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October 2 Roundtable Update

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**WE ARE NEW YORK'S LAW SCHOOL****NEW YORK CENSUS & REDISTRICTING ROUNDTABLE****CENSUS****Cornell Publishes Guide to Understanding N.Y. Geographic Levels**

Jan Vink and Russell Kwong at Cornell University's Center for Applied Demographics (PAD) have published a primer to understanding the different levels of geography in New York. The primer was developed to help guide New Y data users to manage and understand commonly published geographic entities and state-specific areas and terminology.

From the PAD: "Geography is the organizational foundation of all data produced by the Census Bureau. This primer outlines the terminology and codes you need to work with these geographies and provides descriptions and examples of each geography type. Data and geographic boundaries used in this primer are based on the 2020 Census, with the exception of those from earlier years. Geographies are classified by type and assigned appropriate codes and identifiers, usually found in a geographic header file. All geographic entities within the Census Bureau geographic system fall into one of the following categories: legal/administrative, statistical, or legislative."

View the primer

here: https://pad.human.cornell.edu/papers/downloads/NYS_GeographicPrimer_2023.pdf

New York's Older New Yorkers: The Numbers Are Growing

N.Y. AARP and the Center for An Urban future have released a report on the state's aging population. According to the report, "from Lake Erie to Long Island, the state's older population is booming. New York is home to more residents ages 65 and above- early 3.5 million, than the entire population of 21 states. Older adults are also driving most of the state's population growth. Over the past decade, from 2011 o 2021, the number of New Yorkers ages 6t5 and over grew up ab incredible 31 percent- an increase of 815,166 older adults. During the same e!period, the state's under-65 population declined by 2.5 percent, or 444,450 people. Today, nearly 1 in 5 New Yorkers is 65 and above (18%), a larger share of the state's population than ever before."

The fastest increases were seen in Rochester (64%), Saratoga (50%), Syracuse (43%), Queens (39%), Dutchess (37%), New York City *36%), and

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Orange (36%). New York's older adult population is outpacing overall population growth in every one of the state's 19 largest counties and most of its largest cities, including Rochester, Syracuse, Yonkers, Albany, and New York City).

Read the N.Y. AARP statewide report here: <https://nycfuture.org/research/keeping-pace-with-an-aging-new-york-state>

Regional reports can be read here: <https://aarp-states.brightspotcdn.com/e5/71/9d59e4ba4332b28a0d0aff117bd2/aarpany-cuf-combined-4-reports.pdf>

LITIGATION AROUND THE NATION

Alabama Dismisses U.S. Supreme Court Appeal in *Allen v. Milligan*

On September 29, Alabama dismissed its appeal to the U.S. Supreme Court. This dismissal comes three days after the Supreme Court rejected Alabama's request to stay the order that blocked the state's congressional map from being implemented for the 2024 election cycle. With this dismissal, the court orders blocking Alabama's congressional map remain in place. This case has been through several rounds of litigation, having gone through an earlier appeal to the U.S. Supreme Court. The congressional map that was the subject of this appeal was drafted after the Supreme Court ordered Alabama in June to draft a congressional plan that included a second majority-Black district. Alabama defied this order, along with others, by enacting a congressional plan that did not include a second majority-Black congressional district.

The U.S. Supreme Court's decision in *Allen v. Milligan*, which ordered Alabama to draw a second majority-Black district and upheld Section 2 of the Voting Rights Act, was decided by a slim 5-4 majority, with the majority relying on a swing vote from Justice Kavanaugh.

Through this request for a stay, Alabama was likely hoping to persuade Justice Kavanaugh to switch his vote. This intention to sway Justice Kavanaugh is evidenced by Alabama's filing to the Court repeatedly citing an opinion Justice Kavanaugh authored in June that suggested he could be open to the state's arguments in the right case. A court-appointed special master has now submitted three proposals for the state's 2024 congressional map, which will likely lead to the implementation of a congressional map in the state that conforms with court orders and Section 2 of the Voting Rights Act by adding a second majority-Black district.

New Mexico's Congressional Map Heads to Trial in *Republican Party of New Mexico v. Oliver*

A state-level trial began on September 27 contesting New Mexico's congressional map. The Republican Party of New Mexico alleges that the state's congressional map is a partisan gerrymander that favors Democrats in violation of the state's constitution and its Equal Protection Clause. The complaint alleges that the map splits communities of interest and unnecessarily divides counties, cities, and other areas to achieve a partisan outcome. The plaintiffs are asking the court to strike down the map and order the creation of a partisan-neutral map in time for the 2024 election cycle. The current map contains one safe Democratic district and two highly competitive districts, whereas the previous map included one safe district for each party and one competitive district. The defendants note in their defense of the new map that for the first time since 1991 the map was enacted through legislative policy rather than through litigation, and that the map reflects the many societal and demographic changes in the state over the last several years. They also point to the fact that each district is more competitive under the new map when compared to the old map.

Louisiana: 5th Circuit Cancels Hearing, Delaying Drawing of a Fair Congressional Map

On September 28, a three-judge panel granted Louisiana Republican's request to cancel a lower court hearing (previously scheduled for October 3 through October 5) over Louisiana's new congressional map. Two conservative judges appointed by former Presidents Ronald Reagan and Donald Trump comprised the majority in making this decision.

The order stems from *Ardoin v. Robinson*, a case that challenged Louisiana's congressional map under Section 2 of the Voting Rights Act. The plaintiffs argued that Louisiana's congressional map violated Section 2 because Black voters can only elect their candidate of choice in one of six of Louisiana's congressional districts even though Black residents comprise 33% of the state's population and vote cohesively as a block. In June 2022, a federal district court blocked Louisiana's map for likely diluting the voting strength of Black voters in violation of Section 2 and ordered the state to adopt a new map with a second majority-Black district. Republicans appealed this decision to the U.S. Supreme Court and requested emergency relief, arguing that the case presented the same questions as *Allen v. Milligan*. The Court granted the Republican's requested relief and paused the decision blocking Louisiana's map while also holding the case pending its decision in *Allen v. Milligan*.

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After *Allen*, where the U.S. Supreme Court upheld Section 2 of the Voting Rights Act, the U.S. Supreme Court reinstated an order blocking Louisiana's congressional map. A hearing on how the case should proceed and how the likely Section 2 violation should be remedied was scheduled for October 3 through October 5. Republican officials asked the district court to cancel the hearing, but the district court denied this request because it found that the only remaining issue was to choose a congressional map and found that there was adequate time to do so. Louisiana Republicans made one last ditch effort to cancel the hearing by filing a request for mandamus to the 5th Circuit Court of Appeals to order the lower court to cancel its hearing. In a 2-1 decision written by Justice Edith H. Jones and joined by Justice James Ho, the 5th Circuit granted Louisiana's request, writing that redistricting litigation is "not a game of ambush." This order will further delay a long-fought battle for a map that fairly represents Black voters in Louisiana.

Republican officials also appealed the initial decision that blocked the map to the 5th Circuit Court of Appeals. Oral arguments on this matter are scheduled for October 6.

LEGISLATION**North Carolina to Draw Congressional & Legislative Maps Again**

North Carolina legislators are once again turning their attention to mapping the state's congressional and General Assembly districts. The GOP-controlled General Assembly drew congressional and legislative maps in the fall of 2021 based on 2020 Census data. In February 2022, the state Supreme Court, which had a Democratic majority at the time, struck down the maps, ordering new boundaries after declaring that the state constitution outlawed extensive partisan gerrymanders. Following this decision, the legislature's second edition of General Assembly maps and an interim congressional plan drawn by trial judges were used in the 2022 election.

The state's Supreme Court recently flipped to a Republican majority, and in April it declared that there was no constitutional prohibition on partisan gerrymandering. Republicans hold majorities in both houses of North Carolina's legislature, so whatever lines they agree on will be enacted, as redistricting legislation is not subject to Governor Cooper's veto. This will likely result in the drawing of lines that will allow Republicans to pick up more seats in the U.S. House of Representatives. Such a possibility is evidenced by a congressional map approved by Republicans in 2021, but which was never implemented, that would have given the GOP a strong chance to win 10 of the 14 congressional seats in the state. This starkly contrasts the congressional map used in the 2022 election cycle, where Democrats and Republicans each won 7 seats in the House. It is very likely that lawsuits

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challenging the new maps will be filed following their enactment, as lawsuits have been filed contesting the state's maps for every round of remapping since the 1980s.