

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 Hearing Room No. 1, North Office  
Building, Harrisburg, Pennsylvania

Thursday  
December 16, 2021  
1:00 p.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  
Leah Mintz, Assistant Counsel  
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 Also Present:

2 Justin Klos, Director, House Democratic Office of  
Demographic Analysis

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

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

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1 CHAIR NORDENBERG: Good afternoon, everyone. I  
2 always have viewed the clock on the wall as the source of  
3 official time within this hearing room. It now reads 1  
4 o'clock, so I think we should move forward with this  
5 afternoon's meeting.

6 My name is Mark Nordenberg. As Chair of the  
7 Legislative Reapportionment Commission, it is my privilege to  
8 call this meeting to order. Let me begin by welcoming the  
9 interested citizens who are in attendance either here in the  
10 room or participating via our livestream. As has become my  
11 custom, I would like to explicitly note that I am extending  
12 that welcome not only for myself but also on behalf of the  
13 other four Commission Members - Senator Kim Ward, who is the  
14 Majority Leader of the Senate; Senator Jay Costa, who is the  
15 Democratic Leader of the Senate; Representative Kerry  
16 Benninghoff, who is the Majority Leader of the House of  
17 Representatives; and Representative Joanna McClinton, who is  
18 the Democratic Leader of the House of Representatives.

19 I have been working closely with these four  
20 Leaders for almost seven months now. Those experiences have  
21 left me with deeper feelings of respect for each of them. It  
22 quickly became clear to me why they had been selected as  
23 Leaders by their Caucus colleagues. Let me also say that  
24 while there are variations in their leadership styles, as well  
25 as in the approaches taken by the teams supporting them, each

1 Leader has been fully attentive to the responsibilities that  
2 have been thrust upon all of them under the provisions of the  
3 State Constitution. I also want to note, once again, that two  
4 of the four Caucus Leaders are women, and that one of those  
5 women is African American. The composition of the Commission  
6 then is historic in the sense that it is barrier-breaking with  
7 respect to gender and race.

8 The first item on our agenda for today is the  
9 consideration and approval of three sets of minutes from the  
10 meetings of August 24, September 21, and October 25.

11 Can I have a motion for their approval?

12 SENATOR COSTA: So moved, Mr. Chairman.

13 CHAIR NORDENBERG: Thank you.

14 Is there a second?

15 REPRESENTATIVE McCLINTON: Seconded.

16 CHAIR NORDENBERG: Is there any discussion on the  
17 motion?

18 (There was no response.)

19 CHAIR NORDENBERG: If not, I'll call for a vote.

20 All in favor, please say "aye."

21 SENATOR K. WARD: Aye.

22 SENATOR COSTA: Aye.

23 CHAIR NORDENBERG: Aye.

24 REPRESENTATIVE BENNINGHOFF: Aye.

25 REPRESENTATIVE McCLINTON: Aye.

1 CHAIR NORDENBERG: Any opposed?

2 (There was no response.)

3 CHAIR NORDENBERG: Thank you.

4 The Legislative Reapportionment Commission was  
5 created under the authority of Article II of the State  
6 Constitution as it was amended just a bit over a half-century  
7 ago. Until then, legislative reapportionment was done by the  
8 legislature itself, as still is true with respect to  
9 congressional redistricting. After careful thought, including  
10 an assessment of the legislature's performance in that role  
11 over time, the members of the Constitutional Convention  
12 created this Commission. It is a one-of-a-kind entity,  
13 independent of the legislature as a whole, but with four of  
14 its five Members being key legislative leaders.

15 Through their participation, the Caucus Leaders  
16 are positioned to contribute distinctive perspectives on both  
17 the Commonwealth itself and on the legislative processes, and  
18 they have done so. Their participation also means that the  
19 work of the Commission, at least conceptually, will be more  
20 influenced by partisan objectives than would be true of the  
21 independent commissions that have been created in other  
22 places. After all, it is hard to be a Majority Leader without  
23 having the goal of protecting and expanding your majority.  
24 And it would be hard to be a Minority Leader without having as  
25 a goal the process of building a majority. I am sure that I

1 would feel the same way if I occupied either of those roles.  
2 So that is just an observation, not a criticism.

3 To be clear, this also is not an endorsement by me  
4 of the independent commission model. To date, in fact, those  
5 commissions have not produced an enviable record of success.  
6 So it will be interesting to see how their efforts are  
7 assessed when we come to the end of this election cycle. What  
8 I can say, more personally, is that I not only have enjoyed  
9 but have learned a great deal from my contact with the four  
10 Commissioners who are legislative leaders.

11 In sharing what should be a helpful sense of  
12 context, let me provide an overview of our processes and then  
13 turn to the plan, consisting of two maps that will be  
14 presented for consideration by the Commission today. To  
15 underscore a fundamental point, what is under consideration  
16 today is a preliminary plan. If that plan is approved, it  
17 will be filed with the office of the Secretary of the  
18 Commonwealth before the day is done, which will trigger a  
19 30-day period within which any person aggrieved by it can file  
20 exceptions, which the Commission will consider.

21 During that same 30-day period, the Commission  
22 also will hold public hearings to receive input. Sometime  
23 shortly after the 30-day period has run, the Commission will  
24 again meet to consider possible changes before filing a final  
25 reapportionment plan with the office of the Secretary of the

1 Commonwealth. Once that part of the process has been  
2 completed, persons still aggrieved can file an appeal from the  
3 final plan with the State Supreme Court, and the disposition  
4 of any such appeals obviously becomes the responsibility of  
5 the court.

6 In making our way to this point, the Commission's  
7 calendar has been squeezed because the delivery of Census data  
8 was so significantly delayed, and because 2022 primary  
9 election deadlines are looming. Under the Constitution, we  
10 had 90 days to get to this point, but we cut that period down  
11 to just over 60 days as one contribution to the shared goal of  
12 expediting the process to minimize interference with the  
13 primary elections.

14 What I have reported to this point is the basic  
15 framework of the process set forth in Article II of the State  
16 Constitution. Let me add some observations about what have  
17 become customary practices of the Commission, as well as some  
18 of the ways in which this year's process departed from customs  
19 of the past.

20 One thing that has not changed is that the Caucus  
21 teams, by choice, focus almost exclusively on their own  
22 Chamber. So the Senate Caucuses focus on the Senate, and the  
23 House Caucuses focus on the House. The Commission team, of  
24 course, must focus on both. Every Caucus Leader is  
25 represented by a very capable team, many of whom have

1 extensive experience in this work. That means, of course,  
2 that the Commission must also be supported by a team of  
3 capable, committed professionals, and I have been blessed to  
4 work with a particularly strong team. Among many other  
5 qualities, they possess great stamina, which has been  
6 important, because recent weeks have brought a seemingly  
7 unending succession of 7:00 a.m. to 10:00 p.m. workdays for  
8 them, and giving credit where it is due, also for the members  
9 of the Caucus teams.

10 This Commission team includes a redistricting  
11 consultant who holds a Ph.D. in Political Science with special  
12 expertise in election law. He also has experience drawing  
13 maps in connection with redistricting cases pending in Federal  
14 court. This is the first time that a Pennsylvania Commission  
15 has retained the services of such a professional, and we would  
16 have been lost without his contributions.

17 Because the legal framework is so important, both  
18 in crafting a good plan and in ultimately defending it from  
19 the exceptions and objections that almost certainly will come,  
20 retaining top legal talent also was a priority for me. And  
21 our Chief Counsel is a former Commonwealth Judge, an election  
22 law expert, and a highly respected appellant lawyer. Even at  
23 that, I probably should add many of the Caucus Leaders are  
24 supported by even larger teams that include multiple mappers  
25 as well as in-house and outside counsel, and in some cases by

1 subject matter experts.

2           The nature of interactions between the Caucus  
3 teams with each other and with the Commission staff vary  
4 dramatically from Chamber to Chamber. In the Senate, the  
5 Majority Leader and Democratic Leader had regular  
6 reapportionment interactions with each other dating back to  
7 even before I was named Chair. And so did the Members of  
8 their teams. They wanted to have the first opportunity to  
9 come to agreement on essential features of as much of the plan  
10 as possible, and, in fact, they did shape much of the Senate  
11 plan. For an extended time then, our interactions with them  
12 were more limited. The teams from the House Caucuses, on the  
13 other hand, had contrasting approaches and very limited  
14 interactions with each other. Instead, they focused on  
15 presenting their ideas and plans to the Commission team and  
16 were guided by our responses.

17           The four Caucus Leaders' early perception of the  
18 Chair's role was described in a letter sent by them to the  
19 Chief Justice before I was appointed to the position. That  
20 letter asked the court to appoint someone who would serve  
21 essentially as an umpire, calling balls and strikes as the  
22 Caucus teams competed against each other. To be sure, one  
23 important part of the Chair's role is to insure that the  
24 advocacy processes are fair. However, that description is  
25 fundamentally incomplete because the main goal of the

1 Constitution is not to insure that there is a fair fight  
2 between Leaders of opposing parties every 10 years but instead  
3 to facilitate what will be a good reapportionment result for  
4 the people of Pennsylvania.

5 Reapportionment, of course, is tied to the Federal  
6 Census and the constitutional principle of one person, one  
7 vote. Population trends do vary from Census to Census. In  
8 this year's process, the key factors were a significant shift  
9 of population from the north and west to the south and east,  
10 and a significant increase in minority population. Legally,  
11 the specific standards of Article II of the Pennsylvania  
12 Constitution - compactness, contiguity, and the minimization  
13 of border splits - must be met. In addition, the standards of  
14 the Federal Voting Rights Act and the requirements of the U.S.  
15 Constitution's equal protection clause and the State  
16 Constitution's free and equal elections clause must be  
17 satisfied. These constitutional requirements have been  
18 interpreted in a string of landmark cases from Baker v. Carr,  
19 decided by the U.S. Supreme Court in 1962, and The League of  
20 Women Voters v. The Commonwealth, decided by the Pennsylvania  
21 Supreme Court in 2018. These legal requirements have been the  
22 subject of multiple earlier hearings sponsored by the  
23 Commission.

24 The League of Women Voters opinion, which dealt  
25 with congressional redistricting, underscored the fact that

1 the Pennsylvania Constitution's requirements must be  
2 considered together, with due attention being paid both to  
3 what it called the neutral floor criteria of Article II,  
4 Section 16, and to the fair and equal elections clause. That  
5 same opinion also specifically acknowledged the possibility  
6 that advances in map-drawing technology and analytical  
7 software can potentially allow mapmakers, in the future, to  
8 engineer congressional districting maps which, though  
9 minimally comporting with these neutral floor criteria of  
10 Article II, nevertheless operate to unfairly dilute the power  
11 of a particular group's vote. Of course, technology also has  
12 made possible the development of tools for detecting and  
13 measuring partisan bias. I do not pretend to understand the  
14 math behind each of these analytics. However, I tend to think  
15 that in somewhat different ways, they essentially tell us how  
16 close we have come to the intuitive democratic ideal that  
17 attracting about 50 percent of the popular vote also ought to  
18 mean winning about 50 percent of the contested seats.

19 This then may be a good point to begin talking  
20 about the proposed preliminary plan, beginning with the point  
21 that independent assessments indicate that both maps before  
22 the Commission today favor the Republican Party. To some  
23 extent, that is a product of political geography, particularly  
24 the fact that so many of Pennsylvania's Democratic voters live  
25 in the southeast corner of the State which is hemmed in by the

1 borders of New Jersey and Delaware, meaning that it becomes  
2 almost impossible to spread them out to have a broader  
3 geographic impact. That tilt also probably is a product of  
4 the fact that it is very difficult to address political  
5 advantages that have been embedded in legislative maps over an  
6 extended period of time, particularly without the ability to  
7 simply start over with an entirely new map. I say that  
8 because whatever is conceptually possible and whatever  
9 advocates may say about the most appropriate course, there is  
10 no practical avenue to starting with a totally new map in a  
11 Commission dominated by Caucus Leaders whose Members live in  
12 and have won election in existing districts. Again, that is  
13 just an observation. I am not making that statement as a  
14 criticism.

15 I probably also should state directly that this  
16 Commission staff is neither partisan nor anti-incumbent.  
17 Indeed, as I pointed out in the meeting at which they were  
18 appointed to their new roles, our Chief Counsel was appointed  
19 to the Commonwealth Court as a Republican, and our Executive  
20 Director was elected mayor of his home municipality as a  
21 Republican as well.

22 With respect to incumbency, it is inescapably true  
23 that when population changes require new maps, those maps  
24 invariably will affect incumbents, though that was not our  
25 goal. In fact, in our first-stage efforts, we focused on the

1 neutral requirements of Article II and did not use or have  
2 partisan information. Such information was used when we  
3 subsequently focused on issues of fairness under State and  
4 Federal law. We also did have later discussions with Caucus  
5 Leaders about the impact of emerging plans on incumbents whose  
6 districts were reshaped mainly by population losses and flows.

7 A striking example of an approach that extended no  
8 deference to incumbents can be seen in the plan adopted by the  
9 Virginia Supreme Court last week. It paired 50 percent of the  
10 legislative incumbents against each other, by itself  
11 guaranteeing that at least 25 percent of the members of that  
12 legislature will be new. That plan, to return to an earlier  
13 point, was recommended by special masters when Virginia's  
14 independent commission failed to come to agreement on either  
15 congressional or legislative plans.

16 Over the course of recent months, I have regularly  
17 heard how easy it is to draw legislative maps. One compelling  
18 form of contrary evidence is the fact that when Pennsylvania's  
19 good governance groups sponsor map-drawing contests, the  
20 overwhelming majority of submissions are maps for our 17-  
21 district congressional maps. A markedly smaller number are  
22 50-district Senatorial maps, and almost no one is brave enough  
23 to take on 203-district House of Representatives maps. My own  
24 recent experience suggests that there is nothing easy about  
25 drawing these maps, and that is particularly true when they

1 must ultimately be supported by a majority of a small group  
2 and simply are not drawn in the comfort of one's study at  
3 home, or even as a master in a Federal court case.

4           To prepare for this challenge, the Commission held  
5 9 hearings, which included 29 presentations by experts and 51  
6 presentations by interested citizens. We also benefitted from  
7 724 website submissions, and the submission of 19 Senate maps  
8 and 10 House maps by individuals, as well as organizational  
9 submissions from such groups as Draw the Lines, Fair Districts  
10 PA, and Pennsylvania Voices.

11           Here are some thoughts on the proposed preliminary  
12 map for the Pennsylvania House of Representatives, which is  
13 now on the screen and which will be posted on the Commission's  
14 website in a readily usable form shortly after the conclusion  
15 of this meeting, assuming it enjoys majority support. Looking  
16 at the chart that is now appearing on the screen, you will see  
17 that this map compares favorably to the current map on almost  
18 all measures except for overall deviation, which is  
19 considerably higher. That higher number is affected by two  
20 aspects of the process that work against equal population  
21 across all districts. First, the reduction of splits in  
22 counties and municipalities drives larger deviations, in some  
23 instances; and second, attention to racial equity means that  
24 some districts may approach the limit allowable under Federal  
25 standards. This is something that we will want to work on,

1 but it also is telling that the average absolute deviation is  
2 only 2 percent, reflecting the fact that across the map as a  
3 whole, the district-to-district deviations have been kept at a  
4 markedly lower level.

5 Let me turn to just one feature of the new House  
6 map that might not be immediately apparent from a quick review  
7 of it. This plan includes seven minority opportunity  
8 districts, true VRA districts, minority influence districts,  
9 and coalition districts in which there is no incumbent,  
10 creating special opportunities for the election of minority  
11 representatives. Just to quickly review those districts, they  
12 include District 9, which is in a fast-growing area of  
13 Philadelphia and has a black population exceeding 58 percent;  
14 District 22 in Lehigh County, which has a Hispanic population  
15 exceeding 50 percent; District 54 in Montgomery County, a  
16 compact district which has a minority population exceeding 50  
17 percent; District 104 in Harrisburg, which has a minority  
18 population exceeding 50 percent; District 116, where the  
19 current incumbent has been elected to serve as a judge, has  
20 been redesigned as a district including parts of Luzerne and  
21 Schuylkill Counties which have a Hispanic voting age  
22 population over 37 percent, a total Hispanic population of 43  
23 percent, so the growth trends are clear; and District 203 in  
24 Philadelphia, a district with a population that is 42 percent  
25 Black, 22 percent Hispanic, and 13 percent Asian. Again,

1 there is no incumbent advantage that will have to be overcome  
2 in any of these districts, which should give minority  
3 communities residing in them a special opportunity.

4 Here are some companion thoughts about the  
5 preliminary map for the State Senate, which is now on the  
6 screen and which, again, will be posted on the Commission's  
7 website in a readily usable form shortly after the conclusion  
8 of this meeting, if the preliminary plan attracts majority  
9 support. Looking at the chart of quantifiable factors, the  
10 Senate plan also fares well compared to the current map on  
11 almost every measure except overall deviation and absolute  
12 deviation. So that is one feature of the plan that will  
13 require further attention. The Senate map, too, includes a  
14 new minority influence district in Lehigh County that has no  
15 incumbent. Because they have a larger population base, the  
16 creation of such districts is harder in the Senate, and credit  
17 belongs to Majority Leader Ward and her counsel, Carlton  
18 Logue, for envisioning this one. This new district has a  
19 voting age Hispanic population of 27.9 percent, a total  
20 Hispanic population of 32.3 percent, and a Black population of  
21 7.5 percent.

22 I'm only going to show one measure of comparative  
23 fairness, and to do so I will rely on the testimony given by  
24 Carol Kuniholm, the Chair of Fair Districts PA, at our  
25 November 15 hearing. At that time, she compared Fair District

1 PA's People's Maps with Pennsylvania's current legislative  
2 maps using the mean-median difference as calculated by  
3 PlanScore as the measure. So it seemed easiest to stick to  
4 that measure and just add our preliminary maps to the Fair  
5 District graphics.

6 Looking first at our preliminary House map, you  
7 will see the current map is scored at 4.9, which is very high.  
8 The Fair District's People's Map of the House is 1.2 percent,  
9 and our preliminary House map is scored by PlanScore at 1  
10 percent. And to be clear, this is an area in which the lower  
11 score is the better score. The comparison involving our  
12 preliminary Senate map also shows a positive trend. Here the  
13 current map is scored at 3.1 percent, Fair District PA's  
14 People's Map is scored at .8 percent, and our preliminary  
15 Senate map is scored by PlanScore at 1.3 percent.

16 It frequently has been said that no map is  
17 perfect. In fact, in her testimony on November 15, Dr.  
18 Kuniholm took pains to declare, "We do not claim that our  
19 People's Maps are perfect." Her testimony also highlighted  
20 the tension that can exist between particular standards. This  
21 is part of what she said, and I am now quoting: "In  
22 Pennsylvania, the constitutional values of compactness and  
23 contiguity work in opposition to each other. Our counties and  
24 municipalities are rarely compact. Some are not contiguous.  
25 So to make districts contiguous can take some ingenuity.

1 Minimizing splits to the exclusion of other concerns can yield  
2 unresponsive districts and lock in partisan bias across your  
3 map as a whole. Maximizing the influence of racial and  
4 language minorities can work in opposition to compactness and  
5 minimized splits. Maps that excelled in one area often did  
6 poorly in others." That's the end of my quote.

7           Members of the Commission certainly make no claim  
8 that our preliminary maps are perfect. Instead, almost every  
9 time we take a look at them, we see something else that we  
10 could improve. Just last night, in fact, as our team was  
11 burning the midnight oil reviewing legal descriptions, we  
12 found a number of unnecessary ward splits that can and will be  
13 changed. And to underscore an earlier point, if we had taken  
14 the full 90 days authorized under the relevant provision of  
15 the Constitution, we almost certainly could have developed  
16 maps that would be somewhat better. However, given the  
17 impending pressure of the primary election deadlines, we did  
18 not feel that we had that choice. In a very real sense, that  
19 makes the next 30 days even more important than usual. As I  
20 indicated earlier in my remarks, any person who is, quote,  
21 "aggrieved," to use the language of the Constitution, by our  
22 preliminary plan is entitled to file exceptions with the  
23 Commission, which we then will consider.

24           Assuming that this preliminary plan attracts  
25 majority support within the Commission then, I would urge

1 those who are interested to review the plan and make  
2 suggestions for its improvement. The Commission may not  
3 accept every idea that is submitted, but we will consider each  
4 of them, as we have tried to be attentive to good ideas  
5 submitted either in our hearings or through our website portal  
6 as we travel down the path that has taken us to this point.  
7 It probably would be hard to find more compelling evidence of  
8 that fact than the way in which we responded to testimony  
9 about Pennsylvania's Hispanic communities. We went from  
10 citizen testimony to invited testimony to changes in the maps  
11 reflecting the facts and the goals that had been shared with  
12 us. And I hope those changes in the preliminary plan will be  
13 welcomed.

14 That concludes my introductory remarks. The  
15 agenda provides next for opening statements by each Member of  
16 the Commission. Unless there is anything anyone wants to  
17 raise at this point then, I would turn to Majority Leader  
18 Ward.

19 SENATOR K. WARD: Thank you, Mr. Chairman.

20 So, you know, the five of us have been working for  
21 months trying to put the best maps we can together. At some  
22 point, it just leaves our ability to do that, for us all to  
23 agree on everything. So, you know, as the Chancellor said,  
24 the Constitution requires the Commission to adopt a  
25 preliminary plan within 90 days after the certification of the

1 data. Well, it was really late this year, and it put us  
2 really behind the eight ball. And it's important that we move  
3 this forward, whether we all agree or not on these maps, and  
4 I'm sure that we don't, in order to keep the timeline of our  
5 election year next year. It just would cost counties a lot of  
6 money to have to move the primary, and, you know, I look at  
7 that as a last resort. So we need to keep this on track,  
8 which I'm glad we're having the meeting today, because the  
9 time line, you know, 30 days and then another 30 days, and we  
10 could end up in June or July with a primary. So it's  
11 important that we do all of this today, and we start to move  
12 it forward.

13           With regard to the Senate map, there are  
14 corrections that are necessary. Even though it appears it  
15 will be advancing today, there are corrections that are  
16 necessary, and I look forward to helping to make some of those  
17 corrections. While we have reduced the number of split  
18 political subdivisions, there are still far more necessary,  
19 and we should look at how we should do that. But as we got  
20 closer and closer to this date, a little change here, a little  
21 change there, and we were never allowed in the same room  
22 together because three Members makes a quorum, and that's not  
23 permitted. So, Chancellor Nordenberg would have to go in  
24 between Jay and I. Jay and I would talk and then he would  
25 have to go between us. So it made it very difficult and much

1 more tedious because we couldn't all sit down at a table and  
2 talk about the things that, you know, we would like to  
3 discuss.

4 And I think we did a pretty good job of trying to  
5 create a Hispanic district, but I do think we can do better  
6 with it. With the movement of one municipality, we would have  
7 a stronger Hispanic Senate seat. So I think we should  
8 continue to work on that.

9 So during the next 30 days, the public will have  
10 the opportunity to comment on these maps that we're going to  
11 pass out today, I assume. And I do look forward to hearing  
12 what they have to say. At the conclusion of those 30 days, we  
13 will then have the opportunity to make those corrections to  
14 the map. Not big changes, but corrections to the map. There  
15 is still work to be done, and I look forward to continuing  
16 this process. It's really been a learning experience. I've  
17 never done this before. I don't really want to do it again.

18 (Laughter.)

19 SENATOR K. WARD: So, you know, you lose sleep  
20 over this. This is what you do from morning till night, but  
21 it's been an honor to be able to be part of it. And to hear  
22 from the public, and a lot of what the public said we took  
23 into consideration. You know, some of the things that we had  
24 presented might not be on the map right now, but maybe they'll  
25 be with a correction, it came from the public input. So I did

1 appreciate hearing from everyone, and we did take to heart a  
2 lot of what we were told.

3 So with that, I won't take up any more of our time  
4 so we can get on to the others and voting. So thank you very  
5 much, and I really did enjoy this. But as I said, I'm done  
6 enjoying it.

7 (Laughter.)

8 CHAIR NORDENBERG: Thank you, Senator.

9 Senator Costa, the Democratic Leader of the  
10 Senate.

11 SENATOR COSTA: Thank you very much, Mr. Chairman.  
12 And thank you for the manner in which you've laid out the  
13 process that we've undertaken and legal standards and the like  
14 that we have been working on. And like my colleague, Senator  
15 Ward, has indicated, under your leadership, this Commission  
16 has entertained more public comment and more opportunity for  
17 the public to participate in this process, and I applaud you  
18 for that and your leadership in that regard, because that was  
19 very important. And we've listened and it's reflected, I  
20 believe at this point in time, in this preliminary plan.

21 You have covered many of the comments I was going  
22 to make in prepared remarks, so I'd ask that I be able to  
23 submit them for the record. But that all being said, I think  
24 some of the things that you've talked about, the manner in  
25 which we conducted the input from the public and the

1 opportunity that they had, but more importantly at this  
2 juncture, we now have a preliminary plan that's designed to  
3 make sure that we stimulate public comment. And the next 30  
4 days are going to be critically important for us to hear what  
5 the public still has to say based upon what we're providing  
6 today both in the Senate and the House maps. I think that's  
7 going to be important, and I know that under your leadership  
8 and the collective leadership of the Members of this  
9 Commission, that we will work to ensure that we listen and  
10 hear some of the things that need to take place.

11 Listen, at the end of the day, is this plan 100  
12 percent of what I would have wanted in my role? I think the  
13 answer is no, but that presents more opportunity, as my  
14 colleague, Senator Ward, said, that we have the opportunity to  
15 make adjustments and changes in part based on what people  
16 speak to us about and talk to us about and submit to us, but  
17 also recognizing that it's an important part of the next step  
18 in this process, given the constricted timeframe we have. My  
19 hope is that we don't have to get to a point in time where we  
20 need to move the primary election. So if we do our work  
21 appropriately and continue to work to hear what folks have to  
22 say and be a part of that conversation, we may be able to  
23 avoid that going forward.

24 But, Mr. Chairman, thank you for your leadership  
25 and the opportunity to work with your talented folks in this

1 process. And as someone who has sat at this table in pretty  
2 much this same seat 10 years ago, I can assure the public, I  
3 can assure all our viewers that this process is lightyears  
4 ahead, from my perspective, as it was 10 years ago. The  
5 public input, the input from the Chairman, and the activity  
6 that has taken place through this process is remarkably  
7 different, and I truly appreciate that, from my standpoint.

8           So, Mr. Chairman, thank you for the chance to say  
9 a few words, and I will submit the remarks to Ann-Marie for  
10 the public record.

11           Thank you.

12           CHAIR NORDENBERG: Thank you, Senator.

13           Let me next call on the Majority Leader from the  
14 House of Representatives, Representative Benninghoff.

15           REPRESENTATIVE BENNINGHOFF: Thank you, Mr.  
16 Chairman.

17           As you know, and I've said this to you personally,  
18 as well as out loud here, and I take this whole thing very,  
19 very serious. We are making decisions that are going to  
20 impact Pennsylvania for 10 years, and the citizens of that. I  
21 don't think I've missed a meeting, I've been very attentive,  
22 and for the record state I have reached out to the Minority  
23 Leader's office multiple times to meet. I think it's  
24 important that people keep in mind, we're drafting maps that  
25 will affect the public for the next 10 years. A lot of people

1 think this is just about drafting maps for elected officials.  
2 Well, they come and they go, but it's the people that we  
3 serve. And if I have not enjoyed anything the most, it is all  
4 the people I've met in my career. Great people. People with  
5 terrible, tough situations that come to us with emotional --  
6 it's just almost amazing what people will share with their  
7 legislator, because at the end of the day, they learn to trust  
8 you and their staff. That's what's paramount about getting  
9 this right, regardless what party you are, what your  
10 philosophical beliefs are.

11           There are obviously differences up here, and I'm  
12 probably one of them, but I have to be frank. I've looked,  
13 and I'm speaking on the House map, not the Senate map. I see  
14 this map as extremely partisan gerrymandering. For all the  
15 groups that have come in and talked about that, I hope we will  
16 see some responses regarding it. If you don't believe me,  
17 there are places to evaluate that, and I would encourage you  
18 to run the map through Dave's Redistricting App, and one will  
19 be compelled to come to that same conclusion. Don't take my  
20 word, do it for yourself.

21           As a matter of fact, since I am not a certified  
22 map drawer, I will just show you why I feel this way. Here's  
23 an example of the 84th District. For those of you who want to  
24 know what the word "gerrymandering" started with, this  
25 reptilian-looking map. In the 84th District of Pennsylvania,

1 you have a better-fed reptilian map that is just as  
2 gerrymandered. Let's take this serious, if we truly want to  
3 be putting maps together that are not snaking around to  
4 benefit a particular party.

5           Again, this is me. But I believe, and I think it  
6 is the belief of most, that there are two vital components to  
7 redistricting and the redistricting process here in our State.  
8 I've talked to other States. I know what some of them have  
9 done. And in our State of Pennsylvania, it's the  
10 Constitution, number one, and communities of interest. If I  
11 didn't hear one thing more repeated than that, especially the  
12 communities of interest, during most of the public testimony,  
13 I don't know what I did hear otherwise. But that was a common  
14 theme. I believe this plan, in the House in its current  
15 state, blatantly disregards that.

16           Ultimately, a process based in the Constitution  
17 and also considering communities of interest means the process  
18 is about the people. Let me expand on that. It's about the  
19 people and what they expect and how they expect to be  
20 represented. It's about how communities are familiar with the  
21 interacting and relating to their State government.

22           I did two Zooms today with major groups, and one  
23 of the things I encouraged them is make sure, after this  
24 conversation, that this is not the end of these conversations.  
25 Let your legislators know who you are, what you stand for,

1 what you're about, that engagement. And those of us who have  
2 been here understand the importance and the significance of  
3 that. It's about Pennsylvanians who choose who they're  
4 sending as their leaders, and I don't mean positions, their  
5 elected officials from amongst themselves to our State Capitol  
6 to be their voice on matters of State law and State  
7 importance. It's one of the major reasons I ran. As a former  
8 county coroner, I saw victim after victim after victim who had  
9 no voice. I ran to be that voice. I'm not perfect at it, but  
10 I keep trying.

11           When the process stops becoming about people, it  
12 becomes a mechanical and emotionless exercise in lines and  
13 numbers, and the core redistricting process, in my opinion, is  
14 jeopardized. Frankly, I'm afraid that's what this process has  
15 become in reference to the State House maps and exactly what  
16 the Supreme Court would reject as offensive to the core  
17 principles of republican government. I want to be clear, it  
18 is not that I or anyone up here did not expect that there  
19 would be changes in the process. That's natural. Population  
20 dictates that. Things change over 10 years. Radical changes  
21 is a problem when the radical changes is rationalized by  
22 politics, and is flat-out unacceptable.

23           What it looks like to me in these maps, the  
24 decision that drove these maps, creates only a basis in  
25 politics for partisan gains. I am sure that in order to

1 justify these maps, you may hear some loaded terms like  
2 "competitiveness," "proportionality." While I'm not against  
3 those things, neither of these terms appear in our State  
4 Constitution, and the United States Supreme Court has rejected  
5 the notion of proportional representation. Thus,  
6 competitiveness and proportionality cannot be used to justify  
7 an egregious partisan gerrymandering like our well-fed  
8 salamander I just showed you.

9 In fact, these terms are simply an academic  
10 justification for cancelling the contract between Pennsylvania  
11 voters, which we all think is valuable, in choosing their  
12 lawmakers that they have elected. Lawmakers are sitting here  
13 now that were chosen by their people. Now we're going to  
14 cancel that contract without the very voters having a say in  
15 it, if these maps are passed as is. I am sad to say the map  
16 before us is nothing short of a danger to our system of  
17 government as it upends established norms and emphasis on  
18 local control and local voices that Pennsylvanians hold  
19 dearly. If we didn't learn anything the last two years,  
20 Pennsylvanians want to have say in how they are governed at  
21 all levels. They hold that dear.

22 When I talk about this, I am not just talking  
23 about this traditionally in areas that are traditionally known  
24 as Republican areas. There's no secret that the larger land  
25 mass areas, historically, are Republican, and the urban areas

1 are generally Democratic. But in this map, Harrisburg is  
2 split. Why? Lancaster is split. Why? State College is  
3 split. Why? Reading is split three ways. Allentown is split  
4 three ways. And the city of Scranton is split four ways. Our  
5 team has asked questions repeatedly on these, some of which  
6 have not been answered, and ones that were answered,  
7 historically in our opinion, were blatantly unconstitutional  
8 rationale. Again, the Constitution demands that the  
9 municipalities be split only when absolutely necessary. When  
10 you look at splits in Harrisburg, Lancaster, Reading, Altoona,  
11 Scranton, the only conclusion we can draw is that these splits  
12 were purely for partisan gain. Given these examples, if this  
13 is how the Democratic regions of the State are treated in this  
14 map, it's clear what might happen in the Republican areas.

15           Simply put, in this map, 12 Republican incumbents  
16 will be pitted against each other under this map, when only 2  
17 Democrat incumbents face each other. To me, that's simple  
18 mathematics. As a matter of fact, my 8-year-old grandson can  
19 figure that one out. I find it hard to believe that this is  
20 some sort of mistake or oversight. In addition, there are  
21 four other seats where incumbent Republicans are pitted  
22 against incumbent Democrats. All of these districts  
23 significantly favor one party, Democrats, especially in what  
24 they retain from their original seats. This is not just  
25 conjecture or speculation, this is fact. In fact, as it

1 stands, 10 Republicans currently serving in the House, chosen  
2 from their communities, by their constituents, will most  
3 likely no longer have the opportunity to serve even before the  
4 election is held. That means 10 of my colleagues right now  
5 are at home telling their voters, their families, their  
6 friends, their colleagues, and those who have come to depend  
7 on them with those intimate personal issues, that they cannot  
8 stand for reelection.

9           To make matters worse, getting to this map today  
10 remained a moving target, as the Chairman had acknowledged,  
11 which made things a little bit more difficult. We've had  
12 multiple versions of this map, and many of them coming to us  
13 late at night. As a matter of fact, I think our last change  
14 came about 48 hours, at about 10:48 p.m., 48 hours ago from  
15 this meeting.

16           Again, who is making all these decisions? I  
17 wasn't, as a Commissioner. Again, questions to which we don't  
18 necessarily know all the answers. Again, people might justify  
19 this map as undoing some of the wrongs to correct previous  
20 partisan gerrymandering. But I want you to think about one  
21 thing, if nothing else: Anyone that would use that kind of  
22 logic failed to realize that by drawing a map that is meant  
23 for no other reason than to cement a legislative majority for  
24 a certain party for a coming decade do not undo the wrongs  
25 that they seek to correct. They repeat them. They perpetuate

1 them. They revel in them.

2 I made it no secret that I wanted a fair, open,  
3 and legal process. I liked the interactions that we've had  
4 with people. I liked the very beginning of the process of  
5 interviewing 30-some people to serve as Chair, and the fact  
6 that the public could be engaged. And as part, we joined the  
7 Chairman's call to encourage voters of communities around  
8 Pennsylvania to submit comments to the Commission. We've had  
9 dozens of comments submitted discussing areas represented by  
10 Republicans that seem to be pretty much ignored in the map,  
11 take note of the splits.

12 Chairman Nordenberg, you and I have had a lot of  
13 good conversations, and I respect you highly, so I'm going to  
14 take you at your word that you will honor that we can make  
15 changes before this thing is cemented permanently and  
16 finalized, but to engage real discussion within the  
17 communities that this map will now tear apart so that people  
18 in those areas can, in person, if possible, speak up on their  
19 behalf. These areas sent their lawmakers here to represent  
20 them. It was not easy telling them the results of this and  
21 showing them the maps. They need to know why the person  
22 they've grown to trust and work with will no longer be  
23 fighting for them in Harrisburg. And I intend to provide that  
24 opportunity, and I hope you will join us in doing that.

25 Mr. Chairman, I apologize, but I just can in no

1 way find a manner to support this map. I've wanted to be able  
2 to support the entire map. I believe we're going to try to  
3 remedy part of that in the near future. I've wanted to be  
4 able to see us get a map, and I think we can, should we be  
5 truly open to looking at making this more about communities of  
6 interest than equalizing the playing field in a math equation.  
7 It is my hope that through the additional process we can get  
8 those changes and meet the interests of the people of these  
9 communities; a map that I'm comfortable going to the people  
10 saying, yes, it's been corrected, modified, whatever else, and  
11 a map that the Members can do the same thing on this  
12 Commission. And most importantly, one that we can be proud of  
13 and that benefits the community.

14 I would ask one request, Mr. Chairman, and that is  
15 to make a motion, if at all possible, to add another analysis  
16 that was done by Dr. Michael Barber of Brigham Young to the  
17 record. So if you would, I would offer that as a formal  
18 motion. I realize that I need to have a second to do that, if  
19 you are interested, and I will end my remarks.

20 I appreciate your time.

21 CHAIR NORDENBERG: Well, I think we clearly can  
22 accept that study into the record, so thank you for that. And  
23 thank you for your candid remarks.

24 REPRESENTATIVE BENNINGHOFF: Thank you, sir.

25 CHAIR NORDENBERG: Let me now turn to Leader

1 McClinton, the Democratic Leader of the House of  
2 Representatives.

3 REPRESENTATIVE McCLINTON: Thank you, Mr.  
4 Chairman.

5 Today is a very important day for the  
6 Commonwealth, and quite honestly, a significant day for me  
7 personally. When I took my oath of office to serve my  
8 neighbors in the 191st Legislative District on August 15,  
9 2015, I could have literally never foreseen that I'd have the  
10 privilege and the opportunity to serve my colleagues as their  
11 Leader and to participate in this Commission, which is truly  
12 historical in representation. We have very important work  
13 that we have been doing now for several months, and before I  
14 go any further, I just want to truly thank the Chairman for  
15 his leadership and his team for working around the clock with  
16 all of our teams to get to this day where we are currently.

17 You have led us, Chairman, as individual  
18 Commissioners and through this entire process with an  
19 objective and scholarly hand that has produced a fair  
20 preliminary plan. Your decision to marshal stakeholders from  
21 all corners of the Commonwealth--some of which are here with  
22 us today live, I'm sure several are across the Commonwealth  
23 watching us--with a diversity of perspectives and a wealth of  
24 knowledge has provided a firm foundation upon which we as  
25 Commissioners are able to rely on as we have developed this

1 plan. The transparency and community input driven throughout  
2 the multiple public hearings, leveraging the participation of  
3 the Commissioners, the witnesses, it has helped all of us  
4 better understand the impacts and the consequences of prior  
5 redistricting on the right of voters to have equal  
6 participation in the electoral process.

7 Our work was and continues to be challenging. The  
8 demographics of the Commonwealth of Pennsylvania have changed  
9 significantly over the past decade. The population has  
10 shifted significantly from the western part of our State to  
11 the southeast. The number of Pennsylvanians living in urban  
12 and suburban communities has grown significantly, while some  
13 of our rural counties have declined in population. In  
14 addition, there's been a substantial increase in the number of  
15 minority residents. The number of Pennsylvanians who are  
16 Black, Hispanic, Asian, or multiracial increased by more than  
17 800,000 people since the last Census, while our white  
18 population has decreased by more than 540,000. The racial  
19 composition of more than 10 percent of the Commonwealth's  
20 total population has, in fact, changed.

21 The Commissioners and this Commission staff have  
22 spent a great deal of time studying and understanding the  
23 implications of those demographic changes. I was particularly  
24 impressed by the citizens and the experts who appeared before  
25 our Commission and shared their perspectives on what a fair

1 and representative map should look like. And I very much  
2 appreciated the guidance we received from these experts  
3 concerning the constitutional and other factors that must all  
4 be balanced to fulfill the Commission's mandate of  
5 reapportioning the Commonwealth and to insure that our  
6 elections will remain free and equal. Inspired by this work  
7 and the citizens behind the statistics, it is my honor to vote  
8 today in favor of the preliminary plan presented by this  
9 Chair.

10 First, I believe that the House map fairly  
11 accounts for the dramatic demographic changes in the  
12 population of the Commonwealth since the last reapportionment.  
13 The plan recognizes and accounts for population declines in  
14 the west and the population growth in the southeast by  
15 creating three new House districts in Philadelphia, Lancaster,  
16 and Montgomery Counties. The plan respects communities of  
17 interest throughout the State. It also comports with the  
18 Voting Rights Act, which requires that communities of color  
19 must have the same opportunity as other members of the  
20 electorate to participate in the political process and to  
21 elect Representatives of their choice. And not  
22 insignificantly, as a result of the historic vote by the  
23 Commission to reallocate incarcerated individuals to their  
24 home communities, the plan eliminates the representational  
25 inequities that result when incarcerated people are counted

1 where they are incarcerated rather than at their homes.

2           Second, this preliminary House map is  
3 representative of the Commonwealth as it is today and allows  
4 for equal participation in the electoral process. Our  
5 Commonwealth has a long history of protecting the right of  
6 people to fair and equal representation in State government.  
7 The Pennsylvania Constitution, considered the most democratic  
8 of its time when the first State Constitution was ratified in  
9 1776, sought to secure access to the electoral process for all  
10 people and to insure that this right of the people would  
11 forever remain equal. Since 1790, Article I, Section 5, of  
12 the Pennsylvania Constitution has mandated that elections  
13 shall be free and equal. The Constitution thus guarantees  
14 that all voters have an equal opportunity to translate their  
15 votes into representation. Decades of gerrymandering in  
16 previous reapportionment cycles resulted in districts and  
17 election outcomes that were not fairly representative of  
18 Pennsylvania.

19           The preliminary plan that is presented today  
20 substantially corrects the wrongs through faithful adherence  
21 to the requirements of the Pennsylvania Constitution. The  
22 proposed House map consists of 203 compact and contiguous  
23 Representative districts that are as nearly equal in  
24 population and practicable, and the map also satisfies the  
25 free and equal mandate in the Pennsylvania Constitution.

1 Third, the preliminary plan is the product of an  
2 inclusive process, robust debate, and expert collaboration.  
3 The Chair has invited participation by diverse voices and has  
4 solicited expert guidance and instruction, including the  
5 Commission's own Chief Counsel, the Honorable Robert L. Byer,  
6 and other nationally-known experts who appeared and presented  
7 testimony at several public hearings, and otherwise have  
8 assisted and guided this Commission. The combination of these  
9 very different and several voices has resulted in a  
10 representative and fair map.

11 For these reasons, I will vote in favor of this  
12 preliminary plan.

13 Thank you, Mr. Chairman.

14 CHAIR NORDENBERG: Thank you.

15 At this point, most typically, there would be a  
16 motion to vote on the entire plan. There have been exceptions  
17 to that process in the past, and there has been a request that  
18 we separate the votes today and vote on the Senate map and the  
19 House map separately. If that continues to be the wish of the  
20 group, I would entertain a motion in favor of accepting the  
21 Senate portion of the plan at this point.

22 REPRESENTATIVE BENNINGHOFF: Mr. Chairman, I  
23 appreciate you entertaining that. I think it would be  
24 beneficial. As I have said, I've been wanting to be able to  
25 be supportive of maps that I have belief in, but by

1 bifurcating that, I can be supportive of the Senate map as the  
2 wishes of the Senate.

3 So I make a motion to please bifurcate that vote,  
4 or divide it, whatever you want to call it. Did you say the  
5 order would be the Senate would go first, then the House?

6 CHAIR NORDENBERG: Yes.

7 REPRESENTATIVE BENNINGHOFF: Thank you, sir.

8 CHAIR NORDENBERG: So the motion on the table is a  
9 motion to accept the Senate map as half of the preliminary  
10 plan.

11 Is there a second?

12 Leader Ward.

13 SENATOR K. WARD: This is a motion on the map, not  
14 on bifurcating? I just need to be clear.

15 REPRESENTATIVE BENNINGHOFF: Divide the vote.

16 CHAIR NORDENBERG: Okay. I thought I could do  
17 that by rule, but let's have a vote then on whether we're  
18 going to bifurcate the vote today.

19 All in favor, please say "aye."

20 SENATOR K. WARD: Aye.

21 SENATOR COSTA: Aye.

22 CHAIR NORDENBERG: Aye.

23 REPRESENTATIVE BENNINGHOFF: Aye.

24 REPRESENTATIVE McCLINTON: Aye.

25 CHAIR NORDENBERG: That vote passes.

1                   Now then, let me ask, is there a motion to accept  
2 the Senate map as a part of the Commission's preliminary plan?

3                   SENATOR COSTA: Mr. Chairman, I move that we  
4 accept the Senate plan at this point in time.

5                   CHAIR NORDENBERG: Thank you, Senator Costa.  
6 Is there a second?

7                   SENATOR K. WARD: I will second.

8                   CHAIR NORDENBERG: Thank you, Senator Ward.  
9 Is there further discussion at this point?

10                   Senator Ward.

11                   SENATOR K. WARD: I will support this to move  
12 forward today. We need to keep the process on the timeline,  
13 as I stated, but I do want us to work on corrections before a  
14 final map is voted on.

15                   CHAIR NORDENBERG: Thank you.

16                   Any other discussion?

17                   (There was no response.)

18                   CHAIR NORDENBERG: If not, well, all in favor of  
19 moving forward with the Senate map as a part of the  
20 preliminary plan, please say "aye."

21                   SENATOR K. WARD: Aye.

22                   SENATOR COSTA: Aye.

23                   CHAIR NORDENBERG: Aye.

24                   REPRESENTATIVE BENNINGHOFF: Aye.

25                   REPRESENTATIVE McCLINTON: Aye.

1 CHAIR NORDENBERG: Any opposed?

2 (There was no response.)

3 CHAIR NORDENBERG: Thank you.

4 At this point then, I would entertain a motion to  
5 move forward with the map of the House of Representatives as a  
6 part of the Commission's preliminary plan.

7 REPRESENTATIVE McCLINTON: Mr. Chairman, I make a  
8 motion to move to adopt the House plan.

9 CHAIR NORDENBERG: Leader McClinton has made such  
10 a motion.

11 Is there a second?

12 SENATOR COSTA: Mr. Chairman, I second the motion  
13 from Leader McClinton to approve the House plan as part of the  
14 preliminary plan.

15 CHAIR NORDENBERG: Senator Costa has offered a  
16 second.

17 Is there further discussion of the House map at  
18 this point in time?

19 (There was no response.)

20 CHAIR NORDENBERG: If not, I would ask that all in  
21 favor, please say "aye."

22 SENATOR COSTA: Aye.

23 CHAIR NORDENBERG: Aye.

24 REPRESENTATIVE McCLINTON: Aye.

25 CHAIR NORDENBERG: All opposed, please say "no."

1 SENATOR K. WARD: No.

2 REPRESENTATIVE BENNINGHOFF: No.

3 CHAIR NORDENBERG: Let the record show that Leader  
4 McClinton, Leader Costa, and I voted in favor, and that Leader  
5 Ward and Leader Benninghoff voted "no."

6 We will, as I indicated earlier, be conducting  
7 hearings in January before the 30 days has passed, but after  
8 the festivities of New Year's Eve and New Year's day. We'll  
9 post those dates and times so that interested citizens will  
10 have the opportunity to secure a place to testify.

11 Is there any other business that any Commissioner  
12 would like to bring forward today?

13 (There was no response.)

14 CHAIR NORDENBERG: If not, this meeting is  
15 adjourned. I thank you all.

16 (Whereupon, the proceedings were concluded at 2:10  
17 p.m.)

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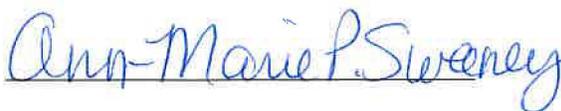
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I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing of the within cause, and that this is a true and correct transcript of the same.



ANN-MARIE P. SWEENEY  
Official Reporter  
Legislative Reapportionment  
Commission

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# EXHIBITS

**Agenda**  
**Pennsylvania Legislative Reapportionment Commission**

**December 16, 2021 1:00 p.m.**

**Senate Hearing Room 1**  
**North Office Building**

1. Call to Order and Opening Remarks
2. Approval of Minutes for meetings held on August 24, 2021, September 21, 2021, and October 25, 2021
3. Introduction and consideration of preliminary plan
  - A. Introductory remarks by Chair
  - B. Opening comments by Commissioners
  - C. Discussion
  - D. Vote
4. Scheduling of public hearings and procedure for any exceptions to preliminary plan
5. Adjournment



**MEETING MINUTES**  
**2021 PA LEGISLATIVE REAPPORTIONMENT COMMISSION**

Date and time of meeting: August 24, 2021, 10:30 a.m. – 12:46 p.m.

Location: Room 8E-B, East Wing of the Capitol

**AGENDA**

1. Call to Order and Opening Remarks
2. Approval of Minutes
3. Consideration of Proposed Resolution Regarding Prisoner Data Reallocation
4. Report of the Release and Processing of Census Data
5. New Business / Discussion
6. Adjournment

Chair Mark Nordenberg called the meeting to order at 10:30 a.m.

He welcomed members of the public in attendance, either in person or through the Commission's livestream, and recognized the other members of the Commission in attendance:

- House Majority Leader Kerry Benninghoff
- Senate Democratic Leader Jay Costa
- House Democratic Leader Joanna McClinton
- Senate Majority Leader Kim Ward

Chair Nordenberg then stated that all meetings and hearings of the Legislative Reapportionment Commission are livestreamed and that the videos typically are posted on the Commission's website one day following the meeting or hearing. He also commented that the Commission's website continues to accept comments from citizens with respect to the reapportionment process and noted that there were over 100 postings as of this date.

Chair Nordenberg stated the first item of business would be the approval of three sets of meeting minutes for meetings held on the following dates: May 26, 2021, June 25, 2021, and July 13, 2021. He noted that the minutes for June 25, 2021, also contained an errata sheet which corrected his mistake in reading a number 6,475 which should have been 6,615. Chair Nordenberg called for a motion to approval all three sets of minutes:

- Motion by Commissioner Ward to approve the minutes
- Second by Commissioner Costa
- All five commissioners voted Aye

Chair Nordenberg then called for consideration of the principal item of business on the agenda, which was a proposed resolution regarding prisoner data reallocation that had been previously discussed at the Commission's meeting held on May 26, 2021. Commissioner McClinton moved that the Commission take up the matter of Resolution 4A, the reallocation of state prisoner census data from the location of current incarceration back to each prisoner's home location, excluding prisoners serving life sentences. A copy of the exact wording of

Resolution 4A is attached to these minutes. Commissioner Costa seconded the motion.

Before opening the floor for discussion, Chair Nordenberg asked Robert Byer, the Commission's Chief Legal Counsel to give an overview of the legal issues regarding Resolution 4A. Mr. Byer thanked the legal counsel of all four caucuses for their informative briefings on both sides of this issue. Mr. Byer said both he and the Chair have spent a considerable amount of time studying the legal aspects of reallocating prisoner census data. Mr. Byer then presented his conclusions:

1. Neither the United States Constitution nor the Pennsylvania Constitution would be violated either by maintaining the current practice of counting prisoners at their place of incarceration or by changing this practice to using pre-incarceration home locations.
2. The provisions of the Commonwealth's Election Code and Voter Registration Act concerning residents and prisoners for purposes of registration and voting do not control where prisoners are counted for purposes of redistricting, but those statutes do express a public policy that the Commission may consider.
3. The 1968 amendments to the Pennsylvania Constitution adopting Article II, Section 17, in its current form and rescinding former Article II, Section 18, were intended to remove the General Assembly from any role with respect to legislative redistricting and instead place that role in this independent Commission. Legislation is not required for this Commission to make the changes proposed in Resolution 4A.
4. Therefore, this Commission has the authority to adopt the proposed resolution if the Commission concludes that the proposed change is required in the exercise of its judgment based upon considerations of fairness and public policy.

Mr. Byer then went into further detail covering all of these key points. He noted that there is a statistically significant effect showing a difference in districts where there is a state correctional institution and in counties or districts where such an institution is not located in terms of the number of votes requires to elect a representative. He concluded that the current state of the law does not prohibit the current practice of counting prisoners as residents of their places of

imprisonment based upon the Federal census, but the law also does not prohibit this Commission from changing that practice if the Commission, in exercising its exclusive and plenary authority over legislative redistricting, determines that such a change is required in the interest of fairness and sound public policy.

Chair Nordenberg then opened the floor for discussion. Commissioner Ward asked about possible discrepancies and nonuniformity by affecting only State prisoners and not Federal prisoners and thus there would be different census data used to established both State House and Senate districts than what would be used to establish Federal congressional districts. Mr. Byer stated that would be correct since the state legislature would have to adopt a change with respect to congressional districts in Pennsylvania and the legislature would have to do the same for municipal redistricting covered by the current Municipal Reapportionment Act. Commissioner Ward then asked how college students are counted and Mr. Byer replied that they are counted in their place of residence on campus. Mr. Byer pointed out that it is up to the Commission to decide on how to count individuals who are in "group quarters" e.g., prisons, college dormitories, senior citizen institutions. He stated that college students are in their resident locations by choice while prisoners have no choice as to where they are located.

Commissioner McClinton asked about the findings of Dr. Jonathan Cervas regarding statistically significant evidence regarding voting. Mr. Byer said that there are statistical calculations that show that fewer votes are required to elect a state representative in a district where a State correctional institution is located as compared with a district that does not have a correctional institution.

Commissioner Benninghoff commented that Resolution 4A is not similar to legislation that has been previously introduced in the House Committee. The bill has been revised multiple times in committee and what is being considered by the Commission is a major policy change. He asked about fairness and Mr. Byer replied that fairness is a determination that the Commission would have to make. Mr. Byer stated that the resolution being considered is not a legal question but rather a policy question.

Commissioner Benninghoff then asked about prisoners who have a sentence of longer than ten years. Mr. Byer responded that would be a policy choice to be made by the Commission.

Commissioner McClinton then presented six points to support the resolution.

1. The Pennsylvania Constitution leaves no doubt that this Commission has the authority to reallocate incarcerated individuals to their home communities.
2. Given the constitutional grant of authority to the Commission, there is no need for legislation to reallocate prisoners.
3. There is public policy of this Commonwealth that incarcerated persons are treated as residents of their home communities for purposes of elections.
4. Reallocating incarcerated persons to their home communities will not result in unwarranted disparities between prisoners and college students.
5. Counting incarcerated persons at the place where they are incarcerated invites constitutional challenges.
6. The Commission has the means to accurately reallocate incarcerated persons to their home communities via data analysis from the Penn State Data Center and the Pennsylvania Legislative Data Processing Center.

Commissioner McClinton provided detailed supporting comments on each of the six points. Those statements can be found in the official transcript of the meeting. She concluded her comments by stating that nothing prohibits the Commission from reallocating prisoners to their home addresses and urged all of the Commissioners to vote in favor of Resolution 4A.

Commissioner Benninghoff stated he feels very strongly about his participation in the reapportionment process. He stressed that early on the Commission made a commitment to be as open, fair and transparent as possible. He expressed his concerns about the matter of prisoner reallocation being considered by the Commission. Being that the Federal census counts prisoners where they eat, sleep and live, that is where they should be considered as residents. He stated that the action being proposed is outside the scope of the authority of the Legislative Reapportionment Commission, which is a short-term, temporary Commission. He stressed that this fundamental and significant policy change should be done through a deliberative legislative process and that all 203 House

members and 50 Senators should have a voice on this matter. Commissioner Benninghoff also noted that the resolution should apply to all individuals living in group quarters noting that it does not apply to military bases, long-term care facilities, colleges and universities. He urged the Commission to reject the resolution.

Commissioner Costa thanked Commissioner McClinton for introducing Resolution 4A and said that he has submitted written remarks on this matter. (His written remarks are attached to these minutes.) He acknowledged and stated his agreement with the analysis provide by Chief Counsel Byer that this proposal did not require legislative action, and that the Commission has the authority to enact Resolution 4A. He agreed with Commissioner McClinton that by not doing prisoner reallocation, it ultimately results in unfairness between voters that have prisons in their districts and those who do not. He acknowledged and supported the six key points stated by Commissioner McClinton and urged the Commission to approve the proposed resolution.

Commissioner Ward stated that the resolution is flawed in several ways. She noted that prisoners are utilizing facilities and resources in the districts where they reside, and that they are using and benefiting from representational bandwidth. She stated that elected representatives do care about those prisoners who are located within their districts. She also noted the proposed resolution would create differences between how prisoners are counted for congressional districts versus municipal districts. She feels that is going to become a matter that will end up in the courts.

She also feels that there will be significant discrepancies in the data information between the data from the Department of Corrections and the data from the Federal Census Bureau. She urged that the matter regarding any possible differences in the data be resolved before the resolution be considered. Finally, she stated that the Commission is already under a condensed timeframe and the approval of the resolution would cause additional problems. She urged the Commission to vote against the resolution so that the General Assembly could consider it in a deliberative process.

Chair Nordenberg thanked everyone for their comments. He stated that he has spent a considerable amount of time reviewing all legal aspects of the proposed resolution. He also stated that the Commission was intentionally created by the Constitution to be an independent Commission and not part of the legislature, nor is it part of the judiciary or an administrative agency. He stated that the Legislative Reapportionment Commission is a one-of-a-kind entity with an important charge, being in existence only every ten years for the purpose of reapportioning the Commonwealth. He reminded the members of the Commission that the matter of prisoner reallocation was first brought up at the meeting of the Commission on May 26, 2021. At that time Commissioner McClinton wanted to introduce a resolution on prisoner reallocation but it was decided to delay that process until each Commissioner could have enough time to thoroughly consider the matter and thus, we all have been engaged in a very deliberative process since then.

Chair Nordenberg then cited from his perspective the four key points of his consideration:

1. Since the Commission is created by the State Constitution, nothing in the U.S. Constitution or the Pennsylvania Constitution precludes the Commission from reallocating prisoner locations.
2. There is not any statutory limitation on the Commission's proposed action.
3. He agrees with Chief Counsel Byer's conclusion that neither the provisions of Section 703 of the Election Code nor Section 1302 of the Voter Registration Act are binding because of language limiting their application to registration and voting.
4. The Commission has responsibility to do what is prudent with respect to the controlling framework of constitutional law, both to faithfully advance our mission within governing standards and to do our best to ensure that our plan will be upheld when it is ultimately reviewed.

Commissioner Benninghoff then made several additional comments. He stated that he has visited with prisoners many times and found that, contrary to common belief, most prisoners, as they complete their rehabilitative programs, do not return to the same environment where they reside before incarceration. He also noted that transferring prisoner locations from their place of

incarceration back to their home locations will cause a change in the statistics of both districts. He also expressed concern that the unknown effect of getting the data processed correctly could be an issue.

At this time in the meeting, Commissioner Ward introduced two resolutions. One resolution would call for the PA Legislative Data Center to produce two sets of census data: one set being the original census data and the second set being the revised census data with the state prisoners, excluding those being held longer than 10 years, reallocated to their home locations.

Before further discussion on the two resolutions introduced by Commissioner Ward, Chair Nordenberg called for the vote on Resolution 4A. Before the vote was taken, Commissioner Costa raised several additional points. He urged that the Commission reach out to the Department of Corrections to make certain that there will not be any issues by excluding prisoners serving life sentences in Resolution 4A. He also raised concern as to the possibility of issues arising from the Commission using one set of data to establish House and Senate districts while the legislature would be using another set of data to establish the state's congressional seats. He said he hoped that the legislature would accept and use the same census data that the Commission was going to use. Finally, Commissioner Costa raised the matter of how much deviation the Commission was going to allow in establishing districts. He cited testimony that a deviation range of 2 percent to 10 percent would be allowable. There was no further discussion on the matter of deviation. However, Commissioner McClinton did endorse Commissioner Costa's suggestion of reaching out to the Department of Corrections as soon as possible.

Chair Nordenberg, then called for the vote on Resolution 4A.

- Commissioner Benninghoff - No
- Commissioner Costa – Aye
- Commissioner McClinton – Aye
- Commissioner Ward – No
- Chair Nordenberg – Aye

The resolution passed by the vote of 3-2.

Chair Nordenberg then called on Commissioner Ward to formally introduce her two resolutions. Senator Ward then introduced Resolution 4B:

-Resolved that the State Legislative Data Center submit to the Legislative Reapportionment Commission two final data sets, one with population adjusted on the basis of residence of individuals incarcerated in State correctional facilities and one without the population data adjusted on the basis of residence of individuals incarcerated in State correctional facilities.

Commissioner Benninghoff second the motion.

Commissioner McClinton asked that the vote be delayed so that she time to fully consider it. After reading the resolution, she agreed with moving forward on the motion. Senator Costa questioned why two sets of data would be needed and felt that this resolution could push the Commission further into January or February before getting a final plan approved. Commissioner Benninghoff expressed his support of Resolution 4B.

Chair Nordenberg then called for the vote on Resolution 4B:

-Commissioner Benninghoff – Aye  
-Commissioner Costa – Aye  
-Commissioner McClinton – Aye  
-Commissioner Ward – Aye  
-Chair Nordenberg – Aye

The resolution passed by the vote of 5-0.

Commissioner Ward then introduced her second resolution, Resolution 4C:

-Resolved that 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 the State correctional facility, as determined by the Census, and who was a resident of this Commonwealth immediately prior to being sentenced to incarceration. Except as provided under paragraph (2). At the address as reported by the Department of Corrections where the individual was last domiciled in this Commonwealth immediately prior to being sentenced to incarceration. If the individual was homeless immediately prior to being sentenced to incarceration, at the location in

this Commonwealth, as reported by the Department, where the individual regularly stayed or regularly received services immediately prior to being sentenced to incarceration. Or, if there is no address under subparagraph (i) and no location under subparagraph (ii), at the facility where the individual is incarcerated. If the individual is subject to a sentence of 10 years or longer, at the facility where the individual is incarcerated. Representative Benninghoff second the motion.

Commissioner McClinton then stated that this resolution materially changes resolution 4A and asked for more time to review the resolution, and to get public comment and feedback. Commissioner Ward stated that Resolution 4C does not change Resolution 4A other than it excludes prisoners serving sentences longer than 10 years. Commissioner Costa asked if this resolution would require a third set of data.

Chair Nordenberg suggested that the Commission hold on taking any action on Resolution 4C to allow for time to determine if it is possible to get information from the Department of Corrections that would enable the exclusion, from the prisoner reallocation data, of those serving sentences longer than 10 years. All Commissioners agreed to table Resolution 4C at this time.

Chair Nordenberg then introduced Brent McClintock, Director of the PA Legislative Data Center, to provide an update on the status of receipt and processing of the Federal census data. Mr. McClintock presented the following key points of information:

1. On August 12, 2021, the Federal Census Data Center released the Public Law data to each state.
2. The Pa Legislative Data Center and its contractor partner, Penn State Data Center, immediately began the process of downloading and adjusting the data, as necessary. This included adjustments to election precincts that were altered by local municipalities after December 2019; creating split blocks required by recent precinct boundary changes and adjusting population if needed; and, correcting errors including block coding errors and voting district name and code errors.

Mr. McClintock stated that both data centers are ahead of schedule on the processing of the Federal data, and they are planning to present to the Commission data that could be certified by the end of September. However, he did state that the passage of Resolution 4A and 4B will have an impact on the timeframe for completion.

There being no further business, Chair Nordenberg adjourned the meeting at 12:46 p.m.



**MEETING MINUTES**  
**2021 PA LEGISLATIVE REAPPORTIONMENT COMMISSION**

Date and time of meeting: September 21, 2021, 10:00 – 10:41 a.m.

Location: Room 515, Irvis Building

**AGENDA**

1. Call to Order and Opening Remarks
2. Update on the Release and Processing of Census Data
3. Consideration of Second Proposed Resolution Regarding Prisoner Data Reallocation
4. New Business / Discussion
5. Adjournment

Chair Nordenberg called the meeting to order at 10:00 a.m.

He welcomed the members of the public in attendance, either in person or through the livestream, and recognized the other members of the Commission in attendance:

- House Majority Leader Kerry Benninghoff
- Senate Democratic Leader Jay Costa
- House Democratic Leader Joanna McClinton
- Senate Majority Leader Kim Ward

Chair Nordenberg introduced the first item of business, an update on the processing of the Federal census data. He noted at the Commission's previous meeting held on August 24, 2021, there had been three resolutions introduced and two had been passed. The second resolution, Resolution 4B, dealt with having two census data sets produced: one set with no provision for prisoner reallocation and the second set would provide for prisoner reallocation. He then thanked Jen Shultz, Director of the Penn State Data Center, Diana Woodside, from the Department of Corrections, and Brent McClintock, Executive Director of the PA Legislative Data Processing Center for their collaborative work in pulling together the data sets.

Chair Nordenberg then introduced Brent McClintock to provide an update to the Commission on the status of the data sets. Mr. McClintock stated that both data centers have been working diligently since receiving the Public Law census data on August 12, 2021. He reported that the process is ahead of the previously announced schedule but that it was still going to take five to seven weeks to complete the process on the second set of data. Thus, it would be sometime before the week of November 9 when the second set of data would be presented to the Commission. When further questioned by several Commissioners, Mr. McClintock said that he was hoping to have the data sets completed by the third week in October, but the November 9<sup>th</sup> date was the outside limit for completion. He also stated that should the Commission approve Resolution 5A at this meeting, it would have no impact on the time schedule for the completion of the data.

Commissioner Costa emphasized the need to have the data sets completed as soon as possible in order to meet the timeframe requirements to hold the May 2022 primary election.

Chairman Nordenberg noted that had the Commission not approved the process of prisoner reallocation, the data sets would have been completed by now. However, he did state that the passage of the prisoner reallocation resolution was an important step by the Commission.

Chair Nordenberg then briefly reviewed the actions taken by the Commission on Resolutions 4A and 4B at its meeting on August 24, 2021, along with tabling Resolution 4C at that time. That resolution dealt with excluding prisoners serving sentences longer than 10 years from the reallocation process. He then asked Commissioner Ward to reintroduce a revised resolution dealing with that matter. Commissioner Ward then introduced Resolution 5A:

-That notwithstanding any provision of the resolution adopted by the Commission on August 24, 02 (D05751) 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.

Commissioner Benninghoff second the motion.

Chair Nordenberg opened the floor for discussion. Commissioner Ward stated that prisoners in state correctional facilities use the resources of the districts where they are incarcerated. Thus, those serving sentences longer than 10 years, along with those serving life sentences, should be considered as residents within those districts where the state correctional facilities are located. She also cited that as previously stated by Mr. McClintock,

enacting this resolution will not add any additional time for the completion of the data sets.

Commissioner Costa stated that he does not support the resolution because it undermines Resolution 4A. He noted that there are many variables to how long a prisoner may or may not serve a full 10-year or more sentence. He cited the recidivism risk reduction program that was passed by the legislature as a reason that many long sentences may be reduced.

Commissioner Benninghoff stated that he supports the resolution because it speaks to more fairness and consistency. He commented that this will probably be a matter that will again have to be considered in the next reapportionment cycle in 2030. He also feels that this matter will reoccur as an issue because it does not include county or Federal prisoners incarcerated in facilities located in Pennsylvania. He concluded by noting the Resolution 4A excluded prisoners serving life sentences and this resolution treats in the same manner, those prisoners serving sentences that run beyond the next census in 2030.

Commissioner McClinton urged the Commission to reject Resolution 5A for four reasons:

1. This resolution is an attempt to reconsider and undo Resolution 4A by partially reversing Resolution 4A.
2. This resolution to count prisoners differently based on their minimum sentences conflicts with and undermines the policy reasons for reallocating prisoners in the first place.
3. This resolution fails to account for the numerous ways in which criminal sentences can and are reduced every day.
4. Counting prisoners differently based on the length of their minimum sentences will make Pennsylvania an outlier among other states that have adjusted their prisoners to their home communities.

She concluded that there is no sound policy reason for treating incarcerated people differently based on the length of their minimum

sentence and there is no accurate way to determine which prisoners will remain incarcerated and which ones will have returned home a decade from now.

Chair Nordenberg thanked everyone for their comments. He stated that the revised resolution is responsive to the comments that were made at the last meeting either in favor of or against this resolution. He noted that this resolution will have an impact on fewer prisoners than the life sentence exemption that was built into Resolution 4A. He cited that nearly 3,954 prisoners are affected by the life sentence exemption and 3,046 are affected by the 10-year sentence expiring after April 1, 2030, exemption. He then said that he considers Resolution 5A to be a reasonable proposal.

Chair Nordenberg then called for a vote on Resolution 5A:

- Commissioner Benninghoff – Aye
- Commissioner Costa – No
- Commissioner McClinton – No
- Commissioner Ward – Aye
- Chair Nordenberg – Aye

The resolution passed by the vote 3-2.

Chair Nordenberg reminded the Commission members of the hearing scheduled for later that same day beginning at 5:00 p.m.

With no further business, Chair Nordenberg adjourned the meeting at 10:41 a.m.

it is our obligation to do that. Further, the leaders of the General Assembly have pledged to do so.

The result in the senate map is a collaboration between the members of this body that improved on prior legislative reapportionment plans in the following ways:

- The preliminary map drawn by the commission accounts for the significant geographic and demographic changes that have occurred in Pennsylvania in the last ten years.
- The preliminary plan reflects the significant growth in population in the central and southeastern portion of the commonwealth that was fueled by increases in Black, Latino and other racial and ethnic minorities.
- In response, the plan increased minority representation especially in the Latino community in multiple areas of the commonwealth—specifically in Philadelphia, Berks County and the Lehigh Valley.
- For the first time and under its constitutional authority, the commission reallocated inmates housed in state correctional institutions to their home districts of residence.
  - o This was done by the initiative of Rep. Joanna McClinton and under the leadership of chairman Nordenberg and his team.
- The plan decreased the number of county splits and attempted to keep communities of interest together throughout the commonwealth. Districts overall are more compact and contiguous on this map than the previous reapportionment map.

The final product, which is this preliminary plan that is being considered for adoption today, is not 100% of what any one of us wanted – the outcome is a negotiated map with significant public input.

- It has the input of the four legislative leaders as contemplated by the constitutional charge in Article II, sections 16 and 17.
- It is responsive to the significant public input provided to the commission.
- In comparison to the current map, it is more representative of the requirement for political and partisan fairness of the Pennsylvania Constitution.

- In comparison to the current map, it is responsive to the constitutional requirements for compactness, contiguity and a minimum number of political subdivision splits.

While we've been working diligently for the past few months, this is really the beginning of the process.

- The commission now has 30 days for citizen input regarding the preliminary map.
- It is important that everyone closely reviews the plan as a whole but more importantly, their area of the state and provides feedback to the commission about what they like and also what they may not like about the map.
- The Commission will be taking those comments seriously when assembling the final plan.
- The Commission will also be conducting hearings on the preliminary plan in order to receive this review and input.

There is much to be proud of in this map as well as the lengthy, considered and thoughtful process the commission undertook to reach this point.



**MEETING MINUTES**  
**2021 PA LEGISLATIVE REAPPORTIONMENT COMMISSION**

Date and time of meeting: October 25, 2021, 10:00 a.m. – 10:28 a.m.

Location: Room 8E-B Capitol East Wing

**AGENDA**

1. Call to Order and Opening Remarks
2. Report on Processing of Census Data by Brent McClintock,  
Executive Director, Legislative Data Processing Center
3. Resolution 6A—Certifying 2021-10-14 LRC Data Release  
No. 2 (with prisoner reallocations) as Usable for the  
Purpose of Reapportioning the General Assembly
4. Resolution 6B—Certifying 2021-10-05 LRC Data Release  
No. 1b (without prisoner adjustment) as Usable for  
Purposes other than Reapportioning the General Assembly
5. New Business / Discussion
6. Adjournment

Chair Mark Nordenberg called the meeting to order at 10:00 a.m.

He welcomed the members of the public who were in attendance, either in person or through the Commission's livestream, and recognized the other members of the Commission in attendance:

- House Majority Leader Kerry Benninghoff
- Senate Democratic Leader Jay Costa
- House Democratic Leader Joanna McClinton
- Senate Majority Leader Kim Ward

Chair Nordenberg then stated that this meeting was critically important for the ongoing work of the Commission. He stressed that the Commission was poised to certify that it has received useable Census data and that, therefore, the work of drawing Senate and House district maps could begin. He also noted that by certifying the receipt of usable data retroactively to October 14, 2021, the 90-day period within which the Commission must file a preliminary reapportionment plan would have started to run as of that date, and the time period would expire on January 12, 2022.

Chair Nordenberg noted that the data received from the U.S. Census bureau has been verified and adjusted, as required, by the Legislative Data Processing Center and the Penn State Data Center. He then introduced Brent McClintock, Executive Director of the Legislative Data Processing Center to provide more detail into the adjustments that were needed to be made to the U.S. Census data.

Mr. McClintock then described the timeline and the process required to prepare the census data for use by the Commission. He stated that on August 12, 2021, the U.S. Census Bureau released its P.L. 94-171 data set that provided the results of the 2020 Census population counts for the Commonwealth of Pennsylvania. This data covered Pennsylvania's 9,178 voting precincts and approximately 337,000 census blocks. Due to some changes in voting precincts since the Commonwealth's last submission to the Census Bureau in December 2019, adjustments had to be made in order to provide the most accurate data set. The Legislative Data Center, working with the Penn State Data Center found that changes and adjustments were needed across the boundaries of 66 voting

precincts. Population adjustments were made across 48 separate columns of Census demographic data including at the block, track, precinct, municipality and county levels. There were also 53 split blocks identified, and those populations were distributed to the correct voting precinct. Following those corrections, the Penn State Data Center adjusted data set No. 1 to reallocate most of the prisoners held in State Correctional Institutions. He noted that based on data provided by the Department of Corrections, 26,821 prisoners were reallocated to their home locations.

Mr. McClintock stated that the corrections and adjustments to the census data were accomplished well ahead of the estimated target date of early November. He thanked his staff at the Legislative Data Processing Center as well as the leadership and staff of the Penn State Data Center for their thorough and responsive work over the past several months.

Chair Nordenberg thanked Mr. McClintock for his presentation, noting that this was the third time that Mr. McClintock has appeared to testify before the Commission on the matter of processing the data. Chair Nordenberg pointed out that in a previous presentation in July, Mr. McClintock had stated that for the reapportionment processes of 1990, 2000, and 2010, there were at least four months between the release of the U.S. Census P.L. data and the certification of the data by the respective Commissions but he hoped to reduce the time needed down to two months. Chair Nordenberg emphasized that Mr. McClintock did achieve that goal by getting both data sets ready by October 14.

Commissioners Ward and Costa both extended remarks of sincere thanks to Mr. McClintock and his staff. Commissioner Costa specifically cited the very open and transparent process had been used in getting the data prepared for certification.

Chair Nordenberg then introduced Resolution 6A. This resolution certifies that data set 2021-10-14 LRC Data Release No. 2 contains the population data necessary for the Commission to reapportion the General Assembly, that the data set also includes adjustments necessary to reallocate prisoner data, that this data set was received in usable form on October 14, 2021, and that the 90-day period for the Commission to file its preliminary plan will have started on October 14,

2021, and will expire on January 12, 2022. The adjustments to the data set for the reallocation of prisoners were previously approved by the Commission through Resolution 4A and Resolution 5A.

Chair Nordenberg then called for a motion on Resolution 6A.

- Motion by Commissioner McClintock to approve Resolution 6A
- Second by Commissioner Ward

Chair Nordenberg then opened the floor for comments. Commissioner Benninghoff noted that the resolution applies to the data set that reallocates only the State inmate population. He emphasized that Federal, county and municipal prisoners are not included in the reallocation and wanted the record to reflect that specific information. Chair Nordenberg reminded the Commission members that previously approved Resolution 4A and Resolution 5A were specific as to apply to only State prisoners.

Chair Nordenberg then called for the vote on Resolution 6A.

- Commissioner Benninghoff – No
- Commissioner Costa – Aye
- Commissioner McClinton – Aye
- Commissioner Ward – Aye
- Chair Nordenberg – Aye

The resolution passed by the vote 4-1.

Chair Nordenberg stated that the data set that had been certified will be provided to the outside, internet mapping software providers and within several days, those who are interested in submitting proposed maps will be able to do so through the Commission's website. He urged that those submitting maps should do so as soon as possible and not wait until the end of the 90-day time period. He noted that the Commission will now be moving forward with all deliberate speed in preparation for the filing of its preliminary plan.

Chair Nordenberg then called for consideration of Resolution 6B. This resolution calls for the approval of 2021-10-05 LRC Data Release No. 1b, the population data set for the Commonwealth without prisoner adjustment that was received by the

Commission in a form usable for purposes other than reapportioning the General Assembly.

Chair Nordenberg then called for a motion on Resolution 6B.

- Motion by Commissioner McClinton to approve Resolution 6B
- Second by Commissioner Benninghoff

Chair Nordenberg then opened the floor for comments. Commissioner Costa stated that he would be voting “no” on this resolution. He stressed that it is inappropriate for the Commission to have available two distinct sets of data that would be available to the public. He said that the data set approved under Resolution 6A should be the data set that is used by the General Assembly for congressional district reapportionment. Commissioner Costa also raised his concern that by having two approved data sets, this might bring specific legal challenges. Commissioner Benninghoff said he is supporting the resolution because it better and more consistently represents the data that was collected by the U.S. Census Bureau in counting the population of Pennsylvania, as has been the past practice of previous Commissions.

Before calling for the vote, Chair Nordenberg stressed that he also has been concerned about certifying two data sets but there are other states that use one data set for redrawing the legislature and a different data set for congressional redistricting. He also feels that the Commission could not indirectly impose our choice on the legislature as to which data set it uses to draw the congressional map.

Chair Nordenberg then called for the vote on Resolution 6B.

- Commissioner Benninghoff – Aye
- Commissioner Costa – No
- Commissioner McClinton – Aye
- Commissioner Ward – Aye
- Chair Nordenberg – Aye

The resolution passed by the vote 4-1.

There being no further business, Chair Nordenberg adjourned the meeting

at 10:28 a.m.



**Sen. Jay Costa**  
**Legislative Reapportionment Commission**  
**December 16, 2021**

- The map we are voting on today is the product of months of work by all four caucus leaders as well as the Chairman of the commission and his excellent team.
- This commission has heard from many testifiers, both experts and members of the public, in numerous hearings and meetings that were conducted at various times in order to accommodate as many people as possible.
- In fact, the commission included more citizen input, discourse, and oversight than any other previous reapportionment commission.
- This commission:
  - o Conducted more hearings than previously held – there were 9 hearings and 6 meetings.
  - o Increased ability to submit comments directly to the commission as well as testify in person and on zoom.
  - o Increased interest in this issue through citizen activism including input from Fair Districts, Draw the Lines, Committee of 70 and PA Voice.
  - o Heard from 29 expert witnesses and 51 citizen witnesses.
  - o Utilized the ability for citizens to draw their own maps through “Dave’s redistricting” so that people in the commonwealth could submit their own maps and critique others submitted.
    - 19 senate maps and 10 house maps were submitted.
  - o Considered those maps and the testimony of citizens, professors, and other interested parties.

The commission faced unique challenges due to covid. It received census data 5 months late, which compressed the timeline for putting together the preliminary plan. However, the commission still needs to complete a final plan in time for the 2022 primary election. Voters expect that certainty, and

it is our obligation to do that. Further, the leaders of the General Assembly have pledged to do so.

The result in the senate map is a collaboration between the members of this body that improved on prior legislative reapportionment plans in the following ways:

- The preliminary map drawn by the commission accounts for the significant geographic and demographic changes that have occurred in Pennsylvania in the last ten years.
- The preliminary plan reflects the significant growth in population in the central and southeastern portion of the commonwealth that was fueled by increases in Black, Latino and other racial and ethnic minorities.
- In response, the plan increased minority representation especially in the Latino community in multiple areas of the commonwealth—specifically in Philadelphia, Berks County and the Lehigh Valley.
- For the first time and under its constitutional authority, the commission reallocated inmates housed in state correctional institutions to their home districts of residence.
  - o This was done by the initiative of Rep. Joanna McClinton and under the leadership of chairman Nordenberg and his team.
- The plan decreased the number of county splits and attempted to keep communities of interest together throughout the commonwealth. Districts overall are more compact and contiguous on this map than the previous reapportionment map.

The final product, which is this preliminary plan that is being considered for adoption today, is not 100% of what any one of us wanted – the outcome is a negotiated map with significant public input.

- It has the input of the four legislative leaders as contemplated by the constitutional charge in Article II, sections 16 and 17.
- It is responsive to the significant public input provided to the commission.
- In comparison to the current map, it is more representative of the requirement for political and partisan fairness of the Pennsylvania Constitution.

- In comparison to the current map, it is responsive to the constitutional requirements for compactness, contiguity and a minimum number of political subdivision splits.

While we've been working diligently for the past few months, this is really the beginning of the process.

- The commission now has 30 days for citizen input regarding the preliminary map.
- It is important that everyone closely reviews the plan as a whole but more importantly, their area of the state and provides feedback to the commission about what they like and also what they may not like about the map.
- The Commission will be taking those comments seriously when assembling the final plan.
- The Commission will also be conducting hearings on the preliminary plan in order to receive this review and input.

There is much to be proud of in this map as well as the lengthy, considered and thoughtful process the commission undertook to reach this point.



Memo on Proposed Redistricting Plan  
from PA Redistricting Commission

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# 1 Introduction and Qualifications

I have been asked by counsel to review the Redistricting Commission's proposed redistricting plan and compare it to a set of simulated redistricting plans across a number of factors commonly considered in the redistricting process and in redistricting litigation.

I am an associate professor of political science at Brigham Young University and faculty fellow at the Center for the Study of Elections and Democracy in Provo, Utah. I received my PhD in political science from Princeton University in 2014 with emphases in American politics and quantitative methods/statistical analyses. My dissertation was awarded the 2014 Carl Albert Award for best dissertation in the area of American Politics by the American Political Science Association.

I teach a number of undergraduate courses in American politics and quantitative research methods.<sup>1</sup> These include classes about political representation, Congressional elections, statistical methods, and research design.

I have worked as an expert witness in a number of cases in which I have been asked to analyze and evaluate various political and elections-related data and statistical methods. Cases in which I have testified at trial or by deposition are listed in my CV, which is attached to the end of this report. I have previously provided expert reports in a number of cases related to voting, redistricting, and election-related issues: *Nancy Carola Jacobson, et al., Plaintiffs, vs. Laurel M. Lee, et al., Defendants. Case No. 4:18-cv-00262 MW-CAS (U.S. District Court for the Northern District of Florida)*; *Common Cause, et al., Plaintiffs, vs. Lewis, et al., Defendants. Case No. 18-CVS-14001 (Wake County, North Carolina)*; *Kelvin Jones, et al., Plaintiffs, v. Ron DeSantis, et al., Defendants, Consolidated Case No. 4:19-cv-300 (U.S. District Court for the Northern District of Florida)*; *Community Success Initiative, et al., Plaintiffs, v. Timothy K. Moore, et al., Defendants, Case No. 19-cv-15941 (Wake County, North Carolina)*; *Richard Rose et al., Plaintiffs, v. Brad Raffensperger, Defendant, Civil Action No. 1:20-cv-02921-SDG (U.S. District Court for the Northern Dis-*

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<sup>1</sup>The political science department at Brigham Young University does not offer any graduate degrees.

*trict of Georgia); Georgia Coalition for the People’s Agenda, Inc., et. al., Plaintiffs, v. Brad Raffensberger, Defendant. Civil Action No. 1:18-cv-04727-ELR (U.S. District Court for the Northern District of Georgia); Alabama, et al., Plaintiffs, v. United States Department of Commerce; Gina Raimondo, et al., Defendants. Case No. CASE NO. 3:21-cv-00211-RAH-ECM-KCN (U.S. District Court for the Middle District of Alabama Eastern Division); League of Women Voters of Ohio, et al., Relators, v. Ohio Redistricting Commission, et al., Respondents. Case No. 2021-1193 (Supreme Court of Ohio).*

In my position as a professor of political science, I have conducted research on a variety of election- and voting-related topics in American politics and public opinion. Much of my research uses advanced statistical methods for the analysis of quantitative data. I have worked on a number of research projects that use “big data” that include millions of observations, including a number of state voter files, campaign contribution lists, and data from the US Census. I have also used geographic information systems and other mapping techniques in my work with political data.

## 2 Methods

To gauge the range of partisan outcomes in the Pennsylvania House of Representatives, I conduct simulated districting analyses to allow me to produce a large number of districting plans that follow traditional districting criteria using small geographic units as building blocks for hypothetical legislative districts (voting tabulation districts, or VTDs). This simulation process ignores all partisan and racial considerations when drawing districts. Instead, the computer simulations are programmed to create districting plans that follow traditional districting goals without paying attention to partisanship, race, or the location of incumbent legislators.

The process of simulating districting plans has been recognized and used in a variety of redistricting cases, including in Pennsylvania.<sup>2</sup> While different people employ slightly

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<sup>2</sup>See *League of Women Voters of Ohio v. Ohio Redistricting Commission* (2021); *Harper v. Hall* (2021);

different methods, the overall process is much the same. For my simulations, I use a program developed by Fifield et al. (2020).<sup>3</sup>

A significant advantage of the simulation-based approach is the ability to provide a representative sample of possible districting plans that accounts for the unique political geography of a state, such as the spatial distribution of voters or the location and number of administrative boundaries, such as counties. Simulation methods can also to a degree incorporate each state's unique redistricting rules. The simulation-based approach therefore permits us to compare a particular plan to a large number of representative districting plans in Pennsylvania. In the simulations I run, I instruct the model to generate plans that adhere to the restrictions included in the Pennsylvania Constitution.

Specifically, the model is constrained to conduct 1,000 simulations in which each simulation generates 203 districts that are of roughly equal population ( $< 4\%$  deviation above or below the target population of 64,053). The model is also instructed to generate districts that cross county boundaries as few times as possible. Of course, county populations do not always add up to round units of districts, and so of necessity some county boundaries will be split. The model is further instructed that when a county boundary needs to be crossed, it should avoid splitting the county more times than necessary. The model also includes instructions to generate districts that are geographically compact. The final constraint is an instruction to avoid splitting municipal and township boundaries. This constraint is second order to the constraint to avoid county boundaries. In other words, the model prioritizes avoiding county splits over municipal splits. Once the county split constraint is accounted

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Common Cause v. Lewis (2019); Harper v. Lewis (2019); League of Women Voters of Pennsylvania v. Commonwealth of Pennsylvania (2018).

<sup>3</sup>Fifield, Benjamin, , Michael Higgins, Kosuke Imai, and Alexander Tarr. "Automated redistricting simulation using Markov chain Monte Carlo." *Journal of Computational and Graphical Statistics* 29, no. 4 (2020): 715-728.

Fifield, Benjamin, Kosuke Imai, Jun Kawahara, and Christopher T Kenny. 2020. "The essential role of empirical validation in legislative redistricting simulation." *Statistics and Public Policy* 7 (1): 52-68.

Kenny, Christopher T., Cory McCartan, Benjamin Fifield, and Kosuke Imai. 2020. *redist: Computational Algorithms for Redistricting Simulation*. <https://CRAN.R-project.org/package=redist>.

McCartan, Cory, and Kosuke Imai. 2020. "Sequential Monte Carlo for sampling balanced and compact redistricting plans." *arXiv preprint arXiv:2008.06131*.

for, then the model places priority on avoidance of municipal splits.

Once the simulated district plans are complete, I then compute the partisan composition of each district in each plan. For the partisan composition of each district I rely on the election results from statewide elections disaggregated to the level of the VTD. I then reassemble these election results at the district level to compute the proportion of votes in each statewide election that were won by the Democratic and Republican candidates in those districts. I compute three different measures of district partisanship using a variety of combinations of elections from the past 10 years.<sup>4</sup> The first is an average of all statewide races in Pennsylvania from 2012-2020. The second is an average of all statewide races in Pennsylvania from 2014-2020. I choose 2014 as the starting date as this is when the most recent changes to legislative districts occurred. The final measure is more recent - the average of all statewide elections in 2020. Averages of multiple elections have the benefit of “washing out” the impact of any particular election, since individual elections can vary due to particular candidate features and other idiosyncrasies and particular years can vary due to national electoral waves (i.e. 2018 was an especially good year for Democrats while 2016 was an especially good year for Republicans nationwide).

Finally, I compute the same statistics for the proposed redistricting plan and compare the plan to the distribution of plans generated by the simulations. I also compare measures of partisan outcomes from a separate sources, Dave’s Redistricting. The results from this program align with the analysis I perform here.

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<sup>4</sup>The particular races are 2020: President, Auditor, Attorney General, Treasurer; 2018: Governor, US Senate; 2016: President, US Senate, Auditor, Attorney General, Treasurer; 2014: Governor; 2012: President, US Senate, Auditor, Attorney General, Treasurer

### 3 Results

#### 3.1 Population, Boundary Splits, and Compactness

Table 1 below compares the Commission proposal to the distribution of simulations for population deviation, boundary splits, and compactness. The Commission proposal exceeds the 4% of population deviation, either above or below the target population, in 12 districts. The proposal splits 46 counties 183 times. This is in line with the simulations in terms of the number of counties split. With regards to district compactness, the Commission proposal is slightly more compact, but largely in line with the results of the simulations. The average compactness of the Commission proposal is near the range of the average compactness scores of the simulations. The least compact district in the Commission proposal (0.20) is slightly more compact than the least compact district in the 1,000 simulations (0.17).

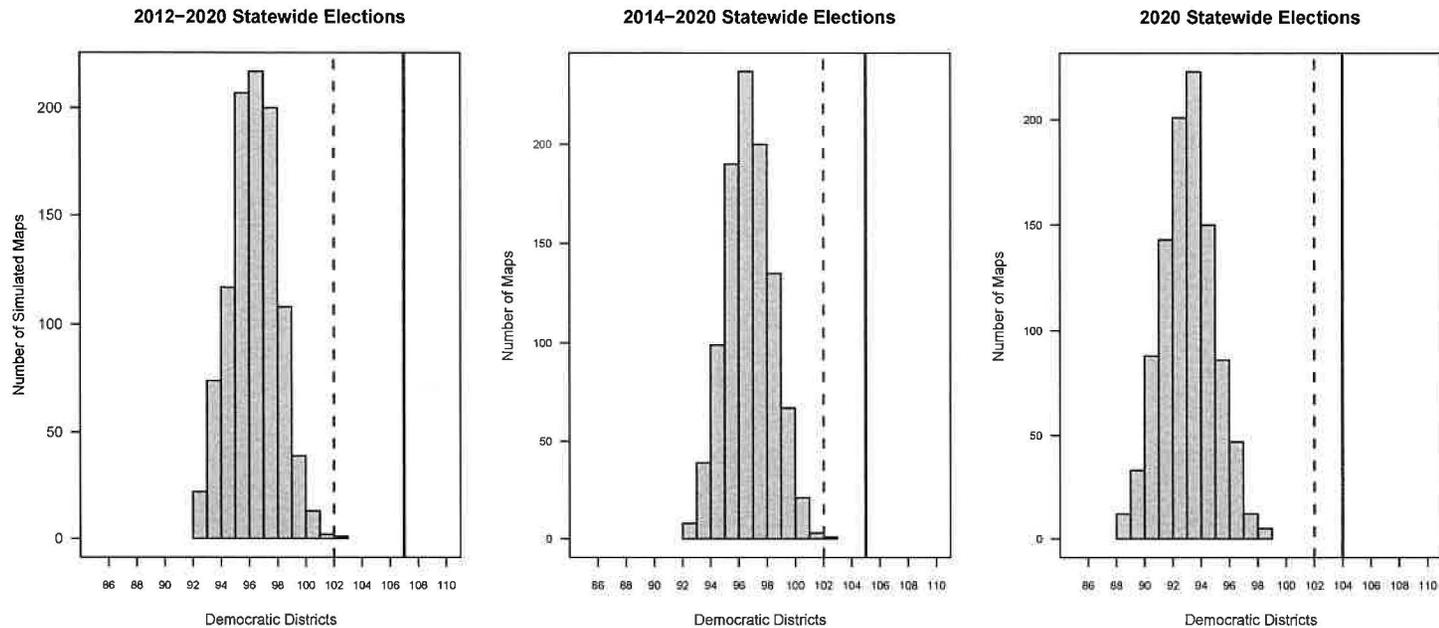
Table 1: Commission Second Proposal and 1,000 Simulations: Population, Splits, and Compactness

	Commission Proposal	Simulations Median	Simulations Range
<b>Population Deviation</b>			
Smallest District:	-4.62%	-3.43%	[-3.68, -3.15]
Largest District:	4.67%	3.52%	[3.17, 3.83]
<b>Boundary Splits</b>			
Counties Split:	45	46	[46, 47]
Total County Splits:	184	188	[184, 192]
<b>Compactness</b>			
Average Reock:	0.42	0.40	[0.38, 0.41]
Minimum Reock:	0.20	0.17	[0.14, 0.17]

## 3.2 Partisanship

Figure 1 displays the distribution of Democratic leaning districts according to the four different indices discussed above. The red dashed line in each plot is at 102, the number of seats needed for a majority in the Pennsylvania House of Representatives. The green line shows the results of the same partisan indices for the Commission proposal. The Commission proposal generates between 104-107 Democratic leaning districts, which is 8-10 seats larger than the median outcome generated by the simulations, depending on the particular set of elections analyzed.

Figure 1: Partisan Composition of Districts and Simulations



Note: Each panel presents the results of the simulations and the Commission Plan using a different index of elections, noted at the top of each panel. The grey distributions are the number of Democratic seats from the 1,000 simulations. The vertical green line is the number of Democratic leaning seats in the Commission Plan for each election index considered. The red dashed line is placed at 102, the number of seats needed for majority control in the Pennsylvania House of Representatives.

Where are the discrepancies in partisanship arising? Given the geographic distribution of voters in Pennsylvania and the clustering of Democrats within the large and medium-sized cities of the state, there are only relatively few locations in which Democratic districts can be constructed. The table below looks at some of the counties in these locations and compares the Commission proposal to the median outcome and the full range of outcomes in the 1,000 simulations. There are other counties that have Democratic leaning districts in both the Commission proposal as well as the simulations, but I focus on some of the larger counties of the state here. In nearly all cases, the Commission proposal is within the range of outcomes in the simulations, but tends to be on the higher end of Democratic leaning seats. What this implies, however, is that when all of these counties are added together into a statewide number, they lead to a statewide plan that is higher than the simulations because while there are individual simulations with the same number of Democratic districts in each of these counties, it is extremely unlikely that any one particular simulation generates a plan in which the number of Democratic seats is on the high end in all of the counties at the same time.

Table 2: County-by-County Analysis of Commission Proposal and 1,000 Simulations

County:	Number of Democratic Leaning Districts (2014-2020 Partisan Index)		
	Commission Proposal	Simulations Median	Simulations Range
Philadelphia	25	25	25
Allegheny	15	16	15-18
Lackawanna + Monroe + Luzerne	8	7	6-8
Bucks	7	6	5-7
Delaware	10	8	6-9
Montgomery + Berks	15	14	13-15
Lancaster + Chester	9	8	6-10
Lehigh + Schuylkill	4	3	3-5
Erie	3	2	2-3
Total in these counties:	96	90	81-100

## 4 Comparison to Other District Scoring Programs

To validate the predicted seat shares produced by my analysis, I upload the proposed plan into a commonly used redistricting program - Dave's Redistricting (DRA).<sup>5</sup> This program has been used extensively in redistricting and in redistricting litigation. After uploading the plans, I compare the number of seats the program predicts will lean Democratic to the predictions produced by my analysis. There is perfect agreement when the same elections are used. Table 3 shows the results. In each case I take the proportion of the total two-party vote cast in the elections being included for each district. I then classify each district as a Democratic-leaning district if the Democratic two-party vote share is larger than 0.50.

The DRA uses an index of elections to generate predictions, in a similar way to the indices I described using above. As I noted above, the benefit of an index is that it helps to “wash out” the idiosyncratic features of any particular election, the specific issues in that race, the candidate's qualities (for better or worse), and other factors of the electoral environment. However, the DRA program uses a different algorithm of different elections. The DRA index uses a combination of the 2020 and 2016 presidential elections, the 2018 and 2016 US Senate elections, the 2020 attorney general election, and the 2018 gubernatorial election. When I compute partisan measures that match the DRA index, I get the same results as they do. The DRA index predicts 106 Democratic leaning seats.

Because the choice of elections can have such a significant impact on the predicted seat share for a party, my preferred method is to include all available elections. I do this using all statewide elections between 2012-2020 and again from 2014-2020. I choose 2012 as a starting point because that range incorporates an entire decade, or one decennial census period in which population enumeration and reapportionment take place. I recompute an average for all statewide races between 2014-2020 to start after the Holt case in which districts in Pennsylvania were altered as a result of litigation. Using these indices the Commission plan contains between 105-107 Democratic leaning districts.

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<sup>5</sup><https://davesredistricting.org>

I note that these predictions are independent of the simulations discussed earlier. The predicted seat shares shown below are only a function of different election results and the map put forward by the PA Redistricting Commission. The simulations discussed above provide a comparison of alternative maps that are drawn without consideration of any criteria other than population equality, compactness, and minimizing splits of political subdivisions. They are helpful because they provide a benchmark by which to make an “apples-to-apples” comparison to other districts that are drawn using the same geographic distribution of voters throughout the state.

Table 3: Comparison of Seat Composition Under Different Elections/Indices

<b>Election Indices:</b>	Commission Plan	
	Number D Districts	Number R Districts
DRA index	106	97
Barber Replication of DRA Index	106	97
Barber 2012-2020 index	107	96
Barber 2014-2020 index	105	98