

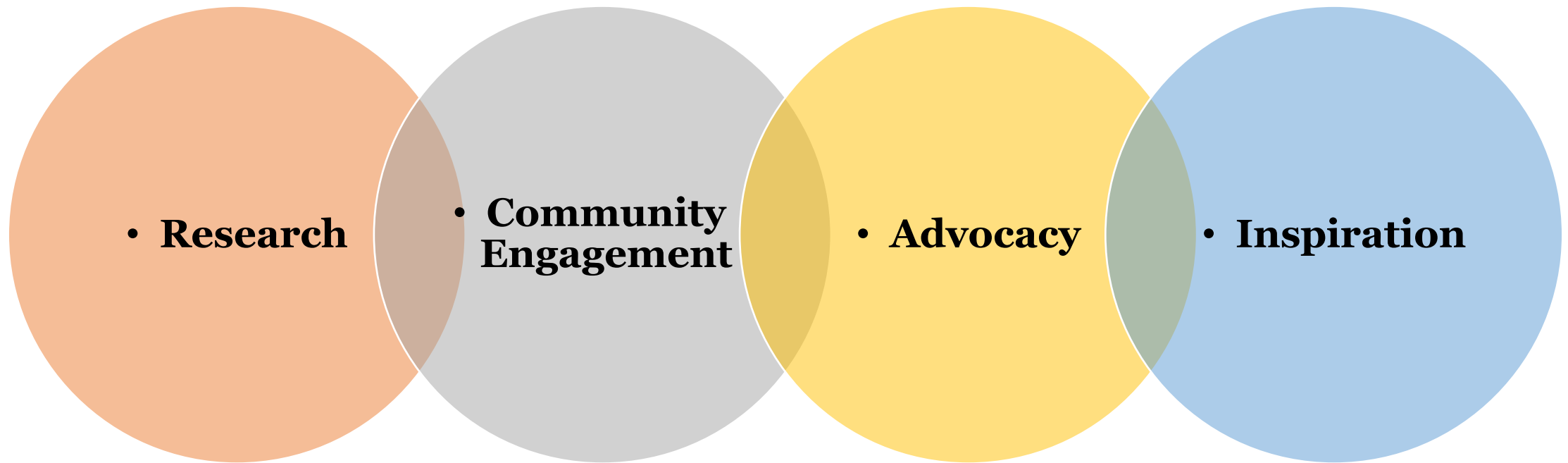


THE VOTING RIGHTS ACT AND REDISTRICTING

KYLE STRICKLAND, KIRWAN INSTITUTE FOR THE STUDY OF RACE & ETHNICITY

About the Kirwan Institute

We work to create a just and inclusive society where **ALL** people and communities have the opportunity to succeed.



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STUDY OF RACE AND ETHNICITY

How Kirwan approaches our work

RACE & COGNITION

The role of individual-level thoughts and actions in maintaining discrimination.

STRUCTURAL RACIALIZATION

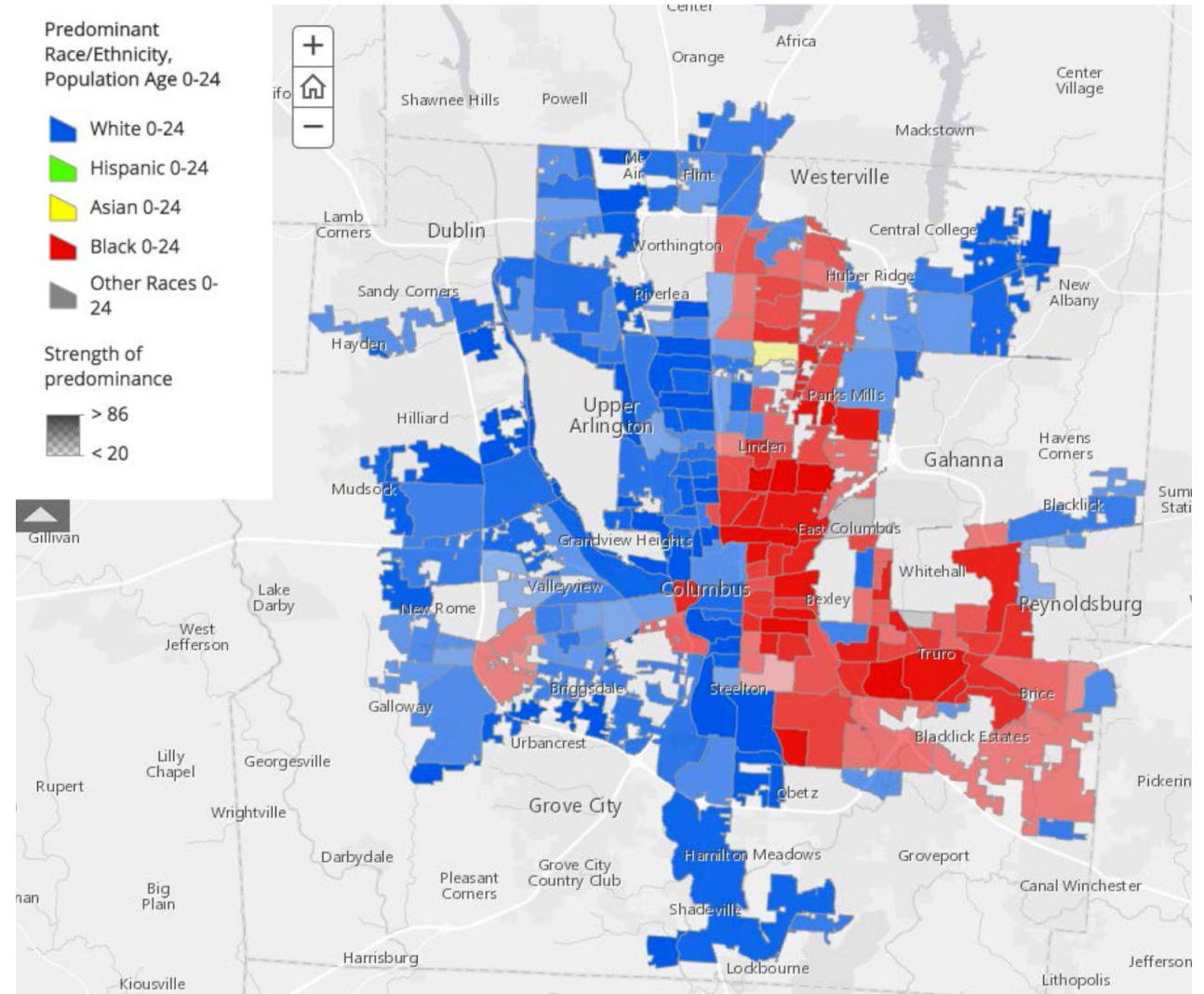
The influence of our country's racial history on policies, practices and values that perpetuate racial inequity.



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City of Columbus, Racial Distribution of Youth Population



Source: Renewing Our Call to Action.
American Community Survey



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“Segregation never comes about because it ‘just is,’ as the term ‘de facto’ might also suggest. The bottom line is this: segregation has always involved some form of institutionally organized human intentionality, just as those institutions have always depended on more broadly held beliefs, ideas, and customs to sustain their power.”

Carl H. Nightingale

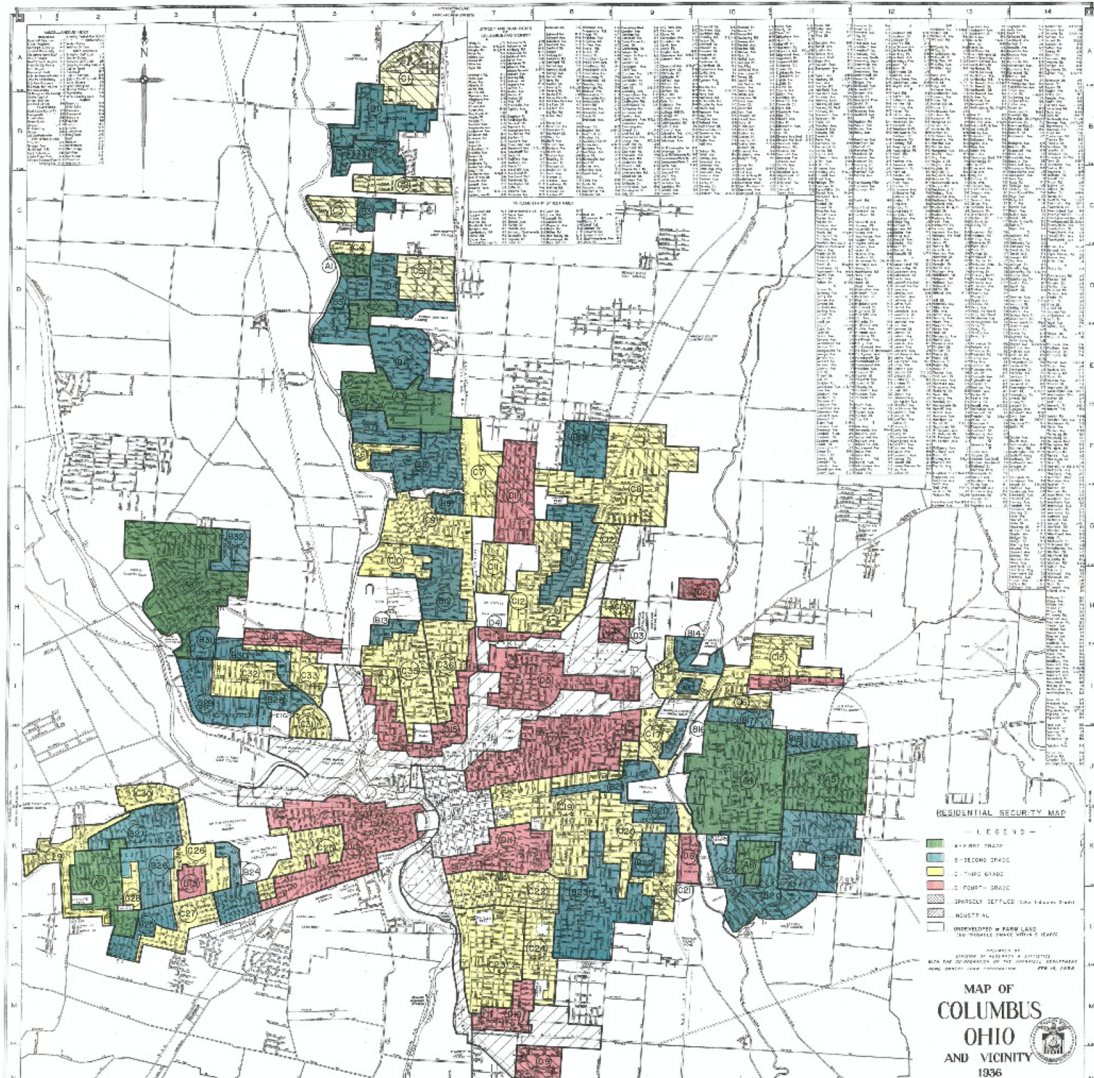
Segregation: A Global History of Divided Cities



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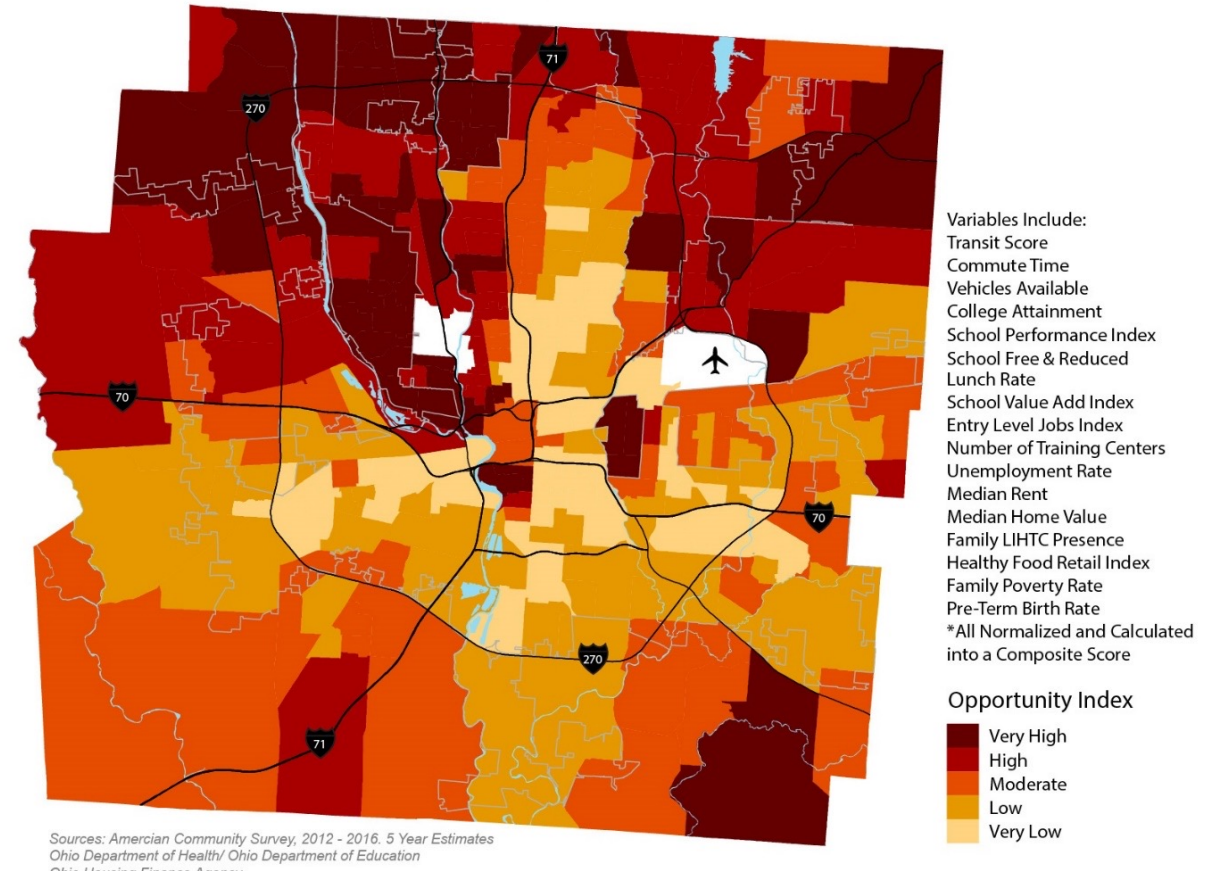
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Redlining Map from 1936 – Columbus, OH

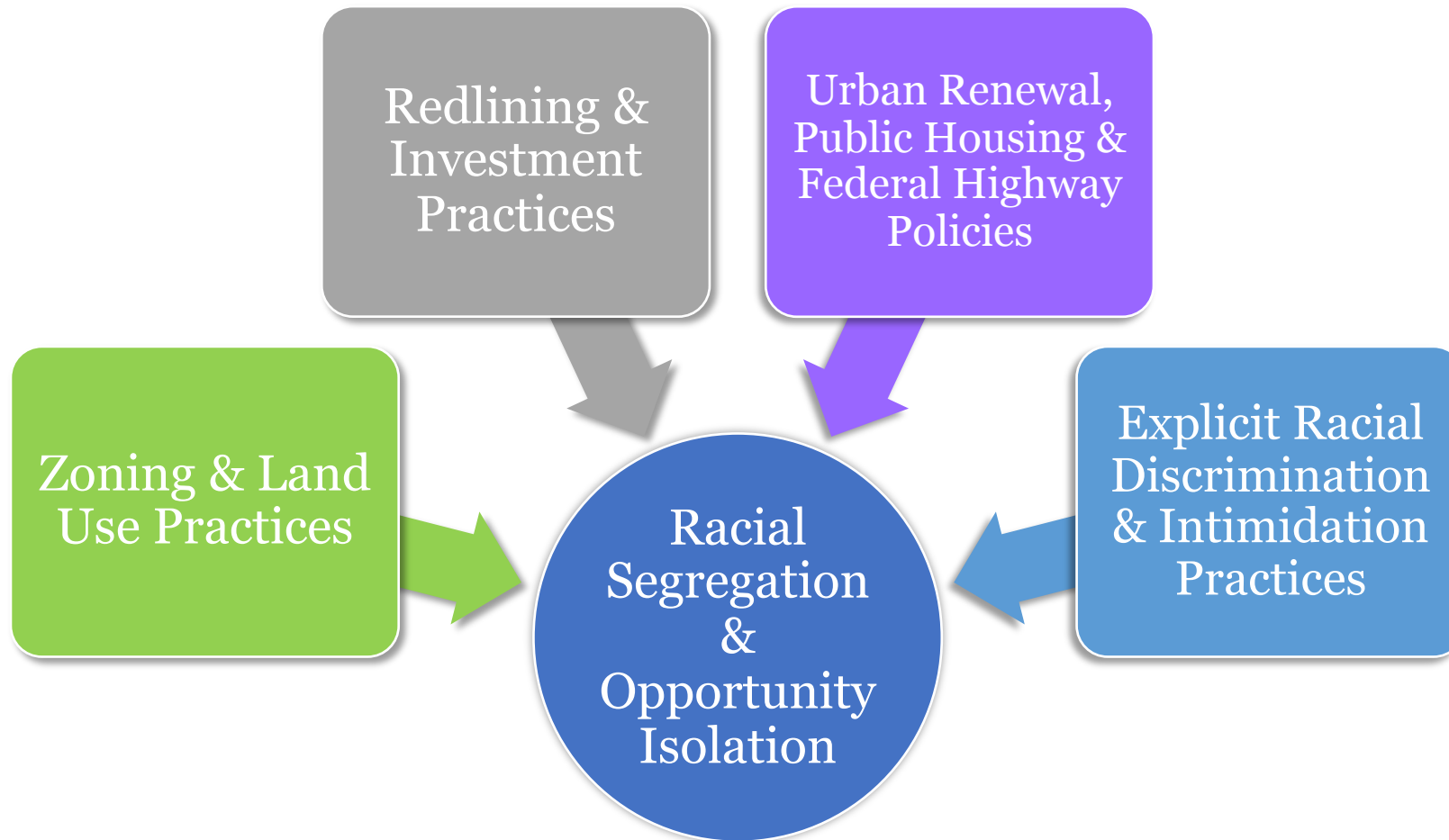


Present Day Neighborhood Opportunity Index

Franklin County 2017 Opportunity Index



Drivers of Racial Segregation and Opportunity Isolation for Communities of Color



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BARRIERS TO VOTING RIGHTS

- "Grandfather clauses"
- Literacy tests
- Poll taxes
- Violence and intimidation



**PAY YOUR
POLL TAX-NOW!**

Deadline January 31st

Vote! And Protect Your Rights and Privileges

Be Ready For Every Election---

ption and Other Special Elections are in Prospect for This Year



Voting Rights and Racial Justice



March 7, 1965

“Bloody Sunday”

**Selma to Montgomery
Marches.**

A black and white photograph of Martin Luther King Jr. signing a document. He is in the center, looking down at the document with a focused expression. He is wearing a dark suit, a white shirt, and a patterned tie. His hands are visible as he holds the pen and the document. To his left, a man with glasses and a suit looks on. To his right, another man with glasses and a suit is partially visible. The background is slightly blurred, showing other people in suits. The overall tone is serious and historical.

August 6, 1965

The Voting Rights Act of 1965 is signed into law. Landmark civil rights legislation that prevents systemic and widespread racial discrimination in voting.

THE VOTING RIGHTS ACT

- ▶ The Voting Rights Act of 1965 is widely considered to be the single most important federal statute protecting the right to vote.
- ▶ contains a number of important provisions, including **Section 2 and Section 5**.
- ▶ Adopted essentially as an enforcement mechanism for the 15th Amendment's guarantee that the right to vote cannot be abridged “***on account of race, color, or previous condition of servitude,***”



SECTION 2 OF THE VOTING RIGHTS ACT

Section 2 allows voters to seek judicial relief if they believe that a state or local government has denied or limited their voting rights on the basis of their race, color or membership in a language minority group.



SECTION 5 OF THE VOTING RIGHTS ACT

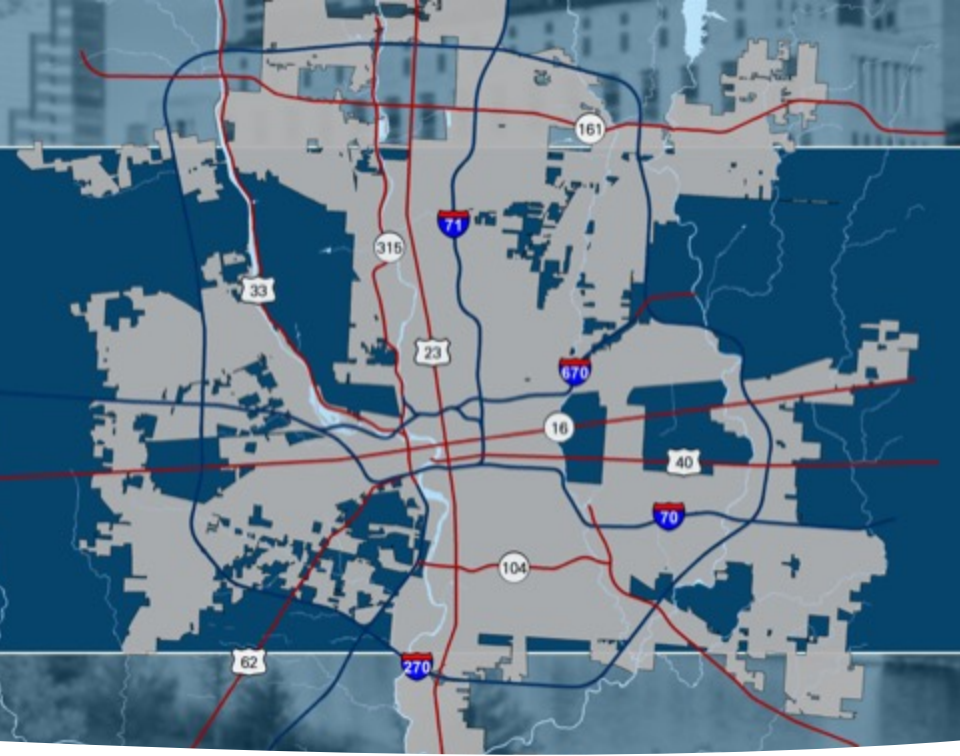
- ▶ Another key provision of the Voting Rights Act is the **Section 5 preclearance requirement**, which prohibits certain jurisdictions from implementing any change that affects voting without first receiving federal preapproval that the change they seek to implement does not discriminate against protected minorities.
- ▶ The preclearance “coverage formula” was designed to cover jurisdictions that engaged in aggressive voter discrimination in 1965.





CRDC

COUNCIL RESIDENTIAL DISTRICTING COMMISSION



CRDC and the Voting Rights Act

*“Maps must comply with all applicable local, state and federal laws including the **Voting Rights Act**, specifically sections two and five which consider race as a factor.”*



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Drawing Districts

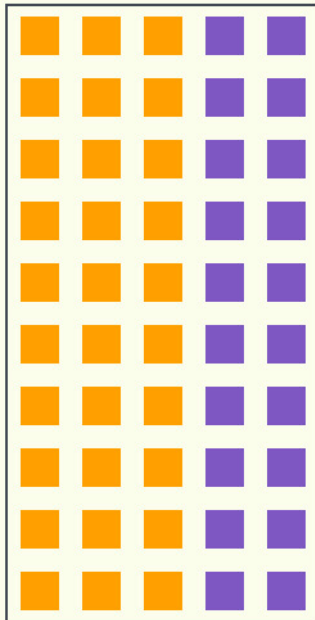
How differently drawn district maps produce different electoral results

FOUR WAYS TO DIVIDE 50 PEOPLE INTO 5 DISTRICTS:

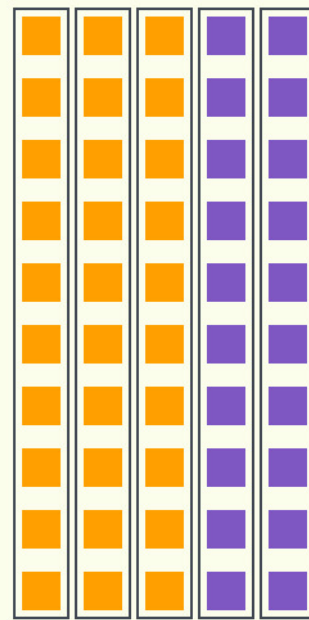
FAIR

Results proportionate to electorate

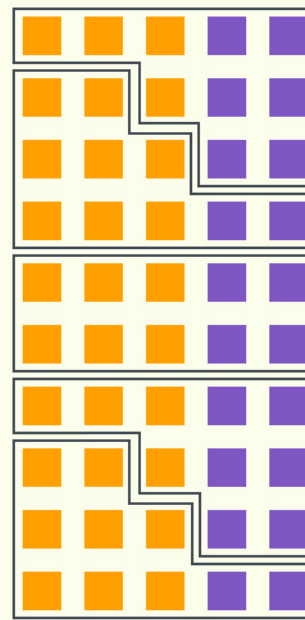
50 people



60% orange
40% purple



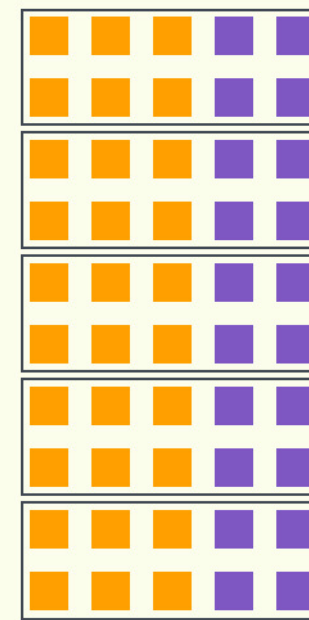
3 orange
2 purple



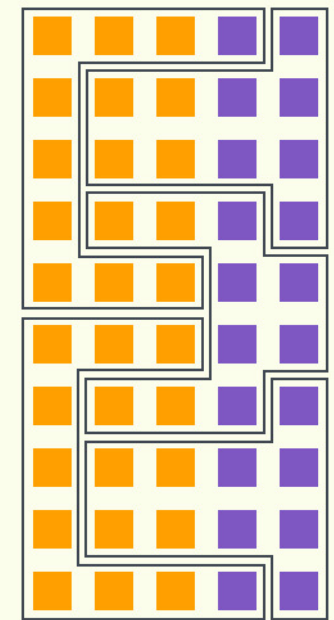
3 orange
2 purple

NOT FAIR

Results not proportionate to electorate



5 orange
0 purple



2 orange
3 purple

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Minority Vote Dilution



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Minority Vote Dilution and Redistricting

- Redistricting has been used at times to prevent voters of color from gaining political power by drawing districts in a way that results in those voters having less of a chance of electing their candidate(s) of choice.
- This is known as **minority vote dilution**. It can be seen when map drawers use techniques, such as, **packing** and **cracking**.



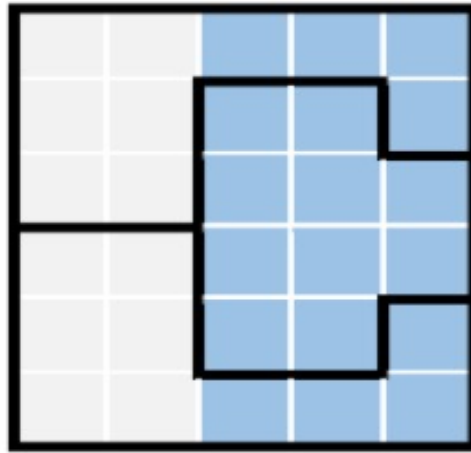
What is PACKING?

Packing is the term used when minority voters are compressed into a smaller number of districts to waste their collective strength, instead of effectively controlling one district or more.

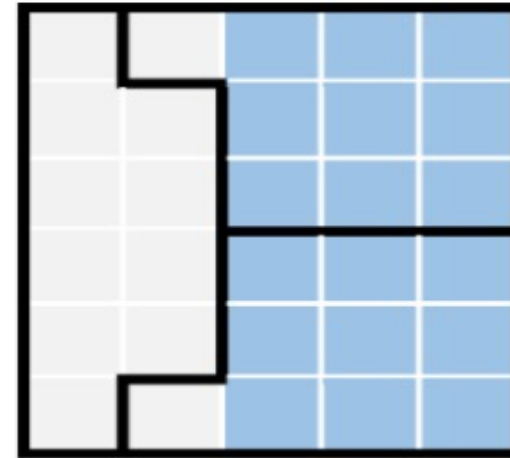
An example is when mapmakers draw one district that is over 90% of a single minority group (BLUE), when one could draw two districts each with 50% single minority group.



60% Blue Wards
40% Grey Wards



3 Districts: 2 Grey,
1 Blue
Blue wards are "packed"
into one district



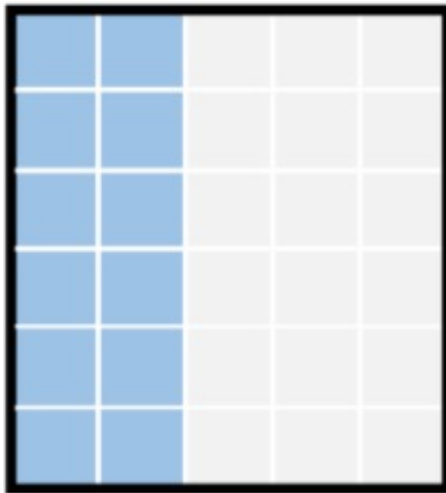
3 Districts: 2 Blue,
1 Grey
Proportional Outcome

Source: Common Cause

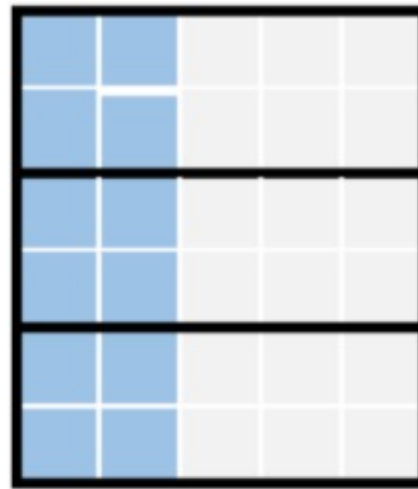
What is CRACKING?

Spreading (splitting apart areas of) minority voters thinly into many districts is known as **cracking**, splitting, or fracturing.

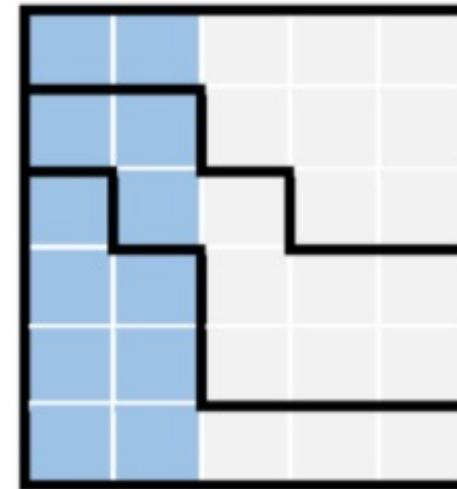
An example of cracking can occur if three districts are created that have 40% of a single minority population in each. If the minority population (BLUE) were placed within one district where they are 70%, the minority community would have an opportunity to elect a candidate of their choice.



60% Grey Wards
40% Blue Wards



3 Districts: 3 Grey, 0 Blue
Blue wards are "cracked" into
one district



3 Districts: 1 Blue, 2 Grey
Proportional Outcome



Amendments to Section 2 of the VRA

- ▶ As amended in 1982, Section 2 now provides that a voting process or requirement that *results in* the abridgement of the right to vote on account of a voter's race, color or language minority status is unlawful, whether or not an intent to discriminate can be proven.
- ▶ The revised statute further provides that whether a discriminatory result has occurred requires considering the “***totality of the circumstances***” to determine whether the challenged voting restriction has abridged protected voters' ability to participate equally in elections and to elect representatives of their choice.



Vote Dilution and Vote Deprivation

- ▶ Section 2 has given rise to both “*vote dilution*” claims and “*vote deprivation*” claims.
- ▶ Vote dilution claims, which typically involve redistricting schemes or at-large voting systems, have produced a complicated judicial doctrine resulting from several high-profile Supreme Court decisions.
- ▶ There are a number of factors that courts could consider in evaluating the “totality of the circumstances.”



Section 2: Vote dilution claims

In 1986, in *Thornburg v. Gingles*, the Supreme Court reviewed these factors in clarifying the test for a vote dilution claim. The court held that a successful claim requires showing that:

- ▶ **(1)** the affected minority group is sufficiently large to elect a representative of its choice; **(2)** the minority group is politically cohesive; and **(3)** white majority voters vote sufficiently as a bloc to usually defeat the minority group's preferred candidates.



Criteria for majority-minority districts

To ensure people are in districts that give them a fair chance of electing candidates of their choice, Section 2 protects certain criteria for drawing majority minority districts.

- The minority group is sufficiently large and geographically concentrated to make up a majority in a district.
- The minority group is politically cohesive. This means that the individuals that make up the group vote in similar patterns (voting for same candidates)
- The white majority usually votes together to defeat the minority-preferred candidates.
- Given the “totality of circumstances”, the minority group has less opportunity than other members of the electorate to participate in the electoral process and to elect representatives of its choice.



Despite these protections, some politicians continue to find ways to rig the system in their favor



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Shelby v. Holder (2013)

- ▶ **A rollback of voting rights.** In *Shelby*, The U.S. Supreme Court struck down a key provision of the Voting Rights Act, the preclearance coverage formula, as unconstitutional. The court's decision significantly undermined the VRA.
- ▶ After the *Shelby* decision, the jurisdictions that had previously been covered by the coverage formula implemented systematic voter registration purges and other forms of voter suppression. In the absence of strong federal enforcement of voting rights, states are rolling back voter protection efforts and making it harder to vote.



Since the 2020 election, there have been more than 300 restrictive voting bills introduced across the country.

A number of them have been passed into law and disproportionately impact communities of color.





PROTECT
OUR VOTE

PROTECT
OUR VOTE

NO VOTER
LEFT
BEHIND

PROTECT
OUR VOTE

democracy
NORTH CAROLINA
Working back for the people

**50 YEARS
AFTER SELMA**

**VOTING RIGHTS
still MATTER!**

MY VOTE HAS
BEEN PAID FOR IN
GOOD

democracy
NORTH CAROLINA
Working back for the people

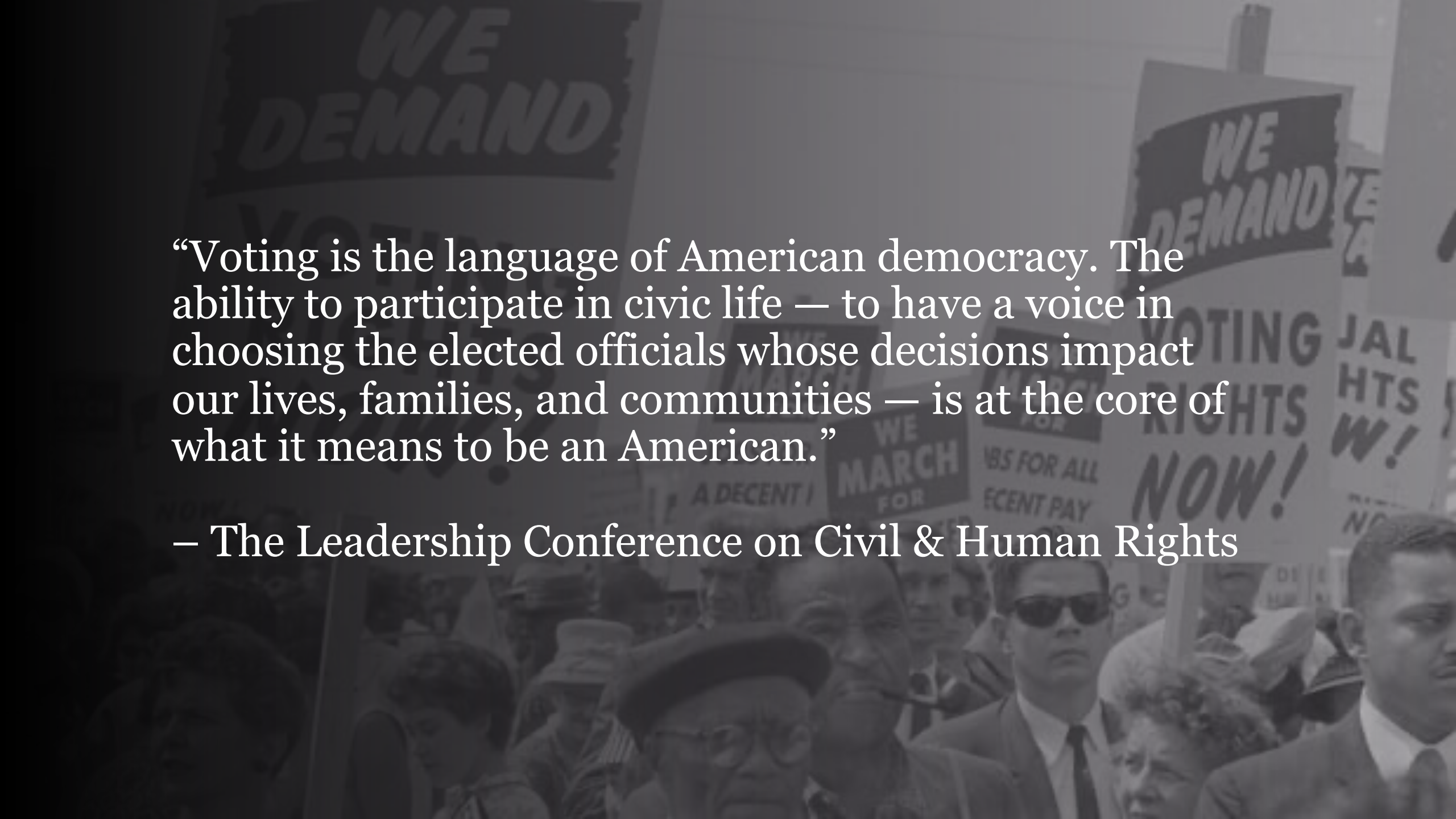
★

**VOTING
RIGHTS
NOW!**

LET
THE PEOPLE
VOTE

MY VOTE HAS
BEEN PAID FOR IN
GOOD

VOTE



“Voting is the language of American democracy. The ability to participate in civic life — to have a voice in choosing the elected officials whose decisions impact our lives, families, and communities — is at the core of what it means to be an American.”

– The Leadership Conference on Civil & Human Rights