

# VOTING RIGHTS POLICY & THE LAW

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Matt Barreto & Chad Dunn

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# Review from Fall 2019

- Reviewed the basics of the Voting Rights Act
- Investigated various jurisdictions across the West
- Students submitted complaints
- Now, Winter 2020 we will review:
  - ▣ County redistricting efforts
  - ▣ Jurisdictions with large Native American populations
  - ▣ Application of state voting rights laws
  - ▣ Jurisdictions with growing immigrant communities

# What information do we need?

- Population and demographics over time
- Electoral history, examining minority-preferred candidates
- Maps of the current district boundaries
- But also... *Totality of Circumstances*

# 1982 VRA Amendments

- *Mobile v. Bolden* (1980) held that it was only a violation if laws maintained discriminatory purpose
- Senate added a new interpretation of Section 2 to allow for examination of the effects of the law

# Thornburg v. Gingles: Senate Factors

**Totality of the Circumstances factors to consider: (1982 Senate Report) *Gingles*, 478 U.S. 30, 36-38 (citing Senate Report 97-417)**

1. The extent of any history of official discrimination with respect to the minorities' right to vote
2. The extent to which potentially discriminatory voting practices or procedures, like majority voting requirements or anti-single shot provisions, have been used.
3. Whether minority candidates have been denied access to a slating process.
4. The extent to any discrimination against minorities in education or other areas, which might hinder effective participation in the political process.
5. Whether political campaigns have been characterized by racial appeals.
6. The extent to which minority group members have been elected to public office.
7. Whether there is a lack of responsiveness on the part of elected officials to the minority groups particularized needs.
8. Whether the policy of supporting the use of voting policy or practice is tenuous

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# Thornburg v. Gingles: Senate Factors

## Whether minority candidates have been denied access to a slating process

- ❑ Readings: *Davidson and Fraga (1988)*, *Fraga (1988)*
- ❑ Do organizations, associations, or private groups exist in the jurisdiction which encourage candidates to run for office
- ❑ Is this reported in the local news or via pamphlets, flyers, mailers, or announcements
- ❑ Do the candidates coordinate their efforts, do they have common campaign managers, and common mobilization strategies
- ❑ In many instances, the candidates might discuss and promote their slate and explain how they work together
- ❑ However, this can be hard to find and requires interviews with candidates and slating group leaders, communications, etc. (e.g. *Davidson and Fraga*)

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# Arlington Heights Factors

1. “The impact of the official action,” especially “whether it bears more heavily on one race than another” (but “impact alone is not determinative”)
2. “The historical background of the decision, particularly if it reveals a series of official actions taken for invidious purposes”
3. “The specific sequence of events leading up the challenged decision”
4. “Departures from the normal procedural sequence” or “[s]ubstantive departures”
5. “The legislative or administrative history . . . especially where there are contemporary statements by members of the decision making body, minutes of its meetings, or reports”

THANK YOU!  
CONTACT US:

Prof. Barreto: [barretom@ucla.edu](mailto:barretom@ucla.edu)

Mr. Dunn: [cdunn@luskin.ucla.edu](mailto:cdunn@luskin.ucla.edu)