

STRONGER TOGETHER:

Native Americans' Fight for Fair Redistricting

EXECUTIVE SUMMARY

Each census and redistricting cycle gives communities the opportunity to advocate for representative government districts that are responsive to their unique needs. The process of redistricting, however, continues to be weaponized to unfairly limit the political power of discrete communities. Gerrymandering, the practice of manipulating local, state, and congressional districts to hoard and hold on to power at the expense of the public will, is a common voter suppression tactic. Special interests such as political parties or incumbent candidates may seek to “crack” or “pack” voters to handpick the composition of districts and manipulate the outcome of elections.

This redistricting cycle saw attempts (some ardently thwarted, some successful — *for now*) to undermine the Native American vote through gerrymandering. Our report seeks to highlight the trials and triumphs of this redistricting cycle from the perspective of Native community leaders and organizers, compiling lessons learned to serve as a resource for future organizing. We explore:

- The impact of the recent redistricting cycle on Native communities,
- Policy reforms that support fair Native representation, and
- Best practices to guide future redistricting organizing.

Our research utilized a mixed-methods approach, with a particular emphasis on interviewing Native American community leaders and organizers involved in this redistricting cycle across states. Over a dozen interviews were conducted, and focused on public access to the redistricting process, public outreach and education, and the use of communities of interest (e.g. Native American and tribal communities) criteria in map drawing. Where data were available and the analysis was pertinent, racially-polarized voting analyses were conducted using bivariate ecological regression analysis. We particularly focused on states with the highest population share of Native Americans based on the 2020 Census.

Our research found the following:



- 1. Census undercounts and the data release delay (due to the COVID-19 pandemic) negatively impacted the final count of Native communities.** The undercount of people living on reservations was estimated to be 5.64%, the highest undercount of any demographic group.¹



- 2. *Shelby County v. Holder* (2013) negatively impacted (retrogressed) Native voting power this cycle:** Before *Shelby County*, states and localities that had been found to have histories of discrimination in voting were required to seek approval (preclearance) from the U.S. Department of Justice or a federal court for any changes to district maps. In the absence of this protection, efforts to undermine voters in these jurisdictions significantly rose. The removal of the preclearance process affected Native communities in the states of Alaska and Arizona and in South Dakota's Oglala Lakota (formerly called Shannon) and Todd Counties, all of whom were previously protected. Arizona was the most heavily impacted, as we saw a reduction in voting power in Congressional District 2.

¹ <https://www.census.gov/newsroom/press-releases/2022/2020-census-estimates-of-undercount-and-overcount.html>



3. Native organizers were shut out of the redistricting process across many states. Organizers faced many roadblocks, including:

- a. Lack of transparency in map-drawing by redistricting bodies;
- b. Restricted access to public input on maps;
- c. Superficial outreach and the subsequent lack of incorporation of Native communities' specific wishes;
- d. Insufficient broadband access, which impacted the public's ability to participate in redistricting hearings, especially during the COVID-19 pandemic; and
- e. Insufficient funding of community-based organizations. Organizations' time and money are spread thin, so direct funding to organizers who know their communities best ensures optimal outcomes.



4. Policies that respected tribal sovereignty improved the process for Native communities: Tribes that were consulted on a government-to-government basis were more satisfied with the process. Examples of specific policies that were implemented include mandating extensive outreach to tribal communities with respect to physical, digital, and language accessibility, and having tribal leaders explicitly involved in the map drawing process.

Based on our findings, we recommend:



1. Resource Native-led organizing – early and often – throughout both the Census and redistricting processes. Ensuring that Native organizers are well-funded is essential to maximizing organizers' capacity to conduct outreach and mobilize their communities.



2. Ensure a timely Census process that accurately captures Native populations. To establish effective protocols for reaching Native communities and achieving an accurate count, the Census Bureau must consult early in the process with Native communities both on and off reservations. Further, opportunities to engage with the Census Bureau must be posted well in advance to ensure the maximum amount of participation.



3. Recognize tribal sovereignty and legally enshrine the following in redistricting processes:

- a. Conduct extensive outreach to Tribal Nations with regard to physical, digital, and language accessibility.
- b. Facilitate and provide resources for a process that gives Tribal Nations the option of selecting at least one redistricting commissioner.
- c. If Tribal Nations choose to forego option B, require a representative from Tribal Nations in the decision-making room and/or require Tribal Nations' input as to the selection of redistricting commissioners.



4. Ensure Tribal and Native Community input in the redistricting process. Native communities must define their own community boundaries, not have those boundaries defined for them.



5. Expand broadband access. Having limited or no broadband access limits people's ability to be civically engaged.

Access the full report here:

commoncause.org/oregon/stronger-together