

IN THE SUPREME COURT OF PENNSYLVANIA

No. 11 MM 2022

**KERRY BENNINGHOFF, INDIVIDUALLY
AND AS MAJORITY LEADER, Petitioner**

v.

2021 LEGISLATIVE REAPPORTIONMENT COMMISSION, Respondent

**ON REVIEW FROM AN APPEAL FROM THE FINAL PLAN OF THE
2021 LEGISLATIVE REAPPORTIONMENT COMMISSION**

**BRIEF OF AMICUS CURIAE PENNSYLVANIA VOICE IN RESPONSE
TO THE PETITION FOR REVIEW OF MAJORITY LEADER
BENNINGHOFF AND OTHER APPEALS FROM THE FINAL PLAN OF
THE 2021 LEGISLATIVE REAPPORTIONMENT COMMISSION**

ROYER COOPER COHEN BRAUNFELD LLC

Stacey Rabbino, Esquire (I.D. No. 310353)

Barry L. Cohen, Esquire (I.D. No. 68864)

Two Logan Square, Suite 710

100 North 18th Street

Philadelphia, PA 19103

Tel: 215-868-2454

Email: srabbino@rccblaw.com

Email: bcohen@rccblaw.com

**Counsel for Amicus Curiae
Pennsylvania Voice**

TABLE OF CONTENTS

STATEMENT OF INTEREST OF AMICUS CURIAE	1
INTRODUCTION	2
ARGUMENT	4
I. The Pennsylvania Constitution Requires Community Input in the Redistricting Process	4
II. Section 29 of the Pennsylvania Constitution Requires That Race Be a Factor in Redistricting	10
CONCLUSION	12

TABLE OF AUTHORITIES

Cases

Cooper v Harris, 137 S. Ct. 1455 (2017)4

League of Women Voters v. Commonwealth, 178 A.3d 737 (Pa. 2018)6

Other Authorities

Christopher Elmendorf, Kevin Quinn, Marisa Abrajano,
Racially Polarized Voting, 83 U. CHI. L. REV. (2016)8

Daniel Butler & David Broockman, *Do Politicians Racially
Discriminate Against Constituents? A Field Experiment on
State Legislators*. 55 Am. J. Pol. Sc. (July 2011)11

Divya Krishnan, Celebrating Pittsburgh’s Civil Rights History,
The Tartan (January 17, 2011)
https://thetartan.org/2011/1/17/pillbox/mik_pgh.....3

Harry Silcox, *Nineteenth Century Philadelphia Black Militant:
Octavius V. Catto (1839 – 1871)*, 44 Pa. History (January, 1977)12

Helen Armstrong, *Philly Just Unveiled Its First Memorial
to an African-American Figure* Philadelphia Magazine
(September 26, 2017).....13

Lawrence Goldstone, America’s Relentless Suppression of Black Voters,
The New Republic (October 24, 2018).....9

Mark A. Nordenberg, Report of Mark A. Nordenberg,
Chair of the 2021 Pennsylvania Legislative Reapportionment
Commission Regarding the Commission’s Final Plan
(March 4, 2022) 4, 5, 8

Michaela Winberg, <u>William Penn kept enslaved people.</u> <u>These are some of their names</u> , BillyPenn (August 17, 2020), https://billypenn.com/2020/08/17/william-penn-owned-enslaved-people-these-are-some-of-their-names-e/	2
---	---

Philippe Schmitter & Terry Lynn Karl, <i>What Democracy Is ... and Is Not</i> , Journal of Democracy (Summer, 1991).....	11
---	----

Steven Levitsky & Daniel Ziblatt, <u>How Democracies Die</u> (2018).....	6
--	---

Rules

PA. R.A.P. § 531(b)(2)	1
------------------------------	---

Constitutional Provisions

The Pennsylvania Constitution	passim
-------------------------------------	--------

Pennsylvania Charter of Privileges, October 28, 1701	2
--	---

U.S. Const. amend. XV	9
-----------------------------	---

STATEMENT OF INTEREST OF AMICUS CURIAE

Pennsylvania Voice, a Pennsylvania 501 C Corporation (“*Amicus Curie*” “Pennsylvania Voice”) is a partnership of ^{or} more than fifty-one organizations across the Commonwealth of Pennsylvania, which aims to create a more accessible, inclusive, and representative democracy. Pennsylvania Voice is distinctly non-partisan: it seeks to ensure that all individuals have the opportunity to be heard at the ballot box and in civic life, regardless of political affiliation or individual preference. Pennsylvania Voice provides thought-leadership and real-world action to guarantee that all people have an opportunity to participate equally in all aspects of political life, especially in those communities that have experienced deliberate barriers to civic participation.¹

To effectuate its stated goals, Pennsylvania Voice established a coalition of more than one-hundred unique organizations to encourage individuals to participate in the census, a critical precursor to the redistricting maps that sit before the Court.² The Pennsylvania Voice field program, the largest non-governmental effort in the United States, reached more than 405,000 traditionally undercounted households to produce the most accurate data as possible.³ Pennsylvania Voice’s extensive work

¹ No one other than *Amicus Curiae*, its members, or its counsel paid in whole or in part for the preparation of this brief. See PA. R.A.P. § 531(b)(2).

² See a true and correct copy of excerpts of Salewa Ogunmefun’s Testimony on August 3, 2021, attached hereto as Exhibit A (“Exhibit A”) at p. 408.

³ Exhibit A at p. 408.

in the fields of racial equality, voting rights and civic engagement present a clear interest in ensuring that the redistricting process and resulting maps uphold the Pennsylvania Constitutional requirement that “Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.”⁴

INTRODUCTION

On October 28, 1701, William Penn expressed key values underpinning the creation of the Commonwealth of Pennsylvania: “That no Person or Persons, inhabiting in this Province or Territories . . . shall be in any Case molested or prejudiced, in his or their Person or Estate, because of his or their conscientious Persuasion or Practice.”⁵

We would be foolish to not acknowledge that Penn’s stated values were more rhetoric than action; he focused on religious freedoms and had no interest in extending rights to Blacks⁶, women, or other non-White-male persons. Nonetheless, Penn established this Commonwealth as a place of tolerance and inclusion, a state where all people are entitled to exercise their right to vote in a free and equal manner. And these values are interwoven into the fabric of Pennsylvania. Indeed,

⁴ Pa. Const. art. I, §5

⁵ Pennsylvania Charter of Privileges, October 28, 1701.

⁶ William Penn enslaved approximately twelve people at his estate at Pennsbury Manor. *See* Michaela Winberg, William Penn kept enslaved people. These are some of their names, BillyPenn (August 17, 2020, 11:00 a.m.), <https://billypenn.com/2020/08/17/william-penn-owned-enslaved-people-these-are-some-of-their-names-e/>.

these ideals have given rise to a long history of Pennsylvanians who have organized and stood up for access and equality:

- In the 17th Century, Shikellamy, the leader of the Oneida (one of the five nations of the Iroquois) protected his tribe in early negotiations with colonists;
- In the 18th Century, Bishop Richard Allen founded the African Methodist Episcopal Church and was a fierce advocate of racial equality;
- Frances Ellen Watkins Harper, a suffragist, abolitionist, poet and Underground Railroad⁷ operator fought injustice in Eastern Pennsylvania while Daisy Lampkin tirelessly crusaded for civil and women's rights in Western Pennsylvania, during the 19th Century;
- In the 20th Century, Tsiwen Law established critical practices of investigating and prosecuting hate crimes, particularly against the Asian community; Alma Speed Fox fought discrimination and injustice in Pittsburgh; Leon Sullivan campaigned for economic opportunities for minority groups; and
- In the 21st Century Gloria Casarez, a Latina leader in Philadelphia, fought tirelessly for the rights of the LGBTQ community.

Despite the strength and determination of centuries⁸ of civil rights activists and community leaders, the goal of an inclusive Pennsylvania, where all citizens have equal access and rights, has yet to be fully realized. It is within this context

⁷ The Underground Railroad operated throughout Pennsylvania; Harrisburg was a key station; Pittsburgh was another important station, helping nearly 100,000 slaves escape from the South. See Divya Krishnan, Celebrating Pittsburgh's Civil Rights History, The Tartan (January 17, 2011) https://thetartan.org/2011/1/17/pillbox/mlk_pgh.

⁸ There are countless other names that could be added to this list, such as Bayard Rustin, Cecil B. Moore, William Still, Absalom Jones, Crystal Bird Fauset, and Cynthia Delores Tucker.

that the electorate approved Section 29 of the Pennsylvania Constitution in May 2021, providing that “equality of rights under the law shall not be denied or abridged in the Commonwealth of Pennsylvania because of the race or ethnicity of the individual.” Although this constitutional amendment has not been applied or tested, the plain reading of the amendment requires race to be considered in the 2021 redistricting process. Race cannot outweigh other constitutional factors,⁹ but race must be examined when drawing voting districts to comply with Section 29.¹⁰ Amicus Curiae conclude that, on the whole, the Pennsylvania Legislative Redistricting Commission (“LRC”) properly considered race at each juncture in the process and, therefore, submits this brief in support of the LRC’s Final Plan.

ARGUMENT

I. The Pennsylvania Constitution Requires Community Input in the Redistricting Process

Article 2, Section 17 of the Pennsylvania Constitution provides for the creation of the Legislative Reapportionment Commission and describes, in loose terms, the LRC’s authority and the redistricting process. While it is clear the LRC must draw maps that comport with constitutional mandates as set forth in Article 2,

⁹ *Cooper v Harris*, 137 S. Ct. 1455 (2017).

¹⁰ As Chair Nordenberg observed, although race is a factor to be considered, it does not outweigh the other constitutional requirements for redistricting. See Mark A. Nordenberg, Report of Mark A. Nordenberg, Chair of the 2021 Pennsylvania Legislative Reapportionment Commission Regarding the Commission’s Final Plan, (March 4, 2022), at p. 76 <https://www.redistricting.state.pa.us/commission/article/1097>.

Section 16 of the Pennsylvania Constitution,¹⁵ Sections 16 and 17 provide little information about *how* the LRC should conduct its business – what experts to consider, how many meetings to hold, when and where to conduct hearings, and whether to invite public participation. Although the Pennsylvania Constitution lacks procedural safeguards for the redistricting process, the LRC set its own goal of implementing an open and transparent process.¹⁶

The LRC demonstrated its commitment to transparency through several key initiatives, including: (1) holding public hearings, both in person and through livestream; (2) accepting public comments online¹⁷; (3) personally reviewing comments and submissions; (4) publishing submissions from other citizens and groups; (5) maintaining a calendar of deadlines, hearings and events; (6) posting the preliminary and final maps on its website; and (7) making all agenda, transcripts and reports available to the citizens of Pennsylvania. Pennsylvania Voice applauds the LRC's efforts to make the process plain and visible and invites future incarnations of the Commission to implement these same initiatives. In fact, Pennsylvania Voice recognizes the LRC's near Herculean effort to comply with the requirements of

¹⁵ *Id.* at art. II, § 16. Section 16 sets forth the requirements that each legislative district be compact, contiguous, equal in population (as practicable), and drawn in a manner that minimizes splitting political subdivisions. *Id.*

¹⁶ Pennsylvania Legislative Reapportionment Commission Hearing held on July 29, 2021.

¹⁷ See Nordenberg, *supra*. at pp. 32-33 (describing the quantity and style of submissions).

Article 16 of the Pennsylvania Constitution while simultaneously keeping thirteen million Pennsylvanians apprised of its actions.

Of course, transparency and access are not the same. Democracy demands that communities of color have an equal, free and full right to participate in the redistricting process to ensure that their voices are heard.¹⁸ As this Court recognized, all aspects of the electoral process must be “unrestricted to the voters of our Commonwealth[.]”¹⁹ And, in this regard, Pennsylvania Voice recommends that this Court, at a minimum, adopt the procedural recommendations presented by Salewa Ogunmefun in her testimony for the future of the redistricting process.²⁰ While this list is in no way exhaustive of the elements that the Court could adopt for a robust redistricting process, these factors may serve to narrow the gap left by the lack of procedural safeguards and ensure that the process is not subject to the whim of those willing to serve in future commissions.

First, set the hearings and publish the schedule for those hearings as far in advance as possible and, in no event, with less than three weeks’ notice. Some of the LRC hearings were scheduled with merely one week’s notice, which made it difficult for people, especially those from marginalized communities, to

¹⁸ Steven Levitsky & Daniel Ziblatt, *How Democracies Die*, p. 213 (2018) (“The strength of the American political system, it has often been said, rests on . . . the principles of individual freedom and egalitarianism.”)

¹⁹ *League of Women Voters v. Commonwealth*, 178 A.3d 737, 804 (Pa. 2018).

²⁰ Exhibit A at p. 410-412.

participate.²¹ Other hearing dates were not published until immediately prior to the hearing and generally disseminated by “word of mouth.” While Pennsylvania Voice appreciates the LRC’s compressed timetable and pressing need to complete the maps (and the related appeals process) sufficiently before the May 17, 2022 primary election, Amicus Curiae contends that we simply cannot have an equal opportunity to translate our votes into representation if we do not have adequate opportunity to participate.

Second, expand the pool of academic, legal, and administrative experts asked to give formal testimony to reflect the Commonwealth’s diversity. While the Commission considered lay testimony from communities of color, and expanded the definition of expert witnesses to encompass some diverse voices, the academic experts, Commission members, and hired staff were primarily White. This lack of diversity sits in stark contrast to the more than twenty-six percent of Pennsylvanians who are Black, Indigenous peoples and other People of Color (“BIPOC”).

Third, set aside time at each hearing for public comment. Everyday Pennsylvanians from marginalized communities can provide invaluable information derived from their lived experiences. This tool is a form of expertise, and one that should not be neglected. Indeed, Chairman Nordenberg recognized the value that citizen-witnesses offered the Commission and noted the direct impact they had on

²¹ *Id.* at 410.

drawing districts in Allegheny and Washington Counties.²² This public input should not be an after-thought, but a central element to the redistricting process. The Free and Equal Elections Clause of the Pennsylvania Constitutions requires nothing less.

Fourth, appoint a community outreach director whose relationships with community organizations allow for consistent direct engagement with the LRC throughout the reapportionment process. This individual could address specific community needs, such as language access and accessibility. The outreach director could be available to answer questions relevant to historically marginalized communities, such as the distinction between census population and voting eligible populations, racial and ethnic voting patterns, and demographic changes.

Fifth, engage an expert with specific knowledge of racially polarized voting.²³ It is without question that “electoral systems in which every adult citizen votes without hindrance may nonetheless be fundamentally unfair, owing to the mechanisms for aggregating votes into outcomes.”²⁴ Essentially, votes may be minimized, canceled, or diluted by the design of the system.²⁵ Thus, it is critical in each redistricting process to consider whether the redistricting system dilutes votes.

²² Nordenberg, *supra*, at p. 33.

²³ Pennsylvania Voice recognizes that Professor Barreto conducted a racially polarized voting analysis during the 2021 redistricting process; however, that analysis was not mandated by the redistricting process as advocated by Amicus Curiae.

²⁴ Christopher Elmendorf, Kevin Quinn, Marisa Abrajano, *Racially Polarized Voting*, 83 U. CHI. L. REV. (2016).

²⁵ *Id.*

At the core of this analysis is an examination of racially polarized voting, i.e., whether the “political preferences of majority-race and minority-race voters diverge substantially and whether the racial majority votes with enough cohesion to usually defeat the minority’s candidates of choice.”²⁶

In 1870, after the adoption of the 15th Amendment to the United States Constitution,²⁷ voting systems, designed to suppress the Black vote, took the form of poll taxes, civics questions and literacy tests.²⁸ Systems that disenfranchise BIPOC voters today might be more sophisticated or employ contemporary buzz words, like “voter fraud,” but often the purpose or the effect is the same: to exclude non-Whites from having an opportunity to vote for the candidate of their choice. To ensure that a redistricting scheme does not suppress votes, a racially polarized analysis should be undertaken by an expert in the field and presented to the LRC for consideration.²⁹

These five elements will dramatically improve the ability for BIPOC Pennsylvanians to participate in the redistricting process and ensure that all citizens

²⁶ *Id.*

²⁷ The 15th Amendment provides that the “right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.” U.S. Const. amend. XV.

²⁸ Lawrence Goldstone, America’s Relentless Suppression of Black Voters, The New Republic (October 24, 2018), <https://newrepublic.com/article/151858/americas-relentless-suppression-black-voters>.

²⁹ Amicus Curiae recognizes the significant expense of this request, but contends that it remains a critical aspect of the redistricting process.

of the Commonwealth have a seat at the table. For these reasons, we respectfully request that the Court adopt this framework for future embodiments of the Legislative Redistricting Commission.

II. Section 29 of the Pennsylvania Constitution Requires That Race Be a Factor in Redistricting

The 2021 reapportionment plans must consider race to uphold the Commonwealth's constitutional mandate that rights under the law may not be denied or abridged because of the race or ethnicity of the individual.³⁰ District maps must be drawn in a manner that ensures equal voting power for all Pennsylvania citizens, otherwise, Section 29 of the Pennsylvania Constitution would be meaningless: a citizen cannot have equal rights under the law if the individual's fundamental right to vote is diluted or curtailed. Indeed, a map can meet all constitutional requirements and still dilute the voting power of minority communities, leading to a clear lack of representation.³¹

This lack of racial equity is seen in the Pennsylvania General Assembly today. Communities of color are driving population growth in Pennsylvania at a rate that is twelve times the growth rate of the White population.³² The 2020 census data

³⁰ See a true and correct copy of excerpts of Salewa Ogunmefun's Testimony on January 6, 2022, attached hereto as Exhibit C ("Exhibit C") at p. 1070.

³¹ Exhibit C at p. 1070.

³² See a true and correct copy of excerpts of Salewa Ogunmefun's Testimony on November 15, 2021, attached hereto as Exhibit B ("Exhibit B"), at p. 967.

indicates that Pennsylvanians who identify as Black, Indigenous, Latinx, Asian American, Pacific Islander and other communities of color comprise twenty-six and one-half percent (26.5%) of the total population of the Commonwealth.³³ However, the composition of the Pennsylvania General Assembly is ninety percent (90%) White.³⁴

There are two salient conclusions to draw from this statistically relevant fact. First, the residents of the Commonwealth have been historically denied equal access to the political process on the basis of their race.³⁵ Second, this discrepancy impacts policy, resources, and legislative priorities, which compound existing racial disparities and economic stability, education and health.³⁶

Democracy embodies the principle that people should be self-governing and the representatives of the people (the legislators) must act as their agent and address the particular concerns and needs of their constituents.³⁷ But, this ideal is often outweighed by racial discrimination, even among legislators. A Yale University study found that state legislators across the United States were “less responsive to requests from [B]lack than from [W]hites.”³⁸ White legislators, regardless of

³³ Exhibit B at p. 967.

³⁴ *Id.*

³⁵ *Id.*

³⁶ Exhibit B at p. 967.

³⁷ Philippe Schmitter & Terry Lynn Karl, *What Democracy Is ... and Is Not*, Journal of Democracy, (Summer, 1991).

³⁸ Daniel Butler & David Broockman, *Do Politicians Racially Discriminate Against Constituents? A Field Experiment on State Legislators*. 55 Am. J. Pol. Sc. (July 2011).

political affiliation, “display a willingness to discriminate against minorities when they seek access”³⁹ to civic institutions. It is critical, therefore, to ensure that districts are drafted in a manner that allow communities of color to elect candidates of their choice so that their representatives provide appropriate, timely and needed constituent services. Further, communities of color must have an opportunity to select candidates who are responsive to the particular concerns of their community and who will work to enact the communities’ priorities in Harrisburg.

Accordingly, the LRC properly considered race as a factor in drawing and evaluating the State districts. The 2021 maps take significant steps to remedy the decades of “racial inequities that have deprived generations of Pennsylvanians of their representation and power they deserve in State government.”⁴⁰

CONCLUSION

October 10, 1871 marked the first Election Day after the day after the passage of the Fifteenth Amendment to the United States Constitution.⁴¹ Violence erupted throughout Philadelphia.⁴² Octavius V. Catto, a lifelong advocate for enfranchisement of African Americans, was undeterred by the violence and sought to exercise his rights as a citizen.⁴³ Catto was stopped by an assassin who “fired

³⁹ *Id.* at p. 11.

⁴⁰ Exhibit B at p. 976.

⁴¹ Harry Silcox, *Nineteenth Century Philadelphia Black Militant: Octavius V. Catto (1839 – 1871)*, 44 Pa. History (January, 1977).

⁴² *Id.* at 73.

⁴³ *Id.*

three shots into Catto killing him instantly.”⁴⁴ Pennsylvanians today are fighting for the very same right that Catto died for: the equal exercise of the right to vote and to have representation in the Pennsylvania legislature.

To achieve equality of rights, and to effectuate the purpose, intent, and effect of Section 29 of the Pennsylvania Constitution, race must be considered in the redistricting process. Since the Pennsylvania Legislative Reapportionment Commission considered race in drafting and approving the 2021 State maps, Pennsylvania Voice submit this brief in support of the LRC’s Final Plan and asks this Court to reject the petition of Kerry Benninghoff.

The time has long passed for the Commonwealth of Pennsylvania to embody the words of Octavius Catto, which now sit affixed to his statue: “[t]here must come change, which shall force upon this nation that course which providence seems wisely to be directing for the mutual benefit of peoples.”⁴⁵

⁴⁴ *Id.*

⁴⁵ Helen Armstrong, *Philly Just Unveiled Its First Memorial to an African-American Figure* Philadelphia Magazine (September 26, 2017) <https://www.phillymag.com/news/2017/09/26/octavius-catto-statue-city-hall/>

Respectfully submitted,

ROYER COOPER COHEN BRAUNFELD LLC

BY: Stacey Rabbino

Stacey Rabbino, Esquire (I.D. No. 310353)

By: /s/ Barry L. Cohen

Barry L. Cohen, Esquire (I.D. No. 68864)

Two Logan Square, Suite 710

100 North 18th Street

Philadelphia, PA 19103

(484) 362-2628

Email: bcohen@rccblaw.com

Email: srabbino@rccblaw.com

On behalf of Pennsylvania Voice

RETRIEVED FROM DEMOCRACYDOCKET.COM

CERTIFICATION PURSUANT TO. PA.R.A.P. 531

Pursuant to Pennsylvania Rule of Appellate Procedure 531(b)(2)(i) and (ii), Amicus Curiae, Pennsylvania Voice, certifies that no person other than Amicus Curiae and their members contributed money intended to fund the brief's preparation or submission.

CERTIFICATE OF CONFIDENTIALITY

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

WORD COUNT

Pursuant to Pennsylvania Rule of Appellate Procedure 2135(d) that the foregoing document, excluding the Caption, Table of Contents, Table of Authorities, signature block and the certifications herein, is 3030 words, according the word count feature of the undersigned's computer.

ROYER COOPER COHEN BRAUNFELD LLC

By: /s/ Stacey Rabbino
Stacey Rabbino, Esquire

EXHIBIT A

RETRIEVED FROM DEMOCRACYDOCKET.COM

COMMONWEALTH OF PENNSYLVANIA
LEGISLATIVE REAPPORTIONMENT COMMISSION

In re: Public Meeting of the Legislative
Reapportionment Commission

VOLUME VIII - Pages 394-483

Stenographic report of hearing held
in Hearing Room No. 1, North Office
Building, Harrisburg, Pennsylvania

Tuesday
August 3, 2021
6:00 p.m.

MEMBERS OF LEGISLATIVE REAPPORTIONMENT COMMISSION

Sen. Kim Ward	Rep. Kerry Benninghoff
Sen. Jay Costa	Rep. Matthew Bradford,
	(Deputy Commissioner for
	Rep. Joanna McClinton)

Also Present:

Robert L. Byer, Esq., Chief Counsel
G. Reynolds Clark, Executive Director
Dr. Jonathan Cervas, Redistricting Consultant
G. Carlton Logue, Esq., Deputy Counsel, Senate Majority Leader
Chad Davis, Research Analyst, Senate Republican Policy Office
C.J. Hafner, Esq., Chief Counsel, Senate Democratic Leader
Ronald N. Jumper, Esq., Deputy Chief Counsel, Senate Democratic
Leader
Lora S. Schoenberg, Director, Senate Democratic Legislative
Services
Rod Corey, Esq., Chief Counsel, House Republican Caucus
James Mann, Esq., Senior Deputy Chief Counsel, House
Republican Caucus
Katherine Testa, Esq., Senior Legal Counsel, House
Republican Caucus
William R. Schaller, Director, House Republican District
Operations
Michael Schwoyer, Esq., Special Counsel, Deputy Chief of
Staff for Legislation and Policy, House Democratic Caucus
Justin Klos, Director, House Democratic Office of
Demographic Analysis

Reported by:
Ann-Marie P. Sweeney
Official Reporter

Also Present:

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

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

RETRIEVED FROM DEMOCRACYDOCKET.COM

INDEX

<u>Witness</u>	<u>Page</u>
Jenna Henry, Deputy Director, Better PA	399
Monica Banks, Central PA State Organizer, Free the Ballot	403
Salewa Ogunmefun, Executive Director, PA Voice	406
Kyle Hynes, State College	413
Ahmad Mitchell, Philadelphia	418
Anne Hanna, Philadelphia	422
Ardith Talbott, Solebury	428
Blyden Potts, Shippensburg	432
Charles Black, State Coordinator, Campus Vote Project	437
Diana Robinson, Civic Engagement Director, Make the Road Pennsylvania	439
Janice Eastbourn-Bloom, Ebensburg	442
Howard Wiener, Philadelphia	445
Khari Mosley, Director, 1Hood Power	449
Kathleen O'Connell, Lemont	451
Kris Henderson, Philadelphia	454
Michael Waxenberg, Lords Valley	457
Nickolas Bartel, Washington	461
Nikki Grant, Policy Director, Amistad Law Project	466
Robert Williams, Wayne	468

INDEX

<u>Witness</u>	<u>Page</u>
Nancy Jimenez, Redistricting Organizer, Make the Road Pennsylvania	472
Rosalyn Cahill, Erwinna	474
Brian Gordon, Merion Station	478

1 those Black and brown individuals that are incarcerated, but
2 it affects their home, communities, and families. We all are
3 suffering because of this practice, and someone has to step up
4 and protect our democracy. If not now, when?

5 Thank you.

6 CHAIR NORDENBERG: Thank you very much.

7 Are there any other questions or comments for Ms.
8 Banks?

9 (There was no response.)

10 MS. BANKS: Thank you.

11 CHAIR NORDENBERG: I guess I get another chance to
12 try.

13 Salewa.

14 MS. OGUNMEFUN: You got much closer. Salewa.
15 It's just the emphasis. Feel free to give me Kyle's time.

16 CHAIR NORDENBERG: Well, and I would appreciate it
17 if I also heard your last name from your own lips.

18 MS. OGUNMEFUN: Of course, Salewa Ogunmefun.

19 CHAIR NORDENBERG: It's very nice to have you
20 here.

21 MS. OGUNMEFUN: It's nice to be here.

22 CHAIR NORDENBERG: She is from Philadelphia, and
23 is also going to talk about racial equity.

24 MS. OGUNMEFUN: Thank you. Greetings,
25 distinguished Members of the Legislative Reapportionment

1 Commission. My name is Salewa Ogunmefun, and I am the
2 Executive Director at Pennsylvania Voice, a nonpartisan
3 partnership of over 44 State- and local-based organizations
4 across the State including: Planned Parenthood of
5 Pennsylvania, Fair Elections Law Center, Council of
6 American-Islamic Relations Philadelphia, League of Women
7 Voters, Black Voters Matter Pennsylvania, Penn Future, Orey
8 Center, Pennsylvania Immigrant and Citizens Coalition,
9 VietLead, and Lawyers Committee for Civil Rights Under Law,
10 working year-round to create a more accessible, inclusive, and
11 representative democracy by amplifying the voices, leadership,
12 and expertise of community that have historically experienced
13 deliberate barriers to civic participation.

14 From our extensive work leading across the State
15 on the practice of racial equity, voting rights and access,
16 and civic engagement, we know that elections are decided
17 before anyone has the opportunity to vote. Thus, in 2017, our
18 redistricting work group, including Make the Road
19 Pennsylvania, Campus Vote, Amistad Law Project, One
20 Pennsylvania, CASA, SEAMAAC, Alliance for Climate Education,
21 and Common Cause Pennsylvania, who was able to testify earlier
22 today, identified the critical needs to prioritize racial
23 equity in the 2021 redistricting process to ensure equality of
24 rights and representation that reflects the racial and ethnic
25 demographics throughout the Commonwealth. We have partnered

1 with advocates across the country, including Fair
2 Representation and Redistricting, Equitable Democracy, and
3 Ohio Organizing Collaborative, to ensure that our analysis
4 around racial equity is the most sophisticated in the State.
5 We established a statewide coalition of over 100 unique
6 organizations - Keystone Counts, which engaged deeply in
7 insuring Black, Latinx, and API and Arab communities completed
8 the Census. Our field program, the largest non-governmental
9 effort in the country, reached over 405,000 traditionally
10 undercounted households in order to provide accurate data to
11 inform this process.

12 As of the 2019 American Community Survey, Black,
13 Indigenous, and communities of color across the Commonwealth
14 account for 24 percent of the population, and although these
15 communities are the fastest growing, the representation of our
16 interests does not translate to the Pennsylvania State
17 legislature. Current district lines do not account for
18 Pennsylvania's rapidly shifting demographics, whose population
19 growth is being entirely driven by growth in the Black,
20 Latinx, Asian American populations and communities outside of
21 the densely populated urban core, counties that include
22 Lehigh, Berks, Lancaster, and York. Our population share in
23 the Commonwealth has grown by 4 percent in the last four years
24 alone. Political maps drawn in 2021 must reflect the rapidly
25 changing demographics of our Commonwealth and create

1 opportunities for BIPOC communities--that's the Black,
2 Indigenous, People of Color, it was good to shorten it--which
3 historically have been undercounted in the Census and often
4 left out of the redistricting discussion. To have equality of
5 rights, that begins not with the final maps, but with this
6 process.

7 The current maps solidify 30 years of racial
8 inequity. In order to produce a truly equitable result, we
9 need to start the map-drawing process with blank, unbiased
10 maps. Otherwise, we will fail to meet the State
11 constitutional mandate that all aspects of the electoral
12 process to the greatest extent possible be kept open and
13 unrestricted to the voters of the Commonwealth, and also
14 conducted in a manner which guarantees, to the greatest extent
15 possible, a voter's right to equal representation and
16 participation in the electoral process. Communities of color
17 in Pennsylvania are growing at 12 times the rate of the white
18 population. Although people of color make up 24 percent of
19 the State's total population, as of 2018, its highest
20 lawmaking body, the legislature, was 89 percent white. We
21 have to prioritize opportunities for the interests of BIPOC
22 communities to be represented to allow for these communities
23 to have the representation they deserve and our Constitution
24 requires.

25 While we do recognize that the Legislative

1 Reapportionment Commission has taken amazing steps to ensure
2 greater transparency and public input in this process, there
3 are multiple ways that the LRC can take going forward to
4 ensure that BIPOC voices are heard and that racial equity will
5 be a core consideration in drawing the maps. For example, our
6 partners at CASA and Make the Road have monolingual Spanish
7 speakers excited about testifying, but as of yesterday we were
8 unsure of the process to include their voices. We appreciate
9 the value of expertise in an undertaking as complicated as
10 this, but it is notable that all of the staffers hired by the
11 LRC and all of their expert witnesses invited to testify
12 before today have been white. We cannot have an equal
13 opportunity to translate our votes into representation if we
14 do not have adequate opportunity to participate and testify
15 during the redistricting process as community leaders and
16 experts.

17 To that end, we are suggesting five simple actions
18 that the LRC can take to dramatically improve inclusion for
19 BIPOC voices in this process and ensure that all
20 Pennsylvanians have a seat at the table.

21 The first, publish a full schedule of hearings as
22 soon as feasible. To date, the hearings have been scheduled
23 with very little notice. The announcement of the first
24 hearing at which comments from the public would be allowed
25 came with less than a week's notice, which makes it difficult

1 for people, especially those from marginalized communities, to
2 participate.

3 Two, create room at each of these hearings for
4 public comment, in addition to the provided testimony of
5 academic, legal, and administrative experts. Everyday
6 Pennsylvanians from marginalized communities can provide these
7 experts with invaluable information from their lived
8 experiences. This tool is a form of expertise, and one that
9 should not be neglected.

10 Three, expand the pool of academic, legal, and
11 administrative experts as to give formal testimony at hearings
12 to reflect the Commonwealth's diversity. Thus far, all expert
13 witnesses have been white, in stark contrast to Pennsylvania's
14 24 percent BIPOC population. Racial equity is a foundational
15 consideration and cannot be fully addressed in an isolated
16 hearing. Each expert should be asked to address the racial
17 implications of their proposals and suggestions to the
18 Commission as a part of their formal testimony. Implications
19 that race and ethnicity should be considered secondary to data
20 in a process defined by its ability to provide fair
21 representation in a State where a quarter of the population is
22 BIPOC should not be allowed.

23 Four, appoint a community outreach director whose
24 relationships with community organizations will allow for
25 consistent, direct engagement with the LRC throughout the

1 reapportionment process. All of the topics for consideration
2 to the LRC require nuance and intentionality in order to
3 achieve truly fair and equitable representation, including
4 process considerations such as language access, accessibility,
5 and outreach, in addition to mapping considerations such as
6 Census population versus voting eligible population, racial
7 and ethnic voting patterns, as well as the behavior and
8 patterns of the neighboring white voters.

9 Five, draft 2021 legislative maps de novo.
10 Cementing 30 years of inequity by legitimizing Pennsylvania's
11 current legislative district maps will not allow for the
12 growing populations in Pennsylvania to govern themselves and
13 represent their own interests.

14 Transparency is a great start to a process that
15 allows for equitable representation in redistricting, but full
16 inclusion for all residents of Pennsylvania should be our
17 standard. The LRC should follow through on its stated
18 commitments and uphold its constitutional mandate. As a
19 Pennsylvania-based expert in inclusive democracy, I plan to
20 submit written testimony that speaks to racial equity in
21 Pennsylvania's process, but the limitations of time created by
22 the inclusion of my testimony as public comment, along with 30
23 other individuals within a two-hour hearing, restricts my
24 ability to expound. We at Pennsylvania Voice, along with our
25 partner organizations, stand ready to offer our expertise as

1 required to ensure equitable representation for all of
2 Pennsylvania, as our Constitution and the Voting Rights Act
3 require.

4 Thank you so much for my testimony today.

5 CHAIR NORDENBERG: Thank you very much for your
6 testimony and for your written submission.

7 MS. OGUNMEFUN: Of course.

8 CHAIR NORDENBERG: Thanks.

9 And I understand that Kyle Hynes has joined us,
10 and he will be the last of the in-person testifiers. He is
11 from State College, and he wants to discuss prioritizing
12 competitiveness. I am going to push this button. You weren't
13 here when I explained it. Green means keep going, yellow
14 means you're near the end, and red means you've hit your five
15 minutes. Welcome.

16 MR. HYNES: Thank you so much for allowing me to
17 testify today, and I apologize for being late. I was locked
18 out of the building.

19 Again, good evening, and thank you to the
20 Commission for allowing me to speak briefly during this
21 hearing. My name is Kyle Hynes. I'll be a freshman at
22 Carnegie Mellon during the fall, and I was the winner of the
23 youth division of the 2018 and 2019 Draw the Lines PA
24 contests.

25 I want to start by adding my voice to the chorus

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

5
6
7
8 
9

10 ANN-MARIE P. SWEENEY
11 Official Reporter
12 Legislative Reapportionment
13 Commission
14

15 THE FOREGOING CERTIFICATION DOES NOT APPLY TO ANY
16 REPRODUCTION OF THE SAME BY ANY MEANS UNLESS UNDER THE DIRECT
17 CONTROL AND/OR SUPERVISION OF THE CERTIFYING REPORTER.
18
19

20 ANN-MARIE P. SWEENEY
21 Official Reporter
22 Legislative Reapportionment Commission
23 P.O. Box 203079
24 Harrisburg, PA 17120
25

EXHIBIT B

RETRIEVED FROM DEMOCRACYDOCKET.COM

COMMONWEALTH OF PENNSYLVANIA
LEGISLATIVE REAPPORTIONMENT COMMISSION

In re: Public Meeting of the Legislative
Reapportionment Commission

VOLUME XVI - Pages 906-979

Stenographic report of hearing held
in Hearing Room No. 1, North Office
Building, Harrisburg, Pennsylvania

Monday
November 15, 2021
4:00 p.m.

MARK A. NORDENBERG, CHAIRMAN

MEMBERS OF LEGISLATIVE REAPPORTIONMENT COMMISSION

Sen. Kim Ward	Rep. Joanna McClinton
Sen. Jay Costa	Rep. Greg Rothman,
	(Deputy Commissioner for
	Rep. Kerry Benninghoff

Also Present:

Robert L. Byer, Esq., Chief Counsel
G. Reynolds Clark, Executive Director
Dr. Jonathan Cervas, Redistricting Consultant
G. Carlton Logue, Esq. Deputy Counsel, Senate Majority Leader
Chad Davis, Research Analyst, Senate Republican Policy Office
C.J. Hafner, Esq., Chief Counsel, Senate Democratic Leader
Ronald N. Jumper, Esq. Deputy Chief Counsel, Senate Democratic
Leader
Lora S. Schoenberg, Director, Senate Democratic Legislative
Services
Rod Corey, Esq., Chief Counsel, House Republican Caucus
James Mann, Esq., Senior Deputy Chief Counsel, House
Republican Caucus
Katherine Testa, Esq., Senior Legal Counsel, House
Republican Caucus
William R. Schaller, Director, House Republican District
Operations

Reported by:
Ann-Marie P. Sweeney
Official Reporter

Also Present:

Michael Schwoyer, Esq., Special Counsel, Deputy Chief of
Staff for Legislation and Policy, House Democratic Caucus
Justin Klos, Director, House Democratic Office of
Demographic Analysis
David Brogan, Esq., Director, House Democratic Legislation
and Policy
Andrew McGinley, Esq., General Counsel, House Democratic
Government Oversight Committee

RETRIEVED FROM DEMOCRACYDOCKET.COM

INDEX

<u>Witness</u>	<u>Page</u>
Dr. Carol Kuniholm, Co-Founder and Chair, Fair Districts PA	910
David Thornburgh, President and CFO, Committee of Seventy	933
Justin Villere, Managing Director, Draw The Lines	937
Amanda Holt	953
Salewa Ogunmefun, Executive Director, PA Voice	965

1 one I was drawing, but it was an attempt.

2 CHAIR NORDENBERG: Okay.

3 MS. HOLT: I will say that.

4 CHAIR NORDENBERG: Thank you very much.

5 MS. HOLT: You're welcome. Thank you.

6 CHAIR NORDENBERG: And that actually is a topic
7 that provides a nice transition into our final speaker, Salewa
8 Ogunmefun.

9 MS. OGUNMEFUN: Ogunmefun.

10 CHAIR NORDENBERG: Am I doing better every time
11 you come?

12 MS. OGUNMEFUN: Yes, you are. Ogunmefun.

13 CHAIR NORDENBERG: I'm working at it.

14 MS. OGUNMEFUN: Very close.

15 CHAIR NORDENBERG: Welcome.

16 MS. OGUNMEFUN: Thank you, and thank you for
17 allowing me to testify today.

18 Good afternoon, Chair Nordenberg, Leaders
19 McClinton, Costa, and Ward, and Representative Rothman. My
20 name is Salewa Ogunmefun, and I am the Executive Director at
21 Pennsylvania Voice, a partnership of over 45 organizations
22 across the Commonwealth working year-round to create a more
23 accessible, inclusive, and representative democracy by
24 amplifying the voices, leadership, and expertise of
25 communities that have historically experienced deliberate

1 barriers to civic participation. Our Keystone Counts
2 coalition began our work around legislative reapportionment in
3 2017 and continues to be led by Make the Road Pennsylvania,
4 Amistad Law Project, One Pennsylvania, CASA, Action for
5 Climate Emergency, Campus Vote Project, and Common Cause
6 Pennsylvania.

7 We've been encouraged by the vast discussion in
8 these proceedings around racial equity and hope that my
9 testimony today will aid this Commission in the creation of
10 maps that ensure fair voting power for all and uphold the
11 State constitutional mandate that equality of rights under the
12 law shall not be denied or abridged in the Commonwealth of
13 Pennsylvania because of race or ethnicity of the individual.
14 Our Unity Maps are a result of more than three years of
15 strategic research and planning, a robust Census field program
16 led by the Pennsylvania Voice integrated voter engagement work
17 group, which contacted over 405,000 Pennsylvanians during the
18 Census in order to ensure the most accurate data to inform the
19 reapportionment process, nearly a year of popular education
20 sessions about redistricting with community members across the
21 State, and months of encouraging Black, Indigenous, and people
22 of color leaders to submit community-of-interest maps.

23 We did not consider partisan preference in the
24 drafting of our Unity Maps at all. Communities of color who
25 are entirely driving population growth in Pennsylvania are

1 growing at 12 times the rate of the white population. 2020
2 Census data shows that Black, Indigenous, Latinx, and Asian
3 American and Pacific Islander, and other communities of color
4 across the Commonwealth, account for 26.5 percent of
5 Pennsylvania's total population. However, according to the
6 National Conference of State Legislatures, Pennsylvania's
7 highest lawmaking body, the General Assembly, is currently 90
8 percent white, as well as 73 percent male. That leaves over a
9 15-percent gap between the ethnic makeup of the State's
10 population and the makeup of the leadership in the General
11 Assembly. The significant gap between the citizenry and the
12 Representatives suggest that the residents of the Commonwealth
13 had been denied equal access to the political process on the
14 basis of their race. The reality of this discrepancy in
15 representation impacts policy, resources, and legislative
16 priorities which compound on existing racial disparities and
17 economic stability, education, and health.

18 I just want to note Dr. Kuniholm's testimony
19 earlier when she noted the comparison between housing
20 discrimination and red-lining in Pennsylvania with a lot of
21 the lines that we see in the stark difference between racial
22 demographics within a lot of the communities, and we'll talk
23 about that when we get to the maps in a little bit.

24 As a partnership committed to justice, we
25 conducted a racial growth analysis and identified seven key

1 counties that had experienced tremendous growth in people of
2 color during the last decade; Allegheny, Berks, Delaware,
3 Lancaster, Lehigh, Philadelphia, and York. We respectfully
4 ask that as this committee adopts the maps, it does so with
5 the changes in population growth in mind and draws maps in a
6 manner that complies with the Pennsylvania Constitution,
7 insuring that individuals have an equal right to vote and
8 opportunities to select Representatives that reflect their
9 interests. When you look at the Pennsylvania State
10 legislative percentages, in the Black community we are talking
11 about a population at about 12.7 percent. And currently in
12 the percentage of representation in the legislature, we're at
13 9 percent. With the Latinx community, a population of about
14 8.1 percent, Representative percentage in the legislature is 1
15 percent. Asian American, Pacific Islander communities, about
16 4.7 percent statewide. Current legislative seat percentage is
17 zero percent. There is an API State legislator, but when you
18 add it into the overall population, it still comes out
19 statistically to zero percent.

20 When we're looking at the Black and Indigenous
21 population growth over the last 10 years, in Allegheny County,
22 we're talking about an increase of 5.6 percent; in Berks
23 County, 9 percent; in Delaware County, 8.1 percent; in
24 Lancaster County - I'm sorry, I'm originally from Maryland and
25 so a bunch of times I may mispronounce "Lancaster," but I

1 promise, I am trying and I am going to get it right before the
2 end of this testimony. Ten years, you would think I had it
3 right, but every now and then I slip up. Lancaster, we're
4 talking about 5.2 percent. Lehigh, we are talking about 10.7
5 percent. In Philadelphia, 2.5 percent, but if you look at the
6 population total, it is a lot of people; York, 6.1 percent;
7 and statewide, about 6 percent.

8 Across these growing counties, our partners
9 invited community members to submit community of interest maps
10 and collectively gathered more than 700 submissions that
11 captured where communities exist and demonstrated why they
12 should be kept together. Our partners at More Equitable
13 Democracy, national redistricting experts who advance
14 electoral system reforms to increase representation for
15 under-represented communities to strengthen our democracy,
16 helped compile our community of interest maps into eight Unity
17 Maps representing proposed House districts, while Keystone
18 Counts held nearly 10 feedback sessions to hear directly from
19 community members to insure that these maps reflected their
20 interest while also adhering to constitutional mandates. We
21 adjusted the maps based on the feedback from community members
22 and went back to partner organizations who affirmed the final
23 maps.

24 After a rigorous process of engaging racially and
25 linguistically-diverse community members on behalf of Keystone

1 Counts, I present for your review our eight Unity Maps. I'm
2 going to focus specifically in three geographies, which
3 represents about four of those maps, and respectfully ask the
4 Legislative Reapportionment Commission to adopt them as you
5 begin the legislative mapping process statewide. It is our
6 belief that in order to produce the most equitable and
7 representative maps, it is imperative that we listen to
8 communities that have historically been underrepresented in
9 part due to our current General Assembly district lines.

10 So we're going to start in Berks County, where
11 particularly we're focusing in on the city of Reading. And
12 our partners at Make the Road Pennsylvania led the effort for
13 community members to actually participate, draw their own
14 communities of interest that were drafted and translated into
15 the maps that you see in front of you. In Berks County, we
16 saw significant growth in populations of color, and an overall
17 decrease in the population of white voters. Our two proposed
18 districts, informed by 114 maps submitted by community
19 members, would empower more Latinx and mixed-race voters than
20 the current lines do. Currently, communities of color in
21 Berks County are disproportionately packed into Pennsylvania's
22 127th House District, where they make up 66 percent of the
23 electorate. As a consequence of this packing, voters of color
24 make up just 40 percent of the electorate in the neighboring
25 126th District. This dilutes the voting power of communities

1 of color. Instead of packing communities of color together,
2 these proposed maps would instead split communities evenly
3 between the two districts while respecting municipal borders
4 and would create two districts wherein communities of color
5 comprise a majority of the electorate.

6 In addition to these maps, we have a couple
7 different versions of them. The first version shows you the
8 city lines and how our proposed map actually takes into
9 account the cities that are in this geography. The next map
10 shows you a heat map based on where our community members
11 actually show that they live their lives, they live, they
12 work. Where you see the red is the highest concentration.
13 Where you see the orange, it goes a little bit further out.
14 And when we get into the yellow, folks saw that community a
15 little different than their own communities.

16 And then this last map shows you the actual people
17 of color, voting age population in this area, and again, when
18 you look at the way that we chose to split the maps in Berks
19 County, specifically, we had the choice between splitting the
20 city of Reading east to west or splitting the city of Reading
21 north to south. That was actually a conversation that we had
22 with the community members themselves, and they better saw
23 themselves and felt the maps better represented them when it
24 was split the way that you see represented here versus the way
25 you see it if the line itself was actually vertical. And I

1 think that that was in part based on these maps, which
2 actually show a little bit of the economic interest inside of
3 these communities. They felt that if you split the city of
4 Reading so that the line actually went vertical versus
5 horizontal, that it gave a little bit less power to working
6 class communities. When you split it this way, the interest
7 of those communities were able to actually have a little bit
8 more power in one of those districts.

9 The next place that we will talk about is
10 Lancaster. Our partners over at CASA are the partners that
11 actually led the process in Lancaster in drafting this map and
12 getting community-of-interest maps submitted by community
13 members. Over the last decade, Lancaster County has grown
14 rapidly. Overall, since 2010, 30,000 people of color moved
15 into the county and the white population has just slightly
16 decreased. In particular, the Latinx and mixed race
17 communities have seen significant growth. We drew our maps
18 based in part off of the 149 submissions from community
19 members who identified the parts of Lancaster County that
20 represent their communities. This map would drop the
21 wealthier, whiter populations from northwest Lancaster,
22 including Franklin and Marshall College, from the 69th House
23 District. To take their place, this map would add communities
24 from southwest of Lancaster to the district where most of
25 Lancaster County's communities of color are located. As a

1 result, the electorate of PA's 96th House District would go
2 from being majority white to majority people of color, which
3 would provide the much-needed ability for more Pennsylvania
4 communities of color to elect their candidates of choice.

5 Similar for the Lancaster maps, we also have the
6 same city breakdown. I will just go ahead and address the
7 city of Lancaster, understanding that the constitutional
8 requirement is that you have to not divide municipal
9 boundaries as much as possible. This is one of the areas that
10 we're making the argument that the interest of keeping an
11 actual minority community together, which can then actually
12 have their own voting power, should be prioritized over the
13 municipal boundary that doesn't allow that community to be
14 fully represented. Again, looking at this map, you'll see
15 where our community of interest submissions actually were the
16 heaviest versus where folks didn't really see their interest
17 or didn't see those areas as their own communities. You will
18 see here, and I think particularly if you look at this map,
19 you'll see why there is a dip inside of the, I guess like,
20 southeastern part of this district. In the southeastern part
21 of this district, particularly to make sure that we were
22 keeping that community of interest together as a minority
23 community that can actually exercise their own voting power if
24 they are kept together. And then this map, similar to the
25 more recent one, also shows the actual economic breakdown of

1 these communities and how that is impacted with this map.

2 The last area that I will focus in on during my
3 presentation today is Philadelphia County. Our partners that
4 were part of the community of interest collections and the map
5 submissions in Philadelphia County were One Pennsylvania,
6 Campus Vote Project, Amistad Law Project, and Make the Road
7 Pennsylvania. Philadelphia County has seen significant growth
8 among communities of color and a net loss of white residents.
9 Our proposed districts for Philadelphia are based on over 170
10 community map submissions from our members. Currently, the
11 district maps around Philadelphia are visibly gerrymandered to
12 a significant extent. Our gathered community of interest data
13 shows that the communities where our partners live are
14 currently split between Pennsylvania's 181st, 190th, 195th,
15 197th, and 198th House Districts. These district lines
16 artificially divide our communities and do not reflect the
17 borders and boundaries real people see and experience on the
18 ground in Philadelphia every day.

19 Our proposed map would keep the general shape of
20 what is currently HD 195, but would drop the
21 disproportionately white population south of Girard Avenue,
22 add more neighborhoods of color between West Lehigh and West
23 Erie Avenue, and clean up the border surrounding the district.
24 As a consequence, it will be easier for candidates,
25 organizations, and voters to reach out to voters in their

1 community. Notably, this map would not include areas around
2 Temple University that contain high concentrations of
3 students, allowing those students to be collectively
4 represented in a district that closer resembles the behavioral
5 patterns and economic interests of the student population.

6 You'll see that we do not have the city breakdown
7 with the Philadelphia maps because the entire Philadelphia is
8 made up inside of one city. The interest of our partner
9 organizations' members, you will see on this map, trying to
10 make sure that folks were actually kept together as an
11 organizing base and community of interest that is consistently
12 working together towards specific policy goals and demands.
13 You'll see here the breakdown of racial demographics in this
14 area. This area is a predominantly and heavily Black area,
15 and this district will maintain that it will be a majority
16 Black district and the economic interests of these communities
17 as well.

18 Before I move on to the conclusion, I will just
19 note that we did also draft maps in Allegheny County, and we
20 drafted maps in York County as well.

21 Political districts define who has representation
22 and who those Representatives will be accountable to. When
23 injustice is intentionally ingrained in the redistricting
24 process, it limits the community's ability to create the
25 changes they need. Under your leadership, Pennsylvania is in

1 a historic moment. This Commission has the opportunity to
2 propose more fair and equitable maps than we have seen in the
3 past, the opportunity to resolve 30 years of racial inequities
4 that have deprived generations of Pennsylvanians of their
5 representation and power they deserve in State government. We
6 also ask you to consider the demographic trends in our
7 Commonwealth, population growth that will only continue to
8 accelerate over the next 10 years during which these maps will
9 be in effect. These population trends show the rapid growth
10 in Black, Indigenous, and other communities of color will
11 continue to increase, and we ask that the maps introduced by
12 this Commission maintain equal representation and equality of
13 rights over the decade that they are in place.

14 Finally, I would call for this Commission, Judge
15 Byer's recent testimony, that a map can meet all
16 constitutional requirements and still dilute the voting power
17 of minority communities. Producing maps that don't create
18 additional opportunities for Black, Indigenous, and people of
19 color communities across the Commonwealth would represent a
20 missed opportunity to produce a legislature that, for the
21 first time in the Commonwealth's history, is representative of
22 and accountable to all the communities it serves.

23 Thank you again, Chair Nordenberg and esteemed
24 Commissioners, for the opportunity to be here today. I'm
25 eager to answer any questions you may have, as our Keystone

1 Counts leadership organizations that I named prior.

2 CHAIR NORDENBERG: Thank you very much.

3 MS. OGUNMEFUN: Of course.

4 CHAIR NORDENBERG: I didn't realize that your many
5 talents included being able to speak so fast and get so much
6 into a compressed period of time.

7 MS. OGUNMEFUN: I hear that a lot also.

8 CHAIR NORDENBERG: And I do want to underscore a
9 fact that our witness mentioned, and that is that there is in
10 her written testimony reference to Allegheny County districts
11 and also districts in York County.

12 Are there questions from any of the Commissioners?

13 (There was no response.)

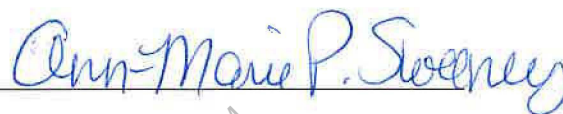
14 CHAIR NORDENBERG: I think probably we want to
15 have a chance to think about all that you shared with us
16 today. This is very helpful. As you know, we've had, oh, I
17 bet a half-dozen witnesses at least talking about the Voting
18 Rights Act and its importance, so thank you for your
19 contributions.

20 MS. OGUNMEFUN: Of course. Thank you for allowing
21 me to be here, and I am available anytime, as are the partner
22 organizations whose community members actually created the
23 maps and submitted them.

24 CHAIR NORDENBERG: Thank you, and thank you all.

25 As David Thornburgh was kind enough to remind us,

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

5
6
7
8 
9

10 ANN-MARIE P. SWEENEY
11 Official Reporter
12 Legislative Reapportionment
13 Commission
14

15 THE FOREGOING CERTIFICATION DOES NOT APPLY TO ANY
16 REPRODUCTION OF THE SAME BY ANY MEANS UNLESS UNDER THE DIRECT
17 CONTROL AND/OR SUPERVISION OF THE CERTIFYING REPORTER.
18
19

20 ANN-MARIE P. SWEENEY
21 Official Reporter
22 Legislative Reapportionment Commission
23 P.O. Box 203079
24 Harrisburg, PA 17120
25

EXHIBIT C

RETRIEVED FROM DEMOCRACYDOCKET.COM

COMMONWEALTH OF PENNSYLVANIA
LEGISLATIVE REAPPORTIONMENT COMMISSION

In re: Public Meeting of the Legislative
Reapportionment Commission

VOLUME XVIII - Pages 1022-1127

Stenographic report of hearing held
in Hearing Room No. 1, North Office
Building, Harrisburg, Pennsylvania

Thursday
January 6, 2022
3:00 p.m.

MEMBERS OF LEGISLATIVE REAPPORTIONMENT COMMISSION

Sen. Kim Ward	Rep. Kerry Benninghoff
Sen. Jay Costa	Rep. Matthew Bradford,
	(Deputy Commissioner for
	Rep. Joanna McClinton)

Also Present:

Robert L. Byer, Esq., Chief Counsel
G. Reynolds Clark, Executive Director
Dr. Jonathan Cervas, Redistricting Consultant
Leah Mintz, Assistant Counsel
G. Carlton Logue, Esq. Deputy Counsel, Senate Majority Leader
Chad Davis, Research Analyst, Senate Republican Policy Office
C.J. Hafner, Esq., Chief Counsel, Senate Democratic Leader
Ronald N. Jumper, Esq. Deputy Chief Counsel, Senate Democratic
Leader
Lora S. Schoenberg, Director, Senate Democratic Legislative
Services
Rod Corey, Esq., Chief Counsel, House Republican Caucus
James Mann, Esq., Senior Deputy Chief Counsel, House
Republican Caucus
Katherine Testa, Esq., Senior Legal Counsel, House
Republican Caucus
William R. Schaller, Director, House Republican District
Operations
Michael Schwoyer, Esq., Special Counsel, Deputy Chief of
Staff for Legislation and Policy, House Democratic Caucus

Reported by:
Ann-Marie P. Sweeney
Official Reporter

Also Present:

Justin Klos, Director, House Democratic Office of
Demographic Analysis

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

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

RETRIEVED FROM DEMOCRACYDOCKET.COM

INDEX

<u>Witness</u>	<u>Page</u>
David Thornburgh, CEO, Committee of Seventy	1043
Dr. Carol Kuniholm, Fair Districts PA	1053
Salewa Ogunmefun, Executive Director, PA Voice	1068
Representative Valerie Gaydos, District 44	1076, 1090
Representative Jason Ortitay, District 46	1078
Representative Anita Kulik, District 45	1082
Representative Emily Kinhead, District 20	1086
Brian Humphrey, Harrisburg, PA	1101
Victor Martinez, Allentown, PA	1102
Enid Santiago, Allentown, PA	1113
Phyllis Blumberg, Bala Cynwyd, PA	1119
Freda Tepfer, Erie, PA	1123

1 to do the best job we can, recognizing that you have to
2 prioritize, I guess, where you want to go with if you're going
3 to create a new district. And the question is, in your
4 opinion, that the Lehigh 14th District is not the best place
5 to put a Latino leaning district, you're recommending maybe
6 somewhere in the southeast that achieves that and possibly can
7 get to a much higher number than 27.9, but more importantly,
8 it addresses shifting population from the southeast either
9 north or west, which I think is what you also want us to try
10 to take a look at. So I think what you're recommending makes
11 sense, to some degree, and my position would be to certainly
12 look at something along these lines.

13 DR. KUNIHOLM: Thank you.

14 CHAIR NORDENBERG: Any other questions?

15 (There was no response.)

16 CHAIR NORDENBERG: Thank you very much, once
17 again.

18 DR. KUNIHOLM: Thank you for having me.

19 CHAIR NORDENBERG: Our next speaker is Salewa
20 Ogunmefun, who, again, has been with us on a number of past
21 occasions. Welcome back.

22 MS. OGUNMEFUN: Thank you, thank you. And thank
23 you for having me. And Happy New Year to all.

24 Greetings, distinguished Members of the
25 Legislative Reapportionment Commission. My name is Salewa

1 Ogunmefun, and I am the Executive Director of Pennsylvania
2 Voice, a nonpartisan partnership of over 45 State- and
3 local-based organizations working year-round to create a more
4 and accessible, inclusive, and representative democracy by
5 amplifying the voices, leadership, and expertise of
6 communities that have historically experienced deliberate
7 barriers to civic participation. Our Keystone Counts
8 Coalition began our work around legislative reapportionment to
9 insure each community member across the State of Pennsylvania
10 has the same opportunity to elect the candidate of their
11 choice in 2017 and continues to be led by Action for Climate
12 Emergency, Amistad Law Project, CampusVOTE Project, CASA,
13 Common Cause PA, Make the Road Pennsylvania, and One
14 Pennsylvania, many of which you will hear from throughout the
15 hearings over the next few days.

16 Thank you for the invitation and opportunity to
17 offer comments on the preliminary reapportionment map adopted
18 by this Commission several weeks ago. As you all have
19 consistently noted, delays with the Census Bureau processing
20 the data required to draw the maps have compressed the
21 timeline significantly, and we appreciate the work that you
22 all have done to urgently draft maps to insure more equitable
23 voting power for all of us in the 2022 election cycle.

24 Since receiving the plan, we have worked with our
25 data analysts, expert mappers, and partner organizations to

1 solicit and analyze feedback from residents of the growing
2 Black, Latinx, and Asian American communities across the
3 Commonwealth. While our conversations remain ongoing, with
4 more detailed and specific comments to be submitted to the
5 record, I offer to this Commission today an early summary
6 based on what we have gathered thus far.

7 Our initial feedback suggests the proposed maps
8 are a marked improvement over previous Pennsylvania
9 reapportionment plans in ensuring fair voting power for all,
10 in upholding the State constitutional mandate that equality of
11 rights under the law should not be denied or abridged in the
12 Commonwealth of Pennsylvania because of the race or ethnicity
13 of the individual. It is clear from these maps that the
14 ability for the growing populations across the State to elect
15 candidates of their choice was a priority for this Commission,
16 and we are committed to working with you all to insure the
17 final maps create the ability equally in the Senate and in the
18 House.

19 The Unity Maps submitted by Keystone Counts were
20 developed by soliciting input from over 700 Pennsylvanians
21 across 8 House districts from 5 counties experiencing rapid
22 population growth and demographic changes. While drafting our
23 maps, we focused on citizen voting eligible population to
24 insure the intention, voters electing candidates of their
25 choice in these proposed districts, had the best opportunity

1 to come to fruition. Our early racial polarized voting
2 analysis suggests, with confidence, that polarized voting in
3 Pennsylvania affects the ability of Black, Latinx, and Asian
4 American voters to elect candidates of their choice. Based on
5 the proposed maps, we're continuing this analysis with an
6 emphasis in Berks County, Dauphin County, Lancaster County,
7 and Lehigh County.

8 The map this Commission proposed for York County
9 is most closely aligned with our Unity Map, matching nearly 90
10 percent. While the population growth has not met what is
11 needed for a majority coalition district based on citizen
12 voting eligible population, the proposed map indicates that
13 intention, though there are ways to adjust to be more
14 inclusive of York's significant Black and growing Latinx
15 communities. We continue to seek input from our partners in
16 York so that we can provide specifics of how that may be
17 accomplished, and you will hear from many of the members of
18 CASA over the next few hearings.

19 Currently, there are two House districts in Berks
20 County that represent the city of Reading, a city that is
21 majority Latinx, with a significant Black population. Our
22 Unity Map called for two House districts where a majority
23 coalition, based on voting eligible population, had the
24 opportunity to elect candidates of their choice. The map
25 proposed by this Commission calls for the city of Reading to

1 be represented by three House districts, one with a majority
2 Latinx eligible population. With respect to our priority for
3 the ability of Latinx and Black communities to elect
4 candidates of their choice, we're continuing our research into
5 polarized voting patterns in this region.

6 In Lancaster County, it was critical to allow the
7 growing BIPOC populations within and near the city of
8 Lancaster to elect a candidate as a community of interest. We
9 applaud this Commission for prioritizing that need over
10 existing municipal boundaries and drafting the House
11 preliminary map as required by the intention of this process.

12 At this time, we encourage the use of the citizen
13 voting eligible population when adjusting proposed House
14 District 50 and ask that the Commission propose a Senate map
15 that also aligns with your original intention. The current
16 Senate proposal splits the metro area and its suburbs apart,
17 combining them with the more rural voters with potentially
18 different interests, as testified to earlier in this process
19 by the Center for Rural Pennsylvania.

20 In Allegheny County, there is significant
21 alignment between the proposed maps and the Unity Maps that we
22 submitted. One of the districts we proposed actually remains
23 73-percent intact. We continue to seek input from our
24 partners in Allegheny County, many of whom you will hear from
25 over the next few days of hearings, so that we can provide

1 specifics of adjustments to the boundaries of the proposed
2 maps in the city of Pittsburgh and the Mon Valley, where
3 partners continue in relationship with community members.

4 In Philadelphia, we applaud the creation of two
5 new House districts that allow for the significant Black
6 population to increase their ability to elect candidates of
7 their choice, and ask this Commission to create additional
8 opportunities for the Latinx and Asian American populations to
9 elect candidates of their choice. Our partners at Fair
10 Districts PA are proposing a new opportunity district in the
11 Senate based in southeastern Pennsylvania, and we encourage
12 the LRC to strongly consider this proposal.

13 Though Dauphin County was not a county where our
14 partners collected community of interest maps for members,
15 several of our partners organized and built power in Black and
16 Latinx communities there. It is notable that the city of
17 Harrisburg, which is majority Black, is represented by three
18 House districts in the LRC proposed maps. With respect to the
19 priority of the ability for the Latinx and Black communities
20 to elect candidates of their choice, we're continuing our
21 research into polarized voting patterns in this region.

22 Similarly, Lehigh County remains a priority for
23 several of our partner organizations. As we continue to
24 gather feedback and research polarized voting patterns in the
25 Allentown area, we have serious concerns about the bifurcation

1 of Allentown in the proposed State Senate maps. The inclusion
2 of western Allentown into a district with parts of rural
3 Lehigh and Berks Counties dilutes the voting power of these
4 residents. We encourage this Commission to replicate the
5 trend of previous Commissions by keeping the city of Allentown
6 whole, and additionally the ability of the growing Latinx and
7 significant Black populations living there to elect candidates
8 of their choice together.

9 We thank this Commission for your work to create
10 additional opportunity districts in geographies experiencing
11 population growth, including HD 54 in Montgomery County and HD
12 116, which is located in Luzerne and Schuylkill Counties.

13 In relation to the Senate map, we are researching
14 the variance and population size of Senate districts in rural
15 Pennsylvania and comparing some of those in urban and suburban
16 areas. Based on a cursory analysis, there are trends in this
17 data that appear to show our rural districts are significantly
18 more likely to be far below the average district population.
19 We understand the limitations imposed by Pennsylvania's
20 political geography that have been noted in these hearings,
21 but we want to be certain that the maps do not unduly
22 overrepresent rural voters in a systematic manner, and we
23 encourage this Commission to look into that data as well.

24 As a nonpartisan organization, we are focused on
25 securing fair representation for Pennsylvania's Black,

1 Indigenous, and people of color communities, not on gaining
2 partisan advantage in this process. We believe these maps are
3 a good starting point, an improvement over the maps of the
4 past 30 years, and reflect the commitment by the Legislative
5 Reapportionment Commission to take seriously the cause of
6 racial equity and produce maps that are truly fair to all
7 Pennsylvanians.

8 We appreciate the opportunity to work with you all
9 on this monumental task, and will be happy to provide any
10 further input you may require. With that, I'll be happy to
11 take any questions that you guys have.

12 CHAIR NORDENBERG: Thank you very much.

13 Are there questions or comments?

14 SENATOR K. WARD: I have a comment.

15 CHAIR NORDENBERG: Majority Leader Ward.

16 SENATOR K. WARD: You're acting like you're not
17 surprised.

18 Thank you so much for all of your work and looking
19 at all of this as deeply as you did. I just want to make the
20 comment that all of our Senate districts across the State fall
21 within the Supreme Court's 10 percent in either direction, so.

22 Thank you.

23 CHAIR NORDENBERG: Senator Costa.

24 SENATOR COSTA: Just very briefly. Thank you.

25 I'd like to know who your speed reading instructor

1 is, because you went through your testimony--

2 MS. OGUNMEFUN: I thought I did better this time.
3 This was me trying.

4 SENATOR COSTA: --so well, and I had a chance to
5 read it. You were speaking it faster than I was reading it, I
6 can tell you that. But thank you for your testimony.

7 I think the point we've heard a lot today is about
8 what seems to be this deviation conversation that you've
9 raised for rural versus urban, et cetera, so it sounds like
10 it's something we need to explore. But what your folks
11 together have been putting out, your group working together in
12 that regard, I think is very helpful. So thank you.

13 MS. OGUNMEFUN: Thank you.

14 CHAIR NORDENBERG: Thank you very much.

15 MS. OGUNMEFUN: Of course.

16 CHAIR NORDENBERG: Our next speaker, or speakers,
17 is a bipartisan panel of Representatives from the House who
18 we're lucky to have with us today. Sorry to keep you waiting.
19 Representatives Gaydos, Ortitay, Kulik, and Kinkead, from
20 Allegheny and Washington Counties - three in person and one on
21 the big screen.

22 REPRESENTATIVE GAYDOS: Thank you, Mr. Chairman
23 Nordenberg and Commission Members, for inviting us to make
24 this presentation. I just want to introduce myself. My name
25 is Valerie Gaydos, State Representative from the 44th

1 District. I was elected in 2018, after spending more than 25
2 years in the private sector as an entrepreneur, business
3 owner, and investor in startup companies. My job was to see
4 trends and define markets in communities of interest, if you
5 will, and most importantly, to serve customers. My job as a
6 State Representative might not be too much different in some
7 ways, and today I'm pleased to share my experience and
8 observation about the communities in the western suburbs of
9 Allegheny County, where I grew up.

10 We are four State House Members, respectively,
11 representing the adjoining 44th, 45th, 46th, and the 20th
12 House Legislative Districts in western Pennsylvania and the
13 western part of Allegheny County. Representative Ortitay and
14 I are Republicans, Representatives Kulik and Kinhead are
15 Democrats. We are here on behalf of our respective
16 constituents and to demonstrate the spirit of a bipartisan
17 collaborative process intended to be put forth by the
18 Commission to present our collective corrections and
19 exceptions to the proposed maps.

20 A couple of things that we have learned and agree
21 upon being State Representatives is that our communities are
22 not always defined by government boundaries, and that
23 communities define, or should be the ones that define, their
24 government, and not the other way around. Communities can be
25 defined by roads, bridges, common travel routes; conversely,

1 rivers or counties are not always convenient community
2 boundaries. Communities, for us, means shared public services
3 likes water, sewer, police, fire, parks, school districts, or
4 simply where people live, work, play, or worship together.
5 Focusing on what unites us, not what divides us, is the
6 strength of our representation in communities. Keeping
7 communities of interest together makes for stronger
8 communities and enables us as State Representatives to be more
9 efficient advocates, stewards, or champions for the
10 communities that we represent. This is not a Republican or
11 Democrat issue for us. This is a community issue, and we are
12 here to collectively present our exceptions and present an
13 alternative map for Districts 44, 45, 46, and 20, and each of
14 us are going to have our own details on our maps.

15 I don't know if we have a map that we had proposed
16 that is posted up. Okay. Now I've got to figure out how to
17 do this.

18 CHAIR NORDENBERG: Here comes the man who can do
19 anything.

20 (Laughter.)

21 REPRESENTATIVE GAYDOS: I guess. Can we put that
22 up on the screen? There we go. Okay.

23 So I guess first up is Representative Ortitay.

24 REPRESENTATIVE ORTITAY: Thank you, Representative
25 Gaydos.

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

Ann-Marie P. Sweeney

ANN-MARIE P. SWEENEY
Official Reporter
Legislative Reapportionment
Commission

THE FOREGOING CERTIFICATION DOES NOT APPLY TO ANY REPRODUCTION OF THE SAME BY ANY MEANS UNLESS UNDER THE DIRECT CONTROL AND/OR SUPERVISION OF THE CERTIFYING REPORTER.

ANN-MARIE P. SWEENEY
Official Reporter
Legislative Reapportionment Commission
P.O. Box 203079
Harrisburg, PA 17120