

COMMONWEALTH OF PENNSYLVANIA  
LEGISLATIVE REAPPORTIONMENT COMMISSION

In re: Public Meeting of the Legislative  
Reapportionment Commission

VOLUME VII - Pages 320-393

Stenographic report of hearing held  
in Hearing Room No. 1, North Office  
Building, Harrisburg, Pennsylvania

Tuesday  
August 3, 2021  
2:00 p.m.

MARK A. NORDENBERG, CHAIRMAN

MEMBERS OF LEGISLATIVE REAPPORTIONMENT COMMISSION

Sen. Kim Ward	Rep. Kerry Benninghoff
Sen. Jay Costa	Rep. Matthew Bradford
	(Deputy Commissioner for Rep Joanna McClinton)

Also Present:

Robert L. Byer, Esq., Chief Counsel  
G. Reynolds Clark, Executive Director  
G. Carlton Logue, Esq. Deputy Counsel, Senate Majority Leader  
Chad Davis, Research Analyst, Senate Republican Policy Office  
C.J. Hafner, Esq., Chief Counsel, Senate Democratic Leader  
Ronald N. Jumper, Esq. Deputy Chief Counsel, Senate Democratic  
Leader  
Lora S. Schoenberg, Director, Senate Democratic Legislative  
Services  
Rod Corey, Esq., Chief Counsel, House Republican Caucus  
James Mann, Esq., Senior Deputy Chief Counsel, House  
Republican Caucus  
Katherine Testa, Esq., Senior Legal Counsel, House  
Republican Caucus  
William R. Schaller, Director, House Republican District  
Operations  
Michael Schwoyer, Esq., Special Counsel, Deputy Chief of  
Staff for Legislation and Policy, House Democratic Caucus

Reported by:  
Ann-Marie P. Sweeney  
Official Reporter

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Also Present:  
Justin Klos, Director, House Democratic Office of  
Demographic Analysis  
David Brogan, Esq., Director, House Democratic Legislation  
and Policy  
Andrew McGinley, Esq., General Counsel, House Democratic  
Government Oversight Committee



INDEX

<u>Witness</u>	<u>Page</u>
Carol Kuniholm, Co-Founder and Chair, Fair Districts of PA	324
Khalif Ali, Executive Director, Common Cause of Pennsylvania	348
Amanda Holt, Plaintiff in <u>Holt v. 2011 Legislative Reapportionment Commission</u> and mapping expert	364
Lee Hachadoorian, Faculty Member, Temple University Department of Geography & Urban Studies, Assistant Director of Temple's Professional Science Master's Degree Program in Geographic Information Systems, and affiliated with Concerned Citizens for Democracy	378

1 CHAIR NORDENBERG: Good afternoon, everyone. My  
2 name is Mark Nordenberg. As the Chair of the Legislative  
3 Reapportionment Commission, it is my pleasure to call this  
4 hearing to order. This is the third of our hearings. This  
5 one will consist of testimony from four invited experts. This  
6 evening, we'll have a hearing in this same location which will  
7 be devoted exclusively to citizen witnesses, and tomorrow  
8 evening, here, we will have a hybrid - a couple of invited  
9 guests and the rest of the time devoted to the public.

10 I'm joined here at the front of the room by Kerry  
11 Benninghoff, who is the Majority Leader in the House of  
12 Representatives; by Senator Kim Ward, who is the Majority  
13 Leader in the Pennsylvania Senate; and by Senator Jay Costa,  
14 who is the Democratic Leader of the Senate. And though I  
15 can't tell if he is up on the screen yet, we expect to be  
16 joined by--well, here he comes, just on cue--Representative  
17 Matthew Bradford, who is the Chair of the House Appropriations  
18 Committee, and who is sitting in today for Jo McClinton, who  
19 is the Democratic Leader of the House of Representatives.

20 We do want to welcome everyone who is joining us  
21 for this hearing - those who are here in the Capitol as well  
22 as those who are viewing the proceedings on livestream. I  
23 certainly extend that expression of welcome on behalf of each  
24 of the other Commissioners. And let me simply look down the  
25 row here and ask if there's anything that any other

1 Commissioner would like to say in opening.

2 SENATOR K. WARD: Just I'm happy to be here and to  
3 take input from the testifiers today. You know, we represent  
4 Pennsylvania and we live here, and so you represent  
5 Pennsylvania. So I'm happy that we have such an active  
6 Chairman here that is making sure that we stay transparent and  
7 open to the public. So I look forward to today's hearings.

8 CHAIR NORDENBERG: And our first witness today is  
9 Carol Kuniholm, who is the Co-Founder and Chair of Fair  
10 Districts, a group that has had tremendous impact here in  
11 Pennsylvania in terms of educating the public about the  
12 redistricting process and interesting citizens in that  
13 process. So Dr. Kuniholm, if you would like to begin, the  
14 floor is yours.

15 MS. KUNIHOLM: Thank you. Thank you for the  
16 invitation to be here today and to share the concerns of Fair  
17 Districts PA volunteers and supporters. I'm here to speak on  
18 behalf of the more than 100,000 PA citizens who have signed a  
19 petition to reform the redistricting process, the 60,000  
20 citizens who receive and act on our regular redistricting  
21 emails, and the thousands of volunteers from all parts of  
22 Pennsylvania who have presented over 1,000 informational  
23 meetings on redistricting in the past five years to over  
24 40,000 people, and I'm happy that some of those volunteers and  
25 supporters are here with us today.

1           In my own travels around the State, I have talked  
2 with voters in cities and small towns, in library basements,  
3 church fellowship halls, restaurant meeting rooms about our  
4 legislative districts. I've heard from voters who wonder why  
5 their precincts are split, why they need to go through two,  
6 sometimes three other districts to get to their legislator's  
7 office. I've talked with voters disheartened by the fact that  
8 elections are sometimes decided long before any opportunity to  
9 vote. I came to this work through the League of Women Voters.  
10 As a local League member, I joined other more experienced  
11 members in a meeting with my own State Senator back in 2015.  
12 One of our questions was, what solutions would you support to  
13 insure fair legislative maps in 2021? His response, that is  
14 not a problem. My colleague, he named the Senator closest to  
15 him from the opposing party, we meet and look at the map and  
16 decide what neighborhoods to move. It's very friendly.  
17 There's no need to change it. What struck me was that this  
18 Senator was so convinced of his right to choose his voters, he  
19 thought we would be equally fine with this cozy arrangement.  
20 We were not fine with that arrangement, and we are not fine  
21 with that arrangement.

22           Every district map is shaped by the values of  
23 those who draw it. Our PA Constitution requires that  
24 districts be compact and contiguous, and unless absolutely  
25 necessary, keep counties, cities, boroughs, townships, and

1 wards intact. It also requires free and equal elections, and  
2 puts a high value on the ability of citizens to alter and  
3 reform their government. Even a cursory look at PA  
4 legislative maps shows that those values have been  
5 consistently ignored. The values that have shaped our  
6 district maps are more often incumbent protection, power of  
7 leadership over individual legislators, and manipulation of  
8 lines to insure a lasting legislative advantage for the party  
9 with the final say in drawing district maps.

10           What this Commission does in the next few months  
11 will shape Pennsylvania for the next decade and beyond. You  
12 are here to draw district maps, but you are also here to  
13 restore trust in the process, to reassure voters that their  
14 voices will be heard, and to affirm values dear to the  
15 democratic process. As we've learned by examining maps in  
16 every corner of the Commonwealth, by participating in Draw the  
17 Lines mapping contest, and by talking at length with national  
18 mapping experts, there is no simple way to insure fair maps.  
19 It is not enough to say minimize county splits and ignore  
20 everything else, or let a computer do it, or find the map with  
21 the highest score for compactness. As with many important  
22 tasks, mapping requires holding values in balance with  
23 meaningful citizen input. Our form of government itself is a  
24 masterful, enduring example of values held in balance with  
25 constant input from engaged citizens. A district that on

1 paper looks compact may in fact be the opposite from voters  
2 who can't get from one side of the district to other because  
3 of an impassable ridge or river. Minimize splits, if held as  
4 the highest priority, can undermine responsiveness and block  
5 efforts to insure equal representation for racial minority  
6 voters.

7 Fair Districts PA is just concluding a mapping  
8 contest in which we asked citizen-mappers to use values  
9 identified in House Bill No. 22 and Senate Bill No. 222, the  
10 Legislative and Congressional Redistricting Act, bills that  
11 gained 90 House and 25 Senate cosponsors, but were never given  
12 a vote. The goal was to balance the constitutional  
13 requirements of compactness, contiguity, and minimal splits  
14 with the need to insure minority voters' fair representation,  
15 avoid partisan bias in the overall map, and as far as  
16 possible, protect communities of interest, observe geographic  
17 boundaries, and promote responsiveness. What we've learned is  
18 that even a high school mapper can accomplish all of those  
19 goals with better metrics than the current PA House and Senate  
20 maps. And we've learned that citizen-mappers, even those new  
21 to the task, can complete good maps in a matter of days.

22 We allowed less than three weeks from announcement  
23 of the contest on June 26 to the deadline on July 14 and  
24 received several dozen maps that met or came close to LACRA  
25 requirements. Our next step will be to share winning maps

1 with communities across PA to invite further input and  
2 refinement. We know that sometimes a small adjustment of a  
3 district line can make a huge difference for an impacted  
4 community.

5           We have heard legislators say that it's important  
6 for continuity that new maps reflect the contours of old  
7 district lines as much as possible. In our own study of  
8 district maps across time, we've seen many dramatic changes  
9 that ignore any concern for voters. We've done our best to  
10 record the stories behind some of those changes: Legislators  
11 punished for voting independently, strong competitors drawn  
12 out of districts, or districts cracked in pieces to make  
13 reelection impossible, purple areas splintered to eke out more  
14 seats for the party drawing the lines. In our contest, we  
15 indicated that maps drawn to acknowledge current districts and  
16 include cores of those districts would be given preference in  
17 the evaluation process so long as they met other requirements.  
18 Those who tried called attention to the difficulty in doing  
19 so, pointing to the way current districts snake between many  
20 different counties. As one mapper pointed out, Pittsburgh is  
21 a bit of a mess with districts split across all of the rivers.  
22 The same is true of Philadelphia, and of many other of our  
23 more densely populated regions.

24           We will be submitting final maps from our contest  
25 as testimony to this Commission when they're available, along

1 with the metrics we collected as part of the contest. We  
2 believe they will provide a benchmark for any maps this  
3 Commission will propose. In evaluating maps for our contest,  
4 we have had good conversations about ensuring equitable  
5 representation for minority voters. Past PA maps have fallen  
6 far short in this. As some of our mapping advisors have  
7 noted, historic practices, such as red-lining and denial of  
8 housing loans, forced communities of color into specific  
9 neighborhoods for generations. PA maps should readdress the  
10 geographic disenfranchisement that continues as communities of  
11 color are cracked and packed into distorted districts. Voting  
12 Rights Act requirements need to be held in balance with  
13 creation of opportunity districts that could afford greater  
14 possibility of more equal representation.

15 We would encourage this Commission to hold a  
16 separate hearing to address questions of racial equity. As  
17 part of such a hearing, Fair Districts PA and coalition  
18 partners would ask the Commission to also include experts on  
19 prison-based gerrymandering. The Census Bureau's count of  
20 incarcerated persons in the places where they are incarcerated  
21 conflicts, we believe, with the Pennsylvania Election Code,  
22 which states that an incarcerated individual shall be deemed  
23 to reside where the individual was last registered to vote or  
24 at his last known address before being confined. The count  
25 also conflicts with the long-established legal principle that



1 incarceration does not automatically change a person's  
2 residence. The Census count also violates the principle of  
3 one person, one vote, and the free and equal elections clause  
4 in the PA Constitution. Given Pennsylvania's high levels of  
5 incarceration in relatively small district populations, the  
6 current count dramatically enhances the voting power of  
7 citizens in districts containing State prisons while  
8 significantly diluting the vote of communities most impacted  
9 by mass incarceration.

10           There is nothing in Federal or State law requiring  
11 use of unadjusted Census data. Previous Commissions routinely  
12 made technical adjustments to the official Census reports  
13 before drawing legislative districts, such as correcting  
14 voting district code and name discrepancies, late precinct  
15 changes, and problems with split Census blocks. It is also  
16 the case that many counties and local governments in other  
17 States have resolved to reallocate inmate data to address  
18 distortions in local redistricting. Last week, Ben Williams  
19 of the NCSL spoke about the time factor in reallocating inmate  
20 data, suggesting that it is a very time-consuming process.  
21 This would be the case if no prior work had been done. The  
22 Pennsylvania Department of Corrections has already taken  
23 necessary steps to gather appropriate residents' data and  
24 affirmed yesterday that a corrected data set is ready for use.

25           There were also some comments in that hearing

1 regarding funding impacts that might result from reallocation  
2 of prison data. Data adjustments used for redistricting would  
3 not be required for use in funding formulas, and research  
4 shows the way people in prison are counted in the Census has  
5 no real impact on a particular area's funding. There is  
6 growing legal precedent to support reallocation of prison  
7 data. While the PA legislature has so far failed to consider  
8 legislation to address this issue, there is no legal reason  
9 for this Commission to continue an inequitable practice that  
10 distorts representation and benefits a handful of districts at  
11 the expense of a great many others.

12 Our requests to this Commission: Invite expert  
13 testimony on best ways to insure racial equity, resolve to  
14 adjust Census data to count incarcerated persons in their home  
15 communities, clarify values before you begin mapping and  
16 explain to citizens how those values will be prioritized,  
17 consider the values in prioritization expressed in LACRA -  
18 House Bill 22 and Senate Bill 222, explain when and why one  
19 value is sacrificed for another so voters understand how  
20 decisions were made, and invite public comment as you begin  
21 maps but also insure time for public review, comment, and  
22 adjustment of lines before maps are finalized.

23 I've submitted as an addendum to my comments here  
24 a one-page summary of LACRA, as well as one-page summaries  
25 prepared by the Princeton Gerrymandering Project explaining

1 key terms and analytics referenced in the bill. I've also  
2 included links to information regarding questions surrounding  
3 the reallocation of prison data.

4 I look forward to your questions. Thank you.

5 CHAIR NORDENBERG: Thank you very much.

6 Let me open the floor for questions or comments  
7 from Members of the Commission.

8 Senator Ward.

9 SENATOR K. WARD: Thank you for your testimony.

10 I have a -- when it comes to the prison  
11 gerrymandering, I guess that's what we're going to call it,  
12 what do we do with the prisoners that don't have an address  
13 from before or who don't live in the State, or I look at the  
14 county prisons, because I'm a former county commissioner. So  
15 say somebody from Allegheny County comes into the Westmoreland  
16 County Prison, we pay for their health care. Where they're  
17 housed pays for them. How do we address that, and how do we  
18 address those that may not have an address or have come from a  
19 different State that are in our State prisons? Because we  
20 have to count everybody.

21 MS. KUNIHOLM: So I would say in terms of the  
22 funding, the allocation of data for redistricting has no  
23 impact on funding.

24 SENATOR K. WARD: Correct, but we're saying that  
25 this person really belongs here, but we are responsible for

1 taking--

2 MS. KUNIHOLM: Correct.

3 SENATOR K. WARD: --care of that person.

4 MS. KUNIHOLM: Sure. And so the funding question  
5 is one, the representation question is another, which we've  
6 heard from people who say we reach out to the legislators in  
7 the places where we're incarcerated and some of those  
8 legislators do respond, but many say you're not my  
9 constituent, you're really the constituent of the place that  
10 you're from, which puts a really heavy burden back on those  
11 home communities if they have a large number of people who are  
12 incarcerated. So there's lots of questions. There's funding  
13 questions, I would say that's not impacted by this; there's  
14 representation questions, which are large; and then the  
15 question that you're asking is how do you count and who do you  
16 count, and what does that look like?

17 So what we're proposing is, set congressional  
18 district aside, because those districts are so large that  
19 they're not really heavily impacted by prisons. Set the  
20 county prisons aside, because those tend to be either in the  
21 same county, or the counties between themselves are sorting  
22 that out. But look at the State prisons, because that's  
23 really where the harm is done, and for State legislative  
24 purposes, I would say look at State populations that are  
25 incarcerated in State prisons. And there is data for many of

1 those people. In the cases where there's not, then count them  
2 either where they are or simply remove them from the count.

3 I mean, there's two ways to do that, and this  
4 Commission could resolve which you prefer, and there are  
5 different ways to do that which have been used across the  
6 country. Our point is that those are small numbers compared  
7 to the very large numbers which impact some districts heavily.  
8 So disproportionately swells the voting power of people in  
9 districts with very large prisons and disproportionately  
10 impacts the communities where many of their people end up in  
11 prison in other parts of the State. And many of those people  
12 are coming home soon. I mean, the average stay in prison is  
13 less than four years, and many of those people actually can  
14 vote where they are incarcerated. We've got a high percentage  
15 of people in State prison who are there for parole violations.  
16 Those people are eligible to vote. We have a pretty high  
17 number who are there for misdemeanors. Those people are  
18 eligible to vote. They are not allowed to register to vote in  
19 the places where they are currently being counted, which is a  
20 discrepancy. I mean, what we could see is if those people did  
21 register to vote in those districts, well, they're not allowed  
22 to. If they could, it doesn't reflect the community, and it  
23 doesn't make sense that they're being counted in a place where  
24 they are not allowed to vote, even though some of them are  
25 eligible to vote.

1           SENATOR K. WARD: Yeah, that's weird, they're not  
2 allowed to vote if they're actually permitted to be on the  
3 voter rolls, because college students are allowed to register  
4 where they're living in their dorms. So there's a conflict  
5 there.

6           MS. KUNIHOLM: Yeah.

7           SENATOR K. WARD: Maybe we need to fix that.

8           MS. KUNIHOLM: Yeah.

9           CHAIR NORDENBERG: Representative Bradford.

10          REPRESENTATIVE BRADFORD: Thank you.

11                 And I just want to begin, actually, by thanking  
12 the work Fair Districts does. I have got to tell you, you  
13 don't always have to agree to really respect, especially in my  
14 neck of the woods in southeastern Pennsylvania. Ten years  
15 ago, I had just gotten elected, and gerrymandering was not  
16 even a thing. People didn't really know what it was. Maybe  
17 some of our more history buffs, but you guys have made it a  
18 real -- an understandable cause at a time where democracy  
19 feels like it's under threat. Before it was fashionable, you  
20 guys have been out there raising awareness and getting people  
21 involved on an issue that's very important and one that's near  
22 and dear to my heart. And I mention it only because, you  
23 know, 10 years ago, my legislative district was one of those  
24 districts that was horribly distorted, and when the Supreme  
25 Court did get involved, they put my home municipality back

1 into the district. So I can appreciate some of the absurd  
2 lengths that this has gone to over the years.

3 On the issue of prisoner reallocation, or prisoner  
4 gerrymandering, the district right next to mine--again, not to  
5 be parochial about it, the 150th legislative district--not  
6 only was drawn to have the Montgomery County Prison, but also  
7 Graterford One and Two, which is one of our largest--now  
8 Phoenix One and Two--one of our largest facilities. And it's  
9 so glaring when you look at the votes totaled in the  
10 districts, me and my neighboring legislator, you just -- it's  
11 eye popping because of the folks that are counted to that but  
12 then obviously are not into the voting population, which has a  
13 distortion in terms of the one-man-one-vote standard that I  
14 think we should all try to hold ourselves to, realizing the  
15 standard is a little different in State redistricting, but it  
16 has a real impact, and one just needs to look at two  
17 neighboring districts of which, again, mine is one of them.  
18 So I wanted to kind of say, kind of, I recognize that.

19 I also want to appreciate you making clear the  
20 difference between representation versus funding. You know, I  
21 think that argument is specious. I think it's thrown out  
22 there a lot that if you do one, you can't do the other, and I  
23 think we've got to make sure that we're looking at these truly  
24 as an opportunity to make sure we get this right. Other  
25 States are doing it, and the Commonwealth is going down that

1 road. So I want to thank you for that.

2 I did have one question for you. One of the  
3 issues, often from the advocates, and, you know, I've said  
4 this, Pennsylvania is not Iowa, and so I often joke, you know,  
5 when you look at your guy's graphic for your symbol, I'm like,  
6 Pennsylvania doesn't fall into boxes, right? Communities of  
7 interest don't follow those lines, school districts, it's  
8 difficult. What are the biggest disconnects you have with  
9 your own advocates as you try to explain to them at a deeper  
10 level that, you know, the Voting Rights Act, and communities  
11 often follow a river, so you may have a district that doesn't  
12 fit into one of the nice boxes that we might have in a State  
13 like Iowa or in the graphic you guys used. How do you educate  
14 your members? How do you get advocates whose heart is in the  
15 right place to also understand the nuance and why that's so  
16 important?

17 MS. KUNIHOLM: Well, its a long-term education  
18 project. And you know for yourself, your colleagues, many of  
19 them don't really understand redistricting and think, you  
20 know, we could do it this simple way and it would go smoothly.  
21 There are people who say let a computer do it. There are  
22 people who say just minimize splits. There are people who  
23 say, well, they need to look, you know, the districts need to  
24 look nice. And we've tried very hard to say there are  
25 multiple values, as I've described.



1           So this LACRA bill, we've done a great deal of  
2 education to voters to say these are the constitutional  
3 priorities that have to be acknowledged. The ones in the  
4 Pennsylvania Constitution specific to redistricting, and then  
5 there are priorities, values specific to voting. There are  
6 values that have been affirmed in court, so legal precedent,  
7 we need to be observing those, and then beyond those, what are  
8 things that you as a voter complain and care about?

9           And so I have to say, the one about not dividing  
10 counties and observing geographic boundaries for me was kind  
11 of personal, because I've had so many phone calls. We have an  
12 800 number on our website and a lot of those calls come to me,  
13 and I'll get people calling me from strange places, rural  
14 places, counties I've never visited, saying I just saw your  
15 website and you need to know I am so angry. The thing about  
16 ridges, I have to drive through two or three other districts  
17 to get to my legislator's office because there's a ridge in  
18 the middle of our district and I can't drive over the ridge, I  
19 have to go around the ridge. And this district was drawn by  
20 someone who doesn't know Pennsylvania and doesn't -- we have a  
21 lot of ridges, and I can show you House and Senate districts  
22 in Pennsylvania where you cannot get from one part of the  
23 district to the next without crazy driving to get there.

24           And it's hard for you to represent if you are in a  
25 district like that. I've heard legislators say, this district

1 makes no sense, and voters care a lot about that. So the  
2 thing of respecting geographic boundaries, we looked at Senate  
3 District 48, which is all of Lebanon County, the southern  
4 piece of Dauphin County, and then it goes across the  
5 Susquehanna River to York County in a place where there's no  
6 bridge. So you have to go, if you go the north route, you've  
7 got to go through two districts to get there. If you go the  
8 south route, it's longer, but you will only go through one  
9 district, but there's no bridge from one part of the district  
10 to the other. And that part of York County, if you ask voters  
11 there have they ever seen a State Senator in their part of the  
12 district, they will say no. We've got people who have said  
13 we've never seen a State Senator in our part of our district.  
14 They don't bother. They can win simply by campaigning in  
15 Lebanon County. We're just a fraction. And that happens  
16 across the State.

17           So we help people understand the different  
18 priorities, we help them look, and right now we're encouraging  
19 people, we've been really using Dave's Redistricting App a lot  
20 because it has analytics. So people can draw a map and then  
21 see what that does to things like partisan bias, to things  
22 like responsiveness, to things like compactness, and begin to  
23 look at metrics and realize it's not just -- there's no quick,  
24 easy fix. It's -- but think about when you go to buy a car,  
25 it's not I need four wheels and I'm good or, you know, as long

1 as it's got some windows, I'm set. No, it's complicated. You  
2 want lots of things, you're weighing values, you're thinking  
3 through metrics, and that's true of many important things, and  
4 mapping is one piece of it.

5 REPRESENTATIVE BRADFORD: Thank you.

6 CHAIR NORDENBERG: Other comments or questions?

7 Senator Costa.

8 SENATOR COSTA: Thank you very much, Mr. Chairman,  
9 and thank you, Carol, for your testimony today and the work  
10 that you all have done, as Representative Bradford indicated,  
11 and the Commission and stuff we served together on and the  
12 input along those lines.

13 I've got a question. First, let me start by  
14 saying that that York County/Lebanon one you described, I  
15 didn't vote for that. I was opposed to it and took it to  
16 court, as you know. In any event, I would tell you that I'm  
17 concerned about the upcoming primary election, and we have a  
18 very shortened timeline, as you know, to get through things  
19 without possibly moving the primary election. What are your  
20 thoughts on somewhere, something has to give. What are your  
21 thoughts on where that something has to give, where that needs  
22 to be? Is it moving the election? Is it shortening the  
23 13-week period between petitions and election day? Is it  
24 truncating some of the timelines that we have to work with? I  
25 know where I've indicated earlier, I think the last thing we

1 should be doing is looking at truncating any timeline with  
2 respect to our process, but interested to see what your  
3 thoughts might be or how we strike that right balance to get  
4 us to a place where we can do our work and do it in an open  
5 and transparent way and let folks have their opportunity to  
6 participate, but at the same time respect and honor the  
7 election timelines. Can you just provide some thought along  
8 those lines?

9 MS. KUNIHOLM: Yes. So I think what you're doing  
10 now is really important. So you're listening to voters before  
11 the data is available, which is good. So you've got some kind  
12 of a start, and then I think actually drawing maps is not that  
13 time-consuming of a process. You've got folks who have done  
14 this before. You've hired a really excellent mapping  
15 consultant. And as I said, in our contest, we gave three  
16 weeks and we had people who don't know how to do this draw  
17 really good maps in three weeks. So I think that piece of it,  
18 the constitutional requirement of the number of days required,  
19 the technology is available now to do that so much more  
20 quickly. And the technology is also available to share it  
21 publicly far more quickly. It used to be how did you share  
22 maps publicly in a way that people could engage with and  
23 comment on? It's much more easy to do that now. You can give  
24 people a link, they can go -- I mean, right now, the current  
25 State House and Senate maps are on Dave's Redistricting.

1 Anybody can go on there, run any metrics they want, zoom in on  
2 any district they want, look at the places where the lines  
3 don't make any sense. It's possible for anybody to do that.

4           So we're training people to do that now. As soon  
5 as you have the data, your mappers can begin their work.  
6 We're asking you before they begin their work to tell us what  
7 the parameters are that they're working with, but they could  
8 draw good maps in a matter of a few weeks. I mean, honestly,  
9 I have drawn Senate maps in a matter of a weekend. If I had a  
10 few more days, I could make them a little bit better, but I  
11 can draw a Senate map in a weekend. I can draw a House map in  
12 a week and neglect a few of my household chores, but I can do  
13 that. So I would say if you've got somebody who's trained to  
14 do this and it's their full-time job, they can certainly draw  
15 really good Senate and House maps within a matter of a couple  
16 of weeks, and then you can make those available to the public,  
17 have virtual hearings where people can comment, but also  
18 invite specific comment on places where those maps really  
19 don't meet the public need. And you can get that done, I  
20 think, very quickly.

21           So I don't see a need to move the primary. I  
22 don't see a need to extend this. I do think there needs to be  
23 adequate time for public review. That's the one thing I would  
24 say. You know, make sure that that time is available, but the  
25 mapping process itself, with the technology we have, can go

1 really quickly.

2 SENATOR COSTA: Thank you.

3 CHAIR NORDENBERG: Anything else from the  
4 Commission?

5 REPRESENTATIVE BRADFORD: Can I ask another  
6 question? Thank you, Chairman.

7 One question, going back to some of the Federal  
8 legislation regarding whether there's a standard for  
9 gerrymandering, and they used the efficiency gap or the  
10 concept of wasted votes. Do you guys have an opinion on that  
11 as whether that's a good barometer for what level of tinkering  
12 around gets you into the place where you're truly subverting  
13 democracy?

14 MS. KUNIHOLM: Yeah, I would say that they  
15 actually -- the League lawsuit in 2018 looked at a lot of  
16 different metrics, and I think it's important to look at a lot  
17 of metrics. The efficiency gap is not the best metric for a  
18 State like Pennsylvania. We have some demographic sorting  
19 that goes on, so looking at things like partisan bias, looking  
20 at seats-to-votes skew. I mean, there are some other metrics.  
21 That's why Dave's Redistricting App is really good and why  
22 we're looking forward to sharing the metrics we're using.  
23 I've had some really good conversations with the Dave behind  
24 Dave's Redistricting App and some other analysts here in  
25 Pennsylvania and nationally who have talked through for a

1 State like Pennsylvania, what are the best metrics, and what  
2 are the metrics that, in Pennsylvania, are not as effective?

3 So we'll share what we've learned in testimony as  
4 soon as we finish our contest, or as we get further along in  
5 this process. But I would encourage you to invite, for  
6 testimony, someone who has actually worked deeply in metrics,  
7 because I think there's some really important -- and you might  
8 have somebody later today who's going to talk a bit about the  
9 analytics and the metrics. But efficiency gap, I would say,  
10 is not the top metric that should be looked at for  
11 Pennsylvania.

12 REPRESENTATIVE BRADFORD: Thank you.

13 Thank you, Chairman.

14 CHAIR NORDENBERG: At an earlier point in your  
15 testimony, you seemed to suggest that Fair Districts had a  
16 list of places where the current maps failed local communities  
17 because of the geography, which, of course, is hard for  
18 anybody but a local person to know. And so if you do have  
19 such a list, we would welcome receiving it. And I will say  
20 that our website is specifically requesting that kind of  
21 information from citizens, too.

22 MS. KUNIHOLM: My question to you though would be,  
23 the new maps will not necessarily be the same as the old maps.  
24 In fact, we would urge that they be substantially different  
25 than the old maps. We know the demographics will be

1 different, but we know that the current maps, as our mappers  
2 said, snake in weird ways, do things -- my school district is  
3 divided into five House districts. My House district is  
4 divided into five school districts. I would hate to see that  
5 replicated in a new map. And so I guess my thought has been  
6 that we would compile kind of broad-level geographic  
7 boundaries that people are concerned about, but then we would  
8 like time to review a final map to look closely to say, look  
9 at how this district goes over the ridge, or look at what this  
10 district--

11           So for instance, the Susquehanna River. There are  
12 places where the Susquehanna River should be a hard stop.  
13 It's wide, it has few bridges for miles, and the communities  
14 on either side have nothing to do with each other. And then  
15 there are places where the Susquehanna River valley towns are  
16 pretty much the same town. Think of Williamsport. Half of it  
17 is on one side of the river, half is on the other. So those  
18 are the kinds of things that you want your mappers to be  
19 looking at, but you want communities to be able to look at  
20 afterwards and say, hey, you got it right here, or, you know,  
21 you really didn't get it right and it needs to be fixed.

22           CHAIR NORDENBERG: Well, I understand that point,  
23 but to the extent that you have information--

24           MS. KUNIHOLM: Sure. We will share that.

25           CHAIR NORDENBERG: --it would be helpful to us.



1 Getting that early in the process--

2 MS. KUNIHOLM: Yep.

3 CHAIR NORDENBERG: --would be useful to us.

4 MS. KUNIHOLM: I can do that.

5 SENATOR COSTA: Mr. Chairman, I think to echo that  
6 point, it's not -- what we're looking for is understanding  
7 what folks believe to be a community of interest. So whatever  
8 you can provide, you can strip out district boundaries. I'm  
9 looking to see in the Mon Valley, for example, we may have two  
10 or three House Members or four or five House Members or two or  
11 three Senators. Take all of that out, tell me what the  
12 community of interest is, how people perceive it to be, and  
13 then we can build upon that. So that's what I think we're  
14 looking for, already acknowledged and understood and  
15 recognized communities of interest. Because that was an issue  
16 in 2011, particularly in the Mon Valley with Senator  
17 Brewster's district, the 45th District. How it went from  
18 parts of Beaver and Washington Counties, all the way under  
19 Allegheny, and swung back up.

20 MS. KUNIHOLM: Yeah.

21 SENATOR COSTA: There was no community of  
22 interest, and that was one of the reasons why the court struck  
23 that particular map. So that's why understanding what a  
24 community of interest is in terms of how it's viewed, is what  
25 we are looking for, I think, Mr. Chairman. My thoughts,

1 anyhow.

2           SENATOR K. WARD: You may have covered this, but,  
3 you know, we're looking at communities of interest as we start  
4 to like, you know, do some preliminary work, and do you feel  
5 that that, communities of interests, is more important than  
6 the boundaries, the county boundaries, the city boundaries?

7           MS. KUNIHOLM: So I would say that the way we  
8 looked at it in our bills was some of that is in the  
9 Constitution, so county boundaries, you know, municipalities,  
10 all of that is already in the Constitution and we would say,  
11 you know, recognize that as being a primary consideration.  
12 Communities of interest we saw as a secondary consideration.  
13 I know that part of the question is, how do you define  
14 communities of interest? And so we saw it as a secondary  
15 thing, once you kind of looked at the larger things, then  
16 continued to look closely at, you know, as you're dividing  
17 counties, can you divide them in a way that the logical  
18 connections are retained, rather than dividing places where  
19 those people would prefer to be together?

20           So I guess what I would say is it's important to  
21 have community input. Communities of interest, the concept, I  
22 think, has been pulled in lots of different directions, but  
23 community input is a clear thing, that people have a chance  
24 simply to say this works, this doesn't work, and sometimes  
25 those voices will be in conflict with each other, but where

1 there is an agreement or where there's a logic that you can  
2 see what they're saying and a historic reality, I think those  
3 need to be recognized.

4 CHAIR NORDENBERG: I hate to bring this to an end,  
5 but we have three other witnesses waiting in line. Thank you  
6 very much for being here today.

7 MS. KUNIHOLM: Thank you so much for having me.

8 CHAIR NORDENBERG: Our next witness is Khalif Ali,  
9 who leads Common Cause of Pennsylvania. There is one thing  
10 that you can take from the fact that he is appearing remotely:  
11 Pittsburgh is the paradise that you have heard, and he chose  
12 to stay there today rather than coming to Harrisburg with us.

13 Mr. Ali, the floor is yours.

14 MR. ALI: Thank you, Chairman Nordenberg, and also  
15 thank you to the Members of the Legislative Reapportionment  
16 Commission for this opportunity to testify today. My name is  
17 Khalif Ali. I am the Executive Director of Common Cause  
18 Pennsylvania, and as you may know, Common Cause Pennsylvania  
19 is a nonpartisan, good government organization that has been  
20 dedicated to working towards a government that is accountable  
21 to we, the people, since 1970. We have over 35,000 members  
22 and supporters across every county in the Commonwealth.

23 Common Cause Pennsylvania has long been an  
24 advocate for a redistricting process that prioritizes  
25 transparency, builds public trust in democracy, and respects

1 the autonomy of communities. We believe that redistricting  
2 should be fair, accessible, and politically neutral. Most  
3 importantly, we believe that to be successful, the  
4 redistricting process must intentionally seek to insure that  
5 every Pennsylvanian, regardless of ZIP Code, race, ethnicity,  
6 first language, or profession has an equal opportunity to  
7 elect a representative that shares their values and lived  
8 experience.

9 My hope is that this testimony today is the  
10 beginning of an ongoing conversation with you all as Members  
11 of the Legislative Reapportionment Commission. We know that  
12 the work you are undertaking is serious, difficult, and will  
13 require balancing any number of factors. Common Cause PA  
14 seeks to be an ally to you in this process.

15 So we've made five recommendations, the first of  
16 which is to conduct extensive intentional outreach/educational  
17 efforts. One of the most impactful steps that the LRC can  
18 take is intentional outreach to Pennsylvanians. We know from  
19 public messaging research that many people don't understand  
20 the redistricting process, or worse, believe that all  
21 redistricting is an attempt to dilute or diminish the impact  
22 of their votes. While organizations such as Common Cause  
23 Pennsylvania are working around the clock to provide  
24 information to Pennsylvanians and work with them to tell the  
25 story of their communities, we also know that the LRC has

1 important messengers. We would encourage individual  
2 legislators to consider holding town halls, including  
3 educational materials about redistricting, opportunities for  
4 public input in your constituent communications, and using  
5 social media platforms to educate broadly.

6           Additionally, we recommend that the legislature  
7 spend at least some portion of its funds appropriated for the  
8 redistricting process to purchase paid targeting advertising,  
9 ideally in multiple languages, to help reach those  
10 Pennsylvanians who have historically been left out of the  
11 redistricting conversation. This education should include  
12 both the requirements for redistricting, how the State draws  
13 its lines, the laws and priorities that govern its decisions,  
14 and the timeline from start to finish. This should be done as  
15 early in the process as possible, and the materials should be  
16 available online in at least Spanish and English. Creating  
17 this type of transparency from the outset will help manage the  
18 public's expectations and build trust, allowing for the  
19 process to go more smoothly for everyone.

20           My second recommendation is to provide accessible  
21 opportunities for meaningful public input. We were heartened  
22 that by the announcement that several regional public hearings  
23 will be held to gather public input, and we appreciate the  
24 stated commitment to ensuring the transparent 2021 legislative  
25 redistricting process in Pennsylvania. To build on that

1 strong foundation, we recommend the following:

2           The hearings should have both in-person and  
3 virtually at different times during the week, some during  
4 evenings and weekends, to enable engagement and participation  
5 from as many residents as possible. These hearings should be  
6 scheduled and the agendas advertised in advance through the  
7 website and social media accounts with sufficient advance  
8 notice to allow those who want to participate enough time to  
9 prepare.

10           To the extent possible, hearings should be  
11 translated live into the most frequently spoken languages in  
12 the region, and all hearings should be accompanied by American  
13 Sign Language interpretation. Stakeholders who support  
14 individuals with disabilities and individuals for whom English  
15 is not their first language should be consulted prior to these  
16 hearings to insure that as many Pennsylvanians can participate  
17 as possible.

18           The hearings should be bipartisan with both  
19 Republican and Democratic Members in attendance. All LRC  
20 Members should make a concerted effort to attend either  
21 virtually or in person.

22           The process for submitting public comment at the  
23 hearings and through their online portal should be clear and  
24 available in multiple languages. It should include any  
25 requirement such as the length of comments, content

1 restrictions, registration requirements, if any. We  
2 understand that these recommendations will place some burden  
3 on the LRC and staff, however, we believe that they are an  
4 essential part in achieving the transparent process that  
5 builds public trust in our democracy.

6 Our third recommendation is to prioritize  
7 communities of interest as the building blocks of the map.  
8 Communities of interest should be the building blocks of  
9 redistricting. We strongly urge you to prioritize protecting  
10 the boundaries of communities of interests throughout the  
11 redistricting process. This can be done without violating any  
12 of the other constitutional criteria. Pennsylvania law does  
13 not contain a definition of communities of interest. However,  
14 a widely used definition of a community of interest is a  
15 neighborhood or area whose residents have shared culture,  
16 history, and policy concerns and so would benefit from being  
17 represented in the same district. A community of interest can  
18 be defined as people who share such things as economic  
19 concerns, environmental concerns, race, language, ethnicity,  
20 watersheds, school districts, concern about access to health  
21 care, et cetera. The definition typically explicitly excludes  
22 relationship interests with a particular political party,  
23 elected official, or candidate. There is no requirement that  
24 a community of interest must be composed of a certain number  
25 of residents or cover a certain amount of geographic area.

1 Communities of interest may overlap or cross municipal our  
2 county boundaries. Communities of interest should be defined  
3 by members of that community, not by academics or advocates  
4 from the outside. That is why the public hearings that have  
5 been scheduled are so essential to a successful redistricting  
6 process.

7 For too long, redistricting has been conducted as  
8 a political game with partisan winners and losers. While it  
9 is undeniable that there are direct political impacts from  
10 redistricting, focusing on communities, not just municipal  
11 boundaries, is an important part of ensuring that we, the  
12 people, are the center of the process.

13 Our fourth recommendation is to establish a clear  
14 additional mapping criteria in order of priority. The  
15 Pennsylvania Constitution requires that the LRC draw districts  
16 that are made up of compact and contiguous territory as nearly  
17 equal in population as practical. The Constitution further  
18 requires that unless absolutely necessary, no county, city,  
19 incorporated town, borough, township, or ward shall be divided  
20 to create a district. Additionally, Federal law requires that  
21 districts be equal in population and comply with the Federal  
22 Voting Rights Act. While these criteria are well established,  
23 we would recommend that the LRC further clarify how you plan  
24 to apply them, including the order the criteria will be  
25 applied and how the LRC intends to define compactness and the



1 phrases "nearly equal in population as practicable," and  
2 "unless absolutely necessary."

3 Further, we know that there are other criteria  
4 that historically have been used to produce more  
5 representative maps. To the extent that the LRC will be using  
6 other mapping criteria, we encourage you to make the criteria  
7 clear and provide an opportunity for public input before those  
8 decisions are made. As you consider which criteria to  
9 establish, we strongly encourage you to adopt the below  
10 criteria:

11 Legislative districts shall comply with the  
12 Constitution of the United States and all applicable Federal  
13 laws, including but not limited to the Voting Rights Act of  
14 1965.

15 They should so comply with the Constitution of  
16 Pennsylvania.

17 Districts shall be geographically contiguous.

18 Districts shall provide racial and language  
19 minorities with an equal opportunity to participate in the  
20 political process and shall not dilute or diminish their  
21 ability to elect candidates of choice by themselves or in  
22 coalition with others.

23 Districts shall respect the integrity of  
24 communities of interest to the extent practical. The term  
25 "community of interest" shall not include common relationships

1 with political parties or political candidates.

2           Districts shall not divide county, city,  
3 incorporated town, borough, township, or ward unless  
4 absolutely necessary.

5           Prohibitions. The LRC shall comply with all of  
6 the following when drawing a final legislative district map:

7           The final legislative district maps shall not,  
8 when considered on a statewide basis, unduly favor or disfavor  
9 any political party, candidate, or incumbent.

10           A district in a final legislative district map  
11 shall not dilute or diminish the ability of racial and  
12 language minorities to elect candidates of their choice by  
13 themselves or in coalition with others.

14           Establishing clear redistricting criteria will  
15 allow for the public to participate in the process more  
16 meaningfully. The criteria will allow members of the public  
17 to draw their own maps that follow the same criteria that the  
18 LRC does and evaluate draft and final legislative district  
19 maps.

20           Our final recommendation is to create a plan for  
21 processing and incorporating public input. If all goes as  
22 planned, the LRC will be receiving significant public comment  
23 and input on the redistricting process. Communities of  
24 interest can draft final maps. Accordingly, there should be a  
25 clear process for evaluating public testimony, incorporating

1 it into the mapping process, and if necessary, an explanation  
2 for why the Committee made mapping decisions that were not in  
3 accordance with public testimony.

4 Finally, we would strongly encourage the committee  
5 and your colleagues in both the Chambers of the General  
6 Assembly, as well as the Governor's Office, to commit to a  
7 redistricting process that is conducted in the spirit of  
8 bipartisanship. We understand that this is an inherently  
9 political process and that there is much to be gained or lost  
10 by drawing districts in a way that solidifies political  
11 control by one party or the other; however, to do this would  
12 be a mistake and continue to erode public trust in government.

13 And I will also mention that Common Cause  
14 Pennsylvania fully supports statements made by my colleague,  
15 Carol Kuniholm, in relation to prison gerrymandering. That is  
16 something that should be taken up by the LRC.

17 So, thank you again for the opportunity to speak  
18 with you today and for your commitment to a redistricting  
19 process that works for all Pennsylvanians.

20 CHAIR NORDENBERG: Thank you, Mr. Ali.

21 And let me, if I may, begin with a basic point,  
22 and that is that there are three groups simultaneously moving  
23 forward with similar charges: the Senate Committee on State  
24 Government, the House State Government Committee, and the  
25 Commission. And while we are organized differently and there

1 are differences in the jobs and standards that we need to  
2 apply, there also are a lot of similarities. So when I look  
3 at the situation, I don't consider that we're in competition  
4 with them. Instead, I feel as if, together, we're kind of  
5 creating opportunities for the public to be engaged, and we're  
6 adding to the reservoir of information that can be utilized by  
7 any of the three groups, no matter which group it has been  
8 generated by. And so I think what we really ought to be  
9 looking at, the overall effort that is underway, my bet is  
10 that each individual effort goes beyond anything that we have  
11 seen in the past, and that when you combine them, it really is  
12 a marked move forward in the direction of openness,  
13 transparency, and the involvement of the public.

14 Having made that statement, let me ask if there  
15 are questions or comments from any of the Commissioners.

16 Leader Benninghoff.

17 REPRESENTATIVE BENNINGHOFF: Thank you, Mr.  
18 Chairman, and thank you, Mr. Ali.

19 I also wanted to echo your acknowledgment. It is  
20 my experience and my tenure and that of my memory that this is  
21 probably the most open process that I've seen in a long time,  
22 the mere fact that technology is allowing you to talk to us  
23 from a pretty good drive away and share your thoughts on  
24 behalf of the constituents that you represent in Common Cause  
25 and others is very beneficial. I hope other people see that.

1 Actually, from the very beginning of this, when we were  
2 interviewing candidates to be the Chair, I found that a very  
3 interesting process. Got to interview, I think, 39 different  
4 individuals with a lot of different perspectives, and that is  
5 all building blocks to where we're at, as well as what is  
6 happening in the two State Government Committees,  
7 respectively. So we are all kind of paying attention to what  
8 each other is doing, and I think that's of great interest.

9 Mr. Ali, I just wanted to see if you would  
10 elaborate a little bit more. I've heard in your own testimony  
11 multiple times, and as well as some others, the terminology of  
12 "communities of interest." As you know, several years ago  
13 when the maps were challenged in court, the congressional  
14 maps, and the courts quickly drew a set of maps, all of a  
15 sudden counties saw themselves split in half, and I didn't  
16 hear much response by the particular groups through that. And  
17 I found it interesting how a county could suddenly be split in  
18 half and be connected to another county and that not be  
19 perceived as not being communities of interest. So I'm trying  
20 to get a better appreciation for your opinion about what  
21 communities of interest really look like versus--

22 MR. ALI: Sure.

23 REPRESENTATIVE BENNINGHOFF: --just physical  
24 structures of those communities.

25 MR. ALI: Sure. So if I could speak from a more

1 personal experience. So I've lived in Pennsylvania my entire  
2 life. All of that time has been spent in Pittsburgh in a  
3 number of neighborhoods, as Chairman Nordenberg mentioned.  
4 And I've been in the current neighborhood for the past three  
5 years, and we have a very strong civic association that exists  
6 in that neighborhood. And in that civic association, we talk  
7 about everything. We talk about a number of issues that have  
8 a significant impact or have the potential to have a  
9 significant impact on that neighborhood. My neighborhood  
10 happens to be split into two legislative districts, which is  
11 mild, compared to some areas that we know of. But when you  
12 have something that you don't hear, Representative  
13 Benninghoff, in those conversations are discussions about  
14 overarching issues of democracy such as redistricting. And so  
15 when you talk to them individually, in my neighborhood case  
16 specifically, three priorities are, you know, sustainable  
17 employment, physical and mental health coming out of this  
18 pandemic, situations where their children are able to assume  
19 or transition into some type of normalized education.

20           So there isn't always a direct connection for  
21 communities of interest in terms of overarching issues of  
22 democracy. Those three priorities that I just mentioned to  
23 you cover a huge swath of individuals within our community,  
24 and they will consider themselves the community of interest  
25 based on that.

1           One of the things that is helpful, and something  
2 that advocacy organizations have to do a better job at, is  
3 about helping people understand how an overarching issue of  
4 democracy connects to those priorities. So, you know, part of  
5 the process is about educating, and that's why you didn't hear  
6 maybe just the critical mass of individuals stepping up and  
7 complaining about divided county lines or anything along those  
8 lines. There's a process of public awareness and education  
9 that's necessary to help people understand the significance of  
10 these issues of democracy and how they connect to their  
11 day-to-day issues.

12           So for us, those communities of interest -- well,  
13 they don't automatically, but they define themselves based on  
14 their day-to-day struggles, what they see on a day-to-day  
15 basis. What we're trying to do is help them connect to this  
16 overarching process and help them understand that this is  
17 beneficial to them as well.

18           I hope I delved into it a little bit further.

19           REPRESENTATIVE BENNINGHOFF: I thank you for that  
20 detail.

21           Thank you, Mr. Chairman, for allowing questions.

22           SENATOR COSTA: Mr. Chairman.

23           CHAIR NORDENBERG: Senator Costa.

24           SENATOR COSTA: Thank you.

25           If I could just maybe respond to my colleague's

1 question about I think what I understood to be the Supreme  
2 Court's disregard for a community of interest by breaking  
3 county lines at the congressional level, because those lines  
4 were drawn by the Pennsylvania Supreme Court. I think what  
5 we're hearing here today, and I think what the interest is  
6 here today, are much smaller districts. We're talking about  
7 primarily our House districts and our Senate districts, which  
8 our House districts are one-tenth of the size of a  
9 congressional district, and our Senate districts are about  
10 one-third of a congressional district.

11           The impact of breaking up communities of interest  
12 is, in my view, more significantly felt at the local level, at  
13 the House level, and later at the Senate level, than they  
14 would be at the congressional level. The House districts and  
15 the Senate districts were drawn by the Reapportionment  
16 Commission, and I think that's something we need to take a  
17 look at. I recognize how it could be seen that the  
18 Pennsylvania Supreme Court did not put as much of an emphasis  
19 on that issue at that congressional level that we need to and  
20 failed to do last time. I think it's something we need to  
21 recognize, and I think as the representative of Fair Districts  
22 stated, that's less of an issue at that level than it is in  
23 our State redistricting levels, and it's incumbent upon all of  
24 us to recognize that as part of that conversation.

25           So I see a distinction between who's drawing those



1 maps and how we come up with the -- how we address and adhere  
2 to communities of interest as we go forward. They're asking  
3 us to take those measures into consideration, not necessarily  
4 the court. Just my thoughts.

5 CHAIR NORDENBERG: I no longer see Mr. Ali on the  
6 screen, but, Representative Bradford, I give you the floor.

7 REPRESENTATIVE BRADFORD: I don't know if there's  
8 anyone to answer, but in the chance there is, in  
9 Recommendation 3, and I guess this also fleshes out a little  
10 bit what Leader Costa and Benninghoff were saying, In  
11 Recommendation 3, you explicitly say communities of interest  
12 may overlap or cross municipal or county boundaries, and  
13 realizing in Recommendation 4 in the criteria as proposed, the  
14 last criteria, (f), is "Districts shall not divide county,  
15 city, incorporated town, borough, township, or ward...." and  
16 realizing that they're not mutually exclusive and there's a  
17 balance that needs to be struck and there's no perfect map,  
18 I'm just wondering, if you're there, if you have any thoughts  
19 on how that balance should be struck. And if you're not  
20 there, I guess what I'm saying by matter of commentary is  
21 there are these competing, well-meaning characteristics that  
22 we all believe exists, but there is no way to completely  
23 thread that needle.

24 (There was no response.)

25 REPRESENTATIVE BRADFORD: I guess that was

1 commentary.

2 CHAIR NORDENBERG: Yeah, and I want to assure you,  
3 Representative Bradford that -- oh, he's back. Did you hear  
4 the question, Mr. Ali?

5 MR. ALI: I can't hear.

6 CHAIR NORDENBERG: I think what we're going to  
7 do--

8 MR. ALI: I can't seem to hear.

9 CHAIR NORDENBERG: --so we're going to bring this  
10 segment to a close thanking you for being here with us. And I  
11 know that if there are other questions that people would like  
12 to put to you, you would be glad to answer them.

13 I also want to pick up, just for a moment, on  
14 Leader Benninghoff's comments about technology. We are having  
15 a citizen hearing this evening. One of the things that was  
16 interesting to me is that if we've got 20 people testifying,  
17 17 of them have opted to testify remotely, and 3 or 4 will be  
18 here in person. And it's a very interesting mix. We have  
19 geographies from around the Commonwealth represented, we have  
20 wide-ranging subjects about which these witnesses have  
21 indicated they would like to testify, and I think the ratio is  
22 about the same for tomorrow night as well. So we're learning  
23 about technology and how effective it can be as we move  
24 through this process as well.

25 Our third witness for this afternoon is Amanda

1 Holt, who came to fame as the named plaintiff in the action  
2 brought against the 2011 Legislative Reapportionment  
3 Commission. He has not said this to me directly, but I think  
4 Senator Costa, who also was a litigant in that case, wonders  
5 how you became so famous when Costa alphabetically comes  
6 before Holt. He thinks he should have had that glory.

7 SENATOR COSTA: Her arguments were much more  
8 persuasive than mine. Thank you, Mr. Chairman.

9 CHAIR NORDENBERG: But that moment has come and  
10 gone. We're very glad you're here today. Grateful to you for  
11 making the trip in, and I will turn the floor over to you.

12 MS. HOLT: And I appreciate you having me here. I  
13 was thinking, it was in June of 2011 I sat in this very seat,  
14 perhaps this very seat if they're in the same order, and spoke  
15 to my first Commission and gave testimony, and that time it  
16 was the State Government Committee, on congressional  
17 districts, and all of you were participating in the process as  
18 well 10 years ago, and we are all still here today, for some  
19 reason. Interested still in this process and interested in  
20 the citizens of Pennsylvania and really caring about how  
21 they're going to be represented. And I can also testify that  
22 there has been more public hearings from the time, well, when  
23 the Census should have been released, let's say, until now,  
24 than there was the previous time I went through this process.  
25 So I am grateful for what you have done to allow more

1 opportunities to, early in the process, allow people to  
2 engage, and the promise that people will be able to draw maps  
3 and submit them through software that you all will be  
4 providing is a huge step forward as well. So just a note of  
5 thanks for that.

6           And yet with all the progress that has been made  
7 so far, I'm obviously sitting here today because I feel  
8 there's still progress to be made. And so as lawmakers and  
9 administrators, I'm sure you can appreciate the importance of  
10 words and how words are defined. And in redistricting, it's  
11 interesting to note that it's not just the lines that matter  
12 but words also matter in the redistricting process. And so  
13 before you, you have a copy of my written testimony, which I  
14 will go through, and then I'm happy to answer questions  
15 afterward.

16           So just to start off, some key points that you'll  
17 hear in this testimony:

18           Without a defined standard, it is impossible to  
19 uniformly evaluate legislative redistricting plans.

20           Measurable standards with clear definitions are  
21 needed to safeguard the map-drawing process.

22           Five criteria form a solid foundation on which to  
23 build a redistricting plan.

24           And it is essential to have transparency and  
25 clarity on how the criteria will be defined, prioritized, and

1 balanced.

2           So on page 2 of the testimony that you have before  
3 you are pictures of eight maps. And as you look at these  
4 maps, consider this question: Which map is the best map?  
5 Which map should be approved? And as you consider that  
6 question, the conclusion, of course, I came to, as you perhaps  
7 would as well, is the only way to answer that question is to  
8 have a standard. And then what should the standard be? There  
9 are some current rules in Pennsylvania regarding State  
10 legislative redistricting, which you all, I'm sure, are well  
11 aware of. There are the Federal standards regarding equal  
12 population, which for State districts mean that each district  
13 has to, with an overall range of 10 percent, although higher  
14 overall ranges are allowed, but those must be justified. And  
15 then, of course, the Voting Rights Act, which prohibits  
16 discrimination against minorities. And then in Pennsylvania  
17 we also have our constitutional requirements, which you all  
18 are intimately familiar with of equal population, compact,  
19 contiguous, and preserving jurisdictional boundaries. These  
20 foundational rules still leave many key decisions at the  
21 discretion of those creating and finalizing State legislative  
22 district plans. For example, decisions which have the  
23 greatest impact on the final map include: Overall population  
24 range, that's the difference between the largest and smallest  
25 district; definition of map criteria, such as the rules above;

1 and the starting map used, whether you use a blank map or  
2 whether you begin with the cores of prior districts.

3           So how does the Legislative Reapportionment  
4 Commission create defensible district plans which will respect  
5 the people and stand up in court? And I suggest that this is  
6 achieved by having a measurable standard that is clearly  
7 defined. And while standards exist for State legislative  
8 district plans, the definition of these standards can be the  
9 subject of debate. So consider the following scenario in the  
10 current legislative plans. And the standard that I'm  
11 referring to here is contiguous territories. But then look at  
12 the sample results from the current House map that's approved,  
13 and I have a picture illustrating those two, and the question  
14 is, are these districts contiguous? Because of perceived  
15 variances between the stated goals and the drawn districts, it  
16 raises the question as to the meaning of existing Federal and  
17 State standards. So at the end of the day, there is still the  
18 need for resolution to the underlying issue of a redistricting  
19 process that lacks firm and measurable standards.

20           So there are traditional -- five essential  
21 traditional redistricting criteria which are generally  
22 accepted and are included in our Pennsylvania Constitution,  
23 which we've mentioned already about respecting minorities,  
24 equal population, preserving political subdivision boundaries,  
25 contiguous, and compact. And the question is how these

1 criteria will interplay with each other, especially if they're  
2 in conflict. I would recommend that, instead of attempting to  
3 gain agreement around a multitude of possible additional  
4 criteria, focus first on following these five essential  
5 priorities in 2021: Consider investing energies and resources  
6 into creating clearly defined and measurable standards based  
7 on the required criteria for the 2021 State legislative  
8 redistricting process, because these will protect the voice of  
9 the people.

10           So what are characteristics of better  
11 redistricting criteria and definitions? And I suggest that  
12 there are four: Clear objectives, they need to be easily  
13 understood; limited criteria - while focusing on one creates  
14 imbalance, focusing on too many will create confusion;  
15 transparent priorities, so if two criteria are in conflict,  
16 which will gain precedence for instance; and enforceable  
17 outcomes, because they need to be specific enough to withstand  
18 legal interpretation.

19           So I'll conclude by giving some suggested  
20 definitions for some measurable standards for your  
21 consideration as you move forward in this process. And the  
22 first one would be to use the highest overall range allowed,  
23 at least 10 percent. A higher overall range provides the best  
24 opportunity to balance the essential criteria in the  
25 legislative redistricting process. For example, if 10 percent

1 had been used in 2011, Dauphin County would not have had to  
2 have been divided in the Senate, and Carbon County in the  
3 House could have remained whole. And so the overall range you  
4 use has a significant impact on which counties and  
5 municipalities ultimately, just by virtue of their population,  
6 will be able to remain whole. So using the highest overall  
7 range possible really maximizes that benefit for others. And  
8 it's not uncommon. So if you look at other States in 2010, 27  
9 States had an overall range above 8 percent. That's 54  
10 percent of the States, and I have a list at the end, if you're  
11 interested in more detail.

12           Secondly, I recommend you affirm that the only  
13 reason a jurisdiction may be divided is because of population  
14 and the Voting Rights Act. The two standards most often  
15 connected are population equality and preserving  
16 jurisdictions. The minutes of the 1968 Constitutional  
17 Convention recorded this same rationale when introducing the  
18 current constitutional provision. They stated that divisions  
19 were only to be permitted to stay within the overall  
20 population range. And more recently, the Pennsylvania Supreme  
21 Court articulated this view when they wrote in a similar case  
22 that political subdivisions were not to be divided unless  
23 needed for equality of population. Over 90 percent of the  
24 discretionary jurisdictional divisions in the current Senate  
25 plan could have been avoided, as well as over 76 percent in



1 the current House plan. And this criterion is of longstanding  
2 value in Pennsylvania. It has been present in every  
3 Pennsylvania Constitution since 1790.

4 Thirdly, no voting precinct should be divided in  
5 forming a legislative district, and in the current plans,  
6 there are divisions like that. And there's perhaps no  
7 division more confusing to a voter and costly to the State  
8 than one made to the voting precinct.

9 Fourth, would be to first try to respect both  
10 minorities and the place where they live. So many times a VRA  
11 district can be created without dividing a jurisdiction. So,  
12 for example, ward divisions in Allentown, Philadelphia,  
13 Pittsburgh, and Reading might have been eliminated or reduced  
14 by over 60 percent and still provided a minority district. We  
15 should give a minority group the benefit of not only being  
16 unified as a minority but also in the place where they live.

17 Fifth, allow small jurisdictional enclaves to be  
18 considered contiguous with their jurisdiction. So those are  
19 when a portion of the jurisdiction is surrounded by another  
20 jurisdiction and an equivalent government level. And these  
21 small geographic anomalies in Pennsylvania should not  
22 necessitate jurisdictional divisions.

23 Sixth, do not attempt to define a specific  
24 measurement for compactness. Should a jurisdiction be divided  
25 just so the district improves a compactness score? I suggest

1 the places people live seem to matter more than the ultimate  
2 shape of the district.

3           Seven, do not consider school districts at the  
4 expense of other jurisdictions. Oftentimes, school districts  
5 are suggested as a boundary worth following in drawing  
6 district lines, and while this may be a valuable  
7 consideration, the boundaries of school districts do not  
8 always coincide with county or municipal boundaries, which are  
9 covered by the Constitution. So if they are to be considered,  
10 it should be a secondary consideration.

11           And then in conclusion, just a couple process  
12 suggestions. Instead of working from existing district  
13 boundaries, consider starting from a blank map without  
14 consideration of district numbers. And then second, if  
15 secondary criteria will be used, focus first on achieving  
16 those primary objectives, those five essential criteria I  
17 mentioned earlier. And then if those secondary considerations  
18 are in conflict with the primary goal, the primary goal should  
19 be followed first and prevail. Secondary goals should never  
20 be achieved at the expense of the main objective.

21           So in conclusion, it's critical that the  
22 Legislative Reapportionment Commission, all of you, invest  
23 energies and resources into establishing clearly defined and  
24 measurable standards, and then using these standards in the  
25 2021 legislative redistricting process. And while this is a

1 challenging task, it would give you a solid basis to explain  
2 and defend the placement of district lines. You have the  
3 opportunity this year to leave a legacy of people before  
4 politics, and today can be the first step toward that legacy  
5 by supporting measurable standards with clear definitions in  
6 legislative redistricting.

7 CHAIR NORDENBERG: Thank you very much.

8 Questions or comments for Ms. Holt?

9 Representative Bradford.

10 REPRESENTATIVE BRADFORD: And I appreciate, I  
11 referenced earlier that I was one of those districts, so I  
12 very much appreciated you and Senator Costa's litigation. So  
13 let me ask you a couple questions about population deviation  
14 versus municipal splits. As opposed to the first two  
15 witnesses, you definitely seem to be rightfully engaged on the  
16 problem with municipal splits, and I don't want to put words  
17 in your mouth, so I'd just ask you to kind of comment. Do you  
18 think it's fair to say that you've elevated the need to avoid  
19 municipal splits in terms of the importance as opposed to --  
20 as a willingness to blow out the population deviation to its  
21 furthest possible extent?

22 MS. HOLT: I would say our Constitution does that.  
23 I mean, if you read back to the Constitutional Convention when  
24 they were first looking at this in 1968, they were talking  
25 about like 20 percent would be fine or 30 percent would be

1 fine, because the deviations at that time were so  
2 extraordinary. In congressional districts, they were like  
3 100,000 persons different. I mean, so these were huge  
4 variances that today we'd look at and go, what were you  
5 thinking? That is so absurd. Like, how is that even like  
6 feasible? And so in the Constitutional Convention, they were  
7 like, okay, you know, we shouldn't do 100,000 people, like  
8 maybe 20 percent is fine, and it took about 10 years of case  
9 law, or maybe 20, because it wasn't until the 1980s that they  
10 really kind of landed on, okay, this 10 percent is a sort of  
11 safe harbor, if you will, and we won't do that, because the  
12 courts recognize that the Census data isn't necessarily like  
13 100 percent accurate down to the person. People are born and  
14 die every day, and that it's important to give some latitude  
15 in order to allow Commissions like yourself to consider the  
16 values that are important to the State. And in Pennsylvania,  
17 a value that's important in our State, and has always been  
18 important in our State, is respecting these jurisdictional  
19 boundaries. And so, yes, using that latitude in our  
20 Constitution the way they constructed it was designed to allow  
21 us to continue to respect those jurisdictional boundaries to  
22 the maximum extent possible without violating the equal  
23 protection clause.

24 REPRESENTATIVE BRADFORD: And kind of building on  
25 that, what do you think--and I'm just asking for your opinion,

1 I don't think there's a right or wrong answer--what do you  
2 think is the advantage of that, respecting municipal  
3 boundaries? What do you think we gain in that in terms of the  
4 equities, in terms of the efficacy? What is the advantage of  
5 doing that?

6 MS. HOLT: Pennsylvania can be somewhat unique in  
7 how we structure our government here compared to other States.  
8 There's a lot of power invested in municipalities that  
9 oftentimes in other States you'll find invested in counties.  
10 And so as they're making decisions and the boundaries of the  
11 municipalities don't change from year to year, in other States  
12 they can be a little more fluid. So they form, to me, an  
13 impartial boundary that one can look at, and they do work  
14 together because they do form a community. And you talked  
15 about communities of interest, and these municipal boundaries  
16 do form a community because they're there advocating on behalf  
17 of like transportation needs, for instance, and other issues  
18 that they're facing. And so by keeping these together, it's  
19 not something that you're determining, they're already  
20 predetermined boundaries, and that they can be used then to --  
21 like people think in terms of their places where they live,  
22 for instance, and where they come from, and so it helps them  
23 to have a more unified voice. And as I have gone around the  
24 State, I've heard people mention that sometimes it can be  
25 difficult for their elected officials to advocate for funding

1 that they need if they have to work with a lot of different  
2 people because they end up being such a minor portion,  
3 perhaps, of a district that they don't feel like they get a  
4 really strong say and that they can have issues related to  
5 bridges, perhaps, or other concerns that go unaddressed  
6 because you would think maybe having more people is better,  
7 but they have found that less is more sometimes for them.

8 REPRESENTATIVE BRADFORD: Thank you.

9 MS. HOLT: Um-hum.

10 CHAIR NORDENBERG: Leader Benninghoff.

11 REPRESENTATIVE BENNINGHOFF: In a bipartisan  
12 manner, I'm going to build a little bit on my good friend  
13 Representative Bradford's comments. We had the luxury of  
14 serving together on the Finance Committee, although we  
15 disagreed at times, we also agreed at times. But I think he  
16 raises a very interesting contrast there with some of the  
17 other testifiers, and I was having the same thought in my  
18 mind. Because, you know, over the years and different  
19 discussions on redistricting, the terminology of  
20 gerrymandering, a lot of people get caught up in pictures and  
21 the maps and this little bootleg over here, which on a map  
22 might look disenfranchised from the municipality it actually  
23 is, but if you live in those municipalities, Pennsylvania has  
24 a tendency to be very parochial in our thought. If you go  
25 into these small communities, regardless of their population

1 size, they're very, very proud, and most of them have a lot of  
2 likeness in their ideologies and their thoughts and what they  
3 want for those communities. So I'm intrigued, one, that you  
4 had elevated that, and the fact that Representative Bradford  
5 and I both picked that out.

6 One thing I would encourage people to think about,  
7 in a 10-year legislative cycle, or, pardon me, redistricting  
8 cycle, some of these districts change dramatically. I mean,  
9 some of our districts will grow five, eight, even more  
10 thousands of people, but yet the legislator continues to serve  
11 who comes in to see them. So I've never been one who says yes  
12 or no to serving somebody regarding some squiggly line. You  
13 come in, you need help, we help you out regardless, and I  
14 think that's important for people to know. And the other part  
15 of that is the fact that we have 2,600 municipalities, and  
16 we're not going to change that tonight, and we're not going to  
17 change that before we do the legislative process. So I do  
18 appreciate your emphasis on the like-mindedness.

19 I did have one quick question. You had talked  
20 about overall ranges, and I'm curious what your thoughts are.  
21 Do you think the general public or those who have interest in  
22 this think that the lower the range of deviation somehow  
23 magically makes districts more equal? If their numbers are  
24 closer, is there a perception that may not necessarily  
25 actually be accurate that they think it's more equal?

1 MS. HOLT: I've encountered both views. So there  
2 are some who feel that districts should be exactly equal, like  
3 you should go down to zero, and that if there's any deviation,  
4 that somehow that's harming an equal like one-person-one-vote  
5 mentality, but then there are others that recognize and  
6 understand that people are born and die every day, and I find  
7 that more often than not, people are understanding of the  
8 higher population ranges and understanding, particularly as  
9 I've been testifying about congressional districts, because  
10 they have a much narrower view--

11 REPRESENTATIVE BENNINGHOFF: Right.

12 MS. HOLT: --in their field on that that they  
13 would love to be in your position of having a little more  
14 flexibility, and those that have testified have spoken to  
15 that, that that flexibility is helpful, especially if it's  
16 used to follow these kind of clear guidelines that are in the  
17 Constitution. That you're really using the overall population  
18 range to, like, minimize divisions to the places where they  
19 live, and working to keep these places together.

20 REPRESENTATIVE BENNINGHOFF: I've always thought  
21 that reducing the number of the splits probably is more  
22 justified than worrying about a particular caveat that's added  
23 to the side of the district, if you'd keep that municipality  
24 or particular jurisdiction whole. So I appreciate your candor  
25 on that and all the hard work you've put into that.



1 Thank you, Mr. Chairman.

2 MS. HOLT: Thank you.

3 CHAIR NORDENBERG: Any other questions?

4 (There was no response.)

5 CHAIR NORDENBERG: Thank you very much.

6 MS. HOLT: You're welcome. Thank you all.

7 CHAIR NORDENBERG: Our next witness is Lee  
8 Hachadoorian, who comes to us from the Department of Geography  
9 and Urban Studies at Temple University. He is also Assistant  
10 Director of Temple's Professional Science Master's Program in  
11 Geographic Information Systems, and though he is here  
12 tendering testimony as an expert in his own right and not as a  
13 representative of any group, I do want to note that he also is  
14 affiliated with Concerned Citizens for Democracy.

15 Professor.

16 MR. HACHADOORIAN: Great. Thank you for that  
17 introduction, and thank you to the Commission for inviting me  
18 here today. Yes, I am Assistant Professor of Instruction at  
19 Temple University with a focus on geographic information  
20 systems, and redistricting software and technology can be seen  
21 as one possible use case of geographic information systems.  
22 And I am going to be speaking on my own behalf. Some of these  
23 views, particularly the issue of local governments, has come  
24 up, and I'm going to talk about that. Concerned Citizens for  
25 Democracy is also a group that is in favor of preserving local

1 government integrity.

2           So I will talk a little bit about the criteria  
3 involved in redistricting and some of them that I think are  
4 worth emphasizing. I'm going to talk a little bit about the  
5 data and tools that citizen-mappers and good government groups  
6 need to have meaningful input in this process, and then a  
7 little bit about balancing among criteria.

8           So first of all, in terms of local government  
9 units, and, again, you know, county governments or local  
10 governments or boroughs, these are all mentioned in the State  
11 Constitution. Often in redistricting conversation you'll see  
12 them referred to as political subdivisions. We know that the  
13 Pennsylvania State Constitution, and I think this will be the  
14 third time this is being read out loud today, says that  
15 "Unless absolutely necessary no county, city, incorporated  
16 town, borough, township or ward shall be divided...." This is  
17 a very common redistricting criteria across the country.  
18 Thirty-four other States require it in their legislative  
19 redistricting process, and 15 States require it in their  
20 congressional redistricting process. And among the benefits  
21 of keeping local governments whole in the redistricting  
22 process, local officials are advocates for their constituents.  
23 The local governments are administrative units for State and  
24 Federal funding. And again, here counties have a very special  
25 role as being one of the main ways in which Federal funds are

1 distributed in public health and emergency management. People  
2 know the county, the township, or the borough that they live  
3 in. They feel a sense of place and a sense of identity. It's  
4 very easy for them to reach out to their officials locally and  
5 then have those officials advocate for them in the legislature  
6 if the legislative districts incorporate their whole  
7 jurisdiction.

8           Other things, it can be difficult for the  
9 politicians to campaign if they don't even know which side of  
10 the street their constituents live on. And we have heard, in  
11 talking with local officials, that this is a real problem when  
12 they are trying to do outreach and campaign. And media  
13 markets are often tied to political geography, so elections  
14 can become more expensive if political subdivisions are split.

15           So I'd like to move on to another criteria, which  
16 is population equality. And again, there are tradeoffs among  
17 criteria. So if you equalize population to an extreme, you  
18 will tend to have more municipal splits, as well as tradeoffs  
19 with other criteria. So, fortunately, the LRC only has to  
20 stay within about a 10-percent total deviation. Okay, prior  
21 to the redistricting revolution of the '60s, many State  
22 legislatures had multiples of 20 to 1, 50 to 1, or over 100 to  
23 1 in population size of their State legislative districts.  
24 And, of course, this meant that some people had literally 100  
25 times the electoral power of others. And that is no longer

1 allowed. And so intuitively, there's going to be, if there's  
2 more slack in population equality, there's going to be more  
3 potential for creating plans with partisan advantage, but at  
4 that time moment, I know of no research quantifying how much  
5 partisan advantage would be associated with different  
6 deviations or what even an optimal limit is. So I'm of the  
7 opinion that 10-percent deviation is reasonable, less  
8 deviation is undoubtedly better, but fewer municipal splits is  
9 also undoubtedly better. And in trying to achieve population  
10 equality, we shouldn't let the perfect be the enemy of the  
11 good.

12 Now, there's another minor issue in relation to  
13 this, which I'm not going to go into a large amount of detail  
14 on, in the interest of time, but many of you may have already  
15 heard about the concept of differential privacy. This year  
16 the Census that's being released, the data, the Census Bureau  
17 is intentionally fuzzing the data in these smallest geographic  
18 units, which means that the Census blocks, the counts that we  
19 get with them, there's going to be some variability around how  
20 accurate those really are. So, again, if we go down to say  
21 breaking precincts, and precincts are also going to have a  
22 little more variability in them than municipalities or  
23 counties, et cetera, but the most variability or most  
24 uncertainty is going to be at this block level. So if we go  
25 down and break, say, precincts to achieve exact population

1 equality, we are probably going to not actually come close to  
2 population equality because of that uncertainty in the data in  
3 those smallest units.

4           Okay, so I'd like to talk about a couple of other  
5 criteria. I'd like to, again, going back to local  
6 governments, mention school districts. School districts are  
7 not in the State Constitution, but many of the reasons that I  
8 discussed regarding other local government units such as  
9 townships and counties also apply. They are very, very  
10 important in terms of their impact on people's lives. There  
11 are politicians who get elected to school boards, they face  
12 those same challenges. They're trying to represent their  
13 constituents to the State and Federal government. Now, in the  
14 more populous areas, like the suburban areas near Pittsburgh  
15 and Philadelphia, these school districts tend to be  
16 coterminous with townships, and we don't even really think  
17 about it that much. Middle of the State, many of the school  
18 districts are larger, larger not in terms of population but in  
19 terms of number of units that are built into them in order to  
20 achieve economies of scale, and some of them cross over county  
21 boundaries. And this is something for the Commission to be  
22 aware of, and I think should be looked at as part of the  
23 process. I do think that school districts are an important  
24 local government unit to be taken into account, in spite of  
25 not being mentioned in the Constitution. Don't have a clear,

1 you know, recommendation, but think that it's an important  
2 thing to take part to be aware of in the public comment  
3 process.

4           Okay. So in terms of communities of interest,  
5 this is something that's come up today. A community of  
6 interest is sometimes defined as a geographically contiguous  
7 population with an electoral interest. Now, what is an  
8 electoral interest? It can kind of be anything. In some  
9 States, water districts have been seen as communities of  
10 interest. So there's a lot of vagueness around the community  
11 of interest process, and what I would like to emphasize is  
12 that, again, these local government units are clear  
13 communities of interest because people tend to sort  
14 demographically. To the extent that you honor those local  
15 government boundaries, you are already going a long distance  
16 towards what I think is the motivating idea behind communities  
17 of interest. And communities of interest may need to  
18 additionally be taken into account when you look at, say, a  
19 large city that needs to be split into smaller pieces for  
20 representation, or when you look at less populous parts of the  
21 State where local governments would need to be combined. My  
22 main concern would be to not see communities of interest used  
23 as a reason to split local government units because of such  
24 the important role they have in our representative democracy.

25           In addition, another concern and commonly used

1 criteria is the Voting Rights Act and preserving minority  
2 rights. Again, because of demographic and residential  
3 sorting, local government units are going to tend to be  
4 somewhat homogeneous. At Concerned Citizens for Democracy, we  
5 emphasize trying to build districts looking initially just at  
6 populations of the local government units, and then checking  
7 after the fact for VRA compliance. And in our  
8 experimentation, we often find that we find reasonably  
9 expected numbers of minority opportunity districts even  
10 without taking into account the demographic data during that  
11 initial part of the process. So VRA is the law of the land.  
12 It absolutely has to be attended to, but we think that it can  
13 be done as a check a little bit later in the process. And  
14 there is some concern that if it is forefronted in the  
15 process, that an opportunity is created for packing of  
16 minority voters into districts where they form a supermajority  
17 and, therefore, actually their representation becomes diluted  
18 rather than guaranteed.

19           Okay. I would like to move on to talking about  
20 open data and tools for citizens to participate in this  
21 process. So, first, in terms of data, it is important that  
22 good government groups and citizen participants have access to  
23 the same data as the Commission. Now, in 2011, the data that  
24 were available on the redistricting website, the LRC website,  
25 had small differences from the PL 94-171 data released by the

1 Census Bureau. I believe that the reason for that is that the  
2 precincts were not frozen by the county election boards after  
3 participation in the redistricting data program run by the  
4 Census Bureau. And I'm certain that the Commission will again  
5 this time provide the data that they are using for the  
6 redistricting process to the public. I do think that it's  
7 important actually to publish a change log; that is, to show  
8 which specific areas are different. Where the changes are,  
9 what the population counts that are different from the Census  
10 PL 94-171 data, because many redistricting researchers around  
11 the country will be going to the PL 94-171 data for their, you  
12 know, first analysis. So it's important to know where the  
13 changes are.

14 It's also important to take into account  
15 incumbency, okay. Now, there is some disagreement within the  
16 redistricting reform community as to what extent incumbency  
17 should be taken into account in the redistricting process. We  
18 believe that the Caucuses will be looking at it closely. I  
19 don't know if the Commission will be taking it into account,  
20 but we do think that incumbent addresses should be published  
21 so that people with good government groups and citizen-  
22 mappers can also take it into account when they are analyzing  
23 maps, because we think it's going to be used by the parties  
24 and possibly by this Commission.

25 In terms of the software that's being used, many



1     redistricting Commissions rely on proprietary tools such as  
2     Maptitude or Esri, and possibly this Commission will as well.  
3     There may be a publicly facing website that could be driven by  
4     those tools that becomes available. There, at this point, are  
5     many tools that are provided by nonprofits or by volunteers,  
6     such as Dave's Redistricting App. There is a  
7     Philadelphia-based geotech company which publishes a tool  
8     called DistrictBuilder which can be customized for particular  
9     areas. The important thing is that citizens have access to a  
10    tool with the same data as the Commission so that they can  
11    submit plans that would be looked on as equivalent to what the  
12    Commission is considering and will be taken seriously by the  
13    Commission. And if it is possible for the Commission to work  
14    with some of these other organizations to make sure that if  
15    there is any changes to the PL 94-171 data, that that data  
16    could also be provided to, say, Dave's Redistricting App so  
17    that it could be included in their ability for citizens to  
18    redistrict as well.

19             Finally, is the issue of comparing plans. There  
20    are many criteria. There are tradeoffs among them, but the  
21    potential for citizen involvement means that the Commission  
22    could get many, many maps. People participating in Draw the  
23    Lines, people just making their own maps, either working  
24    independently, working with advocacy groups, and the  
25    Commission may need a way to sort among them. So I am working

1 with a research team that includes faculty at Temple and Penn  
2 and a political scientist at the Brennan Center on a way of  
3 sorting through large masses of maps. It relies on a concept  
4 known as the Pareto Frontier, where you basically look at the  
5 tradeoffs, and for any different criteria, for example,  
6 compactness versus local government splits, you can make areas  
7 very compact if you ignore local government lines, and you can  
8 honor the local government lines if you throw compactness out  
9 the window, how do you trade off between them? The Pareto  
10 Frontier allows you to refine those plans which, if you say  
11 have a given level of compactness, you know that no other plan  
12 could be better on splits than one that is on the frontier.  
13 And you can create a frontier that maps out those tradeoffs,  
14 and you can also identify those plans which are inferior,  
15 meaning that if you're interested in compactness and local  
16 government splits, there is some plan that is better on both  
17 of those dimensions when you get closer to the frontier.

18           And this is something that if the Commission is  
19 interested, I can speak more with you about, and with my  
20 research team, about being used as a process to sort maps.  
21 And again, it does not require specifying ahead of time which  
22 of these criteria is more important. What would happen is the  
23 Commission can look and decide, we want to maximize this one  
24 or that one, but if we're maximizing this one, we know that we  
25 won't get any better on the other criteria that are also being

1 considered. So the values emerge from the maps submitted, and  
2 then it is up to the Commission to decide how to engage in the  
3 tradeoffs between them. So it merely shows which plans are  
4 reasonable contenders and merit further scrutiny.

5 So with that, I will end, and thank you, again,  
6 for this opportunity to testify before you today.

7 CHAIRMAN: Thank you very much.

8 Questions or comments for Professor Hachadoorian?  
9 Leader Benninghoff.

10 REPRESENTATIVE BENNINGHOFF: First of all, thank  
11 you for your extensive information and stuff. You know, I was  
12 sitting here thinking, I used to serve as a county coroner,  
13 and I was always impressed with how the average layperson does  
14 pretty good as a juror. They sit and they listen to facts and  
15 they measure what they heard and they make decisions. And for  
16 the most part, my experience is that people do pretty well.  
17 That said, in the last year or so I've heard a lot of people  
18 say, I don't understand what the big deal about this is--and  
19 I'm asking you this because you're into making maps and  
20 understand this stuff technically probably better than  
21 others--why can't you just put some algorithm into a computer  
22 and pound out the maps? And the question for me, obviously,  
23 now that I'm in this process as well, I also put a value on  
24 the human factor and human interpretation. So I'm just  
25 curious what your thoughts are as someone who does this more

1 as a profession or a study.

2 MR. HACHADOORIAN: Well, so, you absolutely can.  
3 I don't think that that's the best way to achieve buy-in from  
4 the citizens of this State, that the maps that are being put  
5 in front of them are fair. And even if you are creating an  
6 algorithmic process, that process is going to implement  
7 certain values, and we still need to be clear about what those  
8 values are. So I am all in favor of using algorithms as aids  
9 in this process, but I don't think that it should remove the  
10 political and the human element from that. On top of which,  
11 if you look at what is possible these days, many of the  
12 algorithms don't lead to one correct map. You can look at the  
13 tradeoffs and you can end up with large groups of maps.  
14 People are using algorithms to produce, literally, millions of  
15 maps, some of which are marginally different from each other.  
16 So again, the question then becomes, well, which one do you  
17 choose? There is no perfect recipe that you can put it  
18 through that's going to pick the best one. It's about using  
19 the tools to help us understand what it is we're looking at.

20 REPRESENTATIVE BENNINGHOFF: I appreciate that  
21 clarification, because to me, it's not really just a simple  
22 math equation. You have 13 million people, roughly, this is  
23 your geography, but those other criteria are just as  
24 important, I think, than trying to either just get, you know,  
25 little cookie-cutter-looking districts and/or something that

1 mathematically adds up. So I appreciate your delineation of  
2 all that.

3 MR. HACHADOORIAN: And if I can follow up, I would  
4 just say that many of the mathematicians, engineers, computer  
5 programmers, et cetera, who have been attracted to this issue  
6 have -- could say virtually the same thing that you just said  
7 about the process and not wanting to just, you know, write a  
8 formula that comes to a correct conclusion.

9 REPRESENTATIVE BENNINGHOFF: Thank you.

10 CHAIR NORDENBERG: Other questions or comments?

11 (There was no response.)

12 CHAIR NORDENBERG: I'd like to go back to what you  
13 said about incumbency. And I wasn't sure whether you were  
14 saying that, in your mind, the consideration of incumbency is  
15 a legitimate concern or whether you were saying I look at a  
16 Commission that includes four Caucus Leaders and I assume that  
17 incumbency will find its way into the process in one way or  
18 another, and so citizen-mappers ought to have the same  
19 information.

20 MR. HACHADOORIAN: I am going to say the latter.  
21 The citizen-mappers should also have access to the same  
22 information. And, again, I would say that this is not a  
23 decided issue within the redistricting reform community, and I  
24 do think that there are valid arguments for preserving core  
25 areas where the incumbent has a relationship with their

1 constituents and there can be benefits to that. I also  
2 understand the concern that people have about maps that may  
3 have been not fairly representative in the past, and that if  
4 you pay too much deference to incumbency, that you could just  
5 end up rubber-stamping sort of a previous iteration. I really  
6 think that both of those are valid arguments, and I don't have  
7 a clear opinion as to which way this is going to go. I hope  
8 that the Commission can make some decisions there.

9 CHAIR NORDENBERG: Senator Costa.

10 SENATOR COSTA: Just as a follow-up to that, Mr.  
11 Chairman. I don't know the answer to this: Have there been  
12 court cases at the State or Federal levels that have addressed  
13 the issue of incumbency as part of a factor in redistricting  
14 plans that you are aware of?

15 MR. HACHADOORIAN: I don't -- the main thing that  
16 I know is that Karcher v. Daggett, which is the main case that  
17 has to do with population equality and has usually been used  
18 by many States to argue for one-person deviation at the  
19 congressional district level, something which I should point  
20 out not all States do one-person redistricting at the  
21 congressional level, but it does leave the door open to a  
22 number of criteria, and they do mention core area  
23 preservation. I can't recall if they specifically tie that to  
24 incumbency. That's the only one that I can pull out right  
25 now.

1 SENATOR COSTA: Thank you.

2 CHAIR NORDENBERG: Anything else?

3 (There was no response.)

4 CHAIR NORDENBERG: Thank you very much--

5 MR. HACHADOORIAN: Thank you.

6 CHAIR NORDENBERG: --Professor, and I suspect  
7 we'll be in further contact about the map assessment ideas  
8 that you shared.

9 With that, I will adjourn this meeting with a  
10 reminder that we will reassemble at 6 o'clock for a citizen  
11 hearing this room. Thank you, all.

12 (Whereupon, the proceedings were concluded at 3:44  
13 p.m.)

14

15

16

17

18

19

20

21

22

23

24

25

1 I hereby certify that the proceedings and evidence  
2 are contained fully and accurately in the notes taken by me  
3 during the hearing of the within cause, and that this is a  
4 true and correct transcript of the same.  
5  
6  
7  
8

9 

10 ANN-MARIE P. SWEENEY  
11 Official Reporter  
12 Legislative Reapportionment  
13 Commission  
14

15 THE FOREGOING CERTIFICATION DOES NOT APPLY TO ANY  
16 REPRODUCTION OF THE SAME BY ANY MEANS UNLESS UNDER THE DIRECT  
17 CONTROL AND/OR SUPERVISION OF THE CERTIFYING REPORTER.  
18  
19

20 ANN-MARIE P. SWEENEY  
21 Official Reporter  
22 Legislative Reapportionment Commission  
23 P.O. Box 203079  
24 Harrisburg, PA 17120  
25



# EXHIBITS



## Legislative Reapportionment Commission Testimony Carol Kuniholm, Fair Districts PA Chair, August 3, 2021

Thank you for the invitation to be here today and to share the concerns of Fair Districts PA volunteers and supporters. I'm here to speak on behalf of the more than 100,000 PA citizens who have signed a petition to reform the redistricting process, the 60,000 citizens who receive and act on our regular redistricting emails, and the thousands of volunteers from all parts of PA who have presented over 1000 informational meetings on redistricting in the past five years to over 40,000 people.

In my own travels around the state, I've talked with voters in cities and small towns, library basements and church fellowship halls and restaurant meeting rooms, about our legislative district maps. I've heard from voters who wonder why their precincts are split, why they need to go through two, sometimes three other districts to get to their legislators' office. I've talked with voters disheartened by the fact that elections are decided long before any opportunity to vote.

I came to this work through the League of Women Voters. As a local league member, I joined other, more experienced members in a meeting with my own state senator, back in 2015. One of our questions was "What solutions would you support to ensure fair legislative maps in 2021?"

His response? "That's not a problem. My colleague (he named the senator closest to him, from the opposing party), we meet and look at the map together and decide what neighborhoods to move. It's very friendly. There's no need to change it."

What struck me was that this senator was so convinced of his right to choose his voters he thought we'd be equally fine with this cozy arrangement. We are not fine with that arrangement.

Every district map is shaped by the values of those who draw it. Our PA constitution requires that districts be compact and contiguous, and unless absolutely necessary, keep counties, cities, boroughs, townships and wards intact. It also requires free and equal elections and puts a high value on the ability of citizens to alter and reform their government.

Even a cursory look at PA legislative maps shows that those values have been consistently ignored. The values that have shaped our district maps are more often incumbent protection, power of leadership over individual legislators, and manipulation of lines to ensure a lasting legislative advantage for the party with the final say in drawing district maps.

What this commission does, in the next few months, will shape Pennsylvania for the next decade and beyond. You are here to draw district maps, but you are also here to restore trust in the process, to reassure voters that their voices will be heard, and to affirm values dear to the democratic process.

As we've learned by examining maps in every corner of the state, by participating in Draw the Lines mapping contests, and by talking at length with national mapping experts: there is no simple way to ensure fair maps. It's not enough to say "minimize county splits and ignore everything else." Or "let a computer do it." Or "find the map with the highest score for compactness."

As with many important tasks, mapping requires holding values in balance with meaningful citizen input. Our form of government itself is a masterful, enduring example of values held in balance with constant input from engaged citizens.

A district that on paper looks compact may in fact be the opposite for voters who can't get from one side of the district to the other because of an impassable ridge or river. Minimized splits, if held as the highest priority, can undermine responsiveness and block efforts to ensure equal representation for racial minority voters.

Fair Districts PA is just concluding a mapping contest in which we asked citizen mappers to use values identified in HB 22 and SB 222, the Legislative and Congressional Redistricting Act, bills that gained 90 house and 25 senate cosponsors but were never given a vote. The goal was to balance the constitutional requirements of compactness, contiguity, and minimal splits with the need to ensure minority voters fair representation, avoid partisan bias in the overall map, and as far as possible, protect communities of interest, observe geographic boundaries and promote responsiveness.

What we've learned is that even a high school mapper can accomplish all of those goals with better metrics than the current PA house and senate maps. And we've learned that citizen mappers, even those new to the task, can complete good maps in a matter of days. We allowed less than three weeks from announcement of the contest on June 26 to the deadline on July 14 and received several dozen maps that met or came close to LACRA requirements.

Our next step will be to share winning maps with communities across PA to invite further input and refinement. We know that sometimes a small adjustment of a district line can make a huge difference for an impacted community.

We have heard legislators say that it's important for continuity that new maps reflect the contours of old district lines as much as possible. In our own study of district maps across time we've seen many dramatic changes that ignore any concern for voters. We've done our best to record the stories behind those changes: legislators punished for voting independently; strong competitors drawn out of districts or districts cracked in pieces to make reelection impossible; purple areas splintered to eke out more seats for the party drawing the lines.

In our contest, we indicated that maps drawn to acknowledge current districts and include cores of those districts would be given preference in the evaluation process so long as they met other requirements. Those who tried called attention to the difficulty in doing so, pointing to the way current



districts snake between many different counties. As one mapper pointed out: "Pittsburgh is a bit of a mess, with districts split across all of the rivers." The same is true of Philadelphia and of many other of our more densely populated regions.

We will be submitting final maps from our contest as testimony when they're available, along with the metrics we collected as part of the contest. We believe they will provide a benchmark for any maps the commission will propose.

In evaluating maps for our contest, we've had good conversations about ensuring equitable representation for minority voters. Past PA maps have fallen far short in this. As some of our mapping advisors have noted, historic practices such as red-lining and denial of housing loans forced communities of color into specific neighborhoods for generations. PA maps should redress the geographic disenfranchisement that continues as communities of color are cracked and packed into distorted districts. Voting Rights Act requirements need to be held in balance with creation of opportunity districts that could afford greater possibility of more equal representation.

We would encourage this commission to hold a separate hearing to address questions of racial equity. As part of such a hearing, Fair Districts PA and coalition partners would ask the commission to also include experts on prison-based gerrymandering. The Census Bureau's count of incarcerated persons in the places where they are incarcerated conflicts with the Pennsylvania Election Code, which states that an incarcerated individual shall be deemed to reside where the individual was last registered to vote or at his last known address before being confined. The count also conflicts with the long established legal principle that incarceration does not automatically change a person's residence. [See, e.g., *United States v. Stabler*, 169 F.2d 995, 998 (3d Cir. 1948); *McKenna v. McKenna*, 422 A.2d 668, 670 (Pa. Super. Ct. 1980).]

The Census count also violates the principle of one person / one vote, and the free and equal elections clause in the PA constitution. Given Pennsylvania's high levels of incarceration and relatively small district populations, the current count dramatically enhances the voting power of citizens in districts containing state prisons, while significantly diluting the vote of communities most impacted by mass incarceration.

There is nothing in federal or state law requiring use of unadjusted census data. Previous LRCs routinely made technical adjustments to the official Census reports before drawing legislative districts, such as correcting voting-district code and name discrepancies, late precinct changes, and problems with split census blocks. It is also the case that many counties and local governments in other states have resolved to re-allocate inmate data to address distortions in local redistricting.

Last week Ben Williams of the NCSL spoke about the time factor in reallocating inmate data, suggesting that it is a very time-consuming process. This could be the case if no prior work had been done. The Pennsylvania Department of Corrections has already taken necessary steps to gather appropriate residence data and affirmed yesterday that a corrected dataset is ready for use.

There were also some comments and questions in that hearing regarding funding impacts that might result from reallocation of prison data. Data adjustments used for redistricting would not be required for use in funding formulas, and research shows the way people in prison are counted in the census has no real impact on a particular area's funding.

There is growing legal precedent to support reallocation of prison data. While the PA legislation has so far failed to consider legislation to address this issue, there is no legal reason for this commission to continue an inequitable practice that distorts representation and benefits a handful of districts at the expense of a great many others.

**Our request to this commission:**

- Invite expert testimony on best ways to ensure racial equity.
- Resolve to adjust census data to count incarcerated persons in their home communities.
- Clarify values before you begin mapping and explain how those values will be prioritized.
- Consider the values and prioritization expressed in LACRA.
- Explain when and why one value is sacrificed for another, so voters understand how decisions were made.
- Invite public comment as you begin maps but also ensure time for public review, comment and adjustment of lines before maps are finalized.

I have submitted, as addendum to my comments here, a one page summary of LACRA, House Bill 22 and Senate Bill 222, as well as one page summaries prepared by the Princeton Gerrymandering Project explaining key terms and analytics referenced in LACRA. I've also included links to information regarding questions surrounding the reallocation of prison data.

I look forward to your questions.

Thank you.

Carol Kuniholm, August 3, 2021

Sample commission resolutions to address reallocation of prison data; [Madera, California, 2011](#)

Response to litigation; [Terre Haute, Indiana, 2013](#)

[The Emerging Constitutional Law of Prison Gerrymandering](#), Stanford Law Review, 2017

[Do prisons draw in Census money for their host communities?](#) No. Prison Policy Initiative, 2020

[PA Prison Gerrymandering: Frequently Asked Questions](#), Fair Districts PA 2021

[Do prisons draw in Census money for their host communities? No.](#) Prison Policy Initiative, 2021



# LACRA & PARTISAN FAIRNESS



## Summary

The Pennsylvania General Assembly has refused to transfer its redistricting power to an independent commission. Therefore, a legislative contingency plan containing line-drawing criteria and increasing public input and transparency has been introduced as the Legislative and Congressional Redistricting Act (“LACRA”). This bill (HB22/SB222) would ensure that whatever maps the Legislative Reapportionment Commission (LRC) and congressional redistricting committees produce in 2021 will not be drawn to unduly favor one party or person and will prohibit partisan gerrymandering.

## What is partisan gerrymandering?

Partisan gerrymandering is when district lines are drawn to purposefully favor or disfavor a political party, candidate, or incumbent. Typically, this is achieved in one of two ways: “cracking” or “packing.” Cracking is when districts split up a group of voters such that their preferred party will never have enough votes to win in those districts. Packing, on the other hand, is when a district contains a much higher number of a party’s voters than would be necessary to win in that district. When done effectively and armed with sophisticated redistricting software, both of these practices will result in large numbers of wasted votes for the targeted group. At its worst, partisan gerrymandering will result in a party winning a minority of the votes, but a majority of the seats.

## How does LACRA prevent partisan gerrymandering?

First, LACRA would explicitly prohibit the favoring of parties, candidates, and incumbents and require that districts be responsive. Focusing on the former, by prohibiting favoring parties on a statewide basis, LACRA inherently considers the use of statistical measures of partisan fairness, which have been relied upon by a number of federal and state courts.

Second, LACRA would require increased public input and transparency. Therefore, citizens can act as watchdogs over the redistricting process, armed with the data that must be published under LACRA’s data transparency provisions. Further, citizens can submit their own maps, analyze them, and present them as fair, non-partisan alternatives. Public input, analysis, and alternative map submissions will help to keep the LRC and congressional redistricting committees honest.

Third, LACRA creates a list of clear rules (e.g. county-splitting, minority protection, communities of interest, etc.) which will rein in any potential partisan gerrymandering by the LRC and congressional redistricting committees.

## How is partisan fairness typically measured?

Several metrics have been proposed to measure partisan fairness, and in a closely divided state like Pennsylvania, [certain metrics may work better than others](#). According to metrics calculated by PlanScore, [Pennsylvania’s invalidated congressional map](#) was a gerrymander that was [remedied](#) by the 2018 Special Master.

One possible metric would be the [mean-median difference](#), which compares the average district’s vote-share to the median district’s vote-share to find partisan asymmetry across a district plan. If the median district’s vote-share is considerably lower than the average district’s, the plan likely cracks and packs voters of one party. As the difference gets closer to zero, partisan fairness is more likely.

Another metric would be the [efficiency gap \(EG\)](#), which compares parties’ wasted votes to test for unequal outcomes. The EG adds together all the votes for a losing party and the votes for a winning party in excess of 50%+1 to get the total number of wasted votes. This number is then divided by the total number of votes to see how efficiently votes were spread across a district plan. Generally, an EG over 8% is considered evidence of a gerrymander. One caveat is that minimizing the EG in the pursuit of partisan fairness will affect a plan’s responsiveness, precipitating some degree of a “winner’s bonus” or seat-share advantage to the majority party.

A number of other metrics to measure partisan fairness could be used to meet LACRA’s criterion, including the [lopsided wins test](#), [partisan bias](#), and [declination](#). When based upon these widely-accepted statistical measures, maps produced in accordance with LACRA will ensure that the parties are treated fairly by the LRC and congressional redistricting committees.



**PRINCETON  
GERRYMANDERING  
PROJECT**

Fixing bugs in democracy



# LACRA'S PUBLIC INPUT & TRANSPARENCY

## Summary

The Legislative and Congressional Redistricting Act, or "LACRA" (HB22/SB222), is a bill that would increase transparency and public input in the redistricting process, along with enshrining clear criteria to prevent a number of redistricting offenses. It would not change who draws new legislative and congressional districts (the Legislative Reapportionment Commission (LRC) and the Legislature, respectively), but it would ensure greater public access and accountability throughout the process.

## How does LACRA increase public input in the redistricting process?

LACRA would mandate formal avenues for input in the form of public hearings, map submissions, and public comments. For legislative redistricting, the LRC would have to hold four hearings in different regions of the Commonwealth prior to completing a preliminary plan; another two hearings would be held if exceptions to the plan were filed. For congressional redistricting, four hearings in different regions would be required both before and after the approval of a preliminary plan. A similar number of hearings is required in [Illinois](#), [Oregon](#), and [Utah](#). Throughout both processes, citizens would be allowed to submit their own draft plans for any and all districts and/or communities of interest.

Finally, the bipartisan [Legislative Data Processing Committee](#) (LDPC) would create an electronic public comment portal to facilitate the submission of written testimony. These new public input requirements are [pivotal to the success](#) of LACRA's new community-of-interest criterion.

## What additional transparency requirements does LACRA put in place?

LACRA also includes procedural provisions to guarantee greater transparency. The LRC and congressional redistricting committees would be subject to Pennsylvania's Open Meetings Law, a common transparency mechanism in [a number of states](#). All meetings would be livestreamed, held at convenient times, and available in multiple languages. In addition, adequate notice would be required before any meeting, with a video archive made available after. LACRA would also mandate the timely publication of all underlying data, preliminary and final plans, testimony transcripts, and analytical reports. This wealth of information would (1) be accessible on a public, free, and user-friendly website established by the LDPC; (2) be provided with adequate time to review; and (3) remain on the website for at least 10 years following its publication.

## Why is it useful to have so many types of data released free of charge for public use?

The public release of data is necessary for meaningful citizen involvement in the redistricting process. For example, LACRA's required publication of all underlying data used to create plans, in formats easily usable for analysis, would allow citizens to scrutinize released plans and to create and present their own to the LRC and congressional redistricting committees. Live and archived meetings would allow the public to directly participate in, and keep an eye on, the process to ensure that it is fair. Lastly, the provisions for real-time, electronic input would allow citizens from all over the Commonwealth to participate. Such capability has become especially important as social distancing becomes commonplace in response to the current public health crisis.

## What else does LACRA do to guard the integrity of the redistricting process?

In addition to increased public input and transparency requirements, LACRA would impose additional eligibility requirements for the LRC chairperson to guard against undue political influence. Currently, the [state constitution](#) only stipulates that the chairperson cannot presently hold political office. Under the new qualifications outlined in LACRA, the chairperson cannot have registered as a lobbyist, been nominated for office, or served as a staff member of a political group – nor have a spouse who has done any of the above – in the preceding five years. These requirements will protect the independence of the LRC and the redistricting process and are common among other commissions.

Furthermore, the Chair would be required to meet ethical standards already spelled out in Pennsylvania law. The Chair would also have to fill out a financial disclosure form before taking office and one year after leaving.



**PRINCETON  
GERRYMANDERING  
PROJECT**

Fixing bugs in democracy



# LACRA & RESPONSIVENESS

## Summary

The Pennsylvania General Assembly has refused to transfer its redistricting power to an independent commission. Therefore, a legislative contingency plan containing line-drawing criteria and increasing public input and transparency has been introduced as the Legislative and Congressional Redistricting Act (“LACRA”). This bill (HB22/SB222), would ensure that whatever maps the Legislative Reapportionment Commission and congressional redistricting committees produce in 2021 will be responsive to changes in voters’ preferences.

## What is responsiveness? What does it seek to measure?

As defined in LACRA, the responsiveness criterion seeks to ensure that a particular group of voters can “translate their popular support into representation” and “that such representation is . . . reflective of shifts in the electorate’s preferences.” Concretely, responsiveness is the rate at which a change in a party’s vote-share increases or decreases in proportion to that party’s seat-share.

Essentially, a responsiveness criterion measures whether election outcomes will respond to changes in the will of the people or whether they will be durable against shifts in popular opinion. In general, low responsiveness will protect incumbents from any party due to cemented margins of victory. Such insulation eliminates a voter’s ability to vote out their representative. High responsiveness, on the other hand, will benefit whichever party wins a majority of votes in a given legislative or congressional election and can allow districts to switch parties from election to election if the voters so choose. Importantly, responsiveness does not favor any particular party.

## How is responsiveness typically measured? And how reliable is it?

Since responsiveness is a relationship between a party’s vote-share and its seat-share, the [seats-to-votes curve](#) “is the most appropriate vehicle to assess” a particular district plan. Once the seats-to-votes curve is plotted, experts create a “line of best fit” to estimate the relationship between vote-share and seat-share, and responsiveness is measured by the slope of this line. Generally, a steeper slope for the [part of the curve](#) that falls closest to the state’s average vote-share will correspond with a responsive map. For example, the slope for the seats-to-votes curve of [Pennsylvania’s unresponsive 2012–2016 congressional map](#) is nearly flat within the range of actual vote-share between 2006–2016. The curve for the [remedial 2018 map](#), on the other hand, is smooth, constant, and steep within that critical range, showing that it is likely more responsive.

Using the seats-to-votes curve analysis, responsiveness is generally a reliable criterion for gauging a voting bloc’s ability to translate its popular support into representation. It becomes all the more reliable when combined with the criterion that prohibits the undue favoring of a party on a statewide basis. All that said, as with other metrics, responsiveness may be affected by things like incumbency and political geography.

## How does it work in the map-drawing process? Do you first draw a map that meets your other goals, and then test whether it results in districts that are likely to be responsive?

Yes, a map-drawer would first draw a map that complies with all of LACRA’s other criteria (e.g., compactness, communities of interest, county-splitting rules, etc.), and then the map-drawer would run the responsiveness analysis. If the analysis shows that a map is sufficiently responsive based upon the seats-to-votes curve measure described above, then the map has met this criterion. If not, the map-drawer would return to the drawing board.

## Why is responsiveness desirable as a goal? And what are its advantages as a redistricting criterion?

Responsiveness is a desirable goal because it seeks to prevent the worst ill of gerrymandering: durable lack of representation. As defined by [Bernard Grofman and Ronald Gaddie](#), “If a map is responsive, then when voters change their allegiances, their representation also changes.” Further, responsiveness is advantageous as a redistricting criterion because rather than focusing purely on partisan outcomes or ensuring that every district is as close to 50% as possible, it makes sure that the preferences of the voters can adequately translate into representation in Congress and in the Pennsylvania General Assembly.



**PRINCETON  
GERRYMANDERING  
PROJECT**

Fixing bugs in democracy



# LACRA & COMMUNITIES OF INTEREST

## Summary

The Pennsylvania General Assembly has refused to transfer its redistricting power to an independent commission. Therefore, a legislative contingency plan containing line-drawing criteria and increasing public input and transparency has been introduced the Legislative and Congressional Redistricting Act (“LACRA”). This bill (HB22/SB222), would ensure that communities of interest are protected in whatever maps the Legislative Reapportionment Commission and congressional redistricting committees produce in 2021.

## What is a community of interest?

Generally, a community of interest (COI) is a group of Pennsylvanians who share similar interests that might be the subject of legislation. Specifically, LACRA would define a COI as “a neighborhood or geographically confined area of persons who share similar social, cultural and economic interests or other shared interests that may be subject to legislative action. A community’s shared interest does not include a shared relationship with a political party, incumbent or political candidate.” This language is common among recent reform laws and proposals in places like [Colorado](#), [Michigan](#), [Nevada](#), [North Dakota](#), [Oklahoma](#), [Oregon](#), and [Virginia](#).

## But can’t public input about COI be used to game the system?

Examples from other states have shown instances where public input has been used by partisan actors. However, LACRA’s clear definition of what is and isn’t a COI will mitigate concerns about potential misuse while ensuring that districts are more representative of the people of the Commonwealth. Not only that, but other redistricting criteria in the bill will ensure that potential sabotage is prevented by a number of competing considerations.

In addition, LACRA’s public input provisions will play a large role in the success of the COI criterion. As stated by [Michael Li and Yuri Rudensky](#) from the Brennan Center for Justice at NYU, “[t]o ascertain whether a community of interest exists, public input is essential.” LACRA’s public input requirements that allow for both in-person and virtual input will allow members of the public to challenge and reject false testimony about COIs. This type of robust public involvement can also be strengthened by the submission of community of interest maps through software like [Representable](#) and [Districtr](#). In particular, Representable’s ability to show aggregate community data will help show where COIs exist, as proven by broad public consensus.

## What does COI add to LACRA?

The COI provision provides a manner for certain communities to be recognized that might not otherwise get proper representation. Although Pennsylvanians strongly identify with their particular town or county, people don’t always live neatly within the boundaries of subdivision lines, so relying upon these subdivisions can still split communities. While subdivisions can often overlap with communities, [former Speaker Mike Turzai](#) has noted that “consideration and preservation of communities of interest ensures that implicit communities are not destroyed by explicit, but invisible and sometimes outdated, municipal boundaries.” The Supreme Court of Pennsylvania came to a similar conclusion in [a 2012 case](#). Lastly, [a large coalition of national civil rights and reform organizations](#) have also spoken about the importance of COI, writing that “[c]onsideration of communities of interest is essential to successful redistricting.”

## What are examples of COI that may not be represented well within municipal boundaries?

Certain communities can be cut by municipal lines. For example, it is likely that Native American or Amish communities do not neatly follow county boundaries. Some economic communities cross these boundaries too. In fact, a 2012 alternative plan [split apart coal mining operations](#) due to a focus on maintaining political subdivision boundaries, even though this economic COI would likely benefit from shared representation. Additionally, even school districts, an easy proxy for a neighborhood COI, may be affected by a heavy focus municipal boundaries.

Further, [Common Cause PA](#) has noted that a COI provision can be critical in ensuring that smaller communities of color are adequately represented (e.g. smaller Latinx communities in Allentown, Philadelphia, and Reading). Admittedly, rules limiting municipal splits protect these communities to an extent by striving to keep their cities whole as much as possible. But if a city split is needed to comply with population requirements, a COI provision would ensure that the required split does not harm communities.





# LACRA'S MINORITY PROTECTIONS

## Summary

The Pennsylvania General Assembly has refused to transfer its redistricting power to an independent commission. Therefore, a legislative contingency plan containing line-drawing criteria and increasing public input and transparency has been introduced as the Legislative and Congressional Redistricting Act ("LACRA"). This bill (HB22/SB222) would ensure that communities of color are protected in whatever maps the Legislative Reapportionment Commission and congressional redistricting committees produce in 2021.

## Does LACRA protect communities of color in the redistricting process?

Yes, and it does so in two key ways: (1) increasing public input and (2) a specific line-drawing criterion. First, by increasing public input, LACRA will allow communities of color to have a voice in the redistricting process, ensuring that they can point out any potential harms that ought to be remedied. Second, the bill includes language that mirrors, but expands upon, the [federal Voting Rights Act](#) (VRA): "Districts shall provide racial and language minorities with an equal opportunity to participate in the political process and may not dilute or diminish their ability to elect candidates of choice by themselves or in coalition with others."

## What does it mean to say that a district map "may not dilute or diminish their ability to elect candidates of their choice by themselves or in coalition with others?"

First and foremost, this language means that a map must give fair representation to communities of color. As noted, LACRA's language mirrors the federal VRA's Section 2. Under the federal law, majority-minority districts may be required in areas that [satisfy certain criteria](#), where the minority voting age population percentage is above 50% and is politically cohesive. The minority group must also be competing against a bloc of white voters that always defeats minority candidates of choice. Currently, these districts result in almost assured victory for a minority group's candidate of choice but they also lead to a decline in minority influence on a statewide basis.

Based on American Community Survey data from 2018, [17 of Pennsylvania's 203](#) state House districts are above [a threshold estimated](#) that may give minority communities the ability to elect their candidates of choice. Five of these districts have a Black voting age population (BVAP) above 80%. The BVAP in these districts may be indicative of packing. LACRA would more equitably spread out minority voters in order to create fairer representation of these communities. It would also allow districts that unite communities of color to create coalition districts. [Coalition districts](#) are ones where racial groups vote in a bloc to elect mutually agreed upon candidates of choice.

## Is LACRA's language more expansive than the federal VRA?

Yes, it is. LACRA's language is similar to the federal VRA, but it expands upon it by allowing for districts that rely on coalitions between minority groups. Currently, [federal law is split](#) on whether coalition districts satisfy the federal VRA's requirements for redistricting. By including the phrase "in coalition with others," LACRA eliminates this confusion within Pennsylvania. Similar language has passed in [Illinois](#), [Missouri](#), and [Virginia](#) and has been recently proposed in [Maryland](#), [Minnesota](#), [Nevada](#), [North Dakota](#), and [Rhode Island](#).

## How is that language likely to be interpreted by the courts?

Previously, the [Florida Supreme Court](#) has interpreted this type of language in lockstep with the federal requirements. But the Florida Constitution does not consider coalition districts, so the Supreme Court of Pennsylvania would likely interpret LACRA differently. The minority protection provision would likely be interpreted similar to the current federal requirement, requiring that a group is sufficiently large and cohesive to create a single-member district. But instead of basing this calculus on a single group, LACRA would likely be interpreted to require districts that include multiple minority groups.

Importantly, rather than relying upon the federal Supreme Court's interpretation of the federal VRA, plaintiffs would be able to bring redistricting vote dilution cases based solely upon state law. Therefore, no matter what the federal Supreme Court decides in future cases, LACRA would maintain redistricting protections for communities of color, even if the federal VRA is invalidated in the future.



**PRINCETON  
GERRYMANDERING  
PROJECT**

Fixing bugs in democracy





## COMMON CAUSE PENNSYLVANIA TESTIMONY

Legislative Reapportionment Commission

Khalif Ali, Executive Director

August 3, 2021

Chairman Nordenberg,

Thank you for the opportunity to testify today. My name is Khalif Ali, and I am the Executive Director of Common Cause Pennsylvania. As you may know, Common Cause PA is a nonpartisan, good government organization that has been dedicated to working toward a government that is accountable to We the People since 1970. We have over 35,000 members and supporters across every county in the Commonwealth.

Common Cause PA has long been an advocate for a redistricting process that prioritizes transparency, builds public trust in democracy, and respects the autonomy of communities. We believe that redistricting should be fair, accessible, and politically neutral. Most importantly, we believe that to be successful, a redistricting process must intentionally seek to ensure that every Pennsylvanian, regardless of zip code, race, ethnicity, first language, or profession has an equal opportunity to elect a representative that shares their values and lived experience.

My hope is that this testimony today is the beginning of an ongoing conversation with you all as members of the Legislative Reapportionment Commission (LRC). We know that the work you are undertaking is serious, difficult, and will require balancing any number of factors. Common Cause PA seeks to be an ally to you in this process.

### **Recommendation 1: Conduct extensive intentional outreach/education efforts**

One of the most impactful steps that the LRC can take is intentional outreach to Pennsylvanians. We know from public messaging research that many people don't understand the redistricting process, or worse, believe that all redistricting is an attempt to dilute or diminish the impact of their votes. While organizations such as Common Cause PA are working around the clock to provide information to Pennsylvanians and work with them to tell the story of their communities, we also know the LRC has important messengers.

We would encourage individual legislators to consider holding town halls, including educational materials about redistricting, opportunities for public input in your constituent communications, and using social media platforms to educate broadly. Additionally, we recommend that the legislature spend at least some portion of its funds appropriated for the redistricting process to purchase paid targeted advertising, ideally in multiple languages, to help reach those Pennsylvanians who have historically been left out of the redistricting conversation.

This education should include both the requirements for redistricting: how the state draws its lines, the laws and priorities that govern its decisions, and the timeline from start to finish. This should be done as early in the process as possible, and the material should be available online in at least Spanish and English. Creating this type of transparency from the outset will help manage the public's expectations and build trust allowing for the process go more smoothly for everyone.

## Recommendation 2: Provide accessible opportunities for meaningful public input

We were heartened by the announcement that several regional public hearings will be held to gather public input, and we appreciate the stated commitment to ensuring a transparent 2021 Legislative redistricting process in Pennsylvania.

Specifically, we recommend the following:

1. The hearings should be held both in-person and virtually at different times during the week—some during evenings and weekends—to enable engagement and participation from as many residents as possible. These hearings should be scheduled, and the agendas advertised in advance, through the website and social media accounts with sufficient advance notice, to allow those who want to participate enough time to prepare.
2. To the extent possible, hearings should be translated live into the most frequently spoken languages in the region and all hearings should be accompanied by American Sign Language interpretation. Stakeholders who support individuals with disabilities and individuals for whom English is not their first language should be consulted prior to these hearings to ensure that as many Pennsylvanians can participate as possible.
3. The hearings should be bipartisan with both Republican and Democrat members in attendance. All LRC members should make a concerted effort to attend, either virtually or in person.
4. The process for submitting public comment at the hearings and through the online portal should be clear and available in multiple languages. It should include any requirements such as (a) the length of comments; (b) content restrictions; (c) registration requirements – if any.

We understand that these recommendations will place some burden on the LRC and staff. However, we believe that they are an essential part in achieving a transparent process that builds public trust in our democracy.

## Recommendation 3: Prioritize communities of interest as the building blocks of the map

Communities of interest should be the building blocks of redistricting. We strongly urge you to prioritize protecting the boundaries of communities of interest throughout the redistricting process. This can be done without violating any of the other constitutional criteria.

Pennsylvania law does not contain a definition of communities of interest. However, a widely used definition is: *'A community of interest is a neighborhood or area whose residents have **shared culture, history and policy concerns** and so would benefit from being represented in the same district.'* A community of interest can be defined as people who share such things as: economic concerns, environmental concerns, race, language, ethnicity, watershed, school district, concerns about access to health care, etc. The definition typically explicitly excludes relationship interests with a particular political party, elected official, or candidate.

There is no requirement that a community of interest must be composed of a certain number of residents or cover a certain amount of geographic area. Communities of interest may overlap, or cross municipal or county boundaries.





Communities of interest should be defined by members of that community – not by academics or advocates from outside. That is why the public hearings that have been scheduled are so essential to a successful redistricting process.

For too long, redistricting has been conducted as a political game with partisan winners and losers. While it is undeniable that there are direct political impacts from redistricting, **focusing on communities - not just municipal boundaries - is an important part of ensuring that We the People are at the center of the process.**

#### **Recommendation 4: Establish clear additional mapping criteria in order of priority**

The Pennsylvania Constitution requires that the LRC draw districts that are made up of “compact and contiguous territory as nearly equal in population as practicable.” The Constitution further requires that “Unless absolutely necessary no county, city, incorporated town, borough, township or ward shall be divided” to create a district. Additionally, federal law requires that districts be equal in population and comply with the Federal Voting Rights Act.

While these criteria are well-established, we would recommend that the LRC further clarify how you plan to apply them, including the order the criteria will be applied and how the LRC intends to define compactness, and the phrases “nearly equal in population as practicable” and “unless absolutely necessary”.

Further, we know that there are other criteria that historically have been used to produce more representative maps. To the extent that the LRC will be using other mapping criteria, we encourage you to make the criteria clear and provide an opportunity for public input before those decisions are made.

As you consider which criteria to establish, we strongly encourage you to adopt the below criteria:

1. Map drawing criteria. --The General Assembly shall establish single-member legislative and senatorial districts using the following criteria set forth in the following order of priority:
  - a. Legislative districts shall comply with the Constitution of the United States and all applicable Federal laws, including but not limited to the Voting Rights Act of 1965.
  - b. Districts shall comply with the Constitution of Pennsylvania.
  - c. Districts shall be geographically contiguous.
  - d. Districts shall provide racial and language minorities with an equal opportunity to participate in the political process and shall not dilute or diminish their ability to elect candidates of choice by themselves or in a coalition with others.
  - e. Districts shall respect the integrity of communities of interest to the extent practicable. The term “community of interest” shall not include common relationships with political parties or political candidates.
  - f. Districts shall not divide county, city, incorporated town, borough, township, or ward unless absolutely necessary.
2. Prohibitions. --The LRC shall comply with all of the following when drawing a final legislative district map:



- a. A final legislative district map shall not, when considered on a Statewide basis, unduly favor or disfavor any political party, candidate, or incumbent.
- b. A district in a final legislative district map shall not dilute or diminish the ability of racial and language minorities to elect candidates of their choice by themselves or in a coalition with others.

Establishing clear redistricting criteria will allow for the public to participate in the process more meaningfully. The criteria will allow members of the public to draw their own maps that follow the same criteria that the LRC does and evaluate draft and final legislative district maps.

### **Recommendation 5: Create a plan for processing and incorporating public input**

If all goes as planned, the LRC will be receiving significant public comment and input on the redistricting process, communities of interest, and draft/final maps.

Accordingly, there should be a clear process for evaluating public testimony, incorporating it into the mapping process, and, if necessary, an explanation for why the committee made mapping decisions that were not in accordance with the public testimony.

Finally, we would strongly encourage this committee and your colleagues in both chambers of the General Assembly, as well as the Governor's office, to commit to a redistricting process that is conducted in the spirit of bipartisanship. We understand that this is an inherently political process and that there is much to be gained or lost by drawing districts in a way that solidifies political control by one part or the other. However, to do this would be a mistake and could continue to erode public trust in government.

Thank you again for the opportunity to speak with you today and for your commitment to a redistricting process that works for all Pennsylvanians.







# **Redistricting Testimony by Amanda Holt**

**August 3, 2021**

**Public Hearing  
Legislative Reapportionment Commission**

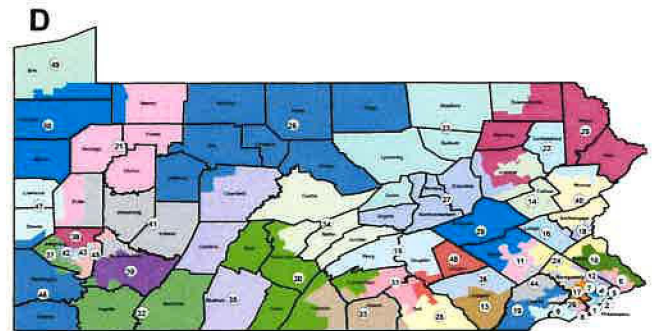
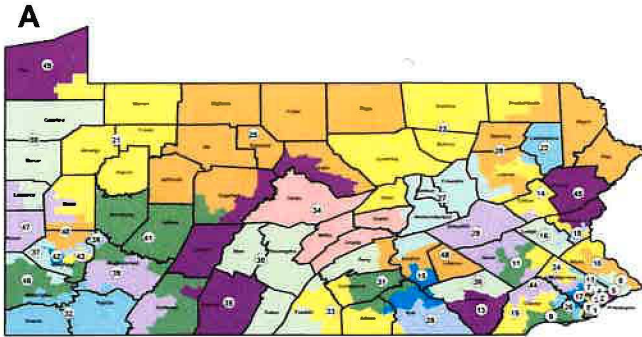
## **Summary of Key Points**

1. Without a defined standard, it is impossible to uniformly evaluate Legislative Redistricting Plans.
2. Measurable standards with clear definitions are needed to safeguard the map drawing process.
3. Five criteria form a solid foundation on which to build a redistricting plan.
4. It is essential to have transparency and clarity on how the criteria will be defined, prioritized, and balanced.

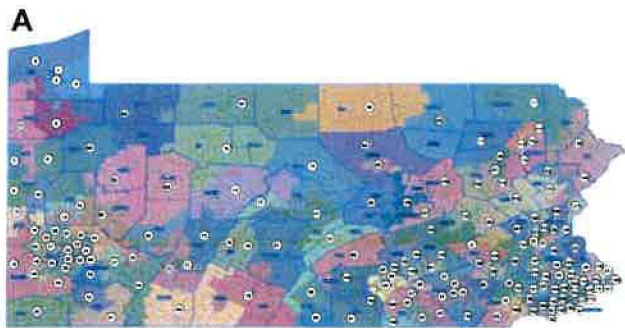
Beginning on page 6 are suggested definitions for measurable standards.

Which map is the best map? Which map should be approved?

### STATE SENATE



### STATE HOUSE



# The only way to answer that question is to have a standard. But what should the standard be?

There are some current rules in Pennsylvania regarding State Legislative redistricting.

## FEDERAL STANDARDS

### Equal Population

Each district within an overall range of 10%.

OR

Each district with an overall range higher than 10% (must be justified)

### Voting Rights Act (VRA)

Prohibits discrimination against minorities when drawing districts.

A minority district is when a minority voting-age population (VAP) is over 50% of the VAP in the district.

## PENNSYLVANIA CONSTITUTION

**Equal in Population**  
as practicable

**Compact territory**

**Contiguous territory**

**Preserve Jurisdictional Boundaries**

Unless absolutely necessary, no county, city, incorporated town, borough, township, or ward shall be divided.

These foundational rules still leave many key decisions at the discretion of those creating and finalizing State Legislative district plans. For example, decisions which have the greatest impact on the final map include:

1. Overall population range (the difference between the largest and smallest district)
2. Definition of Map Criteria (such as the rules above)
3. Starting map used (blank map vs. starting with cores of prior districts)

## How does the Legislative Reapportionment Commission create defensible district plans which will respect the people and stand up in court?

I suggest that this is achieved by having

**a measurable standard that is clearly defined.**

While standards exist for State Legislative district plans, the definition of these standards can be the subject of debate. Consider the following scenario in current legislative plans.

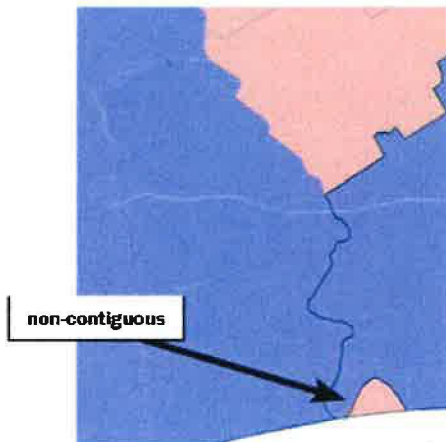
**Standard:** Contiguous Territories

**Sample Results from Current House Map:**

### **HD #156 Birmingham Twp.**

District 2

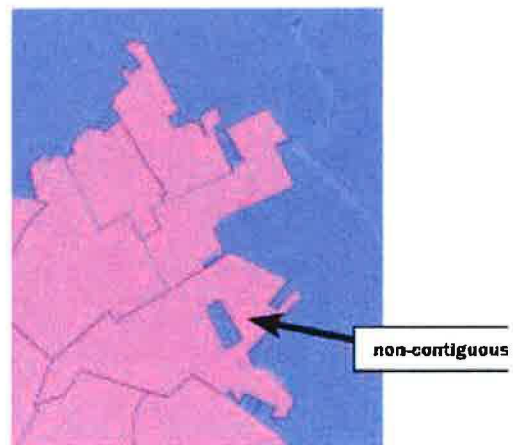
Census Block 1044, 1045



### **HD #037 Mount Joy Twp.**

District Cloverleaf

Census Blocks 3004, 3005



**Question:** Are these districts contiguous?

Because of perceived variances between stated goals and the drawn districts, it raises the question as to the meaning of existing federal and state standards.

At the end of the day, there is still the need for resolution to the underlying issue of a redistricting process that lacks firm, measurable standards.



## Traditional Priorities

There are **5 essential criteria** which, at a minimum, are generally accepted priorities and also ones used in drawing legislative districts in Pennsylvania.

1. Respect minorities – ensure the VRA is followed, even if doing so divides a political subdivision.
2. Equal population – 10% overall range at least (maximum) while consistently meeting state goals.
3. Preserve political subdivision boundaries – divide no jurisdictional boundary unless unavoidable to stay within overall range or follow VRA.
4. Contiguous – all districts are physically connected.
5. Compact – not generally defined further.

**How will these criteria interplay with each other** (especially if in conflict)? Some clear guidance is available through Federal case law, common practices, and the authors of the Pennsylvania Constitution.

1. Respecting minorities: No other goal can prevent following the Voting Rights Act. Federal case law states that the minority cannot be predominant consideration in configuring districts. But at the same time, adhering to traditional criteria cannot cause the packing or cracking of a minority group.
2. Equal population: 10% (highest) overall range while meeting state goals, like minimizing or eliminating county and town divisions (equal population and preserving boundaries are the two goals most often linked in the law and guidelines of other states).
3. Preserve political subdivision boundaries – divisions only allowed for population and VRA standards, but not for contiguity or compactness. This is a standard which requires precise definitions to be effective.
4. Contiguity is generally addressed when preserving county and town boundaries. It really becomes a non-issue, even when the political subdivision itself is not contiguous. For example, Chester County is technically not contiguous but has always been treated as if it was contiguous in the redistricting process
5. Compactness is generally considered only after the other goals have been met.

**Recommendation:** Instead of attempting to gain agreement around a multitude of possible additional criteria, focus first on following these five essential priorities in 2021.

Consider investing energies and resources into creating clearly defined and measurable standards based on the required criteria for the 2021 State Legislative Redistricting process. Because these will protect the voice of the people.

## What are Characteristics of Better Redistricting Criteria and Definitions?

1. **Clear Objectives:** People should be able to easily understand the key objectives Pennsylvania wants to achieve in a state legislative district plan, even before a line is drawn. This includes definitions of terms, which should have the same plain meaning both in the legal system and to the public.
2. **Limited Criteria:** While focusing exclusively on a single criterion creates imbalance, including too many criteria will create confusion. The more criteria, the more reasons exist for justifying district lines, and the more room for discretionary interpretation by judges, lawyers, legislators, and the public.
3. **Transparent Priorities:** Even within the current required criteria – respect for minorities, equal population, preserving political subdivisions, compactness, contiguity – it is essential that Pennsylvania be clear on how these will be balanced. If two criteria are in conflict, which will get precedence?
4. **Enforceable Outcomes:** Though standards should be simple enough to be understood, they also must be specific enough to withstand legal interpretation. Quantifiable redistricting standards allow the resulting plan to be substantiated when measured against them. It provides assurance to those creating legislative district plans and those living within them that the law will be followed. This is because it gives a mechanism for defending lawful plans and defeating an improper plan.

## Suggested Definitions for Measurable Standards

### 1. Use highest overall range allowed (at least 10%).

A higher overall range provides the best opportunity to balance the essential criteria in Legislative Redistricting. For example if 10% had been used in 2011, Dauphin County could have remained undivided when forming Senate districts and Carbon County when forming House districts.

Instead, the initial district plans after the 2010 census used only a 4% and 6% overall range. When this was increased to nearly 8%, fewer divisions were necessitated by population.

An overall range of 10% is not uncommon. In looking at other states in 2010, 27 states had overall ranges above 8%. That is 54% of the states. (See Appendix A for a list)

## **2. Affirm the only reason a jurisdiction may be divided is because of population and the VRA.**

Two standards most often connected are population equality and preserving jurisdictions. The minutes of the 1968 Constitutional Convention recorded this same rationale when introducing the current Constitutional provision. They stated that divisions were only to be permitted to stay within the overall population range ( "no ward, borough, county, and so forth, lines being divided unless absolutely necessary under the one-man, one-vote rule.")

More recently, the Pennsylvania Supreme Court articulated this view when they wrote in a similar case that political subdivisions were not to be divided unless needed for equality of population.

Overall, 90% of the discretionary jurisdictional divisions in the current Senate plan could have been avoided as well as over 76% in current House plan. These excessive splits affected millions of Pennsylvania residents, ultimately hurting their representative voice.

This criterion to respect the boundaries of political subdivisions has been present in every Pennsylvania Constitution since 1790. It has a long-standing history of being a legitimate Commonwealth interest in Pennsylvania's redistricting process. Limiting jurisdictional divisions should be enforced at every level.

- In the current Senate map:
  - 60% of the excessive divisions were to counties
  - 100% of the divisions to wards were avoidable
- In the current House map
  - 19% of the excessive divisions were to counties
  - 34% were to municipalities
  - 47% were to wards

## **3. No voting precinct shall be divided in forming a legislative district.**

There is perhaps no division more confusing to a voter and costly to the state than one made to a voting precinct. The current plans divided 1 voting precinct in the Senate and 2 voting precincts in the House.

## **4. First try to respect both minorities and the place where they live.**

Many times, a VRA district can be created without dividing a jurisdiction. For example, ward divisions in Allentown, Philadelphia, Pittsburgh, and Reading might have been eliminated or reduced by over 60% and still provided a minority district. Give the minority group the benefit of not only being unified as a minority but also unified within the place they live.

**5. Allow small jurisdictional enclaves to be considered contiguous with their jurisdiction.**

An enclave is when a portion of a jurisdiction is surrounded by another jurisdiction at an equivalent government level. These small geographic anomalies in Pennsylvania should not necessitate a jurisdictional division. They should be treated as if they were contiguous to their jurisdiction, as they have always been.

**6. Do not attempt to define a specific measurement for compactness.**

Should a jurisdiction be divided just so that the district improves a compactness score? Most state laws only reference compactness as a concept and do not attempt to select or apply a specific measurement. The places people live seem to matter more than the ultimate shape of the district. Because of this, I believe it is better to not attempt to set a specific measurement and leave this as a general principle.

**7. Do not consider school districts at the expense of other jurisdictions.**

Often times, school districts are suggested as a boundary worth following in drawing district lines. While this may be a valuable consideration, the boundaries of school districts do not always coincide with county or municipal boundaries. If they are to be considered, it must be a secondary consideration.

**Process suggestion:**

1. Instead of working from existing district boundaries, start from a blank map without consideration of district numbers.
2. If secondary criteria will be considered, focus first on achieving the primary objectives. If a secondary consideration is in conflict with the primary goal, then the primary goal should be followed. Secondary goals should never be achieved at the expense the main objectives.

**Conclusion:**

It is critical the LRC invest energies and resources into establishing clearly defined and measurable standards and then using these standards in the 2021 Legislative Redistricting process. While a challenging task, it would give you a solid basis to explain and defend the placement of district lines.

You have the opportunity this year to leave a legacy of people before politics. Today can be the first step toward that legacy by supporting measurable standards with clear definitions in Legislative redistricting.



# Appendix A: NCSL 2010 Redistricting Deviation Table

Source: <https://www.ncsl.org/research/redistricting/2010-ncsl-redistricting-deviation-table.aspx>

## 2010 Redistricting Deviation Table

There are several methods of measuring the extent to which populations of all the districts in a plan vary, or differ collectively from the "ideal." The method expressed in the below table is "Overall Range."

Overall range is perhaps the most commonly used measure of population equality, or inequality, of all districts, which can be expressed as a percentage (relative) or the actual population numbers (absolute). The "range" is a statement of the population deviations of the most populous district and the least populous districts. (For example, if the ideal district population is 100,000, the largest district in the plan has a population of 102,000, and the smallest district has a population of 99,000, then the range is +2,000 and -1,000, or +2 percent and -1 percent.) The overall range is the difference in population between the largest and the smallest districts, expressed as a percentage or as the number of people. (In the preceding example, the "overall range" is 3 percent or 3,000 people.)

This information is current as of January 2012. If you would like to provide an update on the deviation numbers for your state's redistricting plans please email [Wendy Underhill](mailto:Wendy.Underhill@ncsl.org).

For more about population deviation, how the numbers are calculated, and data from the 2000 cycle, see NCSL's [Redistricting Law 2010](#) publication on p. 47.

State	2010 State House Plan		2010 State Senate Plan		
	Ideal District Size	Percent Overall Range	Ideal District Size	Percent Overall Range	
Alabama	45,521	1.98	136,564	1.98	SOURCE: National Conference of State Legislatures, 2019
Alaska <sup>1</sup>	17,756	4.25	35,512	2.97	
Arizona <sup>**</sup>	213,067	8.78	213,067	8.78	* State has only one Congressional seat.  ** These states use multi-member districts, with two House seats elected in each Senate district.
Arkansas	29,159	8.36	83,312	8.2	
California	465,674	1.98	931,349	1.99	*** These states use multi-member districts with varying numbers of senators (Vermont) or representatives (Maryland, New Hampshire, Vermont and West Virginia) in each district.
Colorado	77,372	4.98	143,691	4.99	
Connecticut <sup>2</sup>	23,670	5.99	99,280	9.79	1. Alaska: Data from the unified plan adopted for elections in 2014.
Delaware <sup>*</sup>	21,901	9.93	42,759	10.73	
Florida <sup>3</sup>	156,678	3.98	470,033	1.92	

Appendix A: NCSL 2010 Redistricting Deviation Table

Source: <https://www.ncsl.org/research/redistricting/2010-ncsl-redistricting-deviation-table.aspx>

Georgia <sup>1</sup>	53,820	1.98	172,994	1.84	2. Connecticut: Data for the Senate from the plan adopted for elections in 2016.
Hawaii	24,540	2.57	50,061	44.22	
Idaho**	44,788	9.7	44,788	9.7	3. Florida: Data for the Senate from the plan adopted for elections in 2016.
Illinois	108,734	0.0	217,468	0.0	
Indiana	64,838	1.74	129,676	2.88	4. Georgia: Data from the plans adopted for elections in 2016 (House) and 2014 (Senate).
Iowa	30,464	1.93	60,927	1.65	
Kansas	22,716	2.87	70,986	2.03	5. Hawaii modifies the census counts for legislative plans; the modified numbers are used to apportion seats to the four basic island units (BIUs). Each unit has a separate target population for each chamber. The deviation numbers in the table reflect the range of all districts for that chamber.
Kentucky	43,394	11.62	114,194	11.02	
Louisiana	43,174	9.89	116,240	9.86	6. Kentucky: Data from legislative plans adopted for elections in 2014.
Maine	8,797	9.9	37,953	9.51	
Maryland***	122,813	8.87	122,813	8.87	7. Maryland has three House of Delegates districts nested within each Senate district; these three may be either a three-member district, or any combination of single-member or two-member districts. The ideal district size for the two-member districts is 81,875, with an overall deviation of 9.39%. The ideal district size for the single-member district is 40,938 with an overall deviation of 8.92%.
Massachusetts	40,923	9.74	163,691	9.77	
Michigan	89,851	9.96	260,096	9.79	8. Montana: Data from the legislative plans adopted for elections in 2014.
Minnesota**	39,582	1.6	79,163	1.42	
Mississippi	24,322	9.95	57,063	9.77	9. North Carolina: Data from legislative plans finalized for elections in 2018.
Missouri	36,742	7.8	176,145	8.5	
Montana* <sup>8</sup>	9,894	5.44	19,788	5.26	10. Ohio used a customized dataset for the legislative plans with numerous split blocks; this does not affect the ranges.
Nebraska	N/A	N/A	37,272	7.39	
Nevada	64,299	1.33	128,598	0.8	
New Hampshire***	3,291	9.9	54,853	8.83	
New Jersey**	219,797	5.2	219,797	5.2	
New Mexico	29,417	6.68	49,028	8.7	
New York	129,089	7.94	307,356	8.8	
North Carolina <sup>9</sup>	79,462	9.97	190,710	9.49	

Appendix A: NCSL 2010 Redistricting Deviation Table

Source: <https://www.ncsl.org/research/redistricting/2010-ncsl-redistricting-deviation-table.aspx>

<b>North Dakota*</b>	14,310	8.86	14,310	8.86	11. Pennsylvania: Data from plans adopted for elections in 2014.
<b>Ohio<sup>10</sup></b>	116,530	16.44	349,591	9.2	
Oklahoma	37,142	1.81	78,153	2.03	12. South Dakota: Thirty-three of the state's 35 districts elect one senator and two House members, but the state also maintains two Senate districts split into four single-member House districts. These four districts have an ideal population of 11,631, with an overall deviation of 4.68%.
Oregon	63,851	3.1	127,702	2.99	
Pennsylvania <sup>11</sup>	62,573	7.88	254,048	7.96	
Rhode Island	14,034	4.98	27,699	5.01	13. Utah: These numbers reflect the legislative plans as enacted in 2011 using the census counts. Subsequent review by the state found several instances where local political boundaries were incorrect in the geography files. Deviations based upon updated block assignment files from the Census Bureau are 1.55% for the House and .39% for the Senate.
<b>South Carolina</b>	37,301	4.99	100,551	9.55	
<b>South Dakota*<sup>12</sup></b>	23,262**	9.64	23,262	9.47	
<b>Tennessee</b>	64,102	9.74	192,306	9.17	
<b>Texas</b>	167,637	9.85	811,147	8.04	14. Vermont split a census block, which affects the overall range for the House; it would be 19.07% using whole blocks.
Utah <sup>13</sup>	36,852	0.0	95,306	.01	
<b>Vermont<sup>14</sup>**</b>	1,172	18.8	20,858	18.01	
Virginia	80,010	2.0	200,026	4.0	
Washington**	137,236	.07	137,236	.07	
<b>West Virginia***</b>	18,530	9.99	109,000	10.00	
Wisconsin	57,444	.76	172,333	.62	
<b>Wyoming*</b>	9,394	9.84	18,788	9.37	

## About This NCSL Project

Redistricting is the process of redrawing state legislative and congressional district boundaries every 10 years following the decennial U.S. Census. NCSL helps prepare legislatures and others for the redistricting cycle with comprehensive information on redistricting law, technology and process.

For more information, contact: [Wendy Underhill](#), NCSL Staff Liaison.