

# Exhibit E

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE EASTERN DISTRICT OF ARKANSAS

3 THE CHRISTIAN MINISTERIAL )  
4 ALLIANCE, et al., )  
5 PLAINTIFFS, )  
6 VS. ) CASE NO.  
7 ) 4:23-cv-471-DPM-DRS-JM  
8 JOHN THURSTON, in his )  
9 official capacity as the )  
Secretary of State of )  
Arkansas, )  
DEFENDANT. )

10 -----  
11 ORAL DEPOSITION OF

12 LORI BOWEN

13 July 2, 2024  
14 -----

15  
16 ORAL DEPOSITION OF LORI BOWEN, produced as a  
17 witness at the instance of the PLAINTIFF, and duly  
18 sworn, was taken in the above-styled and numbered  
19 cause on the 2nd day of July, 2024, from 8:57 a.m. to  
20 5:33 p.m., before Dana Hayden, CCR in and for the  
21 State of Arkansas, RMR, CRR, CRC, reported by machine  
22 shorthand, at Mitchell Williams, 425 West Capitol,  
23 Little Rock, Arkansas, pursuant to the Federal Rules  
24 of Civil Procedure.  
25

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<p>1 ***** PROCEEDINGS *****</p> <p>2 LORI BOWEN,</p> <p>3 having been first duly sworn, testified as follows:</p> <p>4 EXAMINATION</p> <p>5 BY MS. ADEN:</p> <p>6 Q. Good morning, Ms. Bowen.</p> <p>7 A. Good morning.</p> <p>8 Q. I am Leah Aden, and I am one of the attorneys</p> <p>9 representing the plaintiffs in CMA, et al. versus</p> <p>10 Thurston, et al.</p> <p>11 A. Mm-hmm.</p> <p>12 Q. Could you please go ahead and state your full</p> <p>13 name for the record and spell your last name?</p> <p>14 A. For sure. Lori, L-o-r-i, Elizabeth, E-l-i --</p> <p>15 oh, just my last name? Elizabeth. And Bowen,</p> <p>16 B-o-w-e-n.</p> <p>17 Q. Wonderful.</p> <p>18 MS. ADEN: I'd now like to ask everyone</p> <p>19 who is in the room with Ms. Bowen, who is</p> <p>20 going to be noticing an appearance, to</p> <p>21 please state their name for the record,</p> <p>22 followed by anyone who's appearing</p> <p>23 virtually.</p> <p>24 MR. TALLEY: I'll go first. I'm Graham</p> <p>25 Talley. My colleague Sarah Gold is with me.</p>	<p>Page 8</p>	<p>1 for now. There may be people coming in and</p> <p>2 out over the course of the day --</p> <p>3 A. Okay.</p> <p>4 Q. -- but they will not interrupt you and it will,</p> <p>5 as I will explain, mostly just be you and I talking.</p> <p>6 A. Okay.</p> <p>7 Q. So for today's deposition, I'd like to identify</p> <p>8 a few basic ground rules so that we are operating on</p> <p>9 the same page.</p> <p>10 You are testifying under oath, which</p> <p>11 means that you are testifying with the same duty to</p> <p>12 answer questions truthfully as though we were before a</p> <p>13 judge in a courtroom. Do you understand?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. A court reporter, Ms. Hayden, is</p> <p>16 transcribing this deposition for us, and with that in</p> <p>17 mind, please continue to answer questions audibly and</p> <p>18 clearly. Please refrain from nodding, shaking your</p> <p>19 head so that we have a clear transcript. I know</p> <p>20 that's hard.</p> <p>21 Let me know if you do not understand a</p> <p>22 question or need me to repeat any part of it because</p> <p>23 it may be a bad question, which is bound to happen.</p> <p>24 I will also do my best to rephrase, and</p> <p>25 I'm not trying to trick you with any questions. But</p>	<p>Page 10</p>
<p>1 I represent the Bureau of Legislative</p> <p>2 Research and the witness.</p> <p>3 MS. ADEN: And the -- Bureau of</p> <p>4 Legislative Research and the --</p> <p>5 MR. TALLEY: Witness.</p> <p>6 MS. GOLD: Sarah Gold.</p> <p>7 MR. BRASCHER: Justin Brascher. I'm</p> <p>8 with the Arkansas Office of the Attorney</p> <p>9 General. We represent the defendants in</p> <p>10 this case.</p> <p>11 And with me is our law clerk.</p> <p>12 MR. BURRESS: Grant Burress.</p> <p>13 MX. BENJAMIN: EJ Benjamin. I also</p> <p>14 represent the plaintiffs.</p> <p>15 MS. ADEN: Is anyone on virtual making</p> <p>16 an appearance?</p> <p>17 MR. CUSICK: Good morning. This is John</p> <p>18 Cusick with LDF, also on behalf of the</p> <p>19 plaintiff.</p> <p>20 MR. WONG: Good morning. This is Joseph</p> <p>21 Wong, also LDF, on behalf of the plaintiffs.</p> <p>22 MR. SKOCPOL: And this is Michael</p> <p>23 Skocpol, also with LDF, on behalf of the</p> <p>24 plaintiffs.</p> <p>25 MS. ADEN: Okay. I believe that's it</p>	<p>Page 9</p>	<p>1 if I ask you a question and you answer the question, I</p> <p>2 will assume that you understand my question. Do you</p> <p>3 understand?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. The primary people, as I just mentioned,</p> <p>6 talking in this deposition should be you and me, and</p> <p>7 the court reporter, Ms. Hayden, may ask a question if</p> <p>8 she needs something from us.</p> <p>9 But you also may hear Mr. Talley object</p> <p>10 to questions. If so, this objection will be noted for</p> <p>11 the reporter for the record, but you still must</p> <p>12 provide an answer unless Mr. Talley specifically</p> <p>13 instructs you not to. Do you understand?</p> <p>14 A. Yes.</p> <p>15 Q. Is there any reason why you would be unable to</p> <p>16 answer or understand any questions truthfully today?</p> <p>17 A. Not that I'm aware of.</p> <p>18 Q. Okay. This is not an endurance test. If at any</p> <p>19 time you would like to take a break, please let me</p> <p>20 know. I'll work on some basic logistical breaks for</p> <p>21 lunch and other things throughout the day. The only</p> <p>22 thing I ask is that if I have already asked you a</p> <p>23 question and that you finish answering before asking</p> <p>24 for a break.</p> <p>25 Do you understand?</p>	<p>Page 11</p>

<p>Page 12</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And is it the case that Mr. Talley</p> <p>3 represents you today?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Anyone else?</p> <p>6 A. No.</p> <p>7 Q. And are you familiar with what law firm</p> <p>8 Mr. Talley is associated with?</p> <p>9 A. I know the name.</p> <p>10 Q. Which is?</p> <p>11 A. Mitchell Williams.</p> <p>12 Q. Besides Mr. Talley, have you worked with any</p> <p>13 other attorneys here at Mitchell Williams?</p> <p>14 A. I just recently met Ms. Gold, Sarah Gold.</p> <p>15 Q. Okay. Anyone else?</p> <p>16 A. No.</p> <p>17 Q. Have you signed an engagement letter or a</p> <p>18 retainer with Mitchell Williams?</p> <p>19 A. No.</p> <p>20 Q. In addition to Mitchell Williams, and without</p> <p>21 going into the content of any of those discussions,</p> <p>22 have you sought legal advice from any other attorneys</p> <p>23 about this case?</p> <p>24 A. No.</p> <p>25 Q. Have you sought legal advice from any attorneys</p>	<p>Page 14</p> <p>1 A. Our director, Marty Garrity, notified me by</p> <p>2 email, that's how I learned about it. Just said I</p> <p>3 would be required to appear.</p> <p>4 Q. And when you say "our director," who are you</p> <p>5 referring to?</p> <p>6 A. The Bureau of Legislative Research.</p> <p>7 Q. Can you tell me a little bit about what you did</p> <p>8 to prepare for today's deposition?</p> <p>9 A. I just reviewed materials from the previous</p> <p>10 deposition that I gave, primarily, and then just</p> <p>11 looked through files and materials relating to that</p> <p>12 project that I worked on.</p> <p>13 Q. And when you say that previous deposition that</p> <p>14 you gave, what are you referring to?</p> <p>15 A. I gave one other deposition relating to</p> <p>16 redistricting, and there was a printed deposition that</p> <p>17 I looked over.</p> <p>18 Q. Was that in state court litigation, if you</p> <p>19 recall?</p> <p>20 A. I believe so.</p> <p>21 Q. And you mentioned files and materials that you</p> <p>22 reviewed. Can you explain what you meant by that?</p> <p>23 A. Just emails, things that I have retained from my</p> <p>24 involvement in helping with the process of</p> <p>25 redistricting.</p>
<p>Page 13</p> <p>1 about redistricting in Arkansas?</p> <p>2 A. No. I know when we first started working on</p> <p>3 this, we have attorneys on our staff who I would talk</p> <p>4 with about just general information about the process,</p> <p>5 but that would be it. It wouldn't be relating to this</p> <p>6 case.</p> <p>7 Q. And who are those attorneys?</p> <p>8 A. Michelle Davenport and Matthew Miller.</p> <p>9 Q. And what about any attorneys for the Arkansas</p> <p>10 Senate?</p> <p>11 A. No.</p> <p>12 Q. What about for Arkansas' House?</p> <p>13 A. No.</p> <p>14 Q. Did you bring any materials with you today to</p> <p>15 this deposition?</p> <p>16 A. No.</p> <p>17 Q. I want to discuss with you preparation for</p> <p>18 today's deposition. When were you first contacted by</p> <p>19 counsel about potentially being deposed in this case?</p> <p>20 A. When was I first contacted?</p> <p>21 Q. Yes.</p> <p>22 A. I don't remember the exact date. It's been a</p> <p>23 month or so ago.</p> <p>24 Q. Okay. And how -- is -- how did you learn about</p> <p>25 today's deposition?</p>	<p>Page 15</p> <p>1 Q. Were those emails that you also shared with</p> <p>2 counsel?</p> <p>3 A. I believe he -- are you referring to Mr. Talley?</p> <p>4 Q. Mr. Talley.</p> <p>5 A. Yes. I believe he had access to my emails, yes.</p> <p>6 Q. And when you mentioned review of materials in</p> <p>7 association with a previous deposition, were those,</p> <p>8 like, exhibits to the deposition, or what are you</p> <p>9 referring to?</p> <p>10 A. Yes, it was -- it did include the exhibits but</p> <p>11 also a transcript.</p> <p>12 Q. Did you do anything else to prepare for today?</p> <p>13 A. Other than review materials, no.</p> <p>14 Q. Without going into the substance of any</p> <p>15 conversations, did you meet with counsel to prepare</p> <p>16 for today's deposition?</p> <p>17 A. Yes.</p> <p>18 Q. Who?</p> <p>19 A. Mr. Talley and Ms. Gold.</p> <p>20 Q. Okay. And how many times?</p> <p>21 A. Just one time.</p> <p>22 Q. When was that?</p> <p>23 A. Last week. The 27th, I believe.</p> <p>24 Q. And for about how long did you meet?</p> <p>25 A. Couple hours.</p>

<p>Page 16</p> <p>1 Q. More than two?</p> <p>2 A. No.</p> <p>3 Q. Besides Mr. Talley and Ms. Gold, was anyone else</p> <p>4 present during those conversations?</p> <p>5 A. No, ma'am.</p> <p>6 Q. Did you discuss today's deposition with anyone</p> <p>7 else, besides your counsel in this case?</p> <p>8 A. Yes. I made my supervisor aware of it and I</p> <p>9 had -- an immediate supervisor and then we have an</p> <p>10 assistant director, and I made them both aware that I</p> <p>11 would be out of the office.</p> <p>12 Q. And your immediate supervisor, is that</p> <p>13 Mr. Garrity?</p> <p>14 A. No. No, she -- my immediate supervisor is Julie</p> <p>15 Holt.</p> <p>16 MR. TALLEY: It's Ms. Garrity, Marty.</p> <p>17 MS. ADEN: Marty.</p> <p>18 (BY MS. ADEN:)</p> <p>19 Q. So the two people who are aware of -- that you</p> <p>20 made aware were Ms. Holt and Mr. Garrity [sic]?</p> <p>21 A. No. Our assistant director is Jessica</p> <p>22 Whittaker. I've really not spoken to Marty at all. I</p> <p>23 just got that one email from her. So I just made our</p> <p>24 assistant director, who is in our immediate area and</p> <p>25 my immediate supervisor aware that I would be.</p>	<p>Page 18</p> <p>1 A. Yes.</p> <p>2 Q. And what steps does BLR take to ensure that it</p> <p>3 remains nonpartisan?</p> <p>4 A. From a staff perspective, as I said, we're</p> <p>5 required to assist all members equally and in the --</p> <p>6 and with the same level of support, irregardless of</p> <p>7 what their party affiliation is.</p> <p>8 Q. Anything else?</p> <p>9 A. I can't think of anything, another way to put</p> <p>10 it.</p> <p>11 Q. Do you think BLR being perceived as nonpartisan</p> <p>12 is a good thing?</p> <p>13 MR. TALLEY: Object to form.</p> <p>14 Go ahead.</p> <p>15 A. Yes. I mean, because of the way we're</p> <p>16 configured, yes, that we need to be since we work with</p> <p>17 all members, yeah, equally.</p> <p>18 Q. Did you discuss today's deposition with any</p> <p>19 Arkansas legislators or legislative staff?</p> <p>20 A. Other than what I just described to you. I did</p> <p>21 describe -- you know, talk with my supervisor, well,</p> <p>22 the things I was doing to prepare and things I was</p> <p>23 looking at. But no legislators at all, just my --</p> <p>24 our -- my supervisor.</p> <p>25 Q. You mentioned some documents that you reviewed</p>
<p>Page 17</p> <p>1 And my coworkers are aware I'm out</p> <p>2 today, too. I mentioned it probably in staff that I</p> <p>3 had this coming up.</p> <p>4 Q. Did you discuss the substance of the deposition</p> <p>5 with either of those people?</p> <p>6 A. Just what I was doing, that I was reviewing the</p> <p>7 materials.</p> <p>8 Q. What is the Bureau of Legislative</p> <p>9 Reapportionment?</p> <p>10 MR. TALLEY: You mean the Bureau of</p> <p>11 Legislative Research?</p> <p>12 MS. ADEN: Research.</p> <p>13 (BY MS. ADEN:)</p> <p>14 Q. What is BLR, for lack of a better acronym?</p> <p>15 A. It is a nonpartisan staff organization for</p> <p>16 members of the Arkansas General Assembly.</p> <p>17 Q. Now, you mentioned it being nonpartisan. What</p> <p>18 does that mean to you?</p> <p>19 A. It means we have a central staff that serves all</p> <p>20 members of the General Assembly. So it doesn't matter</p> <p>21 what their party affiliation is, we work -- if we get</p> <p>22 an assigned task, we perform it for each member</p> <p>23 equally and confidentially.</p> <p>24 Q. What steps does -- if I refer to the entity as</p> <p>25 BLR, will you understand what I'm referring to?</p>	<p>Page 19</p> <p>1 in preparation for today's deposition. Did that</p> <p>2 include any complaints in this case that is at issue</p> <p>3 today?</p> <p>4 A. I can't remember. I know I have printed out a</p> <p>5 copy of this when it was filed, and I looked at it. I</p> <p>6 don't know that I looked at it again because I had</p> <p>7 looked at it before. But I may have, but I don't</p> <p>8 remember for sure.</p> <p>9 Q. Do you have an understanding of this lawsuit?</p> <p>10 A. Not a lot. I mean, I'm not an attorney. So, I</p> <p>11 mean, I remember reading it and feeling like I was</p> <p>12 comprehending it, but that's been a while, like I</p> <p>13 said, and I don't -- I couldn't give you an</p> <p>14 explanation of it necessarily.</p> <p>15 Q. Do you have an understanding of what the claims</p> <p>16 are?</p> <p>17 A. I thought I did as I read it, but I would rely</p> <p>18 on you to explain that to me.</p> <p>19 Q. Have you ever worked with any members of</p> <p>20 Christian Ministerial Alliance?</p> <p>21 A. Not that I'm aware of, no.</p> <p>22 Q. Have you met Bishop Kennebrew before?</p> <p>23 A. No, not that I'm aware of. No.</p> <p>24 Q. Do you know, have you met, or have you worked</p> <p>25 with Patricia Brewer?</p>

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1 A. Not that I'm aware of, no.  
 2 Q. Carolyn Briggs?  
 3 A. Not that I recall, no.  
 4 Q. Lynette Brown?  
 5 A. Not that I recall.  
 6 Q. Mable Bynum?  
 7 A. No, not that I recall.  
 8 Q. Or Velma Smith?  
 9 A. No.  
 10 Q. Do you recognize them as individual plaintiffs  
 11 in this case?  
 12 A. As I said, I didn't go really -- I didn't think  
 13 I went back and relooked at it, so I'm sorry. I don't  
 14 have -- I'm not familiar.  
 15 Q. And do you recognize the Christian Ministerial  
 16 Alliance as an organizational plaintiff in this case?  
 17 A. I remember that name, but I'm not familiar with  
 18 their work.  
 19 Q. So you mentioned being deposed once before.  
 20 A. Mm-hmm.  
 21 Q. Was that in your personal or professional  
 22 capacity?  
 23 A. Professional.  
 24 Q. And can you recall the nature of that dispute?  
 25 A. I don't think they really involved me in that.

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1 They just asked me about my involvement in helping  
 2 with redistricting process.  
 3 Q. And specifically with congressional  
 4 redistricting or other -- or any other redistricting?  
 5 A. It was congressional, yes.  
 6 Q. Prior to that time, had you been deposed before?  
 7 A. No. I had -- I had provided testimony in a  
 8 couple of court proceedings but never a deposition  
 9 before.  
 10 Q. Did any of the prior court proceedings involve  
 11 redistricting?  
 12 A. No.  
 13 Q. Did any of them involve voting rights?  
 14 A. No, ma'am. Umm-umm.  
 15 Q. Did any of them involve civil rights?  
 16 A. No.  
 17 Q. Have you ever been a party to any lawsuit,  
 18 whether in your personal or professional capacity?  
 19 A. No.  
 20 Q. And you mentioned having testified in court.  
 21 Was that in your personal or professional capacity?  
 22 A. One was personal; one was professional.  
 23 Q. But neither of those, again, were related to  
 24 redistricting --  
 25 A. No.

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1 Q. -- or voting rights?  
 2 A. No, ma'am.  
 3 Q. Did any of them involve allegations of racial  
 4 discrimination?  
 5 A. No.  
 6 Q. I want to learn a little bit more about your  
 7 background, a little bit more about you before we get  
 8 into the issues in this case.  
 9 When were you born?  
 10 A. October 19th, 1962.  
 11 Q. Okay. And what is your place of birth?  
 12 A. East St. Louis, Illinois.  
 13 Q. Okay. And where did you grow up?  
 14 A. Various places. We lived in Southern Illinois  
 15 for -- until I was about eight, lived in Jonesboro,  
 16 Arkansas, for a couple years; then we moved to  
 17 New Jersey. We moved a lot. And then we moved to  
 18 Georgia, and then we moved back to Arkansas, where  
 19 I've been since that time. That was about mid- to  
 20 late '70s.  
 21 Q. And since the mid- to late '70s, you've  
 22 consistently lived in Arkansas?  
 23 A. Yes. In the Central Arkansas area, yes.  
 24 Q. Any places in particular?  
 25 A. Up until the time I left home, I lived in Saline

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1 County and then have been -- and I need to make one  
 2 caveat. I -- my husband and I, we've lived in Central  
 3 Arkansas with the exception of about two and a half  
 4 years. We lived in El Paso, Texas, for a couple of  
 5 years.  
 6 Q. So any other places besides Saline County? Any  
 7 other counties, can you tell me, where you've lived?  
 8 A. My first year in college, I lived in Garland  
 9 County. I went to a community college.  
 10 Q. Anywhere else? Any other counties?  
 11 A. No, ma'am.  
 12 Q. Where do you currently live?  
 13 A. I live in Maumelle, which is in Pulaski County.  
 14 Q. And how long have you lived there?  
 15 A. A little over a year and a half.  
 16 Q. Can you give me a brief overview of your  
 17 educational background? You mentioned community  
 18 college. Can you tell me a little bit about your  
 19 educational trajectory?  
 20 A. Yes. I graduated with an undergraduate degree  
 21 in history and political science from the University  
 22 of Arkansas at Little Rock and then I got a master's  
 23 in public administration from the University of  
 24 Arkansas, Little Rock, as well.  
 25 Q. Do you have any certificates or specialized



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<p>1 training?</p> <p>2 A. No, no certificates that's -- per se. I have</p> <p>3 participated in professional development opportunities</p> <p>4 through my employment, through organizations such as</p> <p>5 the National Conference For State Legislatures. I</p> <p>6 also have attended a few conferences for National</p> <p>7 Health Policy. It's the National Academy of State</p> <p>8 Health Policy. I've done a couple -- I have attended</p> <p>9 a couple of trainings that -- or conferences that</p> <p>10 they've put on, which are policy-related conferences.</p> <p>11 Q. With the National Conference of State</p> <p>12 Legislatures, how many trainings have you attended</p> <p>13 with them?</p> <p>14 A. I couldn't quantify that. I've been with the</p> <p>15 General Assembly a long time.</p> <p>16 I'm sorry. I don't know. It's not been</p> <p>17 a huge number. Maybe three or four with NCSL and</p> <p>18 then -- that's the acronym for that organization. And</p> <p>19 I've attended, I think, two of those state policy.</p> <p>20 And I -- I think I also went to one education</p> <p>21 commission of the State's conference at one point, and</p> <p>22 I also have participated in Southern Regional</p> <p>23 Education Board meetings.</p> <p>24 I think that's all of the professional.</p> <p>25 I could be missing one, but those are the primary ones</p>	<p>1 branch for a little -- for about six years.</p> <p>2 So I've been a state employee a little</p> <p>3 over 33 years, but -- and about 27 of those have been</p> <p>4 with the Bureau.</p> <p>5 Q. But in that 27 years, the first time you</p> <p>6 participated in congressional redistricting was</p> <p>7 following the 2020 census; is that fair to say?</p> <p>8 A. I learned about my involvement in this, I</p> <p>9 believe, in 2020, while it was probably still going</p> <p>10 on.</p> <p>11 Q. The census was?</p> <p>12 A. Yes. Yes, mm-hmm. I was just told that I was</p> <p>13 going to be helping with map drawing.</p> <p>14 Q. Told by whom?</p> <p>15 A. My supervisor.</p> <p>16 Q. Who is?</p> <p>17 A. Julie Holt.</p> <p>18 Q. Any of the state policy trainings that you went</p> <p>19 to, did those involve redistricting?</p> <p>20 A. Well, I went to -- the Office of Geographic</p> <p>21 Information Systems offered a training session on</p> <p>22 redistricting that I attended and participated in.</p> <p>23 And then they subsequently had an online training to</p> <p>24 help us with some of the software because I wasn't</p> <p>25 familiar with the mapping software.</p>
Page 25	Page 27
<p>1 I participated in.</p> <p>2 Q. The three to four with NCSL, have those been</p> <p>3 about redistricting?</p> <p>4 A. The ones that I actually went in person to, no.</p> <p>5 We did in preparation -- I never participated in the</p> <p>6 redistricting process. So in trying to prepare for my</p> <p>7 involvement, I did begin to listen to Webinars that</p> <p>8 they offered. This was during the pandemic, so</p> <p>9 everything was remote. But they also offered a</p> <p>10 training opportunity that was by kind of Zoom or -- in</p> <p>11 January, I think, of 2021 that I also participated in.</p> <p>12 And there was two other. This is --</p> <p>13 just so you know. I also took two other classes after</p> <p>14 graduate school. I don't know if it's relevant, but I</p> <p>15 mentioned that before I thought I'd mention. I took</p> <p>16 two seminary classes.</p> <p>17 Q. Seminary?</p> <p>18 A. Yes. Mm-hmm.</p> <p>19 Q. Now, you mentioned being with the General</p> <p>20 Assembly for a long time. What did you mean by that?</p> <p>21 A. Well, I joined -- I had -- it hasn't been</p> <p>22 continuous service, but I joined the Bureau of</p> <p>23 Legislative Research in June of 1988. And then as I</p> <p>24 mentioned, we moved out of state for a couple of years</p> <p>25 and then I came back, and I worked in the executive</p>	<p>1 Q. Around when were these trainings?</p> <p>2 A. The one at the Geographic Information System</p> <p>3 Office, we actually did that in person. It was in</p> <p>4 January of 2021. And the software training, I</p> <p>5 believe, was in February of 2021.</p> <p>6 Q. Do you have any social media accounts, like</p> <p>7 Twitter or Facebook?</p> <p>8 A. No. I used to have a Facebook, but I turned it</p> <p>9 off several years ago.</p> <p>10 Q. Prior to the 2020 census?</p> <p>11 A. Yes, I believe so. I couldn't tell you the</p> <p>12 exact date, but I believe it was.</p> <p>13 Q. So I want to talk a little bit more about the</p> <p>14 2020 census redistricting cycle. What was your</p> <p>15 official role or title with BLR during the post-2020</p> <p>16 census redistricting cycle?</p> <p>17 A. My title hasn't changed. I'm -- my official</p> <p>18 title is Senior Legislative Analyst II, and I was just</p> <p>19 given this as another assignment in addition to my</p> <p>20 other duties.</p> <p>21 Q. Per your normal duties?</p> <p>22 A. Pardon me?</p> <p>23 Q. What were your normal duties?</p> <p>24 A. Oh, I work in the policy analysis and research</p> <p>25 section, and we are -- we are primary support to help</p>

<p>Page 28</p> <p>1 with the biennial educational adequacy study. So I</p> <p>2 have a responsibility for a few -- it's a series of</p> <p>3 reports, and I have a responsibility for a few of the</p> <p>4 reports that are part of that analysis of adequacy.</p> <p>5 And then my policy area assignment is health-related</p> <p>6 topics.</p> <p>7 And so as we get requests from members</p> <p>8 to help research particular topics relating to either</p> <p>9 education or to health, I would be given that</p> <p>10 assignment. I would find the relevant information</p> <p>11 they asked for and then convey that to them, usually</p> <p>12 by email.</p> <p>13 Q. And so then what would you say were your</p> <p>14 additional responsibilities following the 2020 census,</p> <p>15 or related to the 2020 census?</p> <p>16 A. Well, I don't have any census-related duties. I</p> <p>17 only was -- because I knew I was going to have</p> <p>18 map-drawing responsibilities, I tried to educate</p> <p>19 myself on the issue of redistricting in general just</p> <p>20 so I would be somewhat conversant in what -- you know,</p> <p>21 the area that I would be asked to help in. And so I</p> <p>22 just participated in any of the Webinars that I could</p> <p>23 with NCSL.</p> <p>24 I read materials that they offered, you</p> <p>25 know, to help people that would be working -- you</p>	<p>Page 30</p> <p>1 the software, which was really what I was interested</p> <p>2 in because I had never used it before, and I was a</p> <p>3 little worried about learning it effectively.</p> <p>4 Q. Who were those two people that you spoke to</p> <p>5 about their previous experience doing redistricting?</p> <p>6 A. One was Richard Wilson, who is a former</p> <p>7 assistant director with our agency, and the other was</p> <p>8 a former administrator over the section that I now</p> <p>9 work in, and her name was Jerri Derlikowski.</p> <p>10 Q. Can you spell that?</p> <p>11 A. Yes. D-e-r-l-i-k-o-w-s-k-i, I believe. I do</p> <p>12 better writing it.</p> <p>13 MR. TALLEY: Can you spell "Jerri" too?</p> <p>14 THE WITNESS: It's J-e-r-r-i.</p> <p>15 (BY MS. ADEN:)</p> <p>16 Q. Were either of them attorneys?</p> <p>17 A. No.</p> <p>18 Q. How many times do you think you spoke with them</p> <p>19 about preparing for redistricting?</p> <p>20 A. Just once. I just, you know, asked about their</p> <p>21 general experience, you know, doing the -- the role</p> <p>22 because I didn't really have any knowledge of what was</p> <p>23 involved, honestly.</p> <p>24 Q. Outside of drawing maps at the request of</p> <p>25 legislators, did you have any -- did you understand</p>
<p>Page 29</p> <p>1 know, staff people that would be assisting with the</p> <p>2 redistricting process and then participated in those</p> <p>3 trainings that I mentioned to you.</p> <p>4 Q. Do you know why you were asked to help draw maps</p> <p>5 this cycle?</p> <p>6 A. My understanding was is that -- my attention to</p> <p>7 detail primarily. I check and recheck and recheck,</p> <p>8 so -- usually all my work. So I think that they</p> <p>9 wanted someone that would be precise and be able to do</p> <p>10 what the members requested and do it accurately.</p> <p>11 Q. When would you say this redistricting cycle</p> <p>12 began for you?</p> <p>13 A. Well, I guess when I became aware, and I don't</p> <p>14 know the exact date, but it was in 2020, that I became</p> <p>15 aware that I would be helping. I just started, as I</p> <p>16 had time because I had other duties, of course, to</p> <p>17 just read about the process and learn as much as I</p> <p>18 could about it.</p> <p>19 I spoke to two of our previous staffers</p> <p>20 that had done this process before and -- just to see</p> <p>21 what, you know, their duties had been like, and it was</p> <p>22 pretty much just technical. You know, members would</p> <p>23 come in and ask for help with a map, and they would --</p> <p>24 they would draw it. But they didn't -- so much time</p> <p>25 had elapsed, I don't think they remembered much about</p>	<p>Page 31</p> <p>1 your responsibilities to include anything else related</p> <p>2 to redistricting?</p> <p>3 A. No.</p> <p>4 Q. And were your responsibilities related to only</p> <p>5 congressional redistricting?</p> <p>6 A. When we first started, there was a chance that I</p> <p>7 might be asked to help draw some alternative House and</p> <p>8 Senate districts, state House and Senate districts.</p> <p>9 But as it turned out, I got virtually -- I mean, I got</p> <p>10 two, one of which --</p> <p>11 MR. TALLEY: I'll stop you.</p> <p>12 THE WITNESS: Yeah. Okay. Yeah.</p> <p>13 MR. TALLEY: And I'll instruct the</p> <p>14 witness not to share any information</p> <p>15 protected by legislative privilege,</p> <p>16 including specific member-related requests</p> <p>17 as it might relate to a specific House or</p> <p>18 Senate district during the State</p> <p>19 reapportionment process. Otherwise, the</p> <p>20 witness is free to answer.</p> <p>21 A. I ended up not really having any role for the</p> <p>22 most part in the State House and Senate redistricting.</p> <p>23 I was prepared for it, but it didn't come to fruition.</p> <p>24 Q. And when you mention working with legislators on</p> <p>25 congressional redistricting, did that include working</p>

<p>Page 32</p> <p>1 with their staff, legislative staff?</p> <p>2 MR. TALLEY: Object to form.</p> <p>3 Go ahead.</p> <p>4 A. Well, I'm a little confused by that. We are</p> <p>5 their legislative staff, so we work directly with the</p> <p>6 members.</p> <p>7 Am I understanding you correctly?</p> <p>8 Q. Did members have other staff who are working</p> <p>9 their offices that you might have worked with in order</p> <p>10 to develop congressional maps?</p> <p>11 A. Not that I recall, no. No, we -- like I said,</p> <p>12 we are the direct legislative staff for them, so I --</p> <p>13 I don't think there would --</p> <p>14 Q. So they don't have law clerks, they don't have</p> <p>15 other members of their teams that you might have</p> <p>16 interacted with --</p> <p>17 A. Not that --</p> <p>18 Q. -- in order to develop maps?</p> <p>19 A. If they had members other -- I never talked to</p> <p>20 anybody on their staff, if they have anybody back home</p> <p>21 or anybody that works for them, no.</p> <p>22 Q. So requests for congressional maps came solely</p> <p>23 from legislative members?</p> <p>24 A. I received some of them -- they were all</p> <p>25 legislative requests. Some of them I might receive</p>	<p>Page 34</p> <p>1 Q. Did that include Impact Management Group?</p> <p>2 A. No, I don't -- I'm not familiar with that.</p> <p>3 Q. Did that include anyone from the National</p> <p>4 Republican Redistricting Trust?</p> <p>5 A. No.</p> <p>6 Q. Who did that include?</p> <p>7 MR. TALLEY: I'll let her answer that</p> <p>8 question.</p> <p>9 A. There were individuals. I was asked to work on</p> <p>10 one occasion with -- or to share information with</p> <p>11 Mr. James Valley and Fred Freeman. And then I was</p> <p>12 also asked to authorize -- asked/authorized to work</p> <p>13 with Mr. John Michael Gray.</p> <p>14 Q. Who do you understand Mr. Bealie [sic] to be?</p> <p>15 A. Valley?</p> <p>16 MR. TALLEY: Valley.</p> <p>17 A. Valley. James Valley.</p> <p>18 Q. Valley?</p> <p>19 A. I really don't know who he is. I understand</p> <p>20 he's an attorney, but I've never heard of him before,</p> <p>21 and I've not had occasion to ever, you know, converse</p> <p>22 with him since -- and we never did -- I think maybe</p> <p>23 we -- there may have been a phone call involved,</p> <p>24 but...</p> <p>25 Okay.</p>
<p>Page 33</p> <p>1 from Ms. Davenport. She and I kind of shared the</p> <p>2 load. And so if she was really busy and needed a</p> <p>3 little assistance, sometimes I would get a request</p> <p>4 through her, but it would ultimately have been a</p> <p>5 member request.</p> <p>6 Q. Anyone else besides Ms. Davenport?</p> <p>7 A. I think I got one request from our director,</p> <p>8 Marty Garrity.</p> <p>9 Q. Would -- did you understand that to also be a</p> <p>10 request from a legislative member --</p> <p>11 A. Yes.</p> <p>12 Q. -- through him?</p> <p>13 A. Yes.</p> <p>14 Q. Anyone else?</p> <p>15 Did you receive requests from anyone</p> <p>16 else besides the people that you identified, the</p> <p>17 legislative members generally, Ms. Davenport, and</p> <p>18 Mr. -- Ms. Garrity?</p> <p>19 A. That was the primary. Now, there was occasions</p> <p>20 where a member would ask us to work with someone.</p> <p>21 That was rare, but it happened.</p> <p>22 Q. Work with someone within the legislature?</p> <p>23 A. No.</p> <p>24 Q. Work with someone outside of the legislature?</p> <p>25 A. Yes, mm-hmm.</p>	<p>Page 35</p> <p>1 MR. TALLEY: I will instruct the witness</p> <p>2 that she's free to share the identity of</p> <p>3 those individuals, but not the substance of</p> <p>4 any communications she might have had with</p> <p>5 them related to the redistricting process on</p> <p>6 the grounds of legislative privilege.</p> <p>7 (BY MS. ADEN:)</p> <p>8 Q. So Mr. Valley, you do not know who that person</p> <p>9 is associated with?</p> <p>10 MR. TALLEY: I will instruct the witness</p> <p>11 to not answer that question to the extent it</p> <p>12 calls for the identity of a particular</p> <p>13 member of the General Assembly. Otherwise,</p> <p>14 the witness is free to answer.</p> <p>15 A. Could you say it again, please?</p> <p>16 Q. Who did you understand Mr. Valley to be, besides</p> <p>17 an attorney?</p> <p>18 A. That's all I knew.</p> <p>19 Q. And the request to interact with Mr. Valley came</p> <p>20 from a legislator, as you understood it?</p> <p>21 A. Yes. Directly from a member, yes.</p> <p>22 Q. How many times did you interact with Mr. Valley?</p> <p>23 A. Maybe a few emails.</p> <p>24 MR. BRASCHER: I'm going to interject</p> <p>25 here.</p>

<p>1 Is it Bally or Valley?</p> <p>2 MR. TALLEY: It's Valley, V-a-l-l-e-y.</p> <p>3 MR. BRASCHER: Got it. Thank you.</p> <p>4 (BY MS. ADEN:)</p> <p>5 Q. Did -- and so you interacted by email and</p> <p>6 phone -- and a phone call, or more than one phone</p> <p>7 call?</p> <p>8 How did you communicate with Mr. Valley?</p> <p>9 A. I really only communicated with him via the</p> <p>10 email. I copied him on some emails that -- as</p> <p>11 instructed by the member, but I think there might have</p> <p>12 been a call where the member called me and they were</p> <p>13 also on the call.</p> <p>14 So I'm not sure if he and I ever even</p> <p>15 talked directly, to be honest, but...</p> <p>16 Q. What about Mr. Freeman? Who did you understand</p> <p>17 that person to be?</p> <p>18 A. I'm not sure, honestly. And so -- but he was</p> <p>19 included in that email, my instructions on -- to</p> <p>20 include in that email exchange.</p> <p>21 Q. With Mr. Valley and a legislator?</p> <p>22 A. Yes, that's correct.</p> <p>23 Q. And how -- did you communicate with Mr. Freeman</p> <p>24 outside of that communi- --</p> <p>25 A. No.</p>	<p>Page 36</p>	<p>1 question called for, which was just a "yes"</p> <p>2 or "no" answer as to whether it generally</p> <p>3 involved the mapmaking process.</p> <p>4 The witness is free to answer.</p> <p>5 A. Yes, it did involve the maps.</p> <p>6 Q. And were those back-and-forth communications, or</p> <p>7 were you just sending information and you did not get</p> <p>8 responses?</p> <p>9 A. I believe there was some back and forth with</p> <p>10 that, with Mr. Gray.</p> <p>11 Q. In addition to sharing maps, did you share any</p> <p>12 data?</p> <p>13 A. Well, the maps do include some data.</p> <p>14 Q. Do you recall whether the maps include racial</p> <p>15 data?</p> <p>16 A. It could have. I don't remember if I gave --</p> <p>17 that's a detail I just don't remember for sure, but it</p> <p>18 could have included some.</p> <p>19 Q. Do you recall if the maps included partisan</p> <p>20 data?</p> <p>21 A. We didn't have any partisan data.</p> <p>22 Q. Okay. And what do you -- when I say "racial</p> <p>23 data," what do you understand that to mean?</p> <p>24 A. Well, it's an assumption on my part obviously,</p> <p>25 but we had -- what we had available to us was white,</p>	<p>Page 38</p>
<p>1 Q. -- other communication?</p> <p>2 A. No.</p> <p>3 Q. And did -- was Mr. Freeman on that call that you</p> <p>4 mentioned you had?</p> <p>5 A. I don't remember. I don't remember that.</p> <p>6 Q. And I -- Mr. Gray, who did you understand that</p> <p>7 to be?</p> <p>8 A. I believe he was the chairman of the Democratic</p> <p>9 Party at the time.</p> <p>10 Q. But is no longer?</p> <p>11 A. I don't believe so, no.</p> <p>12 Q. Okay. And how did you communicate with</p> <p>13 Mr. Gray?</p> <p>14 A. I was -- primarily the same way, mostly by</p> <p>15 email. And I'll be less clear on this. I think there</p> <p>16 may have been a phone call, but I couldn't -- I</p> <p>17 couldn't tell you the exact date or for sure on that.</p> <p>18 But I know we communicated by email, and it was also</p> <p>19 per the instructions of a member to do that.</p> <p>20 Q. And in these communications, was it just for --</p> <p>21 on your part, was it for you to share proposed maps or</p> <p>22 other information?</p> <p>23 MR. TALLEY: I'll instruct the witness</p> <p>24 not to share any of the substance of those</p> <p>25 communications beyond what I think the</p>	<p>Page 37</p>	<p>1 black, Hispanic, and then a total minority population.</p> <p>2 Those were the only categories -- or the primary ones</p> <p>3 that came with the software that we -- the portions of</p> <p>4 it we used, that's what was available to us.</p> <p>5 Q. And do you recall at what level of detail that</p> <p>6 data was? For example, was it at the precinct level,</p> <p>7 was it at the block level?</p> <p>8 A. I don't recall. We may could have. It's</p> <p>9 possible. I don't think I ever looked at it at that</p> <p>10 granular of a level. It may have been available in</p> <p>11 there, but I don't remember ever needing that.</p> <p>12 Q. So was it percentages that you would share?</p> <p>13 Like, at what -- how did the racial data, what was the</p> <p>14 form of it?</p> <p>15 A. Oh, my goodness. I believe it was percentages,</p> <p>16 honestly, on that.</p> <p>17 Q. And when I say "partisan data," what do you</p> <p>18 understand me to mean?</p> <p>19 A. Party affiliation, you know, like -- and this</p> <p>20 comes from my exposure to their trainings because some</p> <p>21 states have access to partisan information, but we</p> <p>22 don't. So I don't -- I guess it would be -- I'm going</p> <p>23 to be speaking -- I shouldn't go further because I</p> <p>24 don't know for sure exactly how it would manifest</p> <p>25 itself. I don't know if it was like the number voting</p>	<p>Page 39</p>



<p>Page 40</p> <p>1 in the Republican primary during -- you know, I</p> <p>2 honestly don't know because we don't have that</p> <p>3 available. Our system wasn't accomm- -- couldn't</p> <p>4 accommodate that level of detail, so I can't answer</p> <p>5 that. I'm sorry.</p> <p>6 Q. Okay. We'll circle back to some of that in a</p> <p>7 second.</p> <p>8 A. Oh, sure.</p> <p>9 Q. But did someone provide you guidance on what</p> <p>10 your responsibilities would be through a meeting,</p> <p>11 through rules or guidelines?</p> <p>12 How did you unders- -- how did you learn</p> <p>13 about your responsibilities?</p> <p>14 A. Well, a lot of it was, you know, my</p> <p>15 participation in those trainings, but it was -- I</p> <p>16 don't know that that gave me my responsibilities. But</p> <p>17 it was probably more in conversation with Michelle</p> <p>18 Miller and Matthew -- I mean Michelle Davenport,</p> <p>19 excuse me, and Matthew Miller, where we just talked</p> <p>20 about how we would be assisting, what our, you know --</p> <p>21 and kind of as we discussed how to divvy up, for lack</p> <p>22 of a better word, the map responsibility. Because</p> <p>23 Michelle and I primarily were the one -- we were the</p> <p>24 ones drawing -- assisting members with drawing maps.</p> <p>25 And so I guess any direction probably came through</p>	<p>Page 42</p> <p>1 had questions regarding congressional redistricting?</p> <p>2 A. Well, I did have, like -- as I said, I had never</p> <p>3 worked with the software before. So I did have a</p> <p>4 number of questions that the Geographic Information</p> <p>5 System Office would help with because they do a lot of</p> <p>6 mapping. They have a lot of experience and so I would</p> <p>7 ask for assistance there, and they -- they did assist</p> <p>8 as they could with my questions on that.</p> <p>9 We have -- we had one -- a staff member</p> <p>10 on board who was familiar with ArcGIS, which was a</p> <p>11 separate mapping program, and she helped me, but it</p> <p>12 wasn't very helpful because the programs, as it turned</p> <p>13 out, were so different that she could not really help</p> <p>14 me with this mapping program.</p> <p>15 Q. And the mapping program, is it fair to say that</p> <p>16 autoBoundEDGE was the software that you were using?</p> <p>17 A. That's correct. Yes.</p> <p>18 Q. So you used autoBoundEDGE, but you did not use</p> <p>19 ArcGIS ultimately?</p> <p>20 A. Ultimately, no. We thought we might use some of</p> <p>21 the products from autoBound and put it into ArcGIS to</p> <p>22 get a better quality map. But as it turned out, we</p> <p>23 ended up not being asked to do that.</p> <p>24 Q. Now, you mentioned GIS having a lot of</p> <p>25 experience with mapping. Do you have -- do you know</p>
<p>Page 41</p> <p>1 that just collaborative process of working with</p> <p>2 colleagues about how we were going to proceed.</p> <p>3 Q. And how did you ultimately determine to divvy up</p> <p>4 responsibility for map drawing?</p> <p>5 A. Well, we -- when members were told who would be</p> <p>6 working on this, Michelle's name and my name was</p> <p>7 provided and so they would go to whoever they wanted</p> <p>8 to go to. She was -- she was also an attorney and so</p> <p>9 she had bill-drafting responsibility. So if she got a</p> <p>10 little behind or had a high volume of work, she might</p> <p>11 get a map request from a member, and she might forward</p> <p>12 that to me and say, I'm pretty swamped right now, can</p> <p>13 you assist member so-and-so with their map request,</p> <p>14 and then I would do that.</p> <p>15 Q. But members could either contact you directly,</p> <p>16 or you could receive requests through Ms. Davenport?</p> <p>17 A. That's correct, mm-hmm.</p> <p>18 Q. So you never received -- did you ever receive</p> <p>19 any documents identifying your responsibilities?</p> <p>20 A. I don't believe there was ever anything written</p> <p>21 down saying exactly what I was expected to do, no.</p> <p>22 Q. And you mentioned two people who you spoke with</p> <p>23 one time in order to -- who had previously worked on</p> <p>24 redistricting.</p> <p>25 Did you consult with anyone else as you</p>	<p>Page 43</p> <p>1 why they weren't given the responsibility to develop</p> <p>2 congressional maps this cycle?</p> <p>3 A. Well, as I understand it, it is the General</p> <p>4 Assembly's responsibility to do congressional</p> <p>5 redistricting.</p> <p>6 And I'm sorry. I didn't think about</p> <p>7 looking at that, but I don't know if that's a</p> <p>8 statutory or constitutional responsibility, but it's</p> <p>9 my understanding it is -- it's the responsibility of</p> <p>10 the General Assembly to do those maps.</p> <p>11 Q. And GIS could not have consulted with the</p> <p>12 General Assembly in order to develop maps, given their</p> <p>13 experience?</p> <p>14 A. I'm not -- I don't know if I can answer that.</p> <p>15 They are an executive branch agency, and the General</p> <p>16 Assembly obviously is legislative. So I don't, you</p> <p>17 know, know if that was the reason. But historically</p> <p>18 our staff have provided staff support to assist the</p> <p>19 members in the doing the congressional redistricting</p> <p>20 process, as I understand it.</p> <p>21 Q. Do you know what the American Community Survey</p> <p>22 is?</p> <p>23 A. Roughly.</p> <p>24 Q. What do you understand it to be?</p> <p>25 A. It's a census survey that -- it's more of an</p>

<p>Page 44</p> <p>1 estimate, as opposed to an exact count, which I</p> <p>2 understood the decennial censuses are an actual --</p> <p>3 exact as they can get them. I know it's never 100</p> <p>4 percent precise. But ACS is more of a sampling type</p> <p>5 survey of population characteristics.</p> <p>6 Q. Did you do any practice drawing maps with ACS</p> <p>7 survey projected census data?</p> <p>8 A. Yes.</p> <p>9 Q. When did you do that?</p> <p>10 A. Oh, I couldn't tell you the exact dates or</p> <p>11 anything, but I know that because everything was so</p> <p>12 delayed that the Geographic Information System Office,</p> <p>13 which was the one that actually entered into the</p> <p>14 contract with Citygate, which produces autoBound, they</p> <p>15 just determined that it might be helpful if they put</p> <p>16 in the 2019 ACS data, or the American Community Survey</p> <p>17 data, so that we could go ahead and just be using the</p> <p>18 software, becoming familiar with it. I don't -- and</p> <p>19 if anyone wanted to use -- or see a map with the more</p> <p>20 recent data than 2010, they could.</p> <p>21 Q. And did you end up drawing any maps using ACS</p> <p>22 data that were proposed in the legislative process?</p> <p>23 A. I don't believe so. I don't believe any of the</p> <p>24 ones that we did -- I wouldn't swear to it, but I</p> <p>25 don't think any of the '19 -- the ones using '19 data</p>	<p>Page 46</p> <p>1 many I might have done using the '19 data as just an</p> <p>2 example, I don't -- but it was available. I did</p> <p>3 practice with 2019 data.</p> <p>4 Q. But you considered maps with 2019 data more</p> <p>5 practice maps, not maps that were viable proposals for</p> <p>6 the legislative process?</p> <p>7 A. Correct.</p> <p>8 Q. Did you familiarize yourself with the</p> <p>9 map-drawing software autoBoundEDGE before the 2020</p> <p>10 census results were released?</p> <p>11 A. Yes.</p> <p>12 Q. And who did you work with in so doing?</p> <p>13 A. Well, as I mentioned before, Geographic</p> <p>14 Information System Office gave us some assistance</p> <p>15 because they were familiar with the software. And we,</p> <p>16 again, working as colleagues, Michelle and I worked --</p> <p>17 you know, were trying to learn it at the same time,</p> <p>18 and we may have helped each other.</p> <p>19 I know I prepared -- anytime I learned</p> <p>20 something new, I tried to write it down and create</p> <p>21 some screenshots so that I could replicate that later,</p> <p>22 and I would -- I shared some of that material with</p> <p>23 Michelle and Matthew in case it would help them. I</p> <p>24 don't know if they ever used it or needed it, but...</p> <p>25 Q. And I believe you mentioned you attended some</p>
<p>Page 45</p> <p>1 were ever considered as an actual bill. I think all</p> <p>2 of it was 2020 by that point.</p> <p>3 Q. And 2019 ACS data is what you're referring to?</p> <p>4 A. Yes. I don't think any of the 2019 maps -- and</p> <p>5 I don't know that there were many of them, but -- were</p> <p>6 ever considered by the General Assembly when they were</p> <p>7 considering congressional maps.</p> <p>8 Q. Is it fair to say that -- were you using --</p> <p>9 strike that.</p> <p>10 Is it fair to say that you were using</p> <p>11 the 2019 ACS data to practice drawing maps?</p> <p>12 A. Yes.</p> <p>13 Q. And that similarly some legislators may have</p> <p>14 been using 2019 data to also practice maps as you were</p> <p>15 awaiting the official census results?</p> <p>16 MR. TALLEY: Object to form.</p> <p>17 I'll instruct the witness not to answer</p> <p>18 on privilege grounds to the extent it calls</p> <p>19 for some legislative communication,</p> <p>20 information you learned from a member, or a</p> <p>21 request for a member. But otherwise the</p> <p>22 witness is free to answer. I'm just a</p> <p>23 little muddy on it.</p> <p>24 A. I couldn't -- I couldn't say for sure that I --</p> <p>25 how many. I might have done one. I don't know how</p>	<p>Page 47</p> <p>1 trainings on the software?</p> <p>2 A. I participated in one virtual training in</p> <p>3 February of 2021.</p> <p>4 Q. Any other trainings?</p> <p>5 A. No. Now, we did have a number of questions</p> <p>6 about the software, and we did -- I did interact with</p> <p>7 Mr. Fred Hejazi, who helped us -- helped me. You</p> <p>8 know, when I was having difficulty getting something</p> <p>9 to work properly, he would help provide technical</p> <p>10 assistance.</p> <p>11 MR. TALLEY: Can you spell "Hejazi" for</p> <p>12 our court reporter?</p> <p>13 THE WITNESS: I'll try. H-e-j-a-z-i, I</p> <p>14 believe.</p> <p>15 (BY MS. ADEN:)</p> <p>16 Q. Besides Mr. Hejazi, was there anyone else who</p> <p>17 you worked with on the software autoBoundEDGE?</p> <p>18 A. I believe the person I talked with most at</p> <p>19 Geographic Information System Office, GISO,</p> <p>20 whatever -- however you want to call it, it was Thomas</p> <p>21 Melton. He was -- and he was someone who worked there</p> <p>22 and did -- and I think had a lot of familiarity with</p> <p>23 ArcGIS and so he was a good technical support for me.</p> <p>24 When I would run across a problem or something that I</p> <p>25 couldn't -- didn't know how to do, he would help me</p>

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<p>1 with it.</p> <p>2 Q. And those communications with Mr. Melton or</p> <p>3 Mr. Hejazi, were those over email or phone? How did</p> <p>4 you communicate with them?</p> <p>5 A. Both.</p> <p>6 Q. Did you draw proposed congressional maps for the</p> <p>7 post-2020 redistricting cycle after receiving the</p> <p>8 official census results?</p> <p>9 A. Yes, I did draw maps in the software using the</p> <p>10 2020 data, if I understood your correction -- question</p> <p>11 correctly.</p> <p>12 Q. Let me show you BLR-Byrd-FOIA-1162, and we're</p> <p>13 marking that as Exhibit 1.</p> <p>14 (Exhibit 1 marked for identification.)</p> <p>15 Q. This is an email from Julie Holt to Matthew</p> <p>16 Miller dated January 15th, 2021. You can take a look</p> <p>17 at that.</p> <p>18 MR. TALLEY: Glad someone decided to put</p> <p>19 Bates numbers on these FOIA request</p> <p>20 responses.</p> <p>21 MR. BRASCHER: Very nice, actually.</p> <p>22 (BY MS. ADEN:)</p> <p>23 Q. There's correspondence, again, from Ms. Holt to</p> <p>24 Mr. Miller that indicates, quote, "Lori told him that</p> <p>25 you and Michelle could be drawing maps as well."</p>	<p>1 some familiarity with it, but I don't know that he --</p> <p>2 I couldn't say if he did or did not draw a map. I</p> <p>3 couldn't tell you.</p> <p>4 Q. When did you receive the official census</p> <p>5 results?</p> <p>6 A. I believe it was in August of 2021. For some</p> <p>7 reason, the 12th, roughly, is when it was released.</p> <p>8 I'm not sure what date we actually got access to it.</p> <p>9 It was much quicker than we thought because they had</p> <p>10 initially said that it might take them, you know, a</p> <p>11 week to ten days to get it all set up in the software,</p> <p>12 but I don't think it took them nearly that long. It</p> <p>13 was quite a bit shorter, as I recall.</p> <p>14 Q. And do you recall, approximately, when you</p> <p>15 started drawing proposed congressional maps with the</p> <p>16 official census results?</p> <p>17 A. It would have just been when we got the first</p> <p>18 request, you know, after having it loaded and ready to</p> <p>19 be -- to be used, but I don't know the first date that</p> <p>20 we got a request following its availability.</p> <p>21 Q. Do you think it would have been in August of</p> <p>22 2021?</p> <p>23 A. Probably.</p> <p>24 Q. Now, I believe you mentioned that you would have</p> <p>25 drawn proposed congressional maps for other BLR staff;</p>
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<p>1 We've discussed before that you became</p> <p>2 aware that you were going to be drawing proposed</p> <p>3 congressional redistricting maps. Does this reflect</p> <p>4 an understanding from Ms. Holt and Mr. Miller that</p> <p>5 that indeed would be one of your responsibilities this</p> <p>6 cycle?</p> <p>7 A. Yes. And I'll be honest. I don't know that</p> <p>8 I've seen this particular one before, so I apologize.</p> <p>9 I was reading as you were talking.</p> <p>10 But I think this properly reflects.</p> <p>11 Like I said, Matthew, Michelle, and I were the ones</p> <p>12 designated as the staff that would be working to</p> <p>13 support the redistricting process, and Tim is, you</p> <p>14 know, our IT person who did all the installation of</p> <p>15 all the software and did all the technical things. So</p> <p>16 I assume that's why she was involved, letting him</p> <p>17 know.</p> <p>18 Q. Now, you mentioned Matthew Miller. Did he -- as</p> <p>19 you understand it, did he also draw proposed</p> <p>20 congressional maps?</p> <p>21 A. Not that I'm aware of. He's actually</p> <p>22 Michelle -- was Michelle's supervisor at that time,</p> <p>23 and I don't believe he did. But he may -- he did</p> <p>24 participate in that -- in that online training I</p> <p>25 mentioned to you on the software. So he may have had</p>	<p>1 is that correct?</p> <p>2 A. Well, only Michelle, and only -- it would not</p> <p>3 have been for a staff person. It would have been a</p> <p>4 member request that she conveyed to me if she was --</p> <p>5 had too full of a plate and needed assistance.</p> <p>6 Q. Do you know about how many of those that would</p> <p>7 have been?</p> <p>8 A. I really don't. I'm sorry. It happened more</p> <p>9 than once for sure, but I couldn't tell you how many</p> <p>10 times.</p> <p>11 Q. And when you drew proposed congressional maps</p> <p>12 for legislative members, do you recall approximately</p> <p>13 how many maps you would have drawn?</p> <p>14 A. It would vary for -- you know, it just -- it was</p> <p>15 just contingent on the members. You know, if they</p> <p>16 looked at it and wanted changes, then we'd do that.</p> <p>17 MR. TALLEY: I'll stop you, and instruct</p> <p>18 you not to share any specific communications</p> <p>19 you had with members. To the extent the</p> <p>20 question calls for how many maps did you</p> <p>21 draw, you're free to answer. But I'm</p> <p>22 instructing the witness not to share any</p> <p>23 specific communication with members.</p> <p>24 Go ahead.</p> <p>25 A. So members wanted more than one iteration of</p>

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1	a -- you know, of a map. They would ask for more than	1	needing to show her the map per se, you know.
2	one.	2	Q. What do you consider a technical issue?
3	Q. So you might draw a map, send it to a member --	3	A. If I was having trouble with a block assign --
4	A. Mm-hmm.	4	you know, it was literally sometimes if I was having
5	Q. -- and hear nothing back?	5	trouble getting a block to assign to a particular
6	A. That was possible.	6	district, I would say, "Have you ever encountered
7	Q. But you also might draw a map, send it to a	7	that," you know. Sometimes I would just have to start
8	member, and you might have back-and-forth	8	over again because some -- there would be times it
9	conversations about revising the map; is that fair to	9	would just, I probably had clicked it too much and it
10	say?	10	would just get stuck and so I'd have to just get out
11	A. That could happen as well, yes.	11	and start over.
12	Q. Is that what most commonly happened, that you	12	Q. Any other issue -- technical issues that you
13	had back-and-forth with members?	13	might ask about?
14	A. I don't know that I can accurately answer that.	14	A. Well, we had some issues come up over, you know,
15	It did happen, I can say that.	15	the period of months, and I interacted with Geographic
16	Q. Were there particular members that you --	16	Information System Office on that, as well as
17	without going into the substance of that, were there	17	Mr. Hejazi if we ran into problems with -- you know,
18	particular members that you more regularly interacted	18	for -- I think one example is for some reason, my
19	with then other legislative members?	19	numbers of the districts would show up on the screen,
20	MR. TALLEY: I'll instruct the witness	20	but when I went to print them, they wouldn't print.
21	that she can answer that "yes" or "no," but	21	And so I -- that was one problem I remember
22	without revealing the identity of any	22	encountering. And so I would -- I talked to Michelle
23	specific member.	23	about it, see if she knew any solutions, but I also
24	Subject to that limitation, the witness	24	talked to the other two that I just mentioned for
25	is free to answer.	25	technical assistance.
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1	A. I guess, yes, but maybe we had some ask for more	1	Q. Before sending maps to legislative members, did
2	than others, if that answers your question.	2	you have to get approval from anyone on the map?
3	Q. And did you draw maps for both political	3	A. Before sending it to the members?
4	parties, major political parties?	4	Q. Mm-hmm.
5	A. Yes, mm-hmm. Well, I say yes. It was for	5	A. No, no. I would draw it as best I understood
6	members that belonged to each party.	6	their instructions and then I would convey it to them
7	Q. Okay. What did you do with the draft maps after	7	directly and await any instructions they might have.
8	you drew them?	8	Q. Do you recall ever sending a map that you drew
9	A. Pardon me?	9	to anyone who was not a legislator and that copied a
10	Q. Let me ask it better.	10	legislative member on that email?
11	After you drew them, in addition to	11	A. Yes.
12	sending them to legislative members, did you store	12	Q. Who?
13	them in any particular place?	13	A. I think it's the ones I've already mentioned to
14	What did you do with the maps?	14	you this morning, that I was instructed to copy.
15	A. I did have a place where I retained all of the	15	Q. Valley, Gray, and --
16	work that I did, and it was organized by member name.	16	A. Freeman, yes.
17	And then I would immediately convey it to that member	17	Q. But I understood that a legislator was copied on
18	via email.	18	the maps when you send them to the --
19	Q. Would you share each of the maps that you drew	19	A. I would always send it to the member and then
20	with anyone else among the BLR staff?	20	copy those other people.
21	A. I never had occasion to that I recall. Now, if	21	I may not be understanding your question
22	I had a problem with a map, I might have asked	22	correctly, but -- but if they asked me to send it or
23	Michelle and said I'm having difficulty with this one.	23	include other -- those others, individuals, as they
24	That could have happened, you know, and she -- but it	24	did, then I would copy them on that email.
25	would have been a technical issue, not necessarily	25	Q. But did you ever send a proposed congressional



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<p>1 map to anyone that did not copy a legislative -- a</p> <p>2 legislator on it?</p> <p>3 Did you just email them directly without</p> <p>4 copying a legislator on it?</p> <p>5 A. That might have happened, but only -- I would</p> <p>6 have copied the member. Even if they asked me to send</p> <p>7 something to someone, I would have cc'd the member.</p> <p>8 If I got a direct request, send this to so-and-so, and</p> <p>9 I -- I'm just less clear exactly on that.</p> <p>10 But on the instance that we've talked</p> <p>11 about, I know at one point they said please send this</p> <p>12 to so-and-so, and I did, but I think I would have -- I</p> <p>13 almost certainly -- I could be wrong but I almost</p> <p>14 certainly would have copied the member because I don't</p> <p>15 do anything under my own authority, only under the</p> <p>16 instruction of a member.</p> <p>17 Q. Where did you learn that you were to only draw</p> <p>18 maps at the instruction of a member, or a member of</p> <p>19 the legislative staff?</p> <p>20 A. Well, that's kind of our entire culture. We</p> <p>21 don't do any research. We don't do any of our work,</p> <p>22 at least in my area, other than the statutorily</p> <p>23 required adequacy study. We only research things that</p> <p>24 we're asked to research by members at their direction.</p> <p>25 So that's kind of our main operating procedure.</p>	<p>1 A. I think that was it. There were -- I think</p> <p>2 primarily what we did, and I won't -- I didn't look at</p> <p>3 this, so I don't remember, but -- exactly what we gave</p> <p>4 to State Agencies, but they're -- for each map, we</p> <p>5 would have just a single map that showed all four</p> <p>6 districts and then it would have four parts where it</p> <p>7 would show each individual district, and it would say</p> <p>8 what the population target was, what that map</p> <p>9 accomplished in terms of population, and what the</p> <p>10 variance was.</p> <p>11 So that detail may have been shared with</p> <p>12 the committees. I just don't remember for sure.</p> <p>13 Q. Would the maps include reports on the racial</p> <p>14 makeup of districts?</p> <p>15 A. I don't believe so, no. Just the population</p> <p>16 variances, I believe.</p> <p>17 Q. Would the maps include any analysis of what</p> <p>18 criteria the maps met or did not meet?</p> <p>19 A. No.</p> <p>20 Q. Let me mark as Exhibit 2 what is Bates-stamped</p> <p>21 as BLR-CMA-04235. It's titled the Timeline For</p> <p>22 Congressional Redistricting Legislation 2021 Extended</p> <p>23 Session of the 93rd General Assembly.</p> <p>24 (Exhibit 2 marked for identification.)</p> <p>25 MR. TALLEY: Leah, whenever you get to a</p>
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<p>1 So I'm not sure if anyone shared that</p> <p>2 with me as a special instruction for redistricting,</p> <p>3 that's just sort of how we operate.</p> <p>4 Q. So you would never draw maps for members of the</p> <p>5 public?</p> <p>6 A. No. No, we're not allowed to do that, unless</p> <p>7 the member specifically asked us to work with someone</p> <p>8 else.</p> <p>9 Q. Besides emailing maps, did you transmit maps to</p> <p>10 anyone using any other form?</p> <p>11 A. I may have given a hard copy to a member. You</p> <p>12 know, I may have printed some things out and handed</p> <p>13 them to a member.</p> <p>14 Once the committees began to consider</p> <p>15 maps, we would -- we did prepare some maps for</p> <p>16 handouts, for the State Agencies committees, the House</p> <p>17 and Senate state agencies. But other than for those</p> <p>18 types of purposes, no, we didn't.</p> <p>19 Q. And that would be copying maps that had been</p> <p>20 proposed and giving them as is?</p> <p>21 A. As billed. Once they were in the public domain,</p> <p>22 yes, and were going to be considered by the</p> <p>23 committees.</p> <p>24 Q. And you mentioned printing maps. What else</p> <p>25 might you print alongside the maps?</p>	<p>1 good stopping point -- we've been going over</p> <p>2 an hour -- take a break. That's up to you.</p> <p>3 MS. ADEN: Let me ask one or two more</p> <p>4 questions, then we can.</p> <p>5 MR. TALLEY: It's your deposition.</p> <p>6 (BY MS. ADEN:)</p> <p>7 Q. Do you recognize this document?</p> <p>8 A. I believe so. Yes, mm-hmm.</p> <p>9 Q. What is it?</p> <p>10 A. I think it was -- it's a timeline. It says for</p> <p>11 how things were expected to go for the congressional</p> <p>12 redistricting process. And kind of the title does,</p> <p>13 well, describe it.</p> <p>14 Q. I want to direct you to under the September 1,</p> <p>15 2021, heading. There's a bullet that says, "Lori</p> <p>16 Bowen and Michelle Davenport, with the Bureau, will be</p> <p>17 able to assist members with draft map and legislation</p> <p>18 requests," and it provides your contact information.</p> <p>19 Is that an accurate reflection of what</p> <p>20 you understood was told to members of the legislative</p> <p>21 assembly?</p> <p>22 A. Yes. Yes.</p> <p>23 Q. And below that it says, "Draft maps and</p> <p>24 legislation will require at least three days to be</p> <p>25 completed by the bureau staff."</p>

<p>Page 60</p> <p>1 Is that how long you understood it would</p> <p>2 take, at minimum, to develop a proposed congressional</p> <p>3 map?</p> <p>4 A. I think that was just the outside time frame.</p> <p>5 It generally did not take that long.</p> <p>6 Q. It would take less?</p> <p>7 A. It would take less, yes, generally.</p> <p>8 Q. How long might it take to develop a proposed</p> <p>9 congressional map?</p> <p>10 A. Gosh, I haven't thought about how to quantify</p> <p>11 that. It depended on the level of detail, you know,</p> <p>12 that they provided. If it was just the selection of</p> <p>13 counties, you know, it went much more quickly than if</p> <p>14 we had a lot of precinct level detail to select. But</p> <p>15 it never took three days, I don't believe.</p> <p>16 Q. So is it fair to say that a legislator generally</p> <p>17 could request congressional districts with specific</p> <p>18 counties in each congressional district?</p> <p>19 A. They could, yes.</p> <p>20 Q. And is it fair to say that they could also</p> <p>21 specifically request that particular precincts be</p> <p>22 included in particular districts?</p> <p>23 A. Yes. They could also go down to the precinct</p> <p>24 level, yes.</p> <p>25 Q. Is there other ways that you would describe the</p>	<p>Page 62</p> <p>1 limitation.</p> <p>2 Go ahead.</p> <p>3 A. Sometimes it would be the actual geographies</p> <p>4 they would instruct us. Sometimes they would provide</p> <p>5 a picture of a map that they -- there were a few other</p> <p>6 online softwares that were available, and sometimes it</p> <p>7 would be a picture of that and we would approximate it</p> <p>8 as best we could and then await their instructions as</p> <p>9 to whether or not we properly captured what they were</p> <p>10 hoping for.</p> <p>11 Q. Do you know where -- you mentioned picture of a</p> <p>12 map found online. Do you know where online the source</p> <p>13 of that map might be?</p> <p>14 A. There were a couple of programs, which I have no</p> <p>15 familiarity with and I never worked in, but Dave's</p> <p>16 Redistricting and Districtr were two that I saw. But</p> <p>17 a map had been prepared in those that they -- that</p> <p>18 they might then send a picture of it to me, and then I</p> <p>19 would, as I mentioned, to the greatest extent</p> <p>20 possible, I would try to replicate that and then await</p> <p>21 their instructions if I'm -- if it was close enough or</p> <p>22 not.</p> <p>23 Q. Do you recall, generically, without attaching it</p> <p>24 to any specific legislator, anyone ever asking that a</p> <p>25 district be drawn with a specific racial makeup?</p>
<p>Page 61</p> <p>1 requests that you got, generally -- strike that.</p> <p>2 Generically, what are some other types</p> <p>3 of requests that you might get, besides having</p> <p>4 specific counties in districts or having particular</p> <p>5 precincts in districts, how else might you describe</p> <p>6 the types of requests that you receive?</p> <p>7 MR. TALLEY: I'll instruct the witness</p> <p>8 not to share any specific communications or</p> <p>9 specific requests made by a member.</p> <p>10 Otherwise, the witness is free to answer,</p> <p>11 though (indiscernible).</p> <p>12 THE STENOGRAPHER: Can you repeat that</p> <p>13 last part?</p> <p>14 MR. TALLEY: Frankly, I'm a little murky</p> <p>15 as to what the question is asking.</p> <p>16 Go ahead, if you understand the</p> <p>17 question.</p> <p>18 (BY MS. ADEN:)</p> <p>19 Q. Do you understand my question?</p> <p>20 Could you give me exemplars of the types</p> <p>21 of requests that you would get generically, without</p> <p>22 identifying any specific member or identifying the</p> <p>23 request as being related to any particular member?</p> <p>24 What types of requests would you get?</p> <p>25 MR. TALLEY: Same instruction; same</p>	<p>Page 63</p> <p>1 MR. TALLEY: I will object to that</p> <p>2 question and instruct the witness not to</p> <p>3 answer it on legislative privilege grounds.</p> <p>4 MS. ADEN: Even though it is not</p> <p>5 identifying a specific member, even though</p> <p>6 it is not tethered to any particular</p> <p>7 request, but generically. It's a yes-or-no</p> <p>8 type of question.</p> <p>9 MR. TALLEY: And I'm happy to explain</p> <p>10 this.</p> <p>11 Do you want me to go ahead and explain</p> <p>12 it on the record?</p> <p>13 MS. ADEN: Yes, please.</p> <p>14 MR. TALLEY: Okay. And you want the</p> <p>15 witness in here?</p> <p>16 MS. ADEN: Yes, please.</p> <p>17 MR. TALLEY: Okay. Just making sure.</p> <p>18 So I let this go a minute, now I'm --</p> <p>19 and I appreciate your questions as phrased</p> <p>20 calling for generic information. And I've</p> <p>21 been sensitive to that.</p> <p>22 I've given a little bit of leeway, but</p> <p>23 now we're getting granular enough that the</p> <p>24 question as posed to the witness would lead</p> <p>25 to the discovery of information that is</p>

<p>1 privileged because it has enough granularity 2 as to the specific nature of a request that 3 I think it would fall under privilege. 4 Now, if you ask the question again, I'll 5 reconsider it, but I think we're getting 6 specific enough that it could lead down the 7 road of clearly privileged matters. 8 So if you want to ask that question 9 again, I'll reconsider it because I'm not 10 trying to disrupt this at all. I think I've 11 been pretty generous in the leeway I've 12 given, but go ahead and ask it again and 13 I'll reconsider it. 14 (BY MS. ADEN:) 15 Q. Generically, without identifying any specific 16 legislator or any specific request, did you ever 17 receive a request that a district be comprised of a 18 specific racial makeup? 19 A. Not that I'm aware of. 20 Q. What about a specific political makeup? 21 A. No, because we didn't have political data in the 22 software. 23 Q. Okay. 24 MS. ADEN: I think we can take a break. 25 (Recess from 10:12 a.m. to 10:26 a.m.)</p>	<p>Page 64</p> <p>1 litigation hold letter to preserve all documents you 2 created or sent during this redistricting cycle? 3 A. I don't believe so. I don't know what that is, 4 to be honest with you. I don't know what a "legal 5 hold" means, but I don't recall anything like that. 6 Q. Were you ever asked to preserve all of your work 7 around congressional redistricting this cycle? 8 A. Hmm. I'm not sure I was asked to do that, but I 9 did. I kept everything. 10 Q. And to this day, have you kept everything that 11 you did with respect to redistricting? 12 A. Yes. Yes, mm-hmm. 13 Q. And where is that kept? 14 A. I guess on our servers, I guess you would say. 15 Q. And by "our," is that BLR? 16 A. The BLR, yes, mm-hmm. And I have some hard copy 17 materials, too, but primarily it's on our servers. 18 Q. Were you asked by counsel to produce any of 19 those documents, whether on your server or in hard 20 copy, for this case? 21 MR. TALLEY: Objection. That plainly 22 calls for privileged communication, so I'll 23 instruct the witness not to answer. 24 (BY MS. ADEN:) 25 Q. Were you -- did you collect documents for</p> <p>Page 66</p>
<p>1 (BY MS. ADEN:) 2 Q. Ms. Bowen, are there any BLR rules that guide 3 your interactions with legislators? 4 A. Yes. We are required to maintain 5 confidentiality on all of our communications with 6 members. 7 Q. And what did you understand that to mean? 8 A. That we don't -- that we don't share -- other 9 than with -- we can share with other staff if, you 10 know, like something that they want, it goes beyond 11 our scope. Like, if I get a research request that is 12 obviously going to involve some kind of a legal 13 component or a fiscal component, we can share with 14 other staff, but we don't share that outside of our -- 15 our bureau staff, unless we are specifically 16 instructed to by the -- by the member. 17 Q. And if a member, for example, proposed a 18 congressional map, you would not share with any other 19 legislator unless specifically instructed by that 20 requesting legislator? 21 A. Correct, yes. 22 Q. And did you consider the work you did drafting 23 congressional maps confidential or nonpublic? 24 A. Yes. 25 Q. Were you ever provided a legal hold or</p> <p>Page 65</p>	<p>1 purposes of this case to share with counsel? 2 MR. TALLEY: That's fine. You can 3 answer that. 4 A. Well, I personally did not collect them. I 5 mean, I have shared some material with them, but I 6 think the biggest -- I'm not sure where they got all 7 of it unless they went through our, you know, IT 8 people. 9 Q. So you personally did not collect documents for 10 this case in order to share with counsel? 11 A. No. Like I said, I've shared a few documents, 12 but the bulk of what's available, I don't think I 13 compiled that myself -- 14 Q. And when you -- 15 A. -- to give to counsel. 16 Q. Excuse me. 17 And when you shared a few documents, was 18 it in preparation for this deposition, or was it prior 19 to that time? 20 A. Preparation for this deposition. 21 MR. TALLEY: And I can go and clean that 22 up on the record. The supplemental 23 privilege log I provided this week was 24 generated in response to some additional 25 documents that Ms. Bowen provided to me.</p> <p>Page 67</p>

<p>Page 68</p> <p>1 MS. ADEN: Okay.</p> <p>2 MR. TALLEY: That were privileged, and</p> <p>3 we listed them on privilege log and served a</p> <p>4 supplement.</p> <p>5 (BY MS. ADEN:)</p> <p>6 Q. But prior to that recent collection, you had not</p> <p>7 personally gone through your records related to</p> <p>8 congressional redistricting to collect documents to</p> <p>9 share with counsel?</p> <p>10 A. No.</p> <p>11 Q. Did you create any training materials for</p> <p>12 legislators during the redistricting cycle?</p> <p>13 A. No. As I mentioned, I put -- anytime I learned</p> <p>14 something about the software, I would write it out. I</p> <p>15 put it in a Word file, and I shared that with Michelle</p> <p>16 and Matthew, but never with a member. And that was</p> <p>17 just technical software issue things.</p> <p>18 Q. Did you ever create any binders for legislators</p> <p>19 during the redistricting process?</p> <p>20 A. No.</p> <p>21 Q. Did you ever create any reports for legislators</p> <p>22 during the redistricting process?</p> <p>23 A. I'm not sure what -- by "report," what exactly</p> <p>24 do you mean?</p> <p>25 Q. Any analyses about the maps -- so stepping back.</p>	<p>Page 70</p> <p>1 A. Correct, right.</p> <p>2 Q. But you would sometimes get requests for</p> <p>3 demographic information that you would then provide to</p> <p>4 legislators?</p> <p>5 A. Upon request, yes.</p> <p>6 Q. And that is because the software, the</p> <p>7 autoBoundEDGE program, allowed you to -- is that</p> <p>8 because the autoBound software program allowed you to</p> <p>9 run detailed demographic reports of the racial</p> <p>10 breakdowns of particular maps?</p> <p>11 A. What I recall -- and I don't know of every</p> <p>12 reporting function that the program did. I know the</p> <p>13 ones that we were instructed to use. At the bottom of</p> <p>14 the screen, it gave -- it had a little grid that would</p> <p>15 provide that demographic breakdown that I mentioned to</p> <p>16 you earlier. It was like white, black, Hispanic, then</p> <p>17 total minority. And then it did it also for voting</p> <p>18 age population, the same breakdown. But that was as</p> <p>19 far as it went.</p> <p>20 Q. When you were drawing maps, would you see that</p> <p>21 bar at the bottom of the screen?</p> <p>22 A. Yes.</p> <p>23 Q. So when you were moving geographic features,</p> <p>24 moving voters in and out of a district, you would see</p> <p>25 the racial demographic numbers change as you were</p>
<p>Page 69</p> <p>1 I believe you earlier testified, and</p> <p>2 correct me if I'm wrong, that you would share proposed</p> <p>3 maps with legislators?</p> <p>4 A. Mm-hmm.</p> <p>5 Q. And I believe -- is that correct?</p> <p>6 A. Yes.</p> <p>7 Q. And I'm --</p> <p>8 A. Per their instructions.</p> <p>9 Q. And I believe that you also testified that</p> <p>10 you -- those maps often did not contain demographic</p> <p>11 reports; is that fair to say?</p> <p>12 A. Right. I mean, I think it gave population</p> <p>13 variances by district.</p> <p>14 Q. So outside of sharing the maps, I guess my</p> <p>15 question is: Did you develop any reports, any</p> <p>16 analysis, outside of the population numbers to go</p> <p>17 alongside maps that you shared with legislators?</p> <p>18 A. They may have asked for demographic breakdown.</p> <p>19 Wasn't an all -- every time that that was requested,</p> <p>20 but I think it was asked for.</p> <p>21 Q. So to be clear, it wasn't your practice when you</p> <p>22 shared a map --</p> <p>23 A. Right.</p> <p>24 Q. -- to necessarily provide a demographic</p> <p>25 breakdown outside of the population variances numbers?</p>	<p>Page 71</p> <p>1 moving things?</p> <p>2 A. I believe so, yes. I didn't really look at them</p> <p>3 that closely because it would -- as frequently but,</p> <p>4 yes, I think it did adjust as we changed the</p> <p>5 geographies.</p> <p>6 Q. But they are at the bottom of the screen?</p> <p>7 A. Mm-hmm.</p> <p>8 Q. So you don't have to move to another screen?</p> <p>9 A. No, no.</p> <p>10 Q. You see them at the bottom of the screen --</p> <p>11 A. Correct.</p> <p>12 Q. -- as they are being -- as you are making</p> <p>13 changes?</p> <p>14 MR. TALLEY: Okay. Let her finish her</p> <p>15 question.</p> <p>16 THE WITNESS: Okay.</p> <p>17 MR. TALLEY: Then you can give your</p> <p>18 answer. We're going to kill the court</p> <p>19 reporter.</p> <p>20 THE WITNESS: Sorry.</p> <p>21 MR. TALLEY: You can go ahead and reask</p> <p>22 the question.</p> <p>23 (BY MS. ADEN:)</p> <p>24 Q. Let me back up.</p> <p>25 When you are developing proposed maps</p>



<p>Page 72</p> <p>1 and moving voters around, you are seeing the racial 2 breakdown at the bottom of the screen. It does not 3 require you to go to another screen or anything, but 4 you're seeing that as you're moving voters; is that 5 correct? 6 A. Yes. 7 Q. And is that -- can you describe a little bit 8 more generically what you are seeing? 9 Are you seeing a percentage -- a total 10 percentage broken down by those racial demographic 11 categories? What are you seeing? 12 A. I don't have it memorized, but I believe it gave 13 the target population for each district and then it 14 gave -- I can't remember if it was an actual number 15 or -- but I do believe for sure that there was a 16 percentage there. 17 So I think after it gave the target 18 population, then it gave the percentage of that and 19 then the actual population that had been assigned to 20 each of those in the map. And then it would tell the 21 percentages for those categories I mentioned earlier 22 is my recollection. I could be wrong, but I think 23 that's how it showed up. 24 And then it would further say then the 25 voting age percentage of that total population and</p>	<p>Page 74</p> <p>1 converted that to a Word file for some. I don't know 2 that I did it every single time. But some of it might 3 just be handwritten on a legal pad. There was no 4 single dedicated legal pad. 5 Q. And you would -- and you have preserved both any 6 of the Word documents you might have created and any 7 of the legal pads where you would have taken those 8 notes? 9 A. Yes. 10 Q. For your work, what email or email accounts did 11 you use? 12 A. My work email account. Do you want me to give 13 it to you? It's bowenl@blr.arkansas.gov. 14 Q. Did you use any other email account? 15 A. No, not that I'm aware of. Just my work email. 16 Q. So you don't recall using any personal emails in 17 order to -- 18 A. No, I would not have done that. I don't 19 believe. 20 Q. Did you have a work cell phone? 21 A. No. 22 Q. So you have a personal phone? 23 A. I do. 24 Q. And would you -- the calls that you had 25 mentioned, for example, with Mr. Gray or Mr. Valley,</p>
<p>Page 73</p> <p>1 then it would say the same demographic breakdown for 2 the voting age group. 3 Q. And you mentioned -- so if you were moving a 4 particular bloc of people, is it fair to say you would 5 see the total voting age population of that bloc of 6 people being moved and the total racial voting age 7 population of that particular people as they are being 8 moved? 9 A. I would think so, yes. 10 Q. Did you take any handwritten notes during the 11 redistricting process? 12 A. Yes. 13 Q. As you were drawing maps and moving voters 14 around, would you be taking notes while you're -- 15 while doing so? 16 A. I don't believe so. I think what I was thinking 17 of is if I ever got a verbal request for a map, I 18 might jot down the instructions. Or I would jot down 19 the instructions. 20 Q. And where -- where would you do that? So you 21 have one notebook? Did you do it on a computer with a 22 notes function? 23 A. Probably, I might -- depending on time 24 availability, I might actually take my notes -- 25 because my handwriting can be sloppy, I might have</p>	<p>Page 75</p> <p>1 you would have taken those -- any calls with those 2 people on your personal cell phone? 3 A. It's possible because where the computer was 4 located, there was not an office phone. 5 Q. So any calls that you would have had with 6 legislators would have been made on your personal 7 phone? 8 A. If I was in the map-drawing room. If I was in 9 my office, it would have been on my office phone more 10 than likely. I guess they could have called me on my 11 cell phone, but I would think, you know, it would be 12 on my work number. 13 Q. Okay. So you mentioned your personal office and 14 a map room. 15 A. Mm-hmm. 16 Q. Were those two places where you would have drawn 17 proposed maps? 18 A. Actually, really when we started doing the 19 actual maps, I only did them in -- I mean, I call it 20 loosely a map room. I'm not -- that's not the 21 official name of the room. It was just an extra space 22 that the Bureau had with a table and a PC with the 23 autoBound loaded onto it, and that's where I would go 24 and do -- prepare the maps. 25 When we first got autoBound and I</p>

<p>1 practiced, I did have an early iteration of the 2 software on my laptop. I'm not sure it ever got 3 updated to the final iteration that we actually used 4 for maps because I was using it more for practice and 5 so I might have done some practice maps in my office 6 on that laptop. But it's really small and hard to 7 see, so I preferred going to this other room where the 8 software was on a bigger -- PC with a bigger screen. 9 Q. So that other room, the map room, it had one PC? 10 A. Mm-hmm. 11 Q. With one screen? 12 A. I believe so, yeah. Mm-hmm. I don't think we 13 had two in there. 14 Q. Who had access to that room? 15 A. It's secure. Probably anyone in our division 16 could have gone in there if they wanted to because it 17 was also -- had a number of files for -- that our 18 committee staff used. 19 So anybody in our research division or 20 anybody -- like Marty with greater access, more global 21 access to the -- or any of our executive staff, I 22 guess is what I'm saying, that possibly could have 23 gotten in there. 24 Q. Could legislators meet you in that room to 25 develop maps?</p>	Page 76	<p>1 A. No, I did not. 2 Q. And outside of your office and this map room, 3 was there any other location where you drew proposed 4 congressional maps? 5 A. We had a -- we had two computers that had this 6 software loaded onto it. One was in legal, in an 7 office that was not being occupied, and then that room 8 that I just described that I called the map room. And 9 so there was -- there were some points where I did go 10 over and use the legal computer some. 11 Q. Where is the legal room? 12 A. It was in our section where all of our drafting 13 attorneys are located. It was just an unoccupied 14 office within our legal section. 15 Q. And who had access to that room? 16 A. It was not secure. I mean, it was -- so anybody 17 that walked in, I guess, theoretically, could have 18 walked in that office. I don't think we kept that 19 locked. 20 Q. Did you ever meet any legislators in that room 21 in order to develop proposed maps or hear requests? 22 A. Yes. 23 Q. And was the same software loaded on all three 24 computers? 25 A. Yes. I mean, you're -- by three, you're talking</p>	Page 78
<p>1 A. They could, but I would have had to let them in. 2 Q. Did that happen? 3 A. Yes. 4 Q. And in that room, you had a dedicated landline 5 where you would have conversations? Is that what I'm 6 understanding? 7 A. No. I didn't have a phone in there, but we did 8 have a computer in there. 9 Q. So in the map room, you also could have been 10 using your cell phone? 11 A. I could have, yes. 12 Q. Okay. Did legis- -- any legislators ever meet 13 you in your office with your laptop to work on 14 proposed congressional maps? 15 A. They may have come to my office and given me 16 instructions. I don't know that I ever worked with 17 them on the laptop in there. I couldn't say for sure, 18 but I don't think so. 19 Q. And that laptop, I'm sorry, was that your 20 personal laptop or a BLR laptop? 21 A. BLR laptop. 22 Q. Do you have a personal laptop? 23 A. At my home. 24 Q. Did you ever do any proposed congressional map 25 drawing at home?</p>	Page 77	<p>1 about my laptop and then the two? Yeah. 2 Q. So the map room and the legal room that we -- 3 A. Desktop versions, yes. 4 Q. And there's also only one computer and one 5 screen in the legal room as well? 6 A. I believe so, yes. 7 Q. And it all -- and the map room and the legal 8 room, any work that you would have done on proposed 9 maps would have been stored in -- on those computers 10 or on that server? 11 A. Yes. I believe they were actually stored on 12 that computer. Now, I would make copies, and like I 13 said, and put it in these files that I was retaining 14 on the servers just for organization, you know. 15 Q. Did you ever send text messages about proposed 16 congressional maps? 17 A. Not that I recall. I can remember having phone 18 calls, but I don't recall -- not saying it didn't 19 happen, but I don't typically text. 20 Some of our staff who work more 21 directly, like committee staff, I think do text more 22 frequently. I'm not saying I didn't, but I don't 23 remember ever doing that. 24 Q. Do you ever remember receiving text messages 25 from legislators about proposed congressional maps?</p>	Page 79

<p>Page 80</p> <p>1 A. I don't remember but, again, I don't -- I won't 2 say out of hand that it never happened. I just don't 3 remember. 4 Q. Did you communicate -- let me ask: Was there a 5 landline in the legal room that you would have used to 6 communicate with? 7 A. I can't remember if there was an actual 8 telephone in there. Usually they only have 9 operational phones in offices that are being used and 10 so I -- I don't remember ever being on the phone in 11 there? I couldn't -- I wouldn't say "yes" or "no." I 12 just don't know. 13 Q. But you do recall being on the phone in the map 14 room and in your office and that phone would be your 15 cell phone? 16 A. In the map room, it would have had to have been 17 my cell phone because there wasn't a landline. But it 18 might have happened both -- I might have talked both 19 ways in my office, depending on how they reached out 20 to me. 21 Q. Are there any other devices that you used to 22 conduct redistricting work -- congressional 23 redistricting work? 24 A. No. 25 Q. I --</p>	<p>Page 82</p> <p>1 working on that computer, to my knowledge, ever. We 2 were always with them and helping them. 3 Q. And by "we," is that primarily you and 4 Ms. Davenport? 5 A. That's correct. 6 Q. Did you ever speak to any members of the public 7 about proposed congressional maps? 8 A. No. Not unless those that I was authorized to 9 share information with. 10 Q. Such as the three gentlemen that you mentioned 11 before? 12 A. That's correct. 13 Q. And you consider them members of the public? 14 A. Yes. 15 Q. Do you remember having any conversations with -- 16 and I don't think I mentioned this one earlier -- the 17 American Legislative Exchange Council, anyone? 18 A. No. 19 Q. Do you know who Richard Bearden is? 20 A. No. 21 Q. What about Terry Benham? 22 A. No. 23 Q. Did you speak with any U.S. Congressional 24 members about proposed congressional maps? 25 A. No.</p>
<p>Page 81</p> <p>1 A. Not unless you count printers. I mean, we have 2 printers, but, you know -- 3 Q. Computers, printers? 4 A. Right, mm-hmm. 5 Q. Personal cell phone? 6 A. Mm-hmm. 7 Q. Any other apps, any other -- WhatsApp, any 8 other -- 9 A. No. 10 MR. TALLEY: You can't use WhatsApp in 11 the State of Arkansas. 12 MR. BRASCHER: Yeah, exactly. 13 A. And there was a plotter in the room, in that map 14 room, but we ended up not really using it. 15 Q. Tell me what a plotter is. 16 A. It's just a -- it could have made big maps if 17 they wanted them, but they -- we never really got a 18 request for a big size map. 19 Q. And that was just in the map room? 20 A. Yes. 21 Q. Okay. Were legislators allowed to use either of 22 the computers without staff, such as yourself, 23 present? 24 A. No. I mean, I don't know if we ever called 25 it -- said not allowed but, no, a member was never</p>	<p>Page 83</p> <p>1 Q. Besides Mr. Valley, who I think you identified 2 as a lobbyist, do you -- 3 A. Well, I don't -- no, I didn't. I said I knew he 4 was an attorney. That's all I knew about him was that 5 I understood he was an attorney. 6 Q. Do you recall speaking with any lobbyists -- 7 anyone who you knew to be a lobbyist regarding 8 proposed congressional maps? 9 A. No. 10 Q. Did you work with any outside consultants or 11 experts on congressional maps, besides anyone that 12 you've talked about earlier? 13 A. No. I mean, I never talked to anyone. Like I 14 said, I participated in some of those trainings, and 15 they were just broad, general trainings, but I never 16 spoke to anyone one on one about redistricting. 17 Q. And you're not aware that BLR hired any 18 redistricting outside consultants to assist with 19 congressional mapmaking? 20 A. No. 21 Q. Did you speak with anyone in the governor's 22 office about congressional maps? 23 A. No. 24 Q. Okay. I'm going to turn to some more questions 25 about the software and data used to develop maps,</p>

<p>1 congressional maps.</p> <p>2 I believe you confirmed that autoBound</p> <p>3 software was the one that was used ultimately?</p> <p>4 A. Yes.</p> <p>5 Q. Do you know who made the decision to use</p> <p>6 autoBound?</p> <p>7 A. Yes. It's my understanding the Geographic</p> <p>8 Information System Office made that decision because</p> <p>9 they were going to be using it for the House and</p> <p>10 Senate redistricting process, and they supported that.</p> <p>11 Q. Do you know whether this was the same software</p> <p>12 used to develop the 2011 congressional map?</p> <p>13 A. I believe so, yes. It was the same software,</p> <p>14 the same company.</p> <p>15 Q. I'm going to show you what has been marked as</p> <p>16 BLR-CMA-4239, and mark that as Exhibit 3. And this is</p> <p>17 an email from Mr. Miller to Marty Garrity with the</p> <p>18 subject "Precinct lists."</p> <p>19 MR. TALLEY: Is this the right email?</p> <p>20 MS. ADEN: Mm-hmm. From -- do you see</p> <p>21 at the top it's from Matthew Miller to Marty</p> <p>22 Garrity?</p> <p>23 MR. TALLEY: That ain't what I got.</p> <p>24 MS. ADEN: Let me see which one you</p> <p>25 have.</p>	<p>Page 84</p> <p>1 discussed that you're referencing?</p> <p>2 A. Mm-hmm. Probably, yes, mm-hmm.</p> <p>3 Q. Okay. And so is it fair to say that you and</p> <p>4 Ms. Davenport, would you work together in the map room</p> <p>5 to develop maps?</p> <p>6 A. Some, yes. Mm-hmm.</p> <p>7 Q. And that, again, would still be maps that were</p> <p>8 done because of an instruction from a legislative</p> <p>9 member?</p> <p>10 A. Yes. And in this instance, probably, yeah. But</p> <p>11 we may have still been in the learning stages but --</p> <p>12 on some of this, but this -- because of the date, we</p> <p>13 might have been working on a particular map.</p> <p>14 Q. Are you familiar with something called a "file</p> <p>15 room"?</p> <p>16 A. Well, as I said, this room actually is a room</p> <p>17 just filled with files, and there just happened to be</p> <p>18 a nook at the back that they could put out a table and</p> <p>19 put this PC on, so...</p> <p>20 Q. But, again, besides the map room, the legal</p> <p>21 room, and then your office, you would not have drawn</p> <p>22 congressional maps anywhere else?</p> <p>23 A. No.</p> <p>24 Q. Were there any rules or instructions that you</p> <p>25 gave to any legislators for accessing the map room or</p>
<p>Page 85</p> <p>1 THE WITNESS: What did she say again? I</p> <p>2 was reading it.</p> <p>3 MX. BENJAMIN: I got the wrong one.</p> <p>4 THE WITNESS: Is this the right one?</p> <p>5 MR. TALLEY: No.</p> <p>6 MS. ADEN: Let me see that again.</p> <p>7 THE WITNESS: Sure.</p> <p>8 MS. ADEN: I can go ahead. We'll go</p> <p>9 back to that.</p> <p>10 (BY MS. ADEN:)</p> <p>11 Q. All right. Strike that.</p> <p>12 So Exhibit 3 instead will be an email</p> <p>13 from Lori Bowen to Michelle Davenport, with the</p> <p>14 subject "How to create a KML file in autoBound."</p> <p>15 A. Okay.</p> <p>16 (Exhibit 3 marked for identification.)</p> <p>17 Q. Do you recognize this email chain?</p> <p>18 And let me make clear for the record.</p> <p>19 This is Bates-stamped BLR-CMA-08771 to 08772.</p> <p>20 A. Yes, I think I remember this.</p> <p>21 Q. Okay. And just in the first, most recent</p> <p>22 exchange on September 10th, between you and</p> <p>23 Ms. Davenport, you reference coming up to the map room</p> <p>24 yesterday.</p> <p>25 Is this the map room that we just</p>	<p>Page 86</p> <p>1 the legal room?</p> <p>2 A. Not any rules except that they wouldn't have</p> <p>3 had -- we use our IDs to get into that room and so I</p> <p>4 would have said, "I'll meet you so that you can get</p> <p>5 into the room."</p> <p>6 Q. Was there ever a record created of who accessed</p> <p>7 the room on any particular date and time?</p> <p>8 A. No. Not that I'm aware of, no.</p> <p>9 Q. Would you have calendared meetings in those</p> <p>10 rooms with the people that you were meeting in the</p> <p>11 room?</p> <p>12 A. I guess possibly if I knew in advance that</p> <p>13 someone was -- I needed to meet someone at a</p> <p>14 particular time, I might have put it in my calendar if</p> <p>15 time permitted, but I won't say that I did it every</p> <p>16 time, or at all. But if I -- if I just did not want</p> <p>17 to forget to meet someone, I would probably put it in</p> <p>18 my calendar so that an alert would come up and remind</p> <p>19 me.</p> <p>20 Q. And your calendar is on your computer?</p> <p>21 A. Yes.</p> <p>22 Q. As part of your email?</p> <p>23 A. Yes, in Outlook.</p> <p>24 Q. And would it be fair to say that any maps you</p> <p>25 worked on in that room with anyone else would be --</p>



<p>1 would they be date-stamped, time- and date-stamped?</p> <p>2 A. Well, every file you create, you know, even in</p> <p>3 Office products, it usually has a date and a time that</p> <p>4 it was created. And so I believe it probably would</p> <p>5 have had a date and time.</p> <p>6 And I believe it might even -- the date</p> <p>7 might have shown up on the map itself. I haven't</p> <p>8 thought about it in a long time, but...</p> <p>9 Q. And is that probably -- would it be fair to say</p> <p>10 that's the only record of when you might have worked</p> <p>11 on a map in that room and potentially with whom based</p> <p>12 upon the files and how they were saved on those</p> <p>13 computers?</p> <p>14 A. That -- that could possibly be true. We may</p> <p>15 have -- there were several different naming lines in</p> <p>16 the software. We might have the date. I'm not sure</p> <p>17 we ever put time, but the date probably would have</p> <p>18 been part of that naming information too, I think.</p> <p>19 Q. But just to be clear, there's no, like, signup</p> <p>20 sheet --</p> <p>21 A. No.</p> <p>22 Q. -- to access any of these rooms that anyone</p> <p>23 maintained, as far as you're aware?</p> <p>24 A. Not that I'm aware of, no.</p> <p>25 Q. Can you step back and -- well, let's just be</p>	<p>Page 88</p> <p>1 that or gave it to our IT people who loaded it. I</p> <p>2 can't remember who actually loaded it, but... So that</p> <p>3 was the -- that was the actual data that was</p> <p>4 generate -- underlying data that was generating the</p> <p>5 maps.</p> <p>6 There was, like, geography data, which</p> <p>7 is the new lines for voting precincts. And I don't</p> <p>8 think the county lines really changed that much, or if</p> <p>9 at all, but -- and then there was the actual census</p> <p>10 data, the population data.</p> <p>11 Q. And the census population data, that included</p> <p>12 racial data?</p> <p>13 A. Yes.</p> <p>14 Q. Outside of census data, do you know whether you</p> <p>15 had other data available to you, even if you did not</p> <p>16 use it?</p> <p>17 A. We got the --</p> <p>18 Q. The census data and the incumbent addresses, I</p> <p>19 should say.</p> <p>20 A. Oh, yes. I mean, we got a -- I got discs with</p> <p>21 the data, but I didn't do anything with it because</p> <p>22 only our IT people really manage -- you know, managed</p> <p>23 those, and I didn't do anything with it. I had a</p> <p>24 copy, but I didn't do anything with it.</p> <p>25 Q. And that was census data on that disc?</p> <p>Page 90</p>
<p>1 clear. Did you -- is it fair to say that you used</p> <p>2 data to accomplish your congressional redistricting</p> <p>3 responsibilities?</p> <p>4 MR. TALLEY: Object. Form.</p> <p>5 Go ahead.</p> <p>6 A. The software does. I mean, the data is loaded</p> <p>7 into the software.</p> <p>8 Q. And what data was available to you on that</p> <p>9 software?</p> <p>10 A. I can tell you what we used. I'm not sure</p> <p>11 because I never really did anything directly with data</p> <p>12 per se, like data tables or anything. I never...</p> <p>13 The only data that I loaded, I did have</p> <p>14 to put in incumbent addresses so that they would show</p> <p>15 up on the map so we could see where the incumbents</p> <p>16 went, but other than that I really didn't do any data</p> <p>17 work per se.</p> <p>18 Our involvement was going into the map,</p> <p>19 a blank map, and then assigning geographies to a</p> <p>20 district.</p> <p>21 Q. So you mentioned what we -- "what data we used."</p> <p>22 Can you be more specific about what data you used?</p> <p>23 A. Well, it was the data, as I understood it, when</p> <p>24 we got the final census data, Citygate loaded that</p> <p>25 2020 census data into the autoBound. They either did</p> <p>Page 89</p>	<p>1 A. Census, mm-hmm. Yes.</p> <p>2 Q. Okay. Is it fair to say that you had -- that</p> <p>3 there was -- you distinguish between data that was</p> <p>4 available to you and data that you used.</p> <p>5 A. Mm-hmm.</p> <p>6 Q. What do you understand to be the difference</p> <p>7 between the two?</p> <p>8 A. I don't think there's a difference. I think it</p> <p>9 was -- there was data loaded into the machine, which I</p> <p>10 didn't personally do, and that's what I understood was</p> <p>11 used by the software to generate the maps.</p> <p>12 Q. And that included broad categories of geography,</p> <p>13 total population numbers, racial breakdown of data.</p> <p>14 Any other categories of data?</p> <p>15 A. That's all I'm familiar with.</p> <p>16 Q. Do you know if there was data that you or</p> <p>17 someone else wanted to use in order to accomplish</p> <p>18 redistricting that you did not have access to?</p> <p>19 MR. TALLEY: Object to form.</p> <p>20 You can answer, if you understand.</p> <p>21 A. I'm sorry. If you'd say that again. I</p> <p>22 apologize. I lost track there.</p> <p>23 Q. Was there any data that you wanted in order to</p> <p>24 accomplish your congressional redistricting</p> <p>25 obligations that you did not have access to?</p> <p>Page 91</p>

<p>1 MR. TALLEY: Same objection. 2 Go ahead. 3 A. Not that I'm aware of. I mean, I think we had 4 everything we needed to follow their instructions. 5 Q. Do you know the difference between block level 6 and precinct level data? 7 A. Yeah. Generally, yes. 8 Q. Can you explain it to me? 9 A. Block level is just a lower level of geography. 10 You know, there might be multiple, and would be, 11 multiple blocks within, more than likely, a precinct. 12 It's a smaller geography. 13 Q. Regarding the race data that you received from 14 the census, do you know at what level of detail you 15 received it? 16 A. I imagine those files had a lot more detail than 17 what we used. I don't -- but I don't know that for 18 sure because I do think -- this is just a guess on my 19 part, but -- because I'm not a census expert, but I 20 think the data probably went down to the block level. 21 I know there were some confidentiality 22 rules that the census had to go by to not identify 23 individuals. 24 Q. So are you saying that you only -- did you use 25 block level racial data, or not?</p>	Page 92	<p>1 A. Because I was just given instructions for how to 2 draw the maps, and I needed the county -- the actual 3 geographies, that's what I needed to do -- to fulfill 4 my role. 5 Q. Are you aware of whether political data is 6 available at the block or precinct level? 7 A. My understanding was it was not. 8 Q. What was your understanding based on? 9 A. I believe it was probably with a conversation 10 with Shelby Johnson at the Geographic Information 11 System Office, that in Arkansas it -- it wasn't 12 available. 13 And I couldn't explain exactly why, but 14 I just remember him saying it wasn't available. I 15 don't know if it was a technical capability issue or 16 what, but it's my understanding it was not. 17 Q. So you specifically discussed that with? 18 A. I believe so, yeah. I asked him if we were 19 going to get any of that because I'd hear these people 20 speak of it at these NCSL things, and he said, no, we 21 don't have that in Arkansas. 22 Q. And you're not aware that you got it from any 23 outside contractors or anyone during this 24 redistricting cycle? 25 A. I did not receive it, no.</p>	Page 94
<p>1 A. No. 2 Q. How do you know that? 3 A. All I ever saw, or that -- that I could see on 4 our screen was at the congressional district level. 5 It might have been available in more detail, but I 6 never looked for that because I was -- that was not 7 something I needed to do to fulfill what had been 8 asked of me to do. 9 Q. So, for example, when you are looking at the 10 screen, and you told me earlier that you saw 11 population changes, even at the racial breakdown 12 level, changing on the screen, are those also being 13 changed at the level of precinct, if you're moving 14 precincts in and out of districts? 15 A. I don't know because that's not the -- what we 16 could see on the screen was at the congressional 17 district. It was at a higher level. I don't know the 18 answer to that question. 19 Q. Do you think having race data available -- 20 available to you was helpful in drawing proposed 21 congressional maps? 22 MR. TALLEY: Object to form. 23 Go ahead. 24 A. Not for what I was doing. 25 Q. Why not?</p>	Page 93	<p>1 Q. And it was never on any of the computers, in the 2 map room, in the legal room, or in your personal 3 computer that you were aware of? 4 A. Not that I'm -- no, umm-umm. No. 5 Q. So is it fair to say that the only political 6 data that you had would be the party affiliation of 7 any incumbent representatives that you were trying to 8 map onto congressional maps? 9 MR. TALLEY: Object to form. 10 Go ahead. 11 A. I don't think it's -- I think all we needed on 12 the incumbents was their address, and so I don't know 13 that it asked for affiliation -- no, actually not. I 14 think you could have said the affiliation because I 15 think they were all red. 16 I think the red was Republican and -- 17 but we didn't have any blue. But I hadn't really 18 thought of it, but I think that is -- that jogged my 19 memory, that I think we could denote if they were 20 Republican or Democrat in that way. 21 Q. But to be clear, you didn't have any, for 22 example, 2020 election data loaded on autoBoundedGE as 23 far as you're aware? 24 A. Not that I'm aware of, no. 25 Q. Or any other election?</p>	Page 95

<p>Page 96</p> <p>1 A. No.</p> <p>2 Q. Do you recall any discussions about legislators</p> <p>3 or other BLR staff seeking political data?</p> <p>4 MR. TALLEY: I'll object to the extent</p> <p>5 that question calls for specific</p> <p>6 communications that you had with members or</p> <p>7 as a result of a member request.</p> <p>8 As posed, if the question asks "yes" or</p> <p>9 "no," you're free to answer that one.</p> <p>10 THE WITNESS: I always get -- lose track</p> <p>11 of the question after that. I'm sorry.</p> <p>12 (BY MS. ADEN:)</p> <p>13 Q. Do you recall any discussions about legislators</p> <p>14 or other BLR staff seeking political data?</p> <p>15 MR. TALLEY: Same objection; same</p> <p>16 instruction.</p> <p>17 A. No.</p> <p>18 Q. So you mentioned that you may have received maps</p> <p>19 produced by Dave's Redistricting or DLR -- I'm missing</p> <p>20 it, but --</p> <p>21 A. Districtr.</p> <p>22 Q. Districtr, from legislators that you might then</p> <p>23 try to reproduce; is that fair to say?</p> <p>24 A. Yes.</p> <p>25 Q. Did you, to be clear, ever go on Dave's</p>	<p>Page 98</p> <p>1 A. I think it's safe to say that if I would have</p> <p>2 been working with a member and they wanted to make a</p> <p>3 change to a map, we might start with an existing map</p> <p>4 but then we would always rename. So we would have a</p> <p>5 separate record of every iteration that they</p> <p>6 requested.</p> <p>7 Q. So was there any model map that you began the</p> <p>8 process of developing proposed congressional maps off</p> <p>9 of?</p> <p>10 A. I mean, we had -- I think we might have used the</p> <p>11 word "template," but it wouldn't have had any -- as</p> <p>12 I'm remembering, no geography assignments. It would</p> <p>13 just be a formatting thing because we wanted to keep</p> <p>14 -- every map that we made, we wanted it to be</p> <p>15 consistent in colors and the presentation of the</p> <p>16 incumbents and the numbers on the -- on the districts.</p> <p>17 We wanted it all to appear consistently so every</p> <p>18 member -- since we're nonpartisan, we wanted every</p> <p>19 member to feel like they got the exact same product.</p> <p>20 But we would not have had any preselected geographies.</p> <p>21 Q. Does that include that -- starting from the 2011</p> <p>22 enacted map, that would not be the base map that you</p> <p>23 subsequently made changes to?</p> <p>24 A. What we could do was show the 2011 lines so they</p> <p>25 could see the changes from the existing congressional</p>
<p>Page 97</p> <p>1 Redistricting or Districtr and draw any proposed maps?</p> <p>2 A. No.</p> <p>3 Q. Were you aware of anyone else on the BLR staff</p> <p>4 using Dave's Redistricting software?</p> <p>5 A. No.</p> <p>6 Q. Were you aware of anyone else on the BLR staff</p> <p>7 using Districtr software?</p> <p>8 A. No.</p> <p>9 Q. I believe earlier -- I want to turn now to your</p> <p>10 process for developing maps, and I believe earlier --</p> <p>11 and you can correct me if I'm wrong -- that you talked</p> <p>12 about having a blank map, or starting from a blank</p> <p>13 slate.</p> <p>14 Is that how you -- is that fair to say</p> <p>15 how you engaged in congressional redraws?</p> <p>16 A. Yes. But, I mean, we tried to have some things</p> <p>17 there kind of as a default, like the incumbents would</p> <p>18 show up. But in terms of selected geographies, there</p> <p>19 would not be any selected geographies.</p> <p>20 Q. Is that true for every map that you would have</p> <p>21 drawn for a member? Like, you -- you would have not</p> <p>22 come to that draw with any lines developed, you would</p> <p>23 be waiting for the request or -- is that clear?</p> <p>24 MR. TALLEY: Object. Form.</p> <p>25 Go ahead.</p>	<p>Page 99</p> <p>1 districts to what they were asking us to draw, and</p> <p>2 that was a consistent thing that we -- that we</p> <p>3 included was the existing district lines, just so they</p> <p>4 could see where the changes were. But there were no</p> <p>5 selected geographies for those lines.</p> <p>6 Q. I want to mark as Exhibit 4 a document that's</p> <p>7 Bates-stamped BLR-CMA-4137, which is an email from</p> <p>8 you, Ms. Bowen, to a number of people, including</p> <p>9 Thomas Melton.</p> <p>10 A. Thank you.</p> <p>11 (Exhibit 4 marked for identification.)</p> <p>12 Q. Do you recognize this email exchange?</p> <p>13 A. I believe so, yes, mm-hmm.</p> <p>14 Q. Okay. And I want to focus you on the email</p> <p>15 dated August 24th, from Thomas Melton cc'ing you.</p> <p>16 Do you see that? It's on --</p> <p>17 A. Yes, the second one down.</p> <p>18 Q. -- 4137.</p> <p>19 And it says, "Today I will prep a map</p> <p>20 package that will contain all the pertinent background</p> <p>21 data for the base map we have been using for the maps</p> <p>22 we have produced for redistricting."</p> <p>23 What is a "base map"?</p> <p>24 A. I'll be honest, I'm not even sure. You'll</p> <p>25 notice that -- I thought I saw her somewhere here,</p>

<p>Page 100</p> <p>1 Chrissy.</p> <p>2 I mentioned to you earlier we had</p> <p>3 someone on our staff that knew how to do ArcGIS, and</p> <p>4 there had been a thought at one point that we might</p> <p>5 want to take the maps out of the software because all</p> <p>6 we could produce were 8 1/2 by 11, essentially. And</p> <p>7 if the members ever instructed us -- we were trying to</p> <p>8 be prepared if they ever wanted a large-scale map, and</p> <p>9 so this was in preparation for that, which we</p> <p>10 ultimately did not do.</p> <p>11 Q. So there was no base map when you did work out</p> <p>12 of the autoBoundEDGE?</p> <p>13 A. No. I think this was a whole different thing of</p> <p>14 just trying to get a more attractive -- the maps that</p> <p>15 came out of autoBound were very basic. They did --</p> <p>16 they weren't, like, real slick, fancy looking GIS</p> <p>17 maps.</p> <p>18 So we were -- thought they might want</p> <p>19 some higher level of -- looking maps and a larger</p> <p>20 scale, but as it turns out we just used the basic</p> <p>21 ones, so... And the base map would have helped us do</p> <p>22 those more fancy, for lack of a better word, maps that</p> <p>23 we ended up not really doing.</p> <p>24 Q. And in that exchange, there's also reference to</p> <p>25 "pertinent background data," just before reference to</p>	<p>Page 102</p> <p>1 Q. What were those?</p> <p>2 A. -- very early on.</p> <p>3 I won't be able to remember them all,</p> <p>4 but contiguity, compactness, keeping communities of</p> <p>5 interest, not splitting political subdivisions unless</p> <p>6 you had to kind of thing. Those were some of the</p> <p>7 principles.</p> <p>8 Q. What do you understand "contiguity" to mean?</p> <p>9 A. That when you're drawing a map, you don't want</p> <p>10 one piece of it being out here all by itself, that it</p> <p>11 needs to be contiguous or, you know, side by side</p> <p>12 with...</p> <p>13 Q. And what about compactness?</p> <p>14 A. I'm not sure. I thought about that. I don't</p> <p>15 know that I have a really great definition for that.</p> <p>16 But perhaps, to the extent you can, not have these big</p> <p>17 sprawling districts perhaps. But in Arkansas with the</p> <p>18 rural population, that's challenging.</p> <p>19 Q. What about keeping communities of interest</p> <p>20 together, I think you mentioned. What does that mean</p> <p>21 to you?</p> <p>22 A. I'll be honest with you. That's -- we didn't</p> <p>23 even have data to identify that. So I don't really --</p> <p>24 I'm not sure I can accurately define it. I honestly</p> <p>25 don't know. I would be guessing if I went -- if I</p>
<p>Page 101</p> <p>1 the base map.</p> <p>2 Do you know what is being referred to</p> <p>3 there?</p> <p>4 A. I really don't.</p> <p>5 Q. In developing maps, did you look to any</p> <p>6 guidelines or redistricting criteria?</p> <p>7 A. Well, I was aware of them. The only thing I</p> <p>8 used when I drafted the maps was the instructions of</p> <p>9 the members. But as part of listening to the Webinars</p> <p>10 and listening -- other states have different</p> <p>11 arrangements, so they would go into a lot of detail</p> <p>12 about things that were not always relevant to me and</p> <p>13 so I wasn't the one that set the standards for the</p> <p>14 maps. I just drew them as instructed.</p> <p>15 But through listening to those</p> <p>16 conversations, and even to -- our attorneys gave some</p> <p>17 instructions to State Agencies, they talked about</p> <p>18 common redistricting principles. But it didn't</p> <p>19 necessarily impact the way I drew the maps because I</p> <p>20 only drew them as I was instructed.</p> <p>21 Q. So did BLR have a role in developing or</p> <p>22 identifying redistricting criteria used or considered?</p> <p>23 A. No, there was no -- there were no rules. They</p> <p>24 did advise the members of general standards and</p> <p>25 principles --</p>	<p>Page 103</p> <p>1 said anything further. I just know that was one of</p> <p>2 the categories.</p> <p>3 Q. And you mentioned not splitting, I think,</p> <p>4 political boundaries?</p> <p>5 A. Mm-hmm.</p> <p>6 Q. What does that mean to you?</p> <p>7 A. Counties and voting precincts primarily would be</p> <p>8 my only familiarity with what that meant.</p> <p>9 Q. What about municipalities or school districts?</p> <p>10 Did those -- would those encompass?</p> <p>11 A. It could have been taking that in. However, we</p> <p>12 didn't have the lines to know where those were in the</p> <p>13 software.</p> <p>14 Q. So you've mentioned that -- is it -- that you</p> <p>15 were generally familiar with some of these principles,</p> <p>16 but that your rules for drawing congressional maps</p> <p>17 were the instructions from legislators; is that fair</p> <p>18 to say?</p> <p>19 A. Yes. There were no established rules that we</p> <p>20 had to abide by, other than what the legislators</p> <p>21 instructed us to do.</p> <p>22 Q. So if you were preparing maps for a legislator</p> <p>23 and you were generally familiar with these principles</p> <p>24 of contiguity or compactness, would you ever say to a</p> <p>25 member or advise them how to draw lines because you</p>



<p>Page 104</p> <p>1 saw a concern with contiguity or a concern with</p> <p>2 compactness?</p> <p>3 MR. TALLEY: I'll jump in and object to</p> <p>4 the extent that calls for privileged</p> <p>5 information and instruct the witness not to</p> <p>6 divulge any specific communications you had</p> <p>7 with members or in response to a member</p> <p>8 request or inquiry.</p> <p>9 Leah has been very careful to phrase</p> <p>10 them, and she did at the end, as to "yes" or</p> <p>11 "no" and the existence or nonexistence of a</p> <p>12 such a communication might be discoverable.</p> <p>13 So you can answer that question "yes" or</p> <p>14 "no," but I'm instructing you not to divulge</p> <p>15 any specific communications or specific</p> <p>16 information generated in response to a</p> <p>17 member request.</p> <p>18 That was lengthy, so we might need to</p> <p>19 read the question back.</p> <p>20 I'll just say same instruction, same</p> <p>21 limitation, and we can move forward.</p> <p>22 (BY MS. ADEN:)</p> <p>23 Q. So just generally, it seems you're familiar with</p> <p>24 these principles of contiguity and compactness, but</p> <p>25 you also mentioned that you are drawing maps at the</p>	<p>Page 106</p> <p>1 counties or municipalities, you would draw the map</p> <p>2 splitting those counties or municipalities without</p> <p>3 advising of any concerns with doing so?</p> <p>4 MR. TALLEY: I will object and, as</p> <p>5 phrased, that is a hypothetical.</p> <p>6 And I will let the witness answer the</p> <p>7 hypothetical; however, I will instruct the</p> <p>8 witness not to answer in a way that would</p> <p>9 reveal specific communications, specific</p> <p>10 maps or inquiries from legislators.</p> <p>11 Subject to that limitation, the witness</p> <p>12 is free to answer.</p> <p>13 A. No.</p> <p>14 Q. Where were these principles like contiguity,</p> <p>15 compactness, keeping communities of interest, where</p> <p>16 were they documented, as far as you're aware?</p> <p>17 A. There was a meeting of State Agency committees,</p> <p>18 and I believe it was a joint meeting, House and</p> <p>19 Senate. And Matthew Miller and Michelle Davenport,</p> <p>20 who are both on our legal staff, presented a</p> <p>21 PowerPoint to just give some broad, general overview</p> <p>22 of the responsibility of the General Assembly and some</p> <p>23 broad, general information about redistricting, and I</p> <p>24 believe they did discuss those general redistricting</p> <p>25 principles.</p>
<p>Page 105</p> <p>1 instruction of legislators.</p> <p>2 A. Mm-hmm.</p> <p>3 Q. So my question is whether, in the process of</p> <p>4 responding to legislator instructions, you are ever</p> <p>5 advising them of any concerns that you might see with</p> <p>6 how their instructions impact contiguity or</p> <p>7 compactness.</p> <p>8 A. No.</p> <p>9 MR. TALLEY: Same instructions; same</p> <p>10 limitations.</p> <p>11 A. No.</p> <p>12 Q. So if they were drawing a map that you thought</p> <p>13 may run afoul of compactness principles, you did not</p> <p>14 advise them one way or the other about how to correct</p> <p>15 that in the map that they were drawing?</p> <p>16 MR. TALLEY: Same objection; same</p> <p>17 limitation.</p> <p>18 A. No. I might -- if there was a stray precinct</p> <p>19 way over here, and it might have been -- I might have</p> <p>20 thought that's inadvertent or something, you know. On</p> <p>21 the contiguity side, I might say, oops, we've got this</p> <p>22 district over here, just so you're aware. But I</p> <p>23 didn't ever advise them on any of those principles,</p> <p>24 no. I just did what they told me to do.</p> <p>25 Q. And if a proposed map, for example, split</p>	<p>Page 107</p> <p>1 Q. But as far as you understood, those were not</p> <p>2 rules or requirements for congressional redistricting?</p> <p>3 A. No. They were just -- we were just educating</p> <p>4 the members of their existence.</p> <p>5 Q. Do you know whether federal or state law</p> <p>6 requires any rules for congressional redistricting in</p> <p>7 Arkansas?</p> <p>8 A. I'm not an attorney, but I do think there was a</p> <p>9 standard of one-person, one-vote kind of -- trying</p> <p>10 to -- that's why the -- you want them to be as even in</p> <p>11 population as you can between the districts, was my</p> <p>12 general understanding.</p> <p>13 Q. And that was the only requirement that you were</p> <p>14 aware of?</p> <p>15 A. That was the primary, and I think in my dealings</p> <p>16 with -- this gets into a little bit -- I think the</p> <p>17 primary interest was trying to make sure that the</p> <p>18 variances were as low as they could be, but that was</p> <p>19 generally member's instructions.</p> <p>20 Q. So with that, one-person, one-vote, what do you</p> <p>21 understand that to mean?</p> <p>22 A. That, well, I'm -- again, I'm not sure I'm</p> <p>23 equipped to answer that well. I think they just</p> <p>24 wanted the population to be as even between each of</p> <p>25 the districts as possible.</p>

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<p>1 Q. Is that --</p> <p>2 A. I may have used the wrong choice of words, but</p> <p>3 anyway...</p> <p>4 Q. And as far as you understand, is that even as to</p> <p>5 one -- balancing it to be as equal one person to one</p> <p>6 person between districts, or is there some variance?</p> <p>7 A. I'm sorry. I don't understand.</p> <p>8 Q. In balancing populations between districts, what</p> <p>9 was the standard for balancing the population, as far</p> <p>10 as you understood it?</p> <p>11 A. I understood from participating in some of those</p> <p>12 trainings that very often the standard was no greater</p> <p>13 than a 1 percent deviation, district to district; but</p> <p>14 I also understood from communications that we got from</p> <p>15 our attorney -- you know, Michelle and Matthew, that</p> <p>16 that's really -- while a goal to shoot for, it's not</p> <p>17 necessarily the only standard. So that exists.</p> <p>18 Q. How did you go about implementing that standard</p> <p>19 when you were developing maps?</p> <p>20 A. I didn't implement it, I just reported it. So</p> <p>21 the map would say what the variance was based -- you</p> <p>22 know, I would prepare the map as instructed, and the</p> <p>23 maps that we provided to the members would say what</p> <p>24 the -- there was that target population of where</p> <p>25 everyone would have the exact same, and it would also</p>	<p>1 hypothetical.</p> <p>2 Go ahead.</p> <p>3 A. I don't believe so.</p> <p>4 Q. So you would just draw maps as instructed</p> <p>5 without advising anyone in particular about whether</p> <p>6 you thought, based upon your training or other</p> <p>7 information you had available, they were running afoul</p> <p>8 of a particular principle?</p> <p>9 MR. TALLEY: That question, as posed,</p> <p>10 was not in a hypothetical form. So I'll</p> <p>11 instruct the witness not to answer that one</p> <p>12 based on legislative privilege.</p> <p>13 (BY MS. ADEN:)</p> <p>14 Q. Would it be fair to say that you were simply</p> <p>15 implementing mapmakers' recommendations without</p> <p>16 offering input on how they should be developing maps?</p> <p>17 A. Yes, that's correct. I didn't offer input.</p> <p>18 Q. Is it fair to say that you were the map drawer</p> <p>19 for technical purposes, while decisions or</p> <p>20 recommendations for how a map should be drawn were</p> <p>21 left to legislators?</p> <p>22 A. Yes.</p> <p>23 Q. You mentioned that the software program reported</p> <p>24 out the population numbers that as -- after you drew</p> <p>25 the map; is that fair to say?</p>
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<p>1 report the variance, and I provided that to them.</p> <p>2 Q. And so similarly with compactness and</p> <p>3 contiguity, if you were drawing a map for a proposed</p> <p>4 legislature and there were imbalances in the</p> <p>5 population between the district, would you advise them</p> <p>6 about how to correct for those imbalances?</p> <p>7 MR. TALLEY: I will step in and object.</p> <p>8 To the extent the question on the table</p> <p>9 poses a hypothetical, I will allow the</p> <p>10 witness to answer, but instruct the witness</p> <p>11 not to reveal any privileged communications</p> <p>12 or information.</p> <p>13 Subject to that limitation, the witness</p> <p>14 is free to answer.</p> <p>15 A. I generally -- you know, I'm trying to make sure</p> <p>16 I say this correctly because I don't want to be</p> <p>17 incorrect.</p> <p>18 We would get instructions to do the</p> <p>19 maps, we would draw them, and we would convey them</p> <p>20 exactly as they asked for them, and it would include</p> <p>21 information about the population variance.</p> <p>22 Q. So if the variance, for example, went above</p> <p>23 1 percent, you would not raise a concern with a</p> <p>24 legislator, generically, that that is above 1 percent?</p> <p>25 MR. TALLEY: Same instruction as to the</p>	<p>1 A. We did two different views. We did with one</p> <p>2 that did all four districts and then another view that</p> <p>3 showed one district per page. And at the bottom, as I</p> <p>4 recall, it would say here's the target, here's what</p> <p>5 this map assigns to that district, and this is the</p> <p>6 variance from the target.</p> <p>7 Q. Do you know whether the program allowed you</p> <p>8 to -- autoBoundEDGE, that is -- check for whether</p> <p>9 districts were contiguous as part of the software?</p> <p>10 A. Yes, I think it did have that because</p> <p>11 occasionally if I would forget to assign a geography,</p> <p>12 then it wouldn't have been -- it wouldn't have</p> <p>13 appeared in, you know, the listing of legal</p> <p>14 description. And so I would do -- I would do a check</p> <p>15 on that, both contiguity as well as any missing</p> <p>16 geographies.</p> <p>17 Q. What about compactness? Was there any ability</p> <p>18 on that software program to run a check of whether or</p> <p>19 not the maps you were developing were compact?</p> <p>20 A. I don't know. If it did, we didn't use it. I</p> <p>21 didn't use it.</p> <p>22 Q. And you mentioned, I think, that there wasn't</p> <p>23 any data on communities of interest that you used and</p> <p>24 developed through that software?</p> <p>25 A. Not that I'm aware of. Like, it would depend on</p>

<p>1 how you define it. But, like, you used the example of  2 municipalities, we didn't have municipal lines. We  3 only had county lines and the voting districts and the  4 block level. That was the three geographies I used in  5 the mapping program.  6 Q. So, sorry. County lines. What other lines?  7 A. The precinct lines, the district lines, voting  8 district lines, and then block level were the only  9 lines that I ever saw.  10 Q. Block level what?  11 A. Geography. I mean, that's the census term, the  12 block level.  13 Q. So in developing proposed congressional maps,  14 were any assessments made on whether or not they  15 complied with redistricting principles?  16 MR. TALLEY: I will -- I will instruct  17 the witness not to answer based on  18 legislative privilege.  19 (BY MS. ADEN:)  20 Q. Generically, when you were drawing proposed  21 congressional redistricting maps, did you make any  22 assessments on whether those maps complied with  23 traditional redistricting principles?  24 MR. TALLEY: Same objection. I'll  25 instruct the witness not to answer based on</p>	<p>Page 112</p> <p>1 presentation -- a joint presentation between the  2 different bodies that I believe Ms. Davenport and  3 Mr. Miller participated in?  4 A. Yes. They made the presentation to House and  5 Senate State Agencies committees.  6 Q. Do you know if that was a one-time presentation,  7 or did they do that on multiple occasions?  8 A. I'm only aware of the one time.  9 Q. And were you present at that presentation?  10 A. I was.  11 Q. And do you know whether or not the criteria or  12 principles that were presented to legislators, were  13 they committed in writing and given to legislators to  14 guide them as they moved forward in developing maps?  15 MR. TALLEY: When you say "committed to  16 writing," are you referring to the -- the  17 filing of some legislation or, instead,  18 whether they were just reduced to writing in  19 some document?  20 (BY MS. ADEN:)  21 Q. Do you know whether the criteria or principles  22 that Ms. Davenport and Mr. Miller presented to the  23 legislature were given to legislators as instructions  24 for how they were to develop proposed congressional  25 maps?</p> <p>Page 114</p>
<p>1 legislative privilege.  2 (BY MS. ADEN:)  3 Q. Even though it's generic, even though it's not  4 identifying any specific map or any specific  5 legislator, in a general sense, were any assessments  6 made by you in compliance with traditional  7 redistricting principles? "Yes" or "no."  8 MR. TALLEY: I think I'm going to stand  9 on that objection, and I think I will stand  10 on it because there is not a way to answer  11 that, even with the word "generically" in  12 there, that wouldn't get into legislative  13 privilege.  14 I think I'm going to stand on that one.  15 (BY MS. ADEN:)  16 Q. As far as you're aware, neither the House or the  17 Senate adopted redistricting criteria -- is it fair to  18 say that -- do you know whether the House or Senate  19 adopted redistricting criteria that would apply to  20 congressional line drawing?  21 A. I'm not aware that they did. I know they were  22 presented with information that I mentioned to you  23 earlier about it, but I don't know that they had any  24 defined or adopted rules.  25 Q. And you mentioned that that was during a</p> <p>Page 113</p>	<p>Page 115</p> <p>1 MR. TALLEY: Object to form.  2 Go ahead.  3 A. They presented a PowerPoint, and I think they  4 said these are some of the generally accepted criteria  5 that are considered when doing map drawing. And it  6 was in a PowerPoint, so I think they had a hard copy  7 in front of them.  8 Q. Do you know whether any of those criteria were  9 given to legislators as requirements for how they had  10 to develop redistricting maps?  11 MR. TALLEY: Object. Form.  12 Go ahead.  13 A. I don't think they were presented as  14 requirements. I think they were just, this is  15 educational that these are generally accepted  16 principles that you might need to -- might be aware  17 of, but I don't think they were required.  18 Q. Okay. I want to show you as Exhibit 5. It's an  19 email titled, "Revised." It is Bates-stamped  20 BLR-CMA-04233.  21 A. Thank you.  22 (Exhibit 5 marked for identification.)  23 Q. Do you recognize this document?  24 A. Yes, ma'am.  25 Q. Okay. And do you see that this is an email from</p>

<p>Page 116</p> <p>1 Mr. Miller to both you and Ms. Davenport?</p> <p>2 A. (Nods head up and down.)</p> <p>3 Q. And it's dated August 31st, 2021?</p> <p>4 A. Yes.</p> <p>5 Q. Is this the type of email that you or other BLR</p> <p>6 staff would send to legislators when you'd share draft</p> <p>7 proposed maps?</p> <p>8 A. Yes.</p> <p>9 Q. All right. Is this a generic email that you</p> <p>10 drafted in order to have common language that you</p> <p>11 would use in order to share with legislators?</p> <p>12 A. Yes. This was a -- this was the language we</p> <p>13 used, for the most part, to convey maps that we had</p> <p>14 been requested to draw.</p> <p>15 Q. Would emails like this be modified before</p> <p>16 sending maps, or would this be a standard email that</p> <p>17 you would send to legislators?</p> <p>18 A. It's pretty standard, yes.</p> <p>19 Q. And an email like this, if you sent to a</p> <p>20 legislator, could copy other legislators and/or other</p> <p>21 BLR staff?</p> <p>22 A. Did you say a legislator could then copy?</p> <p>23 Q. No, no. So let me start -- strike that.</p> <p>24 If you were to send an email, such as</p> <p>25 this, to a legislator, would you copy other</p>	<p>Page 118</p> <p>1 would be asking for their reaction to that as well?</p> <p>2 MR. TALLEY: Object to the form.</p> <p>3 Give me a second.</p> <p>4 The witness is free to answer the</p> <p>5 hypothetical question, assuming you</p> <p>6 understand it. And I will instruct the</p> <p>7 witness not to divulge any member</p> <p>8 communications, draft legislation</p> <p>9 information generated in response to a</p> <p>10 member request.</p> <p>11 Subject to those limitations, the</p> <p>12 witness is free to answer.</p> <p>13 A. I know I sound like a broken record, but we</p> <p>14 would have drafted it exactly like they asked for it.</p> <p>15 And I apologize. You might want to ask</p> <p>16 me again if I'm not getting there.</p> <p>17 Q. If a legislator, not anyone in particular,</p> <p>18 requested that a map or a district have a particular</p> <p>19 racial makeup, you would be sending a map trying to</p> <p>20 address that request, and you would be asking them to</p> <p>21 ensure that you captured that request; is that fair to</p> <p>22 say, based upon this email?</p> <p>23 MR. TALLEY: The witness is free to</p> <p>24 answer the hypothetical subject to the</p> <p>25 limitations I just laid out, which I'll</p>
<p>Page 117</p> <p>1 legislators and/or BLR staff on emails like these?</p> <p>2 A. I might BLR staff, but not other legislators</p> <p>3 unless I was specifically instructed to do so.</p> <p>4 Q. And would this be the type of email that you</p> <p>5 would have sent to the Mr. Growly -- Valley, I'm</p> <p>6 sorry, Gray, and I'm missing the last person's name</p> <p>7 right now.</p> <p>8 But would you send an email like this to</p> <p>9 those gentlemen as well?</p> <p>10 A. Well, the email would have always been addressed</p> <p>11 to the member, so this language could have appeared</p> <p>12 there, and then they would have been copied on it. It</p> <p>13 would -- wasn't really addressed to these outside</p> <p>14 entities or parties.</p> <p>15 Q. Now, there's a line in here that says, "Please</p> <p>16 review your map to ensure I have accurately captured</p> <p>17 your intent."</p> <p>18 What did you mean by that?</p> <p>19 A. I think Michelle actually wrote that particular</p> <p>20 line, but I think what we're saying is we want to make</p> <p>21 sure that whatever instructions they gave us, that we</p> <p>22 accurately drew the map per their instructions.</p> <p>23 Q. And if their instructions, for example,</p> <p>24 generically included wanting to have a map with a</p> <p>25 particular racial makeup in a district, or not, you</p>	<p>Page 119</p> <p>1 incorporate.</p> <p>2 Go ahead.</p> <p>3 A. Hypothetically, I would do it exactly like they</p> <p>4 asked for it.</p> <p>5 Q. And the next line says, "I'm happy to assist you</p> <p>6 with any changes or modifications to the map"; is that</p> <p>7 accurate?</p> <p>8 A. Yes, yes. If they looked at it and they wanted</p> <p>9 it changed, we would help.</p> <p>10 Q. Okay. And that includes if they asked that a</p> <p>11 particular map or district had a particular racial</p> <p>12 makeup, you would fulfill that change or modification</p> <p>13 per their instruction?</p> <p>14 MR. TALLEY: Objection.</p> <p>15 The witness is free to answer,</p> <p>16 hypothetically, but subject to the same</p> <p>17 limitations I talked about a second ago,</p> <p>18 which I'll incorporate.</p> <p>19 Go ahead.</p> <p>20 A. Yes. Hypothetically, yes, I would do it as they</p> <p>21 instructed me to do it.</p> <p>22 Q. Did autoBoundEDGE allow you to compare maps?</p> <p>23 A. I don't -- I don't know the answer to that.</p> <p>24 Q. Did autoBound allow you to merge features of</p> <p>25 different maps?</p>



<p style="text-align: right;">Page 120</p> <p>1 A. Well, probably. Like I said, I was not a  2 high-level technician on this program. We did need,  3 you know, to add some other things in, such as the  4 existing congressional district lines. So with the  5 help of Mr. Melton at Geographic Information System  6 Office, he taught me how to bring in the existing  7 congressional district lines.  8 He also taught me how to do the House  9 and Senate district lines, which I ended up not really  10 needing but very much at all, but...  11 So we -- I know we were able to bring  12 in -- and I think they might have been considered  13 shape files. I'm not a real knowledgeable ArcGIS  14 person, but...  15 So the full extent of what could have  16 been brought in, I'm not technically savvy enough to  17 answer, but those are the instances where we used  18 external shape files, if you will, to modify the map  19 so they could see those lines.  20 Q. Okay. I'm going to mark as Exhibit 6 another  21 email chain. This is Bates-stamped BLR-CMA-00588  22 through 592. This is from Shelby Johnson to Ms. Bowen  23 and others, dated August 16th, 2021, and we're getting  24 it as we speak.  25 I'm going to move on. I'll come back to</p>	<p style="text-align: right;">Page 122</p> <p>1 House and Senate lines, that was the only thing I  2 added.  3 Our IT people may have -- I may have  4 considered this something that they would do and it  5 wasn't added that I'm aware of. Like I said, the  6 voting districts were already there, but...  7 Q. And by voting districts, is that the precinct  8 reference in this paragraph?  9 A. That's the way I interpret that, so I hope  10 that I'm interpreting it correctly. But we did not  11 have municipal boundaries or school district  12 boundaries, but we did have current district  13 boundaries and precincts.  14 Q. And when you say "we did not have them," is  15 it -- is it possible that you did not use them but  16 they were available to you?  17 A. That's very possible, looking at this, but I  18 didn't -- that was just not what I understood was  19 available to us.  20 Q. Okay.  21 A. I was a very basic user and was trying to just  22 get to the -- to generate a map, and I didn't try to  23 do anything too extra.  24 Q. Okay. I want to show you what I am marking as  25 Exhibit 7.</p>
<p style="text-align: right;">Page 121</p> <p>1 that. Okay.  2 (Exhibit 6 marked for identification.)  3 Q. Do you recognize this email chain?  4 A. I'm not as familiar with this. I don't remember  5 this one as well, but I'm on it, so...  6 Q. Okay. I want to focus your attention on the  7 third page in that's Bates-stamped BLR-CMA-00590.  8 A. Yes.  9 Q. Okay. At the top, it reads, "The Arkansas GIS  10 Office provides several online map layers as services  11 that could be added to your autoBoundEDGE projects" --  12 A. Mm-hmm.  13 Q. -- "these layers, such as current districts,  14 school districts, precincts, and municipal boundaries  15 may be helpful for users in drawing new district  16 lines."  17 Do you see that?  18 A. Yes.  19 Q. Okay. As you were working in autoBoundEDGE, do  20 you know whether these layers identified here were  21 available to you to use in drawing congressional maps?  22 A. As I mentioned, what I remember seeing were the  23 county lines, the precinct lines, the voting district  24 lines, and block level detail. Most of all of the  25 add-ons, other than the congressional lines and the</p>	<p style="text-align: right;">Page 123</p> <p>1 (Exhibit 7 marked for identification.)  2 Q. This is BLR-CMA-04156. This is an email from  3 Jennifer Wheeler to Michelle Davenport, dated  4 August 25th, 2021.  5 A. Okay. Yeah, I'm not familiar with this, but --  6 since this was between Michelle and Jennifer, but...  7 Q. Yes. So I recognize you're not copied on this  8 email. I want to focus you on Row 7, that it says  9 "Majority-Minority."  10 Do you see that row?  11 A. Yes, mm-hmm.  12 Q. Okay. Do you -- were you aware of whether  13 autoBoundEDGE allowed you to produce majority-minority  14 report tables?  15 A. No. I mean, I knew it had more reports than we  16 used.  17 Q. Okay. Did you produce any majority-minority  18 reports?  19 MR. TALLEY: I'll --  20 A. Not that I recall.  21 MR. TALLEY: I'll object and instruct  22 the witness not to answer based on  23 legislative privilege.  24 (BY MS. ADEN:)  25 Q. Looking at row 9, it looks like it says</p>

<p>1 racial -- or it does say "racial demographics."  2 Do you see that?  3 A. Yes, mm-hmm.  4 Q. Are you aware of whether autoBoundEDGE allowed  5 you to run reports with racial demographics?  6 A. Well, as I mentioned earlier, what I -- I didn't  7 run a specific report that I recall. Michelle may  8 have done more detail, but I just looked -- used that  9 grid that appeared at the bottom of the map.  10 Q. So you did not -- you are not aware of using the  11 autoBoundEDGE feature that allowed you to run a racial  12 demographic report?  13 MR. TALLEY: I will object to that  14 question to the extent it calls for anything  15 specific to a member inquiry draft  16 legislation. Otherwise, the witness is free  17 to answer.  18 MS. ADEN: It was just a "yes" or "no."  19 Do you mind reading it back?  20 THE STENOGRAPHER: Question: "So you are  21 not aware of using the autoBoundEDGE feature  22 that allowed you to run a racial demographic  23 report?"  24 A. I don't remember --  25 MR. TALLEY: Same objection; the same</p>	<p>Page 124</p> <p>1 proposed congressional maps, of reports that had  2 racial information that autoBoundEDGE could produce?  3 A. I may have be- -- like I said, we were -- it was  4 a learning process, and I may have become aware of  5 that later, but I didn't really use that because we  6 had already kind of established our protocols of what  7 we sent.  8 Q. What were those protocols?  9 A. Well, we sent the map -- the one map with the  10 full four districts and then the four pictures of each  11 district individually with the population variance.  12 Q. If a member asked you for a report with racial  13 demographics, responding to row/line -- row 9 in this  14 chart of reports that autoBoundEDGE allowed you to  15 produce, does autoBoundEDGE allow you to produce those  16 reports?  17 MR. TALLEY: The witness is free to  18 answer the hypothetical.  19 Instruct the witness not to answer  20 anything that's privileged.  21 Go ahead.  22 A. I suppose so, but I personally relied on the  23 information that appeared on the screen.  24 Q. Did you ever print the information that was on  25 the bottom of the screen and share that with any</p> <p>Page 126</p>
<p>1 limitation.  2 And the clarification on it is that  3 question, as posed, doesn't call for the  4 existence or nonexistence of some  5 communication that would allow you to assess  6 the privilege claim but, rather, a fact that  7 you would try and establish one way or the  8 other that would be privileged.  9 So to the extent you can answer that  10 without revealing any privileged  11 information, go ahead.  12 A. I don't think I was aware of that fully. I knew  13 it had other reports, but I didn't -- I don't think I  14 used it.  15 Q. Were you aware that it had -- autoBoundEDGE had  16 other reports that had racial information associated  17 with it?  18 A. Say that -- I apologize. I lost track.  19 Q. You mentioned that autoBoundEDGE had other  20 reports --  21 A. Mm-hmm.  22 Q. -- features that allowed you to produce reports;  23 is that fair to say?  24 A. Yes.  25 Q. Okay. Were you aware, as you were drawing</p> <p>Page 125</p>	<p>1 legislative member?  2 A. Yes.  3 Q. And you would have done that by email, or would  4 you have printed it out and given it by hand, or both?  5 A. It could be both. I don't remember. I'm sure I  6 could. Email was typically the communication method.  7 Q. And that request would have been from a  8 legislator asking for the racial data that was on the  9 screen?  10 MR. TALLEY: I will allow the witness to  11 answer the hypothetical, to the extent it is  12 one.  13 Instruct the witness not to reveal any  14 kind of privileged information.  15 Go ahead.  16 A. Yes, I would -- I could -- you'll have to  17 forgive me. Back to yours?  18 Q. In printing it out, the racial information at  19 the bottom of your screen, that would have been at the  20 request of a legislator?  21 A. It could have been.  22 Q. How else -- why else would you have printed it?  23 A. I wouldn't have given it unless it was asked  24 for, yes. I'm sorry. I'm not trying to be difficult;  25 I'm just being a little slow there.</p> <p>Page 127</p>

<p>Page 128</p> <p>1 Q. And you would not have given it had you not been 2 asked by a legislator or BLR staff -- other BLR staff? 3 A. Yeah, I can't -- I would imagine it would only 4 be at the request of a member to provide that, yes. 5 Q. And so your files would include any of the 6 printouts of the racial data that would have been 7 requested of you by any legislator? 8 A. I should have a copy of anything I shared with a 9 legislator, yes. 10 Q. And so looking at row 10, and it says, "African 11 American majority-minority," were you aware that 12 autoBoundEDGE allowed you to produce a report of an 13 African American majority-minority? 14 A. I'm not sure. Like I said, I didn't really use 15 these reports. So I may have become aware of it later 16 in the process as I got a little more proficient, 17 but -- but I don't know that I was always aware of its 18 presence or existence. 19 Q. And the row 13 says "Majority-Minority Summary." 20 Are you aware of what that is? 21 A. No. I would have to try to see if I could get 22 it to appear. Like I said, some of these reports were 23 not easy to work with and so I didn't take a lot of 24 time with them. 25 Q. And it also says, "African American</p>	<p>Page 130</p> <p>1 wouldn't function in -- in our environment possibly, 2 you know. That's possible. 3 Q. Who is "they"? 4 A. autoBound. 5 Q. Okay. 6 A. I'm sorry. 7 Q. Understand, yep. 8 MR. TALLEY: We've been going for over 9 90 minutes. It's noon. So I don't know 10 what, kind of, your plan is. 11 MS. ADEN: So I definitely have -- 12 MR. TALLEY: We'd like to take lunch at 13 some point. 14 MS. ADEN: -- more to go. 15 If we could go for maybe 15 minutes, cut 16 then, and then we can decide our lunch 17 break? 18 MR. TALLEY: That's fine. 19 MS. ADEN: Are you okay with that? 20 THE WITNESS: Sure. 21 (BY MS. ADEN:) 22 Q. I want to talk just a little bit more, briefly, 23 about data that was on the screen as you were 24 developing congressional maps. 25 Was it possible to turn off different</p>
<p>Page 129</p> <p>1 majority-minority summary." Are you aware of what 2 that is? 3 A. No. 4 Q. And skimming this list of bill language, the 5 column of report name from 1 through 42, do you mind 6 taking a look at that? 7 So I'm looking at the far left column. 8 It says "Report name." 9 Is it fair to say that autoBoundEDGE 10 would allow you to produce reports with these titled 11 categories that follow underneath them? Is that your 12 understanding? 13 A. I guess so. If they're listed here, I presume 14 it's an existing report. 15 Q. In looking at that existing report, do you see 16 anything that delineates autoBoundEDGE's ability to 17 produce political data reports or -- political data 18 reports? 19 A. This is so small. I don't see anything that 20 would say that, but I'd have to have a bigger copy to 21 tell you definitively. 22 But as I said, my understanding was 23 there was no political data available in the system. 24 Q. Okay. 25 A. Now, they might have had a standard report that</p>	<p>Page 131</p> <p>1 data as you were developing proposed congressional 2 maps? 3 A. I'm not sure what you mean by "turn off." Like, 4 we might -- I might could have minimized that to make 5 the map look bigger if we wanted to zoom in on the 6 map. 7 Is that what you're referring to? 8 Q. So could you describe -- you described for me 9 that you would be drawing a map on a computer and at 10 least at the bottom of the screen, you would have 11 racial percentages; is that fair to say? 12 A. Yes. 13 Q. Okay. What else would be on the screen as you 14 would be drawing congressional districts? What would 15 you see? 16 A. It's been so long since I've been in the 17 program. I don't remember anything, other than the 18 mapping. Now, they had menus for the mapping program 19 itself that you would see. 20 But other than the map itself and then 21 that grid, which sort of looked like an Excel 22 spreadsheet, I don't recall anything else. That 23 doesn't mean it wasn't there, but I don't remember 24 anything else. 25 Q. So you had standard information on the screen as</p>

<div>Page 132</div> <div><div>1</div><div>you were preparing maps?</div><div>2</div><div>A. Yes, mm-hmm.</div><div>3</div><div>Q. And so were there times where you would turn</div><div>4</div><div>particular screens on and off, or would you keep the</div><div>5</div><div>same information on the screen as you were developing</div><div>6</div><div>congressional maps?</div><div>7</div><div>A. I'm not sure I followed that honestly. But I</div><div>8</div><div>know, like, one of the things we could turn on and off</div><div>9</div><div>were the district lines. Sometimes they might not</div><div>10</div><div>want the district -- the existing district lines to</div><div>11</div><div>appear, so that is something that we could have or not</div><div>12</div><div>have.</div><div>13</div><div>Q. But the bar at the bottom with the racial</div><div>14</div><div>demographics, when you were drawing maps, was that on</div><div>15</div><div>the entire time?</div><div>16</div><div>A. Yes. I think it could be minimized, but I</div><div>17</div><div>didn't usually do that.</div><div>18</div><div>Q. Okay. Are you familiar with the term</div><div>19</div><div>"maintaining cores of existing districts where</div><div>20</div><div>practical"?</div><div>21</div><div>A. Not particularly, no.</div><div>22</div><div>Q. Okay. So when you were drawing proposed</div><div>23</div><div>congressional districting maps, was it your goal to</div><div>24</div><div>preserve the cores of districts?</div><div>25</div><div>MR. TALLEY: Object to form.</div></div>	<div>Page 134</div> <div><div>1</div><div>enumerate them, but I have seen all of the minority</div><div>2</div><div>groups enumerated in census materials.</div><div>3</div><div>Q. Okay.</div><div>4</div><div>A. Nonwhite, perhaps, is a better way -- a more</div><div>5</div><div>simplistic way, I suppose, to say it.</div><div>6</div><div>Q. Are you familiar with "avoiding racial</div><div>7</div><div>gerrymandering"?</div><div>8</div><div>A. I've heard that term.</div><div>9</div><div>Q. What does that mean to you?</div><div>10</div><div>A. I would -- I would assume that it would be</div><div>11</div><div>creating a district so as to -- using your terminology</div><div>12</div><div>from a moment ago, that you minimize their voting</div><div>13</div><div>strength.</div><div>14</div><div>Q. And are you familiar with "avoiding partisan</div><div>15</div><div>gerrymandering"?</div><div>16</div><div>A. I've heard that term as well, and I guess it</div><div>17</div><div>would be similar where you're drawing the lines in</div><div>18</div><div>such a way to minimize or reduce the voting strength</div><div>19</div><div>of any given party.</div><div>20</div><div>Q. Was -- strike that.</div><div>21</div><div>Let me show you very quickly before we</div><div>22</div><div>go on break. This is a printout of the redistricting</div><div>23</div><div>standards and requirements on the Arkansas Board of</div><div>24</div><div>Apportionment website that we just printed out on</div><div>25</div><div>July 1st at 5:31 p.m., and I just want to show it to</div></div>
<div>Page 133</div> <div><div>1</div><div>The witness is free to answer.</div><div>2</div><div>A. I think it's safe to say I didn't have any goals</div><div>3</div><div>because I only did it per the instructions.</div><div>4</div><div>Q. Okay. Are you familiar with "avoiding dilution</div><div>5</div><div>of minority voting strength"?</div><div>6</div><div>A. I probably have heard that and some of the</div><div>7</div><div>materials that -- seen it in the materials that I</div><div>8</div><div>have -- from NCSL and heard it in some of the Webinars</div><div>9</div><div>and that sort of thing, probably.</div><div>10</div><div>Q. And what do you understand that to mean?</div><div>11</div><div>A. Dilution? I'm not sure I can define it.</div><div>12</div><div>Minimize -- I don't know. Move them in such a way</div><div>13</div><div>that they would constitute a smaller number of people</div><div>14</div><div>perhaps.</div><div>15</div><div>Q. Who is "they"?</div><div>16</div><div>A. The group that you were just referencing,</div><div>17</div><div>minority group.</div><div>18</div><div>Q. What does "minority" mean to you?</div><div>19</div><div>MR. TALLEY: Object. Form.</div><div>20</div><div>Go ahead.</div><div>21</div><div>A. In this context, the way it was defined, and it</div><div>22</div><div>wasn't -- they weren't -- every group wasn't</div><div>23</div><div>articulated. It included black, Hispanic, and then</div><div>24</div><div>all minority, which would have been, I guess,</div><div>25</div><div>inclusive of all minority groups. And I can't</div></div>	<div>Page 135</div> <div><div>1</div><div>you.</div><div>2</div><div>MR. TALLEY: Did you say Board of</div><div>3</div><div>Apportionment?</div><div>4</div><div>MS. ADEN: Mm-hmm. And this is going to</div><div>5</div><div>be marked as Exhibit 8 at this point.</div><div>6</div><div>(Exhibit 8 marked for identification.)</div><div>7</div><div>Q. Are you familiar with this website?</div><div>8</div><div>A. I have seen it before. Yes, mm-hmm.</div><div>9</div><div>Q. Did you refer to this website as you were</div><div>10</div><div>developing congressional maps?</div><div>11</div><div>A. I don't think I would have had a reason to do</div><div>12</div><div>that, no.</div><div>13</div><div>Q. Okay.</div><div>14</div><div>MR. TALLEY: I'll stop you.</div><div>15</div><div>The copy you gave me I think may have</div><div>16</div><div>some of your work product stapled to the end</div><div>17</div><div>of it.</div><div>18</div><div>MS. ADEN: Okay. Oh, I did staple to</div><div>19</div><div>that. Thank you.</div><div>20</div><div>THE WITNESS: I don't think mine did.</div><div>21</div><div>MS. ADEN: Thank you.</div><div>22</div><div>(BY MS. ADEN:)</div><div>23</div><div>Q. So just to be clear, you did not consult this</div><div>24</div><div>website as you were developing congressional maps?</div><div>25</div><div>A. I don't believe so, no.</div></div>



<p>Page 136</p> <p>1 Q. Okay. And looking at this -- these few pages --</p> <p>2 strike that. I'm not going to ask any more about</p> <p>3 that. This is going to be 8.</p> <p>4 I want to show you BLR-Byrd-FOIA-01626.</p> <p>5 This is going to be marked as Exhibit 9.</p> <p>6 (Exhibit 9 marked for identification.)</p> <p>7 Q. And it is an email from Matthew Miller to Ben</p> <p>8 Williams, on Monday, October 4th, 2021. Subject:</p> <p>9 Help answer a fellow legislative staffer's question.</p> <p>10 You are not copied on this email. Are</p> <p>11 you familiar with this exchange?</p> <p>12 A. Umm-umm.</p> <p>13 Q. Do you know who Ben Williams is?</p> <p>14 A. There were two or three people -- there was a</p> <p>15 LISTSERV -- you know, I mentioned I participated in</p> <p>16 Webinars and there were two or three NCSL staff that</p> <p>17 one or all of them usually were present on those and</p> <p>18 he was one of them.</p> <p>19 Q. So he is not affiliated with BLR?</p> <p>20 A. No. He works for the National Conference of</p> <p>21 State Legislatures.</p> <p>22 Q. And at the top of the email it says, "Ben,</p> <p>23 Arkansas does not have specific redistricting</p> <p>24 criteria, so we aren't of much help."</p> <p>25 Is that your understanding, that</p>	<p>Page 138</p> <p>1 voters?</p> <p>2 MR. TALLEY: Same objection; same</p> <p>3 instruction.</p> <p>4 A. It was my understanding that -- that members who</p> <p>5 set the criteria could consider that.</p> <p>6 Q. And so does that mean it was your understanding</p> <p>7 that it was appropriate for you to look at the race of</p> <p>8 voters as you were developing congressional maps at</p> <p>9 any legislator's instruction?</p> <p>10 MR. TALLEY: I'll instruct the witness</p> <p>11 not to answer on legislative privilege</p> <p>12 grounds.</p> <p>13 (BY MS. ADEN:)</p> <p>14 Q. If a legislator instructed you to consider the</p> <p>15 race of voters in responding to a legislative mapping</p> <p>16 request, was it your understanding that it was</p> <p>17 appropriate for you to do so?</p> <p>18 MR. TALLEY: The witness is free to</p> <p>19 answer a hypothetical question. I'll</p> <p>20 instruct the witness not to answer and</p> <p>21 reveal any privileged information.</p> <p>22 Subject to that limitation, go ahead.</p> <p>23 A. If a member gave me instructions to observe</p> <p>24 those parameters, I would have done it.</p> <p>25 MS. ADEN: Okay. I think this is a good</p>
<p>Page 137</p> <p>1 Arkansas does not have specific redistricting</p> <p>2 criteria?</p> <p>3 A. Well, in response to one of your earlier</p> <p>4 questions, if there were any printed or enacted rules,</p> <p>5 there were not that I knew of. They were made aware</p> <p>6 of general redistricting principles, but there weren't</p> <p>7 any enacted in law or in rules by the committees that</p> <p>8 they -- that I'm aware of.</p> <p>9 Q. And "they" meaning legislators?</p> <p>10 A. Legislators, yes.</p> <p>11 Q. And they were made aware of any criteria through</p> <p>12 that one presentation by Ms. Davenport and Mr. Miller</p> <p>13 that you attended?</p> <p>14 A. Yes. That's the only one I'm aware of, yes.</p> <p>15 Q. Okay. Was it your understanding that while</p> <p>16 developing congressional maps, you could consider the</p> <p>17 race of voters?</p> <p>18 MR. TALLEY: Object to form.</p> <p>19 I'll instruct the witness not to answer</p> <p>20 in a way that would offer some privileged</p> <p>21 information. Otherwise, the witness is free</p> <p>22 to answer.</p> <p>23 A. Say it again, I apologize.</p> <p>24 Q. Was it your understanding that in developing</p> <p>25 congressional maps that you could consider the race of</p>	<p>Page 139</p> <p>1 time for lunch break.</p> <p>2 (Recess from 12:12 p.m. to 1:11 p.m.)</p> <p>3 (BY MS. ADEN:)</p> <p>4 Q. Welcome back.</p> <p>5 A. Yes. Thank you.</p> <p>6 Q. I want to talk very briefly about population</p> <p>7 imbalances among congressional districts following the</p> <p>8 2020 census.</p> <p>9 Based on the State's population growth</p> <p>10 from 2010 to 2020, do you know approximately how many</p> <p>11 people each of the four congressional districts should</p> <p>12 have?</p> <p>13 MR. BRASCHER: I'm sorry. Real quick,</p> <p>14 are we still muted for the Zoom people?</p> <p>15 THE COURT REPORTER: Yes.</p> <p>16 MR. BRASCHER: Okay. Unmuted. There</p> <p>17 you go.</p> <p>18 MR. TALLEY: We might get interrupted.</p> <p>19 THE WITNESS: Will you repeat that?</p> <p>20 MS. ADEN: Sure.</p> <p>21 A. Is it the number of the target population per</p> <p>22 district?</p> <p>23 Q. Yes.</p> <p>24 A. I had this in my mind, but I think it was like</p> <p>25 752 -- 752,000, or something like that. I won't get</p>

<div>1 the other down to the --</div> <div>2 Q. Would it be 700,000 --</div> <div>3 A. 752 --</div> <div>4 Q. -- 752,881?</div> <div>5 A. Yes. Yes, was what I thought we were -- that</div> <div>6 was the target that showed up in the software each</div> <div>7 time for a district.</div> <div>8 Q. And that's per persons for each of the four</div> <div>9 congressional districts?</div> <div>10 A. Yes, yes.</div> <div>11 Q. Do you know if there were population imbalances</div> <div>12 that needed to be fixed following the 2020 census?</div> <div>13 For example, was there any particular</div> <div>14 districts that had too many or too few people</div> <div>15 following the census?</div> <div>16 A. My understanding, and I won't be able to</div> <div>17 quantify it is, there was, you know, a re- -- the</div> <div>18 numbers were not the same in terms of distribution</div> <div>19 between '10 and '20. There were losses in, like, 4th</div> <div>20 Congressional District and probably 1st.</div> <div>21 I'm going to say this wrong, but they</div> <div>22 grew a good bit in population, using the existing</div> <div>23 lines.</div> <div>24 Q. Are there any districts that stand out in your</div> <div>25 mind as having too many people following the 2020</div>	<div>1 training, and I think that may have been the standard</div> <div>2 that Michelle and Matthew may have mentioned in that</div> <div>3 presentation, that it is a standard that has been used</div> <div>4 in some cases. Yes, mm-hmm.</div> <div>5 Q. Were there reasons where it was acceptable to go</div> <div>6 above or below that 1 percent deviation?</div> <div>7 A. I don't know that I could say that, that seems</div> <div>8 like a legal determination to me and I -- that's not</div> <div>9 my role, and so I don't know.</div> <div>10 Q. When you were drawing proposed congressional</div> <div>11 maps, did you meet target populations based on the</div> <div>12 request of a particular legislator?</div> <div>13 MR. TALLEY: You can go ahead and answer</div> <div>14 that.</div> <div>15 A. I guess probably the best answer I can give is</div> <div>16 we reported it each time to the member and then they</div> <div>17 could adjust as they saw fit.</div> <div>18 Q. In terms of drawing proposed congressional maps,</div> <div>19 I know we're talking about it generically, but was --</div> <div>20 what was the first -- was rebalancing the population</div> <div>21 the first step that you would take in drawing proposed</div> <div>22 maps, or could it have been any other goal of a</div> <div>23 particular legislator?</div> <div>24 A. I don't know what all their rationale would have</div> <div>25 been. I know that the population that had been</div>
<div>1 census?</div> <div>2 A. Oh, you mean following the 2020 -- you mean</div> <div>3 following the maps that were drawn?</div> <div>4 Q. Or how many people needed -- were there any</div> <div>5 districts where there were too many people that needed</div> <div>6 to be moved out to rebalance population after the</div> <div>7 census?</div> <div>8 A. My memory is telling me that the 2nd and the 3rd</div> <div>9 probably were above that 752,881 you just mentioned.</div> <div>10 Q. Would it surprise you that fewer than 16,510</div> <div>11 people needed to be moved out of Arkansas's 2nd</div> <div>12 Congressional District to get to the ideal target</div> <div>13 population?</div> <div>14 MR. TALLEY: Object to form.</div> <div>15 Go ahead.</div> <div>16 A. I don't know if I thought about -- I</div> <div>17 apologize -- in terms of having a motion about it. I</div> <div>18 don't know that I thought about it.</div> <div>19 Q. Okay. I think earlier you mentioned that</div> <div>20 generically there might be an acceptable deviation of</div> <div>21 1 percent for population rebalancing following the</div> <div>22 census.</div> <div>23 Is that your understanding as well?</div> <div>24 A. I think that was one of the standards that we</div> <div>25 learned about when we participated in some of that</div>	<div>1 assigned per their instructions was what we reported</div> <div>2 to them.</div> <div>3 Q. So, for example, a representative would say, "I</div> <div>4 want 752,881 people in my district" --</div> <div>5 A. Mm-hmm.</div> <div>6 Q. -- "to get there, I want you to do A, B, C, and</div> <div>7 D."</div> <div>8 Is that how a request would come to you?</div> <div>9 MR. TALLEY: You can answer that as to a</div> <div>10 hypothetical. I would instruct you not to</div> <div>11 divulge any privileged information.</div> <div>12 Subject to that limitation, go ahead.</div> <div>13 A. I mean, if that was the instruction that we</div> <div>14 want -- that they wanted us to get as close to that</div> <div>15 target population as we could, then certainly we would</div> <div>16 attempt to try to do that in connect -- in conjunction</div> <div>17 with any other instructions they might have provided</div> <div>18 to us.</div> <div>19 Q. Okay. So I think I'm getting this -- I'm sorry.</div> <div>20 What is -- I have to try to figure this out myself.</div> <div>21 But a legislator, generically, could</div> <div>22 say, "I want to get to -- as close to rebalancing the</div> <div>23 population as equally as possible, but I also want to</div> <div>24 do A, B, C, and D."</div> <div>25 You would try to meet all of those</div>

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<p>1 objectives when you would draw a proposed</p> <p>2 congressional map?</p> <p>3 MR. TALLEY: Free -- the witness is free</p> <p>4 to answer the hypothetical. I'll instruct</p> <p>5 you not to answer or reveal any privileged</p> <p>6 information.</p> <p>7 Subject to that limitation, go ahead.</p> <p>8 A. Yes. I mean, I -- that would be our rule of</p> <p>9 thumb is we would follow -- you know, any kind of</p> <p>10 objective the member laid out, we would do our best to</p> <p>11 get as close to what they requested as we possibly</p> <p>12 could.</p> <p>13 Q. And if a legislature -- legislator was going</p> <p>14 above the 1 percent in meeting some of the other</p> <p>15 goals, you would draw the map going above the</p> <p>16 1 percent because that's what was requested of you?</p> <p>17 A. Yeah.</p> <p>18 MR. TALLEY: Same instruction; same</p> <p>19 limitation.</p> <p>20 A. If that's what they asked us to do, we would.</p> <p>21 Yes.</p> <p>22 Q. So you would never say that, "I think we should</p> <p>23 try to get as close to equal as every human being</p> <p>24 possible between the districts, and to do so I need to</p> <p>25 do A, B, and C."</p>	<p>1 generally speaking, as staff, I thought, you know, we</p> <p>2 just all pretty much do it as the members instruct,</p> <p>3 but I couldn't tell you if they provided any guidance.</p> <p>4 Q. So even though you are nonpartisan staff of the</p> <p>5 General Assembly, you did not think you had authority</p> <p>6 to instruct legislators about how to comply with any</p> <p>7 requirements for redistricting that they may have had?</p> <p>8 MR. TALLEY: Object to form.</p> <p>9 A. Yeah. I did not have the authority to do that,</p> <p>10 no.</p> <p>11 Q. Did BLR organize public hearings on</p> <p>12 redistricting?</p> <p>13 A. No, the Bureau doesn't hold hearings. There</p> <p>14 were State Agency meetings -- State Agency committee</p> <p>15 meetings where maps were considered. Legislative</p> <p>16 committee meetings.</p> <p>17 Q. Were you familiar that -- with hearings held in</p> <p>18 Bentonville, Hope, Helena, Fort Smith, Jonesboro, or</p> <p>19 Little Rock seeking public input on congressional</p> <p>20 mapmaking?</p> <p>21 A. No, but what -- but what you may be referring to</p> <p>22 is the Board of Apportionment held hearings on state</p> <p>23 House and Senate districts. So that may be what</p> <p>24 you're referring to.</p> <p>25 Q. But you're not aware of similar hearings around</p>
Page 145	Page 147
<p>1 You would never provide that particular</p> <p>2 type of guidance to a legislator?</p> <p>3 A. No.</p> <p>4 MR. TALLEY: Same instruction; same</p> <p>5 limitation.</p> <p>6 Q. Okay. Was it your understanding that keeping</p> <p>7 counties whole could justify higher population</p> <p>8 deviations?</p> <p>9 A. Again, these are kind of legal decis- --</p> <p>10 determinations that I wasn't in a position to -- to</p> <p>11 make or to determine.</p> <p>12 Q. Who would make those assessments?</p> <p>13 A. The members. They would decide -- they</p> <p>14 understood, you know, kind of generally what the</p> <p>15 parameters were, but they made all of the decisions</p> <p>16 about the way -- the way the maps would be drawn.</p> <p>17 Q. And if the members weren't lawyers, it would</p> <p>18 still be up to them to make the determination?</p> <p>19 A. Yes.</p> <p>20 Q. Would -- are you aware of whether Michelle</p> <p>21 Davenport or Matthew Miller made determinations about</p> <p>22 whether it was acceptable to keep counties whole in</p> <p>23 order to -- and that -- to keep counties whole, even</p> <p>24 if that meant having population deviations?</p> <p>25 A. I don't know what they did. But I know,</p>	<p>1 the state anywhere for congressional mapmaking?</p> <p>2 A. I'm not aware of it, no. No.</p> <p>3 Q. And you wouldn't have attended any of them?</p> <p>4 A. I didn't attend any, no.</p> <p>5 Q. Okay. So any public feedback on proposed map --</p> <p>6 how would you receive any public feedback on proposed</p> <p>7 congressional maps?</p> <p>8 A. The legislators -- standing committees very</p> <p>9 often when they have a bill, they'll offer -- after</p> <p>10 the member presents their bill, they will have an</p> <p>11 opportunity where people can sign up to speak to the</p> <p>12 committee. So that would have been their opportunity</p> <p>13 to speak on the maps.</p> <p>14 Q. Did you attend any of those hearings?</p> <p>15 A. I probably listened to them. Our meetings are</p> <p>16 streamed, and I probably listened to them on my</p> <p>17 computer.</p> <p>18 Q. And what, if anything, did you do with the</p> <p>19 information you heard at those meetings?</p> <p>20 A. I was just trying to keep abreast of the status</p> <p>21 of all of the bills that were being considered. I</p> <p>22 really didn't have a role per se.</p> <p>23 Q. So if you heard concerns or wishes being made</p> <p>24 during those meetings, you would not go back to the</p> <p>25 computer and try to implement them based upon what you</p>

1 had heard?	Page 148	1 Q. And is that common that you would have this date	Page 150
2 MR. TALLEY: Object to form.		2 stamp and time stamp on these reports?	
3 A. No, the only time I would change -- try to make		3 A. I tried to remember earlier. I couldn't	
4 a change to a map is if a member came back and said,		4 remember if it actually appeared on there, but it	
5 "I'd like to change my map," or asked for a new map to		5 appears like it does -- it did actually appear on	
6 be developed.		6 there.	
7 Q. Okay. I have some questions about proposed		7 We would not have put that in, so it	
8 congressional maps developed this cycle.		8 would have been an automatic function of the program.	
9 I am marking as Exhibit -- thank you. I		9 Q. And then it says above that: AutoBoundEDGE	
10 think I still have some here, but thank you -- as		10 Map - Based on 2020 Census Geography, 2010 PL94-171.	
11 Exhibit 10 -- as Exhibit 10 what has been		11 Do you see that?	
12 Bates-stamped as BLR-CMA-00181 through 187. These are		12 A. Yes, mm-hmm.	
13 images of House Bill 1959.		13 Q. What does that mean to you?	
14 (Exhibit 10 marked for identification.)		14 A. Well, it looks like it was -- the geographies	
15 Q. Do you recognize these images?		15 would be the -- any changes to political subdivision	
16 A. Yes.		16 lines would be updated through 2020 is the way I would	
17 Q. What do you recognize them as?		17 interpret the 2020 census geography. And	
18 A. Well, as I mentioned to you earlier, we would		18 2010 PL94-171 would look like the census data would	
19 provide them with a full map and then we would provide		19 have been 2010, but I don't think this would -- that	
20 them -- and in this case it looks like we gave them		20 was true. This may be just a misnaming on the part of	
21 one with -- without congress- -- the existing		21 the program.	
22 congressional district lines, one with -- the red		22 Q. What is "PL94-171"?	
23 lines are the existing congressional district lines,		23 A. That is the name of the file, that census file,	
24 and then the individual where each district is		24 whenever the final census data, public -- maybe public	
25 depicted separately with that information, that		25 law -- I don't know -- 94-171, it's the file name that	
1 variance information I mentioned earlier.	Page 149	1 they ascribed every time I would hear them talk about	Page 151
2 Q. Okay. So 181 is the map without the 2011 lines		2 the final census data being released.	
3 imposed on it that you just referenced?		3 Q. And that file, did that include total population	
4 A. Mm-hmm.		4 numbers?	
5 Q. 182 is the one with the 2011 lines superimposed		5 A. That is my understanding. Again, I didn't ever	
6 on top of the draft?		6 actually look at the actual files because I didn't	
7 A. Yes, mm-hmm.		7 load them, but that's my understanding.	
8 Q. Okay. And then there's 183, which is the table		8 Q. Was it your understanding that it included total	
9 of contents for what comes next?		9 and voting age population numbers for different racial	
10 A. Mm-hmm.		10 groups?	
11 Q. And then 184 is focusing on District 1?		11 A. I would assume that to be true because in the --	
12 A. Yes.		12 in the program itself, it provided that. So...	
13 Q. 185 is focused on District 2?		13 Q. The program autoBoundEDGE?	
14 A. Correct.		14 A. autoBoundEDGE, that's correct.	
15 Q. 186 on District 3?		15 Q. This map, HB1959, looks like it was associated	
16 A. Yes.		16 with Representatives Speaks, Nelda Speaks; is that	
17 Q. And 187 on District 4?		17 fair?	
18 A. Correct.		18 A. Yes, I believe that is -- that's true.	
19 Q. Okay. And at the bottom of 181, the first page,		19 Q. Did you help develop this map with	
20 it looks like there are some map dates, and that		20 Representative Speaks?	
21 includes when the map was last -- this particular		21 MR. TALLEY: I'll object, and instruct	
22 set --		22 the witness not to answer based on	
23 A. Yes.		23 legislative privilege.	
24 Q. -- of maps was last edited; is that fair to say?		24 MS. ADEN: Okay. So a yes-or-no	
25 A. It looks like it, yes. Mm-hmm.		25 question about whether or not Ms. Bowen, in	



<p>1 her capacity as an analyst for BLR, whether 2 she -- the fact of her working on this map 3 exists, you are objecting to for legislative 4 privilege? 5 MR. TALLEY: Yes. And I'll stand on 6 that one. 7 MS. ADEN: And what's your basis for 8 that? 9 MR. TALLEY: Reveal the identity of who 10 was working with individual members on what 11 maps were here. 12 I mean, if you want to ask her questions 13 about the four corners of this map and 14 what's on it, what's not. But anything 15 behind what went into the creation of this 16 map, whether it was within the Bureau or the 17 member, I take the position that's 18 privileged. 19 (BY MS. ADEN:) 20 Q. Did you develop this -- did you develop a 21 version of HB1959? 22 MR. TALLEY: Objection. I'll instruct 23 the witness not to answer based on 24 legislative privilege. 25 MS. ADEN: The existence -- so you</p>	<p>Page 152</p> <p>1 What I'm doing is thinking and considering 2 one item. 3 Okay. I will let the witness answer the 4 question that's on the table, simply as to 5 whether she helped draw the map. And the 6 reason why is because when it comes to filed 7 legislation, for example, House Bill 1959, 8 as part of the public record, the face of 9 that legislation does have an indicator as 10 to which attorney or drafting attorney 11 within the Bureau assisted in the 12 preparation of that bill. 13 So for that reason, I will let the 14 witness answer that question that's on the 15 table and then we'll see where it goes from 16 there. 17 So if you want to reask it, I'll let her 18 answer. 19 MS. ADEN: Yes. Excuse me. 20 (BY MS. ADEN:) 21 Q. Did you help develop HB1959? 22 A. I don't believe I did the original -- the 23 initial drafting for Ms. Speaks. I may have helped 24 with subsequent iterations, but I did not -- I don't 25 think I did the original one on this.</p> <p>Page 154</p>
<p>1 are -- so I will note for the record that 2 whether or not -- we think it's a matter of 3 fact, not a matter of legislative privilege, 4 whether Ms. Bowen, in her capacity as staff 5 for the General Assembly, helped draw 6 HB1959. 7 We're not asking what she was told by 8 any representative, whether that be 9 Representative Speaks or not, about the 10 development of this map. We're not asking 11 what instructions she may or may not have 12 been given. We are solely asking whether or 13 not she helped develop this particular 14 proposed bill that is a matter of public 15 record and that was produced as part of the 16 discovery from the BLR. 17 MR. TALLEY: Hang on just a second. I'm 18 seeing if I can pull up the accompanying 19 bill text here. 20 Bear with me for just a second. 21 MX. BENJAMIN: Is there a way to get the 22 video back on as well? 23 MR. BRASCHER: Oh, there we go. 24 MX. BENJAMIN: Thank you. 25 MR. TALLEY: Thanks for bearing with me.</p> <p>Page 153</p>	<p>Page 155</p> <p>1 Q. Do you know how many subsequent iterations of 2 HB '59 you worked on? 3 MR. TALLEY: I will object to that and 4 instruct the witness not to answer because 5 it goes into the drafting and preparation of 6 legislation. 7 (BY MS. ADEN:) 8 Q. Would the -- any work that you did on HB '59 be 9 part of the electronic or hard copy files that you 10 have preserved for purposes of your work with BLR? 11 A. Yes, should be. 12 Q. Do you know approximately when, what time 13 period, you did some drafting on HB1959? 14 A. No. As I mentioned, sometimes when Michelle -- 15 because she was a drafting attorney, I'm not, if she 16 were to be tied up or busy doing that -- some of the 17 drafting work and map work, and she needed someone to 18 help with some of the excess load, I might have -- 19 that's probably when I would have been called in to 20 help on this. 21 Q. Are you aware of any other nonlegislative 22 members, besides yourself, who helped with the 23 original or subsequent versions of HB1959? 24 A. No, I'm not aware of any. 25 MR. TALLEY: And just a point of</p>



<p>1 clarification. The map itself that's been 2 marked as an exhibit is not HB1959. It 3 doesn't get codified. So there's a 4 distinction between the actual 5 legislation -- 6 MS. ADEN: Proposed, yes. 7 MR. TALLEY: -- and the maps because 8 what Michelle Davenport drafted, for 9 example, that is HB1959, is just a bunch of 10 words that describe what you see here. It's 11 not the actual map. 12 (BY MS. ADEN:) 13 Q. But this is a proposed -- for the record, you 14 worked on iterations of a proposed bill for HB1959? 15 A. I believe I did. 16 Q. Where would you have developed this map? 17 A. It seems like at this point, if it's the one I'm 18 thinking of, I actually did some work on the legal 19 computer in the legal area. 20 Q. Do you know how long, approximately, you took to 21 work on versions of what became HB1959? 22 A. No, I don't know. 23 Q. What data was available to you in developing -- 24 as you were drafting proposed HB1959? 25 A. Well, it would have been the same data that --</p>	<p>Page 156</p> <p>1 A. It's been such a long time. 2 If I was wanting to move it out? 3 Q. Yes. 4 A. Seems like you would have to select which 5 district you are wanting to add geographies to, and 6 then you would click on the geography you wanted to 7 add to that district you just selected. 8 Q. Such here as Pulaski County? 9 A. Yes. So I would just click on whichever number 10 the member wanted to move it to, whichever district 11 number, and then click on that geography and then it 12 would move it. 13 Q. If you clicked on Pulaski and you -- would that 14 then tell you, before moving, what the racial makeup 15 of Pulaski County is at the bottom of your screen? 16 A. It wouldn't be just for the county. That, 17 again, was at the district -- the district level. 18 There may have been some functionality, 19 and I just don't remember because I didn't use it very 20 much, where you could click on it and get more 21 granular data by -- but I just don't remember because 22 I didn't use that very often. So -- but I think there 23 may have been ways to do that, but I just -- I usually 24 relied on the more macrolevel measurement. 25 Q. For the district --</p> <p>Page 158</p>
<p>1 for all maps. There was underlying data. And again, 2 what I did to draw the maps was select geography. I 3 wasn't selecting data, I was selecting the geographies 4 which yielded a count. 5 Q. At the bottom of the screen? 6 A. At the bottom, mm-hmm. Yes, ma'am. 7 Q. So let me be clear. If you were -- if you have 8 this map in front of you and you were, for example, 9 proposing to put -- let me strike that and step back. 10 Looking at 181, this proposed bill, is 11 it fair to say that the county of Little Rock is 12 included within proposed Congressional District 2? 13 MR. TALLEY: I'll object to form. 14 Little Rock is not a county. 15 Q. I'm sorry. The County of Pulaski. 16 A. Mm-hmm. 17 Q. I'm sorry. 18 Is it fair to say looking at 181 that in 19 the proposed HB1959, that the County of Pulaski is 20 included within Congressional District 2? 21 A. It appears to be, yes. 22 Q. Okay. If you were working on your computer and 23 you were seeking to move Pulaski County in or out of 24 Congressional District 2, what you would see on your 25 screen is -- what would you see on the screen?</p> <p>Page 157</p>	<p>1 A. For the district. 2 Q. -- that's represented at the bottom? 3 A. Mm-hmm. 4 Q. Okay. And so then you move the County of 5 Pulaski from CD2, just as an exemplar, into another 6 district. The bottom of the screen would then update 7 to tell you what the overall demographics -- total 8 population racial demographics would be of that 9 district now that Pulaski is moved out of it; is that 10 fair to say? 11 A. Yes. Yes. It should have adjusted real-time 12 with that change, yes. 13 Q. Okay. If you were moving a precinct, for 14 example, from CD2 into CD1 or 4, would you go about 15 the same process of selecting the geography of the 16 precinct? 17 A. Yes. You would have to tell it -- and I think 18 we may have to do both the -- the geography and the 19 district, and then you click on that geography and you 20 move it. And my recollection would be that the 21 numbers -- I'm not sure I really studied that or paid 22 much attention to that, but I do think it modified in 23 accordance with whatever the selections were in the 24 map. 25 Q. The overall percentage of the district, or would</p> <p>Page 159</p>

<p>1 it also tell you the racial makeup of that precinct as 2 well? 3 A. I assume it took -- everything adjusted, but 4 I -- honestly, I never did sit down and test it or 5 verify it, you know, to be sure that that happened. 6 But I -- I would think -- I know the totals would 7 adjust and that's what I was most focused on. So I 8 would have presumed that all of the numbers would 9 adjust as well, but I, honestly, haven't 10 scientifically sat down and sat -- and counted it all 11 up to make sure that it did change. 12 Q. But -- and just to pull this a little bit 13 further. So if you selected, though, a precinct, 14 would you have access to the racial makeup of the 15 precinct on the autoBound software that you were 16 using? 17 A. Not with what was -- what we were viewing. There may 18 have been a way to drill into that and get that; there 19 probably was. I did not use that. 20 Q. Ever? 21 A. Not that I recall. 22 Q. Okay. Who made the determinations about what 23 data would be available on the screen as you were 24 drafting versions of proposed HB1959? 25 A. Well, I think the software sort of dictated the</p>	<p>Page 160</p> <p>1 district and that would be reflected. You could see 2 the numbers district by district here. It doesn't 3 really say necessarily where it's coming from, but it 4 tells you how much it deviates from the target. 5 Q. So, for example, on BLR-CMA-184, which is 6 particular focus on District 1. 7 A. Mm-hmm. 8 Q. At the bottom center of that map, or partial 9 map, it says "deviation, .37"? 10 A. Correct. 11 Q. What did that mean to you? 12 A. To me, this map, as drawn, has Congressional 13 District 1 having a population of 755,667 people, 14 which is a deviation of .37 from the target of 15 752,881. 16 Q. So that's .37 percent over the ideal target? 17 A. Correct. 18 Q. Okay. And if you look at 185, 186, and 187, do 19 you -- does it also indicate the deviations of each of 20 the particular districts? 21 A. Yes. 22 Q. And is it your position that autoBound would 23 generate these population data points, but that you 24 would not make -- take a position one way or the other 25 of whether or not this was an acceptable population</p> <p>Page 162</p>
<p>1 options to a large degree. And, again, I said we -- 2 we chose these -- the map, showing the full map, and 3 then those four more detailed for each district, but 4 it largely was set up by the software how those 5 sheet -- those views appeared. 6 Q. And it was a set view on your screen? 7 A. Yes. I think we had the capability of doing 8 some personalization. Like, if you'll notice, I think 9 we added the State seal, and I think they may have 10 walked me through how to do that because it was 11 some -- it was just a generic. It wasn't -- it needed 12 to be either removed or ours put in, and I think 13 that's when we decided to put the State seal on. 14 But other than that, we really didn't 15 modify the screen to personalize it to Arkansas, other 16 than that sort of thing. And the title, I think we 17 could set what this title is. It was probably the 18 file name, but I wouldn't swear to that, either. 19 Q. Okay. Do you know whether BLR produced 20 demographic data associated with this map? 21 A. I don't remember on that. 22 Q. Okay. Do you know whether this map rebalanced 23 the population between districts? 24 A. Well, I presume, because it did make some 25 changes, that it did adjust the population numbers by</p> <p>Page 161</p>	<p>1 deviation? 2 A. I didn't -- I didn't advise the members if I 3 thought it was acceptable or not, no. They have been 4 apprised by -- in the committee about what -- those 5 generally accepted principles and then that's the only 6 information I know that they got on that. 7 Q. As you sit here, do you know whether the 8 population deviations in proposed House Bill 1959 were 9 lower than in the ultimately enacted congressional 10 map? 11 A. I don't remember the deviations in the 12 ultimately enacted one. 13 Q. Okay. 14 A. So I don't know if this is less or more. 15 Q. Looking at this map, 181, BLR-CMA-181, do you 16 know whether this map splits any counties? 17 A. It doesn't appear to because I think the 18 counties, our outlines are in that dashed line. So it 19 doesn't appear to. 20 Q. And if you flip through the rest of the 21 screenshots of each of the particular specific 22 districts, that would also allow you to see whether or 23 not county lines had been-- 24 A. Right. 25 Q. -- split?</p> <p>Page 163</p>

<p>Page 164</p> <p>1 A. Yes. I believe that's true, yes.</p> <p>2 Q. And looking at District 2, is Pulaski County</p> <p>3 wholly within District 2 in this map?</p> <p>4 A. It appears that's the case, yes.</p> <p>5 Q. Does that also mean, then, that Little Rock is</p> <p>6 wholly within District 2 under this proposal?</p> <p>7 A. I don't really know what the City of Little Rock</p> <p>8 boundaries are, but I presume it's all within the</p> <p>9 county, yes.</p> <p>10 Q. And you said earlier that you don't think you</p> <p>11 had access to municipal boundary lines when you were</p> <p>12 drawing maps?</p> <p>13 A. We never did load them, that I was aware of, and</p> <p>14 I never was instructed to use them.</p> <p>15 Q. So if a municipal line was being split or</p> <p>16 broken, you were not focused on that when you were</p> <p>17 drawing proposed maps?</p> <p>18 A. No. And I would not have been able to see it</p> <p>19 with what I had available to me.</p> <p>20 Q. And were you reporting -- did you ever report on</p> <p>21 whether municipal lines were split when you were</p> <p>22 drawing proposed maps?</p> <p>23 A. I was never asked to report.</p> <p>24 Q. When you were working on iterations of HB1959,</p> <p>25 what redistricting principles explained the maps that</p>	<p>Page 166</p> <p>1 extent she has any, as I understand the</p> <p>2 question.</p> <p>3 A. I'll be honest. I thought my independent</p> <p>4 thoughts were irrelevant and so I didn't spend a lot</p> <p>5 of time doing that. I just drew them as I was</p> <p>6 instructed to do so.</p> <p>7 Q. So in order to understand what went into HB1959,</p> <p>8 is it fair to say that Representative Speaks is the</p> <p>9 person who would be best situated to tell us that, in</p> <p>10 your opinion?</p> <p>11 MR. TALLEY: Hang on. As phrased,</p> <p>12 that's tricky.</p> <p>13 (BY MS. ADEN:)</p> <p>14 Q. Are you aware of anyone else -- let me ask a</p> <p>15 question before I get to the one that I just got to.</p> <p>16 Are you aware of anyone else, besides a</p> <p>17 legislative member who worked on HB1959?</p> <p>18 A. Well, again, you know, this original one, as I</p> <p>19 recall, Michelle would have gotten this -- this</p> <p>20 whole -- she was the one, I think, that worked on this</p> <p>21 map initially. So I'm not sure at what point -- and</p> <p>22 if it -- if I had been involved at the point at which</p> <p>23 this was published before the committee -- and now</p> <p>24 I've lost track of your question, but -- could you say</p> <p>25 it again?</p>
<p>Page 165</p> <p>1 you were drawing?</p> <p>2 MR. TALLEY: Objection.</p> <p>3 I'll instruct the witness not to answer</p> <p>4 based on legislative privilege.</p> <p>5 (BY MS. ADEN:)</p> <p>6 Q. What redistricting principles did you understand</p> <p>7 you were implementing in drawing proposed</p> <p>8 congressional 1950 -- proposed HB1959?</p> <p>9 MR. TALLEY: Same objection.</p> <p>10 I'll instruct the witness not to answer</p> <p>11 based on legislative privilege.</p> <p>12 (BY MS. ADEN:)</p> <p>13 Q. Is it your view that you had no independent</p> <p>14 understanding of what redistricting principles were or</p> <p>15 were not being adhered to as you were drawing</p> <p>16 iterations of HB1959?</p> <p>17 MR. TALLEY: Same objection.</p> <p>18 I'll instruct the witness not to answer</p> <p>19 based on legislative privilege.</p> <p>20 (BY MS. ADEN:)</p> <p>21 Q. You had no independent thoughts about drafting</p> <p>22 HB1959 outside of those of any legislator that you</p> <p>23 were working with, with respect to this map?</p> <p>24 MR. TALLEY: The witness is free to</p> <p>25 share her independent thoughts, to the</p>	<p>Page 167</p> <p>1 Q. Outside of Michelle working on it initially --</p> <p>2 A. Yeah.</p> <p>3 Q. -- are you aware of anyone else who was not a</p> <p>4 legislator who worked on this matter?</p> <p>5 A. No, not -- I'm not aware of anyone, other than</p> <p>6 Michelle and I, that drew any maps.</p> <p>7 Q. And are you aware of anyone who is not a</p> <p>8 legislator who provided instructions on developing</p> <p>9 HB1959?</p> <p>10 A. I'm not aware of anyone else, no.</p> <p>11 Q. So is it fair to say that the only three</p> <p>12 people -- only three -- at minimum, three people who</p> <p>13 worked on HB1959, or iterations of it, include you,</p> <p>14 Michelle Davenport, and any legislator associated with</p> <p>15 this map?</p> <p>16 A. Yeah. I don't know who else might have worked</p> <p>17 on the map besides myself and Michelle. I mean, I'm</p> <p>18 not sure I'm following that one.</p> <p>19 Q. And based on legislative privilege, you are</p> <p>20 unable to tell me, as you sit here today, based on</p> <p>21 instruction from counsel, what directions or</p> <p>22 guidelines you used to develop HB1959 when you worked</p> <p>23 on it?</p> <p>24 MR. TALLEY: Object to the form. I'm a</p> <p>25 little lost in the question.</p>

<div>1 And to be clear for our record, the</div> <div>2 witness is not unwilling, nor unable to</div> <div>3 answer certain questions posed to her, but</div> <div>4 is, rather, relying on the instruction of</div> <div>5 her attorney.</div> <div>6 So if you ask that question again, I</div> <div>7 think I can better assess whether I'll let</div> <div>8 her answer it because I was a little lost.</div> <div>9 (BY MS. ADEN:)</div> <div>10 Q. At the instruction of your attorney, as you sit</div> <div>11 here today, you're unable to tell me what guidelines</div> <div>12 or requirements you used in order to develop</div> <div>13 iterations of HB1959?</div> <div>14 A. Well, any guidelines I would have used to draw</div> <div>15 any map would have been the instructions provided to</div> <div>16 me by a member of the General Assembly.</div> <div>17 Q. Including with respect to HB1959?</div> <div>18 A. Yes, if I even worked -- like I said, I think I</div> <div>19 worked on this at some point down the road, but the</div> <div>20 numbers -- I don't have the bill numbers memorized,</div> <div>21 either, so...</div> <div>22 Q. Do you know if you worked on the final version</div> <div>23 of HB1959 that led to it being introduced as</div> <div>24 legislation?</div> <div>25 A. I do think I worked on a subsequent -- on what</div>	<div>Page 168</div> <div>1 look at the documents.</div> <div>2 Do you recognize these images?</div> <div>3 A. I mean, I recognize the formatting of them, yes.</div> <div>4 Q. Does this reflect maps that were ultimately</div> <div>5 reflected in legislative text for HB1960 by</div> <div>6 Representative Ladyman?</div> <div>7 A. I mean, it would appear to me that that's --</div> <div>8 that would be true, that this would have been the</div> <div>9 graphic depiction of what would be in writing in the</div> <div>10 bill.</div> <div>11 Q. Did you help develop maps for HB1960, whether</div> <div>12 original or iterations of it?</div> <div>13 A. I'm not sure. I could tell you for sure if I</div> <div>14 looked at my materials. I don't -- I think I might</div> <div>15 have, but I couldn't -- I don't -- I'm not 100 percent</div> <div>16 sure on this one.</div> <div>17 Q. And by looking at your materials, what are you</div> <div>18 referring to? Your files?</div> <div>19 A. My files, mm-hmm.</div> <div>20 Q. Okay. Do you remember, generically, working on</div> <div>21 any maps with Representative Ladyman?</div> <div>22 MR. TALLEY: I'll let her answer that.</div> <div>23 A. Yes. I did, but I -- and I just don't remember</div> <div>24 if this is one of them. I would have to -- I could</div> <div>25 verify decisively, but I just don't remember.</div>	<div>Page 170</div>
<div>1 ultimately became an act. I think I did help a little</div> <div>2 bit toward the latter part. I do think I did. I just</div> <div>3 didn't do the initial map drawing, I don't believe.</div> <div>4 Q. Okay. After this map was developed, was BLR</div> <div>5 responsible for making any assessments about the map</div> <div>6 and its compliance with traditional redistricting</div> <div>7 principles?</div> <div>8 A. I don't think the Bureau, if I understood your</div> <div>9 question correctly, takes position on any member bill</div> <div>10 at all.</div> <div>11 Q. Did you discuss this map with anyone who was not</div> <div>12 a legislator or a member of BLR staff?</div> <div>13 A. Not that -- no, I don't believe so.</div> <div>14 Q. Okay. I want to mark as Exhibit 11 what is</div> <div>15 Bates-stamped as BLR-CMA-217 to 214 -- oh, sorry. No,</div> <div>16 to 224. BLR 217 to 224.</div> <div>17 (Exhibit 11 marked for identification.)</div> <div>18 Q. This is images of maps of HB -- what became</div> <div>19 HB1960.</div> <div>20 MR. TALLEY: And just for our record,</div> <div>21 this -- these are the maps that reflect the</div> <div>22 legislative text in HB1960.</div> <div>23 MS. ADEN: Okay.</div> <div>24 A. Okay. I'm sorry.</div> <div>25 Q. No. Thank you. You're more than welcome to</div>	<div>Page 169</div> <div>1 Q. Okay. Looking at the format, though, of the</div> <div>2 contents of these images, is it similar to the map we</div> <div>3 just looked at with respect to HB1959 in the sense</div> <div>4 that it includes images of the proposed map and the</div> <div>5 counties within it, followed by those districts with</div> <div>6 the 2011 lines superimposed on them --</div> <div>7 A. Mm-hmm.</div> <div>8 Q. -- and then specific images of each district</div> <div>9 within them?</div> <div>10 A. Yes. That's a consistent format, yes.</div> <div>11 Q. And it similarly includes the population numbers</div> <div>12 for each of the proposed congressional districts on</div> <div>13 each of the specific districts identified within?</div> <div>14 A. Yes, the -- mm-hmm. The population numbers at</div> <div>15 the bottom, yes.</div> <div>16 Q. Okay. And looking at this image, does it appear</div> <div>17 that Pulaski County is wholly within -- wholly</div> <div>18 included within Congressional District 2?</div> <div>19 A. It does appear that's true, yes.</div> <div>20 Q. But does it appear -- do you see any other</div> <div>21 counties in other districts that may be split?</div> <div>22 A. It appears to me that there was a split in</div> <div>23 Sebastian, and maybe Crawford.</div> <div>24 Q. How about near Searcy or --</div> <div>25 A. Yes. That's possible.</div>	<div>Page 171</div>



<p>Page 172</p> <p>1 Q. Okay.</p> <p>2 A. I noticed in this narrative at the back that he</p> <p>3 explains -- it looks like Mr. Ladyman explained where</p> <p>4 the changes were.</p> <p>5 Q. So looking at 224, the narrative at the back</p> <p>6 that you were referencing, is this a narrative that</p> <p>7 you're familiar with?</p> <p>8 A. No.</p> <p>9 Q. Had you seen it before today?</p> <p>10 A. I have seen it, but it's the only one I saw, and</p> <p>11 I think he chose to do that. But I don't -- I didn't</p> <p>12 prepare that, so I don't...</p> <p>13 Q. Do you know if BLR prepared this?</p> <p>14 A. I don't know who prepared it.</p> <p>15 Q. Do you -- have you seen similar narratives like</p> <p>16 this prepared for any other maps that you were</p> <p>17 involved with?</p> <p>18 A. I don't remember ever seeing anything like this</p> <p>19 for any other map.</p> <p>20 Q. So do you think it's a narrative that this</p> <p>21 particular legislator may have wanted included?</p> <p>22 A. That's the way I'm interpreting it, but I</p> <p>23 don't -- yeah. It was not a standard thing for us to</p> <p>24 do. We did not do that for each map, no.</p> <p>25 Q. And by "us," you mean BLR?</p>	<p>Page 174</p> <p>1 districts were drawn to give one group or party an</p> <p>2 advantage."</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Do you know whether or not -- what do you</p> <p>6 make of that?</p> <p>7 A. Well, that's an assertion about the map. I</p> <p>8 don't know. I guess that's just a comment by the</p> <p>9 drafter.</p> <p>10 Q. With any other maps that you were involved in,</p> <p>11 did you make an assessment of whether any of the</p> <p>12 districts were drawn to give one group or party an</p> <p>13 advantage?</p> <p>14 A. No, I didn't make --</p> <p>15 THE WITNESS: Oh, sorry.</p> <p>16 MR. TALLEY: Objection. I'll instruct</p> <p>17 the witness not to answer that to the extent</p> <p>18 it calls for something protected by</p> <p>19 legislative privilege, member</p> <p>20 communications, inquiries, information that</p> <p>21 you learned as a result of member requests.</p> <p>22 Subject to that limitation, the witness</p> <p>23 is free to answer.</p> <p>24 A. I don't think I ever made an assessment of that</p> <p>25 when I drew maps. I just drew them, and they would</p>
<p>Page 173</p> <p>1 A. BLR, yes, that's correct.</p> <p>2 Q. Looking at the paragraph and bullets underneath</p> <p>3 it that says, "How does this map meet redistricting</p> <p>4 criteria."</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. And do you see a line identifying population</p> <p>8 deviation, and it's saying, "All districts are less</p> <p>9 than 1 percent deviation"?</p> <p>10 A. Yes, I see that.</p> <p>11 Q. Okay. Why do you think this proposed map sought</p> <p>12 to have districts with less than 1 percent deviation?</p> <p>13 MR. TALLEY: Object to form.</p> <p>14 And I'll instruct the witness not to</p> <p>15 reveal any matters protected by privilege.</p> <p>16 Go ahead.</p> <p>17 A. I would imagine he might be referring to some of</p> <p>18 the standard principles, one of which was not</p> <p>19 deviating beyond 1 percent that we talked about</p> <p>20 already today. I would imagine that's what he's</p> <p>21 referring to.</p> <p>22 Q. But that standard or principle is not a</p> <p>23 requirement, as far as you know?</p> <p>24 A. As far as I know, no. Umm-umm.</p> <p>25 Q. And it says below gerrymandering, quote, "No new</p>	<p>Page 175</p> <p>1 make their own assessments as to the impact of the way</p> <p>2 they requested the map be drawn.</p> <p>3 Q. Now, if someone's goal was not to have any</p> <p>4 district drawn to give one group or party an</p> <p>5 advantage, how would you go about implementing that</p> <p>6 request?</p> <p>7 MR. TALLEY: Objection.</p> <p>8 (BY MS. ADEN:)</p> <p>9 Q. Generically. I don't want to know any</p> <p>10 specifics. I don't want to know if anyone told you to</p> <p>11 do that. I want to know how you would have gone about</p> <p>12 fulfilling a request like that.</p> <p>13 MR. TALLEY: Can you ask the question</p> <p>14 again then?</p> <p>15 MS. ADEN: Mm-hmm.</p> <p>16 (BY MS. ADEN:)</p> <p>17 Q. If you needed to implement a map in which no new</p> <p>18 districts were drawn to give one group or party an</p> <p>19 advantage, how would you implement that?</p> <p>20 MR. TALLEY: The witness is free to</p> <p>21 answer the hypothetical question, but I will</p> <p>22 instruct the witness not to reveal or share</p> <p>23 any information protected by legislative</p> <p>24 privilege, like a member communication or</p> <p>25 member inquiry or request.</p>



<p>1 Go ahead.</p> <p>2 A. Well, I'm not even sure I could achieve the</p> <p>3 second part on the party because we didn't have any</p> <p>4 party information. And the other one is so broadly</p> <p>5 stated, as to give one group, I'm not sure how you</p> <p>6 would even define that. So that's so broad, I -- I</p> <p>7 would have had to have other instructions because I</p> <p>8 wouldn't have known what to do to accomplish that with</p> <p>9 the information available to me.</p> <p>10 Q. And just to be clear, what do you mean by you</p> <p>11 "did not have any information about party advantage"?</p> <p>12 What does that mean to you?</p> <p>13 A. Well, we didn't have any political voting</p> <p>14 information or anything like that. So the only thing</p> <p>15 we had was general population numbers, so -- and I'm</p> <p>16 not knowledgeable about where the party affiliations</p> <p>17 shake out on a county-by-county basis. I don't -- I'm</p> <p>18 not the person that has that information or knowledge.</p> <p>19 Q. And on a lower level, do you have any knowledge</p> <p>20 of how party affiliation may break down at the</p> <p>21 municipal or precinct level?</p> <p>22 A. No. I mean, other than anecdotally, I wouldn't</p> <p>23 even know it at a higher level. It's just, you know,</p> <p>24 what I read in the paper. So I don't have any</p> <p>25 substantive knowledge of the political breakdown of</p>	<p>Page 176</p> <p>1 Q. I want to mark now what is Exhibit 12, which</p> <p>2 are -- which is an image of the map that will later</p> <p>3 become the SB720, I believe. This is BLR-CMA-00257.</p> <p>4 (Exhibit 12 marked for identification.)</p> <p>5 A. Yes. Yes, I'm sorry.</p> <p>6 Q. Do you recognize the image of the map on this</p> <p>7 paper?</p> <p>8 A. Well, the formatting. I don't think I did this</p> <p>9 one, either. I don't think I worked on this one.</p> <p>10 Q. Do you know who did work on this?</p> <p>11 A. It would have been Michelle.</p> <p>12 Q. Do you know whether any demographic information</p> <p>13 was produced alongside this map?</p> <p>14 A. I don't, no.</p> <p>15 Q. Looking at this map, do you -- can you tell me</p> <p>16 whether Pulaski County is wholly within CD2?</p> <p>17 A. It appears that it is.</p> <p>18 Q. Do you remember discussing this map with anyone</p> <p>19 who was not a legislator or -- legislator?</p> <p>20 A. No.</p> <p>21 Q. I want to mark now as Exhibit 13 images of --</p> <p>22 images of what becomes HB1961. This is BLR -- should</p> <p>23 be BLR-CMA-234 through 235.</p> <p>24 And then I am also handing with you some</p> <p>25 documents that are not Bates-stamped that I want to</p>
<p>Page 177</p> <p>1 the population in Arkansas.</p> <p>2 Q. And so to be clear, does that mean that you did</p> <p>3 not have any data, for example, telling you whether a</p> <p>4 precinct or a county voted for or against a candidate</p> <p>5 of a particular political party in any particular</p> <p>6 election?</p> <p>7 A. No, not other than what I would just observe as</p> <p>8 a citizen, you know, that -- I did know the incumbents</p> <p>9 and their party. But other than that, no, I never had</p> <p>10 studied voter data to know how it would break down,</p> <p>11 particularly by precinct.</p> <p>12 Q. As a citizen, did you bring the information that</p> <p>13 you have acquired over your decades of living in</p> <p>14 Arkansas to the work that you did developing proposed</p> <p>15 maps?</p> <p>16 A. No. Again, because my personal experience was</p> <p>17 irrelevant. I was just drawing them as instructed.</p> <p>18 Q. Do you know whether BLR produced other</p> <p>19 demographic information related to this proposed map?</p> <p>20 A. This particular map?</p> <p>21 Q. Yes.</p> <p>22 A. I don't know.</p> <p>23 Q. Did you discuss this map with anyone who was not</p> <p>24 a legislator or member of BLR staff?</p> <p>25 A. No.</p>	<p>Page 179</p> <p>1 ask you about, and it is -- one, two, three, four,</p> <p>2 five -- six pages of documents that I'll ask you</p> <p>3 about.</p> <p>4 (Exhibit 13 marked for identification.)</p> <p>5 MR. TALLEY: While she's pulling that,</p> <p>6 for our record, you keep saying "the map</p> <p>7 that became HB1961," and I think for the</p> <p>8 purposes of our record, this exhibit and</p> <p>9 these other exhibits are the graphic</p> <p>10 representations of those pieces of</p> <p>11 legislation, which for my purpose is</p> <p>12 important because these are not drafts.</p> <p>13 They are filed -- are graphic</p> <p>14 representations of what was actually filed.</p> <p>15 MS. ADEN: Thank you.</p> <p>16 Sorry for talking over.</p> <p>17 MR. BRASCHER: So this is Exhibit 12 and</p> <p>18 13?</p> <p>19 MS. ADEN: I would like to mark it all</p> <p>20 as Exhibit 12 -- or 13.</p> <p>21 MR. BRASCHER: All as Exhibit 13?</p> <p>22 MS. ADEN: Right.</p> <p>23 MR. BRASCHER: Got it.</p> <p>24 (BY MS. ADEN:)</p> <p>25 Q. Do you recognize -- let's start with the</p>

<p>Page 180</p> <p>1 BLR-CMA-234 to 235.</p> <p>2 Do you recognize the images on this --</p> <p>3 on these documents?</p> <p>4 A. Yes. I mean, I recognize the formatting and --</p> <p>5 yeah.</p> <p>6 Q. Did you work on what became HB1961?</p> <p>7 A. I don't believe so.</p> <p>8 Q. Do you know who did?</p> <p>9 A. It would have been Michelle, if it wasn't me.</p> <p>10 Yeah.</p> <p>11 Q. And does this go back to what you were</p> <p>12 describing earlier, which is there may have been maps</p> <p>13 that you worked on independent of Ms. Davenport or</p> <p>14 there could have been maps that you both worked on</p> <p>15 together?</p> <p>16 A. Yes. And I'll be honest, when I was preparing I</p> <p>17 didn't go back and refamiliarize myself with that. So</p> <p>18 I'm really fuzzy. I couldn't tell you which ones I</p> <p>19 came back and helped her with after the fact, after</p> <p>20 she did the original one. So I couldn't tell you with</p> <p>21 any certainty. I wouldn't say I never touched it, but</p> <p>22 I don't think I got the original request from</p> <p>23 Mr. Whitaker.</p> <p>24 Q. And so stepping back, you could have gotten the</p> <p>25 original request to work on a the map from a</p>	<p>Page 182</p> <p>1 descriptions and then convert that into a draft bill,</p> <p>2 and so I did not have that responsibility. So</p> <p>3 sometimes the volume would get such that she would ask</p> <p>4 me to help on the mapping side, so...</p> <p>5 Q. Because it wasn't because you had particular</p> <p>6 skill sets different from her or --</p> <p>7 A. No.</p> <p>8 Q. -- some other reason?</p> <p>9 A. No, no.</p> <p>10 Q. It was a time allocation?</p> <p>11 A. It was just a -- yes. That's correct, uh-huh.</p> <p>12 She just might not have enough time.</p> <p>13 Q. So would you -- would it be fair to say that you</p> <p>14 think you have the same or similar skill set as</p> <p>15 Ms. Davenport to develop proposed congressional maps?</p> <p>16 A. Comparable, yes. Uh-huh.</p> <p>17 Q. Looking at just 234 to 235, is it fair to say,</p> <p>18 based on these images, that the County of Little Rock</p> <p>19 is wholly within Congressional District 2?</p> <p>20 MR. TALLEY: Do you mean Pulaski County?</p> <p>21 (BY MS. ADEN:)</p> <p>22 Q. Pulaski County. Sorry. The County of Pulaski,</p> <p>23 sorry.</p> <p>24 A. Unfortunately, it's got Little Rock on there and</p> <p>25 I'm not sure I can explain why that happened.</p>
<p>Page 181</p> <p>1 particular legislator or Ms. Davenport could have</p> <p>2 gotten it?</p> <p>3 A. Mm-hmm.</p> <p>4 Q. And then once you received that request, you</p> <p>5 both could then consult with one another about</p> <p>6 effectuating the goals of the legislator?</p> <p>7 A. Well, she could -- I don't think I created this</p> <p>8 map, but -- yes, I don't think I created this map.</p> <p>9 But if she needed me to go back in and reprint</p> <p>10 something for her, I could have done that. I just</p> <p>11 don't remember on this particular instance.</p> <p>12 Q. Could you have gone back in the map to implement</p> <p>13 the goals of a particular legislator at the direction</p> <p>14 of even Ms. Davenport?</p> <p>15 A. If the member asked for a change and she said,</p> <p>16 Lori, I've gotten -- I need a change to this map per</p> <p>17 Representative Whitaker's instructions, I don't have</p> <p>18 time to do it, could you do it, that is possible that</p> <p>19 could happen, yes.</p> <p>20 Q. Would time have been the reason that she would</p> <p>21 have asked you to do it --</p> <p>22 A. Yes.</p> <p>23 Q. -- more often than not?</p> <p>24 A. Because she was also, as I mentioned, a drafting</p> <p>25 attorney. So she would take the actual legal</p>	<p>Page 183</p> <p>1 Q. Maybe that's part of my brain.</p> <p>2 A. I think it -- yeah. I think Pulaski might be</p> <p>3 underneath there somewhere.</p> <p>4 MR. TALLEY: Yeah.</p> <p>5 A. But it looks wholly contained, but -- based on</p> <p>6 the way the lines -- the dash lines are.</p> <p>7 Q. Looking to the additional six pages that I</p> <p>8 shared with you that are not marked, do you recognize</p> <p>9 those pages?</p> <p>10 A. Yes.</p> <p>11 Q. How so?</p> <p>12 A. I knew this was a function within the program.</p> <p>13 We did not end up using it, but I knew it was a</p> <p>14 possibility. So I guess in this instance, perhaps he</p> <p>15 had requested it.</p> <p>16 MR. TALLEY: And I'll go ahead and state</p> <p>17 for our record. This portion of this</p> <p>18 exhibit was not produced by the Bureau. I</p> <p>19 am not aware of a member that has waived</p> <p>20 legislative privilege in this case. If I</p> <p>21 was, we would have a discussion about it,</p> <p>22 and the members are obviously free to waive</p> <p>23 privilege.</p> <p>24 But I just want to make it clear for our</p> <p>25 record that to the extent something like</p>

<p>1 this that accompanied a member communication  2 from the Bureau or accompanied a draft piece  3 of legislation that went to a member, it was  4 not produced by the Bureau. It was not  5 produced by my office. And however it was  6 obtained, I just don't have knowledge of it.  7 So to the extent this represents some  8 waiver on the part of a member, like  9 Representative Whitaker, I'm not aware of  10 that and just want to make that very clear.  11 MS. ADEN: Thank you.  12 (BY MS. ADEN:)  13 Q. You mentioned that these types of reports were  14 available through autoBoundEDGE; is that fair?  15 A. Yes. Are you -- if you're speaking of these,  16 that (indicating) -- and I don't know how to describe  17 it for you, but it's the one that graphically depict  18 each district with the -- they're more colorful.  19 Q. So in that six-page attachment, looking at the  20 third page in, behind the table of contents, there's a  21 focus on District 1; is that --  22 A. Right, that itemizes geographies and that sort  23 of thing. Yes.  24 Q. And by itemizing geographies, it tells us which  25 counties are in District 1; is that fair to say?</p>	<p>Page 184</p> <p>1 A. Correct.  2 Q. -- of the map?  3 A. Yes.  4 Q. Okay. And it appears that this deviation in  5 this district is above 1 percent; is that fair to say?  6 A. A negative 1.72. So it was --  7 Q. Below the target population --  8 A. -- below -- mm-hmm. Below the target. Mm-hmm.  9 Q. -- by 1.72 percent?  10 A. Correct.  11 Q. Now, you -- I'm trying to understand. Is it  12 fair to say that reports like these, it was possible  13 to develop them from autoBoundEDGE, but they were or  14 were not used? Can you clarify for me?  15 A. We did not distribute these. No, we didn't.  16 But I under -- I have seen them. I did -- this is one  17 report that I have seen.  18 Q. And when you say, "we did not distribute them,"  19 do you mean BLR?  20 A. BLR, that's correct. Mm-hmm.  21 Q. And when you say you didn't distribute them,  22 does that mean as a matter of course with each map you  23 worked on?  24 A. That's correct, mm-hmm.  25 Q. But if a member wanted a report like this,</p>
<p>Page 185</p> <p>1 A. That have been selected to be in this District  2 1, yes.  3 Q. Does it also look like it identifies cities that  4 have been selected to be within District 1?  5 A. It appears that it is. It looks a little  6 truncated to me. Looks like it might have clipped  7 something off, but...  8 Q. Because the "N" at the end of the sentence is  9 missing?  10 A. Yes, mm-hmm.  11 Q. And does it reflect the possibility to tell you  12 whether the incumbent information -- like whether the  13 incumbent's location is reflected in that district or  14 not?  15 A. Yeah, I'm not sure. Like I said, we loaded  16 incumbent information. That may be one reason why the  17 decision was made not to use these because it's --  18 there would have been an incumbent in that, I believe.  19 Q. Does it also include a chart at the top of the  20 page of District 1 identifying racial demographics for  21 District 1?  22 A. It appears that there is one there, yes.  23 Mm-hmm, a graphic.  24 Q. And it includes deviation information on the  25 left side, underneath the image --</p>	<p>Page 187</p> <p>1 autoBound could generate it?  2 A. Yes. It does look like the report itself might  3 have an issue, at least where -- as it relates to that  4 incumbent information.  5 Q. Meaning it's not accurate?  6 A. Possibly.  7 Q. Or complete?  8 A. Or complete, yeah.  9 Q. But you would only produce a report such as this  10 as you sit here today if a member specifically  11 requested it?  12 A. Yes, mm-hmm.  13 Q. You mentioned earlier that 19 proposed maps were  14 introduced. Is that the number that you mentioned, or  15 am I getting that wrong?  16 A. I don't think I --  17 MR. TALLEY: Object.  18 Go ahead.  19 A. I don't think I ever said a number. I don't  20 know a number of how many different ones were  21 introduced.  22 Q. Okay. About how many maps that ultimately  23 became proposed bills do you think you worked on?  24 A. I don't know. I'm sorry. I didn't quantify  25 that, and I just don't know.</p>

<p>Page 188</p> <p>1 Q. Okay. In any of the maps that you did work on,</p> <p>2 did you produce a report, such as the one we just saw,</p> <p>3 at the request of any legislator?</p> <p>4 A. Not that I recall.</p> <p>5 Q. Do you know whether BLR did?</p> <p>6 A. I don't -- I didn't, I don't think. I knew they</p> <p>7 were there, and I had run them, but I never did</p> <p>8 distribute them to a member because we kind of decided</p> <p>9 we wanted to give everyone the same information. So</p> <p>10 we gave them the one single map and then the four</p> <p>11 graphic depictions for each individual district with</p> <p>12 the population deviation, or variance.</p> <p>13 Q. But there were times on an independent basis</p> <p>14 where you would print out the racial demographics at</p> <p>15 the bottom of the screen to give to particular</p> <p>16 legislators?</p> <p>17 MR. TALLEY: Object. Form.</p> <p>18 A. If requested.</p> <p>19 MR. TALLEY: Go ahead.</p> <p>20 Q. If requested.</p> <p>21 So that was a nonuniform sharing of</p> <p>22 information that some legislators, not others, would</p> <p>23 have received?</p> <p>24 MR. TALLEY: Object to form.</p> <p>25 A. Upon request, we would, yes.</p>	<p>Page 190</p> <p>1 demographics on the bottom?</p> <p>2 A. No, I don't believe that would have. I think</p> <p>3 that would have just been the grid.</p> <p>4 Q. Like a PDF -- a printout from a screenshot, from</p> <p>5 a screen?</p> <p>6 A. Yeah. I could block it and copy it over into,</p> <p>7 like, Word or Excel and then print it out.</p> <p>8 Q. Gotcha. Thank you.</p> <p>9 Okay. I would like to mark as</p> <p>10 Exhibit 14 -- actually, before I do that -- strike</p> <p>11 that.</p> <p>12 Are you aware of an October 6, 2021,</p> <p>13 Senate State Agencies committee meeting?</p> <p>14 A. October what now?</p> <p>15 Q. October 6.</p> <p>16 A. Of 2021? I could look it up and -- but is there</p> <p>17 something in particular that --</p> <p>18 Q. Do you remember attending that meeting?</p> <p>19 A. Oh. What was the date, 6th again? That would</p> <p>20 have probably been during session. I usually did not.</p> <p>21 I would probably live stream them and pay attention to</p> <p>22 what was going on, my guess.</p> <p>23 Q. So real-time you would --</p> <p>24 A. Yeah. I would, yeah. Usually, if I could. If</p> <p>25 I wasn't busy, if I didn't have some specific task I</p>
<p>Page 189</p> <p>1 Q. Okay. Thank you.</p> <p>2 MR. TALLEY: And just for our record, I</p> <p>3 think that same portion of this exhibit, I</p> <p>4 don't think I've ever seen one like it, and</p> <p>5 I just want our record to reflect it might</p> <p>6 have come from GIS, but I don't know the</p> <p>7 answer to that. I just want to make it</p> <p>8 clear it didn't come from me or my office or</p> <p>9 the Bureau.</p> <p>10 MS. ADEN: Thank you.</p> <p>11 THE WITNESS: Yeah, it looks like the --</p> <p>12 if you look at the seal, it's different.</p> <p>13 MS. ADEN: Okay.</p> <p>14 (BY MS. ADEN:)</p> <p>15 Q. At the top right corner, there's a blue</p> <p>16 circle --</p> <p>17 A. Mm-hmm.</p> <p>18 Q. -- similar to the top right corner of the</p> <p>19 BLR-marked ones?</p> <p>20 A. So I -- yeah, it's very likely that -- well, I</p> <p>21 couldn't have generated this with that seal.</p> <p>22 Q. Okay. So anything that you would have generated</p> <p>23 with BLR would have had a seal on it?</p> <p>24 A. Yes.</p> <p>25 Q. Does that include the printouts of the racial</p>	<p>Page 191</p> <p>1 needed to work on. Member -- any member task would</p> <p>2 come first, and I'd have to work on that first.</p> <p>3 Q. Are you aware of a discussion about 2011</p> <p>4 population statistics, particularly a request by</p> <p>5 Senator Rapert, for the racial makeup of the 2011 map?</p> <p>6 MR. TALLEY: You mean Senator Rapert?</p> <p>7 MS. ADEN: Rapert, yes. I knew I should</p> <p>8 have done -- I practiced and still failed.</p> <p>9 MR. TALLEY: R-a-p-e-r-t.</p> <p>10 (BY MS. ADEN:)</p> <p>11 Q. Are aware of a discussion about 2011 population</p> <p>12 statistics, particularly a request by Senator Rapert,</p> <p>13 for the racial makeup of the 2011 map?</p> <p>14 A. I believe, you know, I did prepare something in</p> <p>15 relation to a committee request.</p> <p>16 Q. Do you remember what you prepared?</p> <p>17 A. If it was racial makeup, it would have been that</p> <p>18 grid.</p> <p>19 Q. Do you know who you prepared that for?</p> <p>20 MR. TALLEY: I'll let her answer that.</p> <p>21 A. I thought I provided it to Matthew Miller, if my</p> <p>22 memory serves me correctly.</p> <p>23 Q. And can you describe for me what it is that you</p> <p>24 prepared again?</p> <p>25 A. If it's --</p>



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<p>1 MR. TALLEY: Hang on.</p> <p>2 THE WITNESS: Okay.</p> <p>3 MR. TALLEY: I'm going to instruct the</p> <p>4 witness not to answer based on legislative</p> <p>5 privilege because the work product that was</p> <p>6 referenced by Senator Rapert during that</p> <p>7 meeting was generated by the Bureau in</p> <p>8 response to a member request and, therefore,</p> <p>9 would be privileged.</p> <p>10 So I'll instruct the witness not to</p> <p>11 answer.</p> <p>12 (BY MS. ADEN:)</p> <p>13 Q. Do you know whether the data that you prepared</p> <p>14 was specifically referenced on the legislative floor</p> <p>15 by any legislative member?</p> <p>16 A. You mean when they were in the chambers, either</p> <p>17 the House or the Senate?</p> <p>18 Q. Mm-hmm.</p> <p>19 A. I don't know if they did or didn't. I would try</p> <p>20 to listen to that, too, as I had time, but I didn't</p> <p>21 always get to listen every single time.</p> <p>22 Q. Are you aware that on October 6th, Senator</p> <p>23 Rapert referenced the racial makeup of each of the</p> <p>24 four congressional districts?</p> <p>25 Did you hear that testimony?</p>	<p>1 her screen?</p> <p>2 MR. TALLEY: She said, if I remember</p> <p>3 correctly, that there was a grid that was</p> <p>4 printed off, and kind of jumped in before I</p> <p>5 could get there.</p> <p>6 I now know what we're talking about, and</p> <p>7 this task that was done by Ms. Bowen that</p> <p>8 we're talking about was generated in</p> <p>9 response to a member request and is,</p> <p>10 therefore, subject to legislative privilege.</p> <p>11 MS. ADEN: And if it's the case that</p> <p>12 that data that was generated by BLR, by</p> <p>13 Ms. Bowen, and shared with Mr. Miller was</p> <p>14 then relayed on the legislative floor by a</p> <p>15 member of the legislature, it's your</p> <p>16 position that that is protected by</p> <p>17 legislative privilege?</p> <p>18 MR. TALLEY: Kind of interesting is the</p> <p>19 actual comments on the House floor are</p> <p>20 privileged. Now, they're publicly known,</p> <p>21 but it's a testimonial privilege.</p> <p>22 I think for purposes of this deposition,</p> <p>23 the answer is easy. Ms. Bowen can't waive</p> <p>24 privilege. The privilege belongs to the</p> <p>25 member. So if there was some waiver on</p>
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<p>1 A. I could have and I just don't remember. But,</p> <p>2 again, I listened as I could. But I don't remember if</p> <p>3 I listened on that particular day.</p> <p>4 Q. You mentioned that you prepared data at the</p> <p>5 request of Matthew Miller?</p> <p>6 A. Mm-hmm.</p> <p>7 Q. Was that racial demographic data?</p> <p>8 MR. TALLEY: I'll object for the same</p> <p>9 reason and instruct the witness not to</p> <p>10 answer. Legislative privilege grounds.</p> <p>11 (BY MS. ADEN:)</p> <p>12 Q. I believe you testified earlier that -- in</p> <p>13 relation to this line of questioning, that what you</p> <p>14 prepared was basically the type of racial demographic</p> <p>15 data that was available at the bottom of your screen?</p> <p>16 A. Mm-hmm.</p> <p>17 Q. Is that correct?</p> <p>18 MR. TALLEY: Same objection; same</p> <p>19 instruction.</p> <p>20 MS. ADEN: Even though Ms. Bowman</p> <p>21 already, I believe the record will reflect,</p> <p>22 and we can ask Ms. Hayden to go back, that</p> <p>23 she mentioned having printed out, in</p> <p>24 response to this line of questioning, the</p> <p>25 demographic data that was at the bottom of</p>	<p>1 behalf of a member, it is not an issue to</p> <p>2 which Ms. Bowen could testify because she is</p> <p>3 not the holder of privilege and, therefore,</p> <p>4 cannot waive it.</p> <p>5 Q. Are you aware that the data that you referenced</p> <p>6 as being a grid that you printed, are you aware of</p> <p>7 anyone else, besides Mr. Miller, who is requesting</p> <p>8 that information?</p> <p>9 A. I may have had other requests for demographic</p> <p>10 information.</p> <p>11 Q. In relation to that particular request or of</p> <p>12 other periods of time?</p> <p>13 A. On other things, you know. I don't -- it</p> <p>14 wouldn't have been necessarily in that context, no.</p> <p>15 Q. So on more than one occasion, you were requested</p> <p>16 to produce racial demographic data?</p> <p>17 A. Yes, that's correct.</p> <p>18 Q. More than once?</p> <p>19 A. Probably. I can't quantify it altogether, but</p> <p>20 it -- it probably was more than one time, yes.</p> <p>21 Q. More than five times?</p> <p>22 A. Again, I would be inaccurate if I guessed, but</p> <p>23 that sounds a bit high, but there may -- it may be up</p> <p>24 to five, but I -- wasn't a lot, a huge number.</p> <p>25 Q. Was it from more than one legislator?</p>



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<p>1 A. I'd have to go back, honestly, just to be in 2 full disclosure. I'd have to look. I just don't 3 remember.</p> <p>4 But I would have only done it for 5 legislators, and I think it was more than once, and 6 probably maybe two or three times. But that's a 7 guess.</p> <p>8 Q. And do you know whether those requests occurred 9 early in the legislative process, at the beginning of 10 proposing congressional maps, or do you recall whether 11 it occurred closer to the end of the legislative 12 process?</p> <p>13 MR. TALLEY: I'll object and instruct 14 the witness not to answer on legislative 15 privilege grounds because the timing of 16 those requests could get into the particular 17 legislation at issue. So I'll instruct the 18 witness not to answer.</p> <p>19 (BY MS. ADEN:)</p> <p>20 Q. The data with racial demographic data that you 21 produced at the request of any particular legislator, 22 was that data contained on one of the computers that 23 you described having access to, in your personal 24 laptop, the legal computer, or the map room computer?</p> <p>25 A. Well, it would be in the map. If you brought</p>	<p>1 point. Do you need five or ten minutes?</p> <p>2 MR. TALLEY: Take ten.</p> <p>3 (Recess from 2:30 p.m. to 2:43 p.m.)</p> <p>4 (BY MS. ADEN:)</p> <p>5 Q. So I'm going to now mark as Exhibit 14 what is 6 Bates-stamped as BLR-CMA-209 through 216, which are 7 images of what becomes SB721. The text of SB721. 8 (Exhibit 14 marked for identification.)</p> <p>9 Q. Do you recognize these images?</p> <p>10 A. Again, I don't have them memorized in my mind, 11 but I think I understand what they are.</p> <p>12 Q. Do you recall working on the original or 13 subs- -- or any subsequent iterations, of what becomes 14 the text of SB721?</p> <p>15 A. I don't remember. Again, I'm sorry. I don't 16 know if this is one that I actually did or not. I 17 could well have, but I just don't remember for sure.</p> <p>18 Q. Do you know who would have developed?</p> <p>19 A. It would have been Michelle or myself. And I 20 could tell you for sure if I could just look at my 21 files, but I just don't remember.</p> <p>22 Q. Okay.</p> <p>23 A. I well could have, but...</p> <p>24 Q. Looking at images of SB721, is Pulaski County 25 kept whole in this map?</p>
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<p>1 the map up, it would appear in the map. But if I had 2 extrap- -- you know, extracted it, I might have 3 created, like I said, a Word file or an Excel file.</p> <p>4 And in that case, it would have gone in that 5 particular member's directory that I created.</p> <p>6 Q. And this was data that you would have received 7 from one of the sources of data that you mentioned 8 earlier, the census data, the -- what other -- what 9 other source would it have come from?</p> <p>10 A. Well, I didn't -- it would have been data 11 directly from the software, which, as I understood it, 12 either our IT people or Citygate loaded from the 13 census files that were delivered once the census was 14 released.</p> <p>15 Q. And that data did include racial data?</p> <p>16 A. Yes.</p> <p>17 Q. And that data did not include election result 18 data?</p> <p>19 A. That was my understanding.</p> <p>20 Q. Okay. I am now marking as Exhibit -- are you 21 good, or do you want to take a break?</p> <p>22 MR. TALLEY: We've been going over an 23 hour, so let's take a quick break if you're 24 at a stopping point.</p> <p>25 MS. ADEN: I'm okay with a stopping</p>	<p>1 A. It doesn't appear to me that it is.</p> <p>2 Q. And does it appear to you clear whether 3 Little Rock is split in this proposal?</p> <p>4 A. Well, again, this -- in the absence of municipal 5 lines, and I couldn't tell you exactly where that 6 split is, but it could well split the city; I just 7 don't know the answer to that.</p> <p>8 Q. Do you mind looking at BLR-CMA-216, which is the 9 last page in this.</p> <p>10 Would a map with this level of detail, 11 let you see whether a municipality may or may not have 12 been split?</p> <p>13 A. Yeah, I don't know what those -- I don't 14 remember if that's precinct lines or what -- which 15 kind of lines those yellow ones -- those smaller ones 16 are, but I don't think there's any municipal lines 17 there. Maybe I'm wrong, but...</p> <p>18 Q. Do you recall generating any demographic reports 19 associated with this map?</p> <p>20 A. I don't remember doing that, no. But that 21 doesn't mean it didn't happen.</p> <p>22 Q. And similarly, looking at 210, 211, 212, and 23 213, each of these pages reports the population 24 variances, or lack thereof, in each of the districts; 25 is that fair to say?</p>

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<p>1 A. It does have the deviations, yeah. The 2 variance, mm-hmm.</p> <p>3 Q. And do any of the deviations in any of the 4 districts rise above 1 percent?</p> <p>5 A. Doesn't appear to, no.</p> <p>6 Q. Is there any association in your mind between 7 balancing populations and keeping political 8 subdivisions whole?</p> <p>9 A. Could you say again? I'm sorry.</p> <p>10 Q. Is there any association? Do you have -- for 11 example, is it more likely than not that when you keep 12 counties whole, the population is closer to being 13 balanced at zero, or not?</p> <p>14 A. I don't know about that. The way -- the only 15 thing is the 1 percent rule and the political 16 subdivisions, keeping them whole are just some of 17 those general principles. But I don't know that it 18 follows that by keeping counties whole, that you get 19 closer to the 1 percent threshold. I don't know that.</p> <p>20 Q. If you were trying to balance population, 21 meeting population requirements, whatever those are, 22 alongside keeping counties whole, and there was a 23 conflict, one had to be sacrificed for the other, who 24 would make the determination of which one would win 25 out when you were developing maps?</p>	<p>1 of the hard copy files that you have around 2 redistricting?</p> <p>3 A. If I kept one of these, yeah. I didn't do it 4 always. I don't always make a hard copy but, yes, I 5 would have at least an electronic copy.</p> <p>6 Q. And based upon your earlier testimony today, you 7 did not collect any of your hard copy files to share 8 with any counsel related to this litigation?</p> <p>9 MR. TALLEY: Object. Form.</p> <p>10 Go ahead.</p> <p>11 A. No, I didn't particularly. No. Umm-umm.</p> <p>12 Q. Okay. I want to mark as Exhibit 15 images of 13 SB722 that are Bates-stamped BLR-CMA-250 to 256. 14 (Exhibit 15 marked for identification.)</p> <p>15 Q. Do you recognize these documents?</p> <p>16 A. Again, I recognize the format and everything, 17 and I -- I just don't -- I didn't go back and look at 18 every map I did and remind myself of every bill 19 number. So I apologize, but I probably did it.</p> <p>20 Q. And if not you, then Ms. Davenport?</p> <p>21 A. It would be Ms. Davenport, mm-hmm.</p> <p>22 Q. In looking at this map, does it appear that the 23 County of Pulaski is split?</p> <p>24 A. It does look like possibly a little bit. 25 Is there any more granular? I don't</p>
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<p>1 MR. TALLEY: I'll allow the witness to 2 answer the hypothetical.</p> <p>3 Don't volunteer any information related 4 to specific member communications, specific 5 member requests.</p> <p>6 Go ahead.</p> <p>7 A. The member would decide.</p> <p>8 Q. And so if there was a priority on keeping 9 county -- counties whole, that would be at the 10 direction of a particular legislator?</p> <p>11 MR. TALLEY: Same instruction.</p> <p>12 Free to answer the hypothetical.</p> <p>13 Go ahead.</p> <p>14 A. Yes, any -- any instructions about which 15 political or geographies to include or not include 16 would be a member decision.</p> <p>17 Q. Okay. So you -- as you sit here today, you have 18 no specific recollection of working on the original or 19 iterations of SB721?</p> <p>20 A. I don't have a specific. But like I said, if 21 I -- if I drafted the map, I have a copy, and I could 22 look at it and I could tell you for sure. But I 23 just -- looking at it cold, no, I can't tell you.</p> <p>24 Q. And any work you would have done on the map 25 would be reflected in your computer files and/or any</p>	<p>1 know if I can -- let's see here.</p> <p>2 Q. Does it appear to be split between Congressional 3 Districts 2 and 1?</p> <p>4 MR. TALLEY: Object to form.</p> <p>5 A. And maybe a little of 4, but let me -- these 6 maps are not real detailed, so it's a little tricky. 7 But it looks like maybe 1, 2 and 4 got a little bit of 8 Pulaski, it looks like.</p> <p>9 Q. And looking at the population numbers for each 10 of those specific congressional districts on 253, 254, 11 255, and 256, do all of the districts fall within the 12 1 percent deviation?</p> <p>13 A. Yes.</p> <p>14 Q. And, in fact, are the districts very close to 15 being nearly equitable in population?</p> <p>16 A. Well, they're all -- in addition to being less 17 than 1, they're all less than .25, but I don't know 18 that that -- you know, that's a standard or anything, 19 but...</p> <p>20 Q. So you were never advised in any of the NCLS 21 trainings that you -- or information that you received 22 or from any guidance from anyone in BLR, that you 23 should be trying to get as near equitable persons 24 between each of the four districts as possible?</p> <p>25 A. I can remember them being the general</p>

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<p>1 redistricting principles. But since I'm not a</p> <p>2 decision-maker, you know, it's -- it's not something</p> <p>3 that I get to decide, but -- but I do remember hearing</p> <p>4 them being presented, yes.</p> <p>5 Q. And if any particular legislator wanted to</p> <p>6 deviate above near equitable population, that was that</p> <p>7 particular legislator's decision?</p> <p>8 A. Yes.</p> <p>9 Q. Because you are not aware that the General</p> <p>10 Assembly as a whole adopted a standard for the amount</p> <p>11 of populations that should be in each district --</p> <p>12 congressional district this cycle?</p> <p>13 A. Not that I'm aware of, no, I don't think they</p> <p>14 had any standard that they adopted.</p> <p>15 Q. Okay. Do you recall producing any demographic</p> <p>16 reports for this particular bill?</p> <p>17 A. I could verify but, no, I don't remember.</p> <p>18 Q. Do you recall discussing this map with anyone</p> <p>19 who was not a legislator?</p> <p>20 A. No.</p> <p>21 Q. Okay. I want to mark as Exhibit 16 images of</p> <p>22 SB723, which are Bates-stamped BLR-CMA-243 to 249.</p> <p>23 (Exhibit 16 marked for identification.)</p> <p>24 Q. Do you recognize these documents?</p> <p>25 A. Again, you know, yes, I guess.</p>	<p>1 within .1.</p> <p>2 Q. Did you talk to anyone who is not a legislator</p> <p>3 about this map?</p> <p>4 A. No.</p> <p>5 Q. And do you recall producing any demographic</p> <p>6 reports associated with this map?</p> <p>7 A. I don't remember, but I could verify.</p> <p>8 Q. And by "verify," you could verify on your</p> <p>9 computer or in the hard copy files?</p> <p>10 A. Yes. I could look, but I don't remember doing</p> <p>11 one.</p> <p>12 Q. I'm going to mark as Exhibit 17, which is a</p> <p>13 single image of SB724, BLR-CMA-342.</p> <p>14 (Exhibit 17 marked for identification.)</p> <p>15 Q. Do you recall the working on this?</p> <p>16 A. No, I don't. I don't think I did this one.</p> <p>17 Q. Is there a reason why you don't recall or think</p> <p>18 that you --</p> <p>19 A. I don't remember --</p> <p>20 Q. -- did not work on it?</p> <p>21 A. I don't think I worked with Mr. Leding.</p> <p>22 Q. Is there a reason why?</p> <p>23 A. No, it's just I didn't -- I just don't think</p> <p>24 he -- he was one I worked with.</p> <p>25 Q. Okay. I'm going to mark as Exhibit 18 images of</p>
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<p>1 Q. Do you recall specifically working on the</p> <p>2 original or any subsequent iterations of what would</p> <p>3 become SB723?</p> <p>4 A. I may have. Again, I'd have to go verify if it</p> <p>5 was one that I -- it could well have been one I worked</p> <p>6 on.</p> <p>7 Q. Is there anything about it that you recall</p> <p>8 standing out as why you might have worked on it?</p> <p>9 A. No.</p> <p>10 Q. In this proposed, or in -- yeah. In this bill,</p> <p>11 is Pulaski County kept whole?</p> <p>12 A. It doesn't appear to be, no.</p> <p>13 Q. Do you know how many districts it's split into?</p> <p>14 A. It looks like part -- part of it goes into 1,</p> <p>15 part in 2, and part in 4.</p> <p>16 Q. Where are you seeing it go into District 1?</p> <p>17 A. I may have looked at it incorrectly, I don't</p> <p>18 know. But it looked like maybe the northeast corner</p> <p>19 of Pulaski might be going into 1.</p> <p>20 Q. Okay. And then you see part of it in CD2?</p> <p>21 A. Yes. And then 4.</p> <p>22 Q. Looking at the population variances, do all of</p> <p>23 them fall within the 1 percent deviation range that</p> <p>24 we've been discussing?</p> <p>25 A. Yes. Some are negative, but -- but it's all</p>	<p>1 HB1963, BLR-CMA-284 to 290.</p> <p>2 (Exhibit 18 marked for identification.)</p> <p>3 Q. Do you recall working on --</p> <p>4 A. No.</p> <p>5 Q. -- HB1963?</p> <p>6 A. I don't -- I don't believe I did.</p> <p>7 Q. And why don't you believe you did?</p> <p>8 A. Again, I don't think I worked with this</p> <p>9 particular member.</p> <p>10 Q. So one of the reasons why you're able to</p> <p>11 recollect today whether or not you worked on a map is</p> <p>12 because it's associated with a member and you --</p> <p>13 A. Yeah. And I've been hesitant to mention it</p> <p>14 because I'm -- member names, that's why even on</p> <p>15 this -- anyway.</p> <p>16 MR. TALLEY: I'm okay with you saying</p> <p>17 "yes" or "no" as to whether you worked on</p> <p>18 this map or not. I'm not going to die on</p> <p>19 that hill. But beyond that, I'm instructing</p> <p>20 you not to get into the details --</p> <p>21 THE WITNESS: Okay.</p> <p>22 MR. TALLEY: -- of specific member</p> <p>23 communications or member requests.</p> <p>24 (BY MS. ADEN:)</p> <p>25 Q. And to be fair, looking at this set of</p>

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1	documents, for example, it identifies HB1963 as being	1	get to that stage there were occasions where you
2	a bill associated with Representative Dotson?	2	worked on earlier iterations of proposed maps?
3	A. Yes. I think that's correct, yes.	3	A. That could have happened easily, yes. Mm-hmm.
4	Q. So if you worked on the original or subsequent	4	MR. TALLEY: And just for the purposes
5	versions of 1963 and this was a bill that was	5	of the record, I believe, and have taken the
6	ultimately introduced by Representative Dotson, it	6	position on behalf of the Bureau, that that
7	would be fair to say that you would have been	7	falls within legislative privilege, and
8	responding to requests from Representative Dotson to	8	we've identified those in the privilege log
9	develop those maps?	9	and have produced them.
10	A. Yes.	10	What we've got in front of us, these
11	Q. And it would be fair to say that the only other	11	maps, were -- accompanied filed legislation.
12	people that you would have been working on a	12	(BY MS. ADEN:)
13	particular map with that you have identified today as	13	Q. Were there occasions when a legislator would
14	having a role in mapmaking would be Ms. Davenport,	14	come into the map room with other legislators?
15	yourself, and a particular legislator?	15	A. There -- there's been times where there was more
16	A. Mm-hmm.	16	than one in there, yes.
17	Q. And then those three individual people that you	17	Q. Working on the same map?
18	identified worked on something with you earlier today;	18	A. Working together, yes.
19	is that fair?	19	Q. And there -- what would be a record of who was
20	A. It would be fair to say that on map drawing that	20	in the room with you at the time working on particular
21	it would have been done by myself or Michelle	21	proposed bills?
22	Davenport, period, in response to whichever member	22	A. If I had time, I might jot down everyone on --
23	made the request.	23	on my notes about how I needed to do the map, although
24	In this instance -- and it is possible	24	sometimes it didn't lend itself to me doing that
25	if there was any latter stage work done, I might have	25	because we were doing the changes real-time and so I
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1	helped Michelle. I don't remember -- but I don't	1	didn't always have the luxury of taking the time at
2	think I worked on this one particular.	2	the time to write it all down, everyone that was there
3	MR. TALLEY: And, again, for the	3	and every instruction I got.
4	purposes of just our record, I'm kind of	4	Usually I was doing them in the machine,
5	taking this position where I am allowing her	5	so I didn't get to record anything in handwriting in
6	to testify as to whether she worked on a	6	terms of instructions. I was just responding to
7	piece of legislation simply because the	7	instructions that were given verbally --
8	legislation itself reveals the identity of	8	Q. Do you --
9	the drafting attorney associated with that.	9	A. -- in that instance.
10	Michelle Davenport's initials are on the	10	Q. I'm sorry.
11	actual filed bill. So that's kind of where	11	A. No, you're fine.
12	I'm carving out this position.	12	Q. Do you recall ever being in any room where you
13	And, again, also for our record, there	13	were developing congressional maps with anyone besides
14	aren't prior versions of HB1963 in this map.	14	a BLR staff member and a legislator, a current serving
15	This map just reflects the text of HB1963.	15	legislator?
16	(BY MS. ADEN:)	16	A. I don't believe there was ever anybody in the
17	Q. But it's fair to say that earlier today, you,	17	room that wasn't a legislator or staff person.
18	Ms. Bowen, identified a map that had both the as-filed	18	Q. Of BLR?
19	version of the map, and there were previous iterations	19	A. Of BLR, yes.
20	of the map that you worked on?	20	Q. Looking at the population breakdowns of HB1963,
21	MR. TALLEY: Object to form.	21	does it reflect that, at least with Congressional
22	A. I --	22	Districts 3 and 4, there is zero population imbalance,
23	Q. So it is fair to say that in -- although there	23	there is zero -- those districts meet the population
24	may have been maps that were ultimately introduced as	24	goal?
25	final proposed bills in the legislative process, to	25	A. Yes. They are not exact but very close. So the



<p>Page 212</p> <p>1 deviation reflects zero, yeah.</p> <p>2 Q. Okay. And what about for Districts 1 and 2, how</p> <p>3 would you characterize their deviations?</p> <p>4 A. Within plus or minus .1.</p> <p>5 Q. Is that close to almost population equality?</p> <p>6 A. It is close, yes, from a mathematical</p> <p>7 standpoint.</p> <p>8 Q. And looking at this map, does it appear that</p> <p>9 Pulaski County is wholly within CD2?</p> <p>10 A. It appears to be.</p> <p>11 Q. And do you recall producing any demographic</p> <p>12 reports --</p> <p>13 A. No.</p> <p>14 Q. -- related to this map?</p> <p>15 A. I don't remember doing that, no.</p> <p>16 Q. I'm going to mark as Exhibit 19 --</p> <p>17 MR. BRASCHER: 19.</p> <p>18 THE WITNESS: This one says 21, doesn't</p> <p>19 it?</p> <p>20 MX. BENJAMIN: That's the problem.</p> <p>21 That's on me.</p> <p>22 (Exhibit 19 marked for identification.)</p> <p>23 (BY MS. ADEN:)</p> <p>24 Q. So we're at 19, and we are looking at images of</p> <p>25 HB1964, BLR-CMA-275 to 283.</p>	<p>Page 214</p> <p>1 Q. And so when you say after the fact, so you're</p> <p>2 saying not -- the original request did not come in to</p> <p>3 you --</p> <p>4 A. Right.</p> <p>5 Q. -- but there may have been subsequent work on</p> <p>6 this proposal --</p> <p>7 A. Yes.</p> <p>8 Q. -- that you helped on?</p> <p>9 A. That I might -- yes, mm-hmm. That's possible.</p> <p>10 Q. And you're able to recall that because you are</p> <p>11 able to recall the representative associated with this</p> <p>12 particular map?</p> <p>13 A. I believe so, yes. Mm-hmm.</p> <p>14 Q. And do you recall around when you would have</p> <p>15 worked on this map?</p> <p>16 A. No, nothing -- any times or dates specifically,</p> <p>17 no.</p> <p>18 Q. And do you recall producing any demographic</p> <p>19 reports associated with this particular map?</p> <p>20 A. No, I don't. But I could look and verify, but I</p> <p>21 don't think I did.</p> <p>22 Q. In looking at this map, does Pulaski County</p> <p>23 appear to be wholly within in any particular district?</p> <p>24 A. No. It looks like it's split.</p> <p>25 Q. Between which districts?</p>
<p>Page 213</p> <p>1 A. I don't -- yes. Sorry. I'm ready.</p> <p>2 Q. Do you recognize these images?</p> <p>3 A. I don't believe I worked on this map.</p> <p>4 Q. Okay. And is that because of the representative</p> <p>5 that's associated with it?</p> <p>6 A. Yes, mm-hmm.</p> <p>7 Q. Does that mean that you think Ms. Davenport</p> <p>8 would have worked on it?</p> <p>9 A. I believe so, yes.</p> <p>10 Q. And do you recall producing any specific</p> <p>11 demographic reports associated with this particular</p> <p>12 map?</p> <p>13 A. No, I don't.</p> <p>14 Q. Do you remember anyone producing any demographic</p> <p>15 reports associated with this particular map?</p> <p>16 A. No, I don't remember. But that doesn't mean it</p> <p>17 didn't happen, but I don't remember it.</p> <p>18 Q. Okay. I'm going to mark as Exhibit 20 SB --</p> <p>19 images of SB752, BLR-CMA-291 to 299.</p> <p>20 (Exhibit 20 marked for identification.)</p> <p>21 Q. Do you recognize these images?</p> <p>22 A. I may have helped with this one after the fact.</p> <p>23 I don't think that the original request came to me,</p> <p>24 but I may have assisted Michelle with this. But I</p> <p>25 could -- have to verify that with looking at my files.</p>	<p>Page 215</p> <p>1 A. It looks like 4 and 2. And maybe -- no, I guess</p> <p>2 just 4 and 2, it looks like, from looking at it.</p> <p>3 Q. And does this map also report the population</p> <p>4 variances, if any, between the districts?</p> <p>5 A. It does.</p> <p>6 Q. Okay. And do all of these fall within the</p> <p>7 1 percent range?</p> <p>8 A. Yes. It appears so, yes.</p> <p>9 Q. Do you recall working on this map with anyone</p> <p>10 who's not a legislator or BLR staff?</p> <p>11 A. No.</p> <p>12 Q. I'm going to mark as Exhibit 21 images of</p> <p>13 HB1965, BLR-CMA-316 to 323.</p> <p>14 (Exhibit 21 marked for identification.)</p> <p>15 Q. Do you recognize these images?</p> <p>16 A. I don't recognize it, but I -- I did work with</p> <p>17 her. So I may have easily -- could have easily done</p> <p>18 this one.</p> <p>19 Q. Do you know whether you worked on both the</p> <p>20 original and any subsequent iterations of this map?</p> <p>21 A. As far -- I easily could have, yes. Mm-hmm.</p> <p>22 Q. Do you recall when you worked on this map?</p> <p>23 A. No.</p> <p>24 Q. And the fact that it identifies on 316 that you</p> <p>25 last edited -- this particular image was last edited</p>



<div>1 on 9/24, would that tell me that this was the last 2 iteration before it was introduced? 3 A. Yeah. I wasn't even thinking about. Yeah, I 4 mean -- yes, that would tell you that. 5 Q. Okay. 6 A. I should have been looking at that all the time. 7 I apologize. 8 Q. And where do you think you developed this map? 9 A. Where? 10 Q. Yeah. Where would you have developed this map? 11 I'm sorry. 12 A. Well, this one I probably would have done in our 13 mapping room, if that's what you're asking. I may not 14 be getting exactly what you're looking for. 15 Q. Yes. You would have developed -- 16 A. Mm-hmm. 17 Q. Where would you have developed this? 18 A. Yeah, I believe it would have been in our 19 mapping room. 20 Q. Do you know how long it took you to develop this 21 map? 22 A. No, I don't. 23 Q. Do you have any sense of whether it took you 24 more than the three days that you indicated to 25 legislators it might take you to produce a map?</div>	<div>1 you can't really zoom in on a particular area. So I 2 did do a snippet on some, and it's been in others as 3 well, where you could see more precisely what was 4 going on in a particular county. And in this case, it 5 looks like Pulaski was the target populate county. 6 Q. And if I wanted to understand better why you 7 developed any particular district in any particular 8 way, I would need to understand what instructions or 9 guidance you were given from the particular 10 legislator; is that fair to say? 11 A. Yes, mm-hmm. 12 Q. But as you sit here today, for example, you 13 couldn't tell me why -- due to instruction from 14 counsel, you wouldn't be able to tell me why, for 15 example, Pulaski County is split in the way that it 16 is? 17 A. No, I don't know why it was. 18 MR. TALLEY: Just for the purposes of 19 our record, and I think the question was 20 phrased correctly, I'm instructing you not 21 to divulge anything Representative Flowers 22 told you about. 23 THE WITNESS: Okay. 24 (BY MS. ADEN:) 25 Q. So if I wanted to know why HB1965 was developed</div>
<div>1 A. I can't remember any map taking three full days, 2 yeah. 3 Q. It was much quicker? 4 A. It was much quicker, yeah. 5 Q. What data was available to you as you were 6 preparing this map? 7 A. The same data available on all of them. It 8 would have been the underlying data that was loaded 9 into autoBound. 10 Q. What data was on the screen when you were moving 11 geographies or any other movement in developing this 12 map? 13 A. It would have been the same as all others. It 14 would have had the county names and the population 15 grid at the bottom. 16 Q. And the population grid would have continued to 17 update with the racial demographic data as you were 18 working on it? 19 A. Yes. If I'm remembering correctly, I believe it 20 did each time. Mm-hmm. 21 Q. Do you remember producing any demographic data 22 screenshots or reports associated with this map? 23 A. Well, it looks like I -- and I did this a few 24 different times. People would want to -- the map 25 doesn't give you a lot of detail, and it's so small</div>	<div>1 in this way and why Little Rock -- or, I'm sorry -- 2 Pulaski County was split under this map, I would need 3 to understand the instructions or the goals of 4 Representative Flowers; is that fair to say? 5 A. Mm-hmm. 6 Q. And if I wanted to understand the criteria that 7 Representative Flowers was using in order to design 8 HB1965, I would need to, given the instruction of your 9 counsel, talk to Representative Flowers; is that 10 correct? 11 A. I guess so. 12 Q. And if I wanted to understand whether or not 13 there were -- there was a goal to have any particular 14 racial populations in any particular district and that 15 that guided your development of this proposal, I would 16 need to talk to Representative Flowers, given the 17 instruction of your counsel? 18 A. Yes. 19 Q. And if you were told by Representative Flowers 20 or any other representative that you wanted a 21 particular voting age population, according to race, 22 in any particular district, you would not be able to 23 tell me that under the instruction of counsel, as I 24 sit here today; is that correct? 25 A. Any particular directions I might have received.</div>

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<p>1 I understand, are privileged.</p> <p>2 Q. And if I wanted to understand, for example, why</p> <p>3 certain counties were divided and not others, given</p> <p>4 the instruction of your counsel, I -- you would not be</p> <p>5 able to explain that to me in the development of a</p> <p>6 map, like HB1965; is that correct?</p> <p>7 A. No, I would not.</p> <p>8 Q. So whether -- strike that?</p> <p>9 MR. TALLEY: And for the purposes of our</p> <p>10 record, I have not received any instruction</p> <p>11 from any particular member that the</p> <p>12 privilege has been waived; and if a member</p> <p>13 wanted to do that and I learned of it, then</p> <p>14 the member who holds the privilege, I would</p> <p>15 instruct the witness to answer the</p> <p>16 questions.</p> <p>17 (BY MS. ADEN:)</p> <p>18 Q. Do you remember whether anyone besides you and</p> <p>19 Representative Flowers were in a map room as this map</p> <p>20 was being developed?</p> <p>21 A. I'm not sure that that was the way that I</p> <p>22 received my instructions, to be honest. I'd have to</p> <p>23 look back at the detail, but I don't know that that's</p> <p>24 the way I received them.</p> <p>25 Q. Understood.</p>	<p>1 we --</p> <p>2 A. I think there was another one for her, yeah.</p> <p>3 Q. And so when you're telling me that you worked on</p> <p>4 it, is it --</p> <p>5 A. I think it's possible that I did, yes.</p> <p>6 Q. Both, not just one?</p> <p>7 A. I don't know which one, but I do remember</p> <p>8 working on something for her in response to a request</p> <p>9 by Michelle.</p> <p>10 Q. Gotcha.</p> <p>11 How is Pulaski County treated under this</p> <p>12 particular proposal? Is it wholly within a particular</p> <p>13 district, or can you see whether it's divided?</p> <p>14 A. It looks -- it looks intact to me.</p> <p>15 Q. But does it appear that other counties are</p> <p>16 divided in this proposal?</p> <p>17 A. It looks like Saline.</p> <p>18 Q. And maybe Jefferson potentially, too?</p> <p>19 A. I hadn't gotten that far.</p> <p>20 Yes, it looks like that -- the corner.</p> <p>21 One corner of Jefferson might have been.</p> <p>22 Q. And maybe Sebastian? Do you see?</p> <p>23 A. Yeah, I see Jefferson. Part of Jefferson went</p> <p>24 into the 1st. And Sebastian, yeah, looks like part</p> <p>25 went into 3rd, and part maybe into the 4th.</p>
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<p>1 And as you sit here today, is it your</p> <p>2 position that Representative Flowers would have been</p> <p>3 the person responsible for determining whether or not</p> <p>4 this map complied with any criteria or requirements</p> <p>5 that exist under Arkansas or federal law in the</p> <p>6 development of this proposal?</p> <p>7 MR. TALLEY: Object to form.</p> <p>8 Go ahead.</p> <p>9 A. Yeah, I would be -- the member would decide.</p> <p>10 Q. Okay. I'm marking as Exhibit 22 images of</p> <p>11 SB726, BLR-CMA-425 to 431.</p> <p>12 (Exhibit 22 marked for identification.)</p> <p>13 Q. Do you recognize these images?</p> <p>14 A. Again, this is one of those ones where I think I</p> <p>15 might have come in later and helped on it at some</p> <p>16 point, but I couldn't tell you which one of the ones</p> <p>17 we've seen that I actually worked on.</p> <p>18 Q. And you're making that connection because of its</p> <p>19 association with Representative -- Senator David?</p> <p>20 A. Yes.</p> <p>21 Q. And I believe he introduced another --</p> <p>22 MR. TALLEY: She.</p> <p>23 THE WITNESS: She, yeah.</p> <p>24 (BY MS. ADEN:)</p> <p>25 Q. She introduced another proposal earlier that</p>	<p>1 Q. And what data would have been available to you</p> <p>2 as you were working on this map?</p> <p>3 A. My thought is probably that for those counties</p> <p>4 that were split, we were making the geography</p> <p>5 selections at the precinct or the voting district</p> <p>6 level, and so that's -- we would not have just -- we</p> <p>7 couldn't have selected the whole county, as we could</p> <p>8 have in some of these other instances where the whole</p> <p>9 county was included in a particular district.</p> <p>10 Q. Can you explain to me why?</p> <p>11 A. Well -- oh, I'm sorry.</p> <p>12 Q. Generically, why would one need to look at data</p> <p>13 at a more granular level when you're looking at split</p> <p>14 counties?</p> <p>15 MR. TALLEY: The witness is free to</p> <p>16 answer the hypothetical.</p> <p>17 I'll instruct the witness not to answer</p> <p>18 the "why" as to any particular split of a</p> <p>19 county or how these maps would have helped.</p> <p>20 A. I think the political -- or the voting district</p> <p>21 or precincts was the next level of geographic detail.</p> <p>22 So it was counties, precincts, and then blocks. And I</p> <p>23 don't believe we ever got down to the block level, so</p> <p>24 I think that was just the natural next geography.</p> <p>25 So if you wanted to divide a county,</p>

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<p>1 generally they would do it by voting precincts.</p> <p>2 Q. Is it your --</p> <p>3 A. I may not be answering you. I apologize.</p> <p>4 Q. No, you're helping me out trying to think of my</p> <p>5 next question.</p> <p>6 Is it your view that -- between a county</p> <p>7 and a precinct, that a municipality might be a</p> <p>8 geography that could be split before getting to a</p> <p>9 precinct level?</p> <p>10 So if you're looking at the county --</p> <p>11 let me step back.</p> <p>12 Is it that you went -- in trying to</p> <p>13 rebalance the population, you may have to split a</p> <p>14 county in order to get the appropriate amount of</p> <p>15 people in between districts; is that fair to say?</p> <p>16 A. That was one approach that was used by members.</p> <p>17 Q. And if the county splitting didn't help you out,</p> <p>18 is it fair to say that you could go to the municipal</p> <p>19 level and split a city as a way to try to get equal</p> <p>20 numbers of people between districts?</p> <p>21 MR. TALLEY: Again, the witness is free</p> <p>22 to answer the hypotheticals. Don't share</p> <p>23 anything that falls within the reach of the</p> <p>24 privilege.</p> <p>25 A. Yeah. Again, whether or not it was a we could</p>	<p>1 demographics of that particular district?</p> <p>2 A. Yes. Again, I don't think we split precincts,</p> <p>3 but when we would -- when we would make -- select new</p> <p>4 precincts, you would see the difference in the</p> <p>5 population at the bottom, yes.</p> <p>6 Q. Or when you would select precincts for moving in</p> <p>7 or out of a district --</p> <p>8 A. In or out, yes.</p> <p>9 Q. -- you would see the racial demographics at the</p> <p>10 bottom of that district change?</p> <p>11 A. Yes.</p> <p>12 Q. And you're telling me also, if I'm correct, that</p> <p>13 you did not, in the work that you did, look at block</p> <p>14 level data and move particular blocks in and out of</p> <p>15 congressional districts?</p> <p>16 MR. TALLEY: I'll instruct the witness</p> <p>17 not to answer that one on the grounds of</p> <p>18 legislative privilege.</p> <p>19 (BY MS. ADEN:)</p> <p>20 Q. Generically, did you have the ability to go down</p> <p>21 to the block level and move voters in and out of</p> <p>22 districts?</p> <p>23 MR. TALLEY: You're free to answer that</p> <p>24 one.</p> <p>25 A. Yes, that was logistically possible. And on</p>
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<p>1 have done it, we didn't use municipal boundaries. I</p> <p>2 did not at least. I didn't even have access to the</p> <p>3 municipal boundaries as something I could select.</p> <p>4 My choices were county, voting district,</p> <p>5 and block --</p> <p>6 Q. And --</p> <p>7 A. -- in assigning geography to a particular</p> <p>8 district.</p> <p>9 Q. And you're also explaining to me that after</p> <p>10 splitting a county, the next level of geography that</p> <p>11 you would have split in order -- for whatever reason,</p> <p>12 to rebalance a population or for some other reason,</p> <p>13 would have been at the precinct level?</p> <p>14 MR. TALLEY: Same instruction; same</p> <p>15 objection.</p> <p>16 A. Yes.</p> <p>17 MR. TALLEY: Free to answer the</p> <p>18 hypothetical.</p> <p>19 A. The precinct level would have been the next</p> <p>20 geography I could have selected below a county that --</p> <p>21 with less population to balance -- to do -- make any</p> <p>22 changes that the member would like to make.</p> <p>23 Q. And at the precinct level, if you're splitting a</p> <p>24 precinct between districts, you are seeing, at the</p> <p>25 bottom of your screen, a change in the racial</p>	<p>1 the -- back to the precinct question you asked just a</p> <p>2 minute ago, those population values changed. But,</p> <p>3 again, I was on a more basic level.</p> <p>4 At my level, I was primarily looking at</p> <p>5 the total population by district. But all those other</p> <p>6 information is down there, and it probably changed and</p> <p>7 adjusted, just as the total population did. But I was</p> <p>8 more focused on these -- these target and then total</p> <p>9 population in the assigned district.</p> <p>10 Q. And when you're saying what you were focused on,</p> <p>11 meaning that's the number that you consistently looked</p> <p>12 at and you just avoided looking at the racial number</p> <p>13 down there?</p> <p>14 A. Well, that was -- that was all that we provided,</p> <p>15 so that was my primary focus is all. I'm just saying</p> <p>16 I didn't ever go in and tangibly count up to see if</p> <p>17 those adjustments actually happened is all I'm saying.</p> <p>18 I didn't...</p> <p>19 Q. But it's possible that --</p> <p>20 A. I would assume that it would because the total</p> <p>21 population did adjust as well.</p> <p>22 Q. But if a legislature -- legislator had that in</p> <p>23 mind, we would need to speak to that legislator, given</p> <p>24 the instruction of your counsel, if they were focused</p> <p>25 on particular racial demographic numbers as they were</p>

1 developing proposed maps?	Page 228	1 selected. And so there was a check to make sure that	Page 230
2 A. Yes.		2 you had, first of all, selected every geography, and	
3 Q. But just to be clear, if you're -- when you were		3 then there was a contiguity check too to make sure	
4 moving -- if and when you were moving precincts in and		4 that you didn't accidentally -- and, again, it -- the	
5 out of congressional districts in order to satisfy		5 quality was not great on the graphics. So you could	
6 whatever criteria a particular legislator had in their		6 overlook a contiguity problem if it was a little bitty	
7 heads --		7 place that you accidentally put in the wrong district.	
8 A. Mm-hmm.		8 And so it would flag if there was a	
9 Q. -- you would select the precinct for movement		9 contiguity problem, where you accidentally put a	
10 into a district -- in or out of a district --		10 voting precinct in -- let's say you put 1 in 3 that	
11 A. Mm-hmm.		11 you meant to go in 2, and you would just have this --	
12 Q. -- and at the bottom of the screen, that would		12 you would have this little island over here	
13 help you know whether or not you were meeting		13 unintentionally.	
14 population targets and/or any racial demographic		14 And so those were the two checks that we	
15 numbers, potentially?		15 did do just to make sure that no unintended	
16 MR. TALLEY: Witness is free -- witness		16 consequences like that were occurring.	
17 is free to answer that as a hypothetical.		17 Q. But you would do that at the end of developing a	
18 THE WITNESS: Yeah.		18 map as a general final step?	
19 MR. TALLEY: I'll instruct you not to		19 A. Yeah, kind of as a general final step. Yes.	
20 divulge anything that gets into the		20 Q. Okay.	
21 privilege.		21 A. And it's a proofing. It wasn't a decision	
22 Go ahead.		22 point, it was just a technical correction to make sure	
23 A. Again, my focus would have been on total		23 that we didn't miss anything.	
24 population. But when I made those changes, I could		24 Q. Do you recall discussing this map with anyone	
25 see the impact of it in the total population counts,		25 who wasn't a legislator or other BLR staff?	
1 yes.	Page 229	1 A. No.	Page 231
2 Q. And on the screen, are you also seeing any --		2 Q. Okay. I am marking as Exhibit 23 images of	
3 what other information are you seeing? Are you seeing		3 SB727, BLR-CMA-328 to 334.	
4 number of counties split, are you seeing contiguity		4 (Exhibit 23 marked for identification.)	
5 information, whether you're meeting contiguity -- like		5 Q. Do you recall working on this map?	
6 what is popping up, for example -- let me step back.		6 A. I don't believe I did, no.	
7 If you are moving selected particular		7 Q. And that's because of its association with	
8 precincts for movement in and out of a congressional		8 Senator Tucker?	
9 district, you're seeing that geography on the screen,		9 A. Yes.	
10 you're seeing the total population number, you're		10 Q. So if not you, you think Ms. Davenport?	
11 seeing -- there's the ability to see the racial		11 A. Yes, I believe Michelle would have done this	
12 population of the district on the screen?		12 one.	
13 A. Mm-hmm.		13 Q. And do you recall producing any demographic	
14 Q. What else are you seeing as you're doing that?		14 reports associated with this map?	
15 MR. TALLEY: Objection. Form.		15 A. I don't recall doing it, no. I could verify.	
16 Go ahead.		16 Q. Okay. Let's look at SB728, Exhibit 24. This is	
17 A. I don't know that I saw anything else; however,		17 BLR-CMA-335 to 341.	
18 there was -- there were two checks that you could do,		18 A. Thank you.	
19 and I did it on every map before I finalized it, to		19 (Exhibit 24 marked for identification.)	
20 make sure that there weren't any unselected		20 Q. Do you recall working on this map?	
21 geographies that -- because unless you -- sometimes		21 A. This one I'm less clear on. I don't believe I	
22 you could have accidentally -- you could accidentally		22 did one for Senator Elliott. I don't believe I did.	
23 not select a block or not select a precinct.		23 Q. And if not you, then it would be Ms. Davenport?	
24 If it was really small when you zoomed		24 A. Yes, mm-hmm.	
25 out, you could easily overlook that it was not		25 Q. Okay. Looking at this map, is Pulaski County	



	Page 232		Page 234
1	wholly within any particular district?	1	(Exhibit 26 marked for identification.)
2	A. It appears to me to all be in 2. And I could	2	A. I don't believe I worked on this one.
3	have done -- this is just not ringing a bell. I	3	Q. And if you didn't work on it, this would be
4	don't -- I just -- I didn't see this recent enough to	4	Michelle Owen?
5	remember.	5	A. Michelle.
6	Q. And do you see whether the population numbers in	6	Q. Davenport. I'm sorry.
7	each of the particular district fall within the	7	A. Davenport.
8	1 percent range?	8	Q. And do you recall producing any demographic
9	A. Yes. They appear to be plus or minus 1.	9	reports or other related information for this
10	Q. Do you see any counties split in this map?	10	proposal?
11	A. I -- perhaps Lonoke and Arkansas County, but --	11	A. I don't believe so, no. Again, I could verify,
12	counties, but...	12	but I don't believe I did.
13	Q. If you look at BLR 338, does Lonoke -- Lonoke	13	Q. And how is Pulaski -- where is Pulaski County
14	seem to be split?	14	situated in this map?
15	A. Sorry. I guess not. I'm sorry. I guess	15	A. Appears to all be in the 2nd.
16	Prairie's just shaped kind of funny at the base.	16	Q. But looking at these images and the population
17	Q. What about Arkansas?	17	variances, do any rise above the 1 percent?
18	A. It's so hard to see the lines, honestly. I	18	A. Yes.
19	guess not, but I couldn't be sure. I'd have to zoom	19	Q. Okay. Which district?
20	in on the map a little more to see, and this doesn't	20	A. 1 is at 2.34 percent.
21	let you do that.	21	Q. And if there was a justification for that, the
22	Q. Okay. We can move to Exhibit 25, images of	22	legislator who developed this proposal would be the
23	HB1966, BLR-CMA-348 to 352.	23	person for that?
24	(Exhibit 25 marked for identification.)	24	A. To answer that. And it looks like the 4th also.
25	Q. Do you recall working on this?	25	It was a negative 1.99 percent deviation. It was
	Page 233		Page 235
1	A. I don't. I don't believe I did.	1	below the target by 1.99 percent in the 4th District.
2	Q. And if you didn't, would Ms. Davenport?	2	Q. And basically any details about why this map was
3	A. It would have been Ms. Davenport, yes.	3	developed the way that it was, I would need to talk to
4	Q. And that's because Mr. Miller was not drawing	4	Senator Johnson to understand what his goals were?
5	maps?	5	A. Yes.
6	A. Yes. As far as I know, no, he did not.	6	Q. I'm going to mark as Exhibit 27 images of
7	Q. And no other BLR staff was drawing maps?	7	HB1968, BLR-CMA-376 to 382.
8	A. No other, that I'm aware of. Just Michelle and	8	(Exhibit 27 marked for identification.)
9	myself.	9	Q. Do you recognize these images?
10	Q. And do you recall producing any demographic data	10	A. Again, I don't think I worked with Mr. Whitaker,
11	or information related to this particular piece of	11	but...
12	legislation?	12	Q. Do you recall producing any demographic reports
13	A. I don't recall doing it, no. But I could	13	for this particular proposal?
14	verify.	14	A. No. Not that I recall. I would -- again, I
15	Q. And looking at this map, is Little -- Pulaski	15	could verify, but I don't believe I did.
16	County wholly within any particular district?	16	Q. Okay. And is Pulaski County wholly within any
17	A. It looks like it's all within the 2nd.	17	particular district?
18	Q. And do the population variances reflect that	18	A. It appears to be all in 2. Congressional
19	they are all within the 1 percent deviation?	19	District 2.
20	A. Yes.	20	Q. Do you see any counties split in this proposal?
21	Q. Does this map appear to split any counties?	21	A. No, but -- I don't believe I do, but -- I don't
22	A. On the just quick visual inspection, no, it	22	think so.
23	doesn't appear that they do.	23	Q. And do you see any districts exceeding the
24	Q. Let's go to Exhibit 26, which are images of	24	1 percent deviation range in this proposal?
25	SB729, BLR-CMA-360 to 366.	25	A. No.



<p>Page 236</p> <p>1 Q. And to be clear, on all the maps where no 2 counties are split, does that also mean no precincts 3 were split? 4 A. Hmm. I would think not. I would think not, but 5 I honestly hadn't thought of it, so I don't -- I don't 6 believe so, though. 7 Q. And we're not -- you did not look at municipal 8 lines to know whether they split or not? 9 A. Right, mm-hmm. 10 Q. And you said that you did not draw at the block 11 level; is that fair to say? 12 A. Right. 13 Q. And you did not have partisan electoral outcomes 14 for any maps that you worked on for the 2020 15 congressional cycle? 16 A. That's correct. 17 Q. Okay. Let's look at HB1969, BLR-CMA-418 to 424 18 for Exhibit 28. 19 (Exhibit 28 marked for identification.) 20 Q. Do you recall working on this proposal? 21 A. I'm embarrassed. I don't remember for sure on 22 this one. This one's not ringing a bell, either, but 23 I could have. 24 Q. Okay. And you could have reported demographic 25 information about this?</p>	<p>Page 238</p> <p>1 You can look at the bill text and get it. 2 MS. ADEN: Okay. 3 (BY MS. ADEN:) 4 Q. Looking at the population variances across these 5 districts, do all of them fall within the 1 percent 6 standard? 7 A. I believe so, yes. 8 Q. And is there at least one district that very 9 closely meets this population balance requirement? 10 A. The 3rd is at zero, and I believe that's the 11 lowest variance. The 4th is at .04, which is also 12 close but not as low as the 3rd. 13 Q. Do you remember talking to anyone who's a 14 nonlegislator about this particular proposal? 15 A. No. I do not, no. 16 Q. There was no -- do you recall the General 17 Assembly providing BLR guidance that counties were to 18 be preserved whole, if at all possible? 19 MR. TALLEY: I'll object and instruct 20 the witness not to answer based on the 21 legislative privilege. 22 (BY MS. ADEN:) 23 Q. So regardless of whether you implemented this 24 for any particular legislator, my question is whether 25 or not the General Assembly instructed BLR that whole</p>
<p>Page 237</p> <p>1 A. I could verify if I did, but I don't remember 2 doing any on it, no. 3 Q. And do you see how Pulaski County is treated in 4 this proposal, whether it's kept whole or split? 5 A. Looks like it's split between the 1st and the 6 2nd. 7 Q. And does it also appear that Sebastian -- 8 Sebastian County is split in this proposal? 9 A. It does appear that it is, yes. 10 Q. But we can't tell, looking at this map, whether 11 any precincts were split in order to achieve this 12 goal? 13 A. I don't -- I don't think I even had the 14 capacity, now that I'm thinking about that, to split a 15 precinct. I guess I could have selected individual 16 blocks, but I don't remember ever doing that, and that 17 might have split a precinct, but... 18 Q. So if you moved a precinct, it was to move the 19 entire precinct in whole or part? 20 A. That -- yes, generally that's what I always did, 21 yes. 22 MR. TALLEY: And just for our record, 23 when it comes to all these, we produced 24 copies of the bill text, which include the 25 information down to that precinct level.</p>	<p>Page 239</p> <p>1 counties would be prioritized drawing congressional 2 maps this cycle? 3 MR. TALLEY: That's the same question. 4 Same objection. 5 Instruct the witness not to answer. 6 (BY MS. ADEN:) 7 Q. Do you recall whether the general -- the BLR 8 received any guidance from the General Assembly about 9 whether it was appropriate to look at racial data 10 while developing proposed congressional maps? 11 MR. TALLEY: Same objection. Instruct 12 the witness not to answer based on 13 legislative privilege. 14 (BY MS. ADEN:) 15 Q. Do you recall whether the General Assembly 16 instructed BLR that it was appropriate or not to split 17 precincts during the redistricting process? 18 MR. TALLEY: Objection. Instruct the 19 witness not to answer based on legislative 20 privilege. 21 (BY MS. ADEN:) 22 Q. Do you recall whether or not the General 23 Assembly instructed BLR whether it was appropriate to 24 look at municipal lines during the congressional 25 redistricting cycle and whether they would be -- the</p>

<p>Page 240</p> <p>1 municipal boundaries would be kept whole or not during 2 the redistricting cycle?</p> <p>3 MR. TALLEY: Same objection. I'll 4 instruct the witness not to answer based on 5 legislative privilege.</p> <p>6 And just for our record, too, Leah is 7 phrasing the questions, "Do you recall if," 8 and my objection on that, just to clarify 9 it, is that the answer to that question 10 "yes" or "no" would prove the point the 11 plaintiffs are trying to make and reveal the 12 existence or nonexistence of privileged 13 matters. So that's where I'm at.</p> <p>14 (BY MS. ADEN:)</p> <p>15 Q. And my further question is whether or not -- as 16 a nonpartisan member of BLR, whether you received any 17 guidance from the General Assembly writ large, not any 18 particular legislator, about what criteria you could 19 appropriately or inappropriately consider when you 20 were drawing maps for the General Assembly for the 21 2020 redistricting cycle?</p> <p>22 MR. TALLEY: Since that question is a 23 little higher level, I will let the witness 24 answer that question "yes" or "no" as to 25 whether or not that kind of guidance was</p>	<p>Page 242</p> <p>1 Q. -- did that ranking impact work that you 2 subsequently did on congressional maps in any way?</p> <p>3 MR. TALLEY: I will object and instruct 4 the witness not to answer based on 5 legislative privilege.</p> <p>6 (BY MS. ADEN:)</p> <p>7 Q. Were you aware that after the committee would 8 vote on the highest ranked map that it would then -- 9 it was then supposed to go to the full House?</p> <p>10 Do you remember that procedure?</p> <p>11 A. I don't know that I remember the exact 12 instructions that they -- but I do remember them 13 saying they were going to rank them, and I think they 14 were ranked -- had like the top -- a top few, but I 15 don't remember the chairman's instructions as to what 16 the next steps would be.</p> <p>17 Q. Were you aware that Representative Speaks' 18 HB1971 -- strike that. I'll come back to that. 19 Strike that.</p> <p>20 I'm going to -- how are we doing in 21 terms of --</p> <p>22 MX. BENJAMIN: We should probably -- 23 it's been over an hour.</p> <p>24 MR. TALLEY: Yeah, take a quick break. 25 MS. ADEN: Before we get into, like,</p>
<p>Page 241</p> <p>1 given in order to clarify the scope of the 2 privilege.</p> <p>3 So you can answer that "yes" or "no," 4 but don't go any further than that.</p> <p>5 A. No.</p> <p>6 Q. Okay. Let us mark as Exhibit 29 images of 7 HB1970, BLR-CMA-408 to 416. 8 (Exhibit 29 marked for identification.)</p> <p>9 Q. Do you recall working on this map?</p> <p>10 A. I don't believe I did, no.</p> <p>11 Q. And if not you, Ms. Davenport?</p> <p>12 A. It would be Michelle, yes.</p> <p>13 Q. And do you recall producing any demographic data 14 for this particular proposal?</p> <p>15 A. Not that I recall, but I can verify.</p> <p>16 Q. Okay. I'd like to -- were you aware that during 17 the September 21st, 2021, House Committee hearing that 18 members informally ranked proposed maps?</p> <p>19 A. Yes, I do remember them. I didn't catch the 20 dates you referenced, but I do remember them ranking 21 maps that had been introduced up to that point. Yes, 22 mm-hmm.</p> <p>23 Q. And do you recall that because you virtually 24 watched the proceedings --</p> <p>25 A. As an observer, yes, mm-hmm.</p>	<p>Page 243</p> <p>1 this next segment, I need to take a break. 2 (Recess from 3:49 p.m. to 3:57 p.m.)</p> <p>3 (BY MS. ADEN:)</p> <p>4 Q. We are looking now at -- I am marking as 5 Exhibit 30 what are images of HB1971, BLR-CMA-400 to 6 465 -- I'm sorry. Let me step back and correct that. 7 It's 400 through 407, and then there is a separate 8 attached set of images from 459 to 465. 9 (Exhibit 30 marked for identification.)</p> <p>10 Q. Do you see that there are separate ranges --</p> <p>11 A. Yes.</p> <p>12 Q. -- 400 to 407?</p> <p>13 A. Yes.</p> <p>14 Q. And then 459 to 465.</p> <p>15 A. Mm-hmm. Yeah.</p> <p>16 Q. But they're together, and we'll talk about them 17 together.</p> <p>18 Do you recognize these?</p> <p>19 A. Again, I know I worked on one of the -- for 20 Representative Speaks, but I just couldn't tell you 21 which one without looking at my materials.</p> <p>22 Q. Does this reflect that there was an original 23 proposal and then an amendment to that proposal?</p> <p>24 So if you look at CMA-459, as compared 25 to CMA-400, is that what the distinction is between</p>

<p>Page 244</p> <p>1 these images? That there's an original HB1971 and</p> <p>2 then there is another version of 1971 that's reflected</p> <p>3 in those subsequent Bates-stamped numbers?</p> <p>4 A. Yeah, there probably is some differences.</p> <p>5 Again, the only way I would know what they are, and</p> <p>6 Graham referenced this earlier, is if I just compared</p> <p>7 side by side the legal descriptions.</p> <p>8 Q. Gotcha.</p> <p>9 A. And then I could tell you what -- you know,</p> <p>10 what, if any, difference is present.</p> <p>11 Q. At the face of them -- if you just hold 400 up</p> <p>12 against 459, on the face of them, do both of them seem</p> <p>13 to cut Pulaski County into at least two districts?</p> <p>14 A. Yes. They do appear to divide Pulaski between</p> <p>15 the 4th and the 2nd.</p> <p>16 Q. And looking at the population numbers for</p> <p>17 District 1, do they both appear to be within the</p> <p>18 1 percent deviation?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And how about on District 2?</p> <p>21 A. Yes. Within the 1 percent, yes.</p> <p>22 Q. Okay. And how about District 3?</p> <p>23 A. On the first one, District 3 is a negative .86.</p> <p>24 And on the second one, it's negative 1.33 in the</p> <p>25 positive direction. So it's greater than the target</p>	<p>Page 246</p> <p>1 could have shared guidance with you about how to</p> <p>2 develop a particular piece of legislation?</p> <p>3 MR. TALLEY: I will allow the witness to</p> <p>4 answer the hypothetical as it's posed and</p> <p>5 instruct the witness not to reveal any</p> <p>6 communications and other privileged</p> <p>7 information.</p> <p>8 Go ahead.</p> <p>9 A. If a member authorized me to speak with another</p> <p>10 member, I would, yes.</p> <p>11 Q. Okay. But you would only make changes or</p> <p>12 implement changes to a map, such as this, if you</p> <p>13 understood that they were at the direction of, in this</p> <p>14 instance, Representative Speaks?</p> <p>15 A. Yes, the author.</p> <p>16 MR. TALLEY: I will -- I will instruct</p> <p>17 the witness not to answer that question on</p> <p>18 legislative privilege grounds as to any</p> <p>19 changes made by Representative Speaks or</p> <p>20 requested by Representative Speaks.</p> <p>21 As to a hypothetical, I would allow the</p> <p>22 witness to answer.</p> <p>23 But I'll be candid, I think you kind of</p> <p>24 asked both in that question, where it was</p> <p>25 part hypothetical, part, "Well, in this case</p>
<p>Page 245</p> <p>1 population.</p> <p>2 Q. And is that the same for District 4, that in the</p> <p>3 original version, it's a negative .29, and then in the</p> <p>4 subsequent version, it's a negative 1.68? Do you see</p> <p>5 that?</p> <p>6 A. Sorry. Yes. The variance increases in the</p> <p>7 negative direction.</p> <p>8 Q. And so you think you worked on legislation with</p> <p>9 Representative Speaks, but it's not --</p> <p>10 A. I'm not even sure if these are the ones I worked</p> <p>11 on, but I think I did work -- do a little bit on -- in</p> <p>12 the latter stages for her, yes.</p> <p>13 Q. Okay. And any instructions about why Pulaski</p> <p>14 County would have been split you would have received</p> <p>15 from Representative Speaks?</p> <p>16 MR. TALLEY: I'll instruct the witness</p> <p>17 to answer that question as posed "yes" or</p> <p>18 "no," without revealing anything further.</p> <p>19 A. To the extent that I worked on it, I would have</p> <p>20 gotten the instructions from Representative Speaks.</p> <p>21 Q. Would -- on that -- with respect to this map, or</p> <p>22 any of the other ones that you worked on -- strike</p> <p>23 that.</p> <p>24 Is it fair to say that both the lead</p> <p>25 sponsor of a map and/or other legislative members</p>	<p>Page 247</p> <p>1 as to Representative Speaks."</p> <p>2 So as to the question that was just</p> <p>3 asked, I'll instruct the witness not to</p> <p>4 answer.</p> <p>5 (BY MS. ADEN:)</p> <p>6 Q. So just to be clear, if you worked on a</p> <p>7 particular piece of legislation, you could receive</p> <p>8 instruction from the leading sponsor of the bill, but</p> <p>9 that -- that lead sponsor could also direct you to</p> <p>10 speak to another legislator in order to implement</p> <p>11 goals for that particular bill; is that fair to say?</p> <p>12 MR. TALLEY: Free to answer the</p> <p>13 hypothetical, subject to my limitation.</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And as you sit here today, if this map</p> <p>16 was amended, you couldn't tell me whether or not you</p> <p>17 specifically worked on the amendment or not?</p> <p>18 A. I couldn't tell you which iteration. I'd have</p> <p>19 to see -- I would have to look at my materials and</p> <p>20 tell you. I could tell you then what I -- what</p> <p>21 specifically I worked on.</p> <p>22 Q. And the data that we've been discussing that has</p> <p>23 been available on the autoBoundEDGE program would have</p> <p>24 been the data that you would have access -- accessed</p> <p>25 in order to develop this proposal, HB1971?</p>

Page 248																									Page 250																								
1 MR. TALLEY: Well, hang on.																									1 MR. TALLEY: Senator Gilmore.																								
2 THE WITNESS: Yeah.																									2 A. Senator, yeah.																								
3 MR. TALLEY: I'll let you answer that,																									3 Q. Senator. I'm sorry.																								
4 but I'll instruct you to answer it "yes" or																									4 A. I just wouldn't say definitively that I didn't																								
5 "no," without revealing any communications																									5 do this one. I just can't -- I just don't have a																								
6 or what you did.																									6 direct recollection on it, but...																								
7 A. If I understood the question right, the data is																									7 Q. Okay. And looking at this proposed bill -- or																								
8 embedded in autoBound, and it was the same data every																									8 bill, does it reflect that Pulaski County is split?																								
9 time I opened it, you know, is what -- the same data.																									9 A. It does look like it in the front. Yes, it																								
10 Q. And there wasn't -- with respect to any																									10 looks like part of it goes into the 1st, 2nd --																								
11 particular map, there wasn't particular data that you																									11 Q. And how about --																								
12 turned off or turned on in order to develop a																									12 A. -- and 3rd -- and 4th. Excuse me.																								
13 congressional proposal?																									13 Q. Are there any other counties that are visibly																								
14 A. No. I don't -- not that I'm aware of, no.																									14 split in this proposal that you can see?																								
15 Q. So you have the same data available loaded on																									15 A. Looks like Carroll.																								
16 autoBound for each map that you were working on?																									16 Q. Okay. Do you recall producing any demographic																								
17 A. Yes.																									17 reports for this proposed -- for this bill?																								
18 Q. And in order for me to understand better,																									18 A. Not that I recall, but I could verify.																								
19 potentially, what data you had available to you, who																									19 Q. I'm going to show you and mark as Exhibit 32																								
20 would you tell me to talk to?																									20 images of HB1976, BLR-CMA-452 to 458.																								
21 A. The data available?																									21 (Exhibit 32 marked for identification.)																								
22 Q. Mm-hmm.																									22 Q. Do you recall working on this legislation?																								
23 A. Probably would need to talk to either Citygate,																									23 A. Again, anything relating to Representative																								
24 and they would -- I guess that would probably be the																									24 Speaks, I couldn't -- without looking at my materials,																								
25 best. You know, they were -- they were our technical																									25 I couldn't tell you which one I worked on.																								
Page 249																									Page 251																								
1 experts, so to speak, I suppose.																									1 Q. So none of the maps that you worked on with her																								
2 Q. Anyone in particular?																									2 necessarily stand out in your mind as one -- for one																								
3 A. Well, Mr. Hejazi was the only one that I ever																									3 reason or the other as ones you worked on?																								
4 visited with.																									4 A. No. Like I said, I think at the very -- the																								
5 Q. Okay. Could you tell me what data was available																									5 latter stages, I worked on one, and I just don't																								
6 on the screen when you were working on HB1971?																									6 remember the -- I should remember the bill number, but																								
7 A. Again, if I worked on it, it would have been the																									7 I don't. I'm sorry.																								
8 same graphic that I saw on everything. It's the map																									8 Q. Okay. So do you recall producing any particular																								
9 itself and then there would be the grid at the bottom.																									9 demographic reports for this particular bill?																								
10 Q. Do you recall producing any specific demographic																									10 A. No, I don't. But, again, I could verify.																								
11 data for HB1971?																									11 Q. Are you familiar with HB1977 proposed by																								
12 A. Not that I recall but, again, I could verify and																									12 Representative Bryant?																								
13 make sure that's correct.																									13 A. I don't -- I don't remember. I'm sorry. I																								
14 Q. Okay. Do you recall discussing this map with																									14 don't believe so, but I don't know that. I'd have																								
15 anyone who was not a legislator or BLR staff?																									15 to -- again, I'd have to look. That's just one thing																								
16 A. No.																									16 I didn't look at with every single map. I apologize.																								
17 Q. Okay. I want to mark as Exhibit 31 images of																									17 Q. And you don't recall -- nothing stands out in																								
18 SB741, BLR-CMA-439 to 445.																									18 your mind as having worked with that particular																								
19 (Exhibit 31 marked for identification.)																									19 representative?																								
20 Q. Do you recall working on this proposal?																									20 A. No, that one does not.																								
21 A. Yeah. Again, I'm kind of embarrassed. I may																									21 Q. Okay. So let's mark as Exhibit 33 images of																								
22 have done this one, but I would have to verify it.																									22 HB1978, BLR-CMA-475 to 481.																								
23 I'm sorry.																									23 (Exhibit 33 marked for identification.)																								
24 Q. And is that because you do recall working with																									24 MR. TALLEY: Just for clarification,																								
25 Representative Gilmore?																									25 HB1977, are you concerned that it's missing																								



<p>1 or something, that you guys didn't receive a 2 copy of it? 3 MS. ADEN: At this moment I'm not 4 concerned, but I will -- I know we looked in 5 our files and we may not have gotten it 6 produced by you-all or another -- 7 MR. TALLEY: It involved COVID. 8 MS. ADEN: Okay. 9 MR. TALLEY: It was a COVID mandate-type 10 bill that was proposed around the same time, 11 so... 12 MS. ADEN: And no proposed map 13 associated with it? 14 MR. TALLEY: No. 15 MS. ADEN: Gotcha. 16 MR. TALLEY: It was an act that ended up 17 in law, and it was a piece of legislation 18 entitled, "An Act Concerning Employment 19 Issues Related to Coronavirus 2019 to 20 Provide Employee Exemptions From Federal 21 Mandates." 22 MS. ADEN: By Representative Bryant? 23 MR. TALLEY: Correct. Had nothing to do 24 with redistricting. 25 MS. ADEN: Gotcha. Okay.</p>	Page 252	<p>1 is actually ringing more of a bell as maybe one of the 2 final bill versions that I might have helped take a 3 little of the load off of Michelle a little bit and... 4 Q. Were there maps that were deemed to be more 5 serious contenders for legislative debate that you 6 would have worked on as compared to Ms. Davenport or 7 not? 8 MR. TALLEY: I'll object and instruct 9 the witness not to answer on legislative 10 privilege grounds. 11 (BY MS. ADEN:) 12 Q. I believe earlier you testified that the 13 division -- actually, do you mind explaining to me 14 what -- how the work that you were doing was 15 divided -- strike that. Strike that. 16 Looking at this map, can you see whether 17 Pulaski County is kept wholly or not in any particular 18 district? 19 A. It does not appear to be kept in one district. 20 It looks like it's divided between the 2nd and the 21 4th. 22 Q. And looking at the population variances between 23 each of the four districts, do any of them exceed the 24 1 percent range? 25 A. It looks like two of them, 3 and 4.</p>	Page 254
<p>1 (BY MS. ADEN:) 2 Q. So with HB1978 that you have in front of you, 3 BLR-CMA-475 to 481, do you recall working on this 4 bill? 5 A. I'm sorry, I don't remember doing it. No. 6 Q. Okay. And that means that you have no specific 7 recollection of producing any demographic data for 8 this legislation? 9 A. No. 10 Q. Okay. I'm marking as Exhibit 34 images of 11 SB472, BLR-CMA-488 to 494. 12 (Exhibit 34 marked for identification.) 13 A. Again, this may be one that I worked on in the 14 very latter stages, but I don't -- I'd have to look to 15 verify. 16 Q. And you are recalling that because of its 17 association with a particular legislator? 18 A. Yes. And -- yes. 19 Q. Is there something else that makes you recall 20 that you potentially worked on this? 21 A. Well, just that I knew that I had some -- I did 22 notice that I -- and I wished I had looked at all my 23 bills, which I did not obviously, or all of the maps 24 that I did. But I did notice that I had worked on the 25 one that was eventually adopted, and this bill number</p>	Page 253	<p>1 Q. Okay. Let's mark as Exhibit 35 HB1979. 2 Unfortunately, the Bates stamp numbers 3 for these got cut off at the bottom, but I will 4 represent that it is P100449 through P100454. 5 (Exhibit 35 marked for identification.) 6 MR. TALLEY: Those don't sound like my 7 Bates numbers, but if you want to take a 8 look. 9 MS. ADEN: I think these are from GIS, 10 given the stamp at the top. 11 MR. TALLEY: Yeah. This looks like it 12 came from GIS, or it came from somewhere 13 else. 14 MS. ADEN: But these are not given by 15 BLR. 16 MR. TALLEY: They were not produced by 17 BLR. 18 (BY MS. ADEN:) 19 Q. Do you recall working on HB1979? 20 A. Not specifically, no. 21 Q. If I represent that this was legislation 22 ultimately proposed by Representative Dotson, does 23 that recall whether you may have worked on it or not? 24 A. No. I don't remember doing anything like that, 25 but -- that I remember.</p>	Page 255



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<p>1 Q. And associated with this proposed bill are one</p> <p>2 of the autoBoundEDGE demographic reports that are the</p> <p>3 last four pages of the six pages that you got.</p> <p>4 Do you recognize this report?</p> <p>5 A. Again, this is one I knew autoBound could</p> <p>6 produce. We did not use them.</p> <p>7 Q. If GIS produced a report like this, are you</p> <p>8 aware of whether or not they were providing</p> <p>9 information directly to legislators?</p> <p>10 A. I was not aware that they were.</p> <p>11 Q. Okay. So this is not necessarily a report that</p> <p>12 you would have requested from GIS and then shared with</p> <p>13 any particular legislator?</p> <p>14 A. That's correct.</p> <p>15 Q. Okay. I would like to mark as Exhibit 36 images</p> <p>16 of HB1980, BLR-CMA-518 to 524.</p> <p>17 (Exhibit 36 marked for identification.)</p> <p>18 Q. Do you recognize these images?</p> <p>19 A. I did work with Representative Flowers.</p> <p>20 Q. And any of the work that you would have done on</p> <p>21 this map, it would have been at her instruction?</p> <p>22 A. Yes.</p> <p>23 Q. Is there anyone else, besides Representative</p> <p>24 Flowers, who would have given you instruction on this</p> <p>25 particular bill?</p>	<p>1 Q. Do you remember having any back-and-forth with</p> <p>2 Mr. Gray about the contents of this proposed -- or</p> <p>3 this piece of legislation?</p> <p>4 A. I don't remember specifically on this one, no.</p> <p>5 Q. So it's possible you could have just sent it to</p> <p>6 him?</p> <p>7 A. It's possible, but I don't -- I don't think so,</p> <p>8 but it's possible.</p> <p>9 Q. Okay.</p> <p>10 A. But it probably was just a cc.</p> <p>11 Q. And in addition to sending the proposed maps, do</p> <p>12 you recall sending any other information alongside</p> <p>13 this bill to Mr. Gray?</p> <p>14 A. I don't remember for sure. I could verify that,</p> <p>15 but I just don't remember.</p> <p>16 Q. And how is Pulaski County treated under this</p> <p>17 proposal? Is it kept whole, or not?</p> <p>18 A. It looks like it's -- it's kept whole in this</p> <p>19 particular draft.</p> <p>20 Q. Do you see any counties that are split in this</p> <p>21 proposal?</p> <p>22 A. It doesn't appear that there are any splits.</p> <p>23 Q. And looking at the population reports for each</p> <p>24 of the district, do any appear to go above the</p> <p>25 1 percent range?</p>
Page 257	Page 259
<p>1 A. This might have been one where I was authorized</p> <p>2 to share the information with another third party.</p> <p>3 Q. Who is a legislator?</p> <p>4 A. No.</p> <p>5 Q. Who is a member of BLR?</p> <p>6 A. No.</p> <p>7 Q. Who is a member of the public, as far as you are</p> <p>8 aware?</p> <p>9 A. Yes, mm-hmm.</p> <p>10 Q. And who was that person?</p> <p>11 A. John Michael Gray.</p> <p>12 MR. TALLEY: And just for our record, I</p> <p>13 think it's Michael John Gray.</p> <p>14 A. Oh, Michael John Gray.</p> <p>15 THE WITNESS: Yes, you are right. You</p> <p>16 are right.</p> <p>17 MR. TALLEY: I do the same thing.</p> <p>18 (BY MS. ADEN:)</p> <p>19 Q. And is this one of the proposed maps that you</p> <p>20 earlier referred to as a map that you would have</p> <p>21 corresponded with Mr. Gray about?</p> <p>22 A. Correct. I think I might have -- I don't</p> <p>23 remember if it was just a copy on it, a cc, but I</p> <p>24 believe he was involved in it, yes, if my memory</p> <p>25 is correct. -</p>	<p>1 A. No.</p> <p>2 Q. Do you recall -- did you ever talk to Mr. Gray</p> <p>3 about this particular proposal?</p> <p>4 A. I don't remember which one I spoke to him about.</p> <p>5 Q. And do you recall collecting for counsel any of</p> <p>6 the correspondence you had with Mr. Gray for purposes</p> <p>7 of this litigation?</p> <p>8 A. I didn't personally collect it, no.</p> <p>9 MR. TALLEY: I'll just say for our</p> <p>10 record, Mr. Gray's name appears on our</p> <p>11 privilege log. As do Mr. Valley and</p> <p>12 Mr. Freeman on the supplement we served this</p> <p>13 week.</p> <p>14 MS. ADEN: I would like to mark as</p> <p>15 Exhibit 37 images of HB1931 BLR-CMA-525 to</p> <p>16 352.</p> <p>17 (Exhibit 37 marked for identification.)</p> <p>18 (BY MS. ADEN:)</p> <p>19 Q. Do you recall working on this bill?</p> <p>20 A. I don't -- I don't believe that I did, but I --</p> <p>21 again, it's possible that Michelle might have asked me</p> <p>22 to ask -- help with something, but I don't remember</p> <p>23 doing this one, no.</p> <p>24 Q. And you don't recall specifically producing any</p> <p>25 demographic reports for this particular bill?</p>

<p>Page 260</p> <p>1 A. I do not, no.</p> <p>2 Q. And you don't recall speaking to anyone who</p> <p>3 wasn't a legislator at BLR about this particular bill?</p> <p>4 A. No, I don't.</p> <p>5 Q. I'm going to mark as Exhibit 38 images of</p> <p>6 HB1983, BLR-CMA-542 to 548.</p> <p>7 (Exhibit 38 marked for identification.)</p> <p>8 Q. Do you recognize these images?</p> <p>9 A. I may have worked on this one, yeah. This one</p> <p>10 is ringing a -- ringing a bell. I'd have to -- again,</p> <p>11 I'd have to look at my files to verify completely,</p> <p>12 but...</p> <p>13 Q. Do you recall an October 4th, 2021, email from</p> <p>14 yourself to Representative Payton saying, "We have</p> <p>15 prepared and attached the congressional district map</p> <p>16 you requested. We have included one version with</p> <p>17 existing congressional district lines and one without.</p> <p>18 In addition, we have provided the population data for</p> <p>19 your requested map. Please let me know if you would</p> <p>20 like any changes"?</p> <p>21 MR. TALLEY: I'll object and instruct</p> <p>22 the witness not to answer.</p> <p>23 To the extent we produced an email like</p> <p>24 that, it was inadvertently produced, and we</p> <p>25 would ask that it be clawed back.</p> <p>Page 261</p> <p>1 So I'll make that formal request on the</p> <p>2 record for a clawback, if that email was</p> <p>3 produced by my office.</p> <p>4 MS. ADEN: Okay. Let me take a look at</p> <p>5 our records. Okay. We'll double-check.</p> <p>6 MR. TALLEY: Okay.</p> <p>7 (BY MS. ADEN:)</p> <p>8 Q. Do you recall producing any demographic reports</p> <p>9 associated with this map?</p> <p>10 A. No, I don't remember. But I could verify by</p> <p>11 looking at my records if I did, but I don't think -- I</p> <p>12 don't remember doing it.</p> <p>13 Q. And do you recall whether or not you spoke with</p> <p>14 any nonlegislator or non-BLR staff about this</p> <p>15 particular map?</p> <p>16 A. I don't -- no, I don't think so.</p> <p>17 Q. And if you worked on this map, the same data</p> <p>18 that was loaded into the autoBoundEDGE would have been</p> <p>19 available to you in developing this map?</p> <p>20 A. Yes. I mean, I developed it using the same</p> <p>21 software and the same data.</p> <p>22 Q. Okay. And looking at this map, does it appear</p> <p>23 that Pulaski County is kept whole or split?</p> <p>24 A. It looks split to me.</p> <p>25 Q. And do you see any deviations above 1 percent in</p>	<p>Page 262</p> <p>1 any of the districts as identified here?</p> <p>2 A. No.</p> <p>3 Q. Okay. And does it also appear to be the case</p> <p>4 that Sebastian County is split?</p> <p>5 A. It does.</p> <p>6 Q. I'm going to show you another map that I believe</p> <p>7 that we received from GIS, and mark this as</p> <p>8 Exhibit 39.</p> <p>9 (Exhibit 39 marked for identification.)</p> <p>10 Q. These are images of SB744, and I'll represent</p> <p>11 that this 744 was introduced by Senator Irvin.</p> <p>12 A. Okay.</p> <p>13 Q. Do you recall working on this bill?</p> <p>14 A. I don't, but -- I don't believe I did. But,</p> <p>15 again, I could verify.</p> <p>16 Q. Okay. And you yourself did not produce the type</p> <p>17 of demographic information that -- is GIS associated</p> <p>18 with this proposal?</p> <p>19 A. Yes. I didn't do this particular, no.</p> <p>20 Q. Okay. I want to mark a couple of things as</p> <p>21 Exhibit 40. The first is a set of images of HB1982,</p> <p>22 marked BLR-CMA-00533 to 577, and then the second are</p> <p>23 images of SB743, BLR-CMA-549 to 566.</p> <p>24 (Exhibit 40 marked for identification.)</p> <p>25 A. Mine is 571.</p> <p>Page 263</p> <p>1 Q. So the first is HB1982, there's a packet. It</p> <p>2 should be 533 to 577.</p> <p>3 MR. BRASCHER: Yeah. I have that.</p> <p>4 MX. BENJAMIN: This is also 40.</p> <p>5 THE WITNESS: Okay.</p> <p>6 (BY MS. ADEN:)</p> <p>7 Q. And then as part of the same exhibit, we have</p> <p>8 BLR-CMA-549 to 566, which are images of SB743.</p> <p>9 A. Mm-hmm.</p> <p>10 Q. Okay. Let's take HB1982 first.</p> <p>11 Do you recognize those images?</p> <p>12 A. Yes, these look familiar to me.</p> <p>13 Q. Do you recall working on HB1982?</p> <p>14 A. This may be the version that I did help them</p> <p>15 with.</p> <p>16 Q. Do you recall whether HB1982 was amended?</p> <p>17 A. I don't.</p> <p>18 Q. And let me clarify something for the record. I</p> <p>19 did the same thing as before.</p> <p>20 So within HB1982, there's BLR-CMA-533 to</p> <p>21 541, and then stapled to it is 571 to 577. So it's</p> <p>22 not a continuation.</p> <p>23 A. Mm-hmm.</p> <p>24 Q. Okay. And does it appear to you that there was</p> <p>25 an original version of HB1982, and then there was an</p>
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<p>1 amended version of 1982?</p> <p>2 A. It -- that would be my deduction from looking at</p> <p>3 that, yes.</p> <p>4 Q. And you, as you sit here today, don't recall</p> <p>5 whether you worked on the original or the amended</p> <p>6 version; is that fair?</p> <p>7 A. That's fair, yes.</p> <p>8 Q. But you do recall working on HB1982 at some</p> <p>9 point in time?</p> <p>10 A. I believe I did do some work on that one.</p> <p>11 Q. Do you recall any other BLR staff working on</p> <p>12 HB1982, original as -- or as-amended?</p> <p>13 A. Well, it would have been Michelle and myself.</p> <p>14 And I don't -- I couldn't tell you if I just helped</p> <p>15 prepare some of these for the committee or -- but I</p> <p>16 did see something relating to this final iteration in</p> <p>17 my -- in my files.</p> <p>18 Q. What do you mean whether or not -- and so in</p> <p>19 your mind, there was a distinction of work you would</p> <p>20 have done for a particular legislator as compared to</p> <p>21 the committee?</p> <p>22 A. Well, on the bill, Michelle -- I can't remember</p> <p>23 what elements she asked me to help with, if she asked</p> <p>24 me to work -- I think I might have done a little of</p> <p>25 both, working with members, but then also helping her</p>	<p>Page 264</p> <p>1 We produced the amended language. I'm happy</p> <p>2 for her to answer questions about the four</p> <p>3 corners of that document, but the question</p> <p>4 as posed I think gets into what was going on</p> <p>5 behind the scenes and that's within the</p> <p>6 reach of the privilege.</p> <p>7 So I'll instruct the witness not to</p> <p>8 answer.</p> <p>9 (BY MS. ADEN:)</p> <p>10 Q. So I'd like to understand whether or not -- when</p> <p>11 you worked on HB1982, whether you were working at the</p> <p>12 direction of one legislator or multiple legislators?</p> <p>13 MR. TALLEY: I'll let her answer that</p> <p>14 question strictly as it relates to whether</p> <p>15 or not she was working with one legislator</p> <p>16 or more than one legislator as to the</p> <p>17 legislation itself. But beyond that, I'll</p> <p>18 instruct the witness not to answer.</p> <p>19 Go ahead.</p> <p>20 A. I believe it was more than one.</p> <p>21 Q. Do you believe working with anyone who was not a</p> <p>22 legislator or Ms. Davenport on HB1982?</p> <p>23 A. I don't believe so, no.</p> <p>24 Q. How were you receiving instructions or guidance</p> <p>25 from legislators about HB1982?</p>
<p>Page 265</p> <p>1 get it ready because we had to put -- pull it together</p> <p>2 and get it to State Agencies for their consideration.</p> <p>3 The State Agency committees.</p> <p>4 Q. What does that mean, "work with members"?</p> <p>5 A. Well, work directly with members and hear</p> <p>6 their -- what they would like changes, if they would</p> <p>7 like -- and I believe I did do a little bit of that.</p> <p>8 I would just have to go back and look to be sure.</p> <p>9 Q. So help me understand that. So with respect to</p> <p>10 HB1982, you get a request from a particular legislator</p> <p>11 to develop the bill; is that correct?</p> <p>12 A. Right. And I -- again, I think I was not on the</p> <p>13 front end, but I might have helped later in the</p> <p>14 process.</p> <p>15 Q. And by "later in the process," there would come</p> <p>16 a time when multiple legislators would be giving you</p> <p>17 feedback about HB1982?</p> <p>18 MR. TALLEY: I'll object. I'm</p> <p>19 struggling with the question a little bit</p> <p>20 because I'm a little bit lost as to where we</p> <p>21 are.</p> <p>22 Since we're talking specifically about a</p> <p>23 piece of legislation that was going through</p> <p>24 the amendment process, I'm fine with her</p> <p>25 talking about the four corners of the map.</p>	<p>Page 267</p> <p>1 MR. TALLEY: I'll instruct the witness</p> <p>2 to answer that question simply as to the</p> <p>3 means that you received the information but</p> <p>4 nothing further.</p> <p>5 A. I believe it was in person.</p> <p>6 Q. How many in-person meetings did you have about</p> <p>7 HB1982?</p> <p>8 MR. TALLEY: I'll limit that to just</p> <p>9 simply instruct you to answer with the</p> <p>10 number of meetings, if you know.</p> <p>11 A. I don't -- I'm not sure I know specifically. I</p> <p>12 think it was one, but I wouldn't say that there</p> <p>13 weren't any other instructions. But I think one.</p> <p>14 Q. And did you also receive instructions over</p> <p>15 email, or was it solely in person in the development</p> <p>16 of 1982?</p> <p>17 MR. TALLEY: I'll instruct the witness,</p> <p>18 limit the answer to just the question posed.</p> <p>19 A. I don't remember that. I don't remember if I</p> <p>20 got an email.</p> <p>21 Q. But your files would potentially reflect whether</p> <p>22 or not there were email communications?</p> <p>23 A. Should, yes.</p> <p>24 Q. Okay. Outside of Ms. Davenport and one or more</p> <p>25 legislators, was anyone else in any of these meetings</p>

<p>1 with you?</p> <p>2 A. I don't believe so.</p> <p>3 Q. Okay. Was anyone else on emails about HB1982,</p> <p>4 besides legislators and/or Ms. Davenport?</p> <p>5 A. I don't believe so.</p> <p>6 Q. When you were developing HB1982 in your role, is</p> <p>7 it the case that the data that was available to you on</p> <p>8 autoBoundEDGE was available to you in that process?</p> <p>9 A. I mean, it would have been the same iteration of</p> <p>10 the software and the same data, yes.</p> <p>11 Q. So did you get any new information -- any new</p> <p>12 data or inputs into autoBoundEDGE different for the</p> <p>13 development of 1982 than you have for the other maps</p> <p>14 that you worked on?</p> <p>15 A. No.</p> <p>16 Q. In conversations that you had in person or over</p> <p>17 email, is that where you would have received guidance</p> <p>18 on how to make any changes to HB1982?</p> <p>19 A. I'm sorry. Say that one -- I apologize.</p> <p>20 Q. The in-person meetings and the emails is where</p> <p>21 you would have received information about how to</p> <p>22 develop HB1982?</p> <p>23 A. Yes.</p> <p>24 Q. Do you recall producing any specific demographic</p> <p>25 reports for HB1982?</p>	<p>Page 268</p> <p>1 one of those where at first it was a</p> <p>2 hypothetical and then it jumped in</p> <p>3 specifically to one piece of legislation.</p> <p>4 I'm fine with the witness answering the</p> <p>5 hypothetical, but as to any specifics with</p> <p>6 regards to a particular piece of</p> <p>7 legislation, I'll instruct the witness not</p> <p>8 to answer.</p> <p>9 (BY MS. ADEN:)</p> <p>10 Q. So for the record, how would you have been</p> <p>11 told -- by what means would you have been told to take</p> <p>12 direction from any particular legislator to develop</p> <p>13 1982?</p> <p>14 MR. TALLEY: And I will instruct the</p> <p>15 witness to limit that answer simply to the</p> <p>16 means through which you received that</p> <p>17 information and nothing more.</p> <p>18 A. A member can tell me to work with so-and- --</p> <p>19 such-and-such member, or they can walk in with</p> <p>20 such-and-such member, and that -- in that instance, I</p> <p>21 would work with whoever they brought with them.</p> <p>22 Q. Looking at how Pulaski County is treated in</p> <p>23 HB1982, can you tell me how many districts it's housed</p> <p>24 in?</p> <p>25 A. I believe three.</p>
<p>Page 269</p> <p>1 A. I don't believe so, but I could look. I could</p> <p>2 tell you definitively, but I don't think so.</p> <p>3 Q. When you were developing HB1982 in front of --</p> <p>4 actually, what computer did you use to develop HB1982?</p> <p>5 A. I think I might have been in the legal area at</p> <p>6 that point.</p> <p>7 Q. When you were doing your work on HB1982, were</p> <p>8 there any legislators in the room alongside you?</p> <p>9 A. Could have been, yes. Yes, I believe so.</p> <p>10 Q. More than one?</p> <p>11 A. Could have been.</p> <p>12 Q. And where would there be a record of who was in</p> <p>13 the room with you as you were developing HB1982?</p> <p>14 A. I'm not sure one exists. I don't know that I</p> <p>15 jotted down everyone, you know, in the room.</p> <p>16 Q. Could anyone in the room with you, as you were</p> <p>17 developing 1982, give you instruction about how to</p> <p>18 develop it?</p> <p>19 A. Any legislative member, yes, could have told me,</p> <p>20 with the permission of the lead sponsor, yes.</p> <p>21 Q. Okay. And would the lead sponsor give you that</p> <p>22 permission in the moment, or would you have advance</p> <p>23 notice that you were to take instruction from any</p> <p>24 particular members for HB1982's development?</p> <p>25 MR. TALLEY: I'll jump in, and this is</p>	<p>Page 271</p> <p>1 Q. What are those three?</p> <p>2 A. It looks like 2 -- 1, 2, and 4.</p> <p>3 Q. And any determination about how Pulaski is</p> <p>4 treated under this bill I would have to learn from</p> <p>5 legislators working on HB1982?</p> <p>6 A. Yes.</p> <p>7 Q. And any instruction about how this proposal</p> <p>8 complies or does not comply with the population</p> <p>9 requirements, I would need to talk to the</p> <p>10 legislators -- legislator or legislators who worked on</p> <p>11 this bill?</p> <p>12 A. Yes.</p> <p>13 Q. And any information about which precincts were</p> <p>14 moved in and out of Congressional District 2, for</p> <p>15 example, I would need -- in order to understand what</p> <p>16 motivated that movement, I would need to talk to one</p> <p>17 or more of the legislators who worked on HB1982?</p> <p>18 A. Yes. The actual precincts were listed in the</p> <p>19 draft bills. You could see the actual precincts, but</p> <p>20 if -- if you're talking about intentions, then, yes, I</p> <p>21 would think you would have to talk with the member.</p> <p>22 Q. So the reasons for why they were selected for</p> <p>23 any changes, I would need to talk to legislative</p> <p>24 members who worked on this bill, given the direction</p> <p>25 you've been given?</p>



<p>1 A. Yeah.</p> <p>2 Q. Okay.</p> <p>3 MR. TALLEY: Yeah. And just to be</p> <p>4 clear, as to that whole line of questioning,</p> <p>5 it is pursuant to my instruction to the</p> <p>6 witness not to reveal that on legislative</p> <p>7 privilege grounds.</p> <p>8 In addition, both Representative Speaks</p> <p>9 and Senator English have also the</p> <p>10 legislative privilege as to these issues.</p> <p>11 (BY MS. ADEN:)</p> <p>12 Q. I want to look for a second at the other bill,</p> <p>13 SB743. And similarly, just to be clear for the</p> <p>14 record, there is BLR-CMA-549 to 557, and then there is</p> <p>15 a jump in the numbers from 560 to 566.</p> <p>16 A. Um-hmm. Looks that way, from what I have.</p> <p>17 Q. And do you understand that's because, like,</p> <p>18 HB1982, there was an original and then subsequent</p> <p>19 changes to SB743?</p> <p>20 A. That's what it appears. It doesn't say "as</p> <p>21 amended" like the other one did. But that's probably</p> <p>22 what had happened, yes.</p> <p>23 Q. Now, this, these reports, are also from</p> <p>24 autoBoundEDGE, as far as you can tell; is that</p> <p>25 correct?</p>	Page 272	<p>1 Q. Was it possible for you to have two maps up on</p> <p>2 your screen at the same time?</p> <p>3 A. I don't believe so, no.</p> <p>4 Q. So if you were going to work on a map, you'd</p> <p>5 have to pull one map up and work on it, and then save</p> <p>6 it or close it out before moving to another map?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. But it was possible that in a meeting in</p> <p>9 the same room, you could be working on multiple maps</p> <p>10 in that same setting?</p> <p>11 A. It's possible. Getting direction about multiple</p> <p>12 maps, yes.</p> <p>13 Q. Were the same legislators who were giving you</p> <p>14 direction about HB1982 the same</p> <p>15 representatives/legislators who were giving you</p> <p>16 direction about SB743?</p> <p>17 MR. TALLEY: I'll object on legislative</p> <p>18 privilege grounds and instruct the witness</p> <p>19 not to answer.</p> <p>20 MS. ADEN: Even though it's a "yes" or</p> <p>21 "no" answer and it reveals no specific</p> <p>22 identity of any particular legislator?</p> <p>23 MR. TALLEY: And it's solely because</p> <p>24 then we're matching up two sets of folks the</p> <p>25 same. I think that's enough to draw the</p>
<p>1 A. Yes.</p> <p>2 Q. Okay. So do you know, if you look at 560, where</p> <p>3 it says "SB743, MLD 419," what that refers to?</p> <p>4 A. Looks like the bill code that indicates the</p> <p>5 initials of the drafter, which was Michelle. And it</p> <p>6 was probably to differentiate it from the earlier</p> <p>7 iteration that just said 743.</p> <p>8 MR. TALLEY: And just for the purposes</p> <p>9 of our record, we have produced the amended</p> <p>10 that was emailed to you.</p> <p>11 (BY MS. ADEN:)</p> <p>12 Q. And do you recall working on SB743?</p> <p>13 A. Yes. Again, I think both of these I did some</p> <p>14 work on.</p> <p>15 Q. Sorry. Can you repeat that? Both of them?</p> <p>16 A. I believe both of these I did some work on.</p> <p>17 Q. Do you recall whether you worked on the original</p> <p>18 or the latter stages of this?</p> <p>19 A. It would have been the latter, yes.</p> <p>20 Q. Do you recall whether you worked with one</p> <p>21 legislator or more than one legislator on SB743?</p> <p>22 A. Probably would have been more than one again.</p> <p>23 Q. Do you recall working on HB1982 and SB743 at the</p> <p>24 same time?</p> <p>25 A. Could have been.</p>	Page 273	<p>1 objection, and I'll stand on it.</p> <p>2 (BY MS. ADEN:)</p> <p>3 Q. For the record once more, were the</p> <p>4 representatives/legislators who you were working with</p> <p>5 to develop 1982 the same representatives who you were</p> <p>6 working with to develop SB743?</p> <p>7 MR. TALLEY: I'll object and instruct</p> <p>8 the witness not to answer on legislative</p> <p>9 privilege grounds.</p> <p>10 (BY MS. ADEN:)</p> <p>11 Q. Were you listening to legislative debate through</p> <p>12 live stream as HB1982 and SB743 were considered?</p> <p>13 A. Probably. As I had time, I would listen to the</p> <p>14 committees, yes, and any floor debate, you know, when</p> <p>15 they came up in the House or the Senate.</p> <p>16 Q. What was the point of you listening to the</p> <p>17 debates?</p> <p>18 A. Just to generally make -- keep informed. I</p> <p>19 mean...</p> <p>20 Q. Would you ever take information that you</p> <p>21 received from listening to the legislative process in</p> <p>22 order to implement anything in a proposed map that you</p> <p>23 were working on?</p> <p>24 A. No.</p> <p>25 Q. So the -- despite listening to what was being</p>



<p>Page 276</p> <p>1 debated, the only time you would do anything on a map</p> <p>2 was if you were specifically asked to do so by one or</p> <p>3 more legislators?</p> <p>4 A. Correct.</p> <p>5 Q. Or Ms. Davenport?</p> <p>6 MR. TALLEY: Object to form.</p> <p>7 Go ahead.</p> <p>8 A. Only if she had been instructed by a member and</p> <p>9 she needed help, and she would say, "This is the</p> <p>10 instruction I've been given, can you do the work."</p> <p>11 Q. And do you recall developing any specific</p> <p>12 demographic reports for SBS43 -- 743?</p> <p>13 A. I don't -- I don't recall doing them, but I</p> <p>14 could verify if I did. I just don't remember.</p> <p>15 Q. Do you recall taking a snapshot of the</p> <p>16 demographic data at the bottom of your screen for</p> <p>17 either SB743 or HB1982?</p> <p>18 A. I don't know if I did. -- if I was asked to do</p> <p>19 that, no. I don't remember.</p> <p>20 Q. But if you did, you would have typically cut and</p> <p>21 pasted it onto a Word doc?</p> <p>22 A. Mm-hmm.</p> <p>23 Q. Would you have saved that file?</p> <p>24 A. Yes. So there would be a record of it if I did.</p> <p>25 I just don't remember if I did or didn't.</p>	<p>Page 278</p> <p>1 are -- bills are one and the same?</p> <p>2 MR. TALLEY: Object to form.</p> <p>3 A. I believe so. Again, I would need to look at</p> <p>4 them, but I believe that in the -- if this is the</p> <p>5 final iteration, yes, that they would -- they were the</p> <p>6 same.</p> <p>7 Q. And in terms of what data you would have</p> <p>8 available to you, it would be the case that you would</p> <p>9 have population data developing these bills?</p> <p>10 MR. TALLEY: Object to form.</p> <p>11 A. Yes, just -- as there was with all maps, there</p> <p>12 was that population data that presented itself at the</p> <p>13 bottom.</p> <p>14 Q. And racial demographic data?</p> <p>15 A. Yes, mm-hmm.</p> <p>16 Q. And incumbent addresses you would have available</p> <p>17 to you?</p> <p>18 A. The addresses didn't appear, they just showed up</p> <p>19 with these little red icons.</p> <p>20 Q. Okay. And you would have county level</p> <p>21 boundaries?</p> <p>22 A. Yes.</p> <p>23 Q. And you would have precinct boundaries?</p> <p>24 A. Yes. I usually did not have them appear because</p> <p>25 it got so busy.</p>
<p>Page 277</p> <p>1 Q. Okay. Were there significant differences in</p> <p>2 your mind between HB1982 and SB743?</p> <p>3 MR. TALLEY: Object to form.</p> <p>4 A. My recollection is they were somewhat companion</p> <p>5 bills, which we have from time to time in the General</p> <p>6 Assembly, which means they are -- they're the same,</p> <p>7 they are -- just one is a Senate bill and one is a</p> <p>8 House bill.</p> <p>9 Q. But even though they are companion bills, that</p> <p>10 doesn't necessarily mean that you are receiving the</p> <p>11 same direction or guidance about each one?</p> <p>12 MR. TALLEY: Object to form.</p> <p>13 (BY MS. ADEN:)</p> <p>14 Q. Could you be receiving different guidance on the</p> <p>15 Senate as compared to the House side, even though</p> <p>16 these are companion bills?</p> <p>17 MR. TALLEY: The witness is free to</p> <p>18 answer as to the hypothetical. I'll</p> <p>19 instruct the witness not to answer as to</p> <p>20 anything that would be privileged.</p> <p>21 A. Generally a companion bill, they're -- they're</p> <p>22 mirror bills. So they typically are going to be the</p> <p>23 same, they're just -- they just have a House version</p> <p>24 and a Senate version.</p> <p>25 Q. Okay. So for all intents and purposes, these</p>	<p>Page 279</p> <p>1 Q. And was there --</p> <p>2 A. But the lines -- we could have had them show up,</p> <p>3 but we didn't because it just made the map so busy and</p> <p>4 it was hard, then, to see the county lines with all</p> <p>5 the...</p> <p>6 Q. And was there any information that you had</p> <p>7 available on your work on SB743 and HB1982 on</p> <p>8 autoBoundEDGE, besides the ones we just talked about?</p> <p>9 A. Did I have any other materials?</p> <p>10 Q. (Nods head up and down.)</p> <p>11 A. I don't know. What -- I don't know.</p> <p>12 MR. TALLEY: Object to form.</p> <p>13 A. Yeah, I'm not sure what you're asking there. I</p> <p>14 apologize. I know I'm tired. I'm probably --</p> <p>15 Q. I understand.</p> <p>16 Earlier today we discussed how on</p> <p>17 autoBoundEDGE you had census data, which had total</p> <p>18 population numbers and -- as well as racial data; is</p> <p>19 that fair to say?</p> <p>20 A. Yes. Yes.</p> <p>21 Q. And that, also, as you understood it,</p> <p>22 autoBoundEDGE had certain geographies like precinct --</p> <p>23 I'm sorry -- county boundary lines and precinct</p> <p>24 boundary lines; is that fair to say?</p> <p>25 A. You could see them, yes. Mm-hmm.</p>

<div>Page 280</div> <div><p>1 Q. And that you were aware of the incumbent</p><p>2 addresses in order to be able to put the dots on</p><p>3 particular maps?</p><p>4 A. Yes.</p><p>5 Q. Is there any other information that you had on</p><p>6 autoBoundEDGE that I'm not raising that you had</p><p>7 available to you when you were developing HB1982 and</p><p>8 SB743?</p><p>9 A. I don't believe so. That was the -- that was</p><p>10 the standard information that we used.</p><p>11 Q. Do you know how long it took you from start to</p><p>12 finish to work on HB1982?</p><p>13 A. I really don't.</p><p>14 Q. Or SB743?</p><p>15 A. No, I don't.</p><p>16 Q. Okay. It looks like these were last edited,</p><p>17 HB1982, on 10/5/2021.</p><p>18 Is that -- do you see that on</p><p>19 BLR-CMA-571?</p><p>20 A. Mm-hmm.</p><p>21 Q. Okay. Do you believe that you worked on the</p><p>22 last edited version of this bill?</p><p>23 A. I'm not 100 percent sure. I could -- I could</p><p>24 look and verify.</p><p>25 Q. And on SB743, it looks like on BLR-560, it was</p></div>	<div>Page 282</div> <div><p>1 waive anything, nor could I because I think</p><p>2 my clients, the members, hold the privilege.</p><p>3 So I will let the witness answer the</p><p>4 question on the table, which is: Did you</p><p>5 work with Representative Hodges on this?</p><p>6 "Yes" or "no" is the instruction I will</p><p>7 offer the witness and then we'll move on.</p><p>8 A. I don't remember, honestly.</p><p>9 Q. Did you work with Representative Scott during</p><p>10 consideration of HB1982?</p><p>11 MR. TALLEY: Same instruction, same</p><p>12 limitation.</p><p>13 Go ahead.</p><p>14 A. 1982? I don't remember doing that, no.</p><p>15 Q. Okay. And is it fair to say you did work with</p><p>16 Representative Speaks with respect to HB1982?</p><p>17 A. Yes, mm-hmm.</p><p>18 Q. Did you work with Senator -- is it fair to say</p><p>19 that you worked with Senator English on SB743?</p><p>20 A. Yes.</p><p>21 Q. Did you work with Senator Hickey on SB743?</p><p>22 MR. TALLEY: Okay. I'm going to jump in</p><p>23 now, and if we're going to walk through</p><p>24 every member of the General Assembly, then I</p><p>25 might have a different issue because we're</p></div>
<div>Page 281</div> <div><p>1 last edited on October 5th, 2021.</p><p>2 Do you remember if you worked on the</p><p>3 last edited version?</p><p>4 A. I don't remember if it was the very last one. I</p><p>5 don't. I'm sorry, but I don't remember.</p><p>6 Q. Did you work with Representative Hodges during</p><p>7 consideration of HB1982?</p><p>8 A. Representative Hodges?</p><p>9 Q. Mm-hmm.</p><p>10 MR. TALLEY: A lot of my job is figuring</p><p>11 out which hill I want to die on, and as to</p><p>12 answering that question "yes" or "no," I</p><p>13 will let the witness answer.</p><p>14 And the reason I've let that go on</p><p>15 during this deposition is the same one I</p><p>16 explained earlier, which, when it comes to</p><p>17 particular pieces of legislation, the</p><p>18 legislation itself reveals the identity of</p><p>19 the Bureau staffer, or a Bureau staffer who</p><p>20 was involved. The initials MLD or MDM</p><p>21 appear on -- on the text of those bills.</p><p>22 So I'm not going to take a hardline</p><p>23 position on that issue, knowing full well</p><p>24 that we've been fighting about privilege all</p><p>25 day. So I'm certainly not intending to</p></div>	<div>Page 283</div> <div><p>1 having a roll call vote as to who was</p><p>2 involved and who wasn't.</p><p>3 So I think that if we limited it at this</p><p>4 point, I'll let the witness answer as to</p><p>5 Senator Hickey. But if what we're going to</p><p>6 do is walk through, you know, 135 members of</p><p>7 the General Assembly, then I think I've got</p><p>8 an issue because the identities of all kinds</p><p>9 of people could be revealed in a way that I</p><p>10 think would get into the privilege.</p><p>11 So I'll let the witness answer the</p><p>12 question on the table, but if we're going to</p><p>13 go any further, I think at some point I'm</p><p>14 going to jump in and object.</p><p>15 A. This -- a lot of time has elapsed, and I don't</p><p>16 remember. I wouldn't swear that I know everyone that</p><p>17 was involved.</p><p>18 As I recall, I don't remember -- I</p><p>19 really don't remember if that person was in the room</p><p>20 and giving -- you know, and participating in the</p><p>21 conversation. I don't remember.</p><p>22 Q. For clarification, with respect to HB1982 and</p><p>23 SB743, is it fair to say, based upon your testimony</p><p>24 earlier today, that you did not have any electoral</p><p>25 performance data available to you or on your computers</p></div>

<div>Page 284</div> <div><div>1</div><div>as you were developing either of those bills?</div><div>2</div><div>A. That's correct.</div><div>3</div><div>Q. Looking at both of these bills, is it fair to</div><div>4</div><div>say that the maps rebalance the populations?</div><div>5</div><div>A. Among the districts?</div><div>6</div><div>Q. Mm-hmm.</div><div>7</div><div>A. It -- yes, I guess you could say that.</div><div>8</div><div>Q. And whether or not they satisfy the one-person,</div><div>9</div><div>one-vote principle, that would be a determination that</div><div>10</div><div>the legislative member would be best suited to answer</div><div>11</div><div>in your estimation?</div><div>12</div><div>MR. TALLEY: Object to form.</div><div>13</div><div>A. Yes. I mean, that would be, I guess, a</div><div>14</div><div>subjective decision, you know, on the part of the</div><div>15</div><div>member if they thought that it met that.</div><div>16</div><div>Q. I want to show you what I'm marking as</div><div>17</div><div>Exhibit 40.</div><div>18</div><div>MX. BENJAMIN: 41.</div><div>19</div><div>MS. ADEN: 41?</div><div>20</div><div>MX. BENJAMIN: Yes, 41.</div><div>21</div><div>(Exhibit 41 marked for identification.)</div><div>22</div><div>(BY MS. ADEN:)</div><div>23</div><div>Q. These are various precincts that are numbered,</div><div>24</div><div>and there is a Bates stamp which reflects that I</div><div>25</div><div>pulled this exhibit from an exhibit with Senator</div></div>	<div>Page 286</div> <div><div>1</div><div>a legislator in some kind of legislative</div><div>2</div><div>communication.</div><div>3</div><div>As to the witness's personal knowledge,</div><div>4</div><div>she's free to answer.</div><div>5</div><div>(BY MS. ADEN:)</div><div>6</div><div>Q. So the first question is: Were you aware of the</div><div>7</div><div>racial composition of the precincts? "Yes" or "no."</div><div>8</div><div>MR. TALLEY: Same instruction; same</div><div>9</div><div>limitation.</div><div>10</div><div>A. I did not. Again, I was not looking at that as</div><div>11</div><div>I was following the directions of selecting the</div><div>12</div><div>precincts.</div><div>13</div><div>Q. But were you -- did you have available on the</div><div>14</div><div>screen, as you were developing HB1982 and Senate</div><div>15</div><div>Bill 743, racial demographic data at the bottom of the</div><div>16</div><div>screen that would have changed the overall comp- --</div><div>17</div><div>the racial composition of the district as you were</div><div>18</div><div>moving these precincts from CD2 to other districts?</div><div>19</div><div>MR. TALLEY: As to whether that</div><div>20</div><div>information was available in autoBoundEDGE,</div><div>21</div><div>the witness is free to answer; and I'll just</div><div>22</div><div>ask that she just answer that simply "yes"</div><div>23</div><div>or "no." That's the instruction.</div><div>24</div><div>A. Yes, it was available.</div><div>25</div><div>Q. It was available on autoBoundEDGE, but was it on</div></div>
<div>Page 285</div> <div><div>1</div><div>Elliott from the state litigation.</div><div>2</div><div>Do you recognize this image?</div><div>3</div><div>A. No. I've not seen it before, no.</div><div>4</div><div>Q. Okay. Do you have any reason to dispute that</div><div>5</div><div>these represent precincts that were moved out of</div><div>6</div><div>Congressional District 2 into Congressional Districts</div><div>7</div><div>1 and 4 during the -- in the enacted map?</div><div>8</div><div>MR. TALLEY: Object. Form.</div><div>9</div><div>Go ahead.</div><div>10</div><div>A. It looks similar to the map image here. So I --</div><div>11</div><div>you know, without being able to compare to the</div><div>12</div><div>language itself in the act, I couldn't say</div><div>13</div><div>definitively. But it looks similar.</div><div>14</div><div>Q. If I wanted to understand why these particular</div><div>15</div><div>precincts were selected in autoBoundEDGE to be moved</div><div>16</div><div>out of Congressional District 2, who could tell me</div><div>17</div><div>what the explanations for them were?</div><div>18</div><div>A. I guess you would need to speak to the</div><div>19</div><div>legislators that instructed us to draw it that way.</div><div>20</div><div>Q. Were you aware of the racial composition of</div><div>21</div><div>these precincts as you were developing HB1982 and</div><div>22</div><div>Senate Bill 743?</div><div>23</div><div>MR. TALLEY: I'll -- I'll object and</div><div>24</div><div>instruct the witness not to answer to the</div><div>25</div><div>extent it calls for information learned from</div></div>	<div>Page 287</div> <div><div>1</div><div>your screen, the racial demographic data, as you were</div><div>2</div><div>moving precincts around under HB1982 and SB743?</div><div>3</div><div>A. I assume it was because I usually always have it</div><div>4</div><div>there. It could be minimized, but I can't -- I don't</div><div>5</div><div>know that I ever did.</div><div>6</div><div>Q. Were you ever in a room with one or more</div><div>7</div><div>legislators when any legislator was discussing the</div><div>8</div><div>racial composition of any political geography in</div><div>9</div><div>devising HB1982 or Senate Bill SB743?</div><div>10</div><div>MR. TALLEY: I'll object and instruct</div><div>11</div><div>the witness not to answer on legislative</div><div>12</div><div>privilege grounds.</div><div>13</div><div>MS. ADEN: So the question of whether</div><div>14</div><div>she was in her room, "yes" or "no," when</div><div>15</div><div>there was any discussion by any legislator</div><div>16</div><div>about the racial composition of any</div><div>17</div><div>geography in Arkansas you are objecting to</div><div>18</div><div>for legislative privilege?</div><div>19</div><div>MR. TALLEY: If the question was posed</div><div>20</div><div>as to any legislation during the</div><div>21</div><div>redistricting process, I wouldn't have an</div><div>22</div><div>objection. I'd let her answer. But when it</div><div>23</div><div>comes to a specific piece of legislation,</div><div>24</div><div>this one or any other one, the question</div><div>25</div><div>itself suggests an answer, and by answering</div></div>

<p>Page 288</p> <p>1 it affirmatively or in the negative, it</p> <p>2 suggests that that played a role in the</p> <p>3 process and I think would violate privilege.</p> <p>4 (BY MS. ADEN:)</p> <p>5 Q. So the first generic question is: In the</p> <p>6 context of this entire congressional redistricting</p> <p>7 process, were you ever in a room, while you were</p> <p>8 developing any proposed map, where there was any</p> <p>9 discussion by a legislator about the racial</p> <p>10 composition of any geography in Arkansas?</p> <p>11 MR. TALLEY: The witness is free to</p> <p>12 answer that as to the process globally with</p> <p>13 respect to any member in any piece of</p> <p>14 legislation, but not as to any specific</p> <p>15 piece of legislation.</p> <p>16 Do you understand that instruction?</p> <p>17 THE WITNESS: I do. I think so.</p> <p>18 MR. TALLEY: Okay.</p> <p>19 A. No, I don't believe it was ever discussed.</p> <p>20 Q. And with respect to HB1982 or Senate Bill SB743,</p> <p>21 were you ever in the room with any legislator</p> <p>22 discussing the racial composition of any geography</p> <p>23 under any of those proposed maps?</p> <p>24 MR. TALLEY: I'll instruct the witness</p> <p>25 not to answer that one based on legislative</p>	<p>Page 290</p> <p>1 privilege grounds.</p> <p>2 (BY MS. ADEN:)</p> <p>3 Q. Did you ever speak to anyone who was not a</p> <p>4 legislator or BLR staff about HB1982?</p> <p>5 A. No.</p> <p>6 Q. What about SB743?</p> <p>7 A. No.</p> <p>8 Q. Are you familiar with precincts 47, 54, and the</p> <p>9 others identified on this sheet of paper?</p> <p>10 A. I'm not -- what do you mean by "familiar with"?</p> <p>11 Q. Do you see their names and have any recollection</p> <p>12 of the location, for example, of these precincts?</p> <p>13 A. Well, other than --</p> <p>14 MR. TALLEY: Object to form.</p> <p>15 Go ahead.</p> <p>16 A. You know, I can see where it shows up on the</p> <p>17 map. I'm -- other than that, there's not anything in</p> <p>18 particular, any other landmarks or anything that</p> <p>19 immediately come to mind.</p> <p>20 Q. As you sit here today, do you have any sense of</p> <p>21 what the racial composition of these precincts are?</p> <p>22 MR. TALLEY: I'll object to the extent</p> <p>23 it calls for any legislative communication.</p> <p>24 As to witness's personal knowledge, she's</p> <p>25 free to answer.</p>
<p>Page 289</p> <p>1 privilege grounds for the same reason I just</p> <p>2 gave. And I think the witness gave an</p> <p>3 answer to the global one that gives the</p> <p>4 answer.</p> <p>5 So I'll instruct the witness not to</p> <p>6 answer that one.</p> <p>7 (BY MS. ADEN:)</p> <p>8 Q. Were you ever in the room over the course of the</p> <p>9 20 -- post-2020 congressional line-drawing process</p> <p>10 where any legislator was talking about the electoral</p> <p>11 performance of any proposed piece of congressional</p> <p>12 legislation?</p> <p>13 MR. TALLEY: The witness is free to</p> <p>14 answer that one as to globally whether that</p> <p>15 took place with respect to any piece of</p> <p>16 legislation or any member, but just not as</p> <p>17 to anything specific.</p> <p>18 Go ahead.</p> <p>19 A. I don't recall any.</p> <p>20 Q. And with respect to HB1982 and SB743, were you</p> <p>21 ever in the room when any legislator was discussing</p> <p>22 the electoral performance of any congressional</p> <p>23 district under those plans?</p> <p>24 MR. TALLEY: I'll object on that one and</p> <p>25 instruct the witness not to answer on</p>	<p>Page 291</p> <p>1 A. I have read in the news some of that</p> <p>2 information.</p> <p>3 Q. And what have you read?</p> <p>4 A. That these are predominantly minority areas.</p> <p>5 Q. Did anyone complain to you about this map, in</p> <p>6 particular any members of the public?</p> <p>7 A. I never really talked to any members of the</p> <p>8 public, other than those I'm authorized to do so by</p> <p>9 members. I don't get any general comments from</p> <p>10 public.</p> <p>11 Q. Were you aware that then Governor Hutchinson had</p> <p>12 concerns about HB1982 and SB743, prior to the enacted</p> <p>13 plan's adoption?</p> <p>14 MR. TALLEY: Object to form.</p> <p>15 A. I'm not sure I knew but I -- ahead of time, but</p> <p>16 I do think I remember that he didn't sign the bills.</p> <p>17 Q. Going into the congressional map, were you</p> <p>18 familiar with the general construction of the 2011</p> <p>19 map -- strike that.</p> <p>20 Going into the congressional</p> <p>21 redistricting map, had you looked at the 2011 map to</p> <p>22 get a sense of the benchmark map going into this</p> <p>23 cycle?</p> <p>24 A. I was aware of -- of it, and I did, like I said,</p> <p>25 just to practice with autoBound, I tried to</p>



<div>Page 292</div> <div><div>1</div><div>reconstruct that map just so I could learn how to</div><div>2</div><div>select geographies and assign them to districts.</div><div>3</div><div>Q. I'm going to put into the record as Exhibit 42.</div><div>4</div><div>This is an email exchange between Josh Bridges,</div><div>5</div><div>Matthew Miller, and Kenneth Burleson, for the most</div><div>6</div><div>part. It's Bates-stamped BLR-CMA-8775 through 76, but</div><div>7</div><div>I attached the PDF that is referenced in this that is</div><div>8</div><div>not Bates-stamped. But I will represent that it is</div><div>9</div><div>the PDF congressional map referred to in the</div><div>10</div><div>attachment of this email.</div><div>11</div><div>(Exhibit 42 marked for identification.)</div><div>12</div><div>Q. I recognize that you're not copied on this email</div><div>13</div><div>exchange, but I wanted to direct your attention to the</div><div>14</div><div>attached congressional map, which I am representing,</div><div>15</div><div>at least according to the Secretary of State's Office,</div><div>16</div><div>is the 2011 map that they attached in this</div><div>17</div><div>correspondence.</div><div>18</div><div>Where's is Pulaski County, which</div><div>19</div><div>district does it reside in in this 2011 map?</div><div>20</div><div>A. 2. The 2nd.</div><div>21</div><div>Q. And does it appear to be wholly contained within</div><div>22</div><div>Congressional District 2?</div><div>23</div><div>A. It does.</div><div>24</div><div>Q. Do you know how long before 2011 Pulaski County</div><div>25</div><div>had remained whole in the congressional maps in</div></div>	<div>Page 294</div> <div><div>1</div><div>instruction, because I'm struggling with the</div><div>2</div><div>question.</div><div>3</div><div>To the extent that could be answered in</div><div>4</div><div>a way that would not reveal legislative</div><div>5</div><div>communications or was not done at the</div><div>6</div><div>request of a member, the witness is free to</div><div>7</div><div>answer that.</div><div>8</div><div>A. So you're saying --</div><div>9</div><div>Q. Did BLR develop any analysis comparing different</div><div>10</div><div>congressional plans over the course of the development</div><div>11</div><div>of congressional maps?</div><div>12</div><div>MR. TALLEY: So same instruction; same</div><div>13</div><div>limitation.</div><div>14</div><div>If any analysis or comparison was done</div><div>15</div><div>not at the behest or the request of a</div><div>16</div><div>member, you're free to answer.</div><div>17</div><div>A. No, I didn't do anything like that.</div><div>18</div><div>Q. So you -- you're not aware -- you were not</div><div>19</div><div>instructed by any legislator in particular -- strike</div><div>20</div><div>that.</div><div>21</div><div>You were not requested -- there was no</div><div>22</div><div>request to you by any legislator for any analysis</div><div>23</div><div>comparing different congressional maps developed</div><div>24</div><div>during the 2021 redistricting process?</div><div>25</div><div>MR. TALLEY: The witness is free to</div></div>
<div>Page 293</div> <div><div>1</div><div>Arkansas?</div><div>2</div><div>A. I don't.</div><div>3</div><div>Q. Do you know how long before 2011 Pulaski County</div><div>4</div><div>was contained within Congressional District 2?</div><div>5</div><div>A. No.</div><div>6</div><div>MR. TALLEY: Just for our record, that</div><div>7</div><div>map, for some reason, got stamped with a</div><div>8</div><div>very, very, very tiny Bates stamp that is</div><div>9</div><div>ending with 8777.</div><div>10</div><div>MS. ADEN: Okay. So that's the three</div><div>11</div><div>numbers -- the two numbers that preceded it.</div><div>12</div><div>So this is BLR-CMA 8775 through 877, as the</div><div>13</div><div>complete three document.</div><div>14</div><div>MR. TALLEY: And this copy, that Bates</div><div>15</div><div>number just got cut off, but it ends with</div><div>16</div><div>Bates number 8777.</div><div>17</div><div>MS. ADEN: Thank you.</div><div>18</div><div>(BY MS. ADEN:)</div><div>19</div><div>Q. During your time developing maps over the</div><div>20</div><div>legislative session, did you or BLR develop any</div><div>21</div><div>comparisons of one proposed map against the other?</div><div>22</div><div>MR. TALLEY: I'll -- I'll object and</div><div>23</div><div>instruct the witness not to answer based on</div><div>24</div><div>legislative privilege.</div><div>25</div><div>And I guess I'll offer the witness an</div></div>	<div>Page 295</div> <div><div>1</div><div>answer that "yes" or "no," whether a request</div><div>2</div><div>like that was made, but nothing further.</div><div>3</div><div>A. No.</div><div>4</div><div>Q. Okay.</div><div>5</div><div>MS. ADEN: Can we take 10?</div><div>6</div><div>MR. TALLEY: Sure.</div><div>7</div><div>MR. BRASCHER: Sure.</div><div>8</div><div>(Recess from 5:11 p.m. to 5:20 p.m.)</div><div>9</div><div>(BY MS. ADEN:)</div><div>10</div><div>Q. You mentioned earlier that certain legislators</div><div>11</div><div>would ask you to reproduce maps from Dave's</div><div>12</div><div>Redistricting or re-District; is that fair?</div><div>13</div><div>A. Or Districtr, I believe it is. Yes.</div><div>14</div><div>Q. Were any legislators ever in the room with you</div><div>15</div><div>when you were fulfilling that request to reproduce a</div><div>16</div><div>map from one of those sites?</div><div>17</div><div>A. Gosh. Again, this has been a while ago, but</div><div>18</div><div>it's possible, yeah, that I -- that they might have</div><div>19</div><div>shown me one and then I tried to replicate it. But I</div><div>20</div><div>usually always got an email of some kind as well.</div><div>21</div><div>Q. And it would be a hardcopy map from Dave's</div><div>22</div><div>Redistricting or Districtr, or would it be -- what</div><div>23</div><div>would be the form of this information from those two</div><div>24</div><div>sites?</div><div>25</div><div>A. My recollection is typically it would be like a</div></div>



<p>Page 296</p> <p>1 screenshot on their phone or a picture on their phone.</p> <p>2 Q. And they would say "reproduce it"?</p> <p>3 A. Yes.</p> <p>4 Q. And you would, for example, know that the</p> <p>5 district in that Dave's map had X-counties and then</p> <p>6 you would try to reproduce them in autoBoundEDGE with</p> <p>7 that same configuration?</p> <p>8 A. I would -- yes, I would try to. And usually</p> <p>9 there would be population numbers and that would help</p> <p>10 me know if I was getting it comparable to what that</p> <p>11 other mapping program had allocated. You know, how</p> <p>12 they had done the geography assignments.</p> <p>13 Q. But if, for example, you were looking at</p> <p>14 Southeast Pulaski and you knew generally that that</p> <p>15 area of the state might have changes, you would need</p> <p>16 to hear directly from a legislator about what --</p> <p>17 again, what particular precincts might need to change</p> <p>18 in that part of the state in order to reproduce that</p> <p>19 from Dave's, or could you visually look at Dave's and</p> <p>20 know which precincts were changed?</p> <p>21 MR. TALLEY: I'll jump in. Object.</p> <p>22 Instruct the witness not to answer on</p> <p>23 legislative privilege grounds because it's</p> <p>24 kind of the same thing.</p> <p>25 On the one hand, that question poses</p>	<p>Page 298</p> <p>1 Q. So -- but you would not work within Dave's or</p> <p>2 redistrict to reproduce the map? You would go to the</p> <p>3 URL, see what information was at issue --</p> <p>4 A. Yes.</p> <p>5 Q. -- and then go back into autoBoundEDGE to</p> <p>6 recreate what you're seeing there, or --</p> <p>7 A. That's correct.</p> <p>8 Q. Okay. Were you ever presented with any Dave's</p> <p>9 Redistricting or Districtr maps when you were</p> <p>10 developing HB1982?</p> <p>11 MR. TALLEY: I will object to that</p> <p>12 question and instruct the witness not to</p> <p>13 answer on legislative privilege grounds.</p> <p>14 MS. ADEN: Even though it's a "yes" or</p> <p>15 "no" answer and even though it doesn't tell</p> <p>16 me any specific legislator who did or did</p> <p>17 not ask for that.</p> <p>18 I'm merely asking whether or not one of</p> <p>19 the data sources that she received in order</p> <p>20 to develop HB1982 included maps from Dave's</p> <p>21 Redistricting or Districtr.</p> <p>22 MR. TALLEY: Yeah, because the problem</p> <p>23 on that one is we've got legislator names</p> <p>24 attached to those pieces of legislation and</p> <p>25 then the source of it. So I think I'll</p>
<p>Page 297</p> <p>1 kind of a hypothetical; on the other, it's</p> <p>2 talking specifically about really the maps</p> <p>3 that got passed.</p> <p>4 (BY MS. ADEN:)</p> <p>5 Q. Let me ask you another question. If below the</p> <p>6 county level you needed to understand how to replicate</p> <p>7 that from a PDF, is it the case that you would more</p> <p>8 likely than not need to talk to a legislator about</p> <p>9 what they wanted changed below the county level in</p> <p>10 order to replicate it?</p> <p>11 MR. TALLEY: Free to answer that as to a</p> <p>12 hypothetical.</p> <p>13 A. Yeah. If it -- if I was having difficulty</p> <p>14 hitting their population numbers because it was -- it</p> <p>15 did split a county and it involved the assignment of</p> <p>16 precincts, I might ask. I believe the occasion did</p> <p>17 happen where I would need to ask for a URL. And then</p> <p>18 if I could actually look, I could zoom in and actually</p> <p>19 do a more precise job of selecting the precincts, and</p> <p>20 usually I was able to hit the population numbers then.</p> <p>21 Q. And the URL would take you to Dave's</p> <p>22 Redistricting --</p> <p>23 A. Yes.</p> <p>24 Q. -- or Districtr?</p> <p>25 A. Yes.</p>	<p>Page 299</p> <p>1 stand on that one.</p> <p>2 MS. ADEN: And that's even though</p> <p>3 Ms. Bowen testified that more than one</p> <p>4 legislator was involved in instructing her</p> <p>5 on HB1982 and SB743?</p> <p>6 MR. TALLEY: I think she said more than</p> <p>7 one, but I'm not trying to quibble about</p> <p>8 that.</p> <p>9 MS. ADEN: So as --</p> <p>10 MR. TALLEY: I think I'll stand on it</p> <p>11 because it gets into the source of</p> <p>12 information that went into the preparation</p> <p>13 and drafting of a particular piece of</p> <p>14 legislation. I'll stand on it.</p> <p>15 MS. ADEN: And for the record, I just</p> <p>16 want to make clear that in the same way I</p> <p>17 want to know what census data, what other</p> <p>18 information was available to Ms. Bowen, or</p> <p>19 anyone else who was developing what became</p> <p>20 Arkansas's congressional map, I would</p> <p>21 consider Dave's Redistricting or Districtr</p> <p>22 as another source of information that we</p> <p>23 are -- I think we are entitled to know</p> <p>24 whether that was a source of information for</p> <p>25 HB1982 or SB743. Not where they got it from</p>

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<p>1 but -- any particular legislator, but 2 whether or not that was a source of 3 information available to Ms. Bowen as she 4 was helping with those proposed maps. 5 MR. TALLEY: I think I understand. And 6 again, I mean, we were just talking about it 7 on the break. I've got to figure out how to 8 navigate some of these issues because 9 there's not a lot of guidance on it. 10 I think I'll stand on it simply because 11 it's a particular piece of legislation and a 12 particular source of information that 13 potentially did not apply universally, which 14 is what I've allowed to be talked about 15 today, is what were the different sources of 16 information within autoBoundEDGE, what was 17 available, what was not, did that apply 18 globally to all litigation -- or all 19 legislation. 20 When it came to redistrict -- or 21 Districtr and Dave's Redistricting, I've 22 allowed that to be discussed as to all 23 legislation that's not member-specific 24 during the entire process, but now we're 25 talking about a specific piece of</p>	<p>1 Q. You've been asked a lot of hypotheticals today. 2 Does your answer to any of these hypotheticals reveal 3 an intent to disclose any actual communications that 4 you've had with legislators? 5 A. Any of my responses on hypotheticals? 6 Q. Correct. 7 A. I've not tried to disclose anything specific, 8 no. 9 Q. Has your intent been to reveal any privileged 10 communications or instructions that you received from 11 any legislators? 12 A. No. 13 Q. Did you -- in your capacity, in relation to 14 these congressional districts, did you do anything 15 different depending on whether the legislator was a 16 Democrat or a Republican? 17 A. No. 18 Q. Did you exercise any discretion in drawing the 19 maps outside of what you were instructed to do by a 20 legislator? 21 A. No. 22 MR. BRASCHER: That's all I have. 23 MR. TALLEY: I think just one or two 24 from me. 25 ///</p>
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<p>1 legislation and how it was prepared or 2 drafted. So I'll stand on that objection. 3 (BY MS. ADEN:) 4 Q. For the record, similar question with respect to 5 SB743: Were you in the room with any legislators 6 developing that bill and given a map from Dave's 7 Redistricting or re-Districtr -- or Districtr as you 8 were developing SB743? 9 MR. TALLEY: Same objection, and I'll 10 instruct the witness not to answer on 11 legislative privilege grounds because it 12 calls for a specific source of information 13 as to a specific piece of legislation. 14 MS. ADEN: I think that's all my 15 questions. 16 MR. TALLEY: I've got just a couple. I 17 guess I'll let Justin go before me. 18 MR. BRASCHER: Okay. I will make this 19 quick, just a couple because Ms. Bowen has a 20 very important tennis match. 21 THE WITNESS: Oh. 22 MS. ADEN: We're a tennis family, so I 23 support ya. 24 EXAMINATION 25 BY MR. BRASCHER:</p>	<p>1 EXAMINATION 2 BY MR. TALLEY: 3 Q. You were asked some questions about whether or 4 not you personally went and collected documents or 5 data or information for the purposes of producing them 6 in this lawsuit. 7 Do you remember that? 8 A. Mm-hmm. 9 Q. Is that a "yes"? 10 A. Yes. I'm sorry. 11 Q. You've been doing good. 12 And after the, technically, regular 13 session ended, did you receive a request from 14 leadership within the Bureau to gather and provide to 15 Mr. Miller all of the nonprivileged work product that 16 went into the redistricting process? 17 A. Yes. 18 Q. Did you do that? 19 A. Yes. 20 Q. Did you provide Mr. Miller with all of the 21 nonprivileged work product in your possession, 22 custody, or control that related to the redistricting 23 process? 24 A. Yes. 25 Q. That was done in response to a FOIA request?</p>

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<p>1 A. That was my understanding, yes.</p> <p>2 MR. TALLEY: That's all the questions I</p> <p>3 have.</p> <p>4 MS. ADEN: Very, very, very quick</p> <p>5 redirect.</p> <p>6 FURTHER EXAMINATION</p> <p>7 BY MS. ADEN:</p> <p>8 Q. How would we know that you responded similarly</p> <p>9 to Democratic and Republican affiliated members</p> <p>10 during -- in response to proposed congressional maps?</p> <p>11 How would we know that?</p> <p>12 MR. TALLEY: Object to form.</p> <p>13 Go ahead.</p> <p>14 A. I'm not sure how I could document it, other than</p> <p>15 show you the requests I got and the product that I</p> <p>16 provided, which I know under the circumstances is</p> <p>17 privileged.</p> <p>18 When we get a request, our first</p> <p>19 priority is to do it as quickly as we can do it, and</p> <p>20 we do it in the order we get them. And I never --</p> <p>21 that's why I never had needed the three days. We</p> <p>22 always were able to get them to everyone within a</p> <p>23 timely way.</p> <p>24 I don't know how I would prove it</p> <p>25 else -- otherwise.</p>	<p>1 questioning and are not subject to</p> <p>2 legislative privilege. So I just want to</p> <p>3 make clear for the record that we may need</p> <p>4 to revisit some of this information in light</p> <p>5 of that.</p> <p>6 MR. TALLEY: I understand your position.</p> <p>7 I think you understand mine. I disagree.</p> <p>8 And, of course, if there's something that we</p> <p>9 need to confer about, we'll be conferring</p> <p>10 about it. And if there's something we need</p> <p>11 to take up with the Court, we can take it up</p> <p>12 with the Court.</p> <p>13 MS. ADEN: Thank you, Ms. Bowen.</p> <p>14 Thank you, Ms. Hayden.</p> <p>15 THE COURT REPORTER: You're welcome.</p> <p>16 We're off the record.</p> <p>17 (Proceedings concluded at 5:33 p.m.)</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 Q. But if I have questions about whether or not</p> <p>2 there were different responses to members based upon</p> <p>3 their party affiliation or based upon their race, I</p> <p>4 would need to understand better your communications --</p> <p>5 specific communications with particular legislators;</p> <p>6 is that fair?</p> <p>7 MR. TALLEY: Object to form.</p> <p>8 A. I guess you could look -- if it weren't</p> <p>9 privileged, you could look at the communications and</p> <p>10 see that we were very consistent in our</p> <p>11 communications.</p> <p>12 MS. ADEN: I think that's it.</p> <p>13 THE WITNESS: Okay.</p> <p>14 MR. BRASCHER: Nothing from me.</p> <p>15 MR. TALLEY: The witness will read and</p> <p>16 sign.</p> <p>17 MS. ADEN: Oh, I would like to --</p> <p>18 sorry -- note for the record that given some</p> <p>19 of the disputes that we have over</p> <p>20 legislative privilege, I do think we need to</p> <p>21 leave open this deposition for any</p> <p>22 resolution that we may need to take up</p> <p>23 before our panel because I don't think that</p> <p>24 we necessarily agree that some of these</p> <p>25 topics are not subject to further</p>	

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I, DANA HAYDEN, Certified Court Reporter for the State of Arkansas, do hereby certify to the following:

1) that on 07/02/2024, the witness, LORI BOWEN, was duly sworn by me prior to the taking of testimony as to the truth of the matters attested to and contained therein;

2) that the foregoing pages contain and are a true and correct transcription of the proceedings as reported verbatim by me via realtime stenography to the best of my ability and transcribed at or under my direction and supervision, and subject to appropriate changes submitted by witness, if any, during his/her requested reading and signing of this deposition according to the Federal Rules of Civil Procedure;

3) that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and that I am not a relative or employee of any attorney employed by the parties hereto;

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11 6) that signature of the witness is waived.  
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ACKNOWLEDGMENT OF DEPONENT

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<b>landline</b> (3)	<b>list</b> (2)	<b>&lt; M &gt;</b>	<b>meets</b> (1)
<b>landmarks</b> (1)	<b>listed</b> (3)	<b>ma'am</b> (6)	<b>Melton</b> (5)
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<b>lawsuit</b> (3)	<b>litigation</b> (6)	<b>Majority-Minority</b> (7)	<b>mentioned</b> (63)
<b>lawyers</b> (1)	<b>Little</b> (57)	<b>makeup</b> (14)	<b>menus</b> (1)
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<b>lead</b> (6)	<b>living</b> (1)	<b>managed</b> (1)	<b>messages</b> (2)
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<b>learned</b> (9)	<b>lobbyists</b> (1)	<b>map</b> (301)	<b>Michelle's</b> (2)
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<b>Legislation</b> (46)	<b>Lonoke</b> (3)	<b>Marty</b> (8)	<b>MINISTERIAL</b> (3)
<b>LEGISLATIVE</b> (103)	<b>look</b> (52)	<b>master's</b> (1)	<b>minority</b> (9)
<b>legislator</b> (98)	<b>looked</b> (19)	<b>match</b> (1)	<b>minus</b> (2)
<b>legislators</b> (67)	<b>looking</b> (64)	<b>matching</b> (1)	<b>minute</b> (2)
<b>legislator's</b> (2)	<b>looks</b> (41)	<b>material</b> (2)	<b>minutes</b> (3)
<b>legislature</b> (7)	<b>loosely</b> (1)	<b>materials</b> (19)	<b>mirror</b> (1)
<b>Legislatures</b> (3)	<b>LORI</b> (10)	<b>mathematical</b> (1)	<b>misnaming</b> (1)
<b>lend</b> (1)	<b>L-o-r-i</b> (1)	<b>matter</b> (7)	<b>missing</b> (6)
<b>lengthy</b> (1)	<b>lose</b> (1)	<b>matters</b> (4)	<b>Mitchell</b> (6)
<b>Lerude</b> (1)	<b>losses</b> (1)	<b>Matthew</b> (18)	<b>MLD</b> (2)
<b>letter</b> (2)	<b>lost</b> (6)	<b>Maumelle</b> (1)	<b>Mm-hmm</b> (94)
<b>letting</b> (1)	<b>lot</b> (18)	<b>MDM</b> (1)	<b>model</b> (1)
<b>level</b> (52)	<b>Louis</b> (1)	<b>mean</b> (74)	<b>modification</b> (1)
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<b>limit</b> (3)	<b>lower</b> (3)	<b>means</b> (8)	<b>modified</b> (2)
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<b>line-drawing</b> (1)	<b>Lynette</b> (1)	<b>meeting</b> (12)	<b>months</b> (1)

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<b>perspective</b> (1)	<b>practiced</b> (2)	<b>process</b> (44)	<b>quicker</b> (3)
<b>pertinent</b> (2)	<b>Prairie's</b> (1)	<b>produce</b> (17)	<b>quickly</b> (3)
<b>phone</b> (24)	<b>preceded</b> (1)	<b>produced</b> (21)	<b>quite</b> (1)
<b>phones</b> (1)	<b>precinct</b> (40)	<b>produces</b> (1)	<b>quote</b> (2)
<b>phrase</b> (1)	<b>precincts</b> (36)	<b>producing</b> (20)	< R >
<b>phrased</b> (4)	<b>precise</b> (3)	<b>product</b> (6)	<b>race</b> (8)
<b>phrasing</b> (1)	<b>precisely</b> (1)	<b>products</b> (2)	<b>racial</b> (71)
<b>picture</b> (5)	<b>predominantly</b> (1)	<b>professional</b> (7)	<b>raise</b> (1)
<b>pictures</b> (1)	<b>preferred</b> (2)	<b>proficient</b> (1)	<b>raising</b> (1)
<b>piece</b> (20)	<b>prep</b> (1)	<b>program</b> (20)	<b>ran</b> (1)
<b>pieces</b> (3)	<b>preparation</b> (9)	<b>programs</b> (2)	<b>range</b> (6)
<b>PL94-171</b> (3)	<b>prepare</b> (11)	<b>project</b> (1)	<b>ranges</b> (1)
<b>place</b> (5)	<b>prepared</b> (16)	<b>projected</b> (1)	<b>rank</b> (1)
<b>places</b> (4)	<b>preparing</b> (5)	<b>projects</b> (1)	<b>ranked</b> (3)
<b>plainly</b> (1)	<b>preselected</b> (1)	<b>proofing</b> (1)	<b>ranking</b> (2)
<b>PLAINTIFF</b> (4)	<b>presence</b> (1)	<b>properly</b> (3)	<b>Rapert</b> (6)
<b>PLAINTIFFS</b> (8)	<b>PRESENT</b> (6)	<b>proposal</b> (29)	<b>R-a-p-e-r-t</b> (1)
<b>plan</b> (1)	<b>presentation</b> (8)	<b>proposals</b> (1)	<b>rare</b> (1)
<b>plans</b> (2)	<b>presented</b> (9)	<b>proposed</b> (91)	<b>rationale</b> (1)
<b>plan's</b> (1)	<b>presents</b> (1)	<b>proposing</b> (2)	<b>Rd</b> (1)
<b>plate</b> (1)	<b>preserve</b> (3)	<b>propounded</b> (1)	<b>reach</b> (2)
<b>played</b> (1)	<b>preserved</b> (3)	<b>protected</b> (5)	<b>reached</b> (1)
<b>please</b> (11)	<b>presume</b> (3)	<b>protocols</b> (2)	<b>reaction</b> (1)
<b>plotter</b> (2)	<b>presumed</b> (1)	<b>prove</b> (2)	<b>read</b> (9)
<b>plus</b> (2)	<b>pretty</b> (5)	<b>provide</b> (15)	<b>reading</b> (5)
<b>point</b> (23)	<b>previous</b> (6)	<b>provided</b> (18)	<b>reads</b> (1)
<b>points</b> (2)	<b>previously</b> (1)	<b>provider</b> (1)	<b>ready</b> (3)
<b>Policy</b> (6)	<b>primarily</b> (9)	<b>provides</b> (2)	<b>real</b> (4)
<b>policy-related</b> (1)	<b>primary</b> (9)	<b>providing</b> (2)	<b>really</b> (42)
<b>political</b> (23)	<b>principle</b> (3)	<b>public</b> (17)	<b>realtime</b> (3)
<b>popping</b> (1)	<b>principle</b> (25)	<b>publicly</b> (1)	<b>real-time</b> (3)
<b>populate</b> (1)	<b>print</b> (6)	<b>published</b> (1)	<b>Reapportionment</b> (2)
<b>population</b> (107)	<b>printed</b> (10)	<b>Pulaski</b> (46)	<b>reask</b> (2)
<b>populations</b> (6)	<b>printers</b> (3)	<b>pull</b> (4)	<b>reason</b> (20)
<b>portion</b> (2)	<b>printing</b> (2)	<b>pulled</b> (1)	<b>reasons</b> (3)
<b>portions</b> (1)	<b>printout</b> (2)	<b>pulling</b> (1)	<b>rebalance</b> (4)
<b>posed</b> (10)	<b>printouts</b> (2)	<b>purpose</b> (1)	<b>rebalanced</b> (1)
<b>poses</b> (2)	<b>Prior</b> (8)	<b>purposes</b> (14)	<b>rebalancing</b> (3)
<b>position</b> (12)	<b>prioritized</b> (1)	<b>pursuant</b> (2)	<b>recall</b> (112)
<b>positive</b> (1)	<b>priority</b> (2)	<b>put</b> (24)	<b>recalling</b> (1)
<b>possession</b> (1)	<b>privilege</b> (71)	< Q >	<b>receive</b> (13)
<b>possibility</b> (2)	<b>privileged</b> (24)	<b>quality</b> (2)	<b>received</b> (24)
<b>possible</b> (29)	<b>probably</b> (46)	<b>quantify</b> (5)	<b>receiving</b> (5)
<b>possibly</b> (7)	<b>problem</b> (7)	<b>question</b> (84)	<b>Recess</b> (5)
<b>post-2020</b> (3)	<b>problems</b> (1)	<b>questioning</b> (4)	<b>recheck</b> (2)
<b>potentially</b> (8)	<b>Procedure</b> (4)	<b>questions</b> (24)	<b>recognize</b> (34)
<b>PowerPoint</b> (3)	<b>proceed</b> (1)	<b>quibble</b> (1)	<b>recollect</b> (1)
<b>practical</b> (1)	<b>proceeding</b> (1)	<b>quick</b> (6)	<b>recollection</b> (8)
<b>practice</b> (9)	<b>PROCEEDINGS</b> (6)		

<b>recommendations</b> (2)	<b>remained</b> (1)	<b>rest</b> (1)	<b>saw</b> (11)
<b>reconsider</b> (3)	<b>remains</b> (1)	<b>result</b> (3)	<b>saying</b> (17)
<b>reconstruct</b> (1)	<b>remember</b> (113)	<b>results</b> (5)	<b>says</b> (19)
<b>record</b> (49)	<b>remembered</b> (1)	<b>retained</b> (2)	<b>SB</b> (1)
<b>records</b> (3)	<b>remembering</b> (2)	<b>retainer</b> (1)	<b>SB472</b> (2)
<b>recreate</b> (1)	<b>remind</b> (2)	<b>retaining</b> (1)	<b>SB720</b> (2)
<b>Rector</b> (1)	<b>remote</b> (1)	<b>reveal</b> (14)	<b>SB721</b> (6)
<b>red</b> (4)	<b>removed</b> (1)	<b>revealed</b> (1)	<b>SB722</b> (1)
<b>redirect</b> (1)	<b>rename</b> (1)	<b>revealing</b> (4)	<b>SB723</b> (3)
<b>redistrict</b> (2)	<b>repeat</b> (4)	<b>reveals</b> (3)	<b>SB724</b> (2)
<b>Redistricting</b> (106)	<b>rephrase</b> (1)	<b>review</b> (3)	<b>SB726</b> (2)
<b>re-District</b> (2)	<b>replicate</b> (5)	<b>reviewed</b> (3)	<b>SB727</b> (2)
<b>redraws</b> (1)	<b>report</b> (24)	<b>reviewing</b> (1)	<b>SB728</b> (2)
<b>reduce</b> (1)	<b>reported</b> (7)	<b>Revised</b> (2)	<b>SB729</b> (2)
<b>reduced</b> (1)	<b>Reporter</b> (11)	<b>revising</b> (1)	<b>SB741</b> (2)
<b>refamiliarize</b> (1)	<b>reporting</b> (3)	<b>revisit</b> (1)	<b>SB743</b> (31)
<b>refer</b> (2)	<b>reports</b> (46)	<b>Richard</b> (2)	<b>SB744</b> (2)
<b>reference</b> (4)	<b>represent</b> (8)	<b>right</b> (22)	<b>SB752</b> (2)
<b>referenced</b> (8)	<b>representations</b> (2)	<b>rights</b> (3)	<b>SBS43</b> (1)
<b>referencing</b> (3)	<b>representative</b> (48)	<b>ringing</b> (5)	<b>scale</b> (1)
<b>referred</b> (3)	<b>representatives</b> (3)	<b>rise</b> (2)	<b>scenes</b> (1)
<b>referring</b> (13)	<b>representatives/legislat</b>	<b>RMR</b> (2)	<b>school</b> (4)
<b>refers</b> (1)	<b>ors</b> (2)	<b>road</b> (2)	<b>science</b> (1)
<b>reflect</b> (12)	<b>represented</b> (1)	<b>Rock</b> (14)	<b>scientifically</b> (1)
<b>reflected</b> (5)	<b>representing</b> (2)	<b>role</b> (10)	<b>scope</b> (2)
<b>reflection</b> (1)	<b>represents</b> (2)	<b>roll</b> (1)	<b>Scott</b> (1)
<b>reflects</b> (4)	<b>reprint</b> (1)	<b>room</b> (69)	<b>screen</b> (48)
<b>refrain</b> (1)	<b>reproduce</b> (7)	<b>rooms</b> (2)	<b>screens</b> (1)
<b>regarding</b> (3)	<b>Republican</b> (6)	<b>Roughly</b> (2)	<b>screenshot</b> (2)
<b>regardless</b> (1)	<b>request</b> (69)	<b>Row</b> (6)	<b>screenshots</b> (3)
<b>regards</b> (1)	<b>requested</b> (20)	<b>row/line</b> (1)	<b>se</b> (5)
<b>Regional</b> (1)	<b>requesting</b> (2)	<b>rule</b> (2)	<b>seal</b> (6)
<b>regular</b> (1)	<b>requests</b> (23)	<b>Rules</b> (16)	<b>Searcy</b> (1)
<b>regularly</b> (1)	<b>require</b> (2)	<b>run</b> (9)	<b>Sebastian</b> (6)
<b>Regulations</b> (1)	<b>required</b> (5)	<b>running</b> (1)	<b>second</b> (10)
<b>relate</b> (1)	<b>requirement</b> (3)	<b>rural</b> (1)	<b>Secretary</b> (3)
<b>related</b> (16)	<b>requirements</b> (10)		<b>section</b> (5)
<b>relates</b> (2)	<b>requires</b> (3)	<b>&lt; S &gt;</b>	<b>secure</b> (2)
<b>relating</b> (6)	<b>RESEARCH</b> (14)	<b>sacrificed</b> (1)	<b>see</b> (77)
<b>relation</b> (4)	<b>reside</b> (1)	<b>safe</b> (2)	<b>seeing</b> (19)
<b>relative</b> (1)	<b>resolution</b> (1)	<b>Saline</b> (3)	<b>seeking</b> (4)
<b>relayed</b> (1)	<b>respect</b> (14)	<b>sampling</b> (1)	<b>seen</b> (12)
<b>released</b> (4)	<b>responded</b> (1)	<b>San</b> (1)	<b>segment</b> (1)
<b>relevant</b> (3)	<b>responding</b> (5)	<b>Sarah</b> (4)	<b>select</b> (10)
<b>relied</b> (2)	<b>response</b> (12)	<b>sat</b> (2)	<b>selected</b> (15)
<b>relinquish</b> (1)	<b>responses</b> (4)	<b>satisfy</b> (2)	<b>selecting</b> (5)
<b>relooked</b> (1)	<b>responsibilities</b> (10)	<b>save</b> (1)	<b>selection</b> (1)
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<b>relying</b> (1)	<b>responsible</b> (2)	<b>savvy</b> (1)	<b>Selig</b> (1)

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