

COMMONWEALTH OF PENNSYLVANIA  
LEGISLATIVE REAPPORTIONMENT COMMISSION

In re: Public Meeting of the Legislative  
Reapportionment Commission

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Stenographic report of hearing  
held in Room 515, Irvis Office  
Building, Harrisburg, Pennsylvania

Tuesday  
September 21, 2021  
10:00 a.m.

MARK A. NORDENBERG, CHAIRMAN

MEMBERS OF LEGISLATIVE REAPPORTIONMENT COMMISSION

Sen. Kim Ward	Rep. Kerry Benninghoff
Sen. Jay Costa	Rep. Joanna McClinton

Also Present:

Robert L. Byer, Esq., Chief Counsel  
G. Reynolds Clark, Executive Director  
Dr. Jonathan Cervas, Redistricting Consultant  
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

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Also Present:

David Brogan, Esq., Director, House Democratic Legislation  
and Policy

Andrew McGinley, Esq., General Counsel, House Democratic  
Government Oversight Committee

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22  
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25

INDEX

<u>Witness</u>	<u>Page</u>
Brent McClintock, Director, Legislative Data Processing Center	661

1 CHAIR NORDENBERG: Good morning, everyone.

2 If I can borrow a phrase from Charles Dickens,  
3 arranging meetings of the Commission on Session days is both  
4 the best of times and the worst of times. It's the best of  
5 times because all of the Leaders are here in the Capitol.  
6 It's the worst of times because everybody is dragging them in  
7 different directions. But Leader Benninghoff is on his way,  
8 and so I think we should get started because we've got a hard  
9 11 o'clock stop because Members of the Leadership group have  
10 got to be back on the floor in Session then.

11 My name is Mark Nordenberg. I'm the Chair of the  
12 Legislative Reapportionment Commission. On behalf of the  
13 Commission, I want to welcome all of you, those of you here in  
14 the Irvis Office Building and those joining us by livestream.  
15 And I do extend that welcome on behalf of all Members of the  
16 Commission. They include the Majority Leader from the Senate,  
17 Senator Kim Ward; the Democratic Leader from the Senate,  
18 Senator Jay Costa; the Democratic Leader from the House of  
19 Representatives, Representative Joanna McClinton; and I know  
20 that Representative Benninghoff, the Majority Leader from the  
21 House, would want me to extend a welcome on his behalf in  
22 addition.

23 At the last meeting, the Commission considered  
24 three resolutions and passed two of them. The second of the  
25 resolutions that we adopted directed that two useable sets of

1 Census data be prepared this year: One I might call the  
2 traditional set that made no provision for prisoner  
3 reallocation; the other, the second set, would provide for  
4 prisoner data reallocation. Since we last met, the  
5 Legislative Data Processing Center, the Penn State Data  
6 Center, and the Department of Corrections all have been  
7 working hard to pull together the data that we need. And so I  
8 do want to thank Jen Shultz, from the Penn State Data Center;  
9 Diana Woodside, from the Department of Correction; and Brent  
10 McClintock, the Executive Director of the Legislative Data  
11 Processing Center, who is here with us today. And I would  
12 like to ask Mr. McClintock if he would open the meeting by  
13 giving us a brief update on the preparation of the data that  
14 the Commission has requested.

15 And I should note, as you all see, that Majority  
16 Leader Benninghoff has just entered the room.

17 MR. McCLINTOCK: Good morning, Chairman and  
18 Commissioners. Thank you for the opportunity to speak again  
19 today.

20 The Chairman did ask that I brief you on the  
21 status of the data. And so as you know, as the Chairman had  
22 just pointed out, at the last Commission meeting on August 24,  
23 Resolution 4B was approved, which created two distinct data  
24 sets. One would include only the geographic and population  
25 adjustments that were necessary to accurately reflect the

1 updated election precincts here in Pennsylvania. And the  
2 second data set would include those same geographic and  
3 population updates and would also reallocate the prisoner  
4 counts to their home residence, as was directed in Resolution  
5 4A.

6 My office, in coordination with the Penn State  
7 Data Center, received the Census data on August 12 and began  
8 to work on this first set of data. The Data Center corrected  
9 and adjusted as needed, including the different corrections  
10 that I've highlighted in previous testimonies. And after  
11 those corrections were completed, my office then coordinated  
12 with the Data Center to validate these files and to load  
13 internal databases that we have here in the building. So I'm  
14 pleased to report that this process is ahead of our original  
15 estimates and that we've almost completed this first set of  
16 data.

17 The Penn State Data Center will then immediately  
18 begin their work on their second set of data, which would  
19 include the prisoner reallocation. We do estimate that it's  
20 going to take a combined effort of about five to seven weeks  
21 to complete this process, and we plan to submit the second set  
22 of data to the Commission before the week of November 9. In  
23 both cases, we're going to submit the data sets to the  
24 Commission as soon as possible in useable form for the  
25 Commission to certify, and make available on the Commission's

1 public website as well.

2 I would be happy to answer any questions, if you  
3 have.

4 CHAIR NORDENBERG: Are there are any questions for  
5 Brent?

6 Senator Costa.

7 SENATOR COSTA: Thank you, Mr. Chairman.

8 So did I -- can you maybe explain again when we  
9 might be in the position to have useable data? Did I hear you  
10 say November?

11 MR. McCLINTOCK: Yes. The second set of data,  
12 that has just started its work, would be completed before the  
13 week of November 9.

14 SENATOR COSTA: That would be the earliest we'd  
15 have useable data to begin?

16 MR. McCLINTOCK: That would be the latest. We're  
17 hopeful that through some extra work and things like that,  
18 we'll be able to shorten that timeframe.

19 SENATOR COSTA: What's your best estimate in terms  
20 of when we would have useable data that would trigger the 90-  
21 day?

22 MR. McCLINTOCK: Based on the estimates, we're  
23 hopeful that the data is going to be in a clean, useable form,  
24 and we are hopeful that maybe like the third week to fourth  
25 week in October we'd be able to get the data. But depending

1 on the different things we may encounter, that first week in  
2 November is possible. So.

3 CHAIR NORDENBERG: And to be clear, the  
4 traditional data set should be completed this week, we expect.  
5 It is the additional work to be done to create the new data  
6 set involving the reallocation of prisoner data that will add  
7 weeks to the process.

8 MR. McCLINTOCK: That's correct.

9 CHAIR NORDENBERG: And I'm a non-expert on this,  
10 but I have watched Brent and the other data czars in action,  
11 and my prediction, Senator Costa, is that it will come before  
12 the 9th.

13 Other questions?

14 SENATOR COSTA: Can I ask another question, Mr.  
15 Chairman?

16 CHAIR NORDENBERG: You certainly may.

17 SENATOR COSTA: Thank you.

18 So we are entertaining another resolution today.  
19 If that resolution was adopted, what impact would that have on  
20 the November 9th date or previous earlier date, if any?

21 MR. McCLINTOCK: The resolution that's being  
22 considered today would not have a time impact on the work.

23 SENATOR COSTA: Thank you.

24 Thank you, Mr. Chairman.

25 CHAIR NORDENBERG: And that, to a large extent,

1 again is a credit to the Department of Corrections. And  
2 because I've been somewhat less than positive in some of my  
3 remarks about how long it took us to get data over the course  
4 of the summer, they have been very responsive over the course  
5 of the last few weeks, and they already have the data that  
6 would permit us to go forward in one direction or another,  
7 whatever happens with the resolution under consideration  
8 today.

9 Any other questions?

10 SENATOR COSTA: Mr. Chairman, if I -- I'm sorry.

11 REPRESENTATIVE BENNINGHOFF: Senator Costa  
12 actually asked the one question. And I wanted to thank Brent,  
13 one, for being here for I think probably the third time; and  
14 two, for clarification on that. I think it's important to  
15 know what the impact of that timeline may or may not have been  
16 getting this additional data because this is, you know,  
17 somewhat of an unprecedented step we're taking. So thank you  
18 very much.

19 SENATOR COSTA: Just very briefly, Mr. Chairman, a  
20 comment, but a request. As you know, the Commission is under  
21 significant time constraints, and I know that you've all been  
22 wonderful working well, but I would reiterate the need to be  
23 able to do whatever you can to get us useable data as soon as  
24 we can. The sooner, obviously, the better. Which then plays  
25 -- then that triggers our timelines. Certainly, with the goal

1 of recognizing that we have a May 2022 primary election,  
2 making sure that we're able to comply and provide public  
3 notice and public opportunity to participate in our process,  
4 but balancing the need to get things done in an expeditious  
5 way.

6 So I would encourage your folks to continue the  
7 good work they're doing, but if you could maybe double down  
8 and do it a little quicker, that would be great as well.  
9 Thank you.

10 Thank you, Mr. Chairman.

11 CHAIR NORDENBERG: You're welcome.

12 And let me, again, say for the record, we would be  
13 done this week except for the prisoner data reallocation  
14 resolution. And I'm not saying we shouldn't have passed that  
15 resolution. It was an important step by the Commission, but  
16 that's where the extra time is coming now. And I will also  
17 say, as I think you know, Senator Costa, I did meet with all  
18 of the demographers yesterday, and we were focussed on the  
19 things that we could do to cut down on the time involved in  
20 the preparation of plans without reducing the opportunities  
21 for public comment and participation. So, hopefully, we'll be  
22 able to speed up, ourselves, as time goes on, and I think that  
23 really needs to be a felt responsibility of everybody who is  
24 involved in the process.

25 SENATOR COSTA: Thank you, Mr. Chairman.

1           CHAIR NORDENBERG: As I think I said -- thank you,  
2 Brent -- we considered three resolutions at the last meeting  
3 of the Commission. The second of those resolutions is the one  
4 that we just discussed, providing for the preparation of two  
5 data sets. The first of those resolutions was presented by  
6 Leader McClinton and provided broadly for the reallocation of  
7 the Census data of prisoners held in State correctional  
8 institutions. That resolution also included an exemption from  
9 reallocation for prisoners who were serving life sentences.

10           The third resolution -- and that resolution was  
11 adopted, as many of you will recall, and adopted by a 3 to 2  
12 vote. The third resolution that was presented at the last  
13 meeting was presented by Majority Leader Ward, which would  
14 have extended that exemption from reallocation to prisoners  
15 serving a sentence of 10 years or greater. We discussed that  
16 resolution, some issues emerged from that discussion. In  
17 addition, most of us had not seen the resolution prior to the  
18 meeting, and so we agreed to informally table it with a  
19 commitment that we would take it up again at a subsequent  
20 meeting.

21           And so Leader Ward is here today to present a  
22 somewhat revised resolution, revisions that are responsive to  
23 some of the issues that were raised in the discussion in our  
24 last meeting. So let me turn the floor over to you, Senator  
25 Ward.

1           SENATOR K. WARD: Thank you very much.

2           I would like to offer Resolution 5A regarding  
3 prisoners with a sentence expiring after April 1, 2030, and  
4 ask for its consideration.

5           Thank you.

6           CHAIR NORDENBERG: Is there a second to the  
7 motion?

8           REPRESENTATIVE BENNINGHOFF: Second.

9           CHAIR NORDENBERG: The resolution has been  
10 advanced and seconded. We agreed, I think in advance, or I  
11 suggested in advance, that we order the discussion of this  
12 resolution following the approach that we took at the last  
13 meeting, with Senator Ward speaking first, with Senator Costa  
14 speaking second, with Leader Benninghoff speaking third, and  
15 with Leader McClinton speaking fourth, and with the Chair  
16 playing the caboose, or something like that.

17           So, Senator Ward, it's back to you.

18           SENATOR K. WARD: Thank you very much.

19           Prisoners are, in fact, physically located in the  
20 districts where they're incarcerated. This means they are not  
21 only utilizing the facilities, utilities, and resources in the  
22 districts where they reside, they are also utilizing the  
23 representational bandwidth or representational capacity of the  
24 Senators and Representatives of the districts where the prison  
25 is located. Furthermore, legislators who represent

1   incarceration districts are aware of and concerned with the  
2   operations of the prisons that are located there, including  
3   conditions in the prisons, and the status of the prisoners who  
4   are housed there. At a minimum, prisoners who will be  
5   incarcerated for the next 10-year redistricting cycle should  
6   be counted where they are located.

7           This proposal is consistent with Representative  
8   McClinton's previous resolution that was adopted by this  
9   Commission. Her resolution counts lifers at the facility in  
10   which they are incarcerated because they still will be there  
11   for the next Census. This 10-year proposal remains consistent  
12   with that approach by only reallocating those prisoners who  
13   will have the option to return home before the next Census.  
14   And furthermore, those individuals with a sentence that  
15   expires in 10 years following the 2030 Census will be  
16   available for reallocation in the next cycle.

17           As we learned last week, we have received the  
18   relevant data from the Department of Corrections, and the Penn  
19   State Data Center has indicated this will take no additional  
20   time for them to complete their work. Therefore, this  
21   resolution will cause no further delays in the Commission's  
22   process.

23           For the record--I just always have to give my  
24   opinion--for the record, I still believe that reallocating  
25   prisoners is a flawed concept, but I spoke at length on that

1 in the last meeting and was discussed in more detail in briefs  
2 submitted on my behalf to the Chairman's office. However,  
3 this Commission has a lot of difficult work ahead of us. One  
4 of our next major tasks will be certifying the data, which  
5 will officially kick off our timeline under the Pennsylvania  
6 Constitution. Therefore, I would like to find an agreeable  
7 way for us to move forward, and I believe that limiting the  
8 scope of prisoner reallocation to only those inmates who will  
9 be returning home in the next 10 years is a commonsense  
10 compromise that I hope my fellow Commissioners will support.

11 Thank you.

12 CHAIR NORDENBERG: Thank you.

13 Senator Costa.

14 SENATOR COSTA: Thank you very much, Mr. Chairman,  
15 and thank you for the opportunity to provide some remarks on  
16 resolution, I believe it's 5A. While I recognize and  
17 appreciate the modifications and changes that Commissioner  
18 Ward has made to her resolution from a previous discussion, I  
19 continue to believe that it's inappropriate for us to adopt  
20 this particular version of this resolution.

21 A number of reasons why I feel that way, Mr.  
22 Chairman. One is I think, certainly in my mind, it creates a  
23 lot of confusion and quite frankly undermines the whole basis  
24 of the previous resolution we adopted, Representative  
25 McClinton's Resolution 4A. I think that to carve out an

1 additional 3,000 inmates, as we now know, we're not certain as  
2 to whether or not they would comply, even if they would have  
3 sentences that end on April 1 of 2030. There are a number of  
4 variables and factors that could come into play that these  
5 individuals could likely be back home in their communities at  
6 a much earlier date. A number of areas, for example, you  
7 know, appeals that continue through the process, whether it be  
8 State or Federal habeas corpus petitions and the like, and  
9 petitions for post-conviction relief and the like.

10 . But probably the most significant thing that we  
11 did in the legislature a number of years ago was the  
12 recidivism risk reduction program that allows for a reduction  
13 of the minimum sentence for a number of prisoners, provided  
14 they maintain good conduct and the like and they go through  
15 the programming that they're supposed to go through. That  
16 could, in a number of instances, reduce their time that they  
17 would be released far earlier than the 10-year minimum  
18 sentence that they have.

19 So I just think, while I recognize that changes  
20 were made, I just believe that at this point in time, there's  
21 a significant difference between the lifers and their ability  
22 to have reduced sentences and those individuals with 10-year  
23 sentences. But more importantly, to treat individuals who are  
24 incarcerated for different periods of times differently, I  
25 also think is not a policy that this Commission should adopt.

1 So for those reasons, I will not be supporting Resolution 5A.

2 Thank you, Mr. Chairman.

3 CHAIR NORDENBERG: Thank you, Senator.

4 Leader Benninghoff.

5 REPRESENTATIVE BENNINGHOFF: Thank you, Mr.

6 Chairman. And I want to separately thank you for keeping to  
7 your commitment to come back and revisit this. This whole  
8 process, obviously, as we know, has been challenging under the  
9 time constraints.

10 But that said, I do support Resolution 5A and want  
11 to share a few points, because frankly, I think this really  
12 speaks to more fairness and consistency in some of our own  
13 decisions. If we think about our own Constitution under  
14 Article II, Section 17, we keep in mind any of these  
15 reapportionment processes in this Commission's charge is for a  
16 10-year time period. This is only to be used in this next  
17 general election as we come up, spring and fall election cycle  
18 for this coming election cycle in 2023 -- pardon me, 2022. As  
19 we know, the next reapportionment is tied to the next Federal  
20 decennial Census. In other words, every 10 years we are  
21 required to do this by our own Constitution. In short, the  
22 Commission speaks for one Census alone. So are we setting a  
23 precedence for years to come? We'll see.

24 I do think it's important that the listeners and  
25 viewers remember that the Legislative Reapportionment

1 Commission recently took this unprecedented step approving  
2 this resolution, and I don't want to debate it in its original  
3 merits, but it is only prisoners in State correctional  
4 institutions for these reapportionment purposes. State, but  
5 not county and/or Federal prisoners, will be generally  
6 relocated into the districts where they were from under the  
7 premise that they may some day return to those same places.  
8 The resolution contained and expressed exception to be  
9 recognized that these individuals who are subject to a  
10 sentence of life of imprisonment would be excluded.  
11 Individuals who will still be in prison when the next Census  
12 rolls around should not be reallocated for the same reason.  
13 If they're there 10 years, that is their place of residence.  
14 I think Senator Ward's resolution simply takes that exception  
15 to its logical conclusion by creating a corresponding  
16 exemption for reallocating for prisoners whose minimum  
17 sentence expires after April 1, 2030.

18           From the perspectives of the Legislative  
19 Reapportionment Commission, the prisoner serving a life  
20 sentence is the same as a prisoner serving a sentence which  
21 expires after the next Census. In both cases, those  
22 individuals will be in prison for that relevant Census cycle.  
23 The minor work necessary to make this change to the data will  
24 not take any additional time, as Brent told us earlier. And I  
25 was glad to hear him confirm that. It simply completes the

1 thought expressed in the original resolution: Prisoners who  
2 will not be returning home before the next Census on the  
3 length of their sentence should not be reallocated by this  
4 Commission.

5 This makes sense. This is more fair and more  
6 consistent with what the desires of the original resolution  
7 was about, and I'd ask our Commissioners on this panel to  
8 support this reasonable, consistent resolution.

9 Thank you, Mr. Chairman.

10 CHAIR NORDENBERG: Thank you, Leader Benninghoff.  
11 Leader McClinton.

12 REPRESENTATIVE McCLINTON: Thank you, Mr.  
13 Chairman.

14 Good morning, again, Chairman Nordenberg, and to  
15 my colleagues, Leaders Benninghoff, Ward, and Costa, to every  
16 member of the public that's here in this room in the present,  
17 and those who are watching virtually. Thank you for the  
18 opportunity to speak regarding Resolution 5A, which is before  
19 this Commission. I urge all of the Members of this Commission  
20 to reject this resolution for four principal reasons.

21 First, this resolution is simply an attempt to  
22 reconsider and undo Resolution 4A, which was passed by the  
23 Commission August 24, just a few weeks ago. Resolution 4A, of  
24 course, requires reallocation of all prisoners with last known  
25 addresses in Pennsylvania other than those serving life

1 sentences. Resolution 5A proposes to partially reverse 4A by  
2 counting incarcerated persons at their prisons if they have a  
3 minimum sentence that may potentially expire after April the  
4 1st of 2030. But nothing has changed in the weeks that have  
5 passed. The rationale that supported passage of Resolution 4A  
6 is compelling. It's as compelling today as it was when we  
7 adopted this resolution. This attempt of a do-over should be  
8 rejected.

9           Second, the proposal to count prisoners  
10 differently based on their length of minimum sentences  
11 conflicts with and undermines the policy reasons for  
12 reallocating prisoners in the first place. The rationale for  
13 treating incarcerated individuals as residents of their home  
14 communities rather than the places where they're incarcerated,  
15 because they do not voluntarily decide to live in those places  
16 and cannot, in fact, establish a legal domicile, the length of  
17 a prisoner's minimum sentence does not change this reality.  
18 As we discussed in the prior hearing, this is the public  
19 policy of our Commonwealth. It's set forth in the  
20 Pennsylvania Voter Registration Act and the Pennsylvania  
21 Election Code that prisoners are treated as residents of their  
22 home communities for the purposes of elections.

23           The PA Voter Registration Act and the Election  
24 Code do not make any distinction based on the length of a  
25 prisoner's sentence. The PA Voter Registration Act directs

1 that for purposes of both registration and voting, "no  
2 individual who is confined in a penal institution shall be  
3 deemed a resident of the election district where the  
4 institution is located." Similarly, the Election Code directs  
5 that no person shall be deemed to have gained a residence  
6 while confined in public prison. The length of a prisoner's  
7 minimum sentence is immaterial to establishing a legal  
8 residence under Pennsylvania public policy, as expressed in  
9 these statutes or in other legal context, and should not serve  
10 as an excuse to reconsider or to reverse this Commission's  
11 proper decision to adopt Resolution 4A.

12 Third, even the restyled Resolution 5A is  
13 unworkable because it fails to account for the numerous ways  
14 in which criminal sentences are reduced every day, including  
15 direct appeals, petitions under the Pennsylvania Post  
16 Conviction Relief Act, Federal habeas corpus petitions,  
17 clemencies, pardon applications, all of which occur day to day  
18 and may lessen or entirely abrogate a sentence of  
19 incarceration. Persons serving life sentences have already  
20 been carved out of the population adjustment, pursuant to a  
21 compromise in Resolution 4A. By statute, persons serving life  
22 imprisonment, they're not eligible for release on parole.  
23 Given this distinction and the expectation that people serving  
24 life sentences will not return or resume living in their home  
25 communities, it's a compromise position. Resolution 4A did

1 not propose to reallocate persons serving life sentences.

2 Unlike persons serving life sentences, however,  
3 people who are sentenced to 10-year minimums that will expire  
4 after April 1, 2030, may in fact be released before 2030  
5 because of direct appeal, because of habeas corpus, because of  
6 PCRA, or because of other early release mechanisms.

7 Resolution 5A ignores that reality and fails to appreciate the  
8 maps to be drawn this year will continue to impact regular and  
9 special elections for public office throughout 2032, not 2030.  
10 The 2012 maps, they're used for special elections that will  
11 take place this year in November, and likewise, the population  
12 that Resolution 5A proposes to carve out of Resolution 4A does  
13 not correspond to the time period during which this year's  
14 maps continue to be used.

15 Fourth and finally, counting prisoners differently  
16 based on the length of their minimum sentences would make  
17 Pennsylvania an outlier among other States that have adjusted  
18 Census data to allocate prisoners to their home communities.  
19 Of the 11 States that have already done this, none of them  
20 propose, for the purpose of redistricting, a distinction  
21 between non-life prisoners or based on the length of their  
22 sentences, nor should this Commonwealth of Pennsylvania. The  
23 problem that was remedied with Resolution 4A is a  
24 representational problem. It affects communities that  
25 incarcerated people come from. Counting prisoners as

1 residents of their districts where they're incarcerated  
2 artificially inflates that voting power of those electors in  
3 that district, and it deflates the voting power of the  
4 electors in other districts. This problem exists regardless  
5 of the length of any minimum sentence.

6 In summary, there is no sound policy reason for  
7 treating incarcerated people differently for the purposes  
8 based on the length of their minimum sentence, and there's no  
9 accurate way to determine which prisoners will remain  
10 incarcerated and which will have returned home a decade from  
11 now. And beyond a transparent attempt to reconsider and undo  
12 Resolution 4A, Resolution 5A introduces inconsistency,  
13 confusion, and delay. For example, a number of people being  
14 held in the State prisons do not even have minimum sentences,  
15 because they're held on parole violations, probation  
16 violations.

17 We made the right decision here for the right  
18 reasons when we adopted Resolution 4A because we had and  
19 continue to have the legal authority, the ability, and the  
20 data sufficient to address the vast majority of this injustice  
21 by counting State prisoners in their home communities.  
22 Nothing has changed. There is no principle basis to reverse  
23 course.

24 I urge my fellow Commissioners to vote "no" on  
25 Resolution 5A.

1 Thank you.

2 CHAIR NORDENBERG: Thank you.

3 I want to go back and say a couple of things,  
4 beginning with a point that I think I made at our last  
5 meeting, and that is that I had and have great respect for  
6 Leader McClinton in her persistent pursuit of the resolution  
7 that we adopted at the last meeting. Any suggestion though  
8 that this is somehow an inappropriate reconsideration of that  
9 resolution is simply not supported by the discussion that we  
10 had at that meeting. When Senator Ward had presented a  
11 10-year resolution, we agreed that we needed to take time to  
12 think about it and discuss it, but that she would have the  
13 opportunity to bring it back to this group, so this is not a  
14 surprise attack by Senator Ward. She is, in fact, traveling  
15 the path that we laid out for her at our last meeting by  
16 presenting this resolution for our consideration after we had  
17 time to think about both the practical and the principled  
18 aspects of that particular proposal.

19 As I also said at the last meeting, I found the  
20 resolution presented to be thoughtful, to be pioneering in  
21 some ways, to raise an important issue for our consideration,  
22 but I didn't consider either the resolution or the process  
23 that produced it to be ideal. I spent more time talking about  
24 that at the last meeting. I'm not going to do that today.  
25 I'm also not going to go back and re-present my arguments on

1 the law and why 1302 is not binding, but any of you who are  
2 interested I know will be able to see that online or read the  
3 transcripts.

4           And I also want to say that to the extent that  
5 Pennsylvania would become an outlier if it adopted the  
6 resolution that has been presented by Senator Ward, we're  
7 already an outlier on the basis of the resolution that was  
8 presented by Leader McClinton at the last meeting, because  
9 there's only one other of those 11 States that makes an  
10 exception for those who are holding life sentences. So again,  
11 I don't want to get back into everything we discussed at the  
12 last meeting, but I do want to kind of provide a different  
13 perspective in terms of context. And I also do want to say  
14 that in the first meeting that I had with Leader Benninghoff  
15 after that meeting, he said, I'm not going to try to undo that  
16 resolution. I don't believe in it, but it's been passed. I'm  
17 not going to try to fight it by delay or anything else. And  
18 that also is the position that has been advanced by Senator  
19 Ward in her discussions with me.

20           So what she is doing is bringing forward a revised  
21 version of the resolution that she presented at our last  
22 meeting, and revised basically to be responsive to the  
23 comments that were made by those who either were in opposition  
24 or had questions at the last meeting. And when I look at this  
25 resolution, and I apply the same standard that I applied to

1 the resolution that we adopted at the last meeting, not that  
2 it's perfect, not that it's ideal, not that I know exactly  
3 where it would fit if we had a comprehensive approach to this  
4 issue in front of it, but is it reasonable? Is it thoughtful?  
5 Is it advanced for what I would consider to be appropriate  
6 reasons? My answer to that question is yes, based upon my  
7 sense of these two meetings and what has happened in between  
8 them.

9 I think it also is important to note that this  
10 resolution actually will have an impact on fewer prisoners  
11 than the life sentence exemption that was built into the  
12 original resolution. I have a report that was prepared by the  
13 Legislative Data Processing Center, and these are numbers I've  
14 shared with the other Commissioners, indicating that nearly  
15 4,000 prisoners are affected by the life sentence exemption,  
16 that is 3,954, to be exact, and just over 3,000 are affected  
17 by the 10-year sentence expiring after April 1, 2030,  
18 exemption that is built into this resolution. That's 3,046,  
19 to be exact.

20 And so, again, I do consider this to be a  
21 reasonable proposal. I think it was advanced with positive  
22 motivations. The transmittal note that came with it said,  
23 while we still have reservations about the concept of  
24 reallocating prisoners generally and the precedent it sets,  
25 the House and Senate Republicans would like to find an

1 agreeable way to move forward, and we feel this proposal hits  
2 the mark. And for these reasons, I will support the  
3 resolution today.

4 Is there further discussion?

5 (There was no response.)

6 CHAIR NORDENBERG: If not, then let me ask for a  
7 vote.

8 All who are in favor, please say "aye."

9 SENATOR K. WARD: Aye.

10 REPRESENTATIVE BENNINGHOFF: Aye.

11 CHAIR NORDENBERG: Aye.

12 CHAIR NORDENBERG: All opposed?

13 SENATOR COSTA: No.

14 REPRESENTATIVE McCLINTON: Nay.

15 CHAIR NORDENBERG: So the resolution carries by a  
16 3 to 2 vote, a voting pattern that now we have seen, I guess,  
17 on both of the serious votes that we have taken, but that I  
18 hope we'll be able to break out of as we move forward.

19 We will be moving forward again this evening. We  
20 do have a hearing scheduled for here in the Capitol Complex  
21 beginning at 5 o'clock. Most of the citizen witnesses, as has  
22 been true in our other hearings, are going to participate  
23 remotely, although there will be some who will be here in the  
24 Capitol to share their thoughts with us.

25 Any other business that any Member of the

1 Commission would like to raise?

2 (There was no response.)

3 CHAIR NORDENBERG: If not, this meeting is  
4 adjourned.

5 Thank you.

6 (Whereupon, the proceedings were concluded at  
7 10:41 a.m.)

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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

**Resolution Regarding Prisoners with a Sentence Expiring After April 1, 2030**  
**Resolution 5A**

RESOLVED, That notwithstanding any provision of the resolution adopted by the Commission on August 24, 2021 (D05741) to the contrary, the population total used after the Federal Decennial Census of 2020 by the Legislative Reapportionment Commission for the purpose of legislative reapportionment for the General Assembly count an individual who is incarcerated in a State correctional facility, as determined by the census, and who was a resident of this Commonwealth immediately prior to being sentenced to incarceration, at the facility where the individual is incarcerated if the individual is subject to a minimum sentence expiring after April 1, 2030.