BOARD OF APPORTIONMENT PUBLIC HEARING

FORT SMITH, ARKANSAS

August 17, 2021
(Recording Begins)

JUSTICE DICKEY: Good evening and welcome

to this sixth hearing in redistricting.

I'm Betty Dickey and I am the coordinator

for the Board of Apportionment for

redistricting.

With me tonight are the brains behind the

redistricting. To my far left is Doug House

who's with the AG's office, Brad Nye who's also

with the attorney general's office.

To my right here, the far right, is Nick

Ortiz with the governor's office, Kevin Niehaus

who's with the secretary of state's office.

And Shelby Johnson who is the head of GIS,

Geographic Information Systems and who's

responsible for the maps and the charts that

you see before you tonight. Excuse me.

PBS is live streaming and videoing these

hearings. The purpose is to show you the

information we have, the charts, to tell you

what criteria we're using, the goals that we

have for redistricting, and then to ask you for

questions and comments via comment sheets or

throughout the room. And, if you will, take

one and make your critiques, comments,
suggestions, we'd appreciate it.

The legal basis for the criteria that you see in front of you is Article 8 of our State Constitution, the Voters Rights Amendment of 1965 as amended, the Equal Protection Clause of the 14th Amendment.

We have set out nine criteria or goals that we have. Very briefly, I'll go over them with you. And whatever questions you may have later, we have experts who can answer them.

The first is the one person one vote balancing of each of the legislative districts every ten years after the federal census so that they are what's called substantially equal, which is generally plus or minus five percent deviation, unless there is an impermissible violation of the other criteria.

There are a hundred House seats and each district should be substantially 30,000 people; 35 Senate districts, and it should be about 86,000.

The second one involves Section 2 of the Voters Rights Amendment prohibiting discrimination based on race, color, or language minority.
The third one, the Equal Protection Clause of the 14th Amendment, limits redrawing district boundaries strictly on the basis of race.

The next four are geographic principles; compactness or the eyeball test referring to whether a district is round or square.

In 1812, Governor Gerry, the Massachusetts governor, drew an area around Boston that looked like a salamander, hence the word that you hear so often today, gerrymandering.

The fifth one is contiguous, that is touching common border, no island, no districts that are islands.

The sixth one, the core of existing districts, whole counties, whole cities, whole precincts is our goal to minimize splitting the political subdivisions. That is a goal that, in some cases, we unfortunately can't reach.

The seventh one is communities of interest. Those are commonalities, economical, social, political, cultural, ethnic, or religious interests.

Continuity of representation. And you ask why we -- why we give incumbency consideration;
and it's because you have elected them. It is the will of the voters and so we try to avoid making incumbents run against each other.

If you look at the maps that are recently drawn, you realize that may be impossible in the red districts.

And the final one is to minimize partisanship, no targeting nor giving preferential treatment.

You can look at some of the old maps and see some odd shapes where someone is drawn in or out of a district.

Rucho versus The Common Cause is a 2019 case that discusses partisan gerrymandering. And it now appears that, while it won't be prosecuted in federal courts or it won't be tried in federal court, it will be -- it does not preclude state courts from hearing cases based on partisanship.

Shelby's going to discuss the maps with you and then we'll open it for questions.

MR. JOHNSON: Good evening.

I'm Shelby Johnson and I serve as the geographic information officer or the State of Arkansas. I work in the Arkansas Department of
Transformation and Shared Services and I have the pleasure of leading the Arkansas Geographic Information Systems Office.

For the last several weeks, we've been conducting these public comment hearings around Arkansas. And, prior to now, we have been showing the public what were estimate data.

And, on Thursday of last week, at one o'clock, the U.S. Census Bureau released the 2020 block level data that contains the redistricting data file.

So Western Arkansas, upper end of the Arkansas River Valley, we are now looking at some analysis of actual 2020 numbers that we have been able to compile over the weekend.

And the ink is fresh on these maps that were printed just this morning; and I'm going to walk you through some of those and explain a few things about the information that we're showing.

First map that we're going to look at, which is on the large screen over there to your left is our 2020 population change, by county, over the ten years.

Now, the numbers on the map are not
reflecting population of a county. What it's reflecting is how much the county changed over the ten years.

I want to draw your eye to the counties that are shaded in the darkest red colors. Those counties are indicative of counties where we had the greatest population decline.

Jefferson County tops that scale. And over the nine, excuse me, ten-year period, from April 1st of 2010 to April 1st of 2020, Jefferson County declined by 10,175. Mississippi County declined by 5,795.

You'll see that the colors shade into lighter shades of red, and those are indicative of counties that declined in population; although, not as much. And then even light shades of red such as Newton County to the north and west declined by about 1,100 in population.

Franklin County, here not too far away, declined by just a little over 1,000 in population.

Then the color shades into the lightest color which is indicative of a county not really growing or not really declining. They
fall somewhere in the middle. And you can see that we have a good number of counties in Arkansas where you would consider that population to be relatively steady.

The color shades then transition into shades of blue. And the lightest blues are indicating that those counties had some growth. And then, as the shades go toward the darkest end of the scale, that indicates the greatest growth.

Here in Sebastian County, Sebastian County, over the ten-year period, had a growth of a little over 2,000 in population.

Crawford County, just across the river, declined in population at 1,815 in decline.

Then, to the north of there is Washington and Benton County; and Benton County topped our state in total growth across the last decade growing to -- or growing by 62,994.

We're going to move next to the variance analysis maps. And the first map that you see is the House districts of Arkansas. These lines represent the current boundaries for our state House districts that we operate under today. And we use the same color scheme to
indicate the variance above or below the target.

Just a real quick explanation about redistricting and its fundamental process, we take our state population and divide that by 100 House districts. And that leaves us a target of 30,115.

So each House district in Arkansas should have about 30,115. And what this variance analysis shows us is how much below or above the House districts are from the target.

If they're extremely below or extremely above, those are indicating to us that those districts are currently illegal. They no longer reflect one person one vote or equal population.

Now, if we look at House District 10 in Jefferson County, House District 10 declined by about -- it's about 4,300 below the target.

If we look at far Northeast Arkansas in Mississippi County or, excuse me, Clay County, you'll see House District 56 is 2,700 below that target.

And then, if you look just a little west of Central Arkansas, you'll see House District
31. House District 31 has 7,573 population above that target.

In far Northwest Arkansas, House District 91 tops the scale. That House district is 13,528 above the target.

Here in the River Valley, House District 79 is a little low, about 700 -- almost 700 below.

House District 76 is about on target. It's a little above that target at 545 above the 30,000 mark.

When we look back at our analysis, looking at the 2019 estimate compared to the 2020 actual variance, what we've seen is, from our estimate data, the districts that were trending downward continue to trend downward. The districts that were trending upward continued to trend upward.

Next, we'll move to the Senate and we'll look at the actual variances for the Senate. Again, we used the same formula. We divide the population of the state by 35 Senate seats. And that arrives at a target for each Senate seat of just a little over 86,000.

Here in the River Valley, we can see, for
example, Senate District 6 is about 6,300 below
the target. Senate District 9 needs to grow by
about 2,100. Senate District 8 needs to grow
by about 2,700.

So it's at this point where I'd just
briefly like to explain the process.

What we say when we say a district needs
to grow is that it must reach out and grab
additional territory to gain in population to
become more equal with its neighbors.

So for districts that are far below the
threshold, those districts are going to expand
and get geographically larger. Districts that
are above the threshold will contract and get
geoographically smaller so that they can share
that population with neighboring districts.

And you can see, in Northwest Arkansas,
Senate District 1 tops the scale. It's
currently 43,500 over the 86,000 target that it
needs to be at. So that's a great example of a
Senate district that will shrink and probably
shrink dramatically.

And then, if you look at Senate District
25, that's an example of a Senate district that
will need to increases its size, its geographic
size.

One of the things to bear in mind, and I think this has been mentioned in some of our earlier meetings, is that here, for example, let's take Senate District 9 here in Western Arkansas. It's about 2,100 below. And you can't reach out and grab that population from Oklahoma.

So Senate District 9 can only become equal by going north, south, or east. And that gives you an idea of how all of the districts in the state may change.

It's a joy to be here in Western Arkansas. Thank you for hosting us here. And I look forward to hearing some of your public comments.

JUSTICE DICKEY: Now we'd like to hear from you, as far as your comments, suggestions. There's a microphone on each side of the podium. If you will, state your name and your county or your district before you ask.

And we also, again, have the comment sheets that we ask you to fill out, whether you speak or not, if you have a suggestion. Anyone?
REPRESENTATIVE GARNER: Thank you very much and thank you for being here.

I'm Denise Garner and I'm state rep from District 84 in Northwest Arkansas and I appreciate y'all being here. (Inaudible) Northwest Arkansas, we were still in session, we couldn't get to that meeting, so thank you.

My question is, as I'm traveling around Washington County, we're seeing huge growth still. Benton County as well. Huge growth still with apartments that, you know, we have students at, families waiting. We've got folks waiting to get housing to move into these communities.

How do you take that into consideration? That that growth is happening as we speak so that this doesn't happen and so that we don't have thousands of overage or shortage in the next one or two years as opposed to waiting for ten years?

JUSTICE DICKEY: Gentlemen?

MR. JOHNSON: Thank you for that.

I can speak just to the census numbers and then I'll allow (inaudible) speak to the other issues.
The census numbers were collected last year in 2020. And those numbers do not change. They are published as they are. And that -- our state statutes that guide the Board of Apportionment use that census figure, this last decennial census.

There are instances where you might be able to design or craft a district that might be a little below the variance but you -- you can't do that across the board.

And so the census figures are reported and the board can not change those census figures in order to craft something that might account for growth into the future.

JUSTICE DICKEY: Mayor of Helena asked if we couldn't just reject the census. And we don't have that option. We -- and even though it's a pandemic that it was taken in, we live with this for the next ten years.

Who else has a comment?

JIM REYNOLDS: Hello. My name's Jim Reynolds and I'm from Sebastian County.

One question I had, I know the deadline is December 31st for the redistricting. Is there -- are we going to take up to that time or is
there a possibility that we could do that sooner and have that information out?

JUSTICE DICKEY: We hope sooner. But the -- the deadline is before December the 31st.

The drawing of the districts or redrawing probably will start after September 30th. They may have some ideas but -- but because there's a change from the 2019 survey to this one that came out today or that was drawn today, it's more significant than we had anticipated.

And so the drawing will start in earnest after the September 30th final results from the census. But these are the raw data, as they've told you.

Does that answer your question? I mean, we hope that it's -- we'd like to have it by October 31st, but that may be too ambitious.

And then the three principals, governor, secretary of state, and attorney general vote; and then there's a 30-day period after that.

But we hope that you get to see it before then.

Anyone else?

MAYOR MCGILL: Good afternoon.

JUSTICE DICKEY: Good afternoon.
MAYOR MCGILL: Good to see you,
Representative House, Shelby. I think we were
successful in our census work. Thank you
(inaudible).

I'm George McGill, mayor of the city of
Fort Smith, Arkansas. Thank you for bringing
this opportunity to us so we can speak on it.
It's a very important issue --

JUSTICE DICKEY: Thank you.

MAYOR MCGILL: -- for us.

I want you to keep in mind, when you begin
to draw those lines, understand Fort Smith and
our part of the state has been an intricate
part of the Third Congressional District for
decades. And we've been apart of that -- that
growth, that attraction attracted major
industries from all around the country to come
to this area.

And we've -- that has been our calling

card. That's been our marketing strategy, to
talk about what has been embraced in the Third
Congressional District.

In the Third Congressional District, we
talk about navigation with the Arkansas River.
In the Third Congressional District, we talk
about our military presence with the 118th
(inaudible) Power Wing (inaudible) just
recently big, big announcement --

JUSTICE DICKER: (inaudible)

MAYOR MCGILL: -- for us. When we were
ordered (inaudible) training mission, that's
huge.

In our presentation, we talked to them
about the Third Congressional District by Fort
Smith. The Third Congressional District and
all the things that are accessible and will be
accessible to that delegation when we move it
here.

When you talk about what's happening in
the western quarter of this state, that's from
Fort Smith to the Missouri line. And we have
been an intricate part of it and we hope that
you will consider that when you begin to draw
those lines.

When we communicate, we talk about what we
do together. So please consider those things
when you begin to draw those lines.

JUSTICE DICKER: Mayor, thank you. And I
know you know that we don't draw the lines for
the congressional districts. You know -- but
some of the other people here may not know. We draw the state Senate and House lines. And -- and the legislature draws the congressional districts, as you know.

MAYOR MCGILL: Okay. And, on that note, let me say be careful with those lines as far as (inaudible).

We've been able to put a great delegation together. A very diverse delegation, a very proactive delegation for this -- for our cities and this region. And we've been -- we've been sending people there that are taking on those leadership roles.

So think about that. We want to continue to have a diverse delegation. We don't want anything to disrupt that.

JUSTICE DICKEY: Thank you.

MAYOR MCGILL: Thank you.

JUSTICE DICKEY: Please add your written comments, as far as that.

Anyone else? Yes, sir?

JARRED REGO: My name is Jarred Rego and I'm on the Fort Smith City Board of Directors here in town. And forgive me if this was answered in the first five minutes of the
meeting. We were wrapping up our board meeting downtown --

JUSTICE DICKEY: I understand your --

JARRED REGO: -- and trying to get over here.

But what's the sort of general explanation as it stands presently for the difference between a 2,055 person increase for Sebastian County but reported figures for growth in Fort Smith alone approaching 3,000, what's the sort of explanation for that difference?

JUSTICE DICKEY: I'll let your expert --

MR. JOHNSON: Generally speaking, what we've seen -- and it's been reported in the news nationally. But, also, we've began to understand the same thing as we're now looking at this data here in Arkansas, is that growth follows opportunity.

And, for our rural areas of Arkansas, we're continuing to see rural migration to municipal migration. We continue to see our cities are growing. We have pockets of the state that have growth. And then our rural areas are declining.

And so that's the general explanation and
that's consistent with what we're seeing nationally as well.

JUSTICE Dickey: Does that an -- does that answer your question?

JARRED REGO: No.

JUSTICE Dickey: That's what I was afraid of. Okay.

JARRED REGO: I'm not trying to be confrontational but how can you have about 2,992 or so as the increase for the city of Fort Smith alone but barely over 2,000 for Sebastian County. I don't understand that discrepancy.

MR. JOHNSON: Your decline, that balance, is from rural areas. And so when you look at that Fort Smith number, that's tied to your municipal boundary that's inside the city of Fort Smith.

But outside the city of Fort Smith, in the rural areas, the county is where you would see the decline.

JARRED REGO: Again, I -- you know, I didn't get super high on the SAT on the math but Fort Smith is in Sebastian County. So I don't completely -- so I don't understand how
you could have a difference like that. But that's just a comment, so thank you.

JUSTICE DICKEY: Other questions, comments?

Yes, ma'am?

MIREYA REITH: Good evening. My name is Mireya Reith. I'm the founding executive director of Arkansas United. We're a nonprofit that runs immigrant resource centers across Arkansas; and we were very proud to cofound Arkansas Counts that helped hard-to-come communities in the last census.

So, on behalf of all of us, thank you for your work and for getting (inaudible) today; because that's what we all were attempting to. So I have a few questions in regards to processes. We're trying to make this information digestible and also available to our Hispanic community and immigrant community.

One, I was wondering, in regards to the maps, if there's any disaggregated data related to race or ethnicity so that we could understand the growth of subpopulations within the maps that you have. That would also help in terms of us understanding the various
criteria that you outlined in communities of
interest and how they do in deed or are in deed
affected by the maps.

And then the other thing I wanted to ask
is, because these events are only in English,
that presents some challenges to many of our
immigrant communities from being able to come
and offer feedback.

I was wondering if these maps -- we double
checked before coming. We didn't see these
maps on the website and didn't know if these
would be posted in a way that we might be able
to share with Spanish-speaking audiences and
then whether there's opportunity for feedback
in other formats besides this public hearing;
where, again, we can help people who speak
other languages also be able to offer input.

Thank you.

JUSTICE DICKEY: Thank you. Shelby? I
think both of those questions -- for you.

MR. JOHNSON: Thank you for that question.

I had the opportunity this afternoon,
while I was driving, to request staff in the
office to do a little bit of analysis.

And I can report that our Hispanic
community across Arkansas has grown by about 70,000. I don't have the exact figure.

I can also report on your question regarding the demographics and the desegregated data, the 2020 block file contains all of the demographic data; that is race, ethnicity, voting edge population, total population, at the block level.

So those are the demographic data that you could use to do further analysis. It was just released on Thursday and we just simply have not had the time yet to do all of that detailed level analysis just yet.

Regarding the exhibits that you see here this evening, those are not on the website. We just finished them this morning. So we haven't had an opportunity to do that yet but I think that's part of the goal, is to try to get that information out so that people can begin to digest changes that are coming.

Hopefully, that answers your question.

MIREYA REITH: So opportunity to offer some sort of comments that maybe, yeah, online or other formats that we can make it accessible to those that don't speak English?
MR. JOHNSON: The -- my colleague from the secretary of state's office says the website is at ArkansasRedistricting.Org. And that's where the public can also furnish the board additional comments.

And I don't know about the Spanish part, Spanish language part. Not yet, he says.

MIREYA REITH: Thank you. And if there is ways where we can collaborate with the state to be able to make it accessible in other languages, we (inaudible). Thank you so much.

JUSTICE DICKEY: We have that information online. ArkansasRedistricting.Org, again.

But any other information you need is in the comment, as far as how to reach us.

Anyone else? Are there other comments? Thank you for coming. And we will be here for a few minutes if you have any other questions to ask.

This hearing is adjourned.

(End of Recording)

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CERTIFICATE

STATE OF ARKANSAS  )
COUNTY OF PULASKI  )

I, CRIS M. BRASUELL, Certified Court Reporter and Notary Public do hereby certify the proceedings which appear in the foregoing pages contain a true and correct record of the testimony given by said witness held to the best of my ability, along with all items of evidence admitted hereto.

I FURTHER CERTIFY, that I am not a relative or employee of any attorney or employed by the parties hereto, nor financially interested or otherwise, in the outcome of this action, and that I have no contract with any parties within this action that effects or has a substantial tendency to affect impartiality, that requires me to relinquish control of an original transcript or copies of the transcript before it is certified and delivered to the custodial attorney, or that requires me to provide any service not made available to all parties in the action.

WITNESS MY HAND AND SEAL this 6th day of October, 2021.

Cris M. Brasuell
CRIS M. BRASUELL, CCR
Arkansas State Supreme Court
Certified Court Reporter No. 742

My Commission Expires:
August 16, 2031

CRIS M. BRASUELL, CCR
BUSHMAN COURT REPORTING