

Alameda County Bar Association  
Racial Equity Series –  
Deconstructing the Electoral College: Examining  
its History, Purposes, and Impact Today

# Reforming the Electoral College by Expanding the House of Representatives

Kim Alexander, President and Founder  
California Voter Foundation

June 29<sup>th</sup>, 2021

# ABOUT CVF:

**Mission:** *improve the election process so that it better serves voters.*

**Program Goals:** To promote and support:

1. Every Californian's full and equal access to participate in the voting process.
2. Robust federal, state and local funding for election administration.
3. Voting system transparency and security, and meaningful audits of ballots in California and nationwide.



# RECENT REPORT ON HARASSMENT OF ELECTION OFFICIALS

## Documenting and Addressing Harassment of Election Officials

Frontline Workers  
for Democracy



[www.calvoter.org/harassment](http://www.calvoter.org/harassment)

# SECURITY OF ELECTION OFFICIALS AS ELECTION SECURITY

Protecting the safety and security of election officials must now be considered a component of election security.

**Recommendations include:**



Strengthening legal  
protections for election  
officials



Improving law  
enforcement response to  
threats

# GOOD NEWS FRIDAY...

Attorney General Merrick Garland announced he is forming a task force to protect election workers. The task force includes members from the Criminal Division, the Civil Rights division, the National Security Division, and the FBI.



The Deputy Attorney General

U.S. Department of Justice

Office of the Deputy Attorney General

Washington, D.C. 20530

June 25, 2021

MEMORANDUM FOR ALL FEDERAL PROSECUTORS  
DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

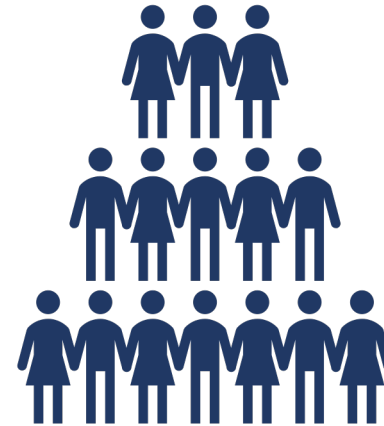
FROM: THE DEPUTY ATTORNEY GENERAL *Lisa Monaco*

SUBJECT: Guidance Regarding Threats Against Election Workers

# TODAY'S TALK...

## My position: The Electoral College is Gerrymandered

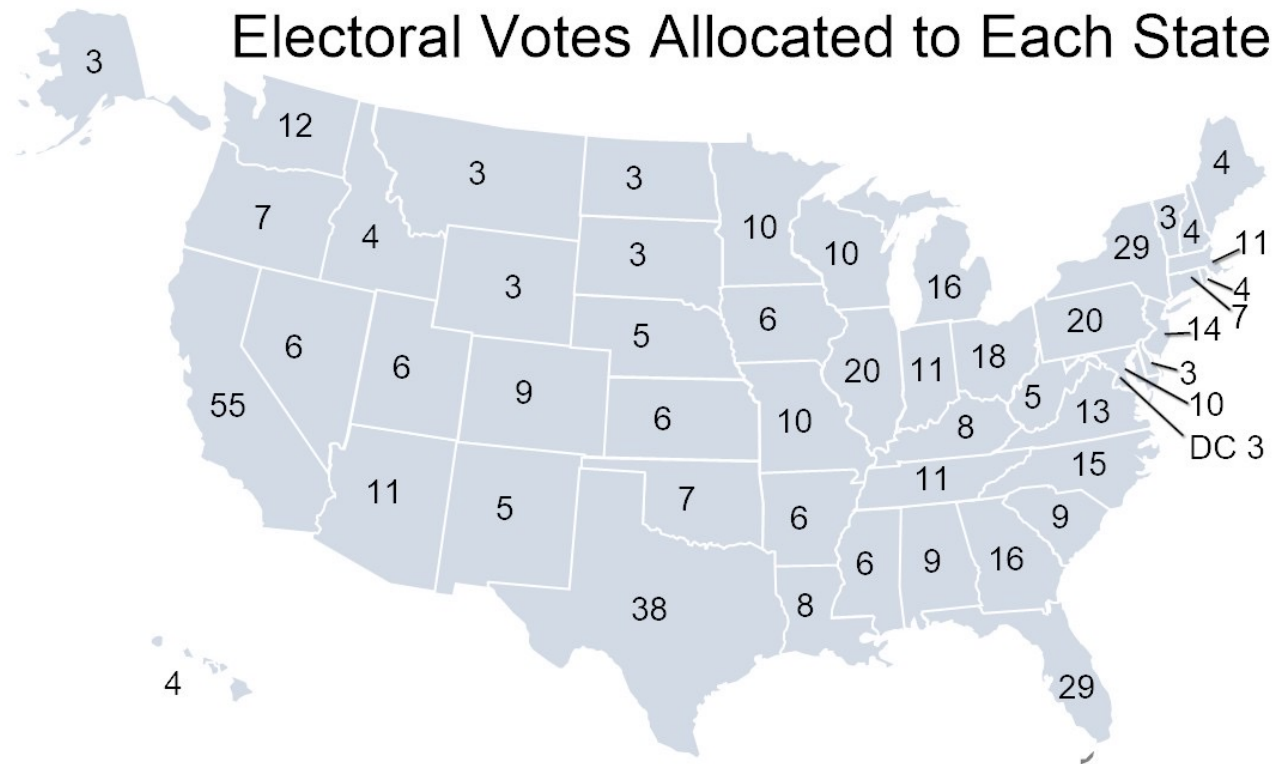
- ❖ People living in less populous states are overrepresented
- ❖ People living in more populous states (like California) are underrepresented.
- ❖ For many years, I accepted this as the way it is and something that would be difficult to change.





# FIRST A QUICK REVIEW:

How we elect the President and how electoral votes are distributed:  
Each states' votes equal its number of U.S. senators (2) and House Members (435 total)



# HOW DID THIS HAPPEN?



- ❖ This formula was established in the Constitution through the “Great Compromise”. But the Constitution **did not limit the number of House seats**; framers anticipated the House would grow as the country grew.
- ❖ However, a 1929 federal law **capped the size of the House at 435**.
- ❖ 435 is not in the Constitution. It was set by statute. It can be amended by statute or challenged through lawsuits.



# WHAT IS THE RESULT?



- By capping the House at 435, the 1929 law guaranteed that the total number of corresponding Electoral College votes would become **finite** rather than continue growing as the nation's population grew.
- This law **further inflates** the voting power of people living in less populous states at the expense of the those living in more populous ones.

- The number of House districts stood at 106 in 1790 and more than tripled a century later, to 357 in 1890, then to 391 in 1900, and to 435 in 1910. The number of people per representative also increased over time, starting at one representative per 34,436 following the 1790 Census, and growing to one per 210,583 following the 1910 Census.

Ratio of representation in the House

Years	Source	Avg. Constituents per Rep.
1793–1803	<a href="#">1790 Census</a>	34,436
1803–1813	<a href="#">1800 Census</a>	34,609
1813–1823	<a href="#">1810 Census</a>	36,377
1823–1833	<a href="#">1820 Census</a>	42,124
1833–1843	<a href="#">1830 Census</a>	49,712
1843–1853	<a href="#">1840 Census</a>	71,338
1853–1863	<a href="#">1850 Census</a>	93,020
1863–1873	<a href="#">1860 Census</a>	122,614
1873–1883	<a href="#">1870 Census</a>	130,533
1883–1893	<a href="#">1880 Census</a>	151,912
1893–1903	<a href="#">1890 Census</a>	173,901
1903–1913	<a href="#">1900 Census</a>	193,167
1913–1923	<a href="#">1910 Census</a>	210,583
1923–1933	<a href="#">1920 Census</a>	243,728
1933–1943	<a href="#">1930 Census</a>	280,675
1943–1953	<a href="#">1940 Census</a>	301,164
1953–1963	<a href="#">1950 Census</a>	334,587
1963–1973	<a href="#">1960 Census</a>	410,481
1973–1983	<a href="#">1970 Census</a>	469,088
1983–1993	<a href="#">1980 Census</a>	510,818
1993–2003	<a href="#">1990 Census</a>	571,477
2003–2013	<a href="#">2000 Census</a>	646,946
2013–2023	<a href="#">2010 Census</a>	709,760

# HOW DID THE CAP GET PUT IN PLACE?



- After 1910, congressional leaders decided the House was full enough and agreed it would be capped at that number for the 1920 Census.
- But doing so would have resulted in ten rural states **losing eleven Congressional seats** and Electoral College votes to **eight urbanizing states**

# HOW DID THE CAP GET PUT IN PLACE?



- Congress couldn't decide what to do so they skipped reapportionment altogether (in violation of the Constitution).
- Then in anticipation of the 1930 Census, Congress passed The Reapportionment Act of 1929, aka "The Permanent Apportionment Act of 1929").

- U.S. voters now share their representatives with 709,760 people (or more) on average.
- According to the Pew Research Center, the U.S. has by far the largest representation ratio in its lower national legislative house among the 35 nations in the Organization for Economic Cooperation and Development.
- Coming in second place is Japan, with one representative for every 272,108 constituents.

Ratio of representation in the House

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# WHAT IS THE IMPACT OF THE CAP?



By capping the House at 435, the 1929 law guaranteed that the total number of corresponding Electoral College votes would become finite rather than continue growing as the nation's population grew. By doing so, this law further inflated the voting power of people living in less populous states at the expense of the those living in more populous ones.

# WHAT IS THE IMPACT OF THE CAP?



Think of it this way: even if 90% of the U.S. population ended up living in only 5 states, their combined electoral voting power maxes out at 73% because the voters in the other 45 states are guaranteed three votes ***no matter how small they are.***

*According to 2020 Census numbers, 37% of the U.S. population already lives in five states: California, Texas, Florida, New York and Pennsylvania.*



# WHAT IS THE IMPACT OF THE CAP?



- The idea of lifting the cap on the House and increasing the number of Electoral College votes may strike some as unfair to voters in less populous states.
- But remember: the point of the **US Senate** is to ensure adequate representation for Americans living in less populous states. The point of the **House of Representatives** is to ensure adequate representation of **all people** in the United States.

# WHAT IS THE IMPACT OF THE CAP?



The limit on the total number of House districts exaggerates the voting power of people living in less populous states at the expense of those living in more populous ones in **all three branches of U.S. government.**

# WHAT IS THE IMPACT OF THE CAP?



Voters in less populous states are now not only over-represented in **both houses of Congress**, but also in the **executive branch** by virtue of their corresponding, inflated Electoral College voting power and in turn, in the **judicial branch** of government which is appointed by the executive branch.

*This gerrymandering of the Electoral College also helps explain why the popular vote and the Electoral College vote have differed in two recent presidential elections.*

# WHO LIVES WHERE?

Who lives in less populous states?

- Predominantly White Americans

Who lives in more populous states?

- People of Color, Immigrants, Young People

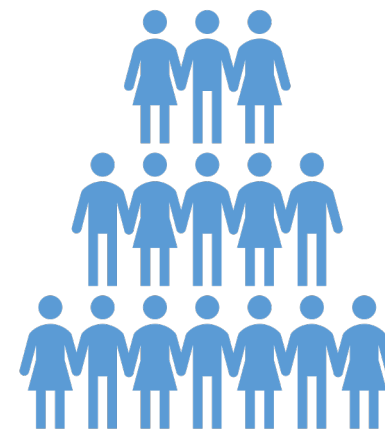
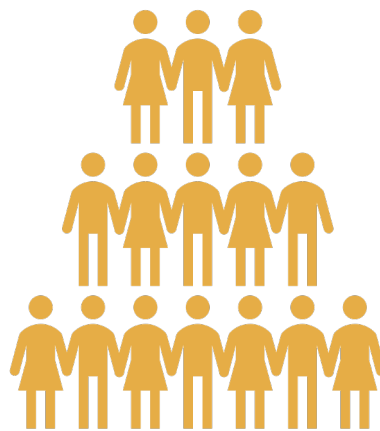
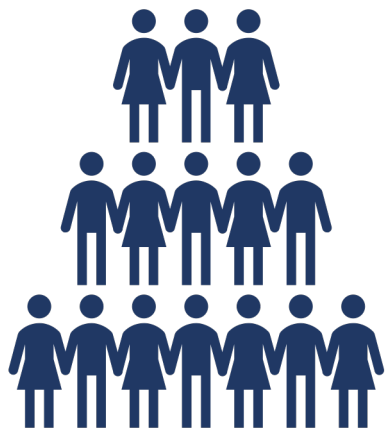
# WHAT IS THE IMPACT ON DEMOCRACY?



**Restricting** the voting power of people living in the more populous states **limits** the voting power of people of color and violates the Voting Rights Act and the 14<sup>th</sup> Amendment by undermining the voting rights of minority voters across the country.

# HOW DO WE FIX THIS?

Lift the cap on the House



# HOW TO DO THIS?



Legislation



Litigation



Public relations and public education



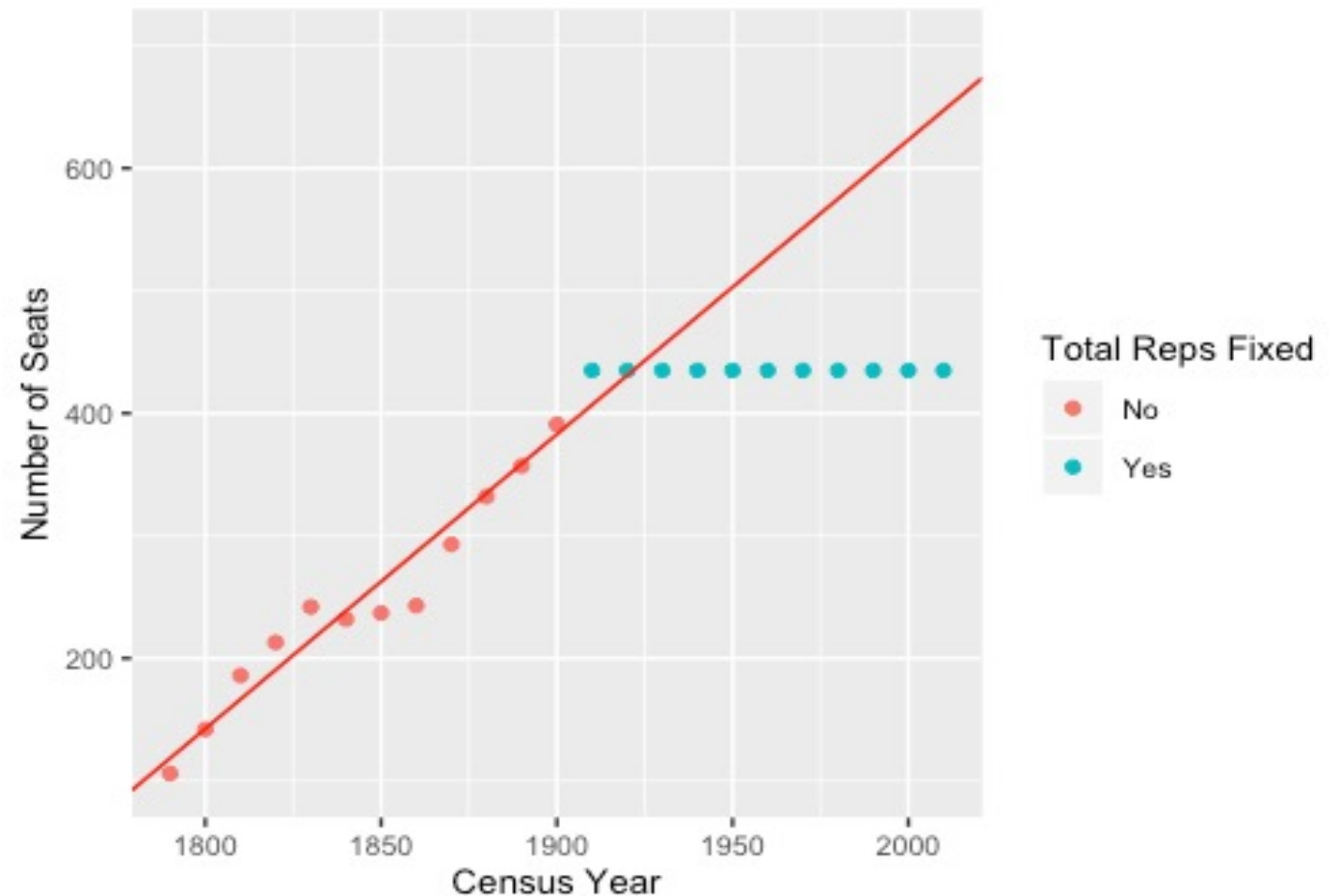
Grassroots lobbying



# HOW MANY SEATS TO ADD?

A linear statistical projection estimates that if the House had continued to grow at the same pace after 1910 as it did before the cap, today there would **647 House** districts instead of 435, and **750 Electoral College** votes instead of 538.

Based on population projections, the 2020 Census would yield 671 House districts after the 2021 Census.



# WHAT WOULD THE OUTCOME BE?

❖ If there were **647** House districts today, each House member would represent about **477,000 people**.

- ❖ Californians would have 78 representatives in the House and 80 Electoral College votes instead of 55.
- ❖ Texas' House seats would grow from 36 to 53, New York's from 27 to 41, and Florida's from 27 to 39.
- ❖ Wyoming would still have just one representative in the House and three Electoral College votes, as would Alaska, North Dakota and Vermont.

# WHAT WOULD THE OUTCOME BE?

- ❖ California's presidential voting power would be 27 times greater, rather than 18 times greater than Wyoming's.
- ❖ California's 80 Electoral College votes would comprise **10.7%** of all Electoral College votes, instead **of 10.2%**.

The House of Representatives would also become more representative of the U.S. population as a whole.

# THANK YOU



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