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BOARD OF APPORTIONMENT PUBLIC HEARING

HELENA, ARKANSAS

August 12, 2021

CRIS M. BRASUELL, CCR
BUSHMAN COURT REPORTING

1 (Recording Begins)

2 JUDGE DICKEY: Thank you for masking up,
3 social distancing and erring on the side of
4 caution in this pandemic of the unvaccinated.

5 My name is Betty Dickey. I am coordinator
6 for the Board of Apportionment. With me
7 tonight are the people from the three different
8 agencies.

9 From the governor's office, if I can find
10 him, Eddie Joe Williams. From the secretary of
11 state's office, Josh Bridges. From the
12 attorney general's office, Brad Nye. I'll get
13 it straight in the four hearings.

14 And with GIS, Geographic Information
15 Systems, Shelby Johnson, who, along with
16 Jonathan Durand, are responsible for the maps
17 and the charts that we brought with us today.

18 PBS is live streaming and videoing these
19 hearings. And we thank you for that.

20 We are already behind the curve on the
21 time line. The Senate and House District maps
22 were already completed at this time in 2011.
23 The data is to be delivered starting about
24 today, but not in a format that we can use
25 until September the 30th. The Board's work is

1 to be completed by December the 31st.

2 The purpose of these hearings is to
3 disseminate information about the process,
4 along with these maps and charts and then ask
5 for your questions and comments.

6 There are comment sheets throughout the
7 different seating here and outside. We ask
8 you, in addition to what you may say today on
9 the record, to send those comments and
10 suggestions in.

11 The legal basis for the criteria that you
12 see somewhere -- we've moved it.

13 Article 8 of our State Constitution, the
14 Voters Rights Amendment of 1965 as amended, the
15 Equal Protection clause of the 14th Amendment.
16 The first -- first hurdle is establishing how
17 many seats per district.

18 Based on the 14th Amendment, the Equal
19 Protection, one person, one vote, the balancing
20 of these legislative districts every ten years
21 after the Federal Census, so that they are
22 substantially equal; that is a plus or minus
23 deviation, unless there is an un --
24 impermissible violation of the other criteria.

25 There are a hundred House seats that we

1 anticipate the population will need to on or
2 about 30,000 people. And in the 35 Senate
3 Districts, about 86,000 per district there.

4 Section 2 of the Voters Rights Amendment,
5 as amended, prohibits discrimination on the
6 basis of race, color, or language minority.

7 And the third criteria, the Equal
8 Protection clause, limits redrawing district
9 boundaries strictly on the basis of race.

10 The next four geographic principles start
11 with compactness, or the eyeball test,
12 referring to the shape of the district, there
13 are no -- well, let me get to that later.

14 And the fifth one is contiguous; that is,
15 a touch -- no touching or common border. There
16 are no partial districts that are islands.

17 The core of the existing districts we
18 strive for, as you ask, for whole counties,
19 whole cities, whole precincts, that's our goal,
20 to minimize splitting political subdivisions;
21 that is, in some cases not achievable.

22 Communities of interest, the
23 commonalities, economically, socially,
24 politically, culturally, ethnic, or religious
25 interests.

1 Number eight is the continuity of
2 representation. You ask why do we try to avoid
3 making incumbents run against each other;
4 because the incumbents reflect the will of the
5 voters.

6 It may, in some cases, not be permissible
7 or not be -- we may not be able to avoid having
8 incumbents run against each other.

9 The ninth and final one is to minimize
10 partisanship, no targeting or giving
11 preferential treatment to someone because of
12 their political party.

13 Rucho versus the Common Cause was a 19 --
14 I mean, I'm sorry, a 2019 case that says that
15 federal courts will not handle that. That
16 doesn't preclude state courts from judging if
17 there is a case based on partisanship.

18 Shelby will explain some of the maps and
19 then we will open it to you for questions.

20 MR. JOHNSON: Good evening. My name is
21 Shelby Johnson and I am from the Arkansas
22 Geographic Information Systems Office. And
23 we're a part of the Arkansas Department of
24 Transformation and Shared Services.

25 We provide technical support to the

1 Arkansas Board of Apportionment. And we also
2 play a statutory role in caretaking for the
3 maps that represent the election geography of
4 Arkansas.

5 That includes municipal wards, county
6 justice of peace districts, school districts
7 and school board zones, then, of course, our
8 State House Districts, our State Senate
9 Districts, and our Congressional Districts.

10 Each period in between the annual cen --
11 or the decennial censuses, we undertake the
12 work to provide those kinds of changes to the
13 Census Bureau.

14 So, for example, if a county election
15 commission were to change precinct lines, we
16 would furnish that change up to the Census
17 Bureau. And then it would eventually be
18 incorporated into the census geography.

19 We do the same thing for municipal
20 boundaries. If a city does an annexation and
21 that brings in new population to the city, we
22 would also furnish that up to the Census Bureau
23 so that, as the census occurs, that city can
24 then have that population counted as being part
25 of the city.

1 Unfortunately, in this decade, the
2 pandemic has wreaked havoc on the delivery
3 schedule of the census data.

4 In the 2010 decade, the census data was
5 delivered to all of the states beginning in the
6 early part of the year. And in that decade, in
7 2011, Arkansas received the block file in
8 February of 2011. And then all of the
9 redistricting work began to unfold.

10 In this decade, we're very much behind
11 schedule. The actual raw data from the census
12 was announced this afternoon at one o'clock.
13 And we are now -- just now in the process of
14 being able to retrieve that information and
15 begin to process it so that it can be put to
16 use.

17 So absent having the real numbers in
18 advance, the only thing that we were able to do
19 was to prepare estimate data to be able to
20 illustrate the population change across our
21 state, to be able to show that to both the
22 public and also the Board of Apportionment.

23 I've got three maps that I'm going to walk
24 you through this evening that are fairly quick
25 to explain.

1 And the first map that you're seeing
2 screen is based on a product from the Census
3 Bureau called the American Community Survey.
4 The American Community Survey is a sampling of
5 population across the United States. And it
6 does not reflect an actual total or a real
7 household level census.

8 Instead, what the Census Bureau does is
9 they use a combination of mortality records,
10 births and deaths, and then existing
11 information that they've had on hand.

12 And they've tracked that and model that
13 from year to year, along with their sampling to
14 develop these estimates.

15 This map here shows counties in the
16 darkest shades of red are indicative of the
17 overall population change that has occurred for
18 the period between 2010 and 2019.

19 So, if you see that darker shade of red,
20 that's indicative of population decline. And,
21 as the scale or shades of red go toward lighter
22 colors, that indicates there has been some
23 population decline, but that population decline
24 isn't as much.

25 Trending to the middle -- middle hues or

1 middle colors indicates some loss, but not as
2 much. The lightest colors indicate modest to
3 no loss.

4 And then the map transitions to shades of
5 blue, with the lighter blues indicating that a
6 population gain -- population gain in a county.

7 And then the darkest shades of blue
8 indication dramatic population gain.

9 So if you can let your eye drift toward
10 Jefferson County, Jefferson County, Arkansas is
11 exemplary of a county which has had quite
12 substantial population loss across the nine
13 years.

14 And if we look at that -- that population,
15 I want to -- I believe that figure is up over
16 10,000 across the last decade.

17 And at the other end of the spectrum in
18 far Northwest Arkansas is Benton County, where
19 across the last nine years, that county has
20 actually gained an additional 57,000 in
21 population above its existing population.

22 The next maps that we're going to look at,
23 pardon me, we took that same color scale and
24 the estimate data, the American Community
25 Survey estimate data, and ran that against the

1 current House Districts of our state.

2 And this map uses the same color scale,
3 the darkest shades of red are indicative of
4 House Districts where the total population in
5 the House District has declined. And then at
6 the other end of the -- of the scale, the
7 darkest shades of blue are indicative of House
8 Districts that have gained population and are
9 at the other end where there is too much
10 population in that district.

11 At both ends or at both extremes, what
12 that tells us is that, in their current form,
13 those districts are illegal. They have either
14 too few persons represented or too many.

15 In a case where a district, a House
16 District or a Senate District, doesn't have
17 enough population, that means that it must
18 geographically grow larger to reach out and
19 grab additional population from its surrounding
20 area.

21 And then, in the other vein, you have
22 districts which have too much population.
23 Those districts must contract or get
24 geographically smaller in order to share that
25 additional population with the surrounding

1 areas.

2 So in the House configuration, I believe
3 the -- the district which has been -- has seen
4 the most decline is House -- I want to say it's
5 House District -- oh, I can't remember the
6 number, but it's in the Marion, West Memphis
7 area. And you can see that that House District
8 is about 4,800 below what it needs to be and
9 should be configured in such a way to bring it
10 up to more substantially equal.

11 If you look in -- just a little to the
12 left of Central Arkansas in Saline County,
13 you'll see House District 31 there in the
14 darker shade of blue. And it's indicative of a
15 district where it's just got too much
16 population and it needs to shrink by about
17 3,800 to become more inline or more in balance
18 with its -- with its neighbors.

19 Moving again, we'll look now -- wrong
20 direction. Senate Districts in the same scale
21 or color palette. And what you see here,
22 again, is the same trends.

23 And as we looked at these trends, they are
24 indicating to us that, in Arkansas, rural areas
25 are becoming less populated and more urban

1 areas are becoming more populated. And that --
2 that trend is likely to be borne out in the
3 2020 figures once we begin to really analyze
4 those and understand those.

5 In the Senate Districts you can see -- you
6 got me? We may have a battery that died.
7 Yeah. Bear with me. I think it's still on.
8 How's that?

9 So in the Senate Districts what we see is
10 similar. In Southern and Eastern Arkansas, you
11 have districts that are going to need to grow
12 larger in size in order to gain additional
13 population.

14 And then you have the other districts that
15 are in the darker shades of blue and they're
16 going to need to shrink or contract in size in
17 order to share that population with the
18 surrounding areas.

19 One thing that I would like to point, and
20 I think this is -- should -- should be obvious,
21 but, for example, here in Eastern Arkansas,
22 along the -- along the Mississippi River, it
23 should be clear that, if a district is too
24 small in population, that it -- you can't reach
25 across the river and grab that population from

1 a neighboring state.

2 That means that a district in this part of
3 Arkansas has to grow to the west or it has to
4 grow to the north or grow to the south, for
5 example.

6 That same -- same analogy is also true for
7 the districts along the northern part of the
8 state and the western part of the state.

9 What you'll eventually see is that those
10 districts that are too large in population will
11 shrink and those districts that need to gain in
12 population will have to grow.

13 These numbers that are printed on the maps
14 that are on the screen are on the exhibits that
15 you see here up at the front. And they're also
16 out in the hallway.

17 And we'd invite you, when you have an
18 opportunity, to go look at those exhibits and
19 study those more.

20 And with that information in hand, I would
21 like to turn it back over to Justice Dickey to
22 receive your comments.

23 JUSTICE DICKEY: Thank you, Shelby. We
24 only have one microphone it appears, so we --

25 UNIDENTIFIED SPEAKER: I think I have it

1 working now.

2 JUSTICE DICKEY: It's still on red, so
3 it's weak.

4 We'd like to hear your comments, your
5 suggestions, your questions. If you will,
6 state your name and which county or, if you
7 know, which district you're from. And we now
8 ask you for your participation. Is it still
9 working?

10 UNIDENTIFIED SPEAKER: (Inaudible.)

11 JUSTICE DICKEY: Yes, you'll need to come
12 up here to use this microphone.

13 UNIDENTIFIED SPEAKER: I think it's going
14 to die (inaudible) try that and see if it'll
15 work.

16 Thank you. Thank y'all for coming today.
17 I'm (inaudible) Clark Hall, the Phillips County
18 judge and I would ask the commission
19 (inaudible) --

20 JUSTICE DICKEY: It -- I'm sorry, Judge.
21 It's died on you, I think.

22 UNIDENTIFIED SPEAKER: Looks like the
23 battery's dead.

24 JUDGE HALL: (Inaudible) y'all keep in
25 mind that Phillips County and (inaudible)

1 3,000, 4,000 population. We are still within
2 the largest -- the largest county in -- in this
3 area.

4 And we'd like to -- we're requesting the
5 commission to remember that and try to keep us
6 whole as a county. Our economic development,
7 our economical opportunities with the Port
8 Authority is interrelated to our population.
9 And it lies south of us here in Helena.

10 And we need to make sure that we are whole
11 in order to enhance our opportunities to create
12 economic development and stabilize the
13 population for this county.

14 If not doing so, we're going to continue
15 to lose population. And in that, we're asking
16 y'all to keep our House seat whole and keeping
17 Phillips County as one -- in one district.
18 Thank y'all.

19 JUSTICE DICKEY: Thank you, Judge. Oh,
20 and if you will, also write those down -- write
21 your comment down and send it in.

22 JUDGE HALL: Yes, ma'am.

23 JUSTICE DICKEY: We'd appreciate that.

24 Who else would like to make another
25 question or comment, suggestion? I'll just

1 come back where you are. Let me hold it for
2 you.

3 ROBERT LAWSON: Okay. Yes, thank you.
4 Robert Lawson from Wynne, Arkansas in Cross
5 County.

6 Specifically, I'm here to speak on behalf
7 of everyone in Wynne and Cross County for
8 District 49 and District 50.

9 Ten years ago, there was a clear
10 gerrymander. Wynne was taken out of the rest
11 of Cross County and put in another district.
12 The rest of Cross County that does everything
13 in Wynne, Arkansas, which is the county seat,
14 we're separated. And we would just -- that --
15 that's a perfect example right there.

16 We would just ask that with, our State
17 House, as well as the Senate as well, the
18 Senate is fine, we are all together pretty
19 much, but in the House, we would like to be
20 made whole.

21 Wynne and Cross County go hand in hand and
22 we would like to be in the same House District.

23 JUSTICE DICKEY: Thank you for that
24 comment. That's -- and, again, I ask you to
25 write those down and send that in.

1 Yes, sir? I'll hold it, if that's all
2 right.

3 MAYOR KEVIN SMITH: Yeah.

4 JUSTICE DICKEY: If you'll state your
5 name.

6 MAYOR KEVIN SMITH: I'm Kevin Smith, Mayor
7 of Helena, West Helena. And good to see you
8 again.

9 JUSTICE DICKEY: (Inaudible.)

10 MAYOR KEVIN SMITH: Welcome all of you.

11 I'm -- the -- the editor of the paper
12 couldn't be here because he's covering
13 something else, so it's a little bit like
14 Petticoat Junction, I'm the reporter, I'm the
15 Mayor, I'm a little bit of everything tonight,
16 but I want to welcome you.

17 But my comment would be, and I know this
18 is not what you're in charge of, you're in
19 charge of taking that data and doing something
20 with it.

21 But I think it -- and it's almost
22 historical how bad the census was. And, as you
23 go forward throughout the state, I think it's
24 important to show and tell mayors, county
25 judges and other officials and the public what

1 you can do to get a recount; because I've seen
2 several censuses and been a part of these
3 things and there's always been some kind of
4 undercount in some poor areas.

5 That's some -- but -- but this -- this
6 was, and I hate to use a word that's overused,
7 but it was epically bad.

8 JUSTICE DICKY: Are you talking about --

9 MAYOR KEVIN SMITH: The census.

10 JUSTICE DICKY: This census?

11 MAYOR KEVIN SMITH: Yes, ma'am. And this
12 data or the data that's used, according to the
13 Constitution is supposed to be the census, and
14 the data upon which this is based has got to be
15 the worst data in the history of the -- of the
16 -- of the Republic.

17 And I say that as an office that
18 coordinated closely with the U.S. Census
19 Bureau. But between COVID, the politics coming
20 out of Washington, D.C., the timing that was
21 last -- well, as y'all pointed out, y'all are
22 late because of that.

23 All the other issues y'all already know
24 about. It really is an historically bad
25 census. So we're always under represented and

1 that's pretty typical of rural areas,
2 especially in poor areas; but nothing as bad as
3 what we have this time. It -- it wasn't even
4 close.

5 So while that's not your job to count
6 people, it -- I do think you should make
7 available, and I'll put this in my comments --

8 JUSTICE DICKY: Yes.

9 MAYOR KEVIN SMITH: -- make available to
10 the public and elected officials what options
11 you have if you feel severely undercounted,
12 what are your options to -- to do something
13 about that and to remedy that.

14 That's my only comment is to include that.
15 And maybe you already are because I -- this is
16 my only one I've been to, so you might already
17 being doing that.

18 But like I said, I know you're taking the
19 numbers you've been given, that's your job, but
20 point out to the folks that these numbers
21 represent the census and the census was
22 unbelievably bad.

23 JUSTICE DICKY: I understand.

24 MAYOR KEVIN SMITH: It was terrible. And
25 the public needs to understand that.

1 Their power's being diminished because of
2 this. All those things we told them when we
3 told them to go do the census now coming home
4 to roost. But we made it very difficult to
5 count people.

6 JUSTICE DICKY: I understand.

7 MAYOR KEVIN SMITH: And now, you know, the
8 whole state's going to suffer, not just our
9 little areas and stuff. Thank you.

10 JUSTICE DICKY: Thank you, Kevin, Mayor
11 Smith.

12 We -- just one moment, please. Do -- do
13 you want to respond to that, as far as the
14 legal -- our legal possibilities? I'll hold
15 it.

16 This is Brad Nye, who is with the AG's
17 office. He is -- he is one of the attorneys
18 who may be able to respond.

19 MR. NYE: Well, no pressure, right?
20 Mayor, I -- Mayor, I appreciate the comments
21 and -- and I would agree. You know, there are
22 some -- some concerns with the response rate
23 that we got to the census through the Census
24 Bureau.

25 But, as you astutely pointed out, the

1 Arkansas Constitution limits us to using the
2 data that we get from the U.S. Census Bureau.

3 Any remedy for a recount would have to
4 come from -- from the fed. And I don't know
5 that there's an appetite in Washington right
6 now for that to happen.

7 Be happy to look into that a little bit
8 more; but, as far as what we know, the
9 information that we have is the information
10 that we're going to have to use.

11 JUSTICE DICKY: Thank you.

12 MAYOR KEVIN SMITH: In the past, there
13 have been options (inaudible). It would be
14 nice to know what they are (inaudible).

15 JUSTICE DICKY: Yes, sir. You had a
16 question?

17 JAMES VALLEY: Not really a question as
18 much as a comment. And I guess it's a request.
19 Of course, my name is James Valley. I'm not
20 elected to anything, but I do take the garbage
21 out at my house.

22 What I'd like for the Board of
23 Apportionment to hear me say and everybody else
24 to say, is I want them to start on the eastern
25 part of the state with District No. 1 and to

1 adjust and tweak along the eastern border
2 before you start trying to accommodate
3 districts that will suck up more people.

4 For example, in Benton County in Northwest
5 Arkansas, let's make them last like they were
6 last time. They're number 90 through 94 or 95.
7 Otherwise, we'll lose more districts than we
8 have to lose over here. So let's start over
9 here first.

10 Secondly, as the two gentlemen before me
11 have spoken, we should try to keep counties
12 whole to the extent that we can. And Phillips
13 County needs to be whole, Cross County probably
14 needs to be whole as well.

15 Thirdly, on the Senate, Crittenden County
16 is whole, but we'd rather in Phillips County
17 that Phillips County be whole in the Senate
18 seat that we had; because in the previous
19 census that we filed suit about, Phillips
20 County was -- had -- had a greater
21 participation than we do with Crittenden
22 County.

23 And there's quite a bit of distinction
24 between what goes on in Crittenden County and
25 what's goes on down this way, because the

1 Crittenden County proximity to Memphis. And
2 we'd like to have access to a State Senate seat
3 that we don't really have by being divided
4 between Crittenden County and Jefferson County,
5 which both of those are much larger than we
6 are.

7 So we'd like for them to factor in the
8 smaller counties, the interest that we have and
9 the need that we have to have a representative
10 that is truly rural.

11 Because we got a guy out of Crittenden
12 County, he's a fine person. And we got a lady
13 out of Jefferson County, she's a fine person.
14 But they're urban type folk. And we're not
15 urban. And we need somebody like us. And
16 that's my comment and request.

17 JUSTICE DICKEY: Thank you, Mr. Valley.
18 Does one of you want to -- just one moment.
19 Want to respond to that as far as the -- I
20 think you understand that we are limited by the
21 Equal Protection Clause of the 14th Amendment
22 to make these districts all population-wise
23 equal or substantially equal.

24 And that forces these counties with less
25 population to be grouped together. I mean,

1 that's a -- an unfortunate --

2 JAMES VALLEY: That I understand. I
3 understand one man, one -- one vote, Baker
4 versus Carr, all this case law. I'm a lawyer,
5 so I understand that.

6 That's why I'm saying, start over here
7 with your drawing because if you start at the
8 larger area with your drawing, you're going to
9 suck up more districts and won't have anything
10 left by the time you get over here.

11 So if you start on the eastern border
12 where Mississippi County's lost 10,000 people
13 and Phillips County has lost the number its
14 lost and all of that, if you start over here,
15 then we'll lose fewer because of the plus and
16 minus that you're allowed to have, plus or
17 minus five either way.

18 JUSTICE DICKEY: Right.

19 JAMES VALLEY: The ten percent deviation.

20 JUSTICE DICKEY: You're right.

21 JAMES VALLEY: Yes, ma'am. I'm familiar
22 with it, so --

23 JUSTICE DICKEY: Thank --

24 JAMES VALLEY: -- that's what I want, I
25 want them to start with the keyboard, the

1 clicking on the eastern border by the river.

2 JUSTICE DICKEY: Okay. Thank you, Mr.

3 Valley.

4 JAMES VALLEY: All right.

5 JUSTICE DICKEY: All right.

6 Yes, ma'am?

7 MADDIE ALLISON: Okay.

8 JUSTICE DICKEY: If you want to step out
9 here and look toward that camera. I'm -- I'm
10 going to hold it --

11 MADDIE ALLISON: Okay.

12 JUSTICE DICKEY: -- if that's okay.

13 MADDIE ALLISON: I'm Maddie Allison from
14 Lee County. And I've been through so many -- I
15 -- so many different things with this election
16 and stuff and with the last census when we did
17 the drawing of the lines.

18 A lot of the people don't get a chance to
19 find out about how the lines are being drawn.
20 And when the lines are drawn, were drawn the
21 last time, they would have right down between
22 -- a person live on that side of the street and
23 a person live on this side of the street, we're
24 in two different districts and two different
25 wards. I'm talking about JP wards and -- and

1 city council and all that.

2 And it confused the people because they
3 were not informed before election time that
4 they had been changed. And that made them run
5 from this polling place to that polling place
6 and like that.

7 So I wanted to be in the beginning of this
8 so I could understand how you all are going to
9 do and drawing these lines when these counties
10 and have lost people and then you're going to
11 make them up from another one and pull them
12 from there.

13 And are we going to take in account the
14 race, gender, and all of that? And then we'd
15 have gerrymandering going on. And that -- that
16 can happen real easily.

17 So that's my question, is will we be
18 allowed to understand how you make your -- how
19 you do -- do the line?

20 JUSTICE DICKY: We -- the reason for this
21 meeting before is to show you what the criteria
22 or the goals are, to give you some idea --

23 MADDIE ALLISON: Okay.

24 JUSTICE DICKY: -- of the problems we
25 face.

1 Now, eventually, when they start drawing,
2 or we start drawing, then a proposed map will
3 be shown to you.

4 MADDIE ALLISON: Okay.

5 JUSTICE DICKEY: So that -- then there is
6 a 30 day period for input, so you have a chance
7 to see. And, you -- you know, hold us to that.
8 We're trying to avoid splitting up precincts,
9 you know --

10 MADDIE ALLISON: Yeah.

11 JUSTICE DICKEY: -- to the extent we can,
12 counties, cities.

13 MADDIE ALLISON: Well, I am the Democratic
14 Central Committee Chairman. And I get a chance
15 to go to Little Rock to be involved in all of
16 this.

17 And I want to be sure that we are looking
18 at it (inaudible) perspective rather than just
19 small. I appreciate that.

20 JUSTICE DICKEY: Thank you. And please
21 add that comment.

22 Who else? Anyone else? Do any of you --

23 JEROME TURNER: (Inaudible.)

24 JUSTICE DICKEY: I'm sorry. Yes, sir.

25 See if I can get to you. I'm sorry. If you

1 will turn, because the camera's going to turn.

2 JEROME TURNER: I don't like cameras that
3 way.

4 JUSTICE DICKY: (Inaudible.)

5 JEROME TURNER: I'm Jerome Turner and I'm
6 the Phillips County, also a Democratic
7 Chairman. And I support the effort that Mr.
8 Valley had already offered up to you about
9 starting on this side of the state, drawing
10 some districts with us first before you go over
11 there; because, if you go over there, you would
12 run out when you get over here, you might cut
13 us.

14 They might pick up another district on the
15 other -- on the western side of the state and
16 we'd lose districts on the eastern side of the
17 state.

18 So please keep that in mind. I also
19 support Sister Allison here from Lee County
20 also, that if you would allow the citizens an
21 opportunity to take a look at what you would
22 propose before you put it into law. Thank you.

23 JUSTICE DICKY: Thank you.

24 Anyone else? Excuse me, Ms. Allison.

25 MADDIE ALLISON: (Inaudible.)

1 JUSTICE DICKY: Sorry.

2 MAYOR KEVIN SMITH: I actually have a
3 question. (Inaudible) legitimate question
4 (inaudible) --

5 JUSTICE DICKY: Mayor Smith, if you will
6 turn and face the camera.

7 MAYOR KEVIN SMITH: And I -- I should
8 probably know the answer, so I'm going to
9 apologize in advance.

10 But, since we do have a lawyer here, when
11 I was in the Senate in '92, the Supreme Court
12 -- and you might know. But the Supreme Court,
13 the U.S. Supreme Court had ruled that
14 gerrymandering for super majority districts
15 based on race was unconstitutional.

16 Then that was challenged, I think. Again,
17 I'm not a lawyer. And I think then that was
18 thrown out, you can't do that. And then I lost
19 track.

20 So my question is, can you constitution --
21 are you allowed legally to concentrate racial
22 groups demographically or any other demographic
23 group in particular areas for the purposes of
24 changing the outcome of political -- for
25 gerrymandering?

1 And -- and I don't know the answer.

2 That's a legitimate question.

3 JUSTICE DICKY: Yeah. I -- I will let
4 Brad answer that again. I'll even let you hold
5 it.

6 MR. NYE: Okay. Thank you, Justice.
7 Yeah, thank you, Mayor.

8 So gerrymandering generally is -- is a bad
9 word. I mean, what we're looking at doing is
10 trying to create as close to one person, one
11 vote as possible. That's our -- our number one
12 criteria. And then, as we are able to, we
13 factor in the other criteria that you see
14 listed there on the board.

15 As to -- as to racial minorities, you
16 know, there is such a thing and it's allowable
17 to have a minority/majority district. I think
18 we have 11 here in Arkansas still. But the
19 point of that district is not to dilute
20 anyone's vote.

21 The point of that is so that there is an
22 opportunity for someone chosen by that racial
23 minority that's a majority in that district to
24 have that representation in the legislature.

25 Political gerrymandering is still an

1 issue. The federal courts have said that they
2 will not hear those issues anymore because it
3 -- it's so hard to come up with criteria of --
4 of what political gerrymandering looks like.

5 There could arguably be a state claim for
6 that sort of thing.

7 But really just in -- in a nutshell, what
8 we were looking at is -- is raw data, trying to
9 get as close to a zero on the standard
10 deviation as we can. And then we'll factor in
11 the other criteria as we're able to.

12 And that includes communities of like
13 interests, whether that be a county like Wynne
14 or, excuse me, Cross County, whether that be
15 Phillips County, et cetera. Yes, sir.

16 JUSTICE DICKY: If I -- if I may add just
17 a little to it. You probably could gerrymander
18 based on gender. I don't know that the courts
19 have decided that yet, but you can't based on
20 race.

21 And -- and you can't either have race be
22 the only factor, as number three on the
23 criteria points out.

24 You can't redraw the boundaries just on
25 the basis of race, but you cannot discriminate

1 against minorities or -- based on race. That's
2 the second part of it.

3 And you can't gerrymander or be partisan
4 as far as your -- your political preference
5 either. And that, as -- as Brad and I had
6 said, you know, that'll be a state court matter
7 this year.

8 Gerrymander is word based on what Governor
9 Gerry of Boston drew when he drew a salamander,
10 Governor of Massachusetts, drew a salamander
11 around Boston. And it's gerrymandering, the
12 way we say it now.

13 And you beware of anything that you see
14 that's drawn that has either someone drawn in
15 or out of a district, as was done in -- in
16 2010. Beware of anything where you see a
17 finger or a -- an odd shape and ask about it.
18 You know, take us to task on that because it is
19 our intention to be transparent and -- and fair
20 to everyone and not discriminate based on any
21 of the, you know, anything except gender maybe.

22 And that -- I don't think that's been
23 decided in court yet.

24 Anything else, any other questions about
25 that? Yes, ma'am?

1 SHARON LAWSON: I don't know --

2 JUSTICE DICKEY: If you will, turn and --
3 turn and face the camera.

4 SHARON LAWSON: I have two questions and a
5 comment.

6 JUSTICE DICKEY: Yes. State your name and
7 where you're from.

8 SHARON LAWSON: My name is Sharon Lawson.
9 I'm from Cross County. I am Chairman of the
10 Election Commission in Cross County.

11 Can you tell me, will the population of
12 the prison be counted in -- in effect for this?
13 The prison in Forest City?

14 JUSTICE DICKEY: I'm going to go back --

15 SHARON LAWSON: The federal prison.

16 JUSTICE DICKEY: Do you have another
17 question besides that?

18 SHARON LAWSON: I have a question about
19 school districts. And I'm not sure that that's
20 really your purview and would know about that.

21 JUSTICE DICKEY: No.

22 SHARON LAWSON: What -- you -- you don't
23 know about --

24 JUSTICE DICKEY: Well, we don't --

25 SHARON LAWSON: -- the requirements for

1 redistricting for school districts?

2 JUSTICE DICKEY: Well, I'm going to ask
3 the person who is more knowledgeable on that.

4 SHARON LAWSON: Okay.

5 JUSTICE DICKEY: Two questions. Yeah,
6 I'll take the first one, I guess.

7 JUSTICE DICKEY: Okay. Y'all can share.

8 MR. NYE: Thank you for the question. As
9 to the -- the first part regarding population
10 of a prison. That is considered congregate
11 housing under the rules and, yes, that does
12 count toward total population count.

13 MR. JOHNSON: Regarding school districts,
14 there are -- there are two -- two mechanisms by
15 which school districts would become zoned or
16 elect their school board members based on a --
17 on an election geography or zoning.

18 One is in the instance where we've had in
19 Arkansas school district consolidation where a
20 smaller district was consolidated into a larger
21 district.

22 And the Arkansas Board of Education
23 established some criteria where they said, we
24 want that smaller district to still have an
25 opportunity to have representation. So when

1 school districts in the past, recent past, have
2 consolidated, those districts were then
3 required to draw up zones and elect their
4 members by zone.

5 The other trigger that is in the law is a
6 threshold. And any time a school district in
7 Arkansas, where the total population in the
8 school district exceeds ten percent, that
9 district then is required to draw up election
10 zones for its school board.

11 UNIDENTIFIED SPEAKER: Ten percent of
12 what?

13 MR. JOHNSON: Ten percent total minority
14 population in the school district.

15 (Indiscernible Crosstalk)

16 JUSTICE DICKEY: He has another question?
17 I think she does. Did someone have a --

18 (Indiscernible Crosstalk)

19 JUSTICE DICKEY: Okay. All right.

20 SHARON LAWSON: In my county, I have two
21 school districts and one may drop below the
22 minority number.

23 So will they fall back -- are they held
24 responsible for the population change? They're
25 not certain what they need to do.

1 JUSTICE DICKEY: Oh, sorry.

2 MR. NYE: I would need to look back at the
3 statute. It's 6-13-631, I believe. And I
4 believe that that statute says that, once a
5 school district is drawn and elects by zones,
6 then they would elect by zones into the future,
7 regardless of whether that minority population
8 fluctuates up and down. I believe that's
9 correct.

10 JUSTICE DICKEY: Thank you.

11 Are there -- are there other questions,
12 comments?

13 JUSTICE DICKEY: Oh, sorry, Mr. Valley.

14 JAMES VALLEY: Appreciate you walking to
15 me. It's James Valley again.

16 I wanted to know if anybody here can tell
17 us how many majority/minority State
18 Representative Districts do we have now and how
19 many majority/minority State Senate Districts
20 do we have now in the State of Arkansas?

21 JUSTICE DICKEY: Yes, we have that
22 information.

23 MR. JOHNSON: Yes, sir. You're taking us
24 to task.

25 And I don't have that exact number in my

1 head, but I believe that we currently have four
2 minority/majority Senate Districts and I
3 believe we have 11 minority/majority House
4 Districts. Does that jive with your
5 remembrance?

6 (Indiscernible Crosstalk)

7 JAMES VALLEY: I was going to ask you one
8 question, (inaudible) deal with it later, but
9 how has that changed over the years?

10 That number, the majority/minority
11 districts you said backwards, but it's
12 majority/minority districts, has that number
13 decreased over the years? Because it came
14 about because of a lawsuit.

15 JUSTICE DICKEY: I think they lost one
16 this last ten years ago.

17 MR. JOHNSON: I -- I do not know the
18 answer as to how those have changed over time.
19 I don't know if you do or not.

20 JUSTICE DICKEY: They -- it's my
21 understanding there was one representative
22 district lost in the -- ten years ago. But the
23 -- the person that -- that loves and keeps
24 those facts is not available tonight.

25 Any other -- I think it -- I think it is.

1 We can get back to you with that information,
2 if you --

3 JAMES VALLEY: (Inaudible.)

4 JUSTICE DICKEY: -- if you'll just add it
5 -- add that on a comment sheet so we can get
6 your address, Mr. Valley.

7 Any other comments, questions,
8 suggestions?

9 Well, thank you for being here and for
10 participating. And if you have any follow-up,
11 please send your comments in or give them to me
12 tonight. And we hope to see you or talk to you
13 or make this information available to you after
14 we start drawing.

15 Thank you. The meeting's adjourned.

16 (End of Recording)

17 * * * * *

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