2 prohibits any voting practices that discriminate on the basis of race or color, while Section 4 includes a coverage formula that determines which states necessitate review under Section 5 before any electoral changes are made.

WHAT IS GERRYMANDERING?

Gerrymandering is the division or arrangement of election districts to advantage one group over another and influence who gets elected. There are two main forms of gerrymandering: **partisan** and **racial**. Partisan gerrymandering lends a special advantage to a political party, whereas racial gerrymandering suppresses representation based on race and ethnicity.

In 2010, Shelby County, Alabama filed suit against Eric Holder, Jr., the United States Attorney General at the time, asking the Supreme Court to declare Section 5 of the 1965 Voting Rights Act unconstitutional. Section 5 of the Voting Rights Act included the preclearance clause. The preclearance clause denied certain jurisdictions the power to change any election practices or procedures until it was determined that these changes were not made with discriminatory purpose or intent. In 2013, the Supreme Court did not issue a ruling on Section 5. Rather, in the final decision in *Shelby County V. Holder*, the Supreme Court ruled the coverage formula found in Section 4(b) was outdated; this coverage formula determined which jurisdictions were covered under Section 5 and therefore any changes to voting or electoral rules to the covered jurisdictions needed preclearance.

DIFFERENT MAPS, DIFFERENT RESULTS.



As a result of this decision, jurisdictions that previously needed to seek approval over any voting or electoral rules changes no longer needed preclearance. This decision transformed the way jurisdictions handled fair election practices by removing a key mechanism included in the Voting Rights Act to ensure citizens have access to a fair electoral process.

Before the landmark ruling of *Shelby County v. Holder*, Texas celebrated victories in racial gerrymandering cases, marking significant milestones in the state's political landscape. In 2011, the Mexican American Legal Defense and Educational Fund (MALDEF) filed a lawsuit against the State of Texas for racial discrimination in the congressional redistricting map drawn after the 2010 Census. A federal court ruled in favor of the plaintiff (MALDEF), finding that the district maps violated the Voting Rights Act and the Equal Protection Clause of the U.S. Constitution. This decision resulted in a court-ordered interim plan for some state and congressional legislative districts in Texas. This interim plan increased Latino majority districts by two, reflecting Texas' growing Latino population.

However, following the *Shelby County v. Holder* ruling, the courts shifted away from aiding in cases concerning gerrymandering, leaving Texas and other states grappling with electoral boundary issues without the same level of judicial intervention. In 2018, the Supreme Court upheld 10 out of the 11 districts previously found to be gerrymandered districts (gerrymanders).

Furthermore, the Supreme Court ruled in 2019 that partisan gerrymandering is a 'political question' outside of the jurisdiction of federal courts. This ruling signaled to states that the judicial branch would not address partisan gerrymandering, making it easier for state legislatures to draw maps favoring the ruling party and leaving the minority vote at risk.



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VOTING RIGHTS ACT

In response to this ruling, Justice Sonia Sotomayor wrote in her 2018 dissent, "[the Constitution and the Voting Rights Act] secure for all voters in our country, regardless of race, the right to equal participation in our political processes... Those guarantees mean little, however, if courts do not remain vigilant in curbing states' efforts to undermine the ability of minority voters to meaningfully exercise that right."

Texas' Special Legislative Session on Redistricting

Ahead of the release of the 2020 U.S. Census data, Texas Governor, Greg Abbott, called a special session in the summer of 2021 to redraw the state's federal, state, and local district boundaries. Governor Abbott created two special committees on redistricting in both the Texas House and Senate. The membership on both committees were majority Republican, provoking criticism from voting rights advocates about the bipartisanship of these methods.

Texas' current district lines have prompted action from the U.S. Department of Justice which filed suit against the state in 2021, alleging that the Legislature's district plan is racially discriminatory and violates the Voting Rights Act. In 2021, MALDEF also challenged Texas' new district maps stating that they violate the Voting Rights Act and dilute the Latino vote. Democrats in Congress have also taken action and are advocating for the John Lewis Voting Rights Advancement Act, which would outlaw partisan gerrymandering.

METRICS OF FAIRNESS

Texas gained two congressional districts based on population increases reflected in the 2020 Census, for a new total of 38 congressional districts. While the addition of two new congressional districts can be attributed to the growth of the Latino population, the newly redrawn map does not reflect this change. Census data showed the voting age population in Texas increased by 2.3 million for Latinos and less than 600,000 for Whites from 2010 to 2020. Despite being the state's fastest growing population, lawmakers did not create any new Latino majority districts.

Of the newly-drawn districts, five are Democratic-leaning, and two are Republican-leaning. While seemingly beneficial for Texas Democrats, critics argue the main objective was to decrease competitiveness and protect existing Republican seats. This is relevant to the analysis of Texas Latino voter representation because a higher percentage of Latinos in Texas identify as Democrat or Democrat-leaning (44%) compared to White voters (26%). Therefore, Texas' partisan gerrymandering in 2021 impacts Latino voters more than White voters.

We consider the following metrics calculated by Princeton University's *Redistricting Report Cards*, Michigan State University's *Partisan Advantage Tracker*, and *Dave's Redistricting* that demonstrate gerrymandering throughout the newly redrawn map.



Partisan Fairness

In Princeton University's 2021 Redistricting Report Card, Texas' congressional plan received an overall 'F' in partisan fairness, noting a Republican advantage of 13.2 percentage points. This calculation takes the voting outcomes of state-wide elections (seat-share) and compares the percentage of votes the Republican candidate receives to the percentage of seat-shares the Republican party has in Congress (vote-share). A number higher than the defined reasonable range means Republicans have a significantly higher percentage of the seat-share than they do vote-share across the state, indicating partisan gerrymander.



Partisan Advantage

Michigan State University's Partisan Advantage Tracker calculates partisan advantage metrics in which a positive score indicates Republican advantage. **In all four calculations, Texas's 2021 redistricting maps received a positive score between 2.26 and 4.06, ranking Texas behind only Florida for the highest Republican advantage in the country.**



District Competitiveness

Dave's Redistricting calculates district competitiveness by using a state's existing vote-share between Democrats and Republicans and identifying the probability of a district falling within a distribution between 40 and 60%. Anything outside this range is considered non-competitive. **In 2022, Texas' congressional map received a rating of "very bad" on overall competitiveness because only 4.84% of its congressional districts were found to be competitive.**

Texas consistently performs poorly in redistricting research compared to other states. Partisan gerrymandering is not the only mechanism that negatively impacts Latino voters – racial gerrymandering and vote dilution serve as other forms of political marginalization.

Racial Gerrymandering and Racial Vote Dilution: What's the Difference?

Racial gerrymandering occurs when race is the predominant factor used in determining district lines for an electoral map at any level of government. Racial gerrymandering is unconstitutional based on the Equal Protection Clause of the Fourteenth Amendment. Striking alleged gerrymanders by a court requires the plaintiff to prove that all other factors were secondary to the factor of race when drawn. This includes, but is not limited to, factors such as lines of political subdivision, compactness, population, and contiguity.

Racial vote dilution occurs when minority voters are packed into one district, reducing the competitiveness of another district, or divided ("cracked") across multiple districts, thereby diluting their influence. The methods of "packing" or "cracking" prevent minority voters from electing preferred candidates.

PROVING VOTE DILUTION IN COURT

In order to prove vote dilution in accordance with the Voting Rights Act, the court requires that the minority group be:

- 1 "sufficiently large and geographically compact" to elect a preferred candidate(s);
- 2 be politically cohesive; and
- 3 politically cohesive enough to defeat the majority group's preferred candidate(s).



REUTERS/Evan Semon

Current Court Cases

Nine lawsuits have been filed in Texas since the new congressional plan was released in 2021, arguing that it does not generate any new districts with a majority of Latino voters, even though the increase in districts from 36 to 38 is attributed to the growth of the Latino population. Six of the nine lawsuits allege racial vote dilution in the new congressional maps. Prior to these lawsuits being consolidated, districts used to showcase instances of racial gerrymandering include:

Texas Redistricting Court Cases

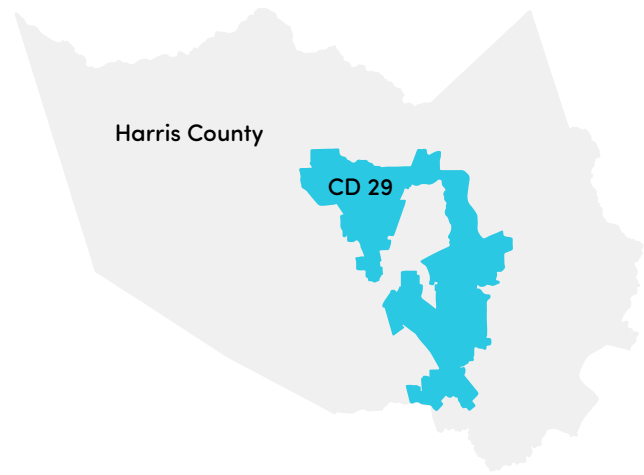
1. **Escobar v. Abbott**
Congressional Districts 16, 23
West Texas
2. **Fischer v. Abbott**
Congressional District 35
Central Texas
3. **United States v. Texas**
Congressional Districts 6, 23, 24, 38
West Texas, Dallas-Fort Worth, and Harris-Fort Bend
4. **LULAC v. Abbott**
Congressional Districts 15, 23
West Texas, Dallas-Fort Worth, and Harris-Fort Bend
5. **Fair Maps Action Committee v. Abbott**
Enacted Texas Congressional Districts
6. **Texas State Conference of the NAACP v. Abbott**
Enacted Texas Congressional Districts
7. **Brooks v. Abbott**
Enacted Texas Congressional Districts
8. **MALC v. Texas**
Enacted Texas Congressional Districts
9. **Abuabara v. Scott**
Enacted Texas Congressional Districtsm

CONGRESSIONAL DISTRICT 29 - GREATER HOUSTON METROPOLITAN AREA

The effects of “packing” and “cracking” strategies in diluting the minority vote, specifically the Latino vote, are observable in the Greater Houston Metropolitan Area (Houston Area). Latinos make up the largest demographic group in the Houston Area (approximately 40%), yet there is only one Latino majority district, Congressional District 29 (CD 29). Of the remaining eight congressional districts, three are White majority districts and five are no majority districts. Similar to DFW, most majority White districts extend into predominantly White, rural areas surrounding the Houston Area.

Congressional District 29 falls entirely within Harris County. According to the U.S. Census data, of those in Harris County, approximately 18% are Latino. 73% of Latinos in Harris County are within the electoral boundaries of Congressional District 29.

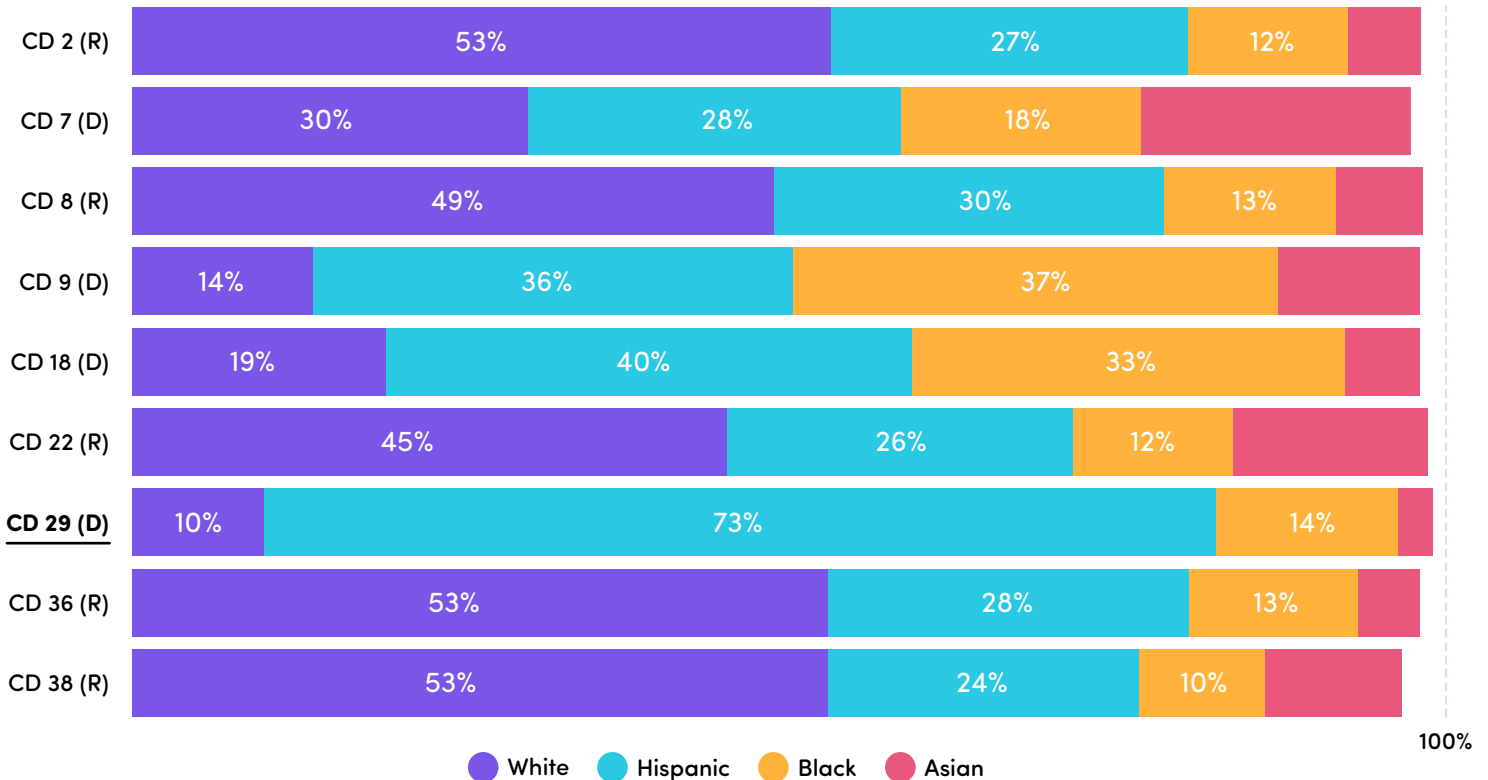
Congressional District 29 in the Greater Houston Metropolitan Area



Houston Area Congressional Districts

The bar graph shows the demographic makeup of the Houston Area congressional districts and provides insight into the allegations that Latinos were “packed” into CD 29 and “cracked” among the surrounding districts in the area. The resulting district maps dilute the political voices of Latino voters.

Race/Ethnic Makeup of CD 29



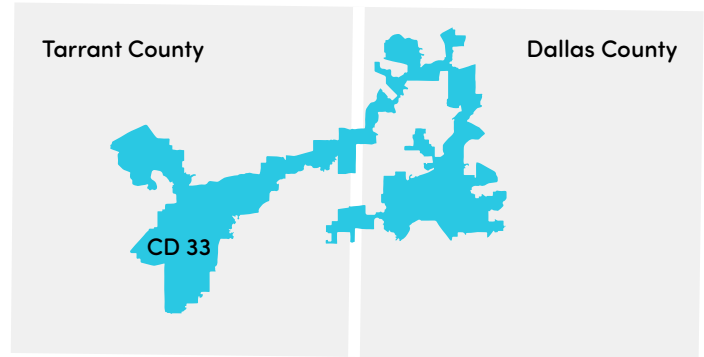
CONGRESSIONAL DISTRICT 33 – DALLAS-FORT WORTH METROPLEX

The case for the Dallas-Fort Worth Metroplex (DFW) is similar to that of the Houston Area. The Latino population increased by approximately 500,000 in Dallas County alone between 2010 and 2020. Despite Latinos composing a significant share of the metroplex, only one of the nine congressional districts in the region, Congressional District 33, is a Latino majority district. Most White majority districts extend into predominantly White, rural areas surrounding DFW.

This map shows a uniquely shaped Latino majority district that spans from southern Fort Worth into parts of Irving, Dallas, Arlington, and northern parts of the metroplex.

Congressional District 33 falls within both Tarrant and Dallas County. According to the U.S. Census data, of those in Tarrant County, approximately 13% are Latino. Of those in Dallas County, approximately 15% are Latino. In both Dallas and Tarrant County, 55% of Latinos are within the electoral boundaries of Congressional District 33.

Congressional District 33 in the Dallas-Fort Worth Metroplex

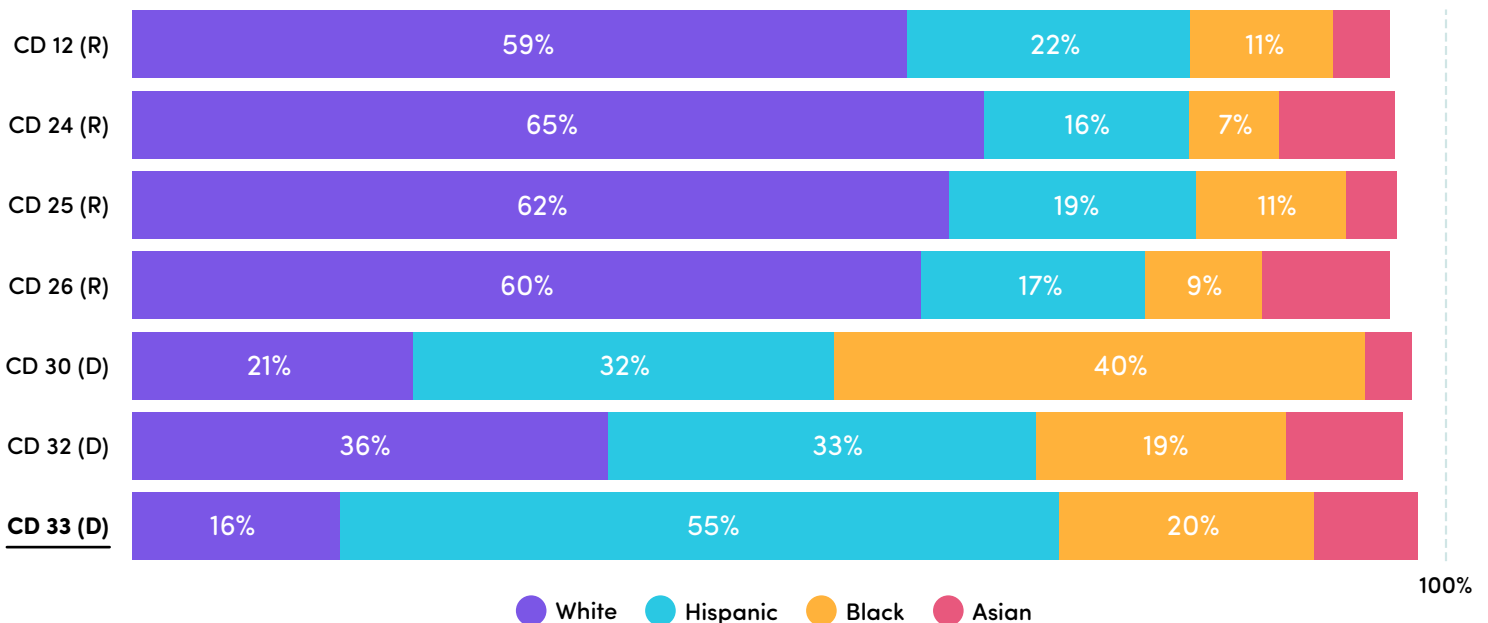


DFW Congressional Districts

The bar graph below shows the demographic makeup of DFW congressional districts and provides insight into the allegations that Latinos were “packed” into CD 33 and “cracked” among the surrounding districts in the metroplex. The resulting district maps dilute the political voices of Latino voters.

MOST LATINO VOTERS ARE “PACKED” INTO CONGRESSIONAL DISTRICT 33 AND “SPLIT” ACROSS THE REMAINING DISTRICTS IN THE METROPLEX.

Race/Ethnic Makeup of CD 33



POLICY RECOMMENDATIONS



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① U.S. CONGRESS SHOULD REINSTATE THE PRECLEARANCE CLAUSE

Under a reinstated preclearance provision, Texas would be required to obtain the U.S. Department of Justice's approval of any electoral map changes, thus acting as a preventative measure for racial and/or partisan gerrymandering.



Unsplash/Clark Van Der Beken

② THE TEXAS LEGISLATURE SHOULD ESTABLISH AN INDEPENDENT REDISTRICTING COMMISSION

The Texas Legislature has the power to establish an Independent Redistricting Commission (IRC) to depoliticize the redistricting process by overcoming elected officials' conflict of interest and incentive to draw maps that benefit their political party. Instituting an IRC would provide an opportunity for the state of Texas to create fair electoral boundaries.

[View Independent Redistricting Commissions](#)

CONCLUSION

In 2021, Texas legislators strategically drew maps that allowed for a single Latino majority congressional district in major cities with high populations of politically cohesive Latino voters. **This has effectively reduced representation of Latinos in recent elections and thus political representation.**

The 2020 Census estimated a 5% undercount of Latinos in the country, therefore the marginalization explored in this brief does not encompass the true growth of Latinos in Texas over the last decade. Since the 2020 Census, the Latino population has already increased, and as of July 2022, Latinos officially make up the largest share of the Texas population. Even so, the existing maps currently dilute and will continue to progressively dilute even higher numbers of Latino voters over time.

The constitutionality of these practices is to be determined in federal court, and pending that decision, could be appealed to the Supreme Court. While cases challenging Texas' political maps have been filed, there is no guarantee that any of the district maps will be overturned. To prevent recurring cases that question the constitutionality of every redistricting cycle, the State of Texas should consider policy solutions that ensure fairness and equitable representation in its districting maps.

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