EXHIBIT 4

BOARD OF APPORTIONMENT PUBLIC HEARING

BENTONVILLE, ARKANSAS

August 5, 2021

(Recording Begins)

JUDGE DICKEY: -- also -- is also from the AG's office, attorney general's office, I'm sorry.

Shelby Johnson, who is the head of Geographic Systems, Geographic Information Systems. I'm sorry.

To my immediate right is Kevin Niehaus, who is from the secretary of state's office. And to my far right is Nick Ortiz from the governor's office.

These are the men who are able to answer your hard questions or take your suggestions.

We are, excuse me, six months behind schedule in redistricting because the census has not been delivered. We hope that it will be here in a format that Shelby and his tech savvy people can interpret by August the 16th, the date that the Census Bureau has said, in a format we can all read, is September the 30th.

And our work is to be completed by December the 31st. It creates a real challenge and especially for the county clerks whose work starts when we can come up with a fair, reasonable plan.

The purpose of this meeting is for comments and suggestions. There's a -- there are forms outside we'd like for you to fill out if you have a comment that you want the -- the three different agencies that are represented here to read.

PBS is video-streaming and videoing and, I'm sorry, live streaming this hearing.

I want to talk to you about a few of the criteria that are in front of us. And then Shelby will talk to you briefly about the maps and then we want to hear from you.

The legal basis for the redistricting is Article 8 of our Constitution, the Voters Rights Amendment of 1965 is amended in the Equal Protection clause of the 14th Amendment. The first one, one person, one vote, balancing each of the legislative districts every ten years after the Federal Census so that they are substantially equal, which is generally a plus or minus five percent deviation, unless there is an impermissible violation of the other criteria -- on another criteria.

As you know, there a hundred House seats, and 35 Senate seats. We anticipate from the

American Community Survey, not ours, but the American Community Survey's prediction of 2019, which you'll -- Shelby will talk to you about. We anticipate there will be 30,000 people per district in the hundred House Districts. And we hope to make them substantially equal. And the 35 House Senate Districts about 85,000 persons per district.

Section 2 of the Voters Rights Amendment, the second criteria here, Section 2 as the Voters Rights Amendments, as amended, prohibits the discrimination based on race, color, or language minority. I'm sorry.

And then number three, the Equal Protection clause of the 14th Amendment limits the redrawing of district boundaries strictly on the basis of race.

The next four are geographic principles. Compactness is the first one. That is the eyeball test, a round or square or district that is -- doesn't look like a salamander.

As you may know, in 1812, Governor Gerry of Massachusetts referred to the shape -- he gerrymandered or salamandered the Boston District. And this is where the word

gerrymandering came from.

The fifth one is contiguous, which means having a common border, there are no islands or partial districts.

Six is a core of existing districts. We want -- we strive for whole counties, whole cities, whole precincts. That is minimizing the splitting of political subdivisions.

The seventh is communities of interest with commonalities that are economical, social, political, cultural, ethnic, or religious interests.

The eighth one is continuity of representation. You may ask why. Well, you've elected the incumbents. And it's our goal not to -- to try not to make incumbents run against each other. That may or may not be accomplished in this redistricting, but it is a goal.

And then the ninth one is to minimize partisanship, no targeting or giving preferential treatment to someone because of their political party.

Rucho versus The Common Cause was a 2019 case that now says that the federal government

or the federal courts will not hear those cases, but opens the door for state courts to hear any lawsuits that are based on drawing a line as a political -- politically partisan attempt.

I have hurried through these. If you have questions, you can ask them later.

Shelby wants to talk to you briefly about the maps.

MR. JOHNSON: Thank you, Justice Dickey. Again, my name is Shelby Johnson and I serve as the director of the Arkansas Geographic Information Systems Office.

We're a part of the Department of Transformation and Shared Services and we work for you. One of our charges or our statutory responsibilities is to maintain maps and information of the electoral geography of Arkansas. That includes election precincts, county justice of peace districts, municipal wards, school board zones, of course, our state House and state Senate districts and our congressional districts.

And one of our activities that we undertake is to participate very closely with

the Census Bureau in rolling up all of that information and furnishing it to the Census so that Walnut Ridge or Cave Springs can have an accurate count when the 2020 Census enumeration takes place.

Unfortunately, as Justice Dickey mentioned already, the census for 2020 is frustratingly behind schedule. And unfortunately, the only thing that we are able to currently show constituents around the state is estimates.

And so what I'm going to walk you through is just a quick series of three different maps. We're going to first look at the counties of the state and then we'll look at the House Districts, the current House Districts and the current Senate Districts.

The first map, which you seen on screen right now, hopefully you can see that fairly well, is just kind of a -- it's from the American Community Survey.

That is a sampling, a statistical sampling, that's done by the Census Bureau. They conduct that sampling each year, so it's not a full census. And then they use other trend line data, such as mortality, births and

deaths and -- and some other information that they use to generate that estimate.

And what you're looking at on this map is just the raw numbers of population change at the county level from the period 2010 to 2019.

And I'm going to just briefly describe the colors and walk you through those colors so that, hopefully, all of that'll begin to soak in and make sense.

And if you look at the darker hues or darker shades of red, the darkest shade of red indicates a county or an area which had dramatic, fairly dramatic, population decline.

And so to kind of illustrate one of those, I'll give you kind of the very bottom end of that decline would be in Jefferson County, Arkansas. Across that period in Jefferson County, the county declined over the nine years by about 10,600 in population.

Contrast that with our biggest increase, at the other end of the spectrum, of course, here we are in Benton County, which gained over 57,000 across the last nine years.

As we go down the shades of red, you'll see Monroe County lost about 1,400. Cleburne

County, for example, lost about 1,000. Clay County lost about 1,500.

And then you go to the next shade of red, which is still a loss but not as much. And then you'll drift into the very lightest colors.

And that lightest color is indicative of a county that may have had a little bit of decline on the order of maybe less than 150 to maybe 300 in decline.

And then the scale of coloring turns to hues or shades of blue. And that shades of blue indicates that the county grew over that time period.

And some of that growth is very modest. So, for example, Perry County, which is in Central Arkansas, just west of our state capitol, estimated they only grew by ten.

And then you scale up and you get to other counties in the darker shades of blue that grew more. And then the darkest shade of blue grew the most.

And our -- in the -- in the eastern part of our state, Greene County and Craighead County both had pretty significant growth.

Across the last nine years, Craighead County grew by about 13,000. Greene County grew by about 3,200.

But if you look and let your eye drift south of those two counties in Northeast Arkansas, you'll see that most of Eastern Arkansas and then Southeastern and South Central Arkansas, those counties declined in population.

And it shouldn't come as any great news to you, but just bears repeating or bears mention, population almost always follows opportunity. Population tends to follow where there is opportunity. And prosperity is usually the dominate determiner of that.

And a really great example in American History is the California Gold Rush where that state's population grew immensely.

The other thing that can affect population on the opposite end of the spectrum is if you have a large employer in a small or rural community in our state and that large employer closes down that operation. And that can cause, in a -- an area to have population decline because there's not that opportunity

there.

So that's just a quick illustration of our change across the counties in Arkansas. And what we'll do next is we're going to move to look at our current House Districts.

So again, the same sort of concept with the colors and shades, but in -- in this context, we did the analysis against our current State House Districts.

And what this shows you is the county -- or not counties, but districts that are low are in the darkest shades of red. And then districts that are a little bit mild -- mildly low or not -- not quite below the target are in lesser shades of red. And then the scale turns to the counties that are about on target.

And then we trend into the shades of blue, which give you an indication that those darkest shades of blue are where there's too much population in a district to be substantially equal.

So how do we do that? Well, we just take the total statewide estimate of population and divide that number by 100 House Districts. And so what that tells us is that each House

1 District ought to have 29,900 in this
2 particular estimate scenario. And if we look
3 at far Southeast Arkansas, House District 11,
4 it's got 4,300 below that target figure or that
5 ideal figure.
6 And what that tells us is that that
7 particular House District is less populated;
8 and, therefore, it has to grow geographically
9 in order to grab additional population to
10 become more equal with its neighbors.
11 Now, if we contrast the other end of the
12 spectrum, we'll go to just a little to the
13 center left in Central Arkansas, House District
14 31, which is in Saline County. That's the
15 Benton and Bryant area in Central Arkansas.
16 And that House District has 5,822 persons
17 estimated to be over that target.
18 And those two examples, if -- if we were
19 to use those currently, those would be illegal.
20 They are not substantially equal with all of
21 the other districts.
22 We'll move on and we look at the same
23 analysis for the Senate. And in the Senate
24 you'll see the same sets of shading with the
25 darkest red being Senate Districts that need to

grow or reach out and grab additional population to become more equal.

And then you'll see, at the other end of the spectrum, darkest shades of blue, which are districts that must contract. They must draw in because there is too much population.

So as you draw or shrink or contract that district in, it allows that area to share that population with the neighboring districts.

And you might be, at this point, noticing that there are some of the districts in Arkansas that are right in the middle. They're probably close to target. And you might think to yourself, well, maybe those districts won't change.

And my -- my analysis or my opinion on that is probably not true. And the reason is because of all of the dramatic change that needs to occur elsewhere. And I think I can illustrate it by drawing this quick analogy.

If you look at Senate District 26 in far Southeast Arkansas, it's over 8,500 below population. Well, I've already described to you that it must grow geographically to gain more population.

Unfortunately, it can't go across the river and get that from Mississippi. And it also can't go south and get that population from another state like Louisiana.

That means that that Senate District has to grow north or it has to grow east. And so as it grows north or as it grows east, it grabs other population from the other districts, which then impact the rest of the districts. And that results in the change.

So that's a quick tour of the maps that we do have, which are your current House and Senate Districts. And I'm very pleased to be able to share that with you. And I look forward to hearing your comments and supporting the work of the Board.

JUSTICE DICKEY: Thank you, Shelby.

And now we'd like to hear the comments from you. There are microphones on either side. If you'll step up here or we've also provided comment sheets, so if you don't make comments tonight, we ask you for your help as far as your suggestions.

Any questions, comments? Yes, sir? And if you will, state your name before and what

county or district you live in.

DUSTIN SETON: Dustin Seton from Washington County.

Are projected growths factored into the redistricting maps that are forecasted out in the like projected numbers of population for the next ten years looking at that -- just this last year election cycle, some districts had 27,000 over in the Senate seat or 8,000 over in the House District seat.

Are projections factored in the redistricting maps?

MR. JOHNSON: No, sir. The data that the Board of Apportionment will use will be the 2020 Census figures. And the reason is because that's what our Constitution says.

It's the -- it's the latest decennial census. And so that latest decennial census number, once we have that, that is a fixed number and it does not account for any projected growth.

That number is what it is. And that will be the number that the Board of Apportionment would use. Thank you for your question.

JUSTICE DICKEY: Yes, sir?

ALAN KITTERMAN: My name is -- my name is Alan Kitterman, Benton County.

I'll have a question and then a follow-up on it. The first question is, is the criteria listed in order of importance or are they all co-equal?

JUSTICE DICKEY: Neither. I mean, it's listed. It -- it's not -- you have to start with the first one --

ALAN KITTERMAN: Got it. Right.

JUSTICE DICKEY: -- and so we have to have that substantially equal amount of people in each district. So that is an absolute.

Then the next two are legal commitments. You can't discriminate against someone because they're black, nor can you draw a district just as a black district or Hispanic district or whatever.

ALAN KITTERMAN: Okay.

JUSTICE DICKEY: And then the next start to deal with the geographic principles.

So they all -- excuse me. They all are goals. And -- and as I've said and will say again, we can't meet all of those.

ALAN KITTERMAN: Okay.

JUSTICE DICKEY: We can't make, you know, strictly urban or rural communities --

ALAN KITTERMAN: Okay.

JUSTICE DICKEY: -- necessarily.

We can't -- we'll have to divide some of the counties. And -- but these are our goals. So they may be of lesser importance, but they're all important.

We'll be sued if -- if we draw a line to draw somebody in or out of a district or for partisan reasons.

ALAN KITTERMAN: In our specific area, we have a very unusual situation that we have a school district that covers two -- that is in two counties.

So would the -- it says that the core of existing districts, whole counties and then communities of interest.

My suggestion and question at the same time would be that a school district be considered also a community of interest together as --

JUSTICE DICKEY: Yes. And --

ALAN KITTERMAN: -- well as the county --

JUSTICE DICKEY: -- you know, in some

cases, as in the one you suggested, may not be as significant --

ALAN KITTERMAN: Okay.

JUSTICE DICKEY: -- that we have a whole counties --

ALAN KITTERMAN: Right.

JUSTICE DICKEY: -- especially when a school board --

ALAN KITTERMAN: Or a county line, yes?

JUSTICE DICKEY: -- or a county line.

ALAN KITTERMAN: Okay. Thank you very much.

JUSTICE DICKEY: Certainly. Yes, sir?

JOHN MORAN: My name is John Moran. I'm from Benton County. I have some familiarity with this process, having been familiar with it from ten years ago.

Looking at the map up there with the obvious population drain from certain areas of the state, the maps were drawn ten years ago with a zero percent variance.

I know that the court allows for a five percent variance one way or another. And I know ten years ago there -- there was a population drain problem just like there is

now.

How is the Board looking at that? Are you going to try draw closer to zero or are you going to have to unavoidably go to those five percent variances on either side?

JUSTICE DICKEY: Brad?

MR. NYE: Thank you for the question, John. I -- I think the answer is we're going to strive for as close to a -- we're going to strive for as close to a zero percent variance as we can get.

You know, that five percent plus or minus the courts talk about isn't necessarily a safe harbor. They also consider the other factors.

MR. NYE: I apologize. So the plus or minus five percent variance that we talk about is -- is something that is not considered a -- a safe harbor by the courts, if you fail to meet some of the other factors.

So, to our mind, getting as close to a zero percent variance as we can is important in the decision-making process, yes. And thank you for that question.

JUSTICE DICKEY: Yes, sir?

LARRY WELMS: Larry -- Larry Welms with --

in Benton County.

My -- my question would be is that, when you create the boundary lines, I'm assuming that your unit of measure is a census block; is that correct?

So you either add the census block or you take the census block away and move it here or there. So that's -- really becomes the unit of measure that you shift around to make the balancing out of this whole map process; is that correct? So that's -- that's really the shuffleboard that you're moving?

JUSTICE DICKEY: One of them. Precincts. We --

LARRY WELMS: When you say a precinct, what's -- how -- how does that -- how does that relate to a census unit?

MR. JOHNSON: The census blocks in their design are composed of physical features like roads, streams, railroads.

And then layered on top of that would be our other administrative boundaries, like the boundary between Bentonville and Rogers, for example.

So that administrative boundary is kind of

an invisible line, but it's bro -- it's in the block file.

Layered right on top of that are our election precincts. And the election precinct is a really vital part of the redistricting process because it's bigger than -- it's bigger than a block. It's usually smaller than a city and smaller than a county.

And if you're able to do the redistricting process in assigning population at the election precinct level, that streamlines or it makes it a little bit easier on the election administrators and the county election commissions and the county clerks who will be reassigning voters after the redistricting process so that, to the degree possible, if you can assign a whole precinct, versus splitting that precinct, you're avoiding extra -- potentially unnecessary work on the county clerk.

So that precinct level assignment is ideal until it runs afoul of too much variances or too excessive in one direction or another with the population. Hopefully that helps.

DR. BETHANY ROSENBAUM: Good evening.

JUSTICE DICKEY: Good evening.

DR. BETHANY ROSENBAUM: My name is Dr. Bethany Rosenbaum. I'm from Lowell in Benton County.

So I don't have a question, I have a suggestion, which, I guess, is part of the public comment. So Lowell, like all of Benton County, has experienced tremendous growth.

But Lowell is currently divided by two districts. So we have District 90 and District 96. And they're not equal. They don't equally divide Lowell.

And, as you know, those two districts are bursting at the seams. So, as Mr. Johnson said, they would need to be contracted.

Now, southern Rogers and Lowell have seen tremendous growth. And the cities share a lot of commonalities. These are, as your terminology, communities of interest.

So this includes things like sharing the Lowell/Rogers Chamber of Commerce. They share what's called the Historic Old Wire Road. There's also administrative boundaries and -- and other interests that would link southern Rogers, Lowell, the whole -- the whole of the

City of Lowell and even what was formerly Bethel Heights that's now Springdale.

So my recommendation is that this portion, this southern portion of -- so it's like southeastern Rogers, all of Lowell and the annexed portion of Bethel Heights as a community of interest should be represented as a new district due to population growth and the other reasons I presented. Thank you all.

JUSTICE DICKEY: Thank you. Will you reduce that to writing?

Now, you are video -- videoed and live streamed, but for us to communicate that to all the parties concerned and it put it on the website, we ask for your comment in writing or -- or you can go on the website and put it. Very good suggestion. Thank you.

Yes, ma'am?

LOU REED SHARP: Yes. My name's Lou Reed Sharp and I'm from Washington County. And I'm represented by House District 80, which I live on the northern edge of it. It takes me one hour to get to Crawford County. So we're splitting two counties.

If you're a re -- and 60 percent of our

land mass in House District 80 is the Ozark National Forest, which is not very well populated.

But if you're a citizen in Lincoln, Arkansas, which is -- is very rural and it's the only whole city in House District 80, our current Senator lives in Benton County.

Our current House of Representative lives in Crawford County. Our only representative in Washington County is our Justice of the Peace right now.

So I really, really hope that -- you know, until I got involved in politics, I really didn't understand continuous, contiguous, and compactness. But if -- it's very unfair, I think, to the citizens to not have a representative on a House or a Senate level; but, if you're a candidate trying to represent all the people, it's very difficult, very, very difficult to go to multiple county court meetings in different counties when it's an hour apart.

So I really, really hope you consider that because all of us want to get to know the residents of those counties.

I live in northern Washington County. My neighbors across the creek, their House of Representatives is from Springdale, Arkansas.

So my neighbors couldn't vote for my current representatives, even though I can look across the creek and see them.

So I do hope you consider this when you're looking at all the populations.

JUSTICE DICKEY: Thank you.

LOU REED SHARP: They're very distinct. Thank you.

JUSTICE DICKEY: We are writing it down, videoing it and live streaming it, but --

LOU REED SHARP: I will write it down.

JUSTICE DICKEY: -- if you will write it down and send it, we will circulate that.

LOU REED SHARP: Because I just want to make it fair.

JUSTICE DICKEY: And that's --

LOU REED SHARP: Or heard.

JUSTICE DICKEY: -- that's our goal. Fairness --

LOU REED SHARP: Thank you.

JUSTICE DICKEY: -- and transparent -- transparency.

Yes, sir?

JEFF HAWKINS: My name's Jeff Hawkins. I'm the Director of the Northwest Arkansas Regional Planning Commission.

We have done most of the redistricting for cities, boards, quorum court districts for counties, schools, all the school districts that needed it done in Northwest Arkansas.

And I think Betty's probably the only person here that knows that I'd been involved in redistricting since --

JUSTICE DICKEY: For 40 years or more, yes.

JEFF HAWKINS: -- the '80s, yeah.

JUSTICE DICKEY: Since he was in Pine Bluff, where I was. Yes.

JEFF HAWKINS: Obviously, all -- you all are very familiar with -- with the purposes and the principles and all that for redistricting.

But there's a few things, for whatever it's worth, that -- that I think are important that you should also consider.

Where possible, I think efforts should be made for House and Senate boundaries to follow the same lines. Sometimes that's possible,

sometimes it's not.

There were instances where ten years ago that that didn't happen. There's no consideration at all. There were instances where House lines followed a road. The Senate line was 60 feet away following a creek, creates a situation where -- where the -- there has to be a -- a precinct established.

And in that case, it was a long, skinny precinct and it had little, if any, population in it.

In fact, in Washington County, there were like 20 something precincts that were established that had no population. They had to be established because if you put all these boundaries of all these districts on one map, all these islands that are left over, if absolutely everything was on the ballot, there'd be at least one question different.

So even though there wasn't anybody there, there may be a year from now. And there'd be one thing different on that ballot.

In Forest City, there was a House -- House lines went down one street, Senate line went down a block over. There wasn't 16 people

involved, no reason they couldn't follow the same one. County had to go in, had to -- had to create a precinct that was one block wide and four blocks long.

And that problem was, as I said, it's widespread and it creates a tremendous amount of work on the county clerks and the election directors.

County clerks sometimes, after redistricting is done, has -- they have to do thousands of new precinct assignments. They've got to send notifications out to every registered voter that's affected.

And historically, the State Board of Apportionment hasn't been sensitive to the -- to the effects of the boundaries that they approve on those key officials.

As you know, Northwest Arkansas has a significant population that needs to be considered from the Voting Rights standpoint; in particular, the Hispanic and the Marshallese populations. So we hope that you bear that in mind.

Also, regarding Voting Rights, I would point out that, ten years ago, the number of

minority/majority districts in Arkansas was reduced from 13 to 11 and it ended up, unnecessarily probably, in court. And I'm sure there's several groups watching for fairness in that regard as well.

County lines should be followed where possible, keeping in mind, of course, that we've got about 25 cities, correct me if I'm wrong, Shelby, about 25 cities that share -- that are in more than two or more counties.

And I know it's not always possible, but keeping cities and counties whole is a good goal to shoot for.

I'd also recommend following boundaries that we know are always going to be a precinct line. In particular, county lines are always going to be a precinct line. Township lines are always going to be a precinct line, and so are school district boundaries.

Given the generally accepted ten percent deviation for equal protection compliance, the Board will have a little discretion, I think, to create districts in fast-growing portions of the state that have populations totals that those pre -- those districts could be on the

lower end.

This goes back to the -- to the slides that Shelby showed about how out of whack they are. You can take some of that into consideration as you develop your plan.

And you know places are growing and have for 20 years. Those should be on the low end. Those districts, when they're established, will be valid for a longer period of time than if you'd have just ignored it. But I urge you to take that into consideration.

So growth is relevant and -- and should be taken into consideration.

And lastly, a little bit off the redistricting trail, I would hope that the Board immediately advises the state treasurer's office of the new city and county populations when they are released next Thursday.

This is the same information that's going to be released, but in a less user-friendly format, but it's going to be released next Thursday, the 12th. The -- those population figures, they're -- they're prominent in gas turn back, general turn back formulas; and, in many counties, population is a key factor in

determining sales tax revenue distribution.

And, you know, if there's less delay in that, the -- the better.

I'd also say that -- just -- I just wanted to throw in that the Board is very fortunate to have the state GIS office. They'll help you get your work done. I hope you get it done as soon as possible, so we can do ours. Thank you.

JUSTICE DICKEY: Jeff, we'd appreciate your notes for free or do we need to pay you for them? Excellent suggestions. And, you're right, the GIS can -- can map anything you want to map.

And to be able to draw Senate and House lines that lineup together is one of our goals. But tremendous help you are. And we will look forward to your advice and your evaluation after we prepare the maps. Thank you for your comments.

Anyone else?

JENNIFER STANDERFER: I'm Jennifer Waymack Standerfer. I'm from Benton County.

I want to thank you all for your service because I know this is no small task and you're

on a tight timeline too, so thank you first.

I do have a couple of questions. My first is, with regard to the overlay maps that you're talking about a moment ago that show the physical boundaries, the administrative boundaries, and the -- and the election precincts, are those publicly accessible and is it something we can view through a state website or through our Benton County Assessors GIS? Or where do we find those overlays?

MR. JOHNSON: Yes, ma'am. I -- I do think that the Benton County government has a website that has some of those maps. And then we also have them available as well.

And you can access those by visiting GIS.Arkansas.gov and then look for the menu tab that says map viewers. And then pick one that you like.

JENNIFER STANDERFER: Then would the new proposed -- or when the proposed maps for the new proposed districts come out, and I know you're kind of behind the ball because you're still waiting on the data, but what is -- what is your expected time line between when you have them drawn and when they're ready to be

adopted? And what opportunity for public comment is there going to be or public viewing is there going to be?

JUSTICE DICKEY: Simple answer is we don't know. But, you know, as soon as we can get the maps drawn, and it'll -- it -- it should be easier this time because of GIS and because, you know, we are committed to transparency and fairness and just, you know, justice, as far as doing this right.

So as soon as we have them, they will be online.

JENNIFER STANDERFER: Is there any reason to expect that the timeline that you're looking at right now and progressing forward on would conflict with effectuating the May primary?

JUSTICE DICKEY: Now, you'll have to ask the legislature about that.

JENNIFER STANDERFER: That's a trick question. I'm sorry about that.

JUSTICE DICKEY: Well, you know, we have to have everything turned in by December the 31st --

JENNIFER STANDERFER: Okay.

JSUTICE DICKEY: -- but --

JENNIFER STANDERFER: But you're not seeing any issues with -- with meeting your deadlines that you're supposed to have --

JUSTICE DICKEY: Not ours, no. Whether or not that changes when the elections are, you'll have to ask them.

JENNIFER STANDERFER: Thank you very much.

JUSTICE DICKEY: Thank you.

Yes, ma'am?

GLADYS TIFFANY: Jennifer asked -- the other part of it was, will there be a chance for public comment later on?

JUSTICE DICKEY: Yes. If you'll -- if you'll state your name and what county --

GLADYS TIFFANY: Sorry. I'm Gladys Tiffany from Washington County.

JUSTICE DICKEY: Thank you. And the question is?

GLADYS TIFFANY: The question was, will there be opportunity for public comment later on?

JUSTICE DICKEY: Absolutely.

GLADYS TIFFANY: Okay.

JUSTICE DICKEY: There will. There's a 30 day period after -- after the Board of

Apportionment votes, a 30 day period.

But we hope before that to be able to show you what we're considering and ask for your input.

Now, whether all that works, but it -- there's a 30 day period before it becomes effective after the Board of Apportionment votes. Any other questions?

Yes, sir?

RICHARD TIFFANY: Yeah, I'm Richard Tiffany from Washington County. And just -- I'm new to -- to looking at this.

But people talking about precincts made me wonder that there's county divisions like JP districts and State divisions. And I'm assuming that you all here are working on the state divisions and the county has to do their own job.

And so I was wondering, does the county draw their districts first and then you try to incorporate that or do you draw yours first and they try to incorporate what -- what you've done? Or -- or kind of what's the priority?

JUSTICE DICKEY: Well, I think we have priority.

RICHARD TIFFANY: Okay.

JUSTICE DICKEY: Now, we don't draw anything except the Senate and the House boundary lines. Then the county clerks get to start their work and the other entities.

DUSTIN SETON: Dustin Seton, Washington County.

Talking about the criteria for number eight of the incumbency, is there -- is it safe to say that y'all don't expect any of the 135 to be redrawn into districts or potentially having to compete against each other?

JUSTICE DICKEY: I didn't say that.

DUSTIN SETON: Okay.

JUSTICE DICKEY: And, you know, in fact, I think I said that that is our goal because these people were elected. But we're not going to be able to meet that in every instance --

DUSTIN SETON: Okay.

JUSTICE DICKEY: -- most likely, you know? I'm still -- I don't know.

We don't think that -- we think there will be incumbents who have to run against each other.

DUSTIN SETON: Okay. And I guess a

comment would be, looking just at the population maps between House District 93 and House District 17, it was like a 15,000 different variance based on the last election or the -- the numbers.

So I -- I worry that, if were using incumbency as a factor, that that's further perpetuating the next ten years of inequity; because there is an 80 percent -- studies show there is an 80 percent plus re-election rate for incumbents.

And I feel -- fear that that continuity of representation without factoring in where they are, just because like looking at Southeast Arkansas, you most likely will have to have something looking somewhat gerrymandered to try to factor in that continuity of representation.

And so I worry about that as a -- as a constituent.

JUSTICE DICKEY: That's a legitimate question. But we -- you know, our goal is not to either show favoritism nor target them. And it -- it will be whatever the population indicates should be drawn. And if you see any that are, like in the election ten years ago,

that are either -- where they've intentionally drawn someone out of her district, so she just moved, or you see some strange fingers or gerrymandered or what we talked about in a seminar recently, dummymandering, that just invites a lawsuit, I don't anticipate you'll see that.

We're not -- we're not favoring incumbents. We are -- but we are recognizing that the voters elected them.

DUSTIN SETON: Thank y'all for your work.

ANNA GOODE: Hello. I'm Anna Goode. I live in Benton County.

And, first of all, I want to say that you guys have done an amazing job putting these maps together. The data is so fascinating. And it's really interesting to see where the different growth areas are in our state.

And I know that you are doing this late. I saw -- I came across a last -- a map from the last census and you guys were done by this point in time last year. So I understand you're under a crunch.

JUSTICE DICKEY: We are.

ANNA GOODE: I'm wondering though, the

reason that you're under a crunch is partially due to the coronavirus pandemic that we're still fighting now, and has there been much discussion about whether or not your census results from this year has been as accurate as it's been in the past?

And are you concerned that there's populations that we've missed because of lack of being able to be accessed, either because we know our broadband isn't the best in some of our more rural areas, so their ability to report online might not have been as good as they are in some of the more urban areas?

And also the lack of the staff to be able to go out in the traditional manner, to go out and go door to door, to be that friendly face and discuss the importance of the census door to door as it's been done in the past as well.

This year we saw a lot less people being willing to even open their door because of the fear of, possibly, who's this at my door, where in the middle of a global pandemic, I don't know them, I'm not opening it.

So has there been discussion about whether or not our results are accurate enough to be

able to go forward?

JUSTICE DICKEY: Those are all legitimate questions and legitimate concerns. And, yes, we have talked about that. But let me ask you, what is the alternative?

ANNA GOODE: True.

JUSTICE DICKEY: We have a census.

ANNA GOODE: These are the numbers that we have, is there anything that we could -- have you been able to -- sorry. I'll talk closer to the mic.

Have you been able to -- how are our response rates this year compared to previous years when it comes to -- have you been able to disclose that information? Have you reflected it in previous censuses?

JUSTICE DICKEY: We haven't gotten it yet.

ANNA GOODE: Ah, okay.

JUSTICE DICKEY: So, I mean, I -- but I don't know how it will change the outcome. And if you have an idea --

ANNA GOODE: I mean --

JUSTICE DICKEY: -- do we throw this out and start again?

ANNA GOODE: Ah, I mean --

JUSTICE DICKEY: Like the Olympics? Do we wait until next year?

ANNA GOODE: If the results were that incomplete --

JUSTICE DICKEY: I think the --

ANNA GOODE: -- wouldn't that be an option?

JUSTICE DICKEY: I don't think so.

ANNA GOODE: Don't think so?

MR. JOHNSON: So we -- we can get the response rates. So we -- we can know that figure for Arkansas.

But -- but, to your point, valid points, but I just want to reiterate that the Arkansas Constitution requires that we use the census data that we get from the U.S. Census Bureau.

Although we hear you, there's not an alternative for us in -- in building the maps and putting this together.

JUSTICE DICKEY: Yes, sir?

DAN WHITFIELD: Hi. Good evening. My name is Dan Whitfield. I'm a resident of Benton County. And I actually have a comment followed by a question.

And I was referring to the criteria number

nine. And I wanted to make it clear that you don't have to have the shape of the salamander or an odd sized shape of a district in order for it to be gerrymandered. You can gerrymander a square.

Now, where it says, minimize bipartisanship, I'm concerned, especially as a Democratic voter. There are two million voters that are not Republicans here in Arkansas.

Now, we know that there was an independent panel that could have been chosen to do this redistricting process. That initiative received over 100,000 signatures and the Secretary of State, John Thurston's office, threw that off of our ballot last year.

JUSTICE DICKEY: What is your question?

DAN WHITFIELD: My question is -- I have one more quick comment to go with my question, if I may.

The next part of my comment is that it says minimize bipartisanship, but the committee is 100 percent partisan. It's led by Jason Rapert, who is very partisan. The Board is the Secretary of State's --

JUSTICE DICKEY: What is your question?

DAN WHITFIELD: Yes, ma'am. I believe there were at least seven other people who have comments before they're questions so (inaudible) much longer --

JUSTICE DICKEY: I understand. But they weren't lobbying for or against someone --

DAN WHITFIELD: I am not lobbying --

JUSTICE DICKEY: -- or targeting or showing preferential treatment.

DAN WHITFIELD: I will -- would you like me to ask my question before I finish my comment?

JUSTICE DICKEY: Absolutely.

DAN WHITFIELD: My question is, how can you alleviate the worries and concerns of Arkansas voters that are not Republicans that this will not be done in a partisan way when the committee is partisan, the Board is partisan, and the director, even your son, his -- his name is on Tom Cotton's mortgage, who donated to all of these different people, how can --

JUSTICE DICKEY: What does this have to do with anything?

DAN WHITFIELD: My question is, how can

you alleviate the concerns that this isn't a partisan process?

JUSTICE DICKEY: Let me refer you to the Rucho versus Common Cause case of 2019 where the Federal Court was somewhat befuddled by the challenge and says that partisan gerrymandering represents a political question that is not justiciable in Federal Court because there is no credible way to define and measure fairness in a political context.

The U.S. Constitution doesn't guarantee proportional representation of political parties. It doesn't preclude state courts from hearing cases based on partisanship.

That, in part, may answer your question. But I think -- I'm not sure when you say that those of us are partisan in what -- how we draw something, that's a skewed, unfair statement to begin with.

DON WHITFIELD: Is there one Democrat standing in front of me?

JUSTICE DICKEY: I don't -- I don't want to get into --

DON WHITFIELD: I under -- no problem.

JUSTICE DICKEY: No. I --

DON WHITFIELD: A very easier question that's not so partisan.

JUSTICE DICKEY: No, no, no. That's a -- that's a -- that's a cheap shot.

DON WHITFIELD: That's not my intention, ma'am.

JUSTICE DICKEY: You're assuming that because we belong to one political party or another, and I've been in both, in both parties, so I don't -- you know, they're both flawed.

DON WHITFIELD: I was a registered Republican --

JUSTICE DICKEY: But -- no. I mean --

DON WHITFIELD: -- for 12 years. I understand.

JUSTICE DICKEY: -- no. You state -- I'm not -- I'm not through talking.

DON WHITFIELD: Okay. Yes, ma'am.

JUSTICE DICKEY: To assume that these people can't be fair or transparent and make their recommendations to the three people who vote is an unfair and prejudicial statement.

Now, unless there's something else for you to say, we're live streaming --

DON WHITFIELD: Yes, ma'am.

JUSTICE DICKEY: -- we're videoing, you're videoing --

DON WHITFIELD: I'm live streaming as well.

JUSTICE DICKEY: -- I don't, you know -- if there's -- if there's nothing else, we're through.

DON WHITFIELD: You referred earlier to having another 30 day period --

JUSTICE DICKEY: No.

DON WHITFIELD: -- after the maps are drawn that will have public comment.

JUSTICE DICKEY: Is that a question?

DON WHITFIELD: Yes, ma'am.

JUSTICE DICKEY: Yes. Yes.

DON WHITFIELD: Will you be doing the same thing, touring the state to give the population kind of --

JUSTICE DICKEY: We will give people who want input a chance. Now in what format --

DON WHITFIELD: Will it only be available online?

JUSTICE DICKEY: -- whether it will be a PBS interview of us --

DON WHITFIELD: Okay. No problem.

JUSTICE DICKEY: -- or not --

DON WHITFIELD: And I appreciate you taking the time with my hard question.

JUSTICE DICKEY: It's not a hard question.

DON WHITFIELD: Would you consider --

JUSTICE DICKEY: It's a partisan question.

DON WHITFIELD: -- touring the state again once the maps are drawn so we can see the different drawings during that 30 day period?

JUSTICE DICKEY: I hope that we will have the time to do it.

We will show it, whether it's online, on PBS or in some format, yes, the public will have a chance to look at it and have more input.

DON WHITFIELD: Okay. I will be looking forward to it. Thank you, Justice Dickey.

JUSTICE DICKEY: Any other questions?

CHRIS LATTERER: Good evening.

JUSTICE DICKEY: Good evening.

CHRIS LATTERER: How are you guys?

JUSTICE DICKEY: Doing great.

CHRIS LATTERER: Looking good. You guys are doing a great job, by the way.

JUSTICE DICKEY: Okay.

CHRIS LATTERER: My name is Chris Latterer. You guys are doing a great job. Appreciate you.

JUSTICE DICKEY: Thank you.

CHRIS LATTERER: I really don't have a question. It's more -- more of a statement. Mr. Whitfield stated a second ago that he was unhappy with the lines.

If he would recall ten years ago, it was Democrats that drew the lines 100 percent. So I just wanted to thank you guys for that, for being bipartisan, for being fair, taking this in a fair manner.

JUSTICE DICKEY: Thank you.

Anything else? We're glad you came. We're glad you made comments. We have one more.

Yes, ma'am?

UNIDENTIFIED SPEAKER: I'm new to this process too. And --

JUSTICE DICKEY: So am I.

UNIDENTIFIED SPEAKER: So I -- and so, you know, I learned a lot tonight. And it's been very helpful. Thank you.

JUSTICE DICKEY: Thank you.

UNIDENTIFIED SPEAKER: The question in my mind though is like, you know, how -- what is the process like that -- like you -- you're doing work in the background and I'm seeing the way -- it's -- it's reassuring to me to kind of see the way that it's not just three people making a decision for the state, that --

JUSTICE DICKEY: Yes, ma'am.

UNIDENTIFIED SPEAKER: -- they have a lot of support in the background trying to help them put all the pieces together, do all this public comment periods and stuff.

So what happens then between now and the time that they are actually making their decision? What -- is there a trajectory that maybe that -- that's explainable?

JUSTICE DICKEY: We have the eight meetings that I think you -- you can see over there and -- and get input from all parts of the state and post it online.

After we get the information in a format we can understand it, or some of us can, whether it's August the 12th, the 16th, or some time between then and when it is in a

formatable, understandable form that most people can see it and understand it, September the 30th, when the -- the Federal Census results are in.

Then we immediately start working on drawing the lines with the comments, with the consideration from the people in the -- the different areas.

Hopefully, that's done in a month or two. We don't know. I mean, it depends on how many arguments we get into, I guess, over, you know, which line should prevail. But then we'll get it to the Board of Apportionment to vote on.

There's a 30 day waiting period and we have to have all this done by December 31st. So that's the time frame we're working under.

UNIDENTIFIED SPEAKER: Finished by December 31st. And the legislature doesn't really weigh in on this.

JUSTICE DICKEY: Well, they're the ones -- no. They don't get to weigh in on this because we're drawing the lines that determine where they run for office.

You're welcome. Anything else?

Again, you've been very helpful as far as

things that we need to consider, especially Jeff Hawkins has been helpful. So -- thank you all though.

And we look forward to more input from you before and after we post the maps, the suggestions. Thank you very much for coming.

(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 4th 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