BOARD OF APPORTIONMENT PUBLIC HEARING

MOUNTAIN HOME, ARKANSAS

August 3, 2021
(Recording Begins)

JUDGE DICKEY: -- the men who are working hard to -- to prepare for us a fair and transparent and just redistricting.

The timeline we're in is six months behind schedule. We -- the district maps were already drawn and shown in meetings at this time ten years ago.

We have for you some suggestions of what we see is happening. From the map from the American Community Survey of 2019, shows the migration, the significant migration to the northeast and to Central Arkansas.

We are under the constraints of having this done and reviewed before December 31st. And we won't get a -- an interpretive map or census until on or about September the 30th.

The purpose tonight is to get questions and comments from -- and suggestions from you. PBS is live streaming and videoing this. The comment forms, if you didn't see them when you came in, I hope you will take -- take them, fill them out, in addition to any comments you want to make at either one of the two mics that are available.
I'm -- let me tell you a little bit about the criteria that we are operating under. The legal basis is Article 8 of our Constitution, the Voters Rights Amendment of 1965 as amended and the Equal Protection clause of the 14th Amendment.

And there are nine criteria that are listed in front of me in case you want to come and check those when I'm through.

The first is the one person one vote balancing of each of the legislative districts which is done by the Federal Census every ten years so that the districts for the Senators and the Representatives, for those of you who don't know, are what we call substantially equal; which is generally a plus or minus deviation, unless there's an impermissible violation of some other criteria.

There are a hundred House seats, 35 Senate seats, which our Constitution provides for. The House seats this year, we anticipate, will be -- to be substantially equal will be about 30,000 persons per district. The Senate seats, about 85,000.

Section 2 of the Voters Rights Amendment
of 1965, the second criteria, prohibits
discrimination based on race, color, or
language minority. And then the third one,
Equal Protection clause of the 14th Amendment,
limits redrawning district boundaries based
strictly on race.

There are four geographic principles;
compactness, that is the eyeball test,
referring to the shape of the district, round
or square.

In 1912, Governor Gerry of Massachusetts
drew the area around Boston to look like a
salamander, hence the word gerrymandering, not
gary mandering, which was his name, Gerry, but
salamandering, gerrymandering, or as they said
at the -- at a seminar we just -- we went to,
dummymandering, which is -- you know, we're
trying to avoid that.

Contiguous or contiguity, Latin, meaning
to have contact with, these borders touching.
You can't have pieces of a district, an island.

The core of existing districts and our
goal are whole counties, whole cities, whole
precincts. And you understand that's our goal
and we won't be able to achieve it in some
instances.

But minimize splitting the political subdivisions, communities of interest, commonalities, economical, social, political, cultural, ethnic, or religious interests.

And the ninth one -- I'm sorry. The eighth one, the continuity of representation. There is a -- an inclination to not make incumbents run against each other. That is to acknowledge that voters elected them and we would prefer that they don't -- it may be, in some cases, also impossible.

And, finally, minimize partisanship, no targeting or giving preferential treatment to one party or the other.

You may -- and that is, at this point, will be determined in a state setting and not federal.

The Rucho case is a case that came down in the last ten years, in 2019, actually, which decides that -- that those cases should go to state court and not to Federal Court.

At that -- at this point, I'd like for Shelby to briefly talk to you -- Shelby Johnson, talk to you about the maps and then we
will open it for comments.

MR. JOHNSON: Thank you, Justice Dickey.

Good evening. My name is Shelby Johnson and I'm in the Arkansas Geographic Information Systems Office. We're a part of the Department of Transformation and Shared Services. And we furnish technical support to the Board of Apportionment and also cities and counties and school districts across Arkansas.

We maintain a live map information about Arkansas. And one of our statutory responsibilities is to maintain statewide versions of our election geography such as election precincts, state House, state Senate, congressional districts, school board zone, justice of peace districts, and municipal wards.

At the end of -- or at the midpoint of each decade, one of the things that we do is we roll that information up to the federal level so that those boundary lines can be incorporated into the Census Bureau files, which are then, in turn, used to summarize population for our state and the various jurisdictions and election geographies.
Unfortunately, as Justice Dickey mentioned earlier, the census has been terribly behind schedule in this particular cycle. And, as a result, we're at a stage where we're not able to look at the actual 2020 counts at the lowest level of geography.

And so we are only able to look at estimates that come up through 2019. And those are the maps that are displayed on either side up here. There were maps out in the foyer.

And then what we were able to do is run some analysis. And I'm just going to describe those very quickly for you and then we'll move on to the public comment.

The first map that we look at is just the change across the nine-year period from 2010 to 2019 for the counties of Arkansas.

And I think what I would like to do is just draw your attention to Eastern Arkansas and Southeastern Arkansas where you see the darkest color of red. And, in those counties, that represents counties where across the nine-year period those counties experienced the largest amount of population decline.

In the next shade of red, you would see
down the scale is counties that have lost population but that decline hasn't been dramatic. And then the next scale, a continuing loss of population down to the lightest shades and the shades in white. That represents counties that have not really gained population and haven't really lost dramatic population either.

And then, as you enter the scales of blue hues on the map, those scale up. And those represent counties across the last nine years that have gained in population with the lightest shades of blue being minimal population gain and the darkest shades of blue being dramatic population gain.

One of the things that I think all of us know intuitively, but it bears repeating, is that population tends to follow prosperity and opportunity. And so when we have, for example, the gold rush in California, that was a great example where you have dramatic population shift.

And we've seen some of that pretty dramatic population shift in Arkansas for a lot of various reasons.
Moving on, we were able to then use the 2019 estimate data to cast up what we looked at as the House districts of Arkansas and on estimate of how much they're -- vary from their target.

And so what we do is we calculate the total pop -- we take the total population of Arkansas, we divide that by 100 House Districts. And so, in this scenario, that number was 29,994. So each House district should be roughly 29,994 persons.

And the numbers that you see on the map are representing the district numbers and then that population up or down from the target.

Again, the shades of red are illustrating House districts that need to gain population. And that means that they must geographically get larger in order to gain additional population.

And then down to the lower shades of red, those districts are still below their target and need to gain some but maybe not as much. The lighter shades, again, those are districts that may be somewhat on target or within balance.
And then scaling into the hues of blue, the lightest hues of blue represent districts that need to grow a little or get a little more population.

And then the scale goes up and those hues of blue need to lose population, with the darkest shades of blue being districts that have far too much population and need to geographically get smaller in order to share that population with adjoining or neighboring districts.

And you can see here in North -- North Central Arkansas, House District 61, we estimate House District 61 is about 1,400 population down. House District 100 needs to grow by about 900 in population. House District 99 needs to grow by about 430.

If we look at House District 64 a little bit south of here, it needs to grow by 1,856. So these kind of at least paint a picture of where the complexion and composition of the House districts might be headed. And gives the decision makers some notion of where in Arkansas we might see some change ahead.

The next map moves on and essentially
describes the same thing, except we're now looking at the Senate districts. And in this analysis, with 35 Senate seats, we divide the state's total population by 35 to arrive at the target Senate district of about 85,696 in this scenario.

Again, the darkest shades of red are Senate districts that need to grow dramatically. And so at the very lowest end of that scale, Senate District 25 in Southeast Arkansas, it needs to gain almost 12,700 in population in order to become more equal with the other Senate districts.

You can contrast that in far Northwest Arkansas with Senate District 1. Senate District 1 in far Northwest Arkansas needs to lose approximately 20,000 -- 27,800 in population.

The Senate districts in this region, Senate District 17 is -- it needs to gain by about 1,000. Senate District 19 needs to gain by about 2,100. And then Senate District 18 needs to gain by almost 4,700 in population in order to come up to be substantially equal.

Now, one of the things that you may be
pondering, and I think it's worth mentioning, is where does the population come from. Well, it comes from moving those lines around and moving them to areas where there is additional population, if they need to gain; or, if they need to become smaller, to move that line to share that population with another.

And, of course, in -- we do this at the state level. And so to draw an analogy, for Senate District 26 in far Southeast Arkansas, you can't go to Louisiana and get population from Louisiana to grow Senate District 26. And you also similarly can't go to Mississippi.

So in order for Senate District 26 to become substantially more equal with all of the other districts, it must grow west or north. Similarly, here in North Central Arkansas, your districts, if they need to grow, they must either go south or west and -- or south and east.

So hopefully those are a quick bit of explanation about the maps. Those exhibits are here at the front. And then they're also out in the foyer. And that includes some of the detailed numbers. And so we'd invite you to,
as time allows, to take a look at those
illustrations when time permits. Thank you
very much.

JUSTICE DICKEY: And now for your
comments, suggestions, or criticisms.

There are the two microphones. If you --
before you start, if you will state your name
and which district or county you're referring
to, you're -- you're living in.

Yes, ma'am?

WILLANE CARBALICK: My name is Willane
Carbalick. Can you hear me? Is it on? Yes?

JUSTICE DICKEY: I think it's on if you'll
speak --

WILLANE CARBALICK: Hello. Oh, there it
is.

JUSTICE DICKEY: It's on.

WILLANE CARBALICK: Okay. My name is
Willane Carbalick. I live out in the Jordan
area of Baxter County.

For you -- those of you who don't know
where that's at, I'm right near the Norfork
Dam. Our two claim to fames out in that area
is the Jordan Marina area on the lake where we
have the sand beaches and Whispering Woods
Restaurant for those of you who have joined -- joined dinner there.

We share the 72519 zip code with Calico Rock. That's caused problems because Calico Rock is in Izard County, we're in Baxter County. I belong to the 64th District, so John Payton is my Representative.

I live 20 miles from Mountain Home. Jordan -- you may laugh at this, but Jordan really is a subdivision -- I mean, a -- yeah, a -- let me try it again, a suburb of Mountain Home.

When I traveled in here this evening on Highways 177 and Highway 5, there's houses and small businesses all along the way. I past one cattle ranch and another very small cattle ranch that had a couple head of steer.

Jordan is an area of retirees. The lake is a big draw for us to come down here. We're close to the Jordan Marina.

We have a very active fire auxiliary program that supports a very good volunteer fire department. Our homes aren't all next door to each other. We all wanted a little bit of space.
In fact, we were social distancing before it became a reality. We have services provided by Brunner Hill Water, North Arkansas Electric. Now we have good internet service through Next and we still have Century-Tel.

But everything we want to do that's outside of the lake requires us to come to Mountain Home. It's where our county seat is, it's where we pay our taxes. It's where the courthouse is, it's where the sheriff is headquartered. It's where the Baxter Regional Hospital is, which unfortunately we all seem to be needing to use more often as we age.

Of course, we have this great university here, ASU, that supports the kids in our area that want to have additional education. They -- it provides us with cultural activities, when we're not in a pandemic, of theatre, musical groups, and good speakers.

We've got the library. Our doctors are here. Our shopping is here. The newspaper and the radio station where we get our information is here. And so is Nelda Speaks. She's the representative here. She's not our representative.
But the information, if we want to hear what's going on in the state, usually comes through her, because of the news media.

Our rep, John Payton, which as I said, is 64th District, is down in Wilburn, Arkansas. From my house to his town, according to Mapquest, is 72.8 miles.

He has parts of Baxter County, Cleburne County, Marion County, Searcy County, and Stone County. Most of that area is very rural.

So between Jordan, where I live in Baxter County, down to Wilburn with my representative is, is a rural area.

Jordan is not a rural area. We have bits and pieces, but predominantly we are dependent on Mountain Home area. We need to be in with either the rest of Baxter County and Mountain Home to represent us. It's not -- we're not getting fair representation because we're not the rural area that John represents. We're more of a city type area.

It's not happening now with the way the districts are designed. Please, you need to do something to fix this.

JUSTICE DICKEY: Thank you for your
comment. You have already posted your comment online, have you not?

WILLANE CARBALICK: (Inaudible.)

JUSTICE DICKEY: Thank you for tonight's. All right. There others, as I understand. Maybe not.

(Indiscernible Crosstalk)

JUSTICE DICKEY: It should be --

(Indiscernible Crosstalk)

JUSTICE DICKEY: There's a tiny button.

GARY PHILLIPS: Okay. Does that sound like -- is that on? Oh, okay.

JUSTICE DICKEY: It is on. If you will state your --

GARY PHILLIPS: I don't -- I don't think I need 700 words, but kind of --

JUSTICE DICKEY: State --

GARY PHILLIPS: -- along the same lines, I think --


GARY PHILLIPS: Okay.

JUSTICE DICKEY: Will you state your name --

GARY PHILLIPS: Oh, sorry about that.

JUSTICE DICKEY: -- and which county.
GARY PHILLIPS: Gary Phillips. I'm from Fulton County and from Senate District 18, which is the orange one in the top center meandering all the way down toward the center. I would just like to see compactness become a much stronger criteria. If that could be a little more square or round, because it really goes a long way.

And the same thing could happen that somebody could be on the southern end and very hard for me to contact. And, also, as a candidate, it would make it very hard for them to get their whole district.

So I just think compactness could be a little easier for voters and candidates and easier to understand maybe.

JUSTICE DICKY: So you're anti-salamander?

GARY PHILLIPS: Yes.

JUSTICE DICKY: Okay. Any other comments?

CANDA REESE: I'm so sorry. Good evening. My name is Canda Reese and I'm the county and circuit clerk here for Baxter County. And I just would -- you mentioned it
already, but just to reiterate the plea as much as possible to not split up precincts parts and to keep the precinct lines in -- intact.

JUSTICE DICKEY: Thank you.

CANDA REESE: Thank you.

JUSTICE DICKEY: We -- I think Shelby has spoken to the county clerks and we understand that they're in a bigger and harder time crunch than we are with the counties and the -- and the precincts particularly. So they -- they're aware of that, but it helps to remind them.

Yes, sir?

BOB LARGENT: Good evening, Judge. I'm Bob Largent from Harrison and a constituent in Senate District 17.

A group of citizens in Boone, Carroll, Newton, Searcy, and part of Marion Counties, which we have dubbed Hub of the Ozarks, are well served today in the Senate. We're well served by four separate Senators. And each one of them brings a lot to the table, extremely supportive.

We believe, however, that a more focused representation driven by the commonality of the -- of that area would be beneficial to the
combined economic development and growth of North Arkansas as well as that of the state. And each of those five counties brings a significant strength to the table in business personalities, but they share much more in common. And I want to just highlight a couple of those.

One is tourism, featuring the Buffalo National River and the National Park Service Headquarters for the Buffalo National River is the heart of the commonality. It runs through all five counties.

The economic and quality life impact that the Ozark Mountain tourism region has amplifies what the Buffalo National River does.

And when you couple that with Table Rock Lake, Bull Shoals Lake, Kings River, and the White River, you have an unmeasurable impact on tourism in North Arkansas.

Businesses focused in manufacturing substantially enhances everything that we do. In those five counties, there are over 25 major businesses and manufacturers.

Fourteen in that area have their global headquarters located in those five counties.
Livestock production leads all counties statewide and poultry business in the five counties thrives.

The Northwest Arkansas Economic Development District also provides services to those five counties. The retail market is another important commonality. It's concentrated in the five North Arkansas counties and exceeds 90 -- $963 million in value.

We got an opportunity gap in those five counties though of over $143 million allowing for growth in the retail environment.

Healthcare, a very real commonality is concentrated in the area with the North Arkansas Regional Medical Center. It serves all five counties today. And they've recently partnered with the Regional Healthcare System to expand the services to those five counties.

Law enforcement is centrally located here with the 14th Judicial District, providing circuit courts and judges and an experienced specialized drug task force along with the headquarters for the Arkansas State Police Troop 1.
Four national and regional trucking companies are located here. Their transportation infrastructure is networked throughout those five counties in North Arkansas.

The U.S. Highway 412 corridor project, as well as major upgrades to Highway 62, 65 north and south corridor are presently in progress.

The Arkansas Department of Transportation has over $60 million in planned projects in its current highway improvement plan.

And the Boone County Regional Airport provides those five counties and surrounding communities with outstanding commercial and corporate aviation services.

The last commonality that the five counties share is education. It's integral to everything that I've mentioned previously. North Arkansas College, which conducts the number one manufacturing program and the number one nursing program in the entire state of Arkansas serves all five counties with its primary and satellite campuses today.

And the college is in the midst of an eight million dollar funding and design
campaign for a new center for robotics and innovation manufacturing center. That will cap all of the education for our business and industry.

Now, these commonalities, we believe, are very unique. And we would ask consideration for a Senate district that encompasses those five counties. Thank you, ma'am.

JUSTICE DICKEY: Thank you, Mr. Largent. I think there are other views on this, if I'm correct. And -- anyone else? And your letter, Mr. Largent, has already been sent in; is that correct?

BOB LARGENT: (Inaudible.)

JUSTICE DICKEY: Has -- it's online, I believe, as a comment.

BOB LARGENT: (Inaudible.)

JUSTICE DICKEY: Any other comments?

KEVIN VORNHEIDER: My name is Kevin Vornheder, I'm the chairman of the Baxter County Libertarian Party. I'm served by Nelda Speaks in House District 100 and Scott Flippo in Senate District 17.

I had the question, how will the Board balance its eighth principle, continuity of
representation, versus the danger of allowing representatives to select their own voters? And, as a corollary, what digital solutions, if any, are being used to avoid even unintentional human bias?

JUSTICE DICKEY: Well, what's in front of you are our goals or the criteria that we operate. Some of them we can't achieve.

But you've asked two questions, I believe. If you'll repeat the first one. One of the -- one of the men who are expert in this can answer that.

KEVIN VORNHEIDER: Yes, ma'am. How will the Board balance its eighth principle, continuity of representation versus the danger of allowing representatives to select their voters?

JUSTICE DICKEY: Doug? Doug House, who is an attorney with the AG's office.

REPRESENTATIVE HOUSE: Your first question ties into your second one.

KEVIN VORNHEIDER: Yes, sir.

REPRESENTATIVE HOUSE: It's not a pure robotic process. As you heard this gentleman talk about these industries, these people,
these employers, employees linked and students
and so on and so forth. All of these things
come into consideration.

Now, in each of these areas that are
districted voters have voted someone into
office. So the Board is going to try, as best
it can, to keep from penalizing an incumbent by
forcing them to run against another incumbent.

But it's unavoidable. You can look at the
map. You can look at Southeast Arkansas, there
are several districts in either the Senate or
the House side, it's going to be impossible not
to combine them and, there force -- and thereby
force incumbents against each other.

But it's a decision that has to be made
based on fairness, federal law, state law, and
transparency.

No, 135 friends of ours, all many of them
newly discovered, have conveyed their interest.
We are aware that 135 people have a personal
stake in this. But the attorney general, the
governor, and the secretary of state are
charged with doing what complies with federal
law, what complies with state law, what is fair
to both parties, all of these principles down
here, as best they can. It's a human
decision-making process.

The young lady who spoke about the Jordan
area, did I get that right? Okay. You can
look at these maps, any of them, and you
realize they were written ten years ago.

And you're going to see gerrymandering
going on just from looking at the maps. When
they squirrel all the way from Central Arkansas
down to the Louisiana line, that indicates a
human decision.

Your governor, your secretary of state,
and your attorney general are not built that
way. They're going to try to do what's right,
what's fair, what's legal under state and
federal law. That's the best answer I know to
give you.

As far as robotic solutions, very
sophisticated software is available. And this
might be a good place to explain something.

The Census Bureau goes throughout the
entire United States and makes up census
blocks. This auditorium could very well be a
census block with a population of zero.

Go down the street a little bit, you might
find a four-square subdivision that has a population of 300 people. And each one of those population blocks, census blocks, becomes a building block towards each Senate or each House district, or for that matter, each justice of the peace, city ward, school board district.

And they are picked and chosen and plugged in based on existing districts, core districts, to make them grow or shrink as necessary in order to achieve the most substantially equal population as is practical.

Now, I'll give you a, just a for instance. Say that you've got an ideal district of 30,000 people and you've got a House -- excuse me, you've got a city that has 30,250 people.

Well, they can add those 30,000 people, plus that additional 250. That's not exactly equal, but it's substantially equal because you're respecting a municipal boundary. All of those rules come into plays.

Go to Little Rock, if you need a district's 30,000, you're going to have six or eight of those in the City of Little Rock. You're going to have four or five of them in
Fort Smith, two or three or four in Jonesboro. So all of these principles go into effect as can be balanced best by three people who are human beings and trying to do the best thing for the people of the State of Arkansas.

I hope I've answered you.

KEVIN VORNHEIDER: It was very enlightening. Thank you.

REPRESENTATIVE HOUSE: Thank you.

JUSTICE DICKEY: Thank you.

Any other comments or questions?

Yes, ma'am?

WILLANE CARBALICK: Since I'm not an original Arkansas native, are we tied to the hundred representatives and the 35 Senators? Is that by the Constitution or --

JUSTICE DICKEY: Yes.

WILLANE CARBALICK: Can that ever be changed?

JUSTICE DICKEY: Yes.

WILLANE CARBALICK: Has that ever been considered?

JUSTICE DICKEY: Pardon me?

WILLANE CARBALICK: Has that been considered at all with --
JUSTICE DICKEY: I'm not aware that it has.

WILLANE CARBALICK: -- (inaudible) district?

JUSTICE DICKEY: I'm not aware that it has.

WILLANE CARBALICK: Okay. Would that solve some of the problems of trying to --

JUSTICE DICKEY: You -- huh?

(Indiscernible Crosstalk)

WILLANE CARBALICK: Okay. And that would require us to vote for it then; right?

JUSTICE DICKEY: Thank you.

Anyone else?

UNIDENTIFIED SPEAKER: I had a question and I'm not sure who'd be best to answer it. How much do roads, rivers, and county lines factor into this? Any at all?


MR. JOHNSON: That's a softball question for me, I think. Thank you, sir.

The blocks that Doug spoke about are composed of visible, physical features, such as roads, rivers, railroads.
And then layered on top of that are administrative boundaries like county boundaries, city boundaries, election precincts, school district boundaries, and et cetera.

So very much so, roads, rivers, railroads play a -- play a part in composing the smallest level at which the Census Bureau can assign population.

JUSTICE DICKEY: Any other questions or comments?

Well, thank you for being here and for your input. As I said, there are other comment -- comments that you can fill out and mail in or you can look online if you want to know the -- online or the website.

(Indiscernible Crosstalk)

JUSTICE DICKEY: You want the last word?

UNIDENTIFIED SPEAKER: Yes, I do.

JUSTICE DICKEY: Okay.

UNIDENTIFIED SPEAKER: That's the way county judges are, you know.

JUSTICE DICKEY: Yes, sir.

UNIDENTIFIED SPEAKER: I just want to thank everybody for showing up and for the
Board of Apportionment, you and -- and bringing Shelby with you to recognize that Baxter County and Mountain Home's in the state of Arkansas and for coming here and having this public meeting. And for all those that bothered to attend, we appreciate that.

Even with our big rival from Harrison over there, we're on this side of the river and they didn't recognize us, but we are here and we appreciate you coming and making us part of that.

And some -- some of the things that have been said here, and I live in District 64 as well, and I'm just eight miles south of Mountain Home at my -- at my home and about 300 yards from District 18 of the Senate district, so it's -- I'm right on the borderline of two different districts.

But appreciate y'all being here and I -- when I look at these maps and I see the population changes, how do you change two districts that have that much -- or three districts that have that much minus and nowhere to go with it and -- and I don't envy your -- y'all's job. It's not going to be easy. And
thank you so much --

JUSTICE DICKEY: No.

UNIDENTIFIED SPEAKER: -- for doing it.

JUSTICE DICKEY: Thank you, Judge. And, yes, it is a -- it is a dilemma and a challenge for us.

We -- after the maps -- after the September 30th census results and we draw the maps, we still ask for your input as far as better ways to do this, so thank you and we'll be talking to you again.

(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 hereeto.

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 5th day of October, 2021.

_________________________
CRIS M. BRASUELL

Arkansas State Supreme Court
Certified Court Reporter No. 742

My Commission Expires: August 16, 2031

CRIS M. BRASUELL, CCR
BUSHMAN COURT REPORTING