

# The ART of Gerrymandering

Tennessee



# What is Gerrymandering

- The practice of redrawing legislative district lines to benefit the party in power
- Ultimate goal is to minimize the amount of seats the opposing party can win in the legislature
- Occurs at two levels: Federal Legislature, **State Legislature**





# Justiciability

- **Colegrove v. Green (SCOTUS 1946)**
  - Facts: Illinois had not redistricted in 40+ years; P sued for lack of equality of population
  - Holding: Judiciary should not intervene in the “political thicket”
- **Baker v. Carr (SCOTUS 1962)**
  - Facts: Tennessee had not redistricted in 60+ years; P sued for lack of equality of population
  - Holding: Courts have jurisdiction over redistricting plans per 14th Amendment arguments; Colegrove overturned in part
- **Gill v. Whitford (SCOTUS 2018 pending)**
  - Facts: Wisconsin Republican partisan gerrymander; P trying to offer the courts a standard for gerrymandering evaluation

# Splitting District Lines

- Tennessee Constitution Article 2 Section 6
  - Splitting Counties must touch each other
- Moore v. State (Tennessee Ct. of Appeals 2014)
  - Facts: Tennessee redistricting plan crossed more boundaries than necessary under Tennessee constitution
  - Holding: P's alternative plans were either equal to or worse than 2012 Senate Reapportionment Act, so it is not enough to warrant judicial intervention
- Lincoln County v. Crowell (Tennessee SC 1985)
  - Facts: The House Reapportionment Act of 1984 followed the Lockert decision about the 10% threshold. Marshall and Lincoln county argued about whether it was unconstitutional based off of their counties being divided up.
  - Holding: The reapportionment plan just needs to meet the federal requirement and equality of population.

# Racial Gerrymandering

- Shaw v. Reno(SCOTUS 1993)
- North Carolina's Congressional redistricting plan after the 1990's census, which created a minority-majority district, which unusual shape raised controversy.
- Court Held in a 5-4 decision that Racial Gerrymandering should be held to a standard of strict scrutiny under the equal protection clause.
- North Carolina v. Covington (US District Court 2017)
- In 2015 North Carolina residents sued the state for "Packing" African-American voters into 9 senate districts and 19 House districts
- The District Court holding that race was the predominant factor in the design of each challenged district.

# Equal Population: “One Person One Vote”

- Ideal District Size = Population / Number of Districts
- State ex Rel. Lockert v. Crowell
- Tennessee 1982, main issue on district numbers.
- The population variance under the Act can be increased and still comply with equal protection standards. Though, the variance should be as low as possible.
- Wesberry v. Sanders
- Georgia's 1931 Apportionment increased unproportionally the population of the 5th district.
- Supreme Court's Justice Black held that the redistricting , “ grossly discriminated against voters in Fifth District in violation of constitutional requirement that representatives be chosen by people of the several states.”

# Fused Rule

IF:

The Redistricting Plan does not violate the 14th Amendment, or state constitutions as determined by:

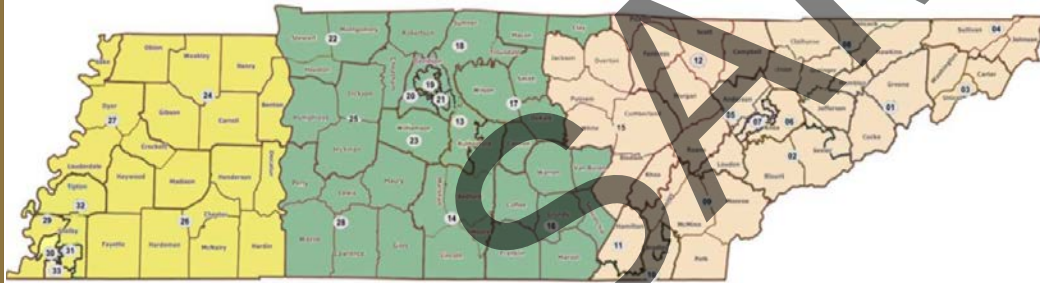
- A) Whether the population in each district “egregiously” exceeds the threshold variance OR
- B) Whether the redistricting plan substantially takes race into consideration and therefore results in “bizarre” district shapes OR
- C) Whether the redistricting plan splits more districts than necessary without a legitimate reason under the 14th Amendment

THEN:

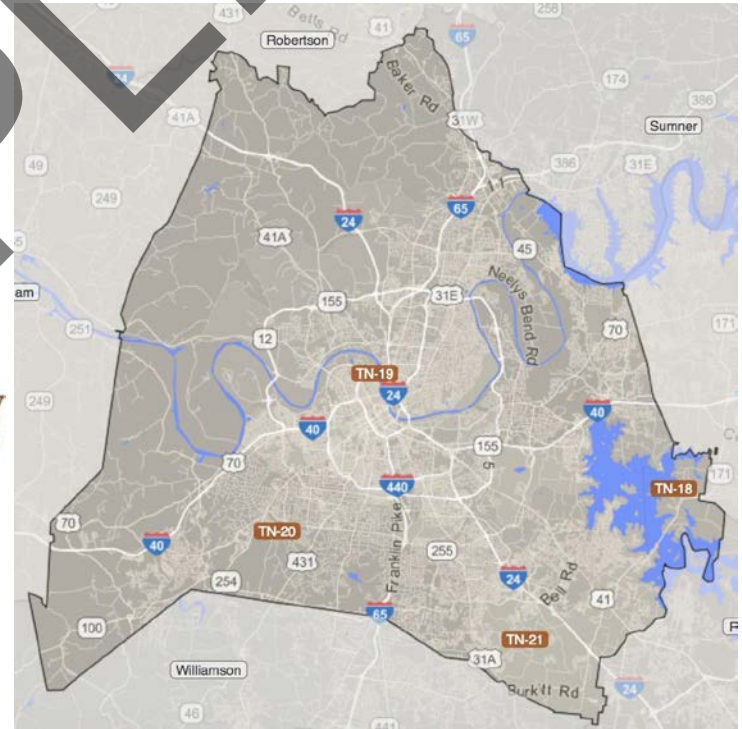
A court cannot provide relief to the victims of gerrymandering.

# Application (Davidson County, Tennessee)

- 33 Senate Districts Total
- Senate Districts 19, 20, 21
- Districts 19, 21 are  $\frac{2}{3}$  of all Democratic Senate Districts in Tennessee
- Idea: Flip Senate District 21



Statistical Atlas



# District 19-D

+18534

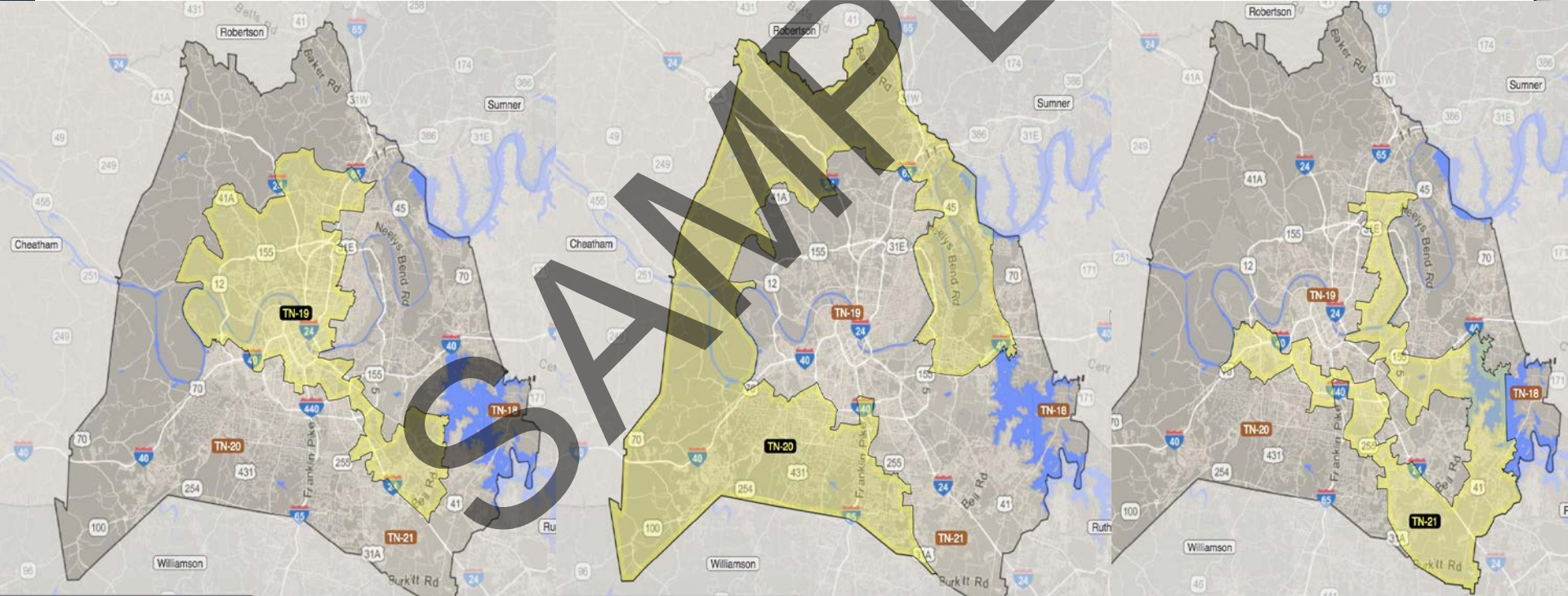
# District 20-R

+11783

## District 21-D

+12688

Ballotpedia 2014-2016



# Method of Analysis

Nashville.gov

## Voting Precincts

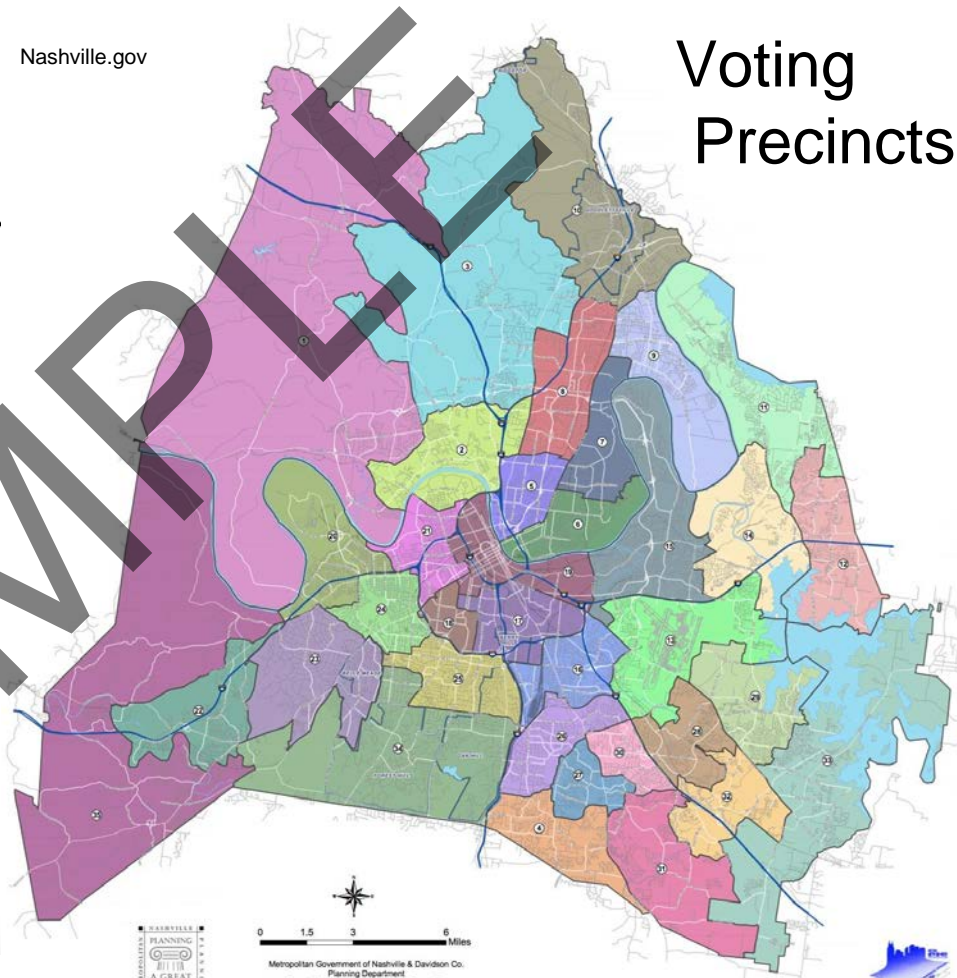
### Tennessee Senate District 19

1. Sterlina Inez Brady - Republican
2. Thelma M. Harper - Democratic
3. George Thomas - Independent
4. Write-In - Rueben (Dock) Dockery - Independent

1 2 3 4

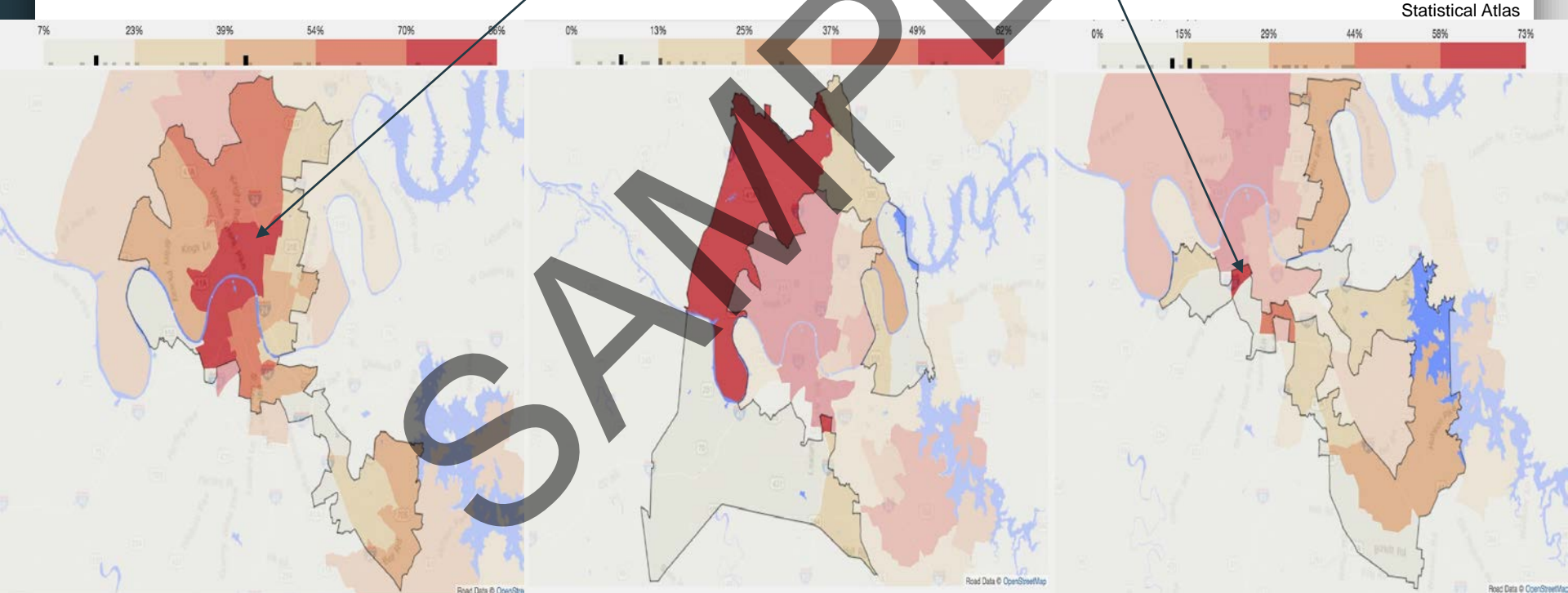
#### Davidson County Precincts:

|      |     |       |     |   |
|------|-----|-------|-----|---|
| 01-3 | 116 | 1,752 | 394 | 0 |
| 01-5 | 6   | 661   | 91  | 0 |
| 02-1 | 12  | 1,086 | 135 | 0 |
| 02-2 | 35  | 852   | 73  | 0 |
| 02-3 | 4   | 140   | 17  | 0 |
| 02-4 | 8   | 386   | 52  | 0 |
| 02-5 | 27  | 330   | 50  | 0 |
| 03-3 | 48  | 222   | 43  | 0 |
| 03-4 | 258 | 1,083 | 162 | 0 |
| 03-5 | 37  | 1,009 | 101 | 0 |
| 03-6 | 106 | 427   | 42  | 0 |
| 05-1 | 46  | 236   | 26  | 0 |
| 05-2 | 56  | 695   | 93  | 0 |
| 05-3 | 54  | 221   | 30  | 0 |
| 05-4 | 18  | 291   | 28  | 0 |
| 05-5 | 70  | 537   | 53  | 0 |
| 06-1 | 116 | 489   | 62  | 0 |
| 06-3 | 31  | 281   | 23  | 0 |
| 06-5 | 137 | 616   | 70  | 0 |
| 07-3 | 45  | 543   | 54  | 0 |



# Minority Communities

County District #21  
72% African-American



# New Districts (District 19)

## Before

Precincts: 1-3, 1-5, 2, 3-3, 3-4, 3-5, 3-6, 5, 6-1, 6-3, 6-5, 8-1, 8-2, 8-4, 10-5, 13-2, 15-5, 16-1 16-2 16-3 16-4, 17-1, 17-2, 17-3, 17-4, 17-6, 19-1, 19-2, 19-3, 19-4, 19-5, 20, 21, 23-1, 23-2, 23-3, 23-4, 24-1, 24-2, 24-4, 24-5, 25-4, 26-1, 28, 29-1, 29-2, 29-3, 30-2, 32-1, 31-2

## After

Precincts: 1-3, 1-5, 2, 3-3, 3-4, 3-5, 3-6, 5, 6-1, 6-3, 6-5, 7, 8-1, 8-3, 9-2, 10-5, 13-2, 15-5, 16-1 16-2 16-3 16-4, 17-1, 17-2, 17-3, 17-4, 17-6, 17-7, 18-1, 18-2, 18-3, 18-4, 20, 21, 23-1, 23-2, 23-3, 23-4, 24-1, 24-2, 24-4, 24-5, 25-4, 26-1, 28, 29-1, 29-2, 29-3, 30-2, 32-1, 31-2

## New Districts (District 20)

Before

Precincts: 1-1, 1-2, 1-4, 3-1, 3-2, 4-1, 4-2, 4-3, 4-4, 9-1, 9-3, 10-1, 10-2, 10-3, 10-4, 10-6, 11, 13-4, 14-1, 14-2, 14-5, 15-1, 15-2, 15-3, 16-5, 17-5, 18-5, 22, 23-1, 23-2, 23-3, 23-4, 24-3, 25-1, 25-2, 25-3, 26-2, 26-4, 27-2, 27-3, 34-1, 34-2, 34-3, 34-4, 34-5, 35

After

Precincts: 1-1, 1-2, 1-4, 3-1, 3-2, 9-1, 9-3, 10-1, 10-2, 10-3, 10-4, 10-6, 11, 13-4, 14-1, 14-2, 14-5, 15-1, 15-2, 15-3, 16-5, 17-5, 18-5, 22, 24-3, 25-1, 25-2, 25-3, 26-2, 26-4, 27-2, 27-3, 35

# New Districts (District 21)

Before:

Precinct: 6-2, 6-4, 7-1, 7-2, 7-4, 7-5, 7-6, 8-3 9-2, 12-5, 13-1, 13-3, 14-3, 15-4, 16-3, 16-4, 17-4, 17-7, 18-1, 18-2, 18-3, 18-4 19-6, 20-2, 20-3, 21-4 23-5, 24-1, 24-2, 24-5, 25-4 26-3, 27-1, 29-4, 30-1, 30-3, 30-4, 31, 32-3, 32-4, 33-2, 33-3

After:

Precinct: 4, 6-2, 6-4, 8-2, 8-4, 12, 13-1, 13-3, 14-3, 15-4, 19-1, 19-2, 19-3, 19-4, 19-5, 19-6, 23-5, 26-3, 27-1, 29-4, 30-1, 30-3, 30-4, 31, 32-3, 32-4, 33, 34

# Population Variance/County Borders

- District 19
  - Variance : 1.5% → 6.46%
- District 20
  - Variance: 5.7% → 3.24%
- District 21
  - Variance: 6.2% → 3.14%
- Number Of Times Davidson County is split:
  - Split: 2 → 2

***Population Variance Threshold: 10%***

# Vote Count

- District 19
  - Democrats: 18,534 → Democrats: 24, 275
- District 20
  - Republicans: 11,794 → Republicans: 5,617
- District 21
  - Democrats: 12,688 → Republicans 322

**FINISHED!!**