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Idea Lab

Who Should Redistrict?

By [DEAN E. MURPHY](#)

Rising out of the farmland south of Sacramento, Elk Grove is a pleasant, unremarkable collection of scrubbed subdivisions with artificial lakes and velveteen lawns. What makes Elk Grove special - and of intense interest to politicians - is that in a state where political segregation is the norm, Democrats and Republicans live side by side in almost equal numbers.

When the residents of Elk Grove choose their state legislators, however, their votes are divided into two improbable assembly districts that meander into outlying rural areas and give each a Republican majority. Those districts are the legacy of a statewide redistricting in [California](#) in 2001 from which both parties benefited. The Democrats retained firm control of the State Legislature and the 53-member Congressional delegation, while Republicans were assured 20 safe seats in Congress and a spoiler's share of the seats in the state Capitol.

And so, on a sunny May afternoon, Elk Grove was the natural backdrop for the Republican governor, [Arnold Schwarzenegger](#), to stump for Proposition 77, an ostensibly politically neutral ballot initiative that would take the power to set voting districts away from state lawmakers and give it to an independent panel of retired judges. Schwarzenegger stood in the center of a neighborhood of half-million-dollar homes where aides had put down hundreds of feet of red ribbon. The ribbon bisected the street, turning at a right angle on the asphalt in front of the governor's lectern and continuing through the sprinkler-fed turf between homes owned by Darren and Nichola Denney and Garry and Susan Darms, who were standing, Let's-Make-A-Deal fashion, in front of them. A pair of blue signs posted on either side of the red line said "15th Assembly District" and "10th Assembly District."

"The politicians have divided a neighborhood," Schwarzenegger intoned. "They have divided cities, towns and people, and this is what we want to eliminate. And this is why we need redistricting, because the district lines were drawn to favor the incumbents rather than to favor the voters." One of the assemblymen with the governor, Guy Houston, complained that his district stretched across four counties from suburban San Francisco to Elk Grove, 80 miles to the northeast. "I love Elk Grove," said Houston, who lives in San Ramon, on the western fringe of the district. "The people here are so nice, great to represent. But shouldn't we have districts that are more compact and competitive?"

The short answer to Houston's rhetorical question is yes. Politicians tend to be held to account when they represent communities where social ties and common institutions make people more likely to be politically active. Gerrymandered districts like Houston's have been blamed for a host of ills: complacent incumbents, polarized politics, cynical voters, dull elections. The arguments for taking the politics out of drawing political boundaries have been mounting. California and [Ohio](#) voters will go to the polls Nov. 8 to decide whether to let outside panels determine how electoral districts - both for State Legislature and for the United States House of Representatives - will be drawn. More than a dozen other states are thinking of doing the same.

And yet, how many of the complaints about elections would really disappear simply by taking the redistricting process out of the hands of elected officials? Houston says districts should be compact and competitive, but in California, like-minded people tend to cluster. Draw a box around San Francisco and you create a safe haven for Democrats; do the same around Bakersfield and Republicans benefit. The districts would have less sinister shapes, but they would not necessarily lead to more meaningful elections. So which is more important to democracy? Compactness or competitiveness? Or something entirely different?

The two Elk Grove districts are neither compact nor particularly competitive, so no doubt there is room for improvement there. As it turned out, the red ribbon running up Grand Point Lane did not divide the 10th from the 15th district; the real boundary was blocks away. But nobody noticed it at the time, not the elected officials nor the residents, and that can't be good for democracy either.

The drawing of legislative boundaries is one of the most politicized and corruptible practices in American-style government, and few people will say they approve of the gerrymandering it has unleashed. Boundary-rigging famously kept blacks from gaining political power in the South. (One [Mississippi](#) district, mapped in the late 1870's with the single purpose of preventing the re-election of a black congressman, was 500 miles long and 40 miles wide.) In the early part of the 20th century, rural lawmakers held onto power by simply ignoring their obligation to draw new boundaries as people migrated to the cities and populations shifted, thus denying the swelling cities the political representation their numbers warranted.

The passage of the Voting Rights Act in 1965 and various rulings by the Supreme Court curtailed such egregious gerrymandering, but the practice endures - sometimes to favor incumbents, sometimes to favor one political party over the other. Lawmakers now use finely tuned demographic information and advanced computer programs to create "safe but slim victory margins in the maximum number of districts, with little risk of cutting their margins too thin," as the Supreme Court justice Stephen G. Breyer wrote last year in a dissenting opinion in a gerrymandering case, *Vieth v. Jubelirer*. That is what happened in California, where the deal worked out between the two parties created safe seats for incumbents. There was also, of course, the spectacle two years ago in which [Tom DeLay](#), then the Republican majority leader in the House, orchestrated a mid-decade partisan gerrymander in his home state of [Texas](#), which Democratic lawmakers tried to thwart by fleeing to [Oklahoma](#) and [New Mexico](#). They failed, and of the seven incumbents defeated in Congress in 2004, four of them were Texas Democrats who had been placed in the newly rigged districts.

But while it's easy to make a case against gerrymandering, it's much harder to say how districts should be drawn. Most states require that district boundaries be revisited every 10 years, after the release of new census data and the reapportionment of the country's Congressional seats. The creation of contiguous districts is the most widely accepted and uncontroversial criterion. Every state requires contiguity, and in 1842, Congress passed the first federal law that mandated the drawing of contiguous Congressional districts. A few other rules apply: the Supreme Court decisions of the 1960's forced Congressional districts to be roughly equal in population. The Voting Rights Act also prohibits "retrogression" in minority voting rights in certain states and the diluting of the political strength of minority communities anywhere. But beyond these piecemeal and often vague criteria - contiguity, after all, can accommodate serpentine shapes - legislators are free to create the maps as they see fit.

The Supreme Court has been little help in separating raw politics from mapmaking, with the justices disagreeing on how to deal with even obvious partisan boundary-rigging. In *Vieth v. Jubelirer*,

[Pennsylvania](#) Democrats asked the court to overturn the state's redistricting plan, which was drafted by a Republican-led State Legislature and signed into law by a Republican governor. The new map gave Republicans the advantage in 12 of 19 Congressional districts, even though Democrats outnumbered Republicans statewide. Four of the justices held that redistricting was a political matter that could never be decided by the courts. Five justices agreed that excessive partisanship in redistricting could be unconstitutional, but they didn't settle on a standard for deciding when a party had gone too far. Ultimately, the court allowed the Pennsylvania map to stand.

The Vieth case helped push the issue of gerrymandering into the hands of activists who are pursuing reform one state at a time. Even before Vieth, six states had assigned the task of redistricting Congressional seats to officials outside the State Legislature, and 12 had done so for state legislative districts. In California, Proposition 77 would give mapmaking power to three retired judges chosen in a multistep, excruciatingly choreographed process meant to ensure that both parties are represented; in Ohio, the redistricting power would go to five citizens, with a judge from each of the two major parties choosing one of the panelists. Voters in [Florida](#) are expected to take up a redistricting measure next year that would create a 15-member citizen commission.

If these initiatives succeed, people who do not hold elected office will be the ones to weigh and balance competing interests. But as Larry M. Bartels, director of the Center for the Study of Democratic Politics at Princeton, points out, changing the mapmakers does not eliminate the vexing philosophical questions behind the mechanics of electoral mapmaking. "Should they attempt to maximize the number of competitive races or to ensure that the partisan distribution of seats in the legislature appropriately reflects the partisan distribution of votes?" he wrote in an e-mail message. "Is it more important for districts to have precisely equal populations or to reflect 'natural communities' defined by political boundaries, media markets or other criteria? Should they attempt to keep as many people as possible in the same districts in order to facilitate accountability, or should each redistricting cycle be treated as a blank slate?"

In other words, what are the electoral building blocks of a representative democracy? The answers are not always obvious. In [Arizona](#), an independent commission was given the power to create "fair and competitive" districts. That commission drew some districts with large Latino populations, with the stated goal of giving a historically underrepresented group a stronger voice. Some Democratic and Latino groups complained that the real intention was to dilute their strength in other districts. First the Department of Justice, and later the courts, sent the mapmakers back to the drawing board. "The problem is that people have different expectations about the outcomes," Bruce E. Cain, who served as a special master for the Arizona redistricting, told me. "You can change the process, but you can't take away the controversy."

Independent redistricting wears the cloak of a good-government reform movement, but like most things in politics, its proponents have many motives. Schwarzenegger may truly believe that it's an affront to democracy to carve the state into safe districts for incumbents, but he would also benefit from a quick change in the cast of characters in the Democratic-controlled State Legislature - preferably in time for a hoped-for second term. (He called a special election - costing the state \$45 million - rather than waiting until the regular statewide elections next year.) In Ohio, the group pushing redistricting is a nonpartisan organization called Reform Ohio Now. But the Democrats and union officials who dominate the group also view new boundaries as a way to break the Republican hold on both the statehouse and the Congressional delegation, and to revive a lackluster Democratic Party.

In any case, engineering districts for the benefit of incumbents or political parties seems easier to

accomplish than creating more competition. Despite all the work on a new Arizona map done by the independent commission, nearly half of the State Senate seats weren't even contested in last year's election, according to the Center for Voting and Democracy, which promotes competitive elections. In [Iowa](#), where an independent commission serves in an advisory role and is often cited as a reform model, the group found that Congressional incumbents have still won 98 percent of their re-election bids since 1982. In the end, the process had changed but the results were much the same.

Nicole Boyle is known around the University of California at Berkeley's Institute of Governmental Studies as the "G.I.S. queen." For nine years, starting when she was an undergraduate, she has analyzed election data with a technology known as Geographic Information Systems. On a morning in late August, Boyle was typing on her keyboard in front of an oversize screen covered with thousands of shapes splashed in multiple colors. Since the mid-1990's, the institute has maintained California's official redistricting data. With funding from a private grant, the institute is now using the data to test a central premise of the redistricting reform movement: can you draw districts that increase competitiveness while also accommodating other desires, like compactness? Boyle has been crunching demographic and census numbers since the spring trying to come up with an answer.

On this morning, she had run into a brick wall with an experimental version of Congressional District 29 in Los Angeles County, as she used the keyboard to move the boundaries, dropping some census tracts and adding others. "This district has almost no chance of being a competitive district," Boyle conceded with some frustration.

Bruce Cain, who also runs the Berkeley institute, says that competitiveness comes down to which factors are given priority - and that, ultimately, is a political determination. How much weight, for example, should mapmakers give to so-called communities of interest - areas where people work in the same industry or use the same reservoir, say, but don't live within the same political boundaries? Where you begin drawing lines even makes a difference because, like a stone dropped in a pond, the ripples of one district's boundaries affect others. Boyle and Karin Mac Donald, the statewide database director, demonstrated that the final map for California would be different if you just started drawing upward from the Mexican border instead of downward from the [Oregon](#) one. "Good luck finding 24 willing judges," Mac Donald said, referring to the the independent panel from which the three California mapmakers would be picked. "I can't imagine they're lining the streets saying 'Pick me!'"

A top priority of Proposition 77 is to keep cities and counties whole. That would make it very difficult to create many competitive districts because Californians - and most Americans, for that matter - don't live in politically integrated communities. "It's not going to lead to a massive transformation, with 50 percent of the seats being competitive, because the state isn't laid out that way," Cain said of the measure. The institute's computer modeling shows, so far, that at most a dozen or so of the state's 53 Congressional districts could have competitive races.

The problem is not unique to California. Last year, The Austin American-Statesman conducted a county-by-county statistical analysis of presidential election returns since 1948. The survey found that Americans increasingly reside in "landslide counties" - in which a presidential candidate receives at least 60 percent of the vote - and that "political segregation" in counties had grown by 47 percent from 1976 to 2000. The Ohio measure tries to get around partisan clustering by requiring that competitiveness, rather than keeping cities and counties whole, be the most important consideration in drawing a redistricting plan. It even includes a mathematical formula for determining competitiveness.

To achieve districts with a political-party balance in California would require, in some instances, extending lines from the Pacific Ocean to the [Nevada](#) border - contortions that conflict with the goal of compactness. Even trying to draw the most competitive map that conformed to the basic principles of equal population and contiguity would require "waiting until the sun exploded for us to find a solution," as Michael P. McDonald, a redistricting expert and a visiting scholar at the Brookings Institution, told me.

When I visited Berkeley, Karin Mac Donald had just returned from giving a talk on redistricting, this one to the League of Women Voters, which considers Proposition 77 flawed because the panel of retired judges would be too small to reflect the state's diversity. One lesson that she has taken from the lecture circuit is that many Americans, no matter how much they complain about the poison of partisanship, are comfortable with their like-minded communities. "People always say it would be great to have competitive districts," Mac Donald explained. "But you talk to them for two minutes about what that would mean, and in the end they say, 'I don't want to live in a competitive district, but everyone else should.'" Why, I asked? "Because in a competitive district they might not get what they want."

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