EXHIBIT 5

BOARD OF APPORTIONMENT PUBLIC HEARING

LITTLE ROCK, ARKANSAS

August 24, 2021

(Recording Begins)

JUSTICE DICKEY: Good evening. Thank you for masking up, social distancing and erring on the side of caution in this pandemic of the unvaccinated. Thank you for coming tonight. My name is Betty Dickey and I am coordinator for the Board of Apportionment for Redistricting.

With me are the men who were doing the hard work, to my far right is Brad Nye from the AG's office, attorney general's office. Kevin Niehaus from the secretary of state's office. Doug House from the attorney general's office.

To my far left is Doug -- I'm sorry. Nick Ortiz from the governor's office. And to my immediate left is Shelby Johnson, who is the head of Geographic Information Systems. I'll get it straight someday.

And PBS is live streaming and videoing these hearings, so you can watch them again on MyArkansasPBS.org. The purpose of the hearings is to give you the information as it relates to the charts that have been prepared, 2019 and now 2020, to ask for your comments.

And there were comment sheets as you

walked in, or we will provide comment sheets for you where you can go online to the website and make comments.

It's for you -- after Shelby explains some maps and I talk to you momentarily about the criteria, we ask you to make your comments or ask your questions.

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

The first of the nine criteria, one person, one vote is the balancing -- refers to the balancing of each of the legislative districts every ten years after the federal census so that they're substantially equal, which is a plus or minus deviation, unless there is an impermissible violation of the other criteria.

There are a hundred House seats, so the district should be about 30,000 each. Thirty-five Senate seats that should be about 86,000 per district.

Section 2, the second one, Section 2 of

the Voters Rights Amendment as not -- of 1965, prohibits discrimination based on race, color, or language minority.

The third one, Equal Protection Clause of the 14th Amendment, limits redrawing district boundaries strictly on the basis of race. The next four referred to the geographic principles; the fourth one, compactness, the eyeball test refers to the shape of a district, whether it's round or square.

In 1812, Governor Gerry of Massachusetts drew the area around Boston so that it looked like a salamander, hence the word gerrymandering.

The fifth one is contiguous or contiguity of having a common border, no partial districts that are islands.

Six is a core of existing districts. We -- our goal is whole counties, whole cities, whole precincts to minimize splitting political subdivisions. That is our goal; in some cases, it is not possible.

The seventh one, communities of interest that have commonalities, economical, social, political, cultural, ethnic, or religious

interests.

The eighth one is continuity of representation. You may ask why (inaudible) pay deference to incumbents. Incumbents reflect the will of the majority, the voters. And we try to avoid making incumbents run against each other. That again, as you look at the maps and as Shelby explains them, you'll understand that may not be possible this time.

The ninth one is to minimize partisanship, no targeting nor giving preferential treatment. Rucho versus The Common Cause of 2019 case, the federal courts said partisan gerrymandering, a political question that's not justiciable in the federal courts.

They did not exclude state courts, so any partisan litigation apparently will be in state courts, your State Supreme Court.

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

MR. JOHNSON: Good evening. It's a delight to be here in Little Rock at the University of Arkansas at Little Rock.

My name is Shelby Johnson and I'm in the Arkansas Geographic Information Systems Office.

We're a part of the Arkansas Department of Transformation and Shared Services. One of our statutory roles is to record the election geography of Arkansas.

We keep up with digital maps of election precincts, school boards justice of peace districts, the State House and Congressional Districts, State Senate Districts and municipal wards.

We did a lot of work over the last four or five years in preparation for the census for 2020 and fed a lot of the geography into the census so that, as population was counted, it could be assigned to the correct jurisdictions.

On August the 12th, the Census Bureau released what they've termed a legacy format of the 2020 census data. And we immediately downloaded the data for Arkansas and began to process.

For the first several board hearings that were held in Arkansas, we were only able to show the public estimates or what we thought was going to be the population differences or population change among the House and Senate Districts.

Last Tuesday evening, at our meeting in the Fort Smith, we were able to share for the first time the variances based on the 2020 maps.

So the first map I'm going to walk you through is on the screen behind me showing our population change by county across Arkansas from the period of April 1st, 2010, April 1st, 2020. And the numbers that you see are not indicative of total county population.

The numbers are expressing how much the county changed in population, either up or down, across that ten year period.

Here in Central Arkansas, was also modest growth in several of the counties. Faulkner County, for example, gained 10,261. And Pulaski County, gained 16,377 across the ten year period.

Those are two of the counties that are shown in the darkest blue shade. The darkest blue shade indicates to us that those counties experienced the greatest growth. Then as the scale turns in the lighter shades of blue, those are showing counties where there was growth, but not quite as much.

Then next on the scale, indicating counties which grew modestly. The lightest shades indicate counties where there was not much population growth, nor a population decline across the ten year period.

Those are shown in white. Then the color scale transitions to shades of red. And as you start at the lowest shade of red, that's indicating that a county's population declined a little bit.

As it gets to a darker shade of red, it indicates the county declined more. And then the darkest shades illustrating that the counties had the greatest amount of population decline.

So not too far away here from Central Arkansas, in Jefferson County, was one of our counties which had dramatic population decline across the ten year period. And it declined 10,175 in the ten year span.

Farther to the west, you can see Yell County, indicating a county where we had pretty good population decline, 1,922.

We're going to move now from the county maps and look at the House, the State House

Districts. And that'll be the next map that we're looking at.

In the State House Districts, what we did, we took the population data that was released and we cast that data up against the current design of our House Districts and we applied the same color shading or same color scheme.

So the House Districts you see that are in the darkest shades of red are indicative of House Districts where the population is too small. And the House Districts that are in the shades of blue are indicating House Districts where the population is too great.

What this tells us is tracking with the national trends, our national trend is that, if you're in a rural area, that rural area, it is becoming more rural. And if you're in an urban area, that urban area is tending to see population growth.

Here in Central Arkansas, one of the largest gains in terms of population would be House District 31. House District 31, which is mostly in Saline County, is -- has a population that's 7,500 over the target population.

In Arkansas, what we do is we take our

current population, which is 3,115,024 people and we divide that by 100 House Districts and that yields a target just slightly over 30,000. So each House District ought to have about 30,000.

Currently, today, the darkest shades of blue, the darkest shades of red, those are districts where their population is far above that the 30,000 mark or far below. And those districts in -- to put it in proper context, are currently illegal.

We'll move next on to the Senate map in the Senate Districts.

TONI MAGHREBLIAN: (Inaudible.)

MR. JOHNSON: If you would -- ma'am, if you would hold, I'll wrap up with the Senate really quick and then we'll move into public comments.

The Senate, mostly the same thing that I just explained. We put the same data against the Senate Districts that we currently live under. And the darker shades are indicative of Senate Districts that need to grow. They need to get geographically larger to gain additional population.

And, at the opposite end, the darkest shades of blue represent districts which need to shrink or share that population with it -- with the neighboring areas so that all of the districts can come up to become more equal.

Our target population calculation for the 35 Senate seats is the same three million population figure divided by the 35 Senate seats. And so each Senate District ought to have about 86,044 persons in it.

And currently you can see more than half of our Senate Districts are very far out of balance.

So with that, that's a very quick tour of the maps that we are able to show for now, which are representing the change and shift in Arkansas's population.

And I'll turn it back over to Justice Dickey to receive public comments.

JUSTICE DICKEY: Now, would you like to step -- there's a microphone at the end of each aisle. You want to step up and ask your question or make your comment. Anyone?

TONI MAGHREBLIAN: (Inaudible.)

JUSTICE DICKEY: If you'll step down so

that everyone can hear you. And turn the microphone on if it's not. Is it on?

TONI MAGHREBLIAN: Hello?

JUSTICE DICKEY: Now.

TONI MAGHREBLIAN: Testing. Hey. Yeah.

JUSTICE DICKEY: If you will, state your name. And I assume you're from Pulaski County in this District. If you're not, please tell us.

TONI MAGHREBLIAN: My name is Toni Maghreblian. I live in Chenal Valley, part of Little Rock.

My question is, the whole illegal --

JUSTICE DICKEY: If you'll step up. Put --

TONI MAGHREBLIAN: Hello.

JUSTICE DICKEY: Okay.

TONI MAGHREBLIAN: I'm going to give you COVID, I'm afraid, now.

I -- my name is Toni Maghreblian, M-e-g-h-r-e-b-l-i-a-n, in case anybody cares. I live in West Little Rock. And I have a question about what it means, illegal.

I mean, is anyone going to jail for that? Because that's what illegal means, you know?

JUSTICE DICKEY: You understand? Okay. Step up.

MR. JOHNSON: It just simply means that the variation between the districts, each district's population, it's too far out of balance. The concept of one person, one vote.

And so that means that each House District ought to have about 30,000. But in the context with, for example, Senate District 31 in Saline County that I mentioned, its population is currently 30,000 -- 37,500.

TONI MAGHREBLIAN: Uh-huh.

MR. JOHNSON: And those numbers are illustrated on the charts that you saw in the foyer with the details.

It just means that that district is underrepresented and then -- or overrepresented. And then the opposite would be true for a district where its population is not large enough. So that -- it's --

TONI MAGHREBLIAN: Okay. I think that you're saying that if you're in the blue, they're overrepresented?

MR. JOHNSON: They have -- that district has too much population.

TONI MAGHRELIAN: For one person? They need more people? Is that what you mean? They need more representation?

In the rural counties, it looks like they're losing population --

MR. JOHNSON: That's correct.

TONI MAGHRELIAN: -- so they -- I would assume that means they have less representatives, you're going to have to cut some of those people out.

MR. JOHNSON: Let me -- let me give you another example. Senate District --

TONI MAGHRELIAN: That's --

MR. JOHNSON: Senate District 1 in the far Northwest Arkansas is another really good example. It's the one in the Senate that's the most out of balance.

So currently it has -- if the target would be 86,000 per district --

TONI MAGHRELIAN: Uh-huh.

MR. JOHNSON: -- Senate District 1 has 43,500 population above 86,000.

TONI MAGHRELIAN: I know. That's -- all those people only have one person, while if you live in, you know, Texarkana or Hope or

somewhere else, you have double the representation --

MR. JOHNSON: That --

TONI MAGHRELIAN: -- on -- based on percentage of how many people live there. Is that -- is that what we're talking about?

MR. JOHNSON: Yeah. The short of it is that, in a district that has fewer population than it should, their vote is outsized --

TONI MAGHRELIAN: Uh-huh.

MR. JOHNSON: -- compared to a district where the population is too great.

TONI MAGHRELIAN: Kind of like our country, when Wyoming has as much say as California.

UNIDENTIFIED SPEAKER: She doesn't understand --

JUSTICE DICKEY: No.

UNIDENTIFIED SPEAKER: That's before redistricting.

JUSTICE DICKEY: I know it.

(Indiscernible Crosstalk)

SYDNEY RUSH: Good evening. Can you hear me? Good evening. I just have --

JUSTICE DICKEY: If you will, state your

name and where you're from. If you can step down and get closer to the mic, that may help.

SYDNEY RUSH: Yes, ma'am. Good evening. My name is Sydney Rush, I'm from North Little Rock.

And I just was curious about how you're going to ensure that minority areas are continued to be rep -- continue to be represented, especially considering, you know, in Pulaski County, there are certain seats that are kind of insinuated to be, you know, minority seats.

And so I just wanted to kind of ask about that and ensure that, you know, those seats will be continued -- it will continue to represent the populations that live there.

JUSTICE DICKEY: I think if I can refer you to -- to -- of the criteria --

SYDNEY RUSH: Yes, ma'am.

JUSTICE DICKEY: -- and what's important to us as far as it goals, the second and third.

Yeah, the population per district has to be substantially equal. That's the first. So we have -- every ten years, you have to redraw the district lines based on a substantially

equal population.

The second one, the second of the criteria prohibits discrimination based on race, color, or language minority. And yet you cannot draw a district, as the third one points out, based on the 14th Amendment, that is just because it's a minority district.

So we preserve them, we balance it, but you don't show preferential or discriminatory treatment. Does that answer your question?

SYDNEY RUSH: Partially. I guess my main consideration is that -- I meant -- I think my main consideration or my main concern rather is that current seats held by, you know, minority representatives may be, you know, drawn larger to encompass, you know, nonminority areas, especially North Little Rock, specifically.

And so I just wanted to kind of see if y'all had a plan in place to kind of deal with that.

JUSTICE DICKEY: Do you understand what she said?

SYDNEY RUSH: Thank you.

JUSTICE DICKEY: I don't think we can understand what your question or your point is.

SYDNEY RUSH: Okay.

JUSTICE DICKEY: If you can either slightly remove your mask while you're talking, it --

SYDNEY RUSH: Thank you. I'm -- I'm okay. Thank you.

UNIDENTIFIED SPEAKER: I think what she's asking (inaudible) --

JUSTICE DICKEY: Well, you'll -- you'll need to come to the microphone if you want to interpret for her. And your name?

ROSE REIGNS: My name is Rose Reigns. I'm from Jacksonville.

She was asking -- asking for more direct verbiage, other than the generic criteria that you guys have.

What are you directly doing to make sure that these people are not being discriminated?

JUSTICE DICKEY: Drawing the maps fairly and transparently.

ROSE REIGNS: Okay. So well then, while I'm here, I do have --

JUSTICE DICKEY: Well --

ROSE REIGNS: -- other questions.

JUSTICE DICKEY: -- there was someone

ahead of -- okay. If she doesn't mind, I don't.

ROSE REIGNS: Okay.

JUSTICE DICKEY: What --

ROSE REIGNS: So how will these meetings, the questions asked and the comments being made, directly impact what's happening here with redistricting?

JUSTICE DICKEY: Well, it --

ROSE REIGNS: Was I loud enough?

JUSTICE DICKEY: You want to answer it?

REPRESENTATIVE HOUSE: Sure.

JUSTICE DICKEY: I didn't hear the last part of it.

REPRESENTATIVE HOUSE: Thank you. It's a good question. How's this done.

I think there might have been some misunderstanding, just to make sure nobody misunderstands, these are not the current maps.

ROSE REIGNS: Right.

REPRESENTATIVE HOUSE: This is the existing maps that were drawn ten years ago and they have grown out of balance over ten years. And I think there might have been a misunderstanding about that.

The way we comply with the Voting Rights Act is, number one, we have to make equal populations among districts. We have a general idea because we are all Arkansans, the governor -- and we're working for the governor, the secretary of state and the attorney general.

We have a general idea of where people live. And so that is considered when the lines are drawn.

The next thing that happens, if there appears to be a population group that meets minority status, whether they are black or Hispanic or Marshallese or some other group, Asian group, then that shows up in the census data.

That information is then overlaid over the maps to make sure that districts are the appropriate size so that we have what is called a minority/majority district.

You can see these districts even now today from ten years ago. So we make sure that where there is a sufficient concentrate -- in an area of sufficient number and compacted enough to form a district, then that district will be detailed out in accordance with federal law,

the Voting Rights Act of 1965, as amended. And that is the process.

Did I answer your question?

ROSE REIGNS: That directly answers that question.

How are you guys held accountable to those standards? What are the repercussions of these illegal districts, as you guys call them?

REPRESENTATIVE HOUSE: The word illegal means -- is not a legal word. Okay? This is from the attorney general's office. It's not a legal word.

But it's a representation to show how far out of balance those districts have become in the last ten years. That's why we are redistricting, to bring them all into balance.

We follow the Voting Rights Act as best as we know. We present that information to the governor, the secretary of state, and the attorney general.

They make the decision, not who the people you see here. And they are there to ensure that it's done, as Justice Dickey said, openly, fairly, comply with all federal and state laws, and is completely transparent.

If someone does not like that, they may bring a lawsuit. And the books are full of lawsuits all over the country where people have been held to account for not doing the right thing.

So their purpose, their intent, is to comply with state and federal laws, transparent and open. I hope I've given you an answer.

ROSE REIGNS: Yes. That works for that. The --

REPRESENTATIVE HOUSE: Can you step a little closer?

ROSE REIGNS: I'm sorry. I'm short.

So the question that I personally had of what do our questions, what does these meetings, what do the comments, how does that affect this process?

REPRESENTATIVE HOUSE: The comments that people make -- and I'll use an example.

Up in Baxter County, when we were in Mountain Home the other day, a lady pointed to a neighborhood in Baxter County, but her representative lived 90 miles away. And she says, it's not right because we go to the Walmart in Baxter County in Harrison or

Mountain Home. We go to -- that's -- yeah, Baxter County.

We go to the Walmart, we get to that County Courthouse, we buy our cars, we get our hair done, everything in Mountain Home. Yet, our State Representative lives 90 miles away because of gerrymandering that was done ten years ago.

Those kind of comments are very important to us as we collect information and present that to the governor, the secretary of state and the attorney general.

You mentioned you're from Jacksonville. I live out your way. There's a part of the district that I used to represent that extends over into Jacksonville. It's a finger. It was done to help somebody out ten years ago.

Those are the kinds of things that the governor or the secretary of state and the attorney general are alert to that are not fair, that are not right, and are inconsistent with all of these principles you see underneath you.

ROSE REIGNS: So I will just go ahead and say that you -- you mentioned the Jacksonville

finger, not me, so -- but -- so how can somebody, say, for instance, that works a night job, how can they get their questions and comments heard?

REPRESENTATIVE HOUSE: Very good. Very good. Justice Dickey?

ROSE REIGNS: And that's all of my questions.

JUSTICE DICKEY: Thank you. Yes, ma'am.

UNIDENTIFIED SPEAKER: She just asked something (inaudible) the website --

ROSE REIGNS: How can those questions and comments be heard outside of this meetings?

JUSTICE DICKEY: Oh, you want the website? ArkansasRedistricting.org.

ROSE REIGNS: Okay. What -- forward slash -- is it on the main home screen?

(Indiscernible Crosstalk)

ROSE REIGNS: It's on the main home screen? Okay.

JUSTICE DICKEY: Public comment.

ROSE REIGNS: All right. Thank you.

JUSTICE DICKEY: You're welcome.

Yes, ma'am. If you'll state your name.

REPRESENTATIVE ENNETT: Good after -- or

sorry, good evening. I want to thank the Board of Apportionment for -- can you hear me?

JUSTICE DICKEY: Just step closer to the microphone.

REPRESENTATIVE ENNETT: I don't want to fall off.

JUSTICE DICKEY: I don't want you to fall off either.

REPRESENTATIVE ENNETT: Good evening. Can you hear me?

JUSTICE DICKEY: Good evening.

REPRESENTATIVE ENNETT: I want to thank the Board of Apportionment for hosting these forms throughout the state.

I am Representative Denise Ennett and I represent District 36, which is parts of downtown and Pulaski County.

And I have a couple questions to ask, so please bear with me.

JUSTICE DICKEY: Okay.

REPRESENTATIVE ENNETT: When will the Board of Apportionment begin drawing maps?

JUSTICE DICKEY: After the September 30th -- they have -- they have information now. Thank you, Eddie Joe.

Information now that has to be formatted and there -- but when the September 30th final census figures are in. They don't expect changes; but, if there are, then they start drawing.

They may start drafting before, but they can't start drawing until after September 30th. Can't have any final maps drawn.

REPRESENTATIVE ENNETT: Okay.

My next question, what is your projected timeline for drawing and finalizing the maps?

JUSTICE DICKEY: We hope to do this in October. We hope to do it in a few weeks, depending on how -- I mean, it -- and it's challenging.

If you'll look at the dark red and the dark blue, it's going to be very challenging for all three entities to draw a map that's fair to as -- and that meets these criteria, to the extent that we can. So most of October.

Then the -- and I don't want to get ahead of your questions, but then the three principles, the governor, attorney general and secretary of state vote. And then there is a 30-day waiting period or a 30-day period in

which there is some feedback.

We hope to be able to show those maps, to show the final proposed map, hopefully through PBS or some way to get that out all over the state before that 30 days.

REPRESENTATIVE ENNETT: Okay. I think you answered my next one. How long will the public have to comment?

JUSTICE DICKEY: If you'll -- I know you have to look at your papers, but --

REPRESENTATIVE ENNETT: I'm sorry.

JUSTICE DICKEY: -- if you'll face the microphone.

REPRESENTATIVE ENNETT: Okay. How long will the public have comment on these maps? You mentioned 30 days.

JUSTICE DICKEY: The 30 days --

REPRESENTATIVE ENNETT: Okay.

JUSTICE DICKEY: -- yes.

REPRESENTATIVE ENNETT: When does the Board of Apportionment expect to vote on proposed maps?

JUSTICE DICKEY: Well, I can't -- I would think soon after they've seen the map that the three entities, that three different groups,

you know, agree on a map and give that to the attorney general, secretary of state, and governor.

So it shouldn't take very long, but I can't predict how long they'll take.

REPRESENTATIVE ENNETT: Okay. One more question.

JUSTICE DICKEY: Okay.

REPRESENTATIVE ENNETT: Is December the 31st a hard deadline for the Board of Apportionment to complete its work?

JUSTICE DICKEY: Yes.

REPRESENTATIVE ENNETT: One more -- one more question.

JUSTICE DICKEY: One more.

REPRESENTATIVE ENNETT: Okay. Does the Board of Apportionment plan to have the finalized map voted on by then, by December 31st?

JUSTICE DICKEY: The finalized map? Well before then. I mean, it -- well before then, and the 30 days pass before then.

REPRESENTATIVE ENNETT: Okay.

JUSTICE DICKEY: Everything ends then, so yes.

REPRESENTATIVE ENNETT: Okay. Thank you.

JUSTICE DICKEY: Thank you.

GOLDIE GAINES: Good evening.

JUSTICE DICKEY: Good evening.

GOLDIE GAINES: My name is Goldie Gaines and I'm from North Little Rock. I have a few questions.

JUSTICE DICKEY: Okay.

GOLDIE GAINES: Generally speaking, what are the most significant changes from the existing maps that you anticipate, apart from the reshuffling districts due to population shifts?

JUSTICE DICKEY: What are the most significant changes?

GOLDIE GAINES: Yes, apart from --

JUSTICE DICKEY: Apart from the population shift?

GOLDIE GAINES: -- the reshuffling. Uh-huh.

JUSTICE DICKEY: Do you want to answer that? Is it --

MR. JOHNSON: What you would expect to see, for example, in the rural areas where the population has declined, the district must

1 become larger, geographically bigger, to reach
2 out and grab population from its neighbors.
3 So in rural areas, you would expect some
4 of the districts to become larger. And I think
5 one of the easy ways to explain that might be
6 to look at far Southeast Arkansas.
7 And that Senate District 26, for example,
8 it can't grow east across the Mississippi River
9 or it can't grow south into Louisiana. It can
10 only grow west or north to get additional
11 population. So that might be exemplary of that
12 circumstance.
13 In the urban areas where you have
14 districts that are too large or too great in
15 population, those districts will need to
16 contract. They'll get geographically smaller
17 in order to share that population with the
18 neighboring districts.
19 So those might be some examples of how you
20 might see the districts change based on their
21 current size.
22 JUSTICE DICKEY: Thank you.
23 GOLDIE GAINES: Okay. So are those the
24 significant changes from the existing map that
25 you anticipate in regards to the reshuffling or

redistricting?

JUSTICE DICKEY: Yes. There will be larger districts, it appears, within the red districts that have to expand geographically and smaller in the blue.

GOLDIE GAINES: Okay.

Secondly, in the area of transparency, Arkansas, has been hit hard by COVID-19 pandemic and cases are currently surging due to the Delta variant.

In light of this, will there be an opportunity for concerned citizens who cannot attend in-person hearings to have their questions and answers -- questions answered by you?

JUSTICE DICKEY: Yes. I mean, it -- there are comments and you can make those at the ArkansasRedistricting.org, the website, or SOS.Arkansas.gov.

You can add these comments given to us tonight or mail them in. They will be posted online. After the maps are drawn, there is still -- and we get to show those to the general public through a television broadcast, hopefully PBS, then you get to make comments

again. Or if --

GOLDIE GAINES: Okay. Now, more specific -- I'm sorry.

More specifically, the Hispanic community, those that speak, you know, Hispanic, Latino, will there be a process in place --

JUSTICE DICKEY: Yes.

GOLDIE GAINES: -- for those that do not speak English perhaps --

JUSTICE DICKEY: Yes.

GOLDIE GAINES: -- to still be able to submit --

JUSTICE DICKEY: They are giving comments in Spanish online. I don't have those here tonight.

GOLDIE GAINES: Okay.

JUSTICE DICKEY: They can read -- at the -- read at the website, read that in Spanish. That should be up tomorrow.

GOLDIE GAINES: Okay. So the Spanish will be available tomorrow?

JUSTICE DICKEY: Yes. So it -- that's available for Hispanics.

GOLDIE GAINES: Okay.

My third question, how is this public

hearing going to affect your redistricting process?

JUSTICE DICKEY: How is the public hearing going to affect the redistricting process?

GOLDIE GAINES: Yes.

JUSTICE DICKEY: There are legitimate, and most are legitimate, comments that to the extent we recognize -- I mean, you live in these areas. You know what the problems are. You know where it's divided down the middle of the street.

And for those of us who don't and who are trying to do the redrawing, that's important information where Senate in House lines that could overlap, don't.

There are lots of opportunities to make comments that help us fix problems that they had ten years ago.

GOLDIE GAINES: Okay. So you would definitely take in our -- our comments --

JUSTICE DICKEY: So when we don't -- we read them --

GOLDIE GAINES: Uh-huh.

JUSTICE DICKEY: -- we publish them online, we give them to the three principles or

the three voting groups, the three voting -- governor, attorney general and secretary of state.

GOLDIE GAINES: Okay.

JUSTICE DICKEY: We make them -- all of that. So your comments are copied several times for us and on the website.

GOLDIE GAINES: Okay.

And will you commit to making your decision-making process public?

JUSTICE DICKEY: I think we already have. But if we don't, yes, we -- we commit to making the decisions public. Now, the process --

GOLDIE GAINES: Yeah, now that's --

JUSTICE DICKEY: -- as far as what we think, you know, I don't know that we could make all that available. But the process, yes. The -- you know, the different maps, yes.

GOLDIE GAINES: Okay.

And then I want to move into the data. So are you using total population, voting age population, VAP, citizen voting age population, CVAP, or something else, as your base population metric?

UNIDENTIFIED SPEAKER: Total population.

JUSTICE DICKEY: Total. Total population.

GOLDIE GAINES: Total? Okay. Thank you.

And, lastly, how will incarcerated people be counted? Will incarcerated people be treated as residing where they were incarcerated, where they previously lived, or excluded from the redistricting?

JUSTICE DICKEY: You can answer that. I know it, but you -- no, not you. Brad.

MR. NYE: Sure. And thank you for the question.

GOLDIE GAINES: Uh-huh.

MR. NYE: So the Arkansas Constitution sets out that we use Federal Census data provided to draw the lines. And we do use total population data.

To do what you are talking about, to reallocate people away from congregant living and type environments would have required a statute change here in the state. And that's not something that was done during the last legislative session.

So we will be using total population data, as required by current law.

GOLDIE GAINES: Okay. And for the

incarcerated, does that include them? Again, regarding to them, how will people be counted? We got that. So you said that you would use the total population.

But will incarcerated people be treated as residing where they're incarcerated or their previous living address or will they be totally excluded from the redistricting?

MR. NYE: No, under current Arkansas Law, as it exists today, they are counted as where they reside.

So where they are currently -- where they were incarcerated as of April 1st, 2020, census day.

GOLDIE GAINES: Okay. Thank you.

JUSTICE DICKEY: Thank you.

Yes, sir?

MICHAEL McCRAY: Good evening. Can you hear me? Good evening.

JUSTICE DICKEY: Good evening.

MICHAEL McCRAY: This is more of a public comment, as opposed to a question --

JUSTICE DICKEY: If you'll say your name and get as close as you can to the mic, please.

MICHAEL McCRAY: Okay. Thank you.

My name is Michael McCray and I've lived in the Pine Bluff community of Jefferson County for over 40 years. And I believe we have a serious problem with gerrymandering and district maps and boundaries on both the state and local levels.

JUSTICE DICKEY: Let me -- I'm sorry to interrupt you again, but either your mic's turned off or you're not close enough to it.

MICHAEL McCRAY: Can you hear me now? Okay. Sorry.

Once again, my name is Michael McCray. I have lived in the Pine Bluff community of Jefferson County for over 40 years.

I believe we have a serious problem with gerrymandering and district maps and boundaries on both the state and local levels. I live in the southern part of the city, which is on the southeast part of the county.

Jefferson County has about 67,000 residents into its State Senate Districts. One district has about 52,000 residents and the remaining 15,000 of us have been drawn in another State Senate District that goes all the way south to Union County. As a result, we're

in a county that's not fairly represented.

Also, Pine Bluff is home to UAPB, SEARK, the Pine Bluff Arsenal and the Port of Pine Bluff, which is part of one Senate District.

On the other hand, the Jefferson County Regional Hospital and Pine Bluff Airport is under the boundaries of the other -- the other senator who lives three counties away from us. So, therefore, our county -- our community is segregated by these district lines.

On the local level, we are -- we're fighting to -- fighting for schools consolidation and maintaining the resources for Pine Bluff School Districts, but we have a neighboring city who has a school district that encroaches on our city maps.

So, from my point of view, we've kind of got a mess of the maps all around. And I just hope that you can do what you can with whatever, I guess, this proceeding is and if there's other for the local. These are my concerns.

JUSTICE DICKEY: We -- will you either give -- I'm sorry. Don't fall. Will you turn that in as a comment, please? Thank you.

LAURIE EVANS: Hello. Can you hear me okay?

JUSTICE DICKEY: Yes. Thank you.

LAURIE EVANS: Okay. Great. My name is Laurie Evans, I'm representing Indivisible Little Rock in Central Arkansas. I'm here tonight, where a grass roots voting rights advocates, an organization with over 2,000 members across Arkansas. And we do have members in most of our states, 35 Senate and 100 House Districts.

I did just want to say thank you to all of y'all for traveling across the state and providing these public opportunities to comment. I know y'all are probably tired of traveling and thanks for being back here --

JUSTICE DICKEY: Thank you.

LAURIE EVANS: -- ending up here in Central Arkansas. Appreciate that.

So what I'd like to do, if you don't mind, I know a number of the things that I'm going to mention have been mentioned before in your criteria; but, of course, you know, the purpose of these public meetings and the public comments are to provide public paper trail and

1 documentation of the criteria that we all agree
2 on as Arkansas citizens. So I'm just going to
3 go ahead and mention those for the public
4 record.
5 Many of us at Indivisible have, of course,
6 been following these very helpful and
7 informative public meetings. We'd like to
8 state, for the record, some of the core
9 principles that years of precedent and court
10 decisions have set for the Arkansas
11 Redistricting process.
12 One, a redistricting process that ensures
13 no racial dilution or redistricting based on
14 racial gerrymandering, which of course has been
15 mentioned tonight a couple of times, district
16 map shapes that are compact and contiguous,
17 district boundaries that preserve, county, and
18 town boundaries whenever possible, new maps
19 that preserve the cores of existing districts
20 to avoid constant reshuffling. And that was
21 described very helpfully this evening as well.
22 And communities of interest are preserved
23 and not divided by district lines. Communities
24 of interest being any Arkansas neighborhood
25 that shares certain social, cultural, ethnic,

or religious connections.

We know this is a tall order with lots of complicated considerations, but it's doable with meaningful involvement, with meaningful community involvement like the folks here tonight, as well as the folks here watching.

The last principle is where we know you especially need input from Arkansans as Justice Dickey has asked and mentioned this evening.

Indivisible will continue asking our members from across the state to share feedback on their neighborhood's activities and services, their cultural and historical interests, there economic and environmental interests, their area's needs and concerns, the things that tie their community, your neighborhood, together.

And we do appreciate a public commitment from the Board of Apportionment to preserve these neighborhoods that Arkansans are right now describing to you through the public comments. That's how they'll have an opportunity to elect officials who will meet their community's needs.

Everyone needs a real and meaningful

opportunity to elect candidates of their choice. I think we all agree on that. We ask that the Board set a goal that every Arkansas voter has an equal opportunity to elect officials who will represent their values and their interests.

Unfortunately, as has been mentioned, past redistricting practices have ended up creating unequal voting power for minority groups. Map lines have fragmented minority groups in our state, for example.

As we know, and has been mentioned, about Voting Rights Act bans the drawing of district lines that water down the voting strength of community's color, yet it's still been a problem, and we're simply requesting that the redistricting process in this decade do better. Thank you very much, as you have addressed that.

I do have some more written questions, which for the time -- some of them have been addressed. And for time, I will just submit them -- some of them, rather than ask them all.

JUSTICE DICKEY: Thank you.

LAURIE EVANS: What I might ask if you,

respectfully, is I know that there's many Arkansans who are interested in this process who haven't been able to make it to one of these public meetings.

Is there -- are y'all -- is the Board or staff responding to questions online that are submitted in the public comments? Is that something that can be requested that folks -- Arkansans can ask questions through the public comment and then have them responded to?

JUSTICE DICKEY: I'm -- I'm not sure whether they've been answered online. Most of them are comments about futuristically in the sense of asking that this be done, not questions --

LAURIE EVANS: Right.

JUSTICE DICKEY: -- about how was it done or --

LAURIE EVANS: Right.

JUSTICE DICKEY: -- how is it being -- I mean, we -- we're showing you --

LAURIE EVANS: Perhaps that's something that could be done. However, if -- I'm just asking on behalf of other community members, if they do have questions -- or if they do have

questions and couldn't make a meeting, is there another means by which you would suggest that they contact the Redistricting office?

JUSTICE DICKEY: The -- yes. The ArkansasRedistricting.org.

LAURIE EVANS: Okay.

JUSTICE DICKEY: And those questions will be sent to the person or the entity to respond.

That's been done, as far as where to send the comment sheets; because, initially, we didn't have the address on it, things like that.

But I -- if it's a prolonged explanation that -- that -- one person can't answer that. So, you know, we can follow your suggestions. I'm not sure we can answer complicated, prolonged questions.

LAURIE EVANS: Gotcha. Okay. So is that --

JUSTICE DICKEY: Can you answer that? Not you.

UNIDENTIFIED SPEAKER: (Inaudible) to the questions, but (inaudible).

JUSTICE DICKEY: We do have an e-mail address too where --

LAURIE EVANS: Okay. That's great. Yeah.

JUSTICE DICKEY: And, of course, you -- you and I have corresponded --

LAURIE EVANS: Yes. Yes, ma'am.

JUSTICE DICKEY: -- more than once.

LAURIE EVANS: Yes, ma'am. And, I guess, one thing I just -- I like the phone. So I now have your direct -- the direct Redistricting phone number. But the phone number that's on the actual website is -- actually goes to the secretary of state, so it might be -- I don't -- I don't know if we want to update that or not.

JUSTICE DICKEY: Something else to fix, but --

LAURIE EVANS: But --

JUSTICE DICKEY: -- you found us.

LAURIE EVANS: Yes, ma'am.

JUSTICE DICKEY: And we've corresponded to you, even for a couple hours today, so --

LAURIE EVANS: Yes, ma'am.

JUSTICE DICKEY: -- we're trying.

LAURIE EVANS: You are. You are, yes. And then back -- yes. And I appreciate all of the responses that you've given so far.

And, in fact, you've already answered many of my questions, one of which is -- was with regard to drawing the maps in October and then there will be a 30-day period -- opportunity for public feedback, what -- how -- how would -- should we anticipate providing that feed back? What will that process look like? We'll only have 30 days, so we just want to be prepared to communicate with our members what -- what they need to be doing.

JUSTICE DICKEY: You already have all the resources as far as how to contact us. If -- when the map is agreed on by the principles and that 30 -- and presented to you on PBS, I hope, you'll have that 30 days to respond to any or all of us.

LAURIE EVANS: So it'll just be like direct e-mail or should they -- will they have public comment forum still be up, should we --

JUSTICE DICKEY: The forms you've been using. I mean, you've managed to reach several people. I -- I think you probably --

LAURIE EVANS: Okay.

JUSTICE DICKEY: -- can find us.

LAURIE EVANS: Yeah. We'll -- we'll

follow -- okay. We'll --

JUSTICE DICKEY: But the -- that -- if it -- if there's a specific place, when we showed the map, we will tell you --

LAURIE EVANS: Yes, ma'am.

JUSTICE DICKEY: -- where and how.

LAURIE EVANS: Yes, ma'am. Because I'm -- I'm -- that's -- that's the -- that's the process that we just want to be able to clearly communicate to our members.

So I know I've taken a lot of time here, so I think -- I think we'll just end it there. And I'll just submit these --

JUSTICE DICKEY: If you'll sub --

LAURIE EVANS: -- in writing.

And I just wanted to thank you so much for your public service. This is such an important task. And I really appreciate you taking the time.

JUSTICE DICKEY: Thank you, Ms. Evans.

Yes, ma'am?

DIANE CURRY: Good evening.

JUSTICE DICKEY: Good evening.

DIANE CURRY: Can y'all hear me okay?

JUSTICE DICKEY: If -- if you --

DIANE CURRY: I am --

JUSTICE DICKEY: -- if you'll state your name.

DIANE CURRY: Okay.

JUSTICE DICKEY: But if you will either, like you're doing, bring the microphone close or take your mask down --

DIANE CURRY: Okay. Thank you.

JUSTICE DICKEY: -- temporarily.

DIANE CURRY: Good evening. I'm Diane Curry with -- representing the State NAACP. However, I am president of the Little Rock branch NAACP.

Several things have already been answered this evening, so I won't try to repeat -- request those.

One of the things that we would like to know, has any consideration being given -- I know you've done several hearings across the state, to a majority/minority population -- majority/minority district, Congressional District.

However, I know you -- you're not supposed to give preferential treatment. However, in view of a lot of the map changes that have

occurred, at least we would like for considerations should be looked at on that.

The other thing we'd like to ask, how would we submit citizen's map if we would like to submit a map to the Apportionment Board or to the entities?

JUSTICE DICKEY: I think that Ms. Evans had asked about that earlier. And that's being done as far as a way to access; am I correct, as a way to -- as a way to submit your own map of your own community.

You have to understand, you know, this is a jigsaw puzzle of a hundred pieces for House seats, 35 pieces for Senate seats, and nobody's an island in this.

And, you know, you're welcome to submit your plan for your community, but it has to work with the others. And I know you know that.

DIANE CURRY: Yes. We would have a demographer to do that. I'm sure we would, especially from the State National NAACP.

Also, I'd like to ask, in view of the fact that we do have upcoming filings for candidates, I believe, November. Is it

November? November. So I know the timeline here seems to be very tight.

What thoughts have you all given to that issue for filing? Because, otherwise, you may not know what district that you're actually filing in. That's something that is --

JUSTICE DICKEY: (Inaudible.)

DIANE CURRY: -- a concern.

JUSTICE DICKEY: What?

MR. NYE: Let me answer it.

JUSTICE DICKEY: Okay.

MR. NYE: I'm sorry, I had a hard time under -- are you asking about filing dates for the --

DIANE CURRY: Yes.

MR. NYE: -- upcoming --

DIANE CURRY: Because -- yes. November, I understand, is some of the filing dates for various candidates.

So I know people are concerned because that would change where people vote and all of that as well, but I know that that would come later.

MR. NYE: In 2022, the primary's going to be in May, which will mean, the filing period

will take place February 22nd to March 1st --

DIANE CURRY: Okay.

MR. NYE: -- so we're lucky in the sense that, you know, in the presidential years, the Primary is in March and the filing period does take place in November, like you mentioned. But this year --

DIANE CURRY: Uh-huh.

MR. NYE: -- the Primary is going to be in May, which means filing is in February --

DIANE CURRY: February, okay.

MR. NYE: -- which gives us a little bit of time.

DIANE CURRY: Okay. All right. Thank you so much for that clarity.

We'd just like to say, on behalf of the NAACP, we are concerned with some of the things that's happened previously in gerrymandering from across the state. And we do want to encourage the criteria to be followed. Thank you.

JUSTICE DICKEY: Thank you. That's why that's listed as one of the concerns that we have.

If you see that in any of the maps that

are drawn, let us know. We don't expect that.

Yes, ma'am?

RICHELLE BRITTAIN: Yes. My -- my name is Richelle, R-i-c-h-e-l-l-e, Brittain, B-r-i-t-t-a-i-n. I live in Jacksonville. I happen to live in the same ward as Rose Reigns, same ward of Jacksonville as Rose Reigns who spoke earlier. I also happen to be a member both in the -- just happen to be a member of both Indivisible and the Jacksonville Branch NAACP, the last two people who spoke spoke for those organizations.

But I have -- I have a question specifically about the last criteria, the minimized partisanship, talking about, you know, be aware of salamanders, you know --

JUSTICE DICKEY: Minimize the partisanship --

RICHELLE BRITTAIN: -- yes, the salamanders. We know that's --

JUSTICE DICKEY: -- the -- not draw maps in favor of Republicans or Democrats.

RICHELLE BRITTAIN: Yeah. Because, I mean, we know -- because, I mean, you know, we know ten years -- we know -- we know the

parties do that. Ten years ago the Democrats tried to do that and it backfired on them. Now it's Republicans running it. But, it's, you know --

JUSTICE DICKEY: Well --

RICHELLE BRITTAIN: -- it tends to happen whether you do it -- whether -- what you do. And I would like to hear specifically -- and, of course, I said, I'm in -- live in the same area as Rose Reigns.

So y'all brought up the Jacksonville finger. And that's -- you know, it says avoid little fingers. We want to know -- you know, we want to know specifically what strategies you intend to use to carry out that last criteria so there's no gerry -- so there is -- so to avoid gerrymandering, especially in a part -- especially, you know, when dealing with a partisan Board of Apportionment.

We, you know --

JUSTICE DICKEY: You want to know about how we're going to avoid partisan gerrymandering?

RICHELLE BRITTAIN: Yes.

JUSTICE DICKEY: Well, I quoted you on the

ninth point, the -- a case called Rucho versus the Common Cause, a 2019 case.

If you want to read that, R-u-c-h-o is the case. And it deals with this issue that says it should go to state courts because the states can better understand -- well, it doesn't say it has to go to state courts, it says federal courts not handling. It doesn't --

RICHELLE BRITTAIN: Federal Court, yeah. The Supreme Court says --

JUSTICE DICKEY: So you see those fingers or you see where they've drawn somebody in or out of a district like they did ten years ago, you call -- you call us out on it.

I don't think with the integrity of the people I'm working with that you'll see that.

RICHELLE BRITTAIN: So -- so basically if that needs to be brought during the state -- that there is --

JUSTICE DICKEY: Any --

RICHELLE BRITTAIN: -- (inaudible) window, that type --

JUSTICE DICKEY: -- any litigation is --

RICHELLE BRITTAIN: -- that type of illegality needs to be brought up during the

state challenge window? Because I think it's like 30 -- I think after it's finalized, they have like 30 days to go before the Arkansas Supreme Court, if I -- if I remember the -- if I remember the Constitutional provisions on legislative districts for state, for the state lawsuits as opposed to the federal Lawsuits.

Feds -- Feds are something totally different. And that's what you were citing in the Rucho case because the Supreme Court said -- that's where the Supreme -- Supreme Court basically said we can't do anything about it. The US Supreme Court.

Arkansas Supreme Court -- sorry, you're saying it's the Arkansas Supreme Court can?

JUSTICE DICKEY: I'm saying that's where the feds have said you file your lawsuits now, in state court.

RICHELLE BRITTAIN: Well --

JUSTICE DICKEY: And the state court -- the state's better able to see where those fingers and drawing someone in or out of a district --

RICHELLE BRITTAIN: Salamanders -- salamanders, gerrymanders, whatever.

JUSTICE DICKEY: Gerrymandering, gerrymandering, salamandering --

RICHELLE BRITTAIN: Yeah.

JUSTICE DICKEY: I think in -- recently they called it dummymandering. Any of the above.

RICHELLE BRITTAIN: Whatever you call it. Whatever. All right. Thank you.

JUSTICE DICKEY: Thank you.

Yes, ma'am?

ANNA McCLUNG: Good eve -- excuse me. Good evening. My name's Anna McClung, I'm from Lonoke.

And it's just kind of a follow-up to what was being said. This is probably the simplest you're going to get tonight.

With today's technology and you have such incredible amount of data for -- through the census of how many people, households, race, to some extent, throughout the state, it would seem to me that it would be quite straightforward for a computer to come up with a well-balanced potential map.

Because, I guess, my concern is -- everybody's concern is about objectivity. And

if I were to go in with no bias and draw a map, you know, I don't know about these fingers and that sort of thing, but I'm just going based upon population, demographics, trying to get equal representation, why would that not be at least a starting point to go forward?

MR. JOHNSON: I would agree with you that the technology today has that capability and the software is very, very good.

There's one deficiency that the software can't overcome. There's no way for the software and data to indicate a community of interest. And communities of interest are people who affiliate together for common reasons or certain parts of the community. And the software just simply doesn't recognize cultural differences and communities of interest in the way that we, as humans, do.

UNIDENTIFIED SPEAKER: What?

ANNA McCLUNG: If I can give just a follow-up. I mean, it would seem to me that communities of interest are closely connected in proximity.

And so I guess my thinking is, if you had a potential layout of an objective map, at that

point, people can come in, oh, we need to make sure it's moved across the street a little bit or whatever.

But it would seem to me that that would instill more trust by the people that it was done in an objective manner.

JUSTICE DICKEY: To the extent that we can comply with that, we try. It does not outweigh the substantially equal population.

And communities of interest, some that are rural, may not have the population and so they are linked with cities. That's been done in the past.

But, to answer your question, communities of interest are very important. But they're not more important than the first three of the criteria you see in front of you.

ANNA McCLUNG: He's the one that brought up community of interest.

What -- what I'm saying is I just seem like -- we have the technology. We can -- we can map streets and houses with a satellite now. Why can't we do this in a very objective, almost topographical manner and make this very --

JUSTICE DICKEY: You make it sound so easy. It is not as easy, especially when you're looking at the deeply red and deeply blue districts.

(Indiscernible Crosstalk)

JUSTICE DICKEY: Do you have any other questions? If you --

ANNA McCLUNG: No. I appreciate -- I thank you for trying.

JUSTICE DICKEY: Thank you.

If you have a question, please come to the microphone.

LATONY HONORABLE: Hi. I know there haven't really been any --

JUSTICE DICKEY: I'm sorry.

LATONYA HONORABLE: Can you hear me?

JUSTICE DICKEY: Yes. Thank you.

LATONYA HONORABLE: Okay. You're welcome. Thank you. My name is Latonya Austin Honorable. And I have just a couple of questions.

The first is you mentioned a 30-day wait period after the plans are finalized. Do I remember that correctly?

JUSTICE DICKEY: The -- after the three

principles vote, there is a 30-day period for yet another round of feedback or con -- or, you know, concern.

LATONYA HONORABLE: During those 30 days, will it be disclosed to the public how the final plans were determined or what -- what led to the final plans? How -- how we got there, how we got to the final plans --

JUSTICE DICKEY: Well, other than these criteria -- and some of them are in order of importance.

I mean, the first -- obviously, the first three. You're giving me a general question and I can give you a general answer.

But specifically, what are you asking?

LATONYA HONORABLE: What is the -- what is the substantive purpose of the 30-day wait period? Will any comments that are provided or given during those 30 days going to be used to then modify the final plan or is it just informative?

Or what is the actual substantive purpose of the 30 days?

JUSTICE DICKEY: It -- It did last time.

(Indiscernible Crosstalk)

JUSTICE DICKEY: It changed the way they -- they -- the final map was drawn the last time, so there's no reason to think it won't this time.

If there is an error, something that needs to be adjusted -- and the three principles agree on that. And if you have that, if you feed -- give us that feedback and we take it to them and say, wait, we got it wrong here.

LATONYA HONORABLE: And so -- and let me also say this.

I represent a group of people that are not extremely knowledgeable about this entire process and may not even know how to formulate the right questions to get the answers that they're truly looking for.

So your answer in terms of this changed -- you know, that 30-day wait period changed the way the lines were drawn in 2010, when I asked the question, what will be disclosed in terms of how the lines were drawn, how will someone know that it's drawn improperly or incorrectly if the person doesn't know how you arrived at the lines anyway? That's my question.

Other than the criteria, I mean, what --

what is it that will let someone know that the lines are improper, such that the three principles, as you call them, that would cause them to go back and modify it? I mean, if it's not a legal --

JUSTICE DICKEY: You want to answer that?

LATONYA HONORABLE: -- challenge in court, what is it that one should bring up that says, hey, these lines are drawn wrong?

JUSTICE DICKEY: Well, I think Shelby mentioned -- you talked about one where the Senate and House lines could have overlapped, but there was a gap. You know, you want to --

LATONYA HONORABLE: Anyone from the panel can answer. I'm -- I'm just curious.

JUSTICE DICKEY: Yeah. And --

MR. JOHNSON: One example would be, for the public to evaluate, would be the demographic reports and the variances. That'll be a part of the -- part of the record that the Board most likely would base some of their decision making on, looking at the population, the population variance among the districts.

Another example is looking at an instance where, for example, and I'm just making this as

an example, but a city might have been split and that split could have been avoided and not created an egregious issue with the variance. So that would be an example.

And the best way to know that is, when the Board gets to the point that they're ready to look at those final maps, one of our challenges or one of our jobs will be to put that onto a high quality base map that would have community names, city names, the county lines, all of those other things that you would want to see, so that, as a member of the public, anyone would look at and go, oh, they made this mistake.

And that -- that would be another way that the public would be able do to that, is by looking at these better quality maps.

LATONYA HONORABLE: Thank you.

JUSTICE DICKEY: Yes, ma'am?

LATONYA HONORABLE: I do have another question.

JUSTICE DICKEY: Okay.

LATONYA HONORABLE: And this is a micro-question, so I ask for your -- a little bit of indulgence. And it's a micro-question

only insofar as it addresses lines dealing with municipalities.

So there aren't a lot of people that really understand that the Board of Apportionment is responsible for drawing the federal lines, let alone knowing who's responsible for drawing local lines and redistricting in that way.

Is there someone who might be able to share whether this Board or what body is responsible for the drawing of local lines?

JUSTICE DICKEY: Yes.

(Indiscernible Crosstalk)

JUSTICE DICKEY: Or, Doug, you want to do that?

The legislature does the Congressional -- the Federal Congressional seats. We do the State House and Senate. And Doug will tell you the rest of the --

LATONYA HONORABLE: Well, actually since you're there, Justice Dickey, I -- and you're a former Chief Justice; correct?

JUSTICE DICKEY: Yes.

LATONYA HONORABLE: Okay. So you might be poised to answer this question, because the

question somewhat deals with the drawing of judicial lines. I'm sure you're familiar with Hunt Decree. Will any of this process --

JUSTICE DICKEY: Somewhat.

LATONYA HONORABLE: -- or any other process similar to it affect the drawing of those judicial districts?

JUSTICE DICKEY: I don't know.

LATONYA HONORABLE: Do you know who would know?

JUSTICE DICKEY: This man loves reading about it --

LATONYA HONORABLE: Okay.

JUSTICE DICKEY: -- much more than I. So -- both of these men do --

LATONYA HONORABLE: I'll take all the answers.

(Indiscernible Crosstalk)

REPRESENTATIVE HOUSE: Yes, Ms. Honorable. The answer to your question about judicial lines, there's a federal court case going on right now in the -- in the District Court, Little Rock, United States District Court, and they're discussing that very issue now.

So I don't know the answer to your

question, but that's where the answer can be found, when the court reaches its decision.

JUSTICE DICKEY: Okay.

LATONYA HONORABLE: Are there any other municipal lines that might be affected that are not dictated by this body of individuals?

JUSTICE DICKEY: Huh?

(Indiscernible Crosstalk)

JUSTICE DICKEY: The City Councils? Draw --

LATONYA HONORABLE: And -- and what body of individuals determines the drawing of those lines?

JUSTICE DICKEY: The City Council. Those -- those --

LATONYA HONORABLE: The City Council draws its own lines? Okay. May I hear what you have to say?

REPRESENTATIVE HOUSE: The City Councils draw their -- their ward lines.

The County Boards of Election Commissioners for each of the 75 counties draws the justices of the peace lines. I think they also draw the school board lines, school board lines as well.

The Board of Apportionment, the governor, secretary of state, and the attorney general do not draw any of those lines.

LATONYA HONORABLE: Okay. Thank you.

REPRESENTATIVE HOUSE: Yes, ma'am.

JUSTICE DICKEY: Thank you.

Yes, ma'am?

CLARICE BAY: Hi. My name's Clarice Abdul Bay, I live in Pulaski County.

I have a couple of questions to ask. Latonya touched on it, but I wanted to go into a little more detail with a question.

Will you explain --

JUSTICE DICKEY: If you will speak into the microphone, everyone can hear you.

CLARICE BAY: Okay. Can you hear me? Will you explain which public comments you did or did not factor into your proposed maps and why?

JUSTICE DICKEY: If you'll speak into the microphone. I can't understand you.

CLARICE BAY: Okay. Can you hear me?

JUSTICE DICKEY: Yes. Now, I can.

CLARICE BAY: All right.

Will you -- well, first, will you commit

to making your decision-making process public; and, to be more specific, will you explain which public comments you did or did not factor into your proposed maps and why?

JUSTICE DICKEY: Will, we take the thousand comments that we've gotten and -- and tell you which ones you we did and did not use?

CLARICE BAY: Well --

JUSTICE DICKEY: Why don't you go online and read those comments and pick out the ones you think that we ought to respond to, because some of them are just, I like it like it is or change it or -- you know, there are multiple comments that we factor into it as far as things that should be changed. And they've mentioned some of those as far as not drawing -- splitting up a precinct.

CLARICE BAY: Okay.

JUSTICE DICKEY: Splitting up a --

CLARICE BAY: To me, if you have to read a thousand comments, then you have to read a thousand comments --

JUSTICE DICKEY: Oh, we've read them.

CLARICE BAY: Right.

JUSTICE DICKEY: But do we --

CLARICE BAY: But my question --

JUSTICE DICKEY: -- ever respond to them --

CLARICE BAY: My question was --

JUSTICE DICKEY: -- no.

CLARICE BAY: -- will you explain which public comments you did or did not factor into your proposed maps and why?

And I mean the ones that make sense to you. That's what I mean. So if you have to read a thousand of them and pick those out, then will you do that?

JUSTICE DICKEY: And -- if we have time drawing the maps, maybe.

CLARICE BAY: No, it's not about -- okay. Thank you for that.

JUSTICE DICKEY: You're welcome.

CLARICE BAY: I'm -- I'm -- I'm filing it.

JUSTICE DICKEY: Is there another question?

CLARICE BAY: There is another question. And I don't understand the energy, but I'm going to ask this question anyway.

There was a question asked about incarceration and people being counted. And my

question is, in regards to the prison county, you stated that the Board of Apportionment, and I think this gentleman here --

JUSTICE DICKEY: Which one?

CLARICE BAY: -- will be counting prisoners where they are incarcerated.

However, during the recent Committee of Government Affairs, it appeared that they were looking into doing it differently in the accordance with the red book that they are using. Are you aware of that?

JUSTICE DICKEY: Who answered the question? Doug, is that -- did you answer that before?

REPRESENTATIVE HOUSE: Thank you. It's an interesting question for this reason. The Census Bureau does the counting, not the Board of Apportionment.

The Census Bureau counts people where they reside. If they reside at a college campus, they are counted there. If they reside in a hospital or nursing home, they are counted there. If they reside in a correctional institution, be it juvenile, adult, men or women, as the case may be, they are counted

there.

CLARICE BAY: Uh-huh.

REPRESENTATIVE HOUSE: Two states, California and New York, have reallocated their people in their institutions back to their homes, if they have a home.

Other questions arise about what do you do about the homeless, where are they reallocated and those kinds of things.

Two or three other states have talked about doing -- one other state, and I believe it's Kansas, but don't hold me to that, did it and decided to undo it because it became a problem.

CLARICE BAY: Uh-huh.

REPRESENTATIVE HOUSE: Right now, the way the Constitution says is that we allocate districts based on population where people reside.

CLARICE BAY: Uh-huh.

REPRESENTATIVE HOUSE: There was a bill introduced several years ago by then Representative Andrea Leigh, now the state auditor, to reallocate the prisoners around the state. The legislature declined to adopt it.

Another -- some proposals were bandied about the last legislative session, the legislature decided not to adopt it.

So when those people are placed in a district, they will be placed in the district where they live.

Now, that makes a difference sometimes with the number of registered voters for that particular district, but they are constituents all the same.

I'm very proud of our Representatives and Senators who represent prison populations because they get inundated with hundreds and hundreds of requests, demands, complaints, and sort of things like that.

So just because they're elected, it's kind of a tradeoff, they have fewer people voting for them into office, but they have tremendous workload because those people in prison are constituents too.

CLARICE BAY: Okay.

REPRESENTATIVE HOUSE: Does that answer your question?

CLARICE BAY: Yes. Thank you for answering that question. And thank you for

being kind about it.

JUSTICE DICKEY: Yes? You go ahead. Yes, ma'am.

RHONDA KIMBALL: Hi, my name is Rhonda Kimball. Can you hear me? Rhonda Kimball.

JUSTICE DICKEY: Okay.

RHONDA KIMBALL: Can you hear me?

As we speak, they are voting on the John Lewis Voting Rights Act. And part of that Act is the accountability of states to submit their plans to the Department of Justice. I know the Department of Justice has rejected 13 such plans.

Is Arkansas required to submit their plan to the Department of Justice right now for pre-clearance?

JUSTICE DICKEY: They're not. No.

RHONDA KIMBALL: They're not?

Now, you've mentioned several federal regulations. I'm sure you're aware of what's in that bill that pertains to redistricting.

So how far are you off the mark? Are you in compliance with that? Are you taking that -- that into consideration when it comes to this Federal Act? Does that make sense?

JUSTICE DICKEY: Which Federal Act?

RHONDA KIMBALL: So they're going to have requirements in that Federal Acts. How far are we off the mark for -- with complying with that Federal Act as far as redistricting?

JUSTICE DICKEY: What Federal -- which Federal Act?

RHONDA KIMBALL: The John Lewis Voting Rights Act and what's in that Act.

JUSTICE DICKEY: Doug, are you familiar with that?

RHONDA KIMBALL: Pardon?

REPRESENTATIVE HOUSE: Ma'am, clarification of your question, has that particular Act -- and I've seen the bill. I haven't seen an Act --

RHONDA KIMBALL: Bill, yeah, it's a bill. I'm sorry, it's a bill.

REPRESENTATIVE HOUSE: It's a bill?

RHONDA KIMBALL: Uh-huh.

REPRESENTATIVE HOUSE: And has it become an Act?

RHONDA KIMBALL: It has not. So I -- I -- I digress with that.

REPRESENTATIVE HOUSE: Okay.

RHONDA KIMBALL: It's a bill.

REPRESENTATIVE HOUSE: All right.

RHONDA KIMBALL: So how far are you off the mark with what's in that bill?

REPRESENTATIVE HOUSE: Ma'am, we follow the law as it exists. If the law changes, we change as well.

RHONDA KIMBALL: Okay.

REPRESENTATIVE HOUSE: You -- you asked about pre-clearance, that's Section 5 and 4 of the Voting Rights Act.

Section 4 was declared unconstitutional and that's selection of states that have to get pre-clearance, that was declared unconstitutional in a case called Shelby County, Alabama --

RHONDA KIMBALL: Uh-huh.

REPRESENTATIVE HOUSE: That's the short name and I forgot the rest of it. That was declared unconstitutional a few years ago. No state has pre-clearance anymore.

RHONDA KIMBALL: Okay. Okay.

So going back to what someone else asked earlier, there is no other accountability besides what happens at the state level;

correct?

JUSTICE DICKEY: Well, there are all kinds of levels of --

RHONDA KIMBALL: I mean, except for the three things you mentioned --

JUSTICE DICKEY: Yeah.

RHONDA KIMBALL: -- except for the things that you mentioned that are now required. Other than that, there's no other accountability?

(Indiscernible Crosstalk)

JUSTICE DICKEY: That's not correct, he says. And that's not -- there are all kinds of laws that require accountability in one way or another. We've mentioned some and, you know, but the --

RHONDA KIMBALL: Okay. That's what --

JUSTICE DICKEY: That's not correct.

RHONDA KIMBALL: That's what I needed to know. I was -- I was just interested in the --

JUSTICE DICKEY: The bill?

RHONDA KIMBALL: -- the noncompliance and what's going on with the bill. And then how far off the mark we will be and if we will have to start over if that should become an Act.

Thank you.

JUSTICE DICKEY: Yes, sir?

ALEXANDER JONES: My name's Alexander Jones. I'm from Little Rock. And I have a question about the document entitled House Districts 2020 Population Variance, which is published up there.

The Arkansas Board of Apportionment published this on August 17th, 2021. This is a table of all the districts ranked highest in population to lowest in population. The document includes a table, a column, marked status. And my questions have to do with that column.

This appears tied to percent deviation from the target number, which is 30,115. Deviations greater than ten percent, either higher or lower, are marked illegal. Questions have already arisen about that earlier in this comment period.

Deviations between five percent and ten percent appear to be labeled either excessively high or excessively low. The most interesting status to me though is not either illegal or excessive, but rather preferable.

Preferable appears to be labeled for deviations for less than one percent, higher or lower than the target of 30,115.

So my first question about these categories is this. Who or what entity designated these categories?

JUSTICE DICKEY: You can answer that.

MR. JOHNSON: That would be my office. In preparing that table, we looked at -- you are very intuitive. We did look at the percent variance.

And so those are classes or categories that we assigned based on that percent variance that you observed in those charts.

ALEXANDER JONES: Then a second question. Thank you.

How did you designate one category as illegal? And by how, I mean, what source of law?

MR. JOHNSON: The -- there is existing precedent that suggests when the variances are excessively high, outside of ten percent, those have not held up in previous court cases.

ALEXANDER JONES: Which court case?

MR. JOHNSON: I -- I'm not --

JUSTICE DICKEY: He's not a lawyer.

MR. JOHNSON: I'm not the scholar on legal court precedents here.

ALEXANDER JONES: Is it fair to assume that the Board of Apportionment will adhere to binding U.S. federal precedent on one man, one vote?

JUSTICE DICKEY: The Board of Apportionment should follow the federal precedent, yes.

ALEXANDER JONES: Would it be fair to say it is obligated to do so under law?

JUSTICE DICKEY: If it's in the -- if it follows the Eighth Circuit, for sure. Any the others, probably.

ALEXANDER JONES: Is -- what is the target deviation being sought by the Board of Apportionment?

JUSTICE DICKEY: The plus or minus five, as -- as indicated, which is a ten percent variation.

If it's -- if it's over ten percent, case law indicates that it's not. That's not acceptable unless there are -- the cases are -- can be explained for other reasons.

ALEXANDER JONES: Isn't it true that there is federal precedent that is held less than ten percent --

JUSTICE DICKEY: That's correct.

ALEXANDER JONES: -- to have been impermissible?

JUSTICE DICKEY: That's why I said other reasons. Yes.

ALEXANDER JONES: Doesn't preferable mean best?

JUSTICE DICKEY: Preferable is not best. Preferable is a comparison.

ALEXANDER JONES: I read in Merriam-Webster, it says, having greater value or desirability.

JUSTICE DICKEY: Okay. It's greater, not greatest.

ALEXANDER JONES: What makes a lower deviation preferable?

JUSTICE DICKEY: What makes a lower deviation preferable?

ALEXANDER JONES: Yes.

JUSTICE DICKEY: Because it is more -- it is closer to the words, the magic words of substantially equal, which is the -- what

courts have said.

ALEXANDER JONES: And I know that this is a bit more than a legal question; it's actually a political question that is tempered by law. But why is it better to have equal districts?

JUSTICE DICKEY: Well, that goes back to the one person, one vote, so that your votes aren't diluted.

It's a balancing -- it is a -- the right -- the Equal Rights Amendment, the balancing that my vote shouldn't count anymore or less, but should be substantially equal to yours. Same way with districts.

ALEXANDER JONES: I just have two more questions, if you'll indulge me.

Would it be possible for the Board of Apportionment to approve a map that apportions each district within one percent of the target number?

JUSTICE DICKEY: It's not -- it's remotely possible. Anything is possible. But they're held to substantially equal, which is by the court decisions, plus or minus five percent. Ten percent -- no more than ten, below or above.

ALEXANDER JONES: And I think that you're coming at this from a legal perspective, so I'd like to ask the gentleman from GIS, is it possible, based on computer science, to equalize the districts within one percent?

MR. JOHNSON: Technically, yes. But doing so would be at the expense of potentially splitting a city or splitting an election precinct or splitting a county. And those are goals that you would try to avoid if you -- if you -- if possible.

ALEXANDER JONES: And, turning back to the Chief Justice, isn't it true that the one percent amount is actually constitutionally mandated in the federal context?

JUSTICE DICKEY: For the Congressional seats, but not for -- not for the State's House and Senate seats. They are call -- it's not -- it's substantially equal. And that is not one percent.

ALEXANDER JONES: And I think --

JUSTICE DICKEY: That's not a one percent mandate.

ALEXANDER JONES: And I think I know the answer to this question, but will the Board of

Apportionment agree to ensure each district is within the range it's document deems preferable?

JUSTICE DICKEY: What's the question? Will the Board of --

ALEXANDER JONES: Very precise yes or no question.

Would the Board of Apportionment agree to ensure its districts each fall within one percent, as defined by it, to be preferable?

JUSTICE DICKEY: Each fall, once a year, is that your question?

ALEXANDER JONES: No. Would be Board of Apportionment agree to apportion each district within one percent, as defined as preferable in its own documents?

JUSTICE DICKEY: I doubt it.

ALEXANDER JONES: Is that a no?

JUSTICE DICKEY: I didn't say it's no.

ALEXANDER JONES: Same a question for the Senate.

JUSTICE DICKEY: Same answer.

ALEXANDER JONES: One percent population deviation for the State Senate?

JUSTICE DICKEY: Would they -- would they

assure us that it's one percent?

ALEXANDER JONES: Not us, the people of Arkansas.

JUSTICE DICKEY: Well, us being the people of Arkansas. No, I don't think so, but maybe.

ALEXANDER JONES: Thank you.

JUSTICE DICKEY: Yes, ma'am. Or yes, sir.

STEVEN: So, my name is Steven from Pulaski County. So given that data can produce an objective solution, I would like to just go back to what the gentleman had mentioned about community interest; because it sounds like that may -- can be a subjective variable.

So, if you would, can you please expound on that? How do you -- how would you calculate that?

REPRESENTATIVE HOUSE: The analogy that I like to draw, and this may take a minute, but bear with me --

STEVEN: Yes, sir.

REPRESENTATIVE HOUSE: -- is in elementary school attendance zone. So one elementary school might be the Cardinals and the other elementary school might be the Tigers.

Those two attendance zones were

representative of moms, dads, grandparents, guardians that attend the same PTA meetings. They send -- they're involved in the same civic clubs like 4H or Boy Scouts or Girl Scouts.

So, for example, the Cardinals all affiliate together. They potentially go to the same houses of worship, et cetera. And then on the other side of town would be the Tigers and they would have a different group that they affiliate through the same associations I described.

Those are examples of community of interest. And none of what I just described is contained in the census data.

(Indiscernible Crosstalk)

UNIDENTIFIED SPEAKER: Okay. Well, then I have follow-up to that. Oh, I'm sorry, go ahead.

(Indiscernible Crosstalk)

UNIDENTIFIED SPEAKER: Okay. Well, you know, this community of interest. I live in Chenal Valley, West Little Rock. There's 50,000 people that live there, 30 neighborhoods. It's in Little Rock city limits.

We are gerrymandered in with the Bigelow and Perry and Maumelle and all of these little towns that have really no interest, no common interest with one of the largest growing areas in Arkansas.

Why? Why are we gerrymandered in with these little rural areas when we really should be in Little Rock? Little Rock is the most gerrymandered place in Arkansas.

And there's all these fingers and these swirls and this guy from Maumelle, who represents us, he represents this doughnut, this half of the doughnut.

So I don't see why anybody in Little Rock or West Little Rock has any sort of common interest with all these little small towns that are actually losing population.

Oh, and I have more thing. You said --

REPRESENTATIVE HOUSE: Can we answer one question at a time?

UNIDENTIFIED SPEAKER: Okay. Sure.

REPRESENTATIVE HOUSE: The first question you answered was why you're in with Bigelow.

UNIDENTIFIED SPEAKER: And I lived here ten years ago and still --

REPRESENTATIVE HOUSE: I'm answering.

UNIDENTIFIED SPEAKER: -- we still should not have been --

REPRESENTATIVE HOUSE: I'm answering.

UNIDENTIFIED SPEAKER: -- (inaudible) with there.

REPRESENTATIVE HOUSE: The districts that were drawn were drawn ten years ago. A lot has changed out in West Little Rock in the last ten years --

UNIDENTIFIED SPEAKER: Sir, I've lived here --

REPRESENTATIVE HOUSE: Ma'am, I -- ma'am --

UNIDENTIFIED SPEAKER: -- for 15 years. It is not changed that much.

REPRESENTATIVE HOUSE: Ma'am, we can talk one in a time. It's my turn.

When those districts were drawn, they were drawn ten years ago. And the area has built up considerably in the last ten years.

And whatever population is out there is in that district. It's an unequal population, as you can see from the maps.

That's going to change. The maps are

1 going to be redrawn. I don't know where your
2 district will be and no one up here knows where
3 it will be until they get the census data down
4 to the block level.
5 And some areas in very far West Pulaski
6 County will probably go over into Perry or may
7 go over into Perry or over into Saline or over
8 into rural areas.
9 It's population driven more than anything.
10 They're looking for 30,115 people per House
11 District and 86,000 and something for Senate
12 District. And those areas expand or contract
13 to reach that population goal, as the laws say,
14 for State Houses and state that is
15 substantially equal. That's the goal.
16 UNIDENTIFIED SPEAKER: There's a big
17 finger going up through Chenal Valley.
18 REPRESENTATIVE HOUSE: Ten years ago that
19 was drawn.
20 UNIDENTIFIED SPEAKER: Ten years ago there
21 was still 30,000 people that lived out there.
22 REPRESENTATIVE HOUSE: Yes, ma'am.
23 UNIDENTIFIED SPEAKER: There were not --
24 there were 30 neighborhoods --
25 REPRESENTATIVE HOUSE: That's why we do

the census and why we've redistrict every ten years. That's the law.

UNIDENTIFIED SPEAKER: And then one more thing I wanted to correct.

You said that the Supreme Court ruled Section 5 unconstitutional. It was in Shelby County. It was Section 4(a), it was 4(a), not 5. Five was the pre-clearance.

They did not rule pre-clearance as unconstitutional. They ruled that the 40 years of data that they had for apportionment, based on the previous 4(a) was not unconstitutional. And they -- and they pushed that to the Congress to -- to deal with.

So, yeah, you can use -- you can have pre-clearance. It's just Congress is going to have to mandate it is what the Supreme Court said.

(Indiscernible Crosstalk)

REPRESENTATIVE HOUSE: This is the law now?

UNIDENTIFIED SPEAKER: Well, the law is -- that's why we have it going through Congress right now with --

JUSTICE DICKEY: Yes, ma'am?

WENDY NEWSOME: My name is -- actually -- yeah. My name is Wendy Newsome. I'm here in Little Rock.

I have a question that might have already been answered, but I kind of want to get a little more clarification on it. What --

JUSTICE DICKEY: Speak up.

WENDY NEWSOME: What type of statistical analysis will you be using to actually make that counties bigger or smaller? Are we using a chi-square or are we using a multifactoral ANOVA? How is this going to work?

JUSTICE DICKEY: It's your turn.

MR. JOHNSON: It's a lot simpler than that. It's just divide 3,115,024 by 100 and then divide that same figure by 35, drive or design each district so that each district is roughly about 30,000, or roughly about 86,000.

WENDY NEWSOME: Okay. So almost kind of like a chi-square, but how do you make sure that is nonpreferential?

How do you make sure that your variables that you have listed in number seven are taken into consideration when you make those, when you redraw the lines so it's not -- so it is

more random than we're going to pick from here and we're going to pick from here?

How do you make it random and not biased?

MR. JOHNSON: Well, each -- each block that's contained within the census data receives a population assignment. Some blocks contain zero population.

For example, an industrial park might have not any population. A park might not have any population. Other areas where we have high density population, that block would carry the total count at that -- at that area.

You would then grab or group clusters of blocks together and you might do it at the precinct level. And that would be all of the population that's contained within that precinct.

Blocks are nested in precincts. Precincts are nested in counties. And then the counties are nested within the state.

Each one of those unique levels carries a population total. So as you're designing or developing a district, you would grab groups of those together. And a key -- a key practice in that process would be to do it contiguously so

that you don't have areas that are separated by another part.

And, as you continue to grab additional blocks, the software totals that and then expresses the statistics. And you continue design and you continue design until you have a district that is near that target population.

WENDY NEWSOME: What software will you be using for that?

MR. JOHNSON: The -- the software is called AutoBoundEDGE.

WENDY NEWSOME: What was that again? I missed that.

MR. JOHNSON: I'm sorry. I didn't hear you.

WENDY NEWSOME: Sorry. I missed what you said.

JUSTICE DICKEY: She didn't hear you --

WENDY NEWSOME: What was the name of the software package?

MR. JOHNSON: The software is called AutoBoundEDGE.

WENDY NEWSOME: AutoBoundEDGE?

MR. JOHNSON: Yes.

WENDY NEWSOME: Okay. Okay. Thank you.

LATONYA HONORABLE: Latonya Austin Honorable again. Just two questions.

When I looked up the members of the Board of Apportionment, I do not see your faces or names. I just want to be clear about your specific role.

So, when you talk about the Board of Apportionment, are you talking about yourselves or are you talking about the principals that you reference?

JUSTICE DICKEY: We're talking about the people that we work for, represent. I don't know if you were here when we first started.

LATONYA HONORABLE: I was.

JUSTICE DICKEY: I introduced myself. I am a coordinator for the Board of Apportionment. And with me are -- are men from each of the three entities. The governor -- if you want me to point them out again, I will.

LATONYA HONORABLE: No. I think more specifically I'm asking, so whenever you talk about a certain act being done by the Board of Apportionment, are those acts being done by you or are they being done by the three principal members of the Board of Apportionment?

JUSTICE DICKEY: Well, the three principles are also fulfilling the jobs that were just described.

We are doing the hearings. We are taking your comments and posting them online and getting them back to the three entities, the governor, secretary of state, and attorney general.

We, as in these men and some other people, will be working on drawing maps that will be then ironed out, any problems that we see with them, with input from you before, during, and after, and then take those to the three entities when we, you know, get the population amount balanced and make sure that it -- that it doesn't violate any of these criteria to the extent that we can avoid it. I'm talking about the -- the last six.

And then give that -- then give that to those three and explain it to them and let them vote.

Then come back to you or in a public broadcast and say this is where we are and this is what they've done and you have 30 days to then add more input.

And then it has -- then it all has to end by December 31st.

LATONYA HONORABLE: Okay. Thank you.

JUSTICE DICKEY: Thank you.

LATONYA HONORABLE: Last question. And, I'm sorry, may I have your name on the end, the gentleman at the far right, my far right?

JUDGE DICKEY: Doug --

REPRESENTATIVE HOUSE: My name is Douglas House, H-o-u --

LATONYA HONORABLE: Oh, yeah. Okay.

REPRESENTATIVE HOUSE: I know you.

JUSTICE DICKEY: Former representative.

LATONYA HONORABLE: Okay. That's even better because we now each other.

So here's the question. You referenced a lawsuit in U.S. District Court as it relates to the drawing of the judicial lines.

Were you referencing the lawsuit that was filed in 2009 as it relates to the Court of Appeals and Supreme Court lines?

REPRESENTATIVE HOUSE: (Inaudible.)

LATONYA HONORABLE: Do you know the name of that lawsuit?

REPRESENTATIVE HOUSE: I was -- I was not

working for the attorney general in 2019. (Inaudible.)

LATONYA HONORABLE: So that would be a no, you don't know the name of the lawsuit? 2019, I'm sorry. If I said '9, I meant 2019.

The reason I'm asking is because those -- so I'm trying to make sure -- you directed me to a case. I'm looking for that case.

I am aware of a lawsuit that was filed in District Court in 2019 that challenged those judicial seats that were Court of Appeals seats and Supreme Court seats.

I'm unaware of a lawsuit that discusses the drawing of the lines for circuit court judges, and there's a big difference.

So I'm asking you, since you referenced the lawsuit, do you happen to know the parties names of that lawsuit or, at the very least, when it was filed?

MR. NYE: Ms. Honorable.

LATONYA HONORABLE: Yes.

MR. NYE: Brad -- Brad Nye with the attorney general's office again.

LATONYA HONORABLE: Hi, Brad.

MR. NYE: The case I believe we are

referencing is -- is still pending in court. I cannot discuss pending litigation.

High-level, it is -- Christian Ministry Alliance is the plaintiff's name. And it deals specifically with the drawing of Court of Appeals seats.

LATONYA HONORABLE: Okay. That's all I needed to know, so --

MR. NYE: Yes.

LATONYA HONORABLE: -- that doesn't address my concern with the circuit court lines, which was my original question.

But I appreciate that. That answers my question. Thank you so much.

JUSTICE DICKEY: Thank you.

Yes, ma'am?

TRACY SHAWN: Happy Tuesday, everybody. I am Tracy Shawn (ph). And my question is just simply around the staffing for those persons collecting the data and recording it.

So do we have the same staff, team, support staff, data team, and legal team representing for this redistricting?

Do we have the same team in here, year, GIS, you have the same? Did you have any

turnover? Have you had any turnover?

JUSTICE DICKEY: Any turnover in what staff? The redistricting?

TRACY SHAWN: The staff you use collecting the data, using to report the data, using to help through this process.

JUSTICE DICKEY: I haven't been here that long. I've only been here since June. And these men have worked in state government for several years.

But not -- not until June the 15th did we start working on this.

TRACY SHAWN: Okay. (Inaudible.)

Also, the other staff members and other persons that are assisting with the data collecting, not just you all, but all the other persons, do you have any turnover?

JUSTICE DICKEY: Since --

TRACY SHAWN: Do you have any new -- since when?

JUSTICE DICKEY: You don't --

TRACY SHAWN: Since -- well, say, since --

UNIDENTIFIED SPEAKER: Turnover since when?

TRACY SHAWN: Well, say, since May. May.

Can you hear me? May.

(Indiscernible Crosstalk)

JUSTICE DICKEY: Yes, ma'am.

WENDY NEWSOME: All right. I'm back. I was actually looking at the AutoBoundEDGE like you were talking about.

JUSTICE DICKEY: I can't hear you.

WENDY NEWSOME: Can you hear me now? Okay.

JUSTICE DICKEY: Barely.

WENDY NEWSOME: Barely?

I was taking a look at the AutoBoundEDGE software package that you guys were talking about. And one of the big things they tout about it is demographics and political.

How big is political affiliations going to be taken into consideration with redistricting and using the software package?

JUSTICE DICKEY: Political consideration.

MR. JOHNSON: That -- that's not on our data. We're just looking at the demographics.

JUSTICE DICKEY: In AutoBoundEDGE, just looking at the demographics.

WENDY NEWSOME: So it won't be looking at the political? It'll just the demographics of

the area?

JUSTICE DICKEY: Yeah. I mean, it -- yes.

Any other questions? We still have 15 more minutes.

(Indiscernible Crosstalk)

JUSTICE DICKEY: Yes.

(Indiscernible Crosstalk)

JUSTICE DICKEY: Well, there's been no turnover since May.

Do you have another question? Okay. Yes, ma'am?

CAROLINE BENNETT: Yes. My name is Caroline Bennett.

My question is, when I hear red lining and redistricting, it really kind of concerns me because it's always the African-Americans that kind of get left out or get the bad end of the deal on most cases.

So are you all taking anything in consideration when y'all doing this red lining and all this stuff? Redistricting?

JUSTICE DICKEY: Is that a question?

CAROLINE BENNETT: Yes. Are y'all taking in the communities and making sure that it's being done equitably?

JUSTICE DICKEY: I think that's --

CAROLINE BENNETT: (Inaudible) --

JUSTICE DICKEY: I mean, that's what the criteria sets out. And that's what we've said over and over again. Yes.

CAROLINE BENNETT: You said, yes, you are all taking that in consideration?

JUSTICE DICKEY: What is she --

(Indiscernible Crosstalk)

CAROLINE BENNETT: Oh, you said yes?

(Indiscernible Crosstalk)

ANNA McCLUNG: Anna McClung from Lonoke. So just a follow-up about the AutoBoundEDGE program that was mentioned, and so you just said -- I understood you to say, it's just going to be based upon demo -- was it the population or demographics?

JUSTICE DICKEY: The program is based on demographics, not --

ANNA McCLUNG: So that will include race?

JUSTICE DICKEY: That's part of the demographics.

ANNA McCLUNG: Right. Right.

JUSTICE DICKEY: Political parties aren't.

ANNA McCLUNG: Right. Okay. I just

1 wanted to make sure; because you mentioned
2 before about making sure like mark -- different
3 race groups would be accounted for.
4 And I was just wanting to make sure that
5 that was what you were saying.
6 JUSTICE DICKEY: That's --
7 ANNA McCLUNG: Yeah.
8 JUSTICE DICKEY: Yes, that's correct.
9 ANNA McCLUNG: All right. Thank you.
10 JUSTICE DICKEY: Thank you.
11 Yes, sir? Yes, ma'am?
12 LAURIE EVANS: Hello, Laurie Evans again
13 from here. I live here in Little Rock.
14 You know, I don't -- I'm -- I -- I cannot
15 speak for many of the folks here who have
16 raised the -- the concerns that keep coming
17 back over and over again about, for example,
18 concerns over racial gerrymandering.
19 And, of course, you know, we hear that,
20 you know, you are affirming that, of course, it
21 is a criteria. And I know that you're
22 definitely -- that's a foremost -- one of the
23 -- one of the things that's foremost in your
24 mind.
25 What I think is -- perhaps, I wonder, if

there is any -- it just feels a little nebulous, I guess. Like -- like how the process is going to work with regard to ensuring, once the maps are drawn, for example, in October and they proposed and we get to that 30-day comment period, I wonder if it -- if there is perhaps some information that could be placed on the Board of Apportionment's website that would perhaps walk citizens through the -- the actual procedure of how some of these criteria are going to indeed be met with regard to like, once you've got the map, how do you ensure that there has been no gerrymandering that's taken place?

Just to -- to just, you know, something that would, you know, boost public trust in the process.

JUSTICE DICKEY: Well, when we talk about the eyeball test, you -- you recognize when there's a weird shape or there's a finger or -- or you can look and see where they've drawn around this elected woman's house, so that they drew her out of her district and so she just moved, you know, you'll see. You saw some of those ten years ago, or 20.

I'm hoping. And I don't intend to be a part of one where there is gerrymandering. If so, then I'll have to say to you, okay, we failed. You know, just because my word is not worth anything if I can't be truthful.

And if that means calling it out, as far as gerrymandering, I don't think you'll find that.

LAURIE EVANS: And that sounds great. I think what -- what folks are just asking for is what is -- I mean, we can all sit here and say, oh, we're going to -- I -- I believe you, you know, that we're going to be able to eye -- do the eyeball test.

But, once we've done that eyeball test, you know, it -- it looks like it's that 30-day period then that's the magic window for ensuring that there is feedback, which can -- which is actionable and that we can see that any changes would be made.

JUSTICE DICKEY: I -- I said that --

LAURIE EVANS: Thank you so much for addressing that again.

JUSTICE DICKEY: Thank you.

Okay. Last question.

ALEXANDER JONES: I'll be -- I'll be more brief this time.

JUSTICE DICKEY: Good.

ALEXANDER JONES: I have -- I have a couple questions for you though.

First question, and I don't know who is best to direct it, so --

JUSTICE DICKEY: Well, ask it and I'll figure it out.

ALEXANDER JONES: Thanks.

What steps has the Board of Apportionment and its agents taken to address differential privacy as used by the U.S. Census Bureau?

JUSTICE DICKEY: None. What's the next question?

ALEXANDER JONES: Do you intend to take any steps to address differential privacy as used in the Census Bureau?

JUSTICE DICKEY: No.

ALEXANDER JONES: One more question.

What is the -- what difficulties would federal courts have in determining salamanders or little fingers or abrupt lines, as defined in these criteria, that a state court would not have?

JUSTICE DICKEY: The -- all right. You're talking about gerrymandering, political partisanship. Federal courts won't -- won't look at it this time, not the political partisanship.

ALEXANDER JONES: But state courts may?

JUSTICE DICKEY: State courts can, yes. And it -- you know, that's where you file if you're going to file a lawsuit.

ALEXANDER JONES: Thank you.

JUSTICE DICKEY: You're welcome.

All right. Last question.

UNIDENTIFIED SPEAKER: Thank you.

Okay. So once the maps are drawn and it's presented to the principals, do they have the opportunity to change those maps?

JUSTICE DICKEY: Sure. I mean, they're the ones that vote.

UNIDENTIFIED SPEAKER: They're the ones that vote?

JUSTICE DICKEY: We don't vote.

UNIDENTIFIED SPEAKER: Right, right, right. So in -- in that process, when they rec -- let's say they suggest a change, is that then presented for public comment?

JUSTICE DICKEY: Yes. I mean, if -- if that's one that they've -- well, not before they vote on it.

UNIDENTIFIED SPEAKER: So -- okay. I'm just trying to understand the process.

So you folks are -- present a map to the principals. Leslie Rutledge wants to see something changed and she wants this, doesn't agree to it, and so they want to wiggle a boundary.

Will that new changed boundary be shown to the public prior to their voting or is it they vote and that's what it's going to be and --

JUSTICE DICKEY: You know, the principals will have talked to the people who work for them. That's -- that would -- that's not something that all -- all of the sudden -- I don't anticipate, oh, it's a surprise move on one of the three's parts. That's unlikely.

Now, we can speculate on what might happen, but that's unlikely. They will have looked probably individually before they look at it together to have asked questions and question changes.

So I don't think that there is a -- a

coming to you again, except now and when the map is present -- you know, we have a map that's presented to them and they vote on it.

Then there's a 30 days when you say, why that or change that.

UNIDENTIFIED SPEAKER: So do they agree or -- do they agree to accept or not accept or are they just saying they want to --

JUSTICE DICKEY: I think they have several options, you know, agree, two out of three agree, send it back.

UNIDENTIFIED SPEAKER: Okay. So it's an iterative process at that point?

JUSTICE DICKEY: No. It's a what?

UNIDENTIFIED SPEAKER: A process to go through getting it where they can get to something that they can agree to with what was presented to begin with?

JUSTICE DICKEY: Yes.

UNIDENTIFIED SPEAKER: Okay. All right. Thank you.

JUSTICE DICKEY: Thank you.

We're down to the last four minutes before everything closes, the TV goes off.

UNIDENTIFIED SPEAKER: Okay. I don't have

a question, but I just want to just make a statement.

You talked about using the AutoBound program. And that concerns me because it's known to side with the Republican party, the ability to use that.

And I'm looking at this program, this EDGE here. In step five, it talks about merging in political data. And my question is, throughout this process, will that political data button be pressed and on or will this really be more of a partisanship process?

Because, based on the history here, this particular program --

JUSTICE DICKEY: Who's your source?

UNIDENTIFIED SPEAKER: -- has been used to ensure that Republicans maintain control.

JUSTICE DICKEY: Who's your source of that? A Democratic --

UNIDENTIFIED SPEAKER: No. The Supreme Court ruling.

JUSTICE DICKEY: It's a what?

(Indiscernible Crosstalk)

JUSTICE DICKEY: All right. Here's your answer.

MR. JOHNSON: So we've furnished technical support to the Board and the staff and the software.

The data that has been loaded for the AutoBound product that's been installed for the staff that are working, it's simply the public law 94-171. That's the census data. It contains the population and the demographic data.

None of the -- we haven't installed any political data on the staff that are working on this because we don't have the ability to pull it all together. So they're not going to be using that data because we don't have it.

JUSTICE DICKEY: Thank you.

Thank you for coming tonight. We appreciate it. If you want to talk to us afterwards, you can come up. This --

UNIDENTIFIED SPEAKER: Well, I have one question. Are there any Democrats involved at all in the apportionment?

Because we've got a Republican government, Republican attorney general, and a Republican secretary of state.

JUSTICE DICKEY: Thank you. Is it still

on? I mean, it --

UNIDENTIFIED SPEAKER: Well, I don't want to be on TV. I don't care.

JUSTICE DICKEY: Well --

UNIDENTIFIED SPEAKER: (Inaudible) want to be on TV, so --

JUSTICE DICKEY: Well, you know --

UNIDENTIFIED SPEAKER: -- but that's an easy yes or no question.

JUSTICE DICKEY: Those --

UNIDENTIFIED SPEAKER: Any Democrats at all --

JUSTICE DICKEY: Those are the three principals. They're all Republicans.

UNIDENTIFIED SPEAKER: Okay. There you go.

ROSE REIGNS: Ma'am, so it is 8:28. As it is, I do still have a question. I'm, again, Rose Reigns from Jacksonville.

I want to know what quantitative standard operating procedures you guys have taken place to adhere to the criteria that you guys have listed to us today?

JUSTICE DICKEY: Any of you want to answer it?

(Indiscernible Crosstalk)

UNIDENTIFIED SPEAKER: It's everything that's on your criteria.

ROSE REIGNS: Right.

ROSE REIGNS: Right. But what's the standard operating procedures that you guys are adhering to make sure that you're going through all of this process?

And as far as like saying that you guys don't have this data, the caucus, the Republican Caucus and the Democratic Caucus, both have a database filled with all of this information that you guys can just simply go to one of your friends and say, hey, we need this information, why don't you shoot it to us.

Actually, that's something that you get for being a member.

So what are the standard operating procedures, what are the quantitative, not qualitative words that you can give us, what are the quantitative standard operating procedures that you guys have put to place to adhere to those standards that you got listed?

JUSTICE DICKEY: Read the criteria.

ROSE REIGNS: Quantitative, not

qualitative.

What is the quantitative standard operating procedures that you guys have, as a Board, have put in place?

JUSTICE DICKEY: Gentlemen? Okay. My feet are tired.

(Indiscernible Crosstalk)

ROSE REIGNS: Exactly. Yeah, for sure.

REPRESENTATIVE HOUSE: Young lady, you're -- thank you for your question.

This is a human activity, it is not a mathematical process. Determining --

ROSE REIGNS: Yes, exactly.

REPRESENTATIVE HOUSE: -- ma'am, wait a minute.

ROSE REIGNS: And so we do need a mathematical way of -- we have P-values, standard deviations, like come on.

REPRESENTATIVE HOUSE: We have to begin with a basic premise. You talk, then I talk and then you talk. And we don't interrupt each other. Fair enough?

ROSE REIGNS: Fair.

REPRESENTATIVE HOUSE: Okay. Redistricting is a human activity. The Supreme

Court calls it a political activity. So it is not necessarily quantitative except in terms of the numbers.

You can take the computer systems and they have mathematically created a Googol, which is ten to the 100th power number of maps for a given area. That has been done.

But when you start adding rivers, when you start adding Voting Rights Act, when you start adding municipal boundaries and things like that, these are human decisions.

To make sure that the objective criteria listed one, two, and three and there are -- are observed, that's pretty straightforward. The rest of it is a judgment factor.

And the three people that you have elected to be your governor, secretary of state, and attorney general are charged with that human responsibility of doing this in the best interest of all of the people of Arkansas.

That is the process and that's how it works. That answers your question.

ROSE REIGNS: No, that does not answer my question.

REPRESENTATIVE HOUSE: I'm so --

ROSE REIGNS: I said quantitative standard operating procedures, that means that that is your manual that you adhere to.

That is, are you guys going by Robert's Rules of Order? Are you guy -- like what are you guys doing? What are you putting into place? What are you quantifying?

What are the quantifiable standard operating procedures that you guys have put into place to make sure that you adhere to those qualitative standards as you have gracefully stated to us here today?

REPRESENTATIVE HOUSE: There are engineers who are operating the computer systems. There are GIS people who -- a GIS office that are operating the computer systems, so they're mathematical processes.

There are attorneys who are making sure that the law is followed, not a process. And then there are public hearings where we hear people back and make objective and subjective suggestions and criticisms and ideas to do that.

Those things are being -- happening right here before your very eyes. This meeting was

set at a definite time and place and we are hearing subjective comments back that we will incorporate as best as we can. It's happening before your very eyes.

There is not quantitative, as in the military use, I did 38 in the military years, I know how to do those. But that's not what this is. This is a legal and subjective and human activity. There's your answer.

ROSE REIGNS: So what I'm hearing is a refusal to answer my --

REPRESENTATIVE HOUSE: Okay. That's all.

ROSE REIGNS: -- question.

(End of Recording)

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C E R T I F I C A T E

STATE OF ARKANSAS)
)
COUNTY OF PULASKI)

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

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

WITNESS MY HAND AND SEAL this 5th day of October, 2021.

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

My Commission Expires:
August 16, 2031