

1 UNITED STATES DISTRICT COURT  
2 MIDDLE DISTRICT OF LOUISIANA  
3

4 DOROTHY NAIRNE, ET AL \* CIVIL ACTION  
\*  
5 VERSUS \* NO. 3:22-178-SDD  
\*  
6 KYLE ARDOIN, ET AL \* DECEMBER 1, 2023  
\* \* \* \* \*

7  
8  
9 DAY 5  
10 BENCH TRIAL  
11 BEFORE THE HONORABLE SHELLY D. DICK  
12 UNITED STATES CHIEF DISTRICT JUDGE

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S. TRENDE - CROSS

9:00AM 1                   **THE COURT:** I THINK MR. TRENDE CAN TAKE THE STAND. I  
2 THINK WE ARE ON CROSS-EXAMINATION. YOU ARE STILL UNDER OATH,  
3 SIR.

4                   **THE WITNESS:** YES, YOUR HONOR.

5                   **THE COURT:** MS. THOMAS, MAKE AN APPEARANCE FOR THE  
6 NEW COURT REPORTER, PLEASE.

7                   **MS. THOMAS:** ALORA THOMAS FOR THE HARVARD ELECTION  
8 LAW CLINIC. GOOD MORNING, MR. TRENDE. NICE TO SEE YOU AGAIN.  
9 I'M SURE THE NEXT TIME I SEE YOU, YOU WILL BE DR. TRENDE.

10                  **THE WITNESS:** GOOD TO SEE YOU, TOO.

11                               **SEAN TRENDE,**  
12 **HAVING PREVIOUSLY BEEN DULY SWORN, TESTIFIED AS FOLLOWS:**

13                               **CROSS-EXAMINATION**

14 **BY MS. THOMAS:**

15 Q. SO GOING OVER SOME OF THE THINGS THAT YOU DISCUSSED IN  
16 YOUR DIRECT, YOU HAVE TWO ALGORITHMS THAT YOU USED IN YOUR  
17 EXPERT REPORT; IS THAT CORRECT?

18 A. THAT IS CORRECT.

19 Q. AND THE FIRST WEIGHTS THE BLACK VOTING AGE POPULATION? IF  
20 I SAY BVAP, WILL YOU UNDERSTAND WHAT I MEAN?

21 A. YES, I'LL UNDERSTAND THAT. AND YES, THAT'S RIGHT, IT  
22 WEIGHTS THAT.

23 Q. AND THE SECOND ALGORITHM WEIGHTS PRECINCT SIZE; IS THAT  
24 CORRECT?

25 A. THAT IS CORRECT.

S. TRENDE - CROSS

9:01AM 1 Q. AND NEITHER OF THESE ALGORITHMS CREATE WHOLE MAPS; IS THAT  
2 CORRECT?

3 A. THAT'S RIGHT. THEY ARE DESIGNED TO IDENTIFY CLUSTERS OF  
4 BLACK RESIDENTS OF VOTING AGE THAT WOULD BE 50 PERCENT PLUS ONE  
5 OF THE BVAP IN THE DISTRICT THAT -- THE ILLUSTRATIVE DISTRICT  
6 THAT MR. COOPER DREW.

7 Q. AND YOU DID NOT USE EITHER OF THESE EXACT ALGORITHMS IN  
8 YOUR DISSERTATION; IS THAT CORRECT?

9 A. THAT IS CORRECT. IT'S THE CONCEPTIONS OF COMPACTNESS THAT  
10 I WAS FAMILIARIZED WITH.

11 Q. AND THESE ALGORITHMS ARE BASED ON MOMENT OF INERTIA; IS  
12 THAT CORRECT?

13 A. THAT IS CORRECT.

14 Q. AND YOU DID NOT USE MOMENT OF INERTIA IN YOUR  
15 DISSERTATION; IS THAT CORRECT?

16 A. THAT'S CORRECT. I USED IT IN MY RESEARCH FOR IT, I CAME  
17 ACROSS IT, BUT I DIDN'T USE THAT IN THE DISSERTATION ITSELF.

18 Q. AND FOCUSING ON YOUR DISSERTATION FOR A MINUTE, NONE OF  
19 THE CHAPTERS IN YOUR DISSERTATION HAD BEEN PUBLISHED IN A  
20 PEER-REVIEWED ARTICLE -- PEER-REVIEWED JOURNAL?

21 A. THAT IS RIGHT.

22 Q. AND YOU ONLY HAVE ONE PEER-REVIEWED ARTICLE; IS THAT  
23 CORRECT?

24 A. THAT IS CORRECT.

25 Q. AND YOUR PEER-REVIEWED ARTICLE DID NOT DISCUSS EITHER OF

S. TRENDE - CROSS

9:02AM 1 THE ALGORITHMS YOU ARE USING IN THIS CASE?

2 A. RIGHT.

3 Q. AND YOU DID NOT USE MOMENT OF INERTIA IN YOUR  
4 PEER-REVIEWED ARTICLE?

5 A. CORRECT.

6 Q. AND YOUR ONE PEER-REVIEWED ARTICLE DID NOT DISCUSS  
7 COMPACTNESS; IS THAT CORRECT?

8 A. CORRECT.

9 Q. AND IT'S YOUR UNDERSTANDING THAT YOU ARE CRITIQUING A  
10 *GINGLES* I EXPERT, MR. COOPER; IS THAT CORRECT?

11 A. I'M CRITIQUING MR. COOPER, THAT'S RIGHT.

12 Q. AND DO YOU UNDERSTAND THAT MR. COOPER IS A *GINGLES* I  
13 EXPERT IN THIS CASE?

14 A. I DON'T KNOW WHAT HIS PROFFER WAS, BUT I WON'T DISPUTE YOU  
15 ON THAT.

16 Q. AND WOULD YOU AGREE THAT A *GINGLES* I EXPERT MUST DRAW A  
17 *GINGLES* I COMPLIANT MAP?

18 A. YES.

19 Q. IN MR. COOPER'S WORK, HE USED REOCK AND POLSBY-POPPER,  
20 ALONG WITH OTHER MEASURES TO ESTABLISH THE COMPACTNESS OF HIS  
21 DISTRICTS; IS THAT CORRECT?

22 A. THAT'S RIGHT.

23 Q. AND YOU DID NOT ANALYZE MR. COOPER'S REOCK SCORES; IS THAT  
24 CORRECT?

25 A. THAT'S RIGHT. I HAVE NO REASON TO DISPUTE HIM ON THE

S. TRENDE - CROSS

9:04AM

1 DISTRICT COMPACTNESS.

2 Q. AND YOU DID NOT ANALYZE MR. COOPER'S SCORE ON  
3 POLSBY-POPPER?

4 A. THAT'S RIGHT.

5 Q. AND YOU DON'T HAVE A BASIS TO CONCLUDE THAT MR. COOPER'S  
6 DISTRICTS ARE NONCOMPACT?

7 A. THAT'S RIGHT. I DON'T ANALYZE THE DISTRICT COMPACTNESS.

8 Q. AND YOU ALSO DID NOT RUN A COMPACTNESS ANALYSIS ON THE  
9 ENACTED MAP; IS THAT CORRECT?

10 A. THAT'S CORRECT.

11 Q. AND YOU WOULDN'T BE SURPRISED IF MR. COOPER'S ILLUSTRATIVE  
12 MAPS EITHER MET OR BEAT THE ENACTED MAP ON COMPACTNESS  
13 MEASURES?

14 A. IT WOULDN'T SURPRISE ME EITHER WAY. NO, THAT IS CORRECT.

15 Q. NOW, WHAT YOU DID DO IN THIS CASE IS YOU USED THE MOMENT  
16 OF INERTIA METHOD WE'VE BEEN DISCUSSING. COULD THE MOMENT OF  
17 INERTIA METHOD GIVE A NUMERIC VALUE?

18 A. YES.

19 Q. AND COULD YOU USE THAT NUMERIC VALUE TO COMPARE DIFFERENT  
20 DISTRICTS?

21 A. I SUPPOSE YOU COULD. IT'S TOUGH TO DO A DIRECT COMPARISON  
22 BECAUSE WHAT THE MOMENT OF INERTIA VALUE IS IS THE AVERAGE  
23 SQUARE -- AVERAGE DISTANCE FROM THE CENTROID. SO COMPARING  
24 ACROSS DISTRICTS IS A LITTLE TRICKY, BUT REMEMBER, HERE I'M  
25 ONLY USING IT TO HELP IDENTIFY THE MOST COMPACT GROUPING OF



S. TRENDE - CROSS

9:05AM 1 BLACK RESIDENTS OF VOTING AGE IN THE DISTRICT THAT CAN BE

2 50 PERCENT PLUS ONE. SO IT'S TRYING TO FIND THE BEST GROUPING  
3 FOR MR. COOPER IN ANALYZING THAT.

4 Q. BUT YOU DID NOT RELAY THE NUMERIC VALUE FOR YOUR MOMENT OF  
5 INERTIA IN YOUR REPORT, CORRECT?

6 A. THAT'S RIGHT.

7 Q. INSTEAD OF RELAYING A NUMERIC VALUE, YOU USED A VISUAL  
8 DEPICTION; IS THAT CORRECT?

9 A. THAT'S RIGHT. I FOLLOWED THE SUPREME COURT APPROACH IN  
10 RACIAL GERRYMANDERING CASES AND IN SOME OF THESE SECTION 2  
11 CASES, OR TRIED TO FOLLOW IT, AT LEAST, AND AN ULTIMATE VISUAL  
12 ANALYSIS OF THE COMPACTNESS, BECAUSE THIS IS AN AREA, AS  
13 JUSTICE O'CONNOR WROTE, WHERE APPEARANCES DO MATTER.

14 Q. AND IN ORDER TO MAKE THE VISUAL COMPARISON, SOMEONE WOULD  
15 HAVE TO MAKE A JUDGMENT CALL BASED ON THE VISUALS; IS THAT  
16 CORRECT?

17 A. THAT'S RIGHT. THE FINDER OF FACT MAKES THE ULTIMATE  
18 CONCLUSION AND JUDGMENT CALL ON THIS.

19 Q. AND I THINK YOU TESTIFIED YESTERDAY AND AGAIN IN YOUR  
20 TESTIMONY JUST NOW THAT THE MOMENT OF INERTIA, YOU ARE USING IT  
21 TO FIND THE MOST COMPACT POPULATION; IS THAT RIGHT?

22 A. THAT'S RIGHT.

23 Q. AND I THINK YOU TESTIFIED IN THAT -- EARLIER AND AT YOUR  
24 DEPOSITION THAT THE ARTICLES THAT YOU CITE FOR THE MOMENT OF  
25 INERTIA DO NOT USE THE MOST COMPACT CONCEPT IN THE EXACT WAY

S. TRENDE - CROSS

9:07AM 1 THAT YOU DO; IS THAT RIGHT?

2 A. THAT IS RIGHT. THEY PROVIDE THE CONCEPT OF COMPACTNESS,  
3 AND THEN THEY APPLY IT TO THE DRAWING OF FULL DISTRICTS. I'M  
4 JUST TAKING THE CONCEPT OF COMPACTNESS AND APPLYING IT TO A  
5 DIFFERENT SCENARIO.

6 Q. *GINGLES* I DOES NOT REQUIRE THAT A DISTRICT BE DRAWN AROUND  
7 THE MOST COMPACT POPULATION; DOES IT?

8 A. OH, NO, NO. I'M JUST SAYING WITHIN THE ILLUSTRATIVE  
9 DISTRICT THAT MR. COOPER DREW, WHAT'S THE MOST COMPACT  
10 POPULATION SOMEONE COULD POINT TO TO ARGUE THAT THE MINORITY  
11 POPULATION IN THE DISTRICT IS COMPACT? THAT'S ALL THE MOMENT  
12 OF INERTIA IS BEING USED FOR IS TO FIND THE BEST CASE SCENARIO  
13 FOR PLAINTIFFS.

14 Q. AND YOU WOULD AGREE THAT YOU BASE YOUR FINDINGS OF  
15 COMPACTNESS ON YOUR OPINION OF WHAT A REASONABLE DEFINITION OF  
16 THE TERM WOULD BE?

17 A. COULD YOU REPEAT THAT? I'M SORRY.

18 Q. YOU WOULD AGREE THAT YOU BASE YOUR FINDINGS OF COMPACTNESS  
19 ON YOUR OPINION OF WHAT A REASONABLE DEFINITION OF COMPACTNESS  
20 WOULD BE?

21 A. RIGHT, RIGHT. THE REPORT HAS MY ANALYSIS OF WHY I THINK  
22 IT'S NOT COMPACT, BUT IT'S ULTIMATELY SOMETHING -- IT'S A FINE  
23 LINE TO WALK IN THAT REPORT BETWEEN NOT INVADING THE PROVINCE  
24 OF THE FACT-FINDER AND YET GIVING SOME TYPE OF ANALYSIS ON  
25 COMPACTNESS.

S. TRENDLE - CROSS

9:08AM 1 Q. AND YOUR DEFINITION OF COMPACTNESS IS ONE THAT THE  
2 FACT-FINDER MIGHT ULTIMATELY DISAGREE WITH. YOU WOULD --

3 A. OH --

4 Q. -- AGREE WITH THAT?

5 A. I'M SORRY. I DIDN'T MEAN TO TALK OVER YOU. A HUNDRED  
6 PERCENT.

7 Q. NOW, I THINK YOU TESTIFIED YESTERDAY AND IN YOUR  
8 DEPOSITION THAT YOU HAVE BEEN INVOLVED IN DRAWING MAPS IN THE  
9 PAST; IS THAT CORRECT?

10 A. THAT'S RIGHT.

11 Q. AND WHEN YOU'VE DRAWN MAPS, YOU'VE USED TRADITIONAL  
12 REDISTRICTING CRITERIA; IS THAT CORRECT?

13 A. THAT'S CORRECT.

14 Q. AND BASED ON YOUR EXPERIENCE, *GINGLES* I EXPERTS, WHEN THEY  
15 ARE DRAWING MAPS, USE TRADITIONAL REDISTRICTING CRITERIA; IS  
16 THAT CORRECT?

17 A. THAT'S CORRECT.

18 Q. STATES OFTEN HAVE A LIST OF TRADITIONAL REDISTRICTING  
19 CRITERIA THAT THEY PRIORITIZE IN THEIR MAP DRAWING; IS THAT  
20 CORRECT?

21 A. YES.

22 Q. AND LOUISIANA HAS A LIST OF TRADITIONAL REDISTRICTING  
23 CRITERIA THAT IT PRIORITIZES?

24 A. YES.

25 Q. AND MR. COOPER USED TRADITIONAL REDISTRICTING CRITERIA IN

S. TRENDÉ - CROSS

9:10AM 1 DESIGNING HIS MAP; IS THAT CORRECT?

2 A. THAT'S MY UNDERSTANDING.

3 Q. AND YOU WOULD AGREE THAT IN DRAWING MAPS, TRADE-OFFS ARE  
4 SIMPLY INEVITABLE BETWEEN TRADITIONAL REDISTRICTING CRITERIA,  
5 RIGHT?

6 A. YES.

7 Q. YOU DIDN'T CONSIDER ANY TRADITIONAL REDISTRICTING CRITERIA  
8 IN ANSWERING THIS QUESTION OTHER THAN COMPACTNESS?

9 A. NO, BECAUSE TYPICALLY THE VOTING RIGHTS ACT STANDS FIRST  
10 IN TERMS OF PRINCIPLES AND WOULD OVERRIDE STATE CONCLUSIONS  
11 ABOUT TRADITIONAL REDISTRICTING PRINCIPLES. SO IF IT'S TRUE  
12 THAT IT'S POPULATION COMPACTNESS THAT MATTERS, THAT WOULD BE  
13 ONE OF THE PRIME CONSIDERATIONS. THAT'S WHY I DID IT THE WAY I  
14 DID.

15 Q. AND AT YOUR DEPOSITION, YOU DID NOT KNOW WHAT EFFECT  
16 INCORPORATING TRADITIONAL REDISTRICTING CRITERIA WOULD HAVE HAD  
17 IN YOUR ANALYSIS IF YOU WOULD HAVE INCLUDED IT?

18 A. THAT'S RIGHT.

19 Q. IN YOUR DIRECT WE WENT THROUGH ENACTED DISTRICT 29. DO  
20 YOU RECALL THAT?

21 A. YES.

22 Q. OKAY. IF WE COULD GET ON THE SCREEN THE SECRETARY OF  
23 STATE'S EXHIBIT 3, WHICH I BELIEVE IS MR. TRENDÉ'S REPORT.

24 YES. WE ARE NOW LOOKING AT DISTRICT 29 FROM YOUR REPORT.  
25 IT'S FOUND ON PAGE 8, AND THIS IS FIGURE 38. DO YOU RECALL

S. TRENDE - CROSS

9:11AM 1 THIS?

2 A. YES.

3 Q. OKAY. SO I'M JUST GOING TO ASK YOU A FEW QUESTIONS. YOU  
4 DON'T KNOW WHETHER THE COMMUNITIES ON EITHER SIDE OF THE  
5 RIVERBANK ARE CONSIDERED SEPARATE COMMUNITIES OF INTEREST?

6 A. THAT'S RIGHT. I DON'T OFFER COMMUNITIES OF INTEREST  
7 ANALYSIS.

8 Q. OKAY. IF WE COULD LOOK AT FIGURE 96 ON PAGE 132 OF THE  
9 SAME EXHIBIT. THERE'S ANOTHER RIVERBANK IN THE NEW ORLEANS  
10 AREA. DO YOU KNOW ANYTHING ABOUT THE TWO COMMUNITIES ON EITHER  
11 SIDE OF THE RIVERBANK?

12 A. NO.

13 Q. DO YOU KNOW ANYTHING ABOUT WHAT ROLE COMMUNITIES MAY HAVE  
14 PLAYED IN THE DRAWING OF THIS DISTRICT?

15 A. NO.

16 Q. WE'VE LOOKED AT SOME OF THE -- SORRY, STRIKE THAT. I  
17 BELIEVE IN YOUR DIRECT EXAMINATION WE LOOKED AT -- AND WE  
18 LOOKED AT JUST NOW DISTRICT 29 IN THE ENACTED MAP. DID YOU DO  
19 AN EXHAUSTIVE REVIEW OF THE ENACTED MAP'S MAJORITY BLACK  
20 DISTRICTS?

21 A. NO.

22 Q. AND AT YOUR DEPOSITION YOU STATED YOU DID NOT KNOW WHETHER  
23 ANY OF THE DISTRICTS IN THE ENACTED MAP WERE VOTING RIGHTS ACT  
24 COMPLIANT, CORRECT?

25 A. THAT'S RIGHT. THEY MAY ALL NOT BE.

S. TRENDE - CROSS

9:13AM 1 Q. AND YOU TESTIFIED AT YOUR DEPOSITION THAT YOU HAD TURNED  
2 OVER YOUR CODE TO THE PLAINTIFFS; IS THAT CORRECT?

3 A. YES.

4 Q. AND IF WE RAN YOUR CODE, WE COULD REPLICATE YOUR ANALYSIS?

5 A. THAT'S RIGHT. YOU WOULD HAVE TO CHANGE SOME OF THE  
6 DISTRICT NUMBERS, I THINK, TO BRING UP DIFFERENT DISTRICTS, BUT  
7 YEAH, YOU COULD RUN THE CODE ON ANY DISTRICT ON ANY MAP YOU  
8 WANTED TO.

9 Q. AND IN YOUR DEPOSITION, WE SPOKE ABOUT DISTRICT 62 IN THE  
10 ENACTED MAP, CORRECT?

11 A. I HAVE NO REASON TO DISPUTE YOU ON THAT. WE TALKED ABOUT  
12 A LOT OF DISTRICTS.

13 Q. DO YOU NEED ME TO REFRESH YOUR RECOLLECTION?

14 A. I TRUST YOU.

15 Q. OKAY. AND AT YOUR DEPOSITION, YOU AGREED THAT DISTRICT 62  
16 OF THE ENACTED MAP CLEARLY FAILS YOUR EYEBALL TEST; IS THAT  
17 RIGHT?

18 A. YEAH, DISTRICT 62 IS A -- IT WOULD BE A REMEDIAL, NOT AN  
19 ILLUSTRATIVE DISTRICT, BUT I REMEMBER LOOKING AT IT AND  
20 THINKING, NO, THAT IS NOT A COMPACT BLACK POPULATION.

21 Q. JUST SO THE RECORD IS CLEAR, WE LOOKED AT DISTRICT 62 IN  
22 THE ENACTED MAP, CORRECT?

23 A. RIGHT.

24 Q. AND AT YOUR DEPOSITION YOU SAID THAT YOU WOULD NOT DEFEND  
25 DISTRICT 62 AS A VOTING RIGHTS ACT DISTRICT. DO YOU RECALL

S. TRENDE - CROSS

9:14AM 1 THAT?

2 A. THAT'S RIGHT.

3 Q. SO GOING BACK TO TRADITIONAL REDISTRICTING CRITERIA, ONE  
4 SUCH CRITERIA IS ONE-PERSON, ONE-VOTE, ALSO KNOWN AS EQUAL  
5 POPULATION. ARE YOU FAMILIAR WITH THAT?

6 A. YES.

7 Q. AND DISTRICTS MUST COMPLY WITH ONE-PERSON, ONE-VOTE,  
8 BECAUSE IT'S A CONSTITUTIONAL REQUIREMENT, CORRECT?

9 A. ABSOLUTELY.

10 Q. YOUR ALGORITHM DOES NOT ACCOUNT FOR EQUAL POPULATION OR  
11 ONE-PERSON, ONE-VOTE; IS THAT CORRECT?

12 A. WELL, NO, BUT WE ARE TAKING THE DISTRICTS THAT MR. COOPER  
13 DREW, WHICH WOULD ALREADY BE ONE-PERSON, ONE-VOTE COMPLIANT,  
14 AND JUST LOOKING TO SEE IF THERE IS A -- IF THEY DO ILLUSTRATE  
15 THE EXISTENCE OF A COMPACT BLACK POPULATION SUFFICIENT TO BE  
16 50 PERCENT PLUS ONE OF THE BVAP. SO BECAUSE THE DISTRICTS ARE  
17 ALREADY DRAWN, ONE-PERSON, ONE-VOTE COMPLIANT, IT DOESN'T HAVE  
18 TO BE CODED IN.

19 Q. THE ALGORITHM STOPS ONCE IT REACHES 50 PERCENT PLUS ONE OF  
20 BLACK POPULATION BUT DOES NOT REQUIRE FILLING OUT A FULL  
21 POPULATION OF A DISTRICT; IS THAT CORRECT?

22 A. WELL, THAT'S RIGHT, BUT THE DISTRICT IS ALREADY DRAWN.  
23 IT'S LOOKING WITHIN THE DISTRICT HOW DO YOU BEST GET TO  
24 50 PERCENT PLUS ONE? WHAT IS THAT DISTRICT REALLY  
25 ILLUSTRATING?

S. TRENDE - CROSS

9:16AM 1 Q. AND YOU TESTIFIED THAT YOUR SECOND ALGORITHM WAS SIMILAR  
2 TO THE CHEN AND RODDEN METHOD. DO YOU RECALL THAT?

3 A. THAT'S CORRECT.

4 Q. AND YOU CLAIM THAT THIS METHOD WAS FROM A PAPER THAT THEY  
5 WROTE 10 YEARS AGO IN 2013. DO YOU RECALL THAT?

6 A. THAT'S RIGHT.

7 Q. UNLIKE YOUR ALGORITHM, THE CHEN AND RODDEN METHOD USED THE  
8 CENTROID OF A PRECINCT, AND YOUR METHOD USED THE CENTROID OF A  
9 POPULATION. DO YOU RECALL THAT?

10 A. YES.

11 Q. AS A RESULT, THE CHEN AND RODDEN METHOD DRAWS ACTUAL  
12 DISTRICTS WHERE YOUR METHOD DOES NOT DRAW DISTRICTS IN AND OF  
13 ITSELF?

14 A. WELL, THAT'S RIGHT. AGAIN, I'M TAKING THE CONCEPTION OF  
15 COMPACTNESS AND APPLYING IT TO A DIFFERENT SCENARIO, JUST AS  
16 THEY TAKE THE IDEA OF COMPACTNESS AND APPLY IT TO THE DRAWING  
17 OF SIMULATED MAPS.

18 Q. AND IN CREATING THEIR DISTRICT, CHEN AND RODDEN'S GOAL WAS  
19 TO DESIGN A REDISTRICTING ALGORITHM THAT USES ONLY TRADITIONAL  
20 GEOGRAPHIC CRITERIA OF THE KIND FAVORED BY REFORM ADVOCATES.  
21 DO YOU RECALL THAT?

22 A. THAT IS RIGHT. ONE OF THOSE CRITERIA IS COMPACTNESS, AND  
23 IT IS THAT CONCEPTION OF COMPACTNESS THAT I'M TAKING AND  
24 APPLYING TO A DIFFERENT SET OF FACTS.

25 Q. NOT ONLY DOES THE CHEN AND RODDEN METHOD DRAW DISTRICTS,



S. TRENDE - CROSS

9:17AM 1 BUT IT ENSURES THAT THESE DISTRICTS MEET THE EQUAL POPULATION  
2 REQUIREMENT. DO YOU RECALL THAT?

3 A. YES.

4 Q. AND AS WE HAVE DISCUSSED, YOUR METHOD DOES NOT DO THAT?

5 A. THAT'S RIGHT.

6 Q. AND CHEN AND RODDEN ALSO SOUGHT TO GUARANTEE CONTIGUITY.

7 DO YOU RECALL THAT?

8 A. YES.

9 Q. AND AS WE SAW YESTERDAY, YOUR ALGORITHM CAN CREATE  
10 NONCONTIGUOUS PLACES; DO YOU RECALL THAT?

11 A. WELL, THE 50 PERCENT PLUS ONE GROUPING OF BLACK RESIDENTS  
12 WILL BE CONTIGUOUS. WHAT IS LEFT OVER DOESN'T HAVE TO BE.  
13 BUT, AGAIN, THE DISTRICT IS ALREADY DRAWN. WE ARE JUST LOOKING  
14 WITHIN THAT DISTRICT WHAT IS THE MOST COMPACT POPULATION.

15 Q. BUT AS WE SAW YESTERDAY, THERE CAN BE NONCONTIGUOUS SPACES  
16 WITHIN YOUR ALGORITHM?

17 A. WITHIN THE MOST COMPACT POPULATION THAT'S 50 PERCENT PLUS  
18 ONE OF THE DISTRICT, YES, BUT THE DISTRICT IS ALREADY DRAWN,  
19 AND IT'S CONTIGUOUS.

20 Q. AND CHEN AND RODDEN HAD SPECIFIC STEPS IN THEIR ALGORITHM  
21 TO ENSURE EQUAL POPULATION AND CONTIGUITY. DO YOU RECALL THAT?

22 A. THAT IS RIGHT. FOR DRAWING THE FULL DISTRICT, THEY  
23 ABSOLUTELY DO USE THOSE.

24 Q. AND YOU DID NOT USE THOSE STEPS IN YOUR ALGORITHM,  
25 CORRECT?

S. TRENDE - CROSS

9:19AM 1 A. THAT'S RIGHT, BECAUSE I'M NOT DRAWING DISTRICTS.

2 Q. I WOULD LIKE TO TURN TO YOUR PRIOR WORK AS AN EXPERT  
3 WITNESS OR AS AN EXPERT IN GENERAL. SOME OF THESE THINGS WILL  
4 BE EXPERT WITNESSES AND NOT. BUT YOU HAVE SERVED AS AN EXPERT  
5 WITNESS IN SECTION 2 VOTE DILUTION CASES IN THE PAST; IS THAT  
6 CORRECT?

7 A. THAT'S RIGHT.

8 Q. AND THE MOST PROMINENT MEASURES OF DISTRICT COMPACTNESS  
9 THAT YOU'RE AWARE OF ARE REOCK AND POLSBY-POPPER; IS THAT  
10 CORRECT?

11 A. ABSOLUTELY.

12 Q. AND YOU HAVE RUN THE REOCK MEASURE IN YOUR EXPERT  
13 REDISTRICTING WORK BEFORE, HAVEN'T YOU?

14 A. OH, YES.

15 Q. AND YOU HAVE RUN THE POLSBY-POPPER COMPACTNESS MEASURE IN  
16 YOUR EXPERT REDISTRICTING WORK BEFORE?

17 A. THAT'S RIGHT.

18 Q. AND I BELIEVE YESTERDAY YOU TESTIFIED TO YOUR WORK IN  
19 VIRGINIA. DO YOU RECALL THAT?

20 A. YES.

21 Q. AND IN VIRGINIA, YOU USED REOCK AND POLSBY-POPPER?

22 A. YEAH, VIRGINIA HAS A SPECIFIC CONSTITUTIONAL REQUIREMENT  
23 THAT THE DISTRICTS WOULD BE COMPACT, AND I ABSOLUTELY AGREE  
24 THAT IF YOU ARE LOOKING AT THE COMPACTNESS OF THE DISTRICT,  
25 REOCK AND POLSBY-POPPER ARE THE PROPER TOOLS, BUT THAT IS

S. TRENDE - CROSS

9:20AM 1 DISTINCT FROM POPULATION COMPACTNESS.

2 Q. AND YOU WERE AWARE IN VIRGINIA THAT THE VOTING RIGHTS ACT  
3 MIGHT BE TRIGGERED, GIVEN VIRGINIA'S POPULATION WHEN YOU WERE  
4 DRAWING YOUR MAPS?

5 A. THAT'S RIGHT.

6 Q. AND I BELIEVE YOU TESTIFIED YESTERDAY THAT YOU DIDN'T DO  
7 MOMENT OF INERTIA IN VIRGINIA BECAUSE YOU DIDN'T HAVE TIME TO  
8 DO THAT. IS THAT RIGHT?

9 A. WELL, WE DIDN'T DO ANY *GINGLES* ANALYSIS IN VIRGINIA  
10 BECAUSE WE DIDN'T HAVE TIME. AND AS I THINK ABOUT IT, THAT  
11 VIRGINIA WORK WAS DONE BEFORE I WOULD HAVE BECOME AWARE OF THE  
12 MOMENT OF INERTIA ANALYSIS, BUT IT WOULDN'T HAVE MATTERED  
13 BECAUSE WE DIDN'T DO A *GINGLES* STEP I, II OR III ANALYSIS.

14 Q. IN ADDITION TO VIRGINIA, YOU SERVED AS AN EXPERT IN  
15 ARIZONA; IS THAT CORRECT?

16 A. THAT'S RIGHT.

17 Q. AND IN ARIZONA, SECTION 2 COMPLIANCE WAS AT ISSUE; IS THAT  
18 CORRECT?

19 A. THAT'S RIGHT.

20 Q. AND IN ARIZONA, YOU USED REOCK AND POLSBY-POPPER?

21 A. YEAH, WE WERE LOOKING AT DISTRICT COMPACTNESS THERE.

22 Q. YOU DID NOT USE MOMENT OF INERTIA IN ARIZONA?

23 A. CORRECT.

24 Q. AT THE TIME OF YOUR DEPOSITION, YOU TESTIFIED THAT YOU HAD  
25 NOT USED MOMENT OF INERTIA NOT ONLY IN THESE TWO CASES THAT

S. TRENDE - CROSS

9:21AM 1 WE'VE DISCUSSED WHERE YOU WERE AN OUTSIDE CONSULTING EXPERT BUT  
2 IN YOUR THREE SECTION 2 CASES WHERE YOU WERE RETAINED AS A  
3 TESTIFYING EXPERT. DO YOU RECALL THAT?

4 A. OH, THAT'S RIGHT.

5 Q. AND ONE OF THOSE CASES YOU DISCUSSED YESTERDAY WAS  
6 MICHIGAN. DO YOU RECALL THAT?

7 A. THAT'S RIGHT. WE WERE ON THE PLAINTIFF'S SIDE IN  
8 MICHIGAN.

9 Q. AND THAT WAS A SECTION 2 CASE WHERE YOU WERE A *GINGLES*  
10 EXPERT FOR THE PLAINTIFFS?

11 A. THAT'S RIGHT. AND IF YOU LOOK AT THE DISTRICTS IN  
12 MICHIGAN, JUST BECAUSE OF THE GEOGRAPHY OF MICHIGAN, THE BLACK  
13 POPULATION IN THOSE DISTRICTS PRETTY MUCH HAS TO BE COMPACT.  
14 BUT NO ONE CONTESTED POPULATION COMPACTNESS THERE, TO MY  
15 KNOWLEDGE.

16 Q. AND YOU RAN REOCK AND POLSBY-POPPER IN MICHIGAN, CORRECT?

17 A. THAT'S RIGHT. IT WAS A -- IT WAS A SECTION 2 CASE, BUT IT  
18 WAS ALSO A 14TH AMENDMENT CASE, AND SO THE SHAPE OF THE  
19 DISTRICTS IS HIGHLY RELEVANT, IN MY EXPERIENCE, FOR 14TH  
20 AMENDMENT CLAIMS.

21 Q. YOU WERE RETAINED AS AN EXPERT IN THE CONGRESSIONAL CASES  
22 IN LOUISIANA KNOWN AS *GALMON* AND *ROBINSON*, CORRECT?

23 A. THAT'S RIGHT.

24 Q. AND YOU SUBMITTED A REPORT TO THE PLAINTIFFS IN THAT CASE,  
25 CORRECT?

S. TRENDE - CROSS

9:23AM

1 A. THAT'S RIGHT.

2 Q. AND IN THAT REPORT, YOU USED REOCK AND POLSBY-POPPER?

3 A. YES, BECAUSE IN THAT CASE, PART OF THE TESTIMONY OR REPORT  
4 WAS THAT RACE PREDOMINATED IN THE DRAWING OF THAT REMEDIAL  
5 DISTRICT, AND WE WANTED TO COMPARE THE DISTRICT SHAPE TO  
6 DISTRICT SHAPES IN OTHER 14TH AMENDMENT CASES. THAT WASN'T FOR  
7 PURPOSES OF A SECTION 2 ANALYSIS.

8 Q. YOU DID NOT RUN MOMENT OF INERTIA IN THE LOUISIANA  
9 CONGRESSIONAL CASES, CORRECT?

10 A. NO, THAT WAS A REMEDIAL MAP, NOT AN ILLUSTRATIVE MAP, TO  
11 MY UNDERSTANDING.

12 Q. FROM YOUR SECTION 2 WORK, YOU ARE NOT AWARE OF ANY CASE  
13 WHERE THE MOMENT OF INERTIA HAS BEEN RUN IN *GINGLES* I?

14 A. WELL, THAT'S RIGHT, BUT I'M NOT AWARE OF THE POPULATION --  
15 POPULATION DISTRICT COMPACTNESS DISTINCTION BEING DRAWN EITHER.  
16 I AGREE, FOR DISTRICT COMPACTNESS, YOU USE REOCK AND  
17 POLSBY-POPPER, BUT I'M NOT AWARE OF ANY OTHER METRIC FOR  
18 MEASURING POPULATION COMPACTNESS, AND AS FAR AS I KNOW, NONE  
19 HAS BEEN SUGGESTED.

20 Q. AND FROM YOUR SECTION 2 WORK, YOU ARE AWARE OF OTHER CASES  
21 WHERE REOCK AND POLSBY-POPPER HAVE BEEN USED IN A *GINGLES* I  
22 ANALYSIS, CORRECT?

23 A. RIGHT. AGAIN, TO MY EXPERIENCE, MOST OF THESE CASES HAVE  
24 FOCUSED ON DISTRICT COMPACTNESS. IT'S A DIFFERENT THEORY THAN  
25 WHAT DEFENDANTS ARE CLAIMING HERE. IF THE DEFENSE THEORY IS

S. TRENDE - CROSS

9:24AM 1 WRONG, THEN IT'S WRONG, BUT IF IT'S RIGHT, THEN YOU HAVE TO  
2 LOOK AT POPULATION COMPACTNESS. I DON'T KNOW HOW ELSE YOU DO  
3 IT, AND I'M NOT AWARE OF ANY SUGGESTION BEING MADE OF HOW ELSE  
4 TO DO IT.

5 Q. AND AT YOUR DEPOSITION, YOU STATED THAT THE MOMENT OF  
6 INERTIA IS ONE OF THE OLDEST METHODS FOR ANALYZING COMPACTNESS  
7 OF A POPULATION, YET IT STILL HAS NOT MADE AN APPEARANCE IN ANY  
8 *GINGLES* I CASE OF WHICH YOU ARE AWARE?

9 A. WELL, THAT'S RIGHT.

10 Q. AND AT YOUR DEPOSITION, YOU ALSO SAID THAT THE LEGAL  
11 THEORY BEING PROPOUNDED HERE ISN'T ONE THAT HAS BEEN EXPLORED,  
12 RIGHT?

13 A. AS FAR AS I KNOW, IT'S A DIFFERENT INTERPRETATION OF HOW  
14 YOU MEASURE COMPACTNESS THAN I'VE ENCOUNTERED IN THE PAST. IF  
15 IT IS RIGHT, THIS IS HOW YOU DO IT. IF IT'S NOT, WELL, THEN  
16 YOU WOULD USE A REOCK AND POLSBY-POPPER FOR A DISTRICT  
17 COMPACTNESS.

18 Q. AND I BELIEVE IN YOUR REBUTTAL REPORT, YOU STATED THAT THE  
19 TECHNOLOGY IS FAIRLY NEW TO DO MOMENT OF INERTIA AT THIS LEVEL;  
20 IS THAT RIGHT?

21 A. THAT'S RIGHT. SO IF YOU GO BACK TO THOSE EARLY ALGORITHMS  
22 IN THE '60S, THEY ARE TYPICALLY USING EITHER THEORETICAL OR  
23 USING VERY SMALL NUMBER OF PRECINCTS. IT WASN'T UNTIL THE LATE  
24 '90S THAT COMPUTATIONAL POWER WAS STRONG ENOUGH TO RUN  
25 REDISTRICTING SIMULATIONS ON WHOLE DISTRICTS. SO IF YOU WANTED

S. TRENDE - CROSS

9:26AM 1 TO DO THIS ON A DISTRICT IN THE '80S OR '90S, YOU JUST COULDN'T  
2 HAVE DONE IT. PROBABLY COULD HAVE DONE IT IN THE 00S, AUGHTS,  
3 WHATEVER THEY ARE CALLED, BUT YOU WOULD HAVE HAD TO HAVE ACCESS  
4 TO PROBABLY A SUPER COMMUTER TO DO IT. IT'S JUST IN THE LAST  
5 DECADE -- JUST TO PUT IT INTO PERSPECTIVE, I HAVE A PRETTY  
6 STATE-OF-THE-ART ALIENWARE COMPUTER, AND IT TAKES ABOUT HALF AN  
7 HOUR TO ANALYZE ONE OF THE SENATE DISTRICTS. SO IT'S JUST  
8 BECOME PRACTICABLE IN THE LAST COUPLE OF DECADES.

9 Q. AT YOUR DEPOSITION, YOU TESTIFIED THAT EXPERTS HAD ACCESS  
10 TO COMPUTERS THAT COULD EFFICIENTLY CALCULATE THE MOMENT OF  
11 INERTIA IN THE WAYS IN WHICH WE ARE DISCUSSING IN THE LAST 20  
12 YEARS. DO YOU RECALL THAT?

13 A. THAT'S RIGHT. SO IF YOU WERE AN EXPERT WHO HAD ACCESS TO,  
14 SAY, A UNIVERSITY SUPER COMPUTER, YOU PROBABLY COULD HAVE DONE  
15 THE MOMENT OF INERTIA APPROACH, BUT AGAIN, FOR MUCH OF THE  
16 VOTING RIGHTS ACT EXISTENCE, THAT TECHNOLOGY JUST DIDN'T EXIST.

17 Q. OKAY. DO YOU RECALL THAT I ASKED YOU AT YOUR DEPOSITION  
18 HOW RECENTLY THIS ANALYSIS COULD BE DONE, AND YOU -- AND I  
19 ASKED YOU SPECIFICALLY IF IT WAS THE LAST TEN YEARS, AND YOU  
20 ANSWERED NO, IT WOULD BE THE LAST 20 YEARS?

21 A. YEAH.

22 Q. OKAY. SO I WOULD LIKE TO GO TO YOUR PRIOR WORK AS AN  
23 EXPERT. I BELIEVE YOU AND MR. STRACH SPOKE ABOUT THE ONE  
24 INSTANCE IN WHICH YOU WERE EXCLUDED. DO YOU RECALL THAT?

25 A. YES.

S. TRENDE - CROSS

9:28AM 1 Q. DO YOU RECALL WHETHER COURTS HAVE FOUND YOUR OPINION  
2 UNPERSUASIVE?

3 A. OH, I KNOW AT TIMES THEY HAVE.

4 Q. DID YOU RENDER OPINION IN MARYLAND ON COMPACTNESS?

5 A. THE MARYLAND GERRYMANDERING CASE?

6 Q. YES, SIR.

7 A. YES.

8 Q. OKAY. AND DO YOU KNOW WHETHER THE MARYLAND SUPREME COURT  
9 AFFORDED ANY WEIGHT TO YOUR COMPACTNESS OPINION?

10 A. OH, THAT WAS THE -- YEAH, THAT WAS DISTRICT COMPACTNESS IN  
11 THE STATE LEGISLATIVE CASE, AND THEY DID NOT. IT WAS THE  
12 CONGRESSIONAL CASE THAT THE JUDGE DID.

13 Q. AND YOU WOULDN'T BE SURPRISED IF THE MARYLAND SUPREME  
14 COURT FOUND YOUR NUMBER CRUNCHING HAD THE APPEARANCE OF RIGOR  
15 BUT CONTRIBUTED LITTLE?

16 A. I WOULD NOT BE SURPRISED.

17 Q. AND YOU WOULD NOT BE SURPRISED THAT THE MARYLAND SUPREME  
18 COURT FOUND YOUR ANALYSIS OF A SUPERFICIAL QUALITY?

19 A. I WOULD NOT BE SURPRISED.

20 Q. AND YOU WOULD NOT BE SURPRISED IF THE MARYLAND SUPREME  
21 COURT FOUND YOUR ANALYSIS NOT INSTRUCTIVE ON THE ISSUES BEFORE  
22 THE COURT?

23 A. CORRECT.

24 Q. HAVE YOU ALSO RECENTLY GIVEN TESTIMONY IN A CASE BEFORE  
25 THE U.S. DISTRICT COURT IN SOUTH CAROLINA?



DR. D. JOHNSON - DIRECT

9:29AM 1 A. THAT'S RIGHT.

2 Q. DO YOU KNOW WHETHER THAT COURT FOUND YOUR WORK PERSUASIVE?

3 A. THEY DID NOT. THAT'S THE CASE THAT'S UNDER APPEAL TO THE

4 SUPREME COURT RIGHT NOW.

5 MS. THOMAS: LET ME JUST CONFER WITH MY CO-COUNSEL

6 FOR A MINUTE. I CAN TENDER THE WITNESS.

7 THE COURT: ANY REDIRECT?

8 MR. STRACH: NO REDIRECT, YOUR HONOR.

9 THE COURT: YOU MAY STEP DOWN, SIR. NEXT WITNESS.

10 MR. LEWIS: SORRY, YOUR HONOR. WE ARE JUST CHANGING

11 SEATS. YOUR HONOR, PATRICK LEWIS FOR THE LEGISLATIVE

12 DEFENDANTS. THE DEFENDANTS CALL DR. DOUGLAS JOHNSON TO THE

13 STAND.

14 (OATH ADMINISTERED.)

15 THE CLERK: IF YOU WOULD, SIR, PLEASE STATE YOUR NAME

16 AND SPELL IT FOR THE RECORD.

17 THE WITNESS: DOUGLAS JOHNSON, D-O-U-G-L-A-S,

18 J-O-H-N-S-O-N.

19 MR. LEWIS: YOUR HONOR, MAY I APPROACH THE WITNESS

20 WITH A BINDER CONTAINING HIS TWO REPORTS AND CV?

21 THE COURT: YOU MAY.

22 DR. DOUGLAS JOHNSON,

23 HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

24 DIRECT EXAMINATION

25 BY MR. LEWIS:

DR. D. JOHNSON - DIRECT

9:31AM 1 Q. OKAY. GOOD MORNING, DR. JOHNSON.

2 A. GOOD MORNING.

3 Q. DR. JOHNSON, I WOULD LIKE TO CALL UP THE DEFENSE EXHIBIT  
4 57 -- OR EXCUSE ME, 59. IF YOU WILL PLEASE TURN TO THE TAB IN  
5 YOUR BINDER. IS THIS YOUR RESUMÉ, DR. JOHNSON?

6 A. YES.

7 Q. OKAY. AND CAN YOU DESCRIBE FOR THE COURT YOUR EDUCATIONAL  
8 BACKGROUND?

9 A. I HAVE A BACHELOR'S IN GOVERNMENT FROM CLAREMONT MCKENNA  
10 COLLEGE. AT CLAREMONT, GOVERNMENT IS WHAT THEY CALL POLITICAL  
11 SCIENCE. I HAVE A MASTER'S, AN M.B.A. FROM THE UC LOS ANGELES  
12 ANDERSON SCHOOL OF BUSINESS, AND A PH.D. IN POLITICAL SCIENCE  
13 FROM THE CLAREMONT GRADUATE UNIVERSITY.

14 Q. OKAY. AND DID YOU STUDY REDISTRICTING ISSUES IN YOUR  
15 ACADEMIC WORK?

16 A. YES, BOTH MY UNDERGRADUATE SENIOR THESIS AND MY PH.D.  
17 DISSERTATION WERE SPECIFICALLY ON REDISTRICTING, AND I WROTE  
18 MANY OTHER PAPERS AS WELL.

19 Q. AND DO YOU HAVE ANY -- I SEE IN YOUR RESUMÉ A REFERENCE TO  
20 BEING A FELLOW AT THE ROSE INSTITUTE FOR STATE AND LOCAL  
21 GOVERNMENT AT CLAREMONT MCKENNA COLLEGE. CAN YOU EXPLAIN WHAT  
22 THAT IS?

23 A. YES, IT IS A RESEARCH INSTITUTE. WE ACTUALLY JUST  
24 CELEBRATED OUR 50-YEAR ANNIVERSARY AT CMC THAT WAS FOUNDED TO  
25 FOCUS ON STATE AND LOCAL ISSUES, IN PARTICULAR REDISTRICTING

DR. D. JOHNSON - DIRECT

9:33AM 1 AND DEMOGRAPHICS, AND HAS DONE EXTENSIVE RESEARCH AND ORGANIZED  
2 CONFERENCES AND THINGS LIKE THAT SINCE THE '70S ON THIS TOPIC.

3 Q. ALL RIGHT. AND DR. JOHNSON, WHERE ARE YOU CURRENTLY  
4 EMPLOYED?

5 A. I AM PRESIDENT OF MY OWN FIRM, NATIONAL DEMOGRAPHICS  
6 CORPORATION.

7 Q. OKAY. AND HOW LONG HAVE YOU BEEN EMPLOYED BY NATIONAL  
8 DEMOGRAPHICS CORPORATION?

9 A. I ACTUALLY STARTED -- THE COMPANY WAS STARTED BY TWO OF MY  
10 PROFESSORS, SO I STARTED AS AN UNDERGRAD BACK IN THE '80S, LATE  
11 '80S, WORKED FOR THEM IN THE 1991 REDISTRICTING CYCLE, AND THEN  
12 LEFT AND WENT OFF AND DID OTHER THINGS, AND THEN CAME BACK IN  
13 2001, STARTED WORKING FOR THEM, AND THEN I TOOK OVER THE  
14 COMPANY IN 2006. SO I STARTED IN THE 1991 REDISTRICTING CYCLE,  
15 CAME BACK AND HAVE BEEN THERE CONTINUOUSLY SINCE 2001.

16 Q. AND WHAT BUSINESSES IS NATIONAL DEMOGRAPHICS CORPORATION  
17 ENGAGED IN?

18 A. WE DO DISTRICTING AND REDISTRICTING WORK ESSENTIALLY  
19 FULL-TIME.

20 Q. SO HOW LONG WOULD YOU SAY YOU HAVE WORKED PROFESSIONALLY  
21 IN THE REDISTRICTING FIELD?

22 A. WELL, IN REDISTRICTING, WE TEND TO THINK IN CYCLES, THE  
23 1991 CYCLE, 2001 CYCLE, 2011, 2021. SO SINCE THE 1991 CYCLE,  
24 WITH A MID-DECADE BREAK IN THE '90S.

25 Q. OKAY. AND HAVE YOU PUBLISHED ON REDISTRICTING?

DR. D. JOHNSON - DIRECT

9:34AM

1 A. YES.

2 Q. OKAY. AND ARE SOME OF YOUR PUBLICATIONS LISTED ON YOUR  
3 CV?

4 A. YES, INDEED.

5 Q. AND HAVE YOU PUBLISHED ON ISSUES OF VOTING RIGHTS?

6 A. IN THE CONTEXT OF DEMOGRAPHICS AND REDISTRICTING, YES.

7 Q. AND HAVE YOU SPOKEN AT PROFESSIONAL CONFERENCES ON  
8 REDISTRICTING?

9 A. YES, MANY TIMES.

10 Q. CAN YOU GIVE ME A FEW EXAMPLES OF CONFERENCES YOU SPOKE  
11 AT?

12 A. AT A NUMBER OF NATIONAL CONFERENCES OF STATE LEGISLATURE,  
13 GENERAL MEETINGS AND SPECIFIC SEMINAR SESSIONS AT NCSL  
14 ORGANIZED ON REDISTRICTING, FOR THE ARIZONA LEAGUE OF CITIES  
15 AND TOWNS, FOR THE CALIFORNIA LEAGUE OF CITIES. I'M ACTUALLY  
16 SPEAKING NEXT WEEK AT THE CALIFORNIA ASSOCIATION OF CITY  
17 CLERKS, A NEW LAW CONFERENCE. I'VE SPOKEN TO THE CALIFORNIA  
18 SCHOOL BOARD ASSOCIATION, MANY, MANY DIFFERENT ORGANIZATIONS  
19 WHOSE JURISDICTIONS HAVE TO GO THROUGH DISTRICTING AND  
20 REDISTRICTING ISSUES.

21 Q. AND HAVE YOU PREPARED, IN THE COURSE OF YOUR PROFESSIONAL  
22 WORK, DISTRICTING PLANS TO BE ADOPTED BY REDISTRICTING  
23 AUTHORITIES?

24 A. YES.

25 Q. APPROXIMATELY HOW MANY HAVE YOU PREPARED?

DR. D. JOHNSON - DIRECT

9:36AM 1 A. I THINK WE ARE NOW AT RIGHT AROUND 500 PROJECTS THAT I'VE  
2 EITHER OVERSEEN OR DIRECTLY RUN, AND I'VE DRAWN IN THE COURSE  
3 OF THAT THOUSANDS OF MAPS.

4 Q. ALL RIGHT. AND DO YOU USE ANY COMPUTER SOFTWARE IN YOUR  
5 REDISTRICTING WORK?

6 A. YES.

7 Q. OKAY. AND WHAT IS THAT SOFTWARE?

8 A. PRIMARILY MAPTITUDE FOR REDISTRICTING.

9 Q. AND HOW MUCH EXPERIENCE DO YOU HAVE WORKING WITH  
10 MAPTITUDE?

11 A. I'VE WORKED WITH IT ALMOST EVERY SINGLE DAY FOR THE LAST  
12 22 YEARS, PLUS BACK IN -- WITH EARLIER VERSIONS OF A SIMILAR  
13 SOFTWARE BACK IN 1991.

14 Q. OKAY. AND DR. JOHNSON, HAVE YOU SERVED AS AN EXPERT  
15 WITNESS IN REDISTRICTING LITIGATION?

16 A. YES.

17 Q. IN APPROXIMATELY HOW MANY CASES?

18 A. OH, AROUND A DOZEN OR SO.

19 Q. OKAY. AND HAVE YOU EVER BEEN EXCLUDED AS A WITNESS?

20 A. NO.

21 Q. AND HAVE YOU HAD A CASE WHERE YOU'VE HAD A PORTION OF  
22 YOUR -- OF AN EXPERT REPORT YOU DRAFTED EXCLUDED?

23 A. YES.

24 Q. OKAY. AND CAN YOU TELL THE COURT JUST A LITTLE BIT ABOUT  
25 THAT?

DR. D. JOHNSON - DIRECT

9:37AM 1 A. SURE. IN *COMMON CAUSE V. LEWIS* IN NORTH CAROLINA, I HAD  
2 SEVEN -- I THINK IT WAS SEVEN TOPICS THAT I WROTE ABOUT. IN  
3 ONE OF THEM, WHEN I DID THE PROGRAMMING TO DO THE CALCULATIONS,  
4 I PROGRAMMED IT WRONG, AND THAT WAS NOT SHARED WITH ME UNTIL I  
5 WAS SITTING HERE IN THIS CHAIR, AND IT WAS BROUGHT UP IN THE  
6 COURT. IT WASN'T MENTIONED AHEAD OF TIME. OBVIOUSLY, I WOULD  
7 HAVE FIXED IT HAD SOMEONE MENTIONED IT AHEAD OF TIME. BUT THAT  
8 PIECE WAS EXCLUDED.

9 THERE WAS A MOTION TO EXCLUDE MY WHOLE REPORT BECAUSE I  
10 HAD ERRED, AND THE COURT RULED AGAINST THAT MOTION SAYING THAT  
11 THE ONLY PROBLEM WAS WITH THAT ONE SECTION.

12 Q. OKAY. ALL RIGHT. AND HAVE ANY OF YOUR CASES INVOLVED --  
13 ANY OF YOUR PRIOR CASES INVOLVED THE VOTING RIGHTS ACT?

14 A. YES.

15 Q. AND I BELIEVE SOME OF YOUR CASES ALSO INVOLVED THE  
16 CALIFORNIA VOTING RIGHTS ACT; IS THAT RIGHT?

17 A. YES.

18 Q. OKAY.

19 **MR. LEWIS:** YOUR HONOR, AT THIS TIME, WE WOULD MOVE  
20 THE ADMISSION OF DR. JOHNSON AS AN EXPERT IN THE FIELDS OF  
21 POLITICAL SCIENCE, POLITICAL GEOGRAPHY, REDISTRICTING, AND THE  
22 MAPTITUDE SOFTWARE.

23 **THE COURT:** ANY OBJECTIONS?

24 **MS. KEENAN:** WE DON'T HAVE ANY OBJECTIONS TO THE  
25 QUALIFICATIONS AS HE HAS JUST DESCRIBED THEM.

DR. D. JOHNSON - DIRECT

9:38AM 1                   **THE COURT:** POLITICAL SCIENCE, REDISTRICTING,  
2 POLITICAL SCIENCE GEOGRAPHY? IS THAT IT?

3                   **MR. LEWIS:** POLITICAL GEOGRAPHY, YOUR HONOR.

4                   **THE COURT:** POLITICAL GEOGRAPHY. AND THE MAPTITUDE  
5 SOFTWARE. DR. JOHNSON WILL BE PERMITTED TO GIVE OPINION  
6 TESTIMONY IN THOSE FIELDS.

7                   **MR. LEWIS:** THANK YOU, YOUR HONOR.

8                   **THE COURT:** I SHOULD SAY IN THOSE SUBJECTS. I'M NOT  
9 SURE. YOU KNOW, SOME OF THEM ARE FIELDS. SOME OF THEM ARE  
10 SUBJECTS. THERE YOU GO.

11                   **MR. LEWIS:** THANK YOU, YOUR HONOR.

12 **BY MR. LEWIS:**

13 Q. I WOULD LIKE NOW TO TURN TO --

14                   **MR. LEWIS:** I GUESS JUST AS A HOUSEKEEPING MATTER, AT  
15 THIS POINT, YOUR HONOR, WE HAVE A STIPULATION -- BY STIPULATION  
16 OF COUNSEL, WE WOULD LIKE TO MOVE THE ADMISSION OF THE TWO  
17 EXPERT REPORTS HE HAS WRITTEN, LDTX51, LDTX58, AND THEN THE CV,  
18 WHICH IS LDTX 59.

19                   **MS. KEENAN:** YOUR HONOR, MAY I BE HEARD ABOUT THE  
20 TREATMENT OF THE REPORT BRIEFLY?

21                   **THE COURT:** YOU MAY.

22                   **MS. KEENAN:** SO AS WE'VE STATED, WE ARE NOT OBJECTING  
23 TO DR. JOHNSON'S QUALIFICATIONS AS DESCRIBED HERE, BUT AFTER  
24 THE PARTIES REACHED THEIR STIPULATIONS ABOUT ADMITTING ALL OF  
25 THE REPORTS, THIS COURT DID ISSUE A RULING ON PLAINTIFFS'

DR. D. JOHNSON - DIRECT

9:39AM 1 DAUBERT MOTION THAT EXCLUDED SIGNIFICANT PORTIONS OF DR.  
2 JOHNSON'S TESTIMONY AND OPINIONS. BECAUSE WE UNDERSTAND THAT  
3 YOUR HONOR KNOWS WHICH PARTS OF THE OPINIONS THAT THE COURT HAS  
4 EXCLUDED, PLAINTIFFS WOULD BE CONTENT WITH A LIMITING  
5 INSTRUCTION THAT THE OPINIONS CONTAINED WITHIN THE REPORT CAN  
6 BE ADMITTED TO THE EXTENT THAT THEY ARE CONSISTENT WITH YOUR  
7 COURT'S ORDER, EXCLUDING CERTAIN TESTIMONY AND OPINIONS, BUT WE  
8 WANT TO MAKE SURE WE PRESERVE OUR OBJECTION TO THE EXCLUDED  
9 OPINIONS FOR THE RECORD.

10 THE COURT: MR. LEWIS?

11 MR. LEWIS: YOUR HONOR, I THINK AS WE GO THROUGH THE  
12 DIRECT EXAMINATION OF THIS WITNESS, A FEW COMMENTS. I THINK,  
13 FIRST OF ALL, WE DO UNDERSTAND THE COURT'S RULING. I THINK WE  
14 WOULD WANT TO -- TO THE EXTENT THAT THERE ARE QUESTIONS THAT HE  
15 IS NOT ALLOWED TO TESTIFY TO, WE WOULD WANT THE REPORT TO SERVE  
16 AS A PROFFER UNDER RULE 103. AND OTHERWISE, I THINK THE  
17 LIMITING INSTRUCTION IS FINE.

18 AS TO, FOR EXAMPLE, THE QUESTION ABOUT THE SUBJECTIVE  
19 BELIEFS OR INTENTS OF MR. COOPER, WE WOULD SEEK RECONSIDERATION  
20 OF THE COURT'S EXCLUSION OF DR. JOHNSON'S ANALYSIS AND THE  
21 CHANGES BETWEEN MR. COOPER'S 2022 AND 2023 ILLUSTRATIVE PLANS.  
22 I DON'T KNOW IF IT'S APPROPRIATE TO ARGUE THAT NOW OR WHEN IT  
23 COMES UP IN THIS QUESTIONING, AS PLAINTIFFS HAVE ELICITED ON  
24 DIRECT EXAMINATION TESTIMONY FROM MR. COOPER ABOUT THE NATURE,  
25 EXTENT AND REASONING, PURPORTED REASONING FOR THOSE CHANGES.



DR. D. JOHNSON - DIRECT

9:41AM 1 SO THEY HAVE PLACED THE RELEVANCE OF THOSE CHANGES INTO  
2 QUESTION.

3 I BELIEVE THERE IS ALSO -- AND FINALLY, YOUR HONOR, I KNOW  
4 THERE WAS A PORTION OF DR. JOHNSON'S REPORT CONCERNING THE  
5 ERROR IN THE MAP, THE ORIGINAL ENACTED MAP THAT MR. COOPER  
6 ANALYZED, BUT IN LIGHT OF MR. COOPER'S ADMISSION ON THE STAND,  
7 I THINK WE WOULD JUST PROFFER HIS REPORT, PROFFER THOSE  
8 OPINIONS FOR THE REPORT BUT NOT QUESTION HIM.

9 **THE COURT:** GO AHEAD AND RESPOND.

10 **MS. KEENAN:** SO, YOUR HONOR, WE DON'T HAVE ANY  
11 OBJECTION TO THE PROFFER MECHANISM THAT WE DISCUSSED AT THE  
12 PRETRIAL CONFERENCE. WE UNDERSTAND THAT THEY HAVE THE RIGHT TO  
13 PRESERVE THAT FOR APPEAL. SO AS LONG AS WE ARE ADMITTING THE  
14 REPORTING WITH THE LIMITING INSTRUCTION WE HAVE DESCRIBED ABOUT  
15 THE OPINIONS YOU'VE EXCLUDED. BUT AS FOR THE MOTION FOR  
16 RECONSIDERATION, I GUESS -- DOES YOUR HONOR INTEND TO PERMIT  
17 ARGUMENT ON THAT, OR SHOULD I RESPOND TO THAT ISSUE?

18 **THE COURT:** NO, THE MOTION FOR RECONSIDERATION IS  
19 DENIED. WITH RESPECT TO THE PROFFER, I MEAN, THIS, QUOTE,  
20 LIMITING INSTRUCTION WOULD MAKE SOME SENSE IF THIS WAS A JURY,  
21 BUT IT DOESN'T MAKE A WHOLE LOT OF SENSE TO ME. I'M SUPPOSED  
22 TO GIVE MYSELF A LIMITING INSTRUCTION, OR I'M SUPPOSED TO GIVE  
23 THE COURT OF APPEAL A LIMITING INSTRUCTION? I'M THINKING THE  
24 COURT OF APPEAL IS NOT GOING TO TAKE TOO KINDLY TO ME GIVING  
25 THEM A LIMITING INSTRUCTION. SO I DON'T KNOW HOW MECHANICALLY

DR. D. JOHNSON - DIRECT

9:42AM 1 YOU WANT TO WORK THIS OUT.

2 MS. KEENAN: SURE, YOUR HONOR. I GUESS IT'S JUST  
3 THAT WE DON'T THINK WE NEED TO MOVE TO EXCLUDE EACH INDIVIDUAL  
4 PARAGRAPH OF THE REPORT THAT CONTAINS AN OPINION THAT YOU HAVE  
5 EXCLUDED. WE CAN, IF YOUR HONOR WOULD LIKE, BUT WE THOUGHT IT  
6 MIGHT BE EASIER TO CONSTRUCTIVELY ADMIT THE PORTIONS OF THE  
7 REPORT THAT ARE CONSISTENT WITH YOUR HONOR'S OPINION AND NOT TO  
8 ADMIT THE PORTIONS THAT ARE INCONSISTENT. THAT'S THE OPTION --

9 THE COURT: I THINK THE BEST WAY TO DO THIS, FRANKLY,  
10 FOR THE RECORD -- I'M JUST TRYING TO THINK ABOUT IF I'M LOOKING  
11 AT A COLD RECORD, WHAT WOULD MAKE SENSE TO ME. THE MOTION IN  
12 LIMINE IS -- YOUR MOTION FOR RECONSIDERATION IS DENIED, SO THE  
13 MOTION IN LIMINE IS WHAT IT IS, AND THE RULING ON THE MOTION IN  
14 LIMINE IS WHAT IT IS.

15 I WILL ADMIT THE REPORTS. HOWEVER, WHAT I WANT YOU TO DO  
16 IS TAKE OUT THOSE PORTIONS OF THE REPORT THAT ARE AFFECTED BY  
17 THE MOTION IN LIMINE, THAT WOULD BE EXCLUDED BY THE MOTION IN  
18 LIMINE, AND EXCISE THOSE AND PRODUCE THEM AS A SEPARATE  
19 PROFFER. AND THAT WAY THE COURT -- YOU ARE DOING THE WORK FOR  
20 THE COURT OF APPEAL, AND SOMEBODY LATER DOESN'T HAVE TO TRY TO  
21 FIGURE OUT, WELL, WHAT -- YOU KNOW, WHAT IS WHAT. I THINK YOU  
22 NEED TO SEPARATE OUT YOUR PROFFER.

23 MR. LEWIS: OKAY. YOUR HONOR, WE ARE HAPPY TO DO  
24 THAT. OBVIOUSLY --

25 THE COURT: I KNOW YOU ARE NOT PREPARED TO DO THAT

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9:43AM 1 NOW. I'M GOING TO LET YOU DO IT.

2 **MR. LEWIS:** I APPRECIATE THAT, YOUR HONOR. AND I  
3 THINK THAT HOPEFULLY THE DIRECT EXAMINATION OF THIS WITNESS  
4 WILL AID THE COURT IN ASSESSING AND CERTAINLY WILL AID THE  
5 PARTIES IN ASSESSING EXACTLY WHAT IN THE REPORT WOULD BE  
6 SUBJECT TO EXCISEMENT.

7 AS YOUR HONOR HAS INDICATED, I THINK THE TWO PIECES ABOUT  
8 THE COMPARISON BETWEEN THE ILLUSTRATIVE PLANS AND -- THAT IS  
9 FAIRLY OBVIOUS. THERE'S A VERY DEFINED PARAGRAPH RANGE. I  
10 THINK THE FIRST TOPIC REGARDING, YOU KNOW, OPINIONS OF MOTIVE  
11 OR INTENT, I THINK THAT IS GOING TO BE A FUNCTION OF POSSIBLY  
12 SPECIFIC PARAGRAPHS OR SPECIFIC PHRASES, WORDS OR SENTENCES --

13 **THE COURT:** I MEAN, I THINK WITH RESPECT TO THE  
14 SUBJECTIVE INTENT TESTIMONY OR PROPOSED TESTIMONY, YOU ARE  
15 GOING TO NEED TO PRESERVE THAT BY OBJECTION, AND I WILL RULE ON  
16 THE OBJECTIONS AS THEY COME, BECAUSE THIS IS DYNAMIC. I DON'T  
17 KNOW HOW THIS EVIDENCE IS GOING TO DEVELOP. I MEAN, THERE MAY  
18 BE SOME OF IT THAT YOU ARE SUCCESSFUL WITH. I DON'T KNOW. SO  
19 LET'S JUST GO FROM THERE.

20 BUT AS TO THE ADMISSION OF THE EXHIBITS, 79, WHICH IS THE  
21 CV, IS ADMITTED. 51 AND 58 WILL BE ADMITTED WITH REDACTIONS,  
22 AND THEN YOU CAN MAKE A PROFFER OF WHATEVER IS REDACTED.

23 **MR. LEWIS:** THANK YOU, YOUR HONOR.

24 **THE COURT:** OKAY.

25 **THE CLERK:** 59.

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9:45AM 1                   **THE COURT:** OH, 51 AND 59? I'M SORRY.

2                   **THE CLERK:** 51 AND 58 WITH THE REDACTIONS, AND 59 WAS  
3 THE CV.

4                   **THE COURT:** OH, I THOUGHT IT WAS 79. I'M SORRY.  
5 OKAY. SO WHERE I SAID -- I WROTE DOWN 79 BOTH TIMES.

6                   OKAY. 59 IS ADMITTED. 51 AND 58 WILL BE ADMITTED WITH  
7 REDACTIONS AND SUBJECT TO DEFENSE COUNSEL'S PERMISSION TO  
8 SUBSTITUTE OR TO FILE NEW RECORDS OR NEW EXHIBITS AS A PROFFER.

9                   **MR. LEWIS:** THANK YOU, YOUR HONOR. SO IF WE CAN NOW  
10 DISPLAY DEFENDANT'S EXHIBIT 51.

11 **BY MR. LEWIS:**

12 Q. AND DR. JOHNSON, CAN YOU IDENTIFY THIS DOCUMENT FOR THE  
13 RECORD?

14 A. YES. THIS IS MY INITIAL REPORT.

15 Q. ALL RIGHT. THANK YOU. AND SO I WOULD LIKE TO START, I  
16 THINK -- AND WE WILL SKIP AROUND A LITTLE BIT IN THIS REPORT,  
17 AND MY APOLOGIES IN ADVANCE FOR THAT, BUT YOU OFFER IN THIS  
18 REPORT OPINIONS ON A NUMBER OF TOPICS, AND I WOULD LIKE TO  
19 START WITH SOME ANALYSIS YOU PERFORMED ON SOME GENERAL  
20 POPULATION DEMOGRAPHICS IN LOUISIANA.

21 DID YOU REVIEW MR. COOPER'S CLAIMS ABOUT CHANGES IN BLACK  
22 POPULATION IN LOUISIANA FROM 2000 TO PRESENT?

23 A. YES.

24 Q. OKAY. AND DID YOU REVIEW MR. COOPER'S CLAIMS ABOUT  
25 CHANGES IN THE NUMBER OF MAJORITY BLACK DISTRICTS IN THE

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9:46AM 1 LOUISIANA HOUSE AND SENATE FROM 2000 TO PRESENT?

2 A. YES.

3 Q. OKAY. I WOULD LIKE TO TURN TO PAGE 11 OF THIS REPORT,  
4 LDTX51. AND IF WE COULD HIGHLIGHT FIGURE 5 APPEARING ON THAT  
5 PAGE. DR. JOHNSON, CAN YOU WALK US THROUGH THIS FIGURE? WHAT  
6 IS THIS SHOWING US?

7 A. SURE. THIS IS A SUMMARY OF INFORMATION MR. COOPER HAD IN  
8 HIS REPORT LOOKING AT THREE DIFFERENT VARIABLES, EACH LISTED ON  
9 THE LEFT-HAND SIDE OF THE CHART: THE BLACK PERCENTAGE OF  
10 VOTING AGE POPULATION, THE PERCENTAGE OF HOUSE DISTRICTS THAT  
11 ARE MAJORITY BLACK, AND THE PERCENTAGE OF SENATE DISTRICTS THAT  
12 ARE MAJORITY BLACK. AND THEN YOU CAN SEE THAT THE MIDDLE  
13 COLUMN IS THE 2000 DATA FOR EACH OF THOSE CATEGORIES, AND THEN  
14 THE RIGHT-HAND COLUMN IS THE 2020/2022 PERCENTAGES, SO LOOKING  
15 AT THE 2020 CENSUS DATA AND THE 2022 MAP.

16 Q. ALL RIGHT. AND JUST FOR THE CLARITY OF THE RECORD, WHEN  
17 YOU DESCRIBE BLACK PERCENTAGE OF VOTING AGE POPULATION, WHAT  
18 METHOD OF -- LIKE, WHAT VERSION OF BLACK VOTING AGE POPULATION  
19 ARE YOU USING?

20 A. AS DID MR. COOPER, I'M USING ANY PART BLACK, SO IT'S BLACK  
21 AP VAP, ANY PART BLACK VOTING AGE POPULATION.

22 Q. AND SO YOU HAVE A PERCENTAGE INCREASE IN THIS RIGHT-HAND  
23 COLUMN FOR THE PERCENTAGE BLACK VOTING AGE POPULATION. WHAT IS  
24 THAT -- WHAT IS THAT VALUE AND WHAT IS IT TELLING US?

25 WE WILL START WITH ONE QUESTION. WHAT IS THE INCREASE IN

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9:48AM 1 BLACK VOTING AGE POPULATION FROM 2000 TO 2020?

2 A. SO 2020, THE BLACK VAP PERCENTAGE HAD INCREASED TO 31.25  
3 PERCENT, WHICH WAS A 1.3 PERCENT INCREASE FROM ITS 2000 VALUE.

4 Q. OKAY. AND IF WE LOOK AT THE PERCENTAGE OF MAJORITY OF  
5 BLACK DISTRICTS IN THE LOUISIANA HOUSE, HOW HAS THAT NUMBER  
6 CHANGED FROM 2000 TO 2022?

7 A. IN 2000, THERE WERE 26 MAJORITY BLACK HOUSE SEATS. AND IN  
8 THE 2022 MAP, THERE ARE 29, WHICH IS A 2.8 PERCENT INCREASE. I  
9 DID NOTE MR. COOPER HAS OBJECTED THAT RATHER THAN THE MAP IN  
10 PLACE IN 2000, HE MEANT THE 2001 MAP, IN WHICH CASE THE 26  
11 WOULD BECOME 27. THE INCREASE IN THAT CASE WOULD BE  
12 1.9 PERCENT RATHER THAN 2.8 PERCENT.

13 Q. ALL RIGHT. AND THEN JUST FOR THAT BOTTOM ROW, HOW HAVE  
14 THE PERCENTAGE OF MAJORITY BLACK SEATS IN THE SENATE CHANGED  
15 FROM 2000 TO 2022?

16 A. IT HAS INCREASED FROM -- THERE WERE 10 MAJORITY BLACK  
17 SENATE SEATS IN 2000, AND THERE ARE 11 IN THE ENACTED MAP. SO  
18 THAT'S A 2.6 PERCENT INCREASE.

19 Q. OKAY. AND DR. JOHNSON, WHAT CONCLUSION DO YOU DRAW FROM  
20 THIS ANALYSIS?

21 A. THE NUMBER OF MAJORITY BLACK HOUSE AND SENATE SEATS HAS  
22 INCREASED FROM 2000 AND FROM 2021 TO 2022 BY SIGNIFICANTLY MORE  
23 THAN THE INCREASE IN BLACK POPULATION. THE NUMBER OF SENATE  
24 SEATS HAS GROWN TWICE AS FAST AS THE BLACK PERCENTAGE OF THE  
25 STATE'S POPULATION.

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9:50AM 1 AND DEPENDING ON WHETHER WE ARE TALKING ABOUT THE 2000 OR  
2 THE 2021 MAP AS THE STARTING POINT, THE MAJORITY BLACK  
3 PERCENTAGE OF HOUSE SEATS HAS EITHER GROWN 50 PERCENT FASTER OR  
4 TWICE AS FAST AS THE BLACK PERCENTAGE OF VOTING AGE POPULATION  
5 HAS INCREASED.

6 Q. ALL RIGHT. WE CAN -- SO I WOULD LIKE -- SO I WOULD LIKE  
7 NOW TO TURN TO YOUR EVALUATION OF MR. COOPER'S 2023  
8 ILLUSTRATIVE PLAN IN THIS CASE.

9 DR. JOHNSON, WHEN YOU BEGAN YOUR EVALUATION OF  
10 MR. COOPER'S ILLUSTRATIVE PLANS, WHAT CRITERIA DID YOU DECIDE  
11 TO USE IN YOUR EVALUATION?

12 A. I WAS EVALUATING THE CRITERIA THAT MR. COOPER CITED IN HIS  
13 REPORT, SO MY GOAL WAS TO LOOK AT HIS STATED REASONS FOR WHERE  
14 LINES WERE DRAWN, WHERE THEY SHOWED UP IN HIS MAP, AND TO  
15 REVIEW WHETHER THOSE ACTUALLY EXPLAINED WHERE THOSE LINES WERE  
16 DRAWN, IF HIS WORDS MATCHED HIS MAP.

17 Q. AND DID YOU ALSO EVALUATE THE DATA PRODUCED BY MR. COOPER  
18 IN CONNECTION WITH HIS REPORTS AS PART OF THAT EVALUATION?

19 A. YES.

20 Q. AND WHAT ARE SOME OF THE CRITERIA THAT YOU UTILIZED WHEN  
21 EVALUATING MR. COOPER'S ILLUSTRATIVE PLANS?

22 A. SO MR. COOPER TALKED ABOUT BOTH THE JOINT RULE --  
23 LOUISIANA JOINT RULE LIST OF CRITERIA AND TRADITIONAL  
24 REDISTRICTING PRINCIPLES. AS HE SPELLED THEM OUT, THEY'RE  
25 FOLLOWING VTD'S, EQUAL POPULATION OBVIOUSLY BEING CONTIGUOUS,

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9:52AM 1 BEING COMPACT, AND THEN LOOKING AT COMMUNITIES OF INTEREST,  
2 WHICH SOMETIMES HE REFERRED TO GENERALLY AND SOMETIMES HE  
3 CALLED OUT PARISHES AND CITY BORDERS AND THINGS LIKE THAT AS  
4 SPECIFIC COMMUNITIES. AND THEN HE ALSO MENTIONED HIS KIND OF  
5 SUPER COMMUNITIES THAT WERE MUCH LARGER REGIONAL AREAS.

6 Q. OKAY. AND I BELIEVE WHEN YOU REFER TO SUPER REGIONS, ARE  
7 THOSE, FOR EXAMPLE, SOME OF THE CULTURAL REGIONS THAT HE  
8 REFERENCED?

9 A. EXACTLY. HE HAD PLANNING AREAS, HE HAD THE CENSUS  
10 DEFINED, MSAS, OR METROPOLITAN STATISTICAL AREAS, AND HE HAD  
11 WHAT HE CALLED HIS KEY REGIONS OR KEY CULTURAL REGIONS, EACH OF  
12 WHICH WAS A MAP OF EITHER THE WHOLE STATE OR MOST OF THE STATE  
13 BROKEN UP INTO LARGE REGIONAL PIECES.

14 Q. OKAY. AND DID MR. COOPER'S REPORT INDICATE THAT RACE WAS  
15 A CONSIDERATION IN THE CONSTRUCTION OF HIS PLAN?

16 **MS. KEENAN:** OBJECTION TO RACE AS A CONSIDERATION TO  
17 THE EXTENT THAT FOCUSES ON HIS INTENT.

18 **THE COURT:** GIVE ME YOUR SPECIFIC QUESTION AGAIN,  
19 BECAUSE I'M NOT SURE THAT -- I WANT TO HEAR THE QUESTION AGAIN.

20 **MR. LEWIS:** SURE.

21 **BY MR. LEWIS:**

22 Q. DR. JOHNSON, WAS RACE IDENTIFIED BY MR. COOPER AS A  
23 CONSIDERATION IN THE CONSTRUCTION OF HIS ILLUSTRATIVE PLAN?

24 **MS. KEENAN:** I'LL WITHDRAW THE OBJECTION. I MISHEARD  
25 IT. THANK YOU.



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9:54AM

1 A. YES.

2 **BY MR. LEWIS:**

3 Q. OKAY. AND WAS COMPACT -- DISTRICT COMPACTNESS A CRITERION  
4 IDENTIFIED BY MR. COOPER?

5 A. YES.

6 **COURT REPORTER:** COULD YOU SPEAK UP A LITTLE BIT?

7 **BY MR. LEWIS:**

8 Q. I HAVE TO REPEAT THE QUESTION. WAS COMPACTNESS A MEASURE  
9 OR, EXCUSE ME, A CRITERION THAT MR. COOPER IDENTIFIED?

10 A. YES.

11 Q. NOW, DR. JOHNSON, SPEAKING METHODOLOGICALLY, WHEN YOU ARE  
12 EVALUATING A PLAN'S COMPLIANCE WITH CRITERIA, HOW DO YOU GO  
13 ABOUT PERFORMING THAT ANALYSIS?

14 A. WELL, EACH OF THESE CRITERIA ARE SOMETHING YOU CAN SEE ON  
15 A MAP. SO COMPACTNESS, YOU CAN MEASURE IT. COMMUNITIES OF  
16 INTEREST, YOU IDENTIFY THE BOUNDARIES OF THAT COMMUNITY OF  
17 INTEREST. CONTIGUITY, OBVIOUSLY, YOU LOOK AT THE MAP AND SEE  
18 IT. SO YOU CAN LOOK AT THE MAP AND SAY, DOES THIS -- DOES EACH  
19 DISTRICT OR THE DISTRICT THAT WE ARE LOOKING AT IN PARTICULAR  
20 AT A GIVEN TIME FOLLOW THOSE ELEMENTS OF THE MAP: IS IT  
21 COMPACT, IS IT FOLLOWING THE BOUNDARY OF A COMMUNITY OF  
22 INTEREST, IS IT FOLLOWING A PARISH BOUNDARY? IT IS A PRETTY  
23 STRAIGHTFORWARD WAY OF LOOKING AT THE MAP AND LOOKING AT THE  
24 WORDS TO SEE IF THEY MATCH.

25 Q. AND IS IT -- IS IT IMPORTANT, WHEN DRAWING A MAP, FOR THE

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9:55AM 1 MAP-MAKER TO DOCUMENT THE BASES FOR SPECIFIC LINE DRAWING  
2 DECISIONS?

3 A. YES.

4 Q. AND WHY IS THAT A GOOD PRACTICE?

5 A. REDISTRICTING MAPS OFTEN END UP IN COURT, AND YOU WANT TO  
6 HAVE YOUR METHOD AND YOUR RATIONALE ON THE RECORD. SOME COURTS  
7 HAVE REJECTED KIND OF POST -- I NEVER GET MY LATIN TERMS RIGHT,  
8 BUT POST FACTO EXPLANATIONS THAT WERE NOT PUT IN THE RECORD AND  
9 EXPLAINED AT THE TIME THE MAP WAS DRAWN AND DISCUSSED.

10 Q. SO, FOR EXAMPLE, IN YOUR OWN REDISTRICTING PRACTICE, DR.  
11 JOHNSON, DO YOU GO ABOUT PROVIDING A RECORD OF THE BASES FOR  
12 DECISIONS AT THE TIME MAPS ARE DRAWN?

13 A. YES.

14 Q. OKAY. NOW, DR. JOHNSON, AS PART OF YOUR EVALUATION OF A  
15 REDISTRICTING PLAN, DO YOU JUST REVIEW THE MAPS, OR DO YOU  
16 REVIEW THE DATA ASSOCIATED WITH THE MAPS TOO?

17 A. BOTH.

18 Q. OKAY. NOW, WHEN YOU EVALUATED MR. COOPER'S 2023  
19 ILLUSTRATIVE PLANS, WHAT DID YOU EVALUATE?

20 A. WELL, OBVIOUSLY HE GAVE US THE MAP FILES, SO I BROUGHT  
21 THOSE INTO MY MAPTITUDE MAPPING SYSTEM. AND THEN I LOOKED AT  
22 HIS DATA AND ALSO HAD MY OWN DATA IN MAPTITUDE FROM THE STATE'S  
23 DATABASE. SO I WAS LOOKING AT BOTH THE ACTUAL DISTRICT LINES,  
24 THE DEMOGRAPHIC DATA THAT MATCH UP WITH THOSE LINES, AND THEN,  
25 OF COURSE, IN THE MAPPING SOFTWARE WE HAVE ALL KINDS OF LAYERS

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9:57AM 1 WE CAN LAY ON THERE. SO WE HAVE PARISHES, CITY LINES, CENSUS  
2 DESIGNATED PLACE LINES, RIVERS, ALL KINDS OF GEOGRAPHY AND  
3 POLITICAL BOUNDARIES.

4 Q. AND IS THAT DATA ON THE POLITICAL BOUNDARIES AND SO FORTH,  
5 WHERE DOES THAT DATA COME FROM?

6 A. IT COMES SOME OF IT FROM THE STATE AND SOME OF IT FROM THE  
7 CENSUS BUREAU.

8 Q. ALL RIGHT. NOW, DR. JOHNSON, BEFORE WE GET TOO MUCH  
9 FURTHER, I WOULD LIKE TO HAVE YOU KIND OF EXPLAIN THE BASICS OF  
10 HOW ALL OF THIS DATA WE HAVE BEEN TALKING ABOUT IS USED IN  
11 MAPTITUDE. SO IF WE COULD TURN TO PAGE 9 OF YOUR REPORT, AND  
12 THEN ZOOM IN TO FIGURE 4.

13 ALL RIGHT. DR. JOHNSON, CAN YOU ORIENT THE COURT TO THIS  
14 FIGURE? WHAT IS IT SHOWING US?

15 A. SO THIS IS THE MAPTITUDE MAPPING SOFTWARE, AND THIS IS  
16 WHAT IT LOOKS LIKE WHEN YOU ARE WORKING ON A PLAN IN THE  
17 SOFTWARE. AND SO AT DIFFERENT PIECES OF THE SCREEN, OBVIOUSLY  
18 THERE IS A LOT OF INFORMATION GOING ON. OBVIOUSLY YOU HAVE  
19 YOUR MAP, AND YOU CAN SEE THE MAP OF LOUISIANA IN THIS CASE.  
20 IN THIS CASE, EACH DISTRICT IS SHADED IN. IT IS POSSIBLE, AS  
21 OTHER FIGURES IN MY REPORT SHOW, TO COLOR THINGS IN BASED ON  
22 DIFFERENT FACTORS. IN THIS CASE, THE DISTRICTS THEMSELVES ARE  
23 SHADED.

24 OVER WHERE THERE IS THE YELLOW 1, YOU CAN SEE THE LIST OF  
25 ALL OF THOSE DIFFERENT LAYERS. SO YOU CAN SEE, YOU KNOW, FIRST

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9:58AM 1 IS THE SENATE MAP. THAT'S THE MAP WE ARE LOOKING AT. AND THEN  
2 WHERE THERE'S A RED X, THOSE LAYERS ARE NOT SHOWN. AND WHERE  
3 THERE'S A GREEN CHECK, THOSE LAYERS ARE SHOWN. SO YOU CAN SEE  
4 IN THIS MAP I JUST HAVE THE DISTRICTS AND THE PARISH LINES ON.  
5 BUT AVAILABLE TO BE CLICKED AND TURNED ON ARE ALL OF THESE  
6 OTHER LAYERS, FROM TRIBAL RESERVATIONS TO CENSUS PLACES TO  
7 OTHER MAP -- YOU CAN SEE AT THE BOTTOM IN THE LIST THAT THE  
8 HOUSE MAP IS THERE, SO IT CAN BE OVERLAID. SO YOU HAVE ALL OF  
9 THOSE GEOGRAPHIC LAYERS AVAILABLE.

10 THEN UP IN THE AREA LABELED 2 IS THE DATA. SO THOSE ARE  
11 SHOWING -- THAT BOX IS SHOWING THE DISTRICT NUMBER, THE TOTAL  
12 POPULATION, THE DEVIATION FROM THE IDEAL, AND THEN ALL THE  
13 VARIOUS DEMOGRAPHIC VARIABLES THAT ARE AVAILABLE IN THE  
14 DATASET.

15 ONE OF THE THINGS MAPTITUDE DOES THAT'S SO HANDY IS, IN  
16 THE TOP BOX LABELED 2 ARE THE TOTALS FOR THE DISTRICTS WE ARE  
17 LOOKING AT. IF I WANT TO LOOK AT CHANGING A DISTRICT, AS I  
18 CLICK ON EACH CENSUS BLOCK TO POTENTIALLY MOVE THAT, BLOCK 3  
19 WILL POP UP AND SHOW ME THE CHANGE. AND SO IT WILL GIVE BOTH  
20 THE -- IN BOX 2, I SEE THE CURRENT POPULATION AND ALL THE  
21 ETHNIC PERCENTAGES. IN BOX 3, AS I CLICK ON EACH BLOCK, IT  
22 WILL INSTANTLY SHOW ME HOW THE DYNAMICS OR THE DEMOGRAPHICS OF  
23 THAT DISTRICT CHANGE AS I CLICK BLOCK BY BLOCK, AND I CAN  
24 DECIDE IF THAT'S MAKING -- ACHIEVING THE GOAL I WANT OR IF IT'S  
25 NOT.

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10:00AM 1 Q. AND, DR. JOHNSON, IS IT POSSIBLE FOR YOU TO ASSIGN -- WHEN  
2 YOU ARE DRAWING A MAP WITH MAPTITUDE, TO ASSIGN TERRITORY TO A  
3 DISTRICT BY, FOR EXAMPLE, PRECINCT INSTEAD OF BY CENSUS BLOCK?

4 A. YES, THE SOFTWARE IS VERY GOOD. IN THE BOTTOM LEFT, YOU  
5 CAN SEE THE LITTLE BOX WHERE IT SAYS TARGET AND SOURCE AND  
6 SELECTION LAYER. THAT'S HOW YOU CONTROL WHAT LAYER YOU ARE  
7 PICKING AT. YOU CAN SEE THE SELECTION LAYER. IT SAYS BLOCK.  
8 THAT COULD ALSO BE VOTING DISTRICT. IT COULD EVEN BE A WHOLE  
9 CITY OR PARISH. THE SOFTWARE IS VERY, VERY FLEXIBLE TO EASILY  
10 SWITCH BACK AND FORTH BETWEEN THEM.

11 Q. OKAY. ALL RIGHT. SO, FOR EXAMPLE, IF YOU WERE TO BE  
12 ASSIGNING TERRITORY TO A DISTRICT BY PRECINCT, WOULD THAT  
13 SCREEN NUMBER 3, THAT DATA VIEW SCREEN, ALSO SHOW YOU PROPOSED  
14 CHANGES BY PRECINCT?

15 A. YES, EXACTLY. WHATEVER AREA YOU CHOOSE, BE IT A BLOCK,  
16 BLOCK GROUP OR PRECINCT OR WHATEVER, THE SOFTWARE WILL PICK  
17 THAT AREA AND SHOW YOU THE CHANGES.

18 Q. OKAY. AND DR. JOHNSON, IS IT POSSIBLE TO LOAD ELECTION  
19 DATA INTO MAPTITUDE?

20 A. YES, IT'S POSSIBLE AND VERY COMMON.

21 Q. AND ARE THERE -- IS IT POSSIBLE TO LOAD SOCIO-ECONOMIC  
22 DATA INTO MAPTITUDE?

23 A. YES. FOR THE REDISTRICTING SOFTWARE TO WORK RIGHT, YOU  
24 HAVE TO -- ALL THE DATA HAS TO BE THE SAME AT THE BLOCK AND THE  
25 VTD AND THE TRACT LEVEL SO THAT AS YOU SWITCH FROM LAYER TO

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10:02AM 1 LAYER, THE SOFTWARE CAN KEEP UP WITH YOU AND KNOW WHICH DATA TO  
2 SHOW. SO YOU HAVE TO BREAK THE DATA DOWN, AND SOCIO-ECONOMIC  
3 DATA USUALLY COMES AT THE BLOCK OR THE TRACT LEVEL, BUT THERE  
4 ARE VERY COMMONLY USED AND WIDELY ACCEPTED METHODS FOR BREAKING  
5 THAT DOWN BY BLOCK, AND THEN YOU AGGREGATE IT BACK UP TO VTD  
6 AND ALL THE HIGHER LEVELS OF GEOGRAPHY.

7 Q. AND IS THERE A GENERALLY ACCEPTED WAY THAT ONE CAN USE  
8 SOCIO-ECONOMIC DATA TO DRAW MAPS?

9 A. YES. IT'S VERY COMMONLY USED, AND YOU PUT IT IN THE  
10 DATABASE SO THAT AS YOU DRAW YOUR LINES, YOU CAN TELL WHAT THE  
11 IMPACT IS.

12 I'M WORKING IN A JURISDICTION NOW WHERE RENTERS IS A BIG  
13 ISSUE. SO WE HAVE THE RENTER DATA BROKEN DOWN INTO THE MAPPING  
14 SOFTWARE, AND AS WE CHANGE EACH LINE, WE CAN INSTANTLY KNOW  
15 WHAT PERCENTAGE OF EACH DISTRICT'S RESIDENTS ARE RENTERS, FOR  
16 EXAMPLE. SO YOU CAN DO THAT FOR INCOME LEVELS, ANY OF THE  
17 SOCIO-ECONOMIC DATA THAT YOU HAVE AVAILABLE.

18 **THE COURT:** LET ME JUST MAKE SURE I UNDERSTAND. SO  
19 THE SOCIO-ECONOMIC DATA IS COLLECTED BY BLOCK, BUT THEN YOU  
20 AGGREGATE IT UP TO THE VTD. DID I HEAR THAT RIGHT?

21 A. IT'S THE SECOND STEP. THERE'S A FIRST STEP -- IT'S  
22 ACTUALLY COLLECTED AT WHAT THEY CALL THE BLOCK GROUP -- THE  
23 TERM IS CONFUSING -- OR AT THE TRACT LEVEL. BUT TO MAKE IT  
24 WORK IN THE SOFTWARE, WE BREAK IT DOWN INTO BLOCK AND THEN  
25 BRING IT BACK UP. YOU HAVE TO GET IT DOWN TO THE SMALLEST UNIT

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10:03AM 1 OF GEOGRAPHY IN ORDER FOR THE SOFTWARE TO PROPERLY USE IT AS  
2 YOU COME BACK UP.

3 **THE COURT:** OKAY. GOT IT.

4 **BY MR. LEWIS:**

5 Q. AND DR. JOHNSON, MAYBE JUST TO MAKE SURE WE MAKE A CLEAN  
6 RECORD ABOUT THAT, CAN YOU EXPLAIN THE DIFFERENCE BETWEEN A  
7 BLOCK AND A BLOCK GROUP?

8 A. SURE. A BLOCK IS THE SMALLEST UNIT OF CENSUS GEOGRAPHY,  
9 SO IN A CITY, IT IS GOING TO BE A CITY BLOCK. THAT'S THE TERM.  
10 WHEN YOU GET OUTSIDE OF THE CITY OR IF YOU GET INTO AREAS WHERE  
11 THERE ARE CUL-DE-SACS AND HILLS, IT GETS A LITTLE -- THEY GET A  
12 LITTLE MORE ODD-SHAPED AND STRANGE-LOOKING. BUT THAT'S THE  
13 BASIC UNIT OF GEOGRAPHY. IT'S THE SMALLEST UNIT OF GEOGRAPHY  
14 WHERE THE CENSUS RELEASES POPULATION DATA.

15 THE NEXT LEVEL UP IS BLOCK GROUP. USUALLY IT'S ANYWHERE  
16 FROM 2 TO MAYBE 10 OR SO CENSUS BLOCKS, SO IT'S STILL A PRETTY  
17 SMALL AREA. IT COULD BE TWO CITY BLOCKS OR TEN CITY BLOCKS.  
18 AND IT'S REALLY KIND OF AN INTERMEDIATE STEP. IT DOESN'T SERVE  
19 A LOT OF PURPOSE OTHER THAN AS A DATA-GATHERING MEASURE.

20 THE NEXT LEVEL UP IS TRACTS, AND THOSE WERE DEFINED LONG  
21 AGO AS VERY, VERY ROUGH NEIGHBORHOODS. THEY TEND TO BE  
22 ANYWHERE FROM 2,000 TO 4,000 PEOPLE, ALTHOUGH THERE IS A LOT OF  
23 VARIATION IN THAT. AND THE CENSUS BUREAU TRIES TO KEEP THOSE  
24 FAIRLY CONSISTENT OVER TIME SO THAT RESEARCHERS CAN HAVE A  
25 STEADY DATA SOURCE. SO BLOCKS AND BLOCK GROUPS MAY CHANGE A

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10:05AM 1 LOT AS DEVELOPMENT HAPPENS. SOMETIMES TRACTS CHANGE, BUT THEY  
2 TRY NOT TO.

3 AND THEN THE NEXT LEVEL UP FROM TRACTS IS COUNTIES, WHICH  
4 IS OBVIOUSLY A CLEAR LEVEL. ON THE SIDE PATH, THAT IS KIND OF  
5 -- THE CENSUS BUREAU HAS A LITTLE TREE OF DATA THEY SHOW.  
6 THAT'S THEIR STANDARD TREE IS BLOCK, BLOCK GROUP, TRACT,  
7 COUNTY, STATE.

8 ON KIND OF A BRANCH OFF FROM THAT TREE ARE VTDS, WHICH THE  
9 CENSUS BUREAU CALCULATES BECAUSE THE STATES ASK THEM TO. SO  
10 THE STATES SUBMIT THEIR PRECINCT LINES, AND THEN THE CENSUS  
11 BUREAU THEN ADDS UP ALL OF THE CENSUS BLOCKS IN THAT PRECINCT  
12 AND GIVES YOU THE VTD DATA. SO IT IS USUALLY SOMEWHERE BETWEEN  
13 A BLOCK GROUP AND A TRACT, BUT IT'S A BRANCH, NOT IN THE SAME  
14 TREE.

15 Q. ALL RIGHT. AND THANK YOU FOR THAT, DR. JOHNSON.

16 NOW, WHAT ADVANTAGES DOES INCLUDING SOCIO-ECONOMIC DATA IN  
17 YOUR MAPTITUDE SOFTWARE OFFER A REDISTRICTING PROFESSIONAL?

18 A. WELL, IF -- WE ARE TRYING TO DRAW MAPS TO KEEP TOGETHER A  
19 GIVEN COMMUNITY, AND THAT COMMUNITY IS DEFINED BASED ON THE  
20 SOCIO-ECONOMIC FACTOR. THEN THE DATA TELLS US IF WE ARE  
21 SUCCEEDING WITH THAT GOAL OR NOT. AND IF WE DON'T HAVE THE  
22 DATA IN THE SYSTEM, THEN IT'S KIND OF AN EYEBALL SWING AND A  
23 MISS, HOPE AND A PRAYER APPROACH. SO WE PUT THE DATA IN SO  
24 THAT -- AS I MENTIONED, THE ONE JURISDICTION, THEY ARE VERY  
25 INTERESTED IN ARE WE KEEPING THE RENTERS TOGETHER IN A



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10:07AM 1 DISTRICT. WELL, AS I DRAW THE LINES, I CAN SEE RIGHT FROM THE  
2 NUMBERS WE ARE KEEPING THE RENTERS TOGETHER.

3 YOU CAN SEE ON THE SCREEN, YOU KNOW, OBVIOUSLY IN A VOTING  
4 RIGHTS SITUATION, WE ARE LOOKING AT THE PROTECTED CLASS IN  
5 QUESTION. WHERE ARE THOSE NUMBERS SHIFTING? IF WE ARE LOOKING  
6 AT INCOME LEVELS -- THE ONE I DEAL WITH A LOT IN CALIFORNIA IS  
7 LANGUAGE SPOKEN AT HOME. DO THEY SPEAK SPANISH AT HOME? WELL,  
8 LET'S KEEP THAT COMMUNITY TOGETHER. OR ARE THEY LIMITED  
9 ENGLISH SPEAKERS? SO ALL OF THOSE DIFFERENT FACTORS CAN ALL BE  
10 DONE.

11 IF YOU HAVE THE DATA IN YOUR SYSTEM, YOU CAN SEE THE  
12 IMPACT OF EVERY CHANGE ON THAT COMMUNITY, AND ARE YOU KEEPING  
13 IT TOGETHER OR ARE YOU BREAKING IT UP? IF YOU DON'T HAVE THE  
14 DATA IN THE SYSTEM, YOU ARE JUST KIND OF WINGING IT.

15 Q. AND DR. JOHNSON, I WILL REPRESENT TO YOU THAT MR. COOPER  
16 TESTIFIED THAT HE RELIED ON PARISH OR CITY LEVEL CENSUS ACS  
17 DATA. DO YOU RECALL THAT?

18 A. YES.

19 Q. AND IS THAT COMMON IN MODERN REDISTRICTING PRACTICE?

20 A. NO.

21 Q. WHY NOT?

22 A. IT REALLY DOESN'T DO YOU ANY GOOD UNLESS YOU ARE DEALING  
23 WITH A REALLY SMALL PARISH OR A REALLY SMALL CITY, BECAUSE, FOR  
24 EXAMPLE, IF YOU ARE IN EAST BATON ROUGE, KNOWING THE AVERAGE  
25 HOUSEHOLD INCOME OF THE PARISH AS A WHOLE DOESN'T TELL YOU

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10:08AM 1 ANYTHING ABOUT WHERE TO DRAW THE LINES OF THE, YOU KNOW,  
2 HOWEVER MANY DISTRICTS YOU ARE DRAWING IN THAT PARISH. WHAT  
3 YOU NEED TO KNOW IS WHERE THE COMMUNITY THAT YOU ARE LOOKING  
4 AT, WHATEVER SOCIO-ECONOMIC DEFINED COMMUNITY YOU ARE LOOKING  
5 AT, IS WITHIN THE PARISH.

6 AND SO, YOU KNOW, IT'S AS IF YOU ARE LOOKING AT THE STATE  
7 OF LOUISIANA. IF I KNOW THE INCOME LEVEL OF THE STATE OF  
8 LOUISIANA, THAT TELLS ME NOTHING ABOUT THE INCOME LEVEL OF AN  
9 INDIVIDUAL PARISH. SAME THING IN A CITY OR WITHIN A PARISH.  
10 THE INCOME LEVEL OF THE PARISH AS A WHOLE TELLS ME NOTHING  
11 ABOUT WHERE PEOPLE -- OR HOW MUCH MONEY PEOPLE IN EACH  
12 INDIVIDUAL SECTION OF THE PARISH EARN.

13 Q. AND SO IS MR. COOPER'S METHOD A REASONABLE ONE TO FOLLOW  
14 IF ONE WAS TO USE SOCIO-ECONOMIC DATA WHEN CONSTRUCTING A PLAN?

15 A. NO.

16 Q. I WOULD LIKE NOW TO TURN TO MR. COOPER'S MULTI-PARISH  
17 CULTURAL REGIONS. SO I WOULD LIKE TO TURN TO PAGE 13 OF YOUR  
18 REPORT, AND SPECIFICALLY HIGHLIGHTING PARAGRAPHS 33 AND 34. SO  
19 IT APPEARS YOU HAVE SOME QUESTIONS OR SOME CONCERNS ABOUT THE  
20 METHODOLOGY MR. COOPER EMPLOYED WHEN DEFINING HIS MULTI-PARISH  
21 CULTURAL REGIONS. CAN YOU DISCUSS SOME OF THOSE CONCERNS?

22 A. YES. MY FATHER-IN-LAW IS A FORMER LSU PROFESSOR, AND AT  
23 THE -- WITH THE STUDENTS, WE WOULD NEVER ACCEPT WIKIPEDIA AS A  
24 RELIABLE SOURCE FOR ANY OFFICIAL DATA OR BASIS OF ANY ACTION.  
25 YOU JUST DON'T DO IT. ANYONE CAN WRITE ANYTHING IN WIKIPEDIA,

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10:10AM 1 AND IT'S NOT A RELIABLE SOURCE.

2 SIMILARLY, HE HAD A KEY REGION DEFINED BY THE REGION'S  
3 CHARACTERISTICS IN 1812, YOU KNOW, OVER 200 YEARS AGO. YOU  
4 KNOW, THAT'S 50 YEARS BEFORE THE CIVIL WAR. IT JUST DOESN'T  
5 MAKE ANY SENSE OR HAVE ANY RELEVANCE TO TODAY. IF THERE WERE  
6 FACTORS BACK THEN THAT ARE INFLUENCING LIFE IN THOSE AREAS  
7 TODAY, LOOK AT THE FACTORS TODAY.

8 SO WHEN YOU ARE LOOKING AT A KEY REGION, TO HIS CREDIT,  
9 ACADIANA, AS HE NOTES, IS A LEGISLATIVE CAUCUS. THEY HAVE  
10 SHARED ISSUES THAT THEY WORK ON. THAT'S THE KIND OF THING WE  
11 ARE LOOKING FOR WHEN WE ARE TRYING TO DEFINE A COMMUNITY OF  
12 INTEREST THAT'S RELEVANT TO REDISTRICTING TODAY. WIKIPEDIA,  
13 WHAT WAS HAPPENING IN THE AREA IN 1812, NO, THOSE ARE NOT  
14 SOURCES THAT I WOULD EVER RELY ON TO DEFINE MY COMMUNITIES.

15 Q. ALL RIGHT. SO IF WE TURN, THEN, TO THE NEXT SECTION OF  
16 THIS REPORT, BEGINNING ON THE SAME PAGE, I WOULD LIKE TO TURN  
17 TO YOUR ANALYSIS OF HOW THE KEY REGIONS IN MR. COOPER'S PLANS  
18 WERE TREATED. DID YOU ASSESS WHETHER MR. COOPER ADHERED TO HIS  
19 VARIOUS KEY REGIONS IN THE ILLUSTRATIVE PLANS?

20 A. I DID ASSESS THAT, YES.

21 Q. OKAY. AND DID YOU REVIEW MR. COOPER'S TRIAL TESTIMONY  
22 FROM WEDNESDAY?

23 A. YES.

24 Q. OKAY. AND AGAIN, I WILL REPRESENT TO YOU DURING THAT  
25 TESTIMONY ON WEDNESDAY, PAGES 41 AND 42 OF THE TRANSCRIPT,

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10:12AM 1 MR. COOPER DESCRIBED, QUOTE, CULTURAL REGIONS, END QUOTE, AND  
2 REPORTED THAT HE WAS, QUOTE, LOOKING AT THE REGIONS AND TRIED  
3 TO KEEP THEM TOGETHER AS CLOSE AS POSSIBLE, END QUOTE. WHAT  
4 DID YOU UNDERSTAND THAT CLAIM TO MEAN?

5 A. SO KEEPING A COMMUNITY OF INTEREST TOGETHER IS A VERY  
6 COMMON PRACTICE. IT IS OFTEN LEGALLY REQUIRED WHEN DRAWING  
7 DISTRICTS. AND WHAT THAT MEANS IS THAT WHEN A DISTRICT GETS  
8 CLOSE TO THE COMMUNITY BORDER, THE DISTRICT BOUNDARY FOLLOWS  
9 THE COMMUNITY BORDER. YOU DON'T CROSS IT AND SPLIT THE  
10 DISTRICT AMONGST MULTIPLE COMMUNITIES OF INTEREST BECAUSE THEN  
11 YOU ARE BREAKING UP THAT COMMUNITY BETWEEN THE DIFFERENT  
12 DISTRICTS.

13 SO HIS CLAIM IS A COMMON STATEMENT MADE THAT WHEN YOU DO  
14 THAT, YOU ARE KEEPING THE DISTRICTS SO THAT THEIR BOUNDARIES  
15 FOLLOW THE COMMUNITY OF INTEREST BOUNDARY.

16 Q. OKAY. AND WHAT DID YOU CONCLUDE ABOUT WHETHER MR. COOPER  
17 ADHERED TO HIS KEY REGIONS?

18 A. HE DID NOT.

19 Q. AND I WOULD LIKE TO TURN TO PAGE 14 OF YOUR REPORT, AND I  
20 WILL KIND OF GO THROUGH A FEW OF THESE, AND I WOULD LIKE TO  
21 START HERE ON PARAGRAPH 38 AT THE BOTTOM OF THE PAGE HERE. AND  
22 WHAT DO YOU REPORT HERE ABOUT MR. COOPER'S ILLUSTRATIVE SENATE  
23 PLAN?

24 A. THAT IT SPLITS THE PLANNING DISTRICT REGIONS BY HAVING  
25 ANYWHERE FROM THREE TO SEVEN HOUSE DISTRICTS CROSS THAT

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10:14AM 1 BOUNDARY. SO IT'S NOT FOLLOWING THAT BOUNDARY. IT'S NOT EVEN  
2 CLOSE TO FOLLOWING THE PLANNING DISTRICT BOUNDARIES AS  
3 COMMUNITIES OF INTEREST.

4 Q. AND JUST TO MAKE SURE THAT I'M NOT LEADING YOU ASTRAY, DR.  
5 JOHNSON, WE ARE TALKING ABOUT REGIONS THAT I BELIEVE YOU  
6 ANALYZED. HOW MANY DIFFERENT TYPES OF CULTURAL REGIONS DID YOU  
7 ANALYZE?

8 A. I FOCUSED ON TWO SETS, THE PLANNING DISTRICTS AND THE KEY  
9 CULTURAL REGIONS. I ALSO LOOKED AT THE MSAS AS WELL. MSAS  
10 DON'T COVER THE ENTIRE STATE, SO IT'S A LITTLE BIT OF A  
11 DIFFERENT COMPARISON, BUT I DID LOOK AT THOSE. BUT PRIMARILY  
12 ON THE PLANNING DISTRICTS AND THE KEY CULTURAL REGIONS.

13 Q. OKAY. SO, FOR EXAMPLE, IF WE THEN LOOK AT -- OKAY. SO IF  
14 WE THEN LOOK AT PARAGRAPH 39, WHICH LOOKS AT, I BELIEVE, THE  
15 ILLUSTRATIVE, HOW MANY -- SENATE MAP -- EXCUSE ME. HOW MANY  
16 TIMES DOES MR. COOPER DIVIDE PLANNING DISTRICTS IN THE  
17 ILLUSTRATIVE SENATE PLAN?

18 A. HE HAS ONE THAT HE DIVIDES AND CROSSES A BOUNDARY WITH  
19 ONLY TWO DISTRICTS. I SAY ONLY. YOU MIGHT HAVE TO DO TWO, BUT  
20 GENERALLY YOU HAVE TO DO ONE FOR POPULATION BALANCING. SO ONE  
21 IS NOT TOO BAD. IT KIND OF FOLLOWS THE PLANNING DISTRICT  
22 BOUNDARY. BUT EVERY OTHER PLANNING DISTRICT IS CROSSED  
23 ANYWHERE FROM THREE TO AS MANY AS EIGHT TIMES, SO HE IS CLEARLY  
24 NOT USING PLANNING DISTRICTS AS A GUIDING CONSIDERATION IN  
25 DRAWING THE LINES.

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10:16AM 1                   **MS. KEENAN:** OBJECTION, YOUR HONOR. THAT SAYS WHAT  
2 HE WAS USING AS A CONSIDERATION TO DRAW THE LINES. THAT DOES  
3 GO TO MR. COOPER'S INTENT.

4                   **THE COURT:** WELL, IT'S A SUMMARY. I'M GOING TO  
5 OVERRULE THE OBJECTION. I MEAN, IT KIND OF STATES WHAT I THINK  
6 THAT HE IS SHOWING THAT THE DATA -- OR THAT HIS DATA SHOWS.  
7 OVERRULED.

8 **BY MR. LEWIS:**

9 Q. AND DR. JOHNSON, JUST TO BE VERY CLEAR, YOU ARE NOT  
10 OFFERING TESTIMONY TODAY ABOUT YOUR -- ABOUT WHAT WAS  
11 SUBJECTIVELY IN MR. COOPER'S HEAD; IS THAT RIGHT?

12 A. CORRECT.

13 Q. ALL RIGHT. AND SO I JUST WANT TO MAKE SURE -- I MAY NOT  
14 HAVE ASKED THAT QUESTION INITIALLY AND INTENDED TO, BUT WHEN  
15 YOU ARE LOOKING AT THESE PLANNING DISTRICTS, HOW MANY TIMES DO  
16 YOU HAVE TO DIVIDE THEM IN ORDER TO ACHIEVE POPULATION  
17 EQUALITY?

18 A. HOPEFULLY THE NUMBERS WOULD BALANCE OUT AND YOU WOULDN'T  
19 HAVE TO CROSS THE BORDER AT ALL. OFTEN THAT DOESN'T WORK OUT,  
20 BECAUSE THE POPULATION REQUIREMENTS ARE PRETTY STRICT. SO YOU  
21 MAY HAVE TO CROSS A LINE ONCE IF THE NUMBER OF PEOPLE IN THE  
22 COMMUNITY DOESN'T ALMOST PERFECTLY MATCH UP WITH A MULTIPLE OF  
23 DISTRICTS. SOMETIMES WE WILL GET STUCK, AND IN ORDER TO  
24 BALANCE THE POPULATIONS OF THE COMMUNITY NEXT TO YOU AND THE  
25 COMMUNITY ON THE OTHER SIDE OF YOU, YOU MAY HAVE TO CROSS A

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10:17AM 1 BORDER TWICE, ONCE TO LET POPULATION OUT OF THE AREA, FOR  
2 EXAMPLE, TO THE EAST, AND ONCE TO SPILL OVER EXTRA POPULATION  
3 TO THE WEST. BUT FOR POPULATION BALANCING REASONS, YOU SHOULD  
4 NEVER HAVE TO CROSS A BOUNDARY MORE THAN TWICE.

5 Q. ALL RIGHT. AND I WOULD LIKE TO NOW TURN TO PARAGRAPH 42.  
6 AND THIS, I BELIEVE, IS WHERE YOU ADDRESS MR. COOPER'S KEY  
7 REGIONS. IS THAT RIGHT?

8 A. YES.

9 Q. OKAY. AND DID YOU CALCULATE THE NUMBER OF TIMES THAT, FOR  
10 POPULATION BALANCE, A KEY REGION WOULD HAVE TO BE DIVIDED?

11 A. YES.

12 Q. AND HOW MANY TIMES IS THAT?

13 A. ACTUALLY, IF WE GO TO -- 42 IS JUST WHAT WE WERE JUST  
14 TALKING ABOUT. 43, 44 ARE THE SPECIFICS, REGION BY REGION.  
15 BUT YES, THERE -- IN 43, IT TALKS ABOUT AN UNNAMED REGION THAT  
16 DIDN'T HAVE A TITLE IN HIS MAP. IT IS CROSSED ONLY ONCE. BUT  
17 THEN WE GET TWICE INTO TWO REGIONS, THREE TIMES, FIVE TIMES,  
18 AND ACADIANA IS ACTUALLY CROSSED SEVEN TIMES IN THE HOUSE MAP.  
19 AND THEN IN THE SENATE MAP, SIMILAR RESULTS, THREE, FOUR, FIVE  
20 OR EVEN EIGHT TIMES THAT BOUNDARY IS BEING CROSSED BY  
21 DISTRICTS.

22 Q. OKAY. AND DO THOSE DISTRICT BOUNDARIES REFLECT ADHERENCE  
23 TO THE KEY CULTURAL REGIONS IN THE CONSTRUCTION OF THE 2023  
24 ILLUSTRATIVE MAPS?

25 A. NO. UNLESS YOU -- UNLESS A DISTRICT HAS TO CROSS THE LINE

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10:19AM 1 FOR POPULATION BALANCING, YOU ARE NOT LETTING THAT COMMUNITY  
2 BOUNDARY CONTROL YOUR DISTRICTING WHEN YOU CROSS IT.

3 Q. AND SIMILARLY, IF WE TURN TO PARAGRAPH 46 OF YOUR REPORT,  
4 DR. JOHNSON, DO YOU PERFORM A SIMILAR ANALYSIS OF THE  
5 METROPOLITAN STATISTICAL AREAS THAT MR. COOPER CONSIDERED?

6 A. YES.

7 Q. AND CAN YOU WALK THE COURT THROUGH THAT ANALYSIS?

8 A. YES. AS IT -- WHEN YOU GET IN THE MIDDLE OF THE PARAGRAPH  
9 THERE, IT TALKS ABOUT THE -- THERE'S ONE MSA THAT THE SENATE  
10 MAP IS PRETTY GOOD ON. IT JUST CROSSES TWICE. ARGUABLY THAT  
11 WOULD BE REQUIRED FOR POPULATION BALANCING. BUT THE OTHER  
12 EIGHT MSAS ARE CROSSED, AGAIN, THREE, FOUR, FIVE, EVEN SIX  
13 TIMES BY THE SENATE DISTRICTS. AS THE SENATE DISTRICTS CROSS  
14 THESE LINES, THEY ARE CLEARLY NOT USING THE COMMUNITY OF  
15 INTEREST AS A DEFINITION THAT SHOULD GUIDE WHERE THE BOUNDARIES  
16 GO.

17 AND ON THE HOUSE SIDE, YOU ARE SEEING THE SAME THING, MSA  
18 BOUNDARIES BEING CROSSED EIGHT TIMES, SEVEN TIMES. THESE KINDS  
19 OF NUMBERS ARE SHOWING THAT THE COMMUNITY AS DEFINED IN THE MAP  
20 IS NOT CONTROLLING WHERE THE LINES ARE DRAWN.

21 Q. I WOULD LIKE TO RETURN BRIEFLY TO -- YOU HAVE A FIGURE,  
22 FIGURE 4 ON PAGE 14. IF WE COULD TURN BACK TO THAT. THIS  
23 FIGURE APPEARS TO DEPICT ILLUSTRATIVE HOUSE DISTRICTS 55 AND 54  
24 IN LAFOURCHE AND JEFFERSON PARISHES; IS THAT RIGHT?

25 A. I THINK IT IS ACTUALLY 84. IT'S A LITTLE HARD TO READ ON



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10:21AM 1 THERE, BUT 54 AND 84.

2 Q. I MAY HAVE MISSPOKEN. THAT IS MY MISTAKE. WHAT IS THAT  
3 FIGURE SHOWING US?

4 A. SO THE PURPLE AREA, HOUSE DISTRICT 54, IS ON THE LEFT, AND  
5 THEN THE YELLOW LINE IS THE PARISH BOUNDARY. SO YOU CAN SEE 84  
6 IS COMING IN JEFFERSON. BUT 54, DOWN AT THE SHORELINE, HAS A  
7 PENINSULA THAT STICKS OVER, THAT CROSSES THE PARISH LINE AND  
8 CROSSES -- THIS IS ACTUALLY SOME OF THE REGIONAL LINES THAT  
9 MR. COOPER SHOWED IN HIS MAP WHEN HE TRIED TO DEFINE THESE BIG  
10 REGIONS. AND 54 IS JUST CROSSING RIGHT THROUGH THEM IN ORDER  
11 TO PICK UP THAT PENINSULA.

12 Q. OKAY. APPROXIMATELY HOW MANY PEOPLE LIVE IN THE  
13 PENINSULA?

14 A. JUST OVER A THOUSAND. IT IS 1005.

15 Q. ALL RIGHT. WE CAN TAKE THAT DOWN.

16 SO DR. JOHNSON, JUST TAKING A STEP BACK, BASED ON WHAT WE  
17 HAVE TALKED ABOUT IN TERMS OF THESE PLANNING DISTRICTS,  
18 CULTURAL REGIONS, WHAT CONCLUSIONS DID YOU DRAW ABOUT  
19 MR. COOPER'S ADHERENCE TO THESE REGIONAL BOUNDARIES?

20 A. THE VARIOUS DEFINITIONS OF REGIONS, WHETHER THEY BE  
21 PLANNING, KEY CULTURAL OR MSA, ARE NOT LINES THAT THE  
22 ILLUSTRATIVE DISTRICT LINES FOLLOW. SO THESE COMMUNITY LINES  
23 ARE NOT CONTROLS THAT ARE GUIDING THE DRAWING OF THOSE LINES.

24 Q. AND COULD A MAP-MAKER HAVE REDUCED THE NUMBER OF DIVISIONS  
25 OF THESE REGIONS?

DR. D. JOHNSON - DIRECT

10:23AM 1 A. CERTAINLY. IF A MAP-MAKER WAS ACTUALLY TRYING TO KEEP A  
2 COMMUNITY TOGETHER, YOU DRAW DISTRICTS TO THE REGIONAL OR  
3 COMMUNITY BOUNDARY AND STOP. AND ONE WOULD KEEP THOSE  
4 DISTRICTS IN THAT COMMUNITY IN ORDER TO AVOID EXCESSIVE  
5 DIVISION OF THE COMMUNITY AMONGST THE MAP.

6 Q. ALL RIGHT. DR. JOHNSON, I WOULD NOW LIKE TO SWITCH GEARS  
7 AND TO TAKE YOU THROUGH YOUR ANALYSIS OF THE DIFFERENT 2023  
8 ILLUSTRATIVE MAJORITY BLACK DISTRICTS THAT MR. COOPER  
9 CONSTRUCTED. SO I WOULD LIKE TO PULL UP FIGURE 16 APPEARING ON  
10 PAGE 27 OF YOUR REPORT.

11 OKAY. AND DR. JOHNSON, I BELIEVE THIS IS A FIGURE  
12 DEPICTING ILLUSTRATIVE SENATE DISTRICTS 38 AND 39. DOES THAT  
13 LOOK RIGHT?

14 A. YES.

15 Q. OKAY. AND CAN YOU ORIENT -- AND THIS IS IN THE SHREVEPORT  
16 AREA; IS THAT RIGHT?

17 A. YES.

18 Q. AND DR. JOHNSON, CAN YOU ORIENT US TO THE FIGURE? EXPLAIN  
19 THE COLORS AND THE LINES ON THIS PAGE.

20 A. HAPPY TO, YES.

21 Q. ALL RIGHT.

22 A. SO I MENTIONED BEFORE THE MAPTITUDE SCREEN THAT WE LOOKED  
23 AT WHERE EACH INDIVIDUAL DISTRICT WAS COLORED IN. IN THIS  
24 CASE, THE BLUE DASHED LINES ARE THE DISTRICT LINES FOR THE  
25 ILLUSTRATIVE SENATE MAP. AND THE COLORS THAT WE ARE SEEING ARE

DR. D. JOHNSON - DIRECT

10:25AM 1 THOSE CENSUS BLOCKS. SO THIS IS A -- WE HAVE A FAIRLY DENSELY  
2 POPULATED AREA IN SHREVEPORT. PRETTY CONSISTENTLY EACH CITY  
3 BLOCK IS ITS OWN CENSUS BLOCK.

4 THE COLORING THAT YOU ARE SEEING HERE, YOU CAN SEE THE  
5 CODING ON THE LEFT, THE PURPLE AREAS ARE 25 PERCENT BLACK VAP,  
6 ANY PART BLACK VAP OR LOWER. THE DARKER BLUE AND LIGHTER BLUE  
7 ARE 25 TO 50 PERCENT. AND THEN THE AREAS THAT ARE GREEN,  
8 YELLOW OR RED ARE MAJORITY BLACK. THEY ARE 50 TO 65, 65 TO 75,  
9 OR 75 TO 100 PERCENT OF THE VOTING AGE POPULATION IS BLACK. SO  
10 YOU CAN SEE THROUGH THE CENTER OF THIS AREA, GOING NORTH/SOUTH,  
11 CERTAINLY OVERWHELMINGLY 75 PERCENT OR HIGHER OF THE VOTING AGE  
12 POPULATION IS ANY PART BLACK.

13 THE OTHER LINES SHOWN ON HERE, UP IN THE TOP RIGHT, YOU  
14 CAN SEE KIND OF THE DASHED -- THE THICK DASHED LINES. THOSE  
15 ARE THE PARISH BOUNDARIES SHOWN IN BROWN IN THE TOP RIGHT.  
16 THEN WE HAVE THE FREEWAYS IN ORANGE SHOWN THERE. AND IT DIDN'T  
17 TRANSLATE VERY WELL TO PDF. ON THE COMPUTER SCREEN IT SHOWS  
18 VERY WELL, BUT THERE ARE THE THIN RED LINES THAT DON'T REALLY  
19 COME THROUGH ON THIS THAT ARE THE CENSUS PLACE OR CITY  
20 BOUNDARIES. YOU CAN SEE THE DIFFERENT CENSUS PLACE NAMES,  
21 RIGHT IN THE MIDDLE OF SHREVEPORT AND UP IN THE TOP RIGHT,  
22 BUT -- I THINK IT'S PRONOUNCED BOSSIER. DON'T HOLD ME TO ANY  
23 OF MY PRONUNCIATION OF NAMES DOWN HERE. I'M VERY BAD OF THAT.  
24 MY FATHER-IN-LAW WOULD BE ASHAMED. BUT TO THE BEST I CAN,  
25 BOSSIER PARISH UP IN THE TOP RIGHT.

DR. D. JOHNSON - DIRECT

10:27AM 1 Q. AND WHAT STANDS OUT AT YOU ABOUT THE BOUNDARY LINE ON THIS  
2 IMAGE RUNNING BETWEEN ILLUSTRATIVE SENATE DISTRICT 38 AND  
3 ILLUSTRATIVE SENATE DISTRICT 39?

4 A. IT DEFINITELY CURVES IN LINES IN ODD WAYS. YOU KNOW, IT'S  
5 NOT FOLLOWING THE FREEWAY, EXCEPT FOR A VERY SHORT PERIOD.  
6 RIGHT IN THE MIDDLE, NEXT TO SHREVEPORT, YOU CAN SEE WHERE THE  
7 FREEWAY LINE IS. IN THAT LITTLE STRETCH IT FOLLOWS THE  
8 FREEWAY.

9 YOU KNOW, I CAN SEE AN ARGUMENT THAT FOLLOWING THE  
10 BOUNDARY OF THE AIRPORT COULD BE A CONSIDERATION. BUT OTHER  
11 THAN THAT, THE LINES KIND OF ZIG AND ZAG IN VERY ODD WAYS THAT  
12 DON'T FOLLOW COMPACTNESS, THAT DON'T FOLLOW CITY BOUNDARIES,  
13 THAT DON'T FOLLOW SOCIO-ECONOMIC BOUNDARIES, THAT DON'T FOLLOW  
14 KEY REGIONS. ALL THE CRITERIA THAT MR. COOPER LISTED, THE LINE  
15 ISN'T FOLLOWING. SOME OF IT MIGHT BE BECAUSE OF ODD-SHAPED  
16 VTDS, BUT STILL, WE ARE PICKING AND CHOOSING VTDS NOT BASED ON  
17 TRADITIONAL CRITERIA. WE ARE JUST WEAVING AROUND AND GOING  
18 LEFT AND RIGHT FOR REASONS THAT ARE NOT EXPLAINED BY ANY OF THE  
19 CRITERIA THAT MR. COOPER OFFERED AS EXPLANATIONS.

20 Q. OKAY. AND IS FOLLOWING A PARISH BOUNDARY, I THINK YOU  
21 SAID MAJOR ROADWAYS AND NEIGHBORHOODS, ARE THOSE TRADITIONAL  
22 CRITERIA?

23 A. YES.

24 Q. AND SO DOES THIS BOUNDARY APPEAR TO RESPECT A NONRACIAL  
25 REDISTRICTING CRITERION THAT MR. COOPER SAYS IN HIS REPORT THAT

DR. D. JOHNSON - DIRECT

10:29AM 1 HE FOLLOWED?

2 A. NO.

3 Q. AND YOU KNOW, WE HAVE -- I THINK IN THE MIDDLE OF THIS  
4 FIGURE, YOU CAN SEE THESE SORT OF JAGGED LINES. ABOUT HOW MANY  
5 PEOPLE RESIDE IN THE AREA BOUNDED IN THOSE JAGGED LINES?

6 A. THIS IS VERY DENSELY POPULATED AREAS, OBVIOUSLY BEING IN  
7 SHREVEPORT, SO WE ARE TALKING THOUSANDS OF PEOPLE IN EACH OF  
8 THESE ZIGS AND ZAGS.

9 Q. AND WHAT IS THE RANGE OF BLACK VOTING AGE POPULATION IN  
10 THE AREA OF THESE ZIGS AND ZAGS?

11 A. ALL THROUGH THE MIDDLE, IT IS OVERWHELMINGLY RED, WHICH  
12 MEANS 75 TO A 100 PERCENT OF THE VOTING AGE POPULATION IS AT  
13 LEAST PART BLACK.

14 Q. AND I KNOW IT'S REPORTED IN A HUNDRED PLACES, BUT ARE YOU  
15 AWARE OF THE BLACK VOTING AGE POPULATION IN ILLUSTRATIVE SENATE  
16 DISTRICTS 38 AND 39?

17 A. YES, THEY BOTH END UP 50-PERCENT MAJORITY BLACK.

18 Q. MAYBE A LITTLE -- MAYBE A LITTLE ABOVE?

19 A. OH, YEAH, SORRY, NOT PRECISELY 50 PERCENT, BUT JUST OVER  
20 50 PERCENT.

21 Q. OKAY. AND SO DO YOU SEE ANY TRADITIONAL CRITERIA -- I  
22 THINK YOU'VE ALREADY ANSWERED THAT, BUT IN THE ABSENCE OF  
23 TRADITIONAL CRITERIA, WHAT EXPLANATION MIGHT THERE BE FOR A  
24 DISTRICT CONFIGURATION LIKE THIS ONE?

25 A. WELL, JUST GOING BY MR. COOPER'S OWN WORDS, HE TALKS

DR. D. JOHNSON - DIRECT

10:30AM 1 ABOUT -- HE USED TRADITIONAL CRITERIA AND RACE. AND IF THE  
2 LINES DON'T REFLECT ANY TRADITIONAL CRITERIA, THEN BY HIS OWN  
3 WORDS, HE IS FOLLOWING RACE.

4 Q. AND JUST LOOKING AT THE DATA, DOES THE LINE -- COULD THE  
5 LINE BE CONSISTENT WITH FOLLOWING RACE?

6 A. YES. IF YOU ARE TRYING TO GET THE TWO NUMBERS TO BALANCE  
7 OUT JUST RIGHT, THAT TAKES -- WHETHER YOU ARE DOING IT BECAUSE  
8 YOU HAVE TO UNDER COURT ORDER OR WHATEVER REASON, OR BECAUSE  
9 YOU HAVE YOUR OWN GOAL, YOU ARE GOING TO BALANCE OUT THE  
10 DIFFERENT SHADING AREAS, YOU KNOW, THE DIFFERENT  
11 CONCENTRATIONS. AND YOU CAN SEE HERE -- YOU KNOW, I DIDN'T  
12 MENTION IT, BUT OVER ON THE EAST SIDE, YOU CAN SEE THE THICK  
13 BLUE DASHED LINE AROUND THE PURPLE AREA. THAT IS ANOTHER  
14 DISTRICT COMING IN AND TAKING THAT AREA AWAY FROM DISTRICT 38.  
15 SO YOU ARE GOING TO OFTEN END UP WITH STRANGE SHAPED LINES IF  
16 YOU ARE TRYING TO GET JUST TO A CERTAIN RACIAL PERCENTAGE IN  
17 YOUR DISTRICTS.

18 Q. SURE. AND NOW, DR. JOHNSON, I WOULD LIKE TO TURN TO  
19 IBERVILLE PARISH, NOT FAR FROM HERE. SO IF WE COULD TURN TO  
20 FIGURE 17 ON PAGE 28. AND WHAT ARE WE LOOKING AT HERE, DR.  
21 JOHNSON? CAN YOU ORIENT US TO THIS FIGURE?

22 A. SO IT'S NOT A CRYSTAL CLEAR MAP. MY APOLOGIES FOR THAT.  
23 BUT WHAT WE ARE LOOKING AT IS SENATE DISTRICT 17. AGAIN, THE  
24 BLUE DASHED LINES IN THE TOP LEFT ARE THE BOUNDARIES OF 2023  
25 ILLUSTRATIVE MAP, SENATE DISTRICT 17. THEN --

DR. D. JOHNSON - DIRECT

10:32AM 1 THE COURT: 17 OR 19?

2 THE WITNESS: 17.

3 THE COURT: OKAY.

4 A. THEN, AGAIN, THE THICK BROWN HASH MARKS ARE THE PARISH  
5 BOUNDARIES. AND THE COLOR CODING, THERE ARE PURPLES, GREENS  
6 AND REDS, ARE THE SAME AS THEY WERE IN THE LAST MAP. THE  
7 PURPLES ARE 25 PERCENT BLACK OR LOWER. THE GREENS, YELLOWS AND  
8 REDS ARE MAJORITY BLACK. SO WE HAVE GOT THE SENATE DISTRICT 17  
9 IN THE ILLUSTRATIVE MAP, SENATE DISTRICT 17 IN THE TOP LEFT  
10 FOLLOWING THE BLUE DASHED LINES.

11 THE ENACTED SENATE DISTRICT 17 ALSO INCLUDED THE KIND OF  
12 RED-TINTED AREA GOING ALL THE WAY DOWN TO THE PARISH LINE. SO  
13 THERE'S A RED LINE THAT RUNS OVER THE PARISH LINE AT THE SOUTH  
14 END OF THE PARISH, AND THEN OVER BY THE RIVER IN THE TOP RIGHT,  
15 YOU CAN SEE THE RED LINE OUTLINING THE RED SHADED AREA.

16 SO THE ENACTED MAP TOOK EVERYTHING THAT IS IN THE  
17 ILLUSTRATIVE 17 IN THE TOP LEFT AND KEPT GOING ALL THE WAY TO  
18 THE PARISH BOUNDARY, USING -- FOLLOWING THE PARISH BOUNDARY AS  
19 THE DISTRICT BOUNDARY, THE STANDARD CRITERIA LISTED IN THE  
20 STATE'S JOINT RULE AND THE TRADITIONAL REDISTRICTING PRINCIPLE.

21 THE ILLUSTRATIVE MAP REMOVED ALL OF THAT RED SHADED AREA  
22 FROM SENATE DISTRICT 17. AND AS YOU CAN SEE, IT IS MOSTLY BLUE  
23 AND PURPLE, SO IT IS MOSTLY WHITE. IT TOOK THE MOSTLY WHITE  
24 AREA OUT AND STOPPED THE BOUNDARY AT THE BLUE DASHES, KIND OF  
25 IN THE MIDDLE OF NOWHERE, AND THAT BOUNDARY IS NOT FOLLOWING

DR. D. JOHNSON - DIRECT

10:34AM 1 ANY TRADITIONAL REDISTRICTING PRINCIPLE. IT DOESN'T FOLLOW THE  
2 PARISH, IT DOESN'T FOLLOW A MAJOR ROAD, IT DOESN'T FOLLOW A  
3 COMMUNITY LINE, IT DOESN'T FOLLOW A KEY CULTURAL REGION. IT  
4 JUST IS DRAWN OUT IN THE MIDDLE OF NOWHERE. AND THE RESULT IS  
5 THAT YOU TOOK OUT THESE HEAVILY WHITE AREAS AND IT INCREASED  
6 THE BLACK PERCENTAGE OF ILLUSTRATIVE SENATE DISTRICT 17.

7 **BY MR. LEWIS:**

8 Q. AND AGAIN, RECOGNIZING WE HAVE THIS NUMBER IN A HUNDRED  
9 PLACES, BUT DO YOU KNOW THE BVAP OF ILLUSTRATIVE SENATE  
10 DISTRICT 17?

11 A. AGAIN, IT IS OVER 50 PERCENT BLACK.

12 Q. AND SO DO YOU SEE ANY -- JUST BASED ON THE LINES, DO YOU  
13 SEE ANY NONRACIAL REDISTRICTING CRITERION THAT COULD EXPLAIN  
14 THIS CONFIGURATION?

15 A. NO.

16 Q. AND COULD A RACIAL CONSIDERATION EXPLAIN THIS  
17 CONFIGURATION?

18 A. IT COULD.

19 Q. AND WHAT CONSIDERATION WOULD THAT BE?

20 A. IF ONE'S GOAL WAS TO INCREASE SENATE DISTRICT 17 TO BE  
21 OVER 50 PERCENT BLACK, CUTTING OUT THIS AREA, ESSENTIALLY NOT  
22 GOING TO THE PARISH BOUNDARY, TO THE TRADITIONAL REDISTRICTING  
23 BOUNDARY, AND INSTEAD STOPPING THE LINE IN THE MIDDLE OF  
24 NOWHERE, WOULD HELP ACHIEVE THAT RACIAL TARGET.

25 Q. ALL RIGHT. AND SO FINALLY, DR. JOHNSON, WE GET TO -- WE



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10:36AM 1 COME TO ILLUSTRATIVE SENATE DISTRICT 19 IN JEFFERSON PARISH. I  
2 WOULD LIKE TO TURN TO FIGURE 18 ON PAGE 29.

3 SO IT LOOKS LIKE, DR. JOHNSON, IT LOOKS LIKE YOU HAVE A  
4 MAP OF THE DISTRICT AND THEN AN INSET. AND MAYBE IT'S BEST TO  
5 START WITH THE FULL MAP, AND THEN WE CAN GET TO THE INSET. BUT  
6 CAN YOU WALK THE COURT THROUGH WHAT YOU ARE SHOWING IN THIS  
7 MAP?

8 A. SURE. VERY SIMILAR TO THE EARLIER MAPS, WE ARE LOOKING AT  
9 THE BLUE LINES BEING THE ILLUSTRATIVE SENATE DISTRICT 19  
10 BOUNDARY. WE HAVE GOT THE THICK BROWN DASHES BEING THE PARISH  
11 BOUNDARY. YOU CAN REALLY SEE THEM BEST OVER ON THE RIGHT-HAND  
12 SIDE OF THE MAP, AND THEN THROUGH THE KIND OF LEFT MIDDLE OF  
13 THE MAP, YOU CAN SEE THE PARISH BOUNDARIES COMING DOWN.

14 THERE IS ALSO -- THE BLUE HATCHING AT THE TOP IS WATER,  
15 AND YOU CAN SEE THE RIVER ALSO IN THE BLUE HATCHING GOING  
16 THROUGH THE LEFT OR RIGHT, THROUGH THE MIDDLE OF THE MAP.

17 AND THEN WE'VE GOT THE SAME COLOR SHADING, SO CITY BLOCKS  
18 BY CITY BLOCKS, AND WE'RE IN THE HEAVILY POPULATED AREA. WE  
19 HAVE GOT THE PURPLE BEING 25 PERCENT OR LESS, THE BLUE BEING  
20 LESS THAN 50 PERCENT BLACK, AND THEN THE GREENS, YELLOWS AND  
21 REDS BEING MAJORITY BLACK. AND REALLY AT A GLANCE, YOU CAN SEE  
22 THERE ARE SOME EDGE COMMUNITIES, BUT THE MAP IS VERY HEAVILY  
23 EITHER PURPLE OR RED. IT IS EITHER LESS THAN 25 PERCENT BLACK  
24 OR OVER 75 PERCENT BLACK. ONLY AMONG THE EDGES WHERE THE TWO  
25 COLORS MEET ARE THERE MORE BLENDED NEIGHBORHOODS.

DR. D. JOHNSON - DIRECT

10:38AM 1 Q. SO JUST TO HIGHLIGHT JUST A FEW AREAS ON THIS MAP, SO  
2 MOVING TO THE FAR WEST, I DON'T THINK EITHER ONE OF US ARE  
3 GOING TO PRONOUNCE THESE CORRECTLY, BUT IS IT BOOT  
4 (PRONOUNCING), B-O-U-T-T-E?

5 THE COURT: BOUTTE.

6 THE WITNESS: BOUTTE.

7 BY MR. LEWIS:

8 Q. BOUTTE. OKAY.

9 A. SO BOUTTE IS A COMMUNITY THAT'S JUST OUTSIDE THE BOUNDARY  
10 OVER THERE ON THE WEST SIDE.

11 BY MR. LEWIS:

12 Q. AND THEN MOVING NORTH, IT LOOKS LIKE KENNER AND RIVER  
13 RIDGE. WHAT IS GOING ON THERE?

14 A. OH, YES. SO THIS IS WHERE THE -- THE ARROWS KIND OF  
15 HIGHLIGHT NOTABLE AREAS, AS I LOOK AT THIS MAP, WHERE THE  
16 BOUNDARY LINE IS -- IT STARTS IN THE TOP LEFT ON THE LAKE, IF  
17 THAT MAKES SENSE, AND THEN IT STARTS TO COME DOWN ALONG THE  
18 PARISH LINE. YOU CAN SEE THE THICK BROWN DASHED LINE THERE,  
19 BUT INSTEAD OF FOLLOWING THE PARISH, IT ZIGS IN, AND IT'S NOT  
20 FOLLOWING A FREEWAY, IT'S NOT FOLLOWING A COMMUNITY BOUNDARY.  
21 IT ZIGS IN TO GET A PART OF KENNER. AND THEN IT CROSSES A  
22 FREEWAY, COMES DOWN. THE WHITE AREAS HAVE NO PEOPLE IN THEM.  
23 THEY ARE OPEN SPACE. SO IT COMES DOWN THROUGH OPEN SPACE AND  
24 THEN AGAIN ZIGS TO THE EAST TO PICK UP A RED, 75-PERCENT BLACK  
25 OR MORE COMMUNITY FROM OUT OF AN OTHERWISE PURPLE AREA.

DR. D. JOHNSON - DIRECT

10:39AM

1

**MS. KEENAN:** OBJECTION, YOUR HONOR. MAY I EXPLAIN?

2

**THE COURT:** YOU MAY.

3

4

**MS. KEENAN:** AGAIN, IT'S ABOUT PRECISION OF LANGUAGE

5

HERE. HE CAN TALK ABOUT THE WAY THAT THE DISTRICT IS SHAPED

6

AND WHAT TERRITORY IT DOES PICK UP, BUT WHAT HE IS TESTIFYING

7

RIGHT NOW IS THAT A DISTRICT ZIGS OR ZAGS IN A CERTAIN WAY TO

8

PICK UP A SPECIFIC COMMUNITY, AND THAT'S GOING TO THE INTENT OF

9

MR. COOPER, NOT JUST TO WHAT THE MAPS ACTUALLY SHOW ON THE

10

SCREEN. IT IS JUST THE PRECISION HERE.

**THE COURT:** MR. LEWIS?

11

**MR. LEWIS:** YOUR HONOR, HE IS DESCRIBING -- I

12

THINK -- I AM INTERPRETING HIS LANGUAGE AS THE LANGUAGE OF THE

13

FACT THAT THE LINE COMES OVER. HE'S NOT SAYING MR. COOPER DREW

14

THIS CONFIGURATION FOR THIS PURPOSE. HE IS DESCRIBING THE

15

EFFECT.

16

**THE COURT:** WELL, IT SOUNDS TO ME LIKE THAT IT IS FOR

17

THIS PURPOSE, SO I WOULD SUSTAIN THE OBJECTION. YOU CAN ASK IT

18

A DIFFERENT WAY, AND MAYBE DR. JOHNSON WILL ANSWER IT USING

19

DIFFERENT TERMINOLOGY.

20

**MR. LEWIS:** YES, YOUR HONOR.

21

**BY MR. LEWIS:**

22

Q. SO, DR. JOHNSON, YOU WERE TALKING ABOUT RIVER RIDGE. WHAT

23

IS THE EFFECT OF THE -- YOU DESCRIBED THIS DISTRICT BOUNDARY

24

COMING IN FROM THE PARISH BORDER AND SURROUNDING RIVER RIDGE.

25

WHAT IS THE EFFECT OF THAT LINE BEING DRAWN IN THAT LOCATION?

DR. D. JOHNSON - DIRECT

10:41AM 1 A. SURE. AS IT COMES SOUTH ALONG THE PARISH, THE LINE THEN  
2 MOVES TO THE EAST, AND IT PICKS UP THE AREA OF KENNER. IT IS  
3 NO LONGER FOLLOWING THE PARISH BOUNDARY, IT'S NOT FOLLOWING THE  
4 FREEWAY BOUNDARY, IT'S NOT FOLLOWING A COMMUNITY, A CITY OR  
5 OTHER COMMUNITY OF INTEREST BOUNDARY. IT KIND OF JUST ZIGS AND  
6 ZAGS THROUGH THE NEIGHBORHOODS. IN SO DOING IT, IT ENCOMPASSES  
7 A MAJORITY BLACK AREA IN KENNER. IT THEN -- THE BOUNDARY LINE  
8 THEN MOVES SOUTH THROUGH THE WHITE -- WHITE MEANS THERE'S NO  
9 POPULATION IN THAT AREA -- THROUGH THAT OPEN AREA, AND THE LINE  
10 THEN MOVES TO THE EAST AND AROUND THE RIVER RIDGE AREA. AS IT  
11 GOES EAST, IT TAKES IN THE RED 75-PERCENT BLACK AREA, WITH THE  
12 EFFECT OF TAKING THAT AREA INTO THE ILLUSTRATIVE SENATE  
13 DISTRICT 19, AND LEAVING OUTSIDE OF THE DISTRICT THE PURPLE  
14 25 PERCENT OR LESS AREA THAT GEOGRAPHICALLY SURROUNDS RIVER  
15 RIDGE OR THE PART OF RIVER RIDGE IT IS PICKING UP.

16 IT THEN MOVES SOUTH AND GETS TO THE RIVER AND THEN FOLLOWS  
17 THE RIVER AND THE PARISH BOUNDARY, WHICH IS THE RIVER IN THAT  
18 SECTION, FOR A CONSIDERABLE WAY, AND THAT IS FOLLOWING A  
19 TRADITIONAL PRINCIPLE, OBVIOUSLY. THE RIVER IS A BIG  
20 GEOGRAPHIC FEATURE, AND IT'S VERY CLEAR TO RESIDENTS WHERE THAT  
21 IS, AND THAT'S AN EASILY UNDERSTOOD BOUNDARY, WHICH IS A  
22 TRADITIONAL PRINCIPLE. BUT THEN AS IT GETS TO ITS EASTERN  
23 EDGE, THE BLUE DASHES, WHICH ARE THE BOUNDARY OF SENATE  
24 DISTRICT 17, TURN SOUTH. THEY DON'T CONTINUE ON JUST THAT  
25 SHORT DISTANCE TO CONTINUE FOLLOWING THE RIVER AND THE PARISH.

DR. D. JOHNSON - DIRECT

10:42AM 1 THEY STOP, AND THE LINE MOVES SOUTH. YOU CAN SEE IT, AND THIS  
2 PART IS THE PART THAT IS IN THE INSET MAP IN A LITTLE MORE  
3 DETAIL TO THE RIGHT.

4 WE ARE GOING THROUGH -- DOWN TO WOODMERE. SO AS IT GOES  
5 DOWN TO WOODMERE, IT HAS VARIOUS BUMPS AND INLETS THAT IT TAKES  
6 IN AND LEAVES OUT AS -- I DON'T KNOW IF YOU CALL IT THE CLUB OR  
7 THE FOOT, I DON'T KNOW HOW TO DESCRIBE THAT, THE SOUTHEASTERN  
8 KIND OF CLUB OF ILLUSTRATIVE SENATE DISTRICT 19. IT GETS DOWN  
9 TO THE OPEN SPACE, BUT THEN IT COMES BACK UP. AND AS YOU CAN  
10 SEE ON BOTH THE MAPS, THE INSET AND THE BIG MAP, IT THEN CARVES  
11 AROUND A POPULATION AREA, IT CARVES AROUND ESTELLE, LEAVING THE  
12 PURPLE AREA OUT OF SENATE DISTRICT 19, KIND OF ISOLATING THAT  
13 AGAINST THE WHITE UNPOPULATED AREA AND COMES AROUND TO MARRERO,  
14 I HOPE I SAID THAT RIGHT, AND GOING OVER TO AVONDALE AND THOSE  
15 AREAS UNTIL IT GETS BACK OVER AND AGAIN CROSSES, BRIEFLY  
16 FOLLOWS, A PARISH BOUNDARY AS IT MOVES UP TO THE NORTHWEST, AND  
17 THEN AGAIN LEAVES THE PARISH BOUNDARY, NOT FOLLOWING A  
18 TRADITIONAL PRINCIPLE, AND HEADS WEST AND THEN ZIGS AND ZAGS  
19 AROUND -- FROM BOUTTE BACK TO THE LAKE.

20 SO IT'S AN ALMOST SERPENTINE DISTRICT AS IT KIND OF  
21 SOMETIMES FOLLOWS THE PARISH BOUNDARY, SOMETIMES FOLLOWS THE  
22 RIVER BUT MOST OF THE TIME DOES NOT.

23 Q. AND WHEN YOU ARE DESCRIBING PURPLE AREAS, DR. JOHNSON,  
24 JUST TO MAKE SURE I'M CLEAR, IS THAT A REFERENCE TO REGIONS  
25 THAT HAVE 25 PERCENT OR LESS BLACK VOTING AGE POPULATION?

DR. D. JOHNSON - DIRECT

10:44AM

1 A. EXACTLY. THERE'S, YOU KNOW -- THERE'S A STRONG  
2 CORRELATION BETWEEN WHERE THE LINES ENDED UP AND THE --  
3 INCLUDING THE 75 PERCENT AND HIGHER BLACK VAP AREAS AND  
4 EXCLUDING THE 25 PERCENT AND LESS AREAS, WHETHER INTENTIONALLY  
5 OR NOT.

6 Q. OKAY. AND DR. JOHNSON, DOES THE -- TAKEN AS A WHOLE, DOES  
7 THE DISTRICT BOUNDARY FOR ILLUSTRATIVE SENATE DISTRICT 19  
8 APPEAR TO RESPECT NONRACIAL REDISTRICTING CRITERIA THAT  
9 MR. COOPER SAYS THAT HE FOLLOWED?

10 A. ONLY IN VERY LIMITED SMALL SECTIONS OF IT. THE  
11 OVERWHELMING MAJORITY OF THE BOUNDARY DOES NOT.

12 Q. OKAY. AND IS THERE A RACIAL REDISTRICTING CRITERION THAT  
13 COULD EXPLAIN THIS PARTICULAR CONFIGURATION?

14 A. YES.

15 Q. AND WHAT WOULD THAT CRITERIA BE?

16 A. THE END RESULT IS THAT IT'S A MAJORITY BLACK SENATE  
17 DISTRICT.

18 Q. OKAY. NOW, YOU MENTIONED THAT YOU REVIEWED MR. COOPER'S  
19 TRIAL TESTIMONY FROM WEDNESDAY. IS THAT RIGHT?

20 A. YES.

21 Q. AND DID YOU REVIEW MR. COOPER'S TRIAL TESTIMONY ABOUT  
22 THESE THREE DISTRICTS?

23 A. YES.

24 Q. DID THAT TESTIMONY CHANGE ANY OF YOUR OPINIONS?

25 A. NO.

DR. D. JOHNSON - DIRECT

10:46AM

1 Q. WHY NOT?

2 A. HE STATED THAT IT -- HE FOLLOWED TRADITIONAL REDISTRICTING  
3 CRITERIA AND RACE. AND WHEN I LOOK AT THESE LINES, THEY ARE  
4 NOT FOLLOWING TRADITIONAL REDISTRICTING PRINCIPLES, SO THAT  
5 LEAVES, JUST IN HIS OWN WORDS, RACE.

6 MR. LEWIS: YOUR HONOR, JUST AS A TIME KEEPING, I  
7 KNOW WE ARE PAST 10:30.

8 THE COURT: YOU ARE MOVING ON TO HOUSE DISTRICTS NOW?

9 MR. LEWIS: YES.

10 THE COURT: THIS IS A GOOD TIME TO TAKE A BREAK. I  
11 WAS GOING TO SUGGEST THAT WE TAKE A BREAK AT THAT POINT.

12 MR. LEWIS: YES, YOUR HONOR.

13 THE COURT: FIFTEEN MINUTES.

14 (RECESS TAKEN AT 10:46 A.M. UNTIL 11:02 A.M.)

15 THE COURT: DR. JOHNSON, WOULD YOU TAKE THE STAND  
16 AGAIN, PLEASE? MR. LEWIS, YOU MAY CONTINUE.

17 BY MR. LEWIS:

18 Q. THANK YOU, DR. JOHNSON. I WOULD LIKE TO NOW TURN TO YOUR  
19 REVIEW OF MR. COOPER'S ILLUSTRATIVE HOUSE DISTRICTS. AND THE  
20 FIRST TWO I WOULD LIKE TO LOOK AT ARE ILLUSTRATIVE HOUSE  
21 DISTRICTS 1 AND 2 IN SHREVEPORT. IF WE COULD TURN TO FIGURE 19  
22 ON PAGE 3.

23 SO DR. JOHNSON, CAN YOU ORIENT THE COURT TO THIS FIGURE?  
24 WHAT ARE WE SEEING HERE?

25 A. WE ARE LOOKING AT ROUGHLY THE SAME AREA WE WERE LOOKING AT

DR. D. JOHNSON - DIRECT

11:03AM 1 IN THE SENATE MAP OF THE SHREVEPORT AREA. ONE CHANGE IS THE  
2 PARISH BOUNDARIES ARE NOW THE BLACK DASHED LINES RATHER THAN  
3 THE THICK BROWN DASHED LINES. AND IN THIS CASE, THE RED LINES  
4 ARE A LITTLE THICKER, SO THEY ARE A LITTLE EASIER TO SEE THE  
5 CITY AND CENSUS PLACE BOUNDARIES. BUT YOU CAN SEE THE FREEWAY  
6 RUNNING THROUGH THE MIDDLE AND THE RIVER STARTING AND THE TOP  
7 AND COMING OFF THE EAST SIDE. SO IT IS ROUGHLY THE SAME AREA.  
8 IN THIS CASE, THE PURPLE-BLUE LINES ARE THE ILLUSTRATIVE HOUSE  
9 MAP.

10 Q. I SEE. OKAY. AND THE COLOR SHADING FOR CENSUS BLOCKS,  
11 THAT'S THE SAME SCALE OF BLACK VOTING AGE POPULATION WE'VE BEEN  
12 USING?

13 A. CORRECT.

14 Q. SO WHAT DID YOU FIND NOTEWORTHY ABOUT THE CONFIGURATION OF  
15 -- LET'S START WITH ILLUSTRATIVE HOUSE DISTRICT 1. WHAT DID  
16 YOU FIND NOTEWORTHY ABOUT THE CONFIGURATION OF THIS DISTRICT  
17 BOUNDARY?

18 A. WELL, YOU CAN SEE THE PARISH BOUNDARY AT THE TOP PART OF  
19 THE MAP, AGAIN, THE BLACK DASHED LINE. DISTRICT 1 GOES RIGHT  
20 ACROSS THAT. SO IT'S NOT FOLLOWING THE PARISH BOUNDARY. IN  
21 ADDITION, YOU CAN SEE THE RIVER COMING DOWN, THE BLUE HATCHING  
22 ON THE WHITE AREA. DISTRICT 1 GOES RIGHT ACROSS THAT. SO IT'S  
23 NOT FOLLOWING THE PARISH BOUNDARY, IT'S NOT FOLLOWING THE  
24 RIVER, IT'S NOT FOLLOWING MAJOR ROADS.

25 YOU CAN SEE ALONG THE TOP THERE IT IS CLOSE TO BUT ALSO



DR. D. JOHNSON - DIRECT

11:04AM 1 NOT FOLLOWING THE CITY OR CENSUS PLACE BOUNDARIES. SO IT'S  
2 JUST TAKING BOTH SIDES OF THE RIVER, NOT FOLLOWING ANY  
3 TRADITIONAL BOUNDARY -- ACTUALLY, I SHOULD SAY BOTH SIDES OF  
4 THE RIVER, BOTH SIDES OF THE PARISH BOUNDARY, NOT FOLLOWING ANY  
5 TRADITIONAL REDISTRICTING PRINCIPLE.

6 Q. OKAY. AND DO YOU HAPPEN -- WELL, I MEAN -- OKAY. AND IF  
7 WE THEN TURN TO -- AND DOES IT KEEP BOSSIER CITY WHOLE?

8 A. NO, IT DOES NOT.

9 Q. AND IF WE TURN TO ILLUSTRATIVE HOUSE DISTRICT 2 TO ITS  
10 SOUTH, WHAT IS NOTEWORTHY TO YOU ABOUT THIS BOUNDARY LINE?

11 A. AGAIN, WE ARE GETTING ZIGS AND ZAGS. WHAT IS RATHER  
12 TELLING IS IT HAS AN ODD-SHAPED WESTERN BOUNDARY, BUT IT IS  
13 FAIRLY WIDE AS YOU GO FROM THE WEST END OVER TO THE FREEWAY,  
14 RIGHT ALONG WHERE THE 02 LABEL IS, AND THEN IT GETS REALLY  
15 NARROW. AND IT'S GETTING NARROW TO NOT GO NORTH INTO ONE, AND  
16 IT IS GETTING NARROW IN A WAY THAT AVOIDS GOING INTO THE PURPLE  
17 OR VERY LOW BLACK PERCENTAGE AREA TO THE SOUTH SHOWN IN  
18 DISTRICT 6. SO IT GETS A NARROW NECK THROUGH THAT AREA AS IT  
19 MOVES FROM WEST TO EAST, AND THEN IT WINDS BACK OUT AS YOU GET  
20 MORE REDS, MORE GREENS. AND AGAIN, IT CROSSES THE PARISH LINE,  
21 IT CROSSES THE RIVER. AND THEY DON'T SHOW THE WHOLE THING OUT  
22 TO THE EAST, BUT IT REALLY IS SPLITTING. YOU CAN SEE ONE NECK  
23 JUST ABOVE WHERE IT SAYS 09. ONE NECK OF IT IS GOING THAT WAY,  
24 AND THEN ONE NECK GOING DOWN TO THE RIGHT THERE. SO IT SPLITS  
25 AND GOES OFF IN TWO BRANCHES.

DR. D. JOHNSON - DIRECT

11:06AM 1 SO AGAIN, IT'S A VERY UNUSUAL GEOGRAPHIC SHAPE THAT DOES  
2 NOT FOLLOW A PARISH BOUNDARY, DOES NOT FOLLOW THE RIVER, DOES  
3 NOT FOLLOW A FREEWAY, DOES NOT FOLLOW A CITY BOUNDARY. IT  
4 DOESN'T SEEM TO FOLLOW ANY TRADITIONAL REDISTRICTING PRINCIPLE.

5 Q. OKAY. AND DOES IT APPEAR TO RESPECT ANY COMMUNITIES  
6 DEFINED BY, FOR EXAMPLE, SHARED SOCIO-ECONOMIC FACTORS OR  
7 ANYTHING LIKE THAT?

8 A. NO. AGAIN, WE ARE LOOKING WITHIN A CITY, SO THERE'S --  
9 IT'S NOT FOLLOWING ANY SOCIO-ECONOMIC FACTORS THAT I SEE ON THE  
10 MAP, AND MR. COOPER SAID HE DID NOT HAVE SOCIO-ECONOMIC DATA  
11 WITHIN THE CITY. HE ONLY HAD THE CITY TOTALS. AND SO IF ALL  
12 YOU HAVE IS THE CITY TOTALS, THERE IS NO WAY TO FOLLOW THE  
13 SOCIO-ECONOMIC LINES WHEN YOU ARE DRAWING WITHIN THE CITY.

14 Q. SO, DR. JOHNSON, IS THERE A RACIAL REDISTRICTING CRITERIA  
15 THAT COULD EXPLAIN THE CONFIGURATION OF DISTRICTS 1 AND 2?

16 A. YES. IT DOES END UP WITHIN BOTH RESULTING AT MAJORITY  
17 BLACK.

18 Q. OKAY. ALL RIGHT. AND I WOULD LIKE TO NOW MOVE SOUTH FROM  
19 HERE TO LOOK AT MR. COOPER'S ILLUSTRATIVE HOUSE DISTRICT 23  
20 CENTERED IN NATCHITOCHES PARISH. SO IF WE COULD GO TO FIGURE  
21 20 ON PAGE 31. AND DR. JOHNSON, CAN YOU ORIENT THE COURT TO  
22 THIS FIGURE? WHAT ARE WE LOOKING AT?

23 A. SIMILAR LAYOUT OF LAYERS. WE HAVE GOT OUR COLOR-CODED  
24 CENSUS BLOCKS AT THE BOTTOM THAT ARE THE SAME SHADING OF PURPLE  
25 TO RED THAT WE'VE BEEN LOOKING AT ALL THE MAPS. YOU CAN SEE

DR. D. JOHNSON - DIRECT

11:08AM 1 THE BLUE HATCH ON WHITE THAT ARE THE LAKES AND RIVERS ON THE  
2 MAP.

3 THE RED LINES HERE ARE THANKFULLY EASIER TO SEE THAN THAT  
4 FIRST MAP AROUND THE CITIES AND CENSUS DESIGNATED PLACES. AND  
5 THEN OVER ON THE RIGHT-HAND SIDE, YOU CAN SEE THE BLACK DASHED  
6 LINES OF THE PARISH BOUNDARIES AS WELL.

7 BUT WE ARE LOOKING PRIMARILY AT DISTRICT 23 AS IT COMES  
8 INTO NATCHITOCHES AND THEN A LITTLE BIT OF 22 AS IT SENDS A  
9 FINGER DOWN INTO NATCHITOCHES, PULLING OUT THAT NORTHEASTERN  
10 CORNER OF THE CITY AND KIND OF SENDING DISTRICT 23 AROUND IT TO  
11 GET UP TO THE PORTION OF CLARENCE THAT DISTRICT 22 AND 23  
12 SPLIT.

13 Q. SO IF WE LOOK AT THE PORTION OF CLARENCE THAT'S IN HD 23,  
14 WHAT IS THE BLACK VOTING AGE POPULATION RANGE IN THAT AREA?

15 A. IT'S GOT THE -- RIGHT WHERE THE C-L-A-R IN CLARENCE IS,  
16 IT'S GOT A LITTLE LIGHT BLUE, BUT THEN ABOVE WHERE THE TITLE  
17 IS, IT'S THE RED, THE 75 PERCENT BLACK OR HIGHER.

18 Q. OKAY. AND THE PORTION OF NATCHITOCHES THAT IS ASSIGNED  
19 INTO HD 22, WHAT IS THE RACIAL MAKEUP OF THAT REGION?

20 A. IT'S PURPLE AND BLUE, SO LESS THAN 50 PERCENT BLACK, AND  
21 THE PURPLE AREAS ARE LESS THAN 25 PERCENT BLACK.

22 Q. OKAY. AND DO YOU HAPPEN TO KNOW THE BVAP OF ILLUSTRATIVE  
23 HOUSE DISTRICT 23?

24 A. IT IS MAJORITY BLACK.

25 Q. IS IT FAIRLY CLOSE TO THE 50 PERCENT LINE OR HIGHER?

DR. D. JOHNSON - DIRECT

11:10AM

1 A. YES.

2 Q. WHICH ONE?

3 A. PARDON?

4 Q. I ASKED A BAD QUESTION, DR. JOHNSON. IS IT CLOSE TO THE  
5 50 PERCENT LINE?

6 A. YES.

7 Q. OKAY. AND DR. JOHNSON, DOES THE BOUNDARY OF HOUSE  
8 DISTRICT -- ILLUSTRATIVE HOUSE DISTRICT 23 APPEAR TO FOLLOW A  
9 NONRACIAL REDISTRICTING CRITERION THAT MR. COOPER REPRESENTED  
10 THAT HE FOLLOWED?

11 A. NO.

12 Q. ALL RIGHT. SO MAJOR ROADS?

13 A. YES. THERE'S A LITTLE BIT -- IT'S WEIRD. IT FOLLOWS THE  
14 RIVER ON THE NORTH SIDE OF 23, BETWEEN 22 AND 23, KIND OF WHERE  
15 22, 23 AND 13 ALL COME TOGETHER OVER BY ST. MAURICE. IT DOES  
16 FOLLOW THE RIVER. BUT THEN TO THAT AREA, YOU ARE JUST TALKING  
17 ABOUT IT ZIGS OFF THE RIVER TO COME IN AND TAKE OUT A CHUNK OF  
18 NATCHITOCHES, NOT FOLLOWING A MAJOR ROAD, NOT FOLLOWING A WATER  
19 FEATURE, NOT FOLLOWING -- ACTUALLY DELIBERATELY OR OTHERWISE  
20 CROSSING RIGHT OVER THE CITY BOUNDARY TO TAKE OUT THAT CHUNK OF  
21 THE CITY AND FORCE 23 AROUND IT, WHICH BOTH DIVIDE THE  
22 COMMUNITY AND MAKES 23 LESS COMPACT.

23 Q. OKAY. AND DR. JOHNSON, IS THERE A RACIAL REDISTRICTING  
24 CRITERIA THAT COULD EXPLAIN THIS CONFIGURATION?

25 A. YES.

DR. D. JOHNSON - DIRECT

11:12AM 1 Q. AND WHAT IS THAT?

2 A. THE -- CAREFULLY OR COINCIDENTALLY, THE CARVING OUT OF  
3 THAT VERY LOW BLACK AREA OF NATCHITOCHEs FROM DISTRICT 23 HELPS  
4 MAKE DISTRICT 23 MAJORITY BLACK.

5 Q. OKAY. ALL RIGHT. SO DR. JOHNSON, JUST CONTINUING SOUTH  
6 TO THE LAKE CHARLES AREA, I WOULD NOW LIKE TO TURN TO YOUR  
7 ANALYSIS OF ILLUSTRATIVE HOUSE DISTRICT NUMBERS 38 AND 34. SO  
8 IF WE COULD TURN TO FIGURE 21 ON PAGE 32. WE HAVE A FAIR  
9 NUMBER OF DISTRICTS ON THE SCREEN, DR. JOHNSON. CAN YOU ORIENT  
10 THE COURT TO WHAT WE HAVE SHOWN HERE?

11 A. YES. SO THE GEOGRAPHY IS THE SAME. WE HAVE GOT OUR  
12 CENSUS BLOCKS WITH THE SAME BLACK COLOR CODING TO THEM AS  
13 BEFORE, WITH THE PURPLES BEING LOW AND REDS BEING HIGH. WE  
14 HAVE THE SAME PURPLE -- THICK PURPLE LINES ARE THE ILLUSTRATIVE  
15 MAP BOUNDARIES, AND THE RED LINES ARE THE CITY AND CENSUS PLACE  
16 LINES. AND THEN YOU CAN SEE THE FREEWAYS AND THE VARIOUS WATER  
17 FEATURES ALSO ON THE MAP.

18 THIS IS A DENSE AREA, LOTS OF POPULATION, SO WE ARE  
19 GETTING A LOT OF DISTRICTS, BUT THE MAIN FOCUS OF MY ANALYSIS  
20 IS 34 AND 38 AND THE IMPACT THAT 36 HAS ON 34.

21 Q. OKAY. AND SO LET'S START WITH -- WHY DON'T WE START WITH  
22 ILLUSTRATIVE DISTRICT 38. NOW, ARE THERE ANY FEATURES OF THIS  
23 DISTRICT'S CONFIGURATION THAT STAND OUT TO YOU?

24 A. YES. IN THE TOP OF THE MAP, BY WHERE IT SAYS MOSS BLUFF,  
25 IT IS COMING DOWN, IT IS ACTUALLY FOLLOWING A WATER FEATURE AS

DR. D. JOHNSON - DIRECT

11:14AM 1 IT GOES AROUND THERE. IT IS FOLLOWING A RIVER MAINLY. BUT  
2 THEN WHEN IT GETS OVER TO WESTLAKE, IT LEAVES THE RIVER, IT  
3 STOPS FOLLOWING THE RIVER, AND IT CUTS RIGHT THROUGH WESTLAKE.  
4 SO IT IS CARVING OUT THE SOUTHEASTERN PORTION OF WESTLAKE,  
5 GOING AROUND, GETTING KIND OF THE BIG OPEN AREA THERE THAT IS  
6 PURPLE, BUT WHEN CENSUS BLOCKS ARE THAT BIG, IT TENDS TO  
7 INDICATE THEY ARE RELATIVELY LOW POPULATION USUALLY.

8 AND THEN IT GETS INTO THE MORE CITY TYPE CITY BLOCK BY  
9 CITY BLOCK SOUTHERN PORTION OF WESTLAKE WHERE YOU CAN SEE THE  
10 DENSE CONCENTRATION OF YELLOW AND RED AREAS. SO AS THE LINE,  
11 THE PURPLE LINE GOES AROUND THROUGH THE CITY, IT HAS THE IMPACT  
12 OF OR THE EFFECT OF BRINGING IN THAT SOUTH WESTLAKE  
13 NEIGHBORHOOD INTO DISTRICT 38 AND SPLITTING THE CITY.

14 AND THEN IT COMES DOWN AND KIND OF WEAVES AROUND THE WATER  
15 FEATURE AGAIN BEFORE GETTING TO THE DISTRICT 34 AND DISTRICT 38  
16 BOUNDARY, WHICH DOESN'T FOLLOW A FREEWAY, DOESN'T FOLLOW A CITY  
17 OR OTHER CLEAR COMMUNITY BOUNDARY.

18 AGAIN, WE ARE WITHIN A PARISH AND WITHIN A CITY THERE, SO  
19 IF YOU ONLY HAVE CITY LEVEL SOCIO-ECONOMIC DATA, THAT CAN'T BE  
20 -- THAT DOESN'T GIVE YOU ANY INFORMATION THAT COULD BE FOLLOWED  
21 WITHIN THE CITY AS YOUR BOUNDARY LINE. SO IT COMES ALONG AND  
22 CARVES THROUGH THE CITY, NOT FOLLOWING ANY TRADITIONAL  
23 REDISTRICTING PRINCIPLE.

24 Q. AND WHEN YOU TALKED ABOUT THAT SOUTHERN PORTION OF  
25 WESTLAKE THAT WAS ASSIGNED -- THAT WAS SPLIT FROM THE REST OF

DR. D. JOHNSON - DIRECT

11:16AM 1 THE CITY AND ASSIGNED INTO ILLUSTRATIVE HOUSE DISTRICT 38, WHAT  
2 WAS THE RACIAL COMPOSITION OF THAT PIECE?

3 A. IT'S A MAJORITY BLACK. THE CITY BLOCKS ARE ALL YELLOW AND  
4 RED, SO IT IS INDICATING 65 PERCENT OR HIGHER.

5 Q. OKAY. ALL RIGHT. AND SO TURNING TO ILLUSTRATIVE HOUSE  
6 DISTRICT 34 TO THE SOUTH OF ILLUSTRATIVE HOUSE DISTRICT 38,  
7 WHAT FEATURES OF THIS DISTRICT CONFIGURATION STOOD OUT TO YOU?

8 A. WELL, IT HAS THE SAME CONCERN THAT I MENTIONED ABOUT  
9 DISTRICT 38 IN TERMS OF ITS NORTHERN BOUNDARY, WHERE IT BORDERS  
10 WITH 38. AND THEN ON -- IT'S HARD TO DESCRIBE THE SOUTHERN AND  
11 SOUTHWESTERN BOUNDARIES OF 34. IT'S A LOT OF FINGERS. YOU  
12 KNOW, IT DOES GO WEST FOLLOWING THE FREEWAY, I WILL GIVE CREDIT  
13 FOR THAT, TO THE RIVER AND FOLLOWS THE RIVER ON THE WEST EDGE  
14 OR STOPS AT THE RIVER ON THE WEST EDGE, BUT THAT'S AN ODD  
15 FINGER STICKING OUT.

16 THEN I MENTIONED I LOOKED AT 36 AS IT IMPACTS 34. 36  
17 COMES INTO LAKE CHARLES, THAT KIND OF WRAPAROUND EFFECT THAT  
18 THEY HAVE GOING ON THERE. IT'S NOT FOLLOWING A CITY BOUNDARY,  
19 IT'S NOT FOLLOWING A COMMUNITY BOUNDARY. BUT 34 THEN HAS THE  
20 ODD FINGER DOWN TO THE LEFT. IT'S PURPLE, SO I DON'T KNOW WHAT  
21 THE REASON FOR THAT IS, AND THERE'S NO VISIBLE REASON ON THE  
22 MAP THERE.

23 THEN 36 AGAIN KIND OF HAS TEETH COMING UP INTO 34, PULLING  
24 OUT THE -- IN ONE CASE FOLLOWING THE CITY BOUNDARY AND THE  
25 EASTERN OF THE TWO TEETH, BUT ON THE WESTERN TOOTH, IT'S

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11:18AM 1 CUTTING RIGHT IN THE CITY, PICKING UP AN AREA THAT IS PURPLE,  
2 SO 25 PERCENT BLACK OR LESS. AND THEN THE AREAS THAT ARE  
3 35 PERCENT, WHAT IS IT, 25 -- EVEN 25 TO 50 PERCENT END UP IN  
4 34, WHILE THE 25 PERCENT AND BELOW END UP IN 36. AND THEN IT  
5 KEEPS CARVING AROUND AND AGAIN PICKS UP THE -- KIND OF GOES  
6 AROUND THE PURPLE AREA AND PICKS UP THE BLUE AREA AS IT OF  
7 CRISS-CROSSES AND ZIG ZAGS ACROSS THE CITY BOUNDARY.

8 Q. AND AGAIN, DR. JOHNSON, IS THERE A NONRACIAL REDISTRICTING  
9 CRITERIA THAT EXPLAINS THIS DISTRICT CONFIGURATION FOR YOU?

10 A. THERE'S NO TRADITIONAL REDISTRICTING PRINCIPLE THAT  
11 EXPLAINS THIS CONFIGURATION.

12 Q. AND DO YOU KNOW THE BVAP OF ILLUSTRATIVE HOUSE DISTRICTS  
13 34 AND 38?

14 A. THEY ARE MAJORITY BLACK.

15 Q. ARE THEY CLOSE TO THE 50 PERCENT LINE?

16 A. 38 IS RIGHT AT, JUST BARELY OVER 50 PERCENT. 34 IS  
17 HIGHER.

18 Q. ALL RIGHT. AND SO COULD THERE BE A RACIAL REDISTRICTING  
19 CRITERIA THAT WOULD EXPLAIN THIS CONFIGURATION?

20 A. YOU KNOW, CAREFULLY OR COINCIDENTALLY, WHATEVER THE REASON  
21 IS, 38 GETS JUST ENOUGH OF THE BLACK POPULATION ALONG THE  
22 BORDER WITH 34 TO END UP JUST BARELY OVER 50 PERCENT.

23 Q. OKAY. FINALLY, DR. JOHNSON, I WOULD LIKE TO TURN TO  
24 MR. COOPER'S ILLUSTRATIVE HOUSE DISTRICTS CENTERED IN THE BATON  
25 ROUGE AREA. SO IF WE COULD TURN TO FIGURE 22 ON PAGE 34.



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11:20AM 1 OKAY. ALL RIGHT. SO NOW, DR. JOHNSON, IT LOOKS LIKE  
2 YOU'VE ADDED SOME PERCENTAGES TO YOUR LABELS FOR THE DIFFERENT  
3 ILLUSTRATIVE HOUSE DISTRICTS. CAN YOU IDENTIFY WHAT THAT  
4 PERCENTAGE IS BENEATH EACH?

5 A. YES, SO THE BLACK ON BLUE, OR BLACK ON TEAL -- I'M NOT  
6 SURE HOW TO DESCRIBE THAT -- LABELS, IT GIVES THE DISTRICT  
7 NUMBER FIRST AND THEN THE BLACK -- ANY PART BLACK VAP  
8 PERCENTAGE FOR EACH DISTRICT THAT'S LABELED ON THIS MAP.

9 Q. OKAY. ALL RIGHT. I SAW A REFERENCE IN YOUR REPORT, DR.  
10 JOHNSON, FOR THIS FIGURE. I BELIEVE YOU DESCRIBED SOME OF  
11 THESE DISTRICTS AS A PINWHEEL. CAN YOU EXPLAIN WHAT YOU MEAN  
12 BY A PINWHEEL?

13 A. YES. SO, OF COURSE, THE PINWHEEL IS THE KID'S TOY ON A  
14 STICK. YOU HAVE THE LITTLE SPINNER WITH IT THAT HAS THE  
15 DIFFERENT LEAVES OR PETALS COMING OFF THE PINWHEEL.  
16 SIMILARLY -- ACTUALLY, JUST UP THE ROAD HERE, RIGHT NEXT TO THE  
17 LITTLE FREEWAY SYMBOL THERE THAT YOU SEE, THE DISTRICTS ALL  
18 COME TOGETHER. SO YOU CAN SEE WHERE 29, 63, 65, 69, 68, 61 AND  
19 67 ALL KIND OF MEET AT ONE POINT. AND THEN EACH ONE IS A PETAL  
20 COMING OFF OF THAT CENTRAL SPINNER POINT.

21 SO WE ARE COMBINING THE CORE AREA RIGHT AROUND THE  
22 PINPOINT AND THEN TAKING EACH OF THESE DISTRICTS OUT INTO --  
23 THROUGH THE COMMUNITY AND OUT INTO THE OUTER REACHES OF EAST  
24 BATON ROUGE AND WEST BATON ROUGE PARISH.

25 Q. NOW, IN PARAGRAPH 76, I BELIEVE, OF YOUR REPORT, YOU ALSO

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11:22AM 1 DISCUSS CENTRAL, LOUISIANA, JUST EAST OF EAST BATON ROUGE. AND  
2 HOW DOES THE ILLUSTRATIVE PLAN TREAT CENTRAL?

3 A. JUST UNDER 30,000 RESIDENTS OF CENTRAL ARE DIVIDED AMONG  
4 THREE DIFFERENT DISTRICTS.

5 Q. OKAY. NOW, YOU REPORT THE BLACK VOTING AGE POPULATIONS OF  
6 SEVERAL DISTRICTS IN THIS AREA. AND HOW MANY OF THOSE  
7 DISTRICTS ARE MAJORITY-MINORITY?

8 A. THE EIGHT THAT ARE LABELED IN THE MAP ARE ALL  
9 MAJORITY-MINORITY.

10 Q. AND HOW MANY OF THOSE ARE JUST BARELY OVER 50 PERCENT?

11 A. ESSENTIALLY HALF OF THEM. WE HAVE 50.2, 50.2, 50.8, AND  
12 51.6.

13 Q. JUST FOR THE RECORD, WHICH DISTRICT NUMBERS WERE YOU  
14 IDENTIFYING THERE?

15 A. OH, THANK YOU. 61, 69, 101 AND 67.

16 Q. AND DR. JOHNSON, I KNOW WE WERE FOCUSING ON THE  
17 ILLUSTRATIVE DISTRICTS HERE. DO THESE DISTRICT BOUNDARIES  
18 APPEAR TO RESPECT NONRACIAL REDISTRICTING CRITERIA?

19 A. NO. SIMILAR TO THE EARLIER DISCUSSION ABOUT THE BIG  
20 REGIONS, THESE -- WHAT THE PINWHEEL DOES IS IT ACTUALLY CUTS  
21 THROUGH COMMUNITIES. SO YOU ARE TAKING THE CENTRAL CORE OF THE  
22 CITY AND TAKING EACH OF THESE DISTRICTS, HAVING A PIECE OF THAT  
23 CORE ALL THE WAY OUT. AS YOU LOOK AT THE COLOR CODING, YOU CAN  
24 REALLY SEE THE RED KIND OF CENTRAL PORTION OF THE PARISH, AND  
25 THEN AS YOU GET FARTHER OUT, YOU ARE GETTING INTO BLUES AND

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11:24AM 1 THEN ULTIMATELY PURPLE AREAS WHERE THE BLACK PERCENTAGE IS  
2 BELOW 25 PERCENT.

3 SO EACH OF THESE DISTRICTS IS STARTING IN THE 75 PERCENT  
4 CORE AND THEN STRETCHING OUT AND BLENDING PIECES OF THE  
5 COMMUNITIES AS YOU GO OUT FROM THE RED TO THE PURPLE PORTIONS  
6 OF THE PARISH.

7 Q. AND ARE THERE TRADITIONAL CRITERIA THAT MR. COOPER  
8 IDENTIFIED THAT EXPLAIN THESE BOUNDARIES?

9 A. NO.

10 Q. OKAY. AND IS THERE A RACIAL REDISTRICTING CRITERIA THAT  
11 COULD EXPLAIN THE CONFIGURATION OF THE DISTRICTS IN THIS AREA?

12 A. YES. THE END RESULT IS THAT YOU HAVE A NUMBER OF  
13 DISTRICTS THAT JUST ALMOST PERFECTLY BALANCE THE PURPLE AND  
14 GREEN AREAS WITH THE RED AREAS, WITH THE END RESULT BEING THEY  
15 ARE JUST BARELY OVER 50-PERCENT BLACK.

16 Q. OKAY. AND I DO WANT TO CLEAN UP ONE POINT FROM TESTIMONY  
17 WE HEARD EARLIER THIS WEEK. DR. JOHNSON, YOU REVIEWED  
18 MR. COOPER'S DIRECT EXAMINATION ON WEDNESDAY; IS THAT RIGHT?

19 A. YES.

20 Q. AND I WILL REPRESENT TO YOU ON PAGE 76 OF THE  
21 NOVEMBER 29TH TRANSCRIPT, THAT MR. COOPER TESTIFIED THAT,  
22 QUOTE, CURRENTLY THERE ARE 12 DISTRICTS IN THE HOUSE PLAN THAT  
23 CONVERGE ON EAST BATON ROUGE PARISH IN WHOLE OR IN PART, AND I  
24 HAVE REDUCED THAT NUMBER TO 8 IN THE ILLUSTRATIVE PLAN, END  
25 QUOTE. DID THAT ASSERTION SURPRISE YOU?

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11:25AM

1 A. YES.

2 Q. OKAY. I WOULD LIKE TO DISPLAY THE DEMONSTRATIVE EXHIBIT  
3 THAT WE HAVE FOR YOU, AND I WILL REPRESENT THAT THIS WAS  
4 PRODUCED TO PLAINTIFFS' COUNSEL YESTERDAY PER OUR AGREEMENT.

5 OKAY. NOW, DR. JOHNSON, CAN YOU EXPLAIN HOW THIS  
6 DEMONSTRATIVE WAS CREATED?

7 A. YES. SO IN THE MAPTITUDE SOFTWARE, THE RED AREA IN THE  
8 MIDDLE IS EAST BATON ROUGE PARISH. SO I'VE HIGHLIGHTED THE  
9 PARISH IN RED. AND THEN THE BLACK LINES ARE THE  
10 ILLUSTRATIVE -- THE 2023 ILLUSTRATIVE HOUSE MAP. YOU CAN SEE  
11 THE DISTRICT NUMBERS ON THEM. AND THE BLUE AROUND THE OUTSIDE  
12 ARE DISTRICTS THAT ARE PARTIALLY IN AND PARTIALLY OUT OF EAST  
13 BATON ROUGE PARISH. SO 62, 71, 29 ON THE OUTSIDE ARE ALL  
14 PARTIALLY IN THE PARISH AND PARTIALLY OUT.

15 Q. OKAY. AND JUST TO BE VERY CLEAR, DR. JOHNSON, THE  
16 DISTRICT NUMBERING COMES FROM MR. COOPER'S 2023 ILLUSTRATIVE  
17 HOUSE PLAN; IS THAT RIGHT?

18 A. YES.

19 Q. OKAY. AND DR. JOHNSON, HOW MANY OF MR. COOPER'S 2023  
20 ILLUSTRATIVE HOUSE DISTRICTS ARE, QUOTE, IN WHOLE OR IN PART  
21 LOCATED IN EAST BATON ROUGE PARISH?

22 A. TWELVE.

23 Q. OKAY. CAN YOU IDENTIFY THOSE FOR THE RECORD?

24 A. SURE. 29, 62, 71 ARE ALL PARTIALLY IN AND PARTIALLY OUT,  
25 AND THEN GOING FROM NORTH TO SOUTH, 63, 65, 101, 69, 61, 68,

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11:27AM 1 70, 67, AND 66 ARE ALL IN THE PARISH.

2 Q. OKAY. WE CAN TAKE THAT DOWN. THANK YOU.

3 DR. JOHNSON, I BELIEVE YOU -- DID YOU REVIEW MR. COOPER'S  
4 TRIAL TESTIMONY ABOUT THESE SIX ILLUSTRATIVE MAJORITY-MINORITY  
5 DISTRICTS IN THE HOUSE?

6 A. I'M SORRY. ABOUT THE WHAT?

7 Q. DID YOU REVIEW MR. COOPER'S TRIAL TESTIMONY ABOUT THESE  
8 SIX ILLUSTRATIVE MMDS IN THE HOUSE THAT WE HAVE TALKED ABOUT?

9 A. YES.

10 Q. AND DID HIS TESTIMONY CHANGE ANY OF YOUR OPINIONS?

11 A. NO.

12 Q. ALL RIGHT. NOW, STEPPING BACK FROM THE -- FROM YOUR  
13 DISTRICT-BY-DISTRICT EVALUATION OF MR. COOPER'S ILLUSTRATIVE  
14 HOUSE DISTRICTS, I WOULD LIKE TO TALK ABOUT YOUR ANALYSIS OF  
15 THOSE PLANS MORE -- MORE BROADLY. COULD WE START ON PARAGRAPH  
16 82 ON PAGE 36. TURN TO THAT.

17 ALL RIGHT. AND YOU DISCUSS YOUR POINT ABOUT WHERE A  
18 PORTION OF THE BLACK VOTING AGE POPULATION THAT WAS MOVED FROM  
19 THE ENACTED PLANS TO CREATE THE NEW ILLUSTRATIVE  
20 MAJORITY-MINORITY DISTRICTS. CAN YOU EXPLAIN THIS ANALYSIS?

21 A. SO WHEN WE ARE TALKING ABOUT DISTRICTS THAT ARE MAJORITY  
22 BLACK, OBVIOUSLY THERE ARE VARIATIONS IN HOW MUCH OVER  
23 50 PERCENT EACH DISTRICT CAN BE. AND SO IN ORDER TO GET A  
24 DISTRICT THAT, IN THE ENACTED MAP, IS NOT MAJORITY BLACK UP TO  
25 MAJORITY STATUS, YOU CAN EITHER FIND BLACK POPULATION THAT IS

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11:29AM 1 IN OTHER DISTRICTS THAT ARE NOT MAJORITY AND ADD THEM IN OR YOU  
2 CAN TAKE A MAJORITY BLACK DISTRICT AND REDUCE ITS PERCENTAGE,  
3 SO BRING IT DOWN FROM, SAY, 57 PERCENT TO 50.2 PERCENT, OR  
4 SOMETHING LIKE THAT, IN ORDER TO FREE UP BLACK POPULATION THAT  
5 YOU THEN ADD TO YOUR NEW DISTRICT IN AN EFFORT TO MAKE IT  
6 MAJORITY BLACK.

7 Q. OKAY. AND WHAT DO YOU -- WHAT DO YOU CONCLUDE ABOUT  
8 THAT -- THE NATURE OF THAT REASSIGNMENT OF BLACK VOTING AGE  
9 POPULATION IN MR. COOPER'S ILLUSTRATIVE HOUSE PLAN?

10 A. MUCH OF THE BLACK POPULATION THAT'S ADDED TO CERTAIN  
11 DISTRICTS TO BRING THEM UP TO BE MAJORITY BLACK COMES FROM  
12 EXISTING MAJORITY BLACK DISTRICTS. SO IT MAKES THOSE MAJORITY  
13 BLACK SEATS IN THE ENACTED MAP LESS -- LESS BLACK VAP OR LOWER  
14 BLACK VAP PERCENTAGES.

15 Q. OKAY. AND IF WE CAN TURN TO THE NEXT PAGE, PAGE 37 IN  
16 PARAGRAPH 83. SO I WANT TO FOCUS ON THE MIDDLE OF THAT  
17 PARAGRAPH, AND JUST A FEW QUICK QUESTIONS. THE FIRST IS HOW  
18 MANY MAJORITY-MINORITY DISTRICTS IN THE ILLUSTRATIVE HOUSE PLAN  
19 ARE UNDER 53-PERCENT BLACK VOTING AGE POPULATION?

20 A. ELEVEN.

21 Q. OKAY. AND IS THAT MORE OR LESS THAN WHAT WAS UNDER THE  
22 ENACTED PLAN?

23 A. THAT'S EIGHT MORE. THERE ARE ONLY THREE SUCH BORDERLINE  
24 DISTRICTS, BORDERLINE HOUSE DISTRICTS IN THE ENACTED MAP.

25 Q. AND TURNING TO THE ILLUSTRATIVE SENATE PLAN, HOW MANY OF

DR. D. JOHNSON - DIRECT

11:31AM 1 THE MAJORITY-MINORITY DISTRICTS IN THE ILLUSTRATIVE SENATE PLAN  
2 ARE UNDER 53 PERCENT BVAP?

3 A. IT'S A HUGE PERCENTAGE OF THEM. 11 OF THE 16 MAJORITY  
4 BLACK VAP DISTRICTS ARE JUST BARELY MAJORITY BLACK. THEY ARE  
5 BETWEEN 50 AND 53 PERCENT BLACK.

6 Q. DR. JOHNSON, IN YOUR EXPERIENCE, IS IT LIKELY TO GET SO  
7 MANY DISTRICTS JUST OVER THE 50 PERCENT LINE BUT NONE JUST  
8 UNDER BY CHANCE?

9 A. IT IS EXTREMELY UNLIKELY.

10 Q. SO I WOULD LIKE TO TURN NOW TO YOUR SURREBUTTAL REPORT,  
11 LDTX058, AND SPECIFICALLY LOOK AT THE FIGURE APPEARING ON THE  
12 TOP OF PAGE 9. AND THIS IS ONE -- I BELIEVE THIS IS ONE OF THE  
13 ILLUSTRATIVE HOUSE DISTRICTS, BUT DO YOU REPORT IN YOUR REPORT  
14 THE BLACK VOTING AGE POPULATION OF ILLUSTRATIVE DISTRICT 69?

15 A. YES. IN PARAGRAPH 33, I MENTION THAT IT IS 50.2 PERCENT  
16 ANY PART BLACK VAP.

17 Q. AND IN YOUR EXPERIENCE, IS THAT A VERY PRECISE BVAP NUMBER  
18 TO ARRIVE AT?

19 A. YES. IT'S ABOUT AS CLOSE TO 50 PERCENT PLUS ONE AS ONE  
20 CAN GET WHEN YOU ARE USING AGGREGATED CENSUS BLOCK DATA.

21 Q. OKAY. AND WITHOUT READING, YOU KNOW, GOING THROUGH THE  
22 ENTIRE DATA, IS THERE A NONRACIAL EXPLANATION FOR THE LINES IN  
23 THIS DISTRICT?

24 A. THE WEST SIDE, PROBABLY. THAT STRAIGHT DIAGONAL LINE  
25 MAKES SENSE AND COULD BE JUSTIFIED AS A TRADITIONAL

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11:34AM 1 REDISTRICTING PRINCIPLE, BUT THE KIND OF EASTERN ARM, THE WAY  
2 IT ZIGS OUT AT THE NORTH PART IN THE RED AND YELLOW AREA AND  
3 THEN JUST ABOVE THE HIGHWAY RATHER THAN FOLLOWING THE HIGHWAY,  
4 IT IS PICKING UP THE GREEN AND YELLOW AREAS THAT ARE MAJORITY  
5 BLACK, AND THEN IT GOES DOWN AND KIND OF ZIGS OVER AGAIN.

6 SO THE WAY -- WE CALL IT KIND OF A STAIR STEP AS THAT  
7 EASTERN LINE IS DRAWN. JUST IN ONE PART IT IS FOLLOWING THE  
8 CITY BORDER, BUT OTHERWISE, IT DOESN'T SEEM TO FOLLOW ANY  
9 TRADITIONAL REDISTRICTING PRINCIPLE.

10 Q. COULD THERE BE A RACIAL CRITERIA THAT COULD EXPLAIN THIS  
11 CONFIGURATION?

12 A. YES. CAREFULLY OR COINCIDENTALLY, IT ENDS UP JUST BARELY  
13 MAJORITY BLACK.

14 Q. WE CAN TAKE THAT DOWN. I WOULD LIKE TO NOW TURN TO SOME  
15 CONCERNS THAT YOU'VE RAISED IN YOUR INITIAL REPORTS. WE ARE  
16 GOING TO GO BACK TO LDTX51, YOUR INITIAL REPORT, AND DISPLAY  
17 PARAGRAPH 84 BETWEEN PAGES 37 AND 38.

18 AND I BELIEVE, DR. JOHNSON -- THERE WE GO -- THAT YOU  
19 PROVIDE HERE SOME CONCERNS ABOUT THE SPECIFIC BVAP LEVELS THAT  
20 ARE EMPLOYED IN MANY OF MR. COOPER'S ILLUSTRATIVE HOUSE  
21 DISTRICTS. I BELIEVE THE FIRST IS DIFFERENTIAL PRIVACY. DO  
22 YOU SEE THAT?

23 A. YES.

24 Q. CAN YOU EXPLAIN TO THE COURT WHAT DIFFERENTIAL PRIVACY IS?

25 A. SO DIFFERENTIAL PRIVACY IS NEW THIS REDISTRICTING CYCLE.



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11:36AM 1 FOR THE 2020 CENSUS, THE CENSUS BUREAU WAS WORRIED THAT DATA  
2 MINING FIRMS WERE GETTING GOOD ENOUGH THAT THEY COULD GO INTO  
3 THE CENSUS BLOCK LEVEL DATA AND FIGURE OUT WHAT AN INDIVIDUAL  
4 HAD ANSWERED IN TERMS OF THEIR AGE AND ETHNICITY, AND SO THEY  
5 WERE WORRIED THAT WE ARE LOSING THE PRIVACY OF THE CENSUS  
6 RESPONSES.

7 SO THE BUREAU'S APPROACH TO FIXING THAT PROBLEM WAS TO  
8 ADD -- REALLY TO ADD ERROR, TO ADD WHAT THEY CALL NOISE INTO  
9 THE DATA SO THAT IN EACH CENSUS BLOCK, THE NUMBERS WOULD BE  
10 CHANGED A LITTLE BIT IN A WAY THAT WOULD, AS THEY SAY, BLUR THE  
11 CENSUS DATA AND MAKE IT HARD FOR THOSE DATA MINERS TO FIGURE  
12 OUT INDIVIDUAL CENSUS RESPONDENTS AND TO PROTECT THE PEOPLE WHO  
13 ANSWERED THE CENSUS, THEIR PRIVACY. A GOOD GOAL, BUT THE END  
14 RESULT IS THAT CENSUS DATA HAS NEVER BEEN PERFECT, EVER. IT IS  
15 IMPOSSIBLE TO HAVE A PERFECT CENSUS, BUT NOW WE HAVE AN  
16 INTENTIONAL STEP OF INTENTIONALLY BLURRING THE DATA AND MAKING  
17 THE DATA LESS PRECISE.

18 **MS. KEENAN:** OBJECTION, YOUR HONOR, TO THE RELEVANCE  
19 OF THE INTENTIONAL STEP TAKEN BY THE CENSUS BUREAU. HE HAS  
20 JUST TESTIFIED THAT CENSUS DATA IS ALWAYS IMPERFECT. I'M NOT  
21 SURE WHY IT MATTERS THAT THERE WAS AN INTENTIONAL STEP VERSUS  
22 AN UNINTENTIONAL STEP ABOUT THE BLURRING.

23 **THE COURT:** THE COURT WILL NOT CONSIDER THE TERM  
24 "INTENTIONAL," BUT I WANT TO UNDERSTAND HOW THIS DIFFERENTIAL  
25 PRIVACY RESULTS IN, IF IT IS YOUR OPINION THAT IT DOES, THAT IT

DR. D. JOHNSON - DIRECT

11:37AM 1 RESULTS IN A BLURRING OF THE DATA. I WANT YOU TO EXPLAIN THAT.  
2 A. IT'S ACTUALLY ON PURPOSE, AND PERHAPS NEW IS A BETTER WORD  
3 THAN INTENTIONAL. IT'S A NEW WAY. SO ESSENTIALLY WHERE WE  
4 USED TO KNOW THAT THE DATA IN EACH BLOCK WAS THE ACTUAL COUNT  
5 OF PEOPLE THAT THE CENSUS BUREAU COUNTED AND ASSIGNED TO A  
6 BLOCK, NOW THE BUREAU WILL CHANGE THOSE NUMBERS A LITTLE BIT IN  
7 ORDER TO KIND OF DISRUPT THE ALGORITHMS THAT THE DATA MINERS  
8 USE TO TRY TO IDENTIFY THE DATA. AND SO THEY TRY, AS YOU GET  
9 TO EACH LEVEL, TO MAKE, LIKE, EACH CENSUS TRACT RIGHT AND EACH  
10 COUNTY RIGHT, BUT THE BLOCKS AND THE SMALLER UNITS OF GEOGRAPHY  
11 THE BUREAU JUST ADMITS WILL BE OFF.

12 **THE COURT:** BY PLUS OR MINUS WHAT?

13 A. THAT'S A GOOD QUESTION. WE DON'T KNOW. AND SO THE BUREAU  
14 HAS NOT YET RELEASED THOSE NUMBERS. THEY DO -- THEY'VE HAD A  
15 LOT OF CALLS. THIS WAS OBVIOUSLY A VERY MUCH DISCUSSED PROCESS  
16 LEADING UP TO THE CENSUS, AND SO THEY DO THESE NATIONAL CALLS  
17 FOR NTSL AND OTHER ORGANIZATIONS THAT I'M ON, AND THEY'VE SAID  
18 AT THE CONGRESSIONAL LEVEL, IT'S PROBABLY ABOUT A ONE-PERCENT  
19 ERROR. YOUR TOTAL POPULATION NUMBERS ARE GOING TO BE OFF OR  
20 SHOULD BE WITHIN ONE PERCENT. AS THE UNITS OF GEOGRAPHY GET  
21 SMALLER, SO AT THE LEGISLATIVE DISTRICT LEVEL, THAT ERROR IS  
22 GOING TO BE BIGGER. AND AS YOU GET DOWN TO THE COUNTY OR  
23 PARISH AND CITY LEVEL, THEY WILL GET BIGGER.

24 **MS. KEENAN:** OBJECTION, YOUR HONOR, TO LACK OF  
25 FOUNDATION. HE'S NOT EXPLAINED WHAT THE SOURCE OF THIS

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11:39AM 1 TESTIMONY IS ABOUT THE DIFFERENT LEVELS AND THE INCREASE TO NOT  
2 JUST SMALLER UNITS, BUT HE'S NOW LISTING SPECIFIC TYPES OF  
3 DISTRICTS. HE'S NOT TESTIFIED THAT THE CENSUS BUREAU HAS  
4 STATED ANYTHING ABOUT DISTRICT LEVELS OTHER THAN CONGRESS.

5 **THE COURT:** WELL, I GUESS I WOULD SUSTAIN THAT  
6 OBJECTION TO MY QUESTION.

7 **MS. KEENAN:** I'M SORRY, YOUR HONOR.

8 **THE COURT:** WHY DON'T YOU ASK THE QUESTION AND SEE IF  
9 YOU CAN DO A BETTER JOB.

10 (GROUP LAUGHTER)

11 **MR. LEWIS:** ALL RIGHT.

12 **BY MR. LEWIS:**

13 Q. SO DR. JOHNSON, IF YOU -- TO TRY TO CUT THROUGH THIS A  
14 LITTLE BIT, DR. JOHNSON, ARE YOU --

15 **THE COURT:** I'VE RENDERED HIM SPEECHLESS.

16 **BY MR. LEWIS:**

17 Q. IS DIFFERENTIAL PRIVACY A MATTER THAT HAS AFFECTED YOUR  
18 WORK AS A REDISTRICTING PROFESSIONAL?

19 A. YES. IT IS A BIG CONCERN, IN PARTICULAR BECAUSE, AS I  
20 MENTIONED, I'VE DONE AROUND 500 OF THESE PROJECTS. I HAVEN'T  
21 DONE 500 STATE PROJECTS OR CONGRESSIONAL PROJECTS. 99 PERCENT  
22 OF MY WORK IS SCHOOL DISTRICTS, CITIES, YOU KNOW, COMMUNITY  
23 COLLEGE DISTRICTS, THESE SMALL GEOGRAPHIC -- RELATIVELY SMALL  
24 GEOGRAPHIC AREAS.

25 SO WHERE WE HAVE A ONE PERCENT ESTIMATED ERROR AT THE

DR. D. JOHNSON - DIRECT

11:40AM 1 CONGRESSIONAL LEVEL, AND THAT'S JUST KIND OF A BALLPARK TERM  
2 AND THE CENSUS BUREAU HAS NOT GIVEN ANY SPECIFICS ABOUT WHAT  
3 THE ERROR IS, I WILL NOTE AT THE BOTTOM OF PAGE 38 I HAVE A  
4 FOOTNOTE THAT LINKS TO THE CENSUS BUREAU'S FULL DISCUSSION OF  
5 DIFFERENTIAL PRIVACY AND BACKGROUND INFORMATION, BUT THAT'S  
6 WHERE THEY TALK ABOUT THE ERROR GETS BIGGER AS YOU GET INTO  
7 SMALLER GEOGRAPHY. THAT IS TRUE OF ALL CENSUS DATA, BUT  
8 PARTICULARLY TRUE OF DIFFERENTIAL PRIVACY.

9 SO A ONE-PERCENT ERROR AT THE CONGRESSIONAL LEVEL COULD BE  
10 A TEN-PERCENT ERROR IN A SCHOOL DISTRICT, WHICH WOULD THEN MAKE  
11 OUR SCHOOL DISTRICT DISTRICTS OUT OF THE POPULATION RANGE AND  
12 ILLEGAL.

13 **MS. KEENAN:** YOUR HONOR, OBJECTION, THESE NUMBERS ARE  
14 NOT -- HE JUST SAID THE CENSUS BUREAU HASN'T ACTUALLY GIVEN A  
15 NUMBER, AND NOW HE IS TESTIFYING TO SPECIFIC PERCENTAGES THAT A  
16 MARGIN OF ERROR MIGHT BE IN A SMALLER PLAN. THERE IS NO  
17 FOUNDATION FOR THAT.

18 **THE COURT:** DO YOU WANT TO RESPOND?

19 **MR. LEWIS:** YOUR HONOR, HE WAS OFFERING -- I BELIEVE  
20 HE WAS OFFERING THE TEN PERCENT AS A HYPOTHETICAL, AND I  
21 BELIEVE PLAINTIFFS' COUNSEL CAN INQUIRE OF THE WITNESS ON  
22 CROSS-EXAMINATION IF --

23 **THE COURT:** THE COURT WILL CONSIDER IT AS A  
24 HYPOTHETICAL BASED ON HIS EXPERIENCE IN DRAWING MAPS THAT  
25 INVOLVE SMALLER GEOGRAPHIC AREAS.

DR. D. JOHNSON - DIRECT

11:42AM

1 **BY MR. LEWIS:**

2 Q. AND DR. JOHNSON, JUST -- HAVE YOU REVIEWED -- HAVE YOU  
3 RELIED UPON INFORMATION PROVIDED BY THE U.S. CENSUS BUREAU TO  
4 INFORM YOUR KNOWLEDGE OF DIFFERENTIAL PRIVACY?

5 A. YES, I'VE BEEN ON MANY WEBINARS, READ MANY REPORTS AND  
6 RAISED MANY QUESTIONS WITH THE BUREAU STAFF ABOUT THIS ISSUE.

7 Q. OKAY. AND YOU'VE CITED -- I BELIEVE YOU'VE MENTIONED AND  
8 YOU'VE CITED INFORMATION FROM THE CENSUS BUREAU IN THE FOOTNOTE  
9 ACCOMPANYING PAGE 38 OF YOUR REPORT, CORRECT?

10 A. YES.

11 Q. AND THE CENSUS BUREAU -- HAS THE CENSUS BUREAU PROVIDED  
12 THE ESTIMATE OF ERROR AT THE CONGRESSIONAL LEVEL?

13 A. THEY GAVE THE BALLPARK FIGURE OF ABOUT 1 PERCENT, BUT THEY  
14 HAVE NOT RELEASED THE PRECISE FIGURES.

15 Q. OKAY. NOW, HOW CAN DIFFERENTIAL PRIVACY POTENTIALLY  
16 IMPACT AN EFFORT TO DRAW A DISTRICT TO A SPECIFIC RACIAL  
17 PERCENTAGE?

18 A. SO IF THE CENSUS BUREAU -- I'M SORRY. IF THE CENSUS DATA  
19 SAYS THAT A DISTRICT IS 50.2 PERCENT BLACK, IT MAY OR MAY NOT  
20 BE OVER 50 PERCENT. WE HAVE THIS MARGIN OF ERROR THAT WE KNOW  
21 IS -- BECAUSE LEGISLATIVE DISTRICTS ARE SMALLER THAN  
22 CONGRESSIONAL DISTRICTS, THE BUREAU HAS BEEN CLEAR, LEGISLATIVE  
23 DISTRICTS WILL HAVE A LARGER ERROR THAN A CONGRESSIONAL  
24 DISTRICT. BUT WE KNOW THAT THERE'S SOME ERROR. WE DON'T KNOW  
25 HOW MUCH. SO THE CLOSER YOU GET TO THAT 50-PERCENT POINT, THE

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11:43AM 1 MORE LIKELY THAT AN ERROR, BE IT A HALF PERCENT, A ONE PERCENT  
2 OR WHATEVER NUMBER THAT IS, THAT THAT ERROR WOULD MEAN THE  
3 DISTRICT THAT LOOKS LIKE IT IS MAJORITY BLACK ISN'T.

4 Q. SO YOU GO ON, DR. JOHNSON, TO DESCRIBE SOMETHING CALLED A  
5 SENSITIVITY ANALYSIS IN PARAGRAPHS 85 AND 90 OF YOUR REPORT.  
6 JUST GENERALLY SPEAKING, WHAT IS THE SENSITIVITY ANALYSIS?

7 A. SO A SENSITIVITY ANALYSIS IS A STANDARD PRACTICE IN  
8 SOCIOLOGY, IN FINANCE AND ECONOMICS WHERE YOU TAKE AN  
9 ASSUMPTION AND SAY, OKAY, WE HAVE ASSUMED FOR OUR MODEL OR  
10 ALGORITHM, OR WHATEVER WE ARE DOING, A CERTAIN NUMBER. IN THIS  
11 CASE, REDISTRICTING, SO IT WOULD BE THE CENSUS POPULATION  
12 COUNTS. A BANK MIGHT SAY WE EXPECT THE INTEREST RATE TO BE  
13 THIS IN A YEAR. AND THEN YOU TEST. WELL, IF OUR NUMBER IS  
14 OFF, HOW MUCH DOES THAT IMPACT US? SO IF YOU ARE A BANK,  
15 YOU'RE LIKE, WELL, IF THE INTEREST RATE ACTUALLY IS HIGHER THAN  
16 WE THOUGHT IT WAS GOING TO BE, HOW DOES THAT IMPACT OUR  
17 PROFITS? IF THE NUMBER IS LOWER THAN WHAT WE EXPECT IT WOULD  
18 BE, HOW IS THAT GOING TO IMPACT OUR PROFITS? AND YOU SEE WHAT  
19 THE RISK IS AND THE DANGER EITHER WAY.

20 SAME WAY HERE. A SENSITIVITY ANALYSIS WOULD LOOK AND SAY,  
21 OKAY, SAY THERE'S A ONE-PERCENT ERROR, JUST TO PICK A NUMBER, A  
22 HYPOTHETICAL NUMBER. IF THE 50 PERCENT IS ACTUALLY 49 PERCENT,  
23 OR IF THE ACTUAL -- I'M SORRY, IF THE BLACK VOTING AGE  
24 POPULATION IS ACTUALLY ONE PERCENT LOWER, HOW MANY DISTRICTS DO  
25 WE LOSE? AND ON THE FLIP SIDE, IF THE BLACK VOTING AGE

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11:45AM 1 POPULATION IS ONE PERCENT HIGHER, HOW MANY MORE DISTRICTS WOULD  
2 WE GAIN THAT WOULD BE MAJORITY BLACK?

3 SO THAT'S THE SENSITIVITY ANALYSIS, ACKNOWLEDGING THAT  
4 THERE'S AN ERROR AND LOOKING AT THE RISK TO THE OVERALL POLICY  
5 GOAL OR THE OVERALL END RESULT THAT THAT ERROR COULD GENERATE.

6 IN THE CASE OF A BANK, IT'S WHAT IMPACT WOULD THERE BE IN  
7 THE PROFITS. IN THE CASE OF THIS EXERCISE WE'VE BEEN LOOKING  
8 AT, WHAT'S THE IMPACT ON THE NUMBER OF MAJORITY BLACK  
9 DISTRICTS?

10 Q. SO, DR. JOHNSON, I WOULD JUST LIKE TO TURN TO FIGURE 28,  
11 WHICH I BELIEVE PROVIDES SOME INFORMATION ABOUT THE 2023  
12 ILLUSTRATIVE SENATE MAPS. IF WE COULD TURN TO THAT ON PAGE 42.  
13 DR. JOHNSON, WHAT DOES FIGURE 28 SHOW US?

14 A. SO THIS IS A CHART OF THE ENACTED AND ILLUSTRATIVE SENATE  
15 DISTRICTS. THE PURPLE -- EACH PURPLE BAR REPRESENTS AN ENACTED  
16 MAP SENATE DISTRICT. EACH GREEN BAR REPRESENTS AN ILLUSTRATIVE  
17 2023 MAP SENATE DISTRICT. AND THE HEIGHT OF EACH BAR INDICATES  
18 THE BLACK VOTING AGE PERCENTAGE OF THAT DISTRICT. SO ON THE  
19 FAR LEFT, DISTRICT 15 IN THE ENACTED MAP IS A LITTLE OVER  
20 70-PERCENT BLACK. DISTRICT 15 IN THE ILLUSTRATIVE MAP IS  
21 AROUND 55-PERCENT BLACK.

22 AND THEN WE GO LEFT TO RIGHT. IT'S ARRANGED IN ORDER OF  
23 THE ENACTED MAP'S BLACK VOTING AGE POPULATION. SO 15 IS THE  
24 HIGHEST IN THE ENACTED MAP. 13 ON THE FAR RIGHT IS THE LOWEST  
25 ON THE ENACTED MAP.

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11:47AM 1 Q. AND SO -- AND THEN IF WE TURN TO FIGURE 29, WHICH MAY  
2 ILLUSTRATE THIS A LITTLE BETTER, BUT IF WE FLIP TO 29, WHAT  
3 DOES THIS SHOW US ON THE SAME PAGE?

4 A. SO I HAVE ZOOMED IN ESSENTIALLY ON JUST THE MAJORITY BLACK  
5 SENATE DISTRICTS IN THE ILLUSTRATIVE MAP AND THEIR  
6 CORRESPONDING ENACTED MAP PERCENTAGES. SO YOU CAN SEE THE  
7 50 PERCENT LINE THERE AT 50 PERCENT GOING ACROSS. YOU CAN SEE  
8 THERE ARE TWO PURPLE BARS, THE ENACTED MAPS THAT ARE JUST  
9 BARELY ABOVE 50 PERCENT, AND THERE ARE, AS I MENTIONED BEFORE,  
10 A LOT OF ILLUSTRATIVE SENATE MAP -- ILLUSTRATIVE SENATE MAP  
11 DISTRICTS THAT ARE JUST BARELY OVER 50 PERCENT.

12 Q. AND SO FROM A SENSITIVITY ANALYSIS PERSPECTIVE, LET ME  
13 JUST ASK, ARE THERE ILLUSTRATIVE SENATE DISTRICT PLANS HERE  
14 THAT ARE JUST -- THAT ARE JUST BELOW 50 PERCENT?

15 A. NO.

16 Q. OKAY. AND SO IF WE ARE OFF BY -- IF THE TRUE BVAP NUMBER  
17 IS OFF BY JUST A LITTLE BIT, WHAT IMPACT WOULD THAT HAVE ON THE  
18 NUMBER OF MAJORITY-MINORITY DISTRICTS IN THE  
19 ILLUSTRATIVE SENATE PLAN?

20 MS. KEENAN: OBJECTION, YOUR HONOR. MAY I EXPLAIN?

21 THE COURT: YES.

22 MS. KEENAN: HE'S NOT ACTUALLY DONE ANY EFFECTIVENESS  
23 OR SENSITIVITY ANALYSIS EITHER, SO TO ASK HIM WHAT EFFECT IT  
24 WOULD HAVE ON THE DISTRICT IS IMPROPER AT THIS POINT BASED ON  
25 THE FOUNDATION THEY HAVE LAID.



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11:49AM 1                   **THE COURT:** WHERE IS THE SENSITIVITY OR EFFECTIVENESS  
2 ANALYSIS, OTHER THAN THE ORANGE LINE RUNNING ACROSS THAT PAGE?

3                   **MR. LEWIS:** EFFECTIVELY, YOUR HONOR, THAT'S THE POINT  
4 THAT HE IS TRYING TO MAKE. HE IS TRYING TO MAKE THE POINT  
5 THAT IF THERE -- I DON'T WANT TO TESTIFY FOR THE WITNESS, BUT  
6 THIS IS ESSENTIALLY THE POINT THAT HE IS MAKING.

7                   **THE COURT:** I'M GOING TO SUSTAIN THE OBJECTION IN  
8 TERMS THAT IT CALLS FOR HIM TO CHARACTERIZE THIS AS SOME SORT  
9 OF A SENSITIVITY ANALYSIS. IT IS PLOTTED OUT -- I'M REFERRING  
10 TO FIGURE 29 FOR THE RECORD. IT'S PLOTTED OUT THE ILLUSTRATIVE  
11 MAPS OR THE ILLUSTRATIVE DISTRICTS COMPARED TO THE ENACTED  
12 DISTRICTS, AND IT JUST IS A CHART SHOWING WHICH OF THOSE ARE  
13 ABOVE OR BELOW 50-PERCENT BVAP. I MEAN, THERE'S NO NUMBER  
14 CRUNCHING THAT LED TO THAT 50 PERCENT LINE. I CAN DRAW THAT  
15 LINE. SO I WOULD SUSTAIN THE OBJECTION. YOU CAN REPHRASE.

16                   **MR. LEWIS:** ALL RIGHT.

17 **BY MR. LEWIS:**

18 Q. SO, DR. JOHNSON, JUST FROM A -- WHAT SENSITIVITY ANALYSIS  
19 HAVE YOU PERFORMED IN TERMS OF THE ILLUSTRATIVE SENATE? WHAT  
20 HAVE YOU DONE?

21 A. SO USING THE DATA THAT'S SHOWN IN THIS CHART, IF YOU LOOK  
22 AT PARAGRAPH 93 RIGHT BEFORE IT, IT SHOWS THE RESULTS OF THE  
23 SENSITIVITY ANALYSIS WHERE I RAN THE NUMBERS FOR IF THE  
24 SENSITIVITY ANALYSIS WAS 3 PERCENT EITHER WAY. LOOKING AT  
25 3 PERCENT ERROR BELOW AND 3 PERCENT ERROR ABOVE, HOW MANY

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11:50AM 1 DISTRICTS WOULD FLIP? AND THE 50-PERCENT NUMBER I USED BECAUSE  
2 THAT'S MR. COOPER'S NUMBER.

3 THE WHOLE FOCUS OF MR. COOPER'S MAPPING APPROACH HAS BEEN  
4 TO LOOK AT THE NUMBER OF DISTRICTS THAT ARE 50 PERCENT. SO I  
5 PERFORMED THE SENSITIVITY ANALYSIS LOOKING AROUND THAT  
6 50 PERCENT LINE, AND THE ILLUSTRATIVE -- IF THE SENSITIVITY  
7 MEASURE IS 3 PERCENT, ONLY 5 DISTRICTS IN THE ILLUSTRATIVE  
8 SENATE MAP WOULD BE MAJORITY BLACK, AND THUS FROM THE NUMBERS  
9 THAT WE HAVE SEEN FOR MR. COOPER, MAJORITY BLACK AND LIKELY TO  
10 ELECT COMPARED TO 10 DISTRICTS IN THE ENACTED MAP.

11 AND ON THE FLIP SIDE, THERE ARE NO DISTRICTS THAT ARE JUST  
12 BELOW THE 50 PERCENT LINE AS DRAWN, IN EITHER THE ENACTED OR  
13 THE ILLUSTRATIVE MAP. SO A 3-PERCENT ERROR THE OTHER WAY WHEN  
14 I RAN THOSE NUMBERS WOULD NOT ADD ANY MAJORITY BLACK DISTRICTS.

15 Q. AND DO YOU PERFORM A SIMILAR ANALYSIS IN THE STATE HOUSE?

16 A. YES. I WENT THROUGH THE SAME PROCESS AND SAME COUNTING OF  
17 HOW MANY DISTRICTS WOULD NO LONGER BE MAJORITY IF THE DATA ARE  
18 OFF BY 3 PERCENT.

19 Q. OKAY. AND IS THAT SENSITIVITY ANALYSIS IN THE HOUSE  
20 INCLUDED IN YOUR REPORT, INCLUDING AROUND PARAGRAPHS 85 THROUGH  
21 90?

22 A. YES.

23 Q. OKAY. WE CAN TAKE THAT DOWN. I JUST HAVE A FEW WRAP-UP  
24 QUESTIONS FOR YOU, DR. JOHNSON.

25 WE'VE SPENT A LOT OF TIME EXAMINING, BOTH AT THE DISTRICT

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11:53AM 1 AND PLAN LEVEL, MR. COOPER'S ILLUSTRATIVE MAJORITY-MINORITY  
2 DISTRICTS AND THE DATA THAT WERE USED. WHAT CONCLUSIONS DO YOU  
3 DRAW FROM THE DISTRICT BOUNDARIES AND THE UNDERLYING DATA ABOUT  
4 THE CONFIGURATION OF THOSE MAJORITY-MINORITY DISTRICTS RELATIVE  
5 TO TRADITIONAL REDISTRICTING CRITERIA?

6 A. AS WE'VE WALKED THROUGH IN DETAIL FOR EACH ONE OF THEM,  
7 THE DISTRICTS WE HAVE BEEN LOOKING AT ARE NOT DRAWN BASED ON  
8 TRADITIONAL REDISTRICTING CRITERIA.

9 Q. OKAY. DOES ANY EXPLANATION GIVEN BY MR. COOPER FOR THE  
10 CONFIGURATION OF HIS ILLUSTRATIVE DISTRICTS CONSISTENTLY LINE  
11 UP WITH HOW THE LINES ARE DRAWN?

12 A. SO IN HIS REPORT, HE REPEATEDLY CITES THAT HE LOOKS --  
13 WELL, IN HIS TESTIMONY, I GUESS, HE CONSISTENTLY CITES THAT HE  
14 LOOKED AT TRADITIONAL REDISTRICTING PRINCIPLES AND RACE. SO IF  
15 THE TRADITIONAL REDISTRICTING PRINCIPLES DON'T DICTATE WHERE  
16 THE LINES ARE, THE ONLY EXPLANATION IS RACE, USING HIS OWN  
17 WORDS.

18 Q. OKAY. AND DR. JOHNSON, BASED ON THIS DATA OFFERED, DO YOU  
19 HAVE AN OPINION ON THE PREDOMINANT FACTOR EXPLAINING THE  
20 BOUNDARIES OF THE ILLUSTRATIVE DISTRICTS IN MR. COOPER'S  
21 ILLUSTRATIVE PLANS?

22 **MS. KEENAN:** OBJECTION, YOUR HONOR, THE PREDOMINANT  
23 FACTOR OPINION IS EXACTLY THE ONE THIS COURT EXCLUDED.

24 **THE COURT:** I THINK IT IS A QUESTION TOO FAR. YOU  
25 MAY RESPOND.

11:54AM 1           **MR. LEWIS:** YOUR HONOR, WE ARE NOT TRYING TO GET AT  
2 HIS SUBJECTIVE INTENT. WE ARE ASKING FOR THE FACTOR THAT BEST  
3 EXPLAINS THE DATA. THAT IS SOMETHING THAT IS WITHIN THE  
4 PURVIEW OF A POLITICAL SCIENTIST. WE ARE NOT ASKING FOR  
5 SUBJECTIVE INTENT.

6           **THE COURT:** I MEAN, HE HAS BASICALLY SAID IT ABOUT, I  
7 DON'T KNOW, 15 TIMES. I'M GOING TO SUSTAIN THE OBJECTION.

8           **MR. LEWIS:** OKAY. THEN AT THIS POINT, I HAVE NO  
9 FURTHER QUESTIONS, YOUR HONOR. WE WOULD TENDER THE WITNESS  
10 SUBJECT TO, OF COURSE, THE PROFFER OF THE EXCLUDED PORTIONS OF  
11 DR. JOHNSON'S REPORT.

12           **THE COURT:** OKAY. AND THAT BRINGS UP A QUESTION  
13 BEFORE WE TAKE OUR NOON BREAK. GIVEN THE TESTIMONY, YOU HAVE A  
14 RIGHT TO A PROFFER, AND I'M NOT SUGGESTING OTHERWISE, BUT I  
15 WOULD ASK THAT YOU MAYBE CONFER AND THINK ABOUT WHETHER YOU  
16 EVEN NEED THAT 2022-23 COMPARISON PROFFER INFORMATION. IF YOU  
17 DO, GREAT. I'M JUST TRYING TO SAVE YOU THE HEADACHE OF KIND OF  
18 PARSING THROUGH THIS EXPERT REPORT FOR MAKING THE REDACTIONS  
19 FOR WHAT IS COMING IN IN YOUR CASE-IN-CHIEF AND WHAT IS COMING  
20 IN IN YOUR PROFFER. JUST GIVE IT SOME THOUGHT.

21           **MR. LEWIS:** YOUR HONOR, WE APPRECIATE THAT. I THINK  
22 WE DO BELIEVE THAT PARTICULARLY GIVEN THAT MR. COOPER --  
23 PLAINTIFFS ELICITED QUITE A BIT OF TESTIMONY FROM MR. COOPER  
24 ABOUT THE NATURE, EXTENT AND BASES OF THOSE CHANGES. WE DO  
25 BELIEVE THERE IS RELEVANCE, SO I THINK WE CAN --

11:56AM 1           **THE COURT:** YEAH, I DON'T DOUBT THAT THERE MIGHT BE  
2 RELEVANCE ON THE PROFFER. IT IS JUST A QUESTION OF PROOF. YOU  
3 ARE ENTITLED TO DO YOUR PROFFER. SO I WOULD ASK THAT BEFORE WE  
4 CLOSE THE CASE, WHETHER THAT IS TODAY OR MONDAY, THAT YOU GET  
5 WITH YOUR CO-COUNSEL AND FIGURE OUT WHAT PARTS OF THE REPORT  
6 ARE COMING IN AS SUBSTANTIVE EVIDENCE AND WHAT PARTS OF THE  
7 REPORT ARE GOING TO COMPRISE YOUR PROFFER.

8           **MR. LEWIS:** OKAY. YOUR HONOR, WE ARE HAPPY TO  
9 INVITE CO-COUNSEL. I THINK YOU WERE MEANING PLAINTIFF'S  
10 COUNSEL?

11           **THE COURT:** THAT'S WHAT I MEAN, OPPOSING COUNSEL.

12           **MR. LEWIS:** YES, YOUR HONOR, WE WILL MEET AND CONFER.  
13 HOPEFULLY IT WILL BE -- I THINK WITH RESPECT TO THE 2022 AND  
14 2023, IT WILL BE VERY EASY. IT IS A NICE SELF-CONTAINED  
15 SECTION.

16           **THE COURT:** IT IS. OKAY.

17           **MR. LEWIS:** I THINK THE PREDOMINANT INTENT WILL BE A  
18 LITTLE MORE WORDSMITHING, BUT WE WILL COMPLY WITH THE COURT'S  
19 DIRECTIVE.

20           **THE COURT:** OKAY. ALL RIGHT. WE WILL BE IN RECESS  
21 UNTIL 1:15.

22           (RECESS TAKEN AT 11:57 A.M. UNTIL 1:17 P.M.)

23           **THE COURT:** PLEASE RETAKE THE STAND. OKAY. IT'S THE  
24 PLAINTIFFS' CROSS. YOU MAY PROCEED.

25           **MS. KEENAN:** THANK YOU.

**CROSS-EXAMINATION**

**BY MS. KEENAN:**

Q. GOOD AFTERNOON, DR. JOHNSON. MY NAME IS MEGAN KEENAN FOR THE ACLU, REPRESENTING THE PLAINTIFFS IN THIS CASE. I WANT TO START WHERE I BELIEVE YOU STARTED WITH YOUR DIRECT EXAMINATION WITH POPULATION CHANGE. DO YOU RECALL TALKING ABOUT THAT EARLIER TODAY?

A. IN THE STATE AS A WHOLE?

Q. YES.

A. YES.

**MS. KEENAN:** CAN THE TECH PLEASE PULL UP WHAT IS MARKED AS LDTX51, PAGE 11, SPECIFICALLY?

**BY MS. KEENAN:**

Q. OKAY. AND YOU SEE ON THE SCREEN THAT FIGURE 5 THAT YOU TALKED ABOUT IN YOUR DIRECT EXAMINATION, RIGHT?

A. YES.

Q. YOU TESTIFIED ABOUT THE RATE AT WHICH THE NUMBER OF BLACK MAJORITY SEATS INCREASED IN THE HOUSE AND THE SENATE, RIGHT?

A. YES.

Q. AND THIS TABLE SHOWS THE INCREASE IN THE PERCENTAGE OF TOTAL MAJORITY BLACK DISTRICTS FROM 2000 TO 2020?

A. YES.

Q. YOU DIDN'T ANALYZE WHETHER THE PERCENTAGE OF SEATS ALLOCATED TO MAJORITY BLACK DISTRICTS WERE PROPORTIONAL TO THE BVAP OF LOUISIANA IN EITHER YEAR?

1:18PM 1 A. ARE YOU ASKING A QUESTION?

2 Q. YES. DID YOU DO THAT?

3 A. OH, NO, I DID NOT.

4 Q. THIS FIGURE ALSO DOESN'T SHOW ANYTHING ABOUT LOUISIANA'S  
5 DECLINING WHITE POPULATION, DOES IT?

6 A. NO.

7 Q. AND SO THIS TABLE DOESN'T OFFER ANY ANALYSIS ABOUT HOW THE  
8 DECLINING WHITE POPULATION IN LOUISIANA WOULD AFFECT THE  
9 APPROPRIATE NUMBER OF MAJORITY BLACK DISTRICTS IN THE STATE,  
10 DOES IT?

11 A. I DON'T KNOW HOW YOU WOULD SHOW THAT.

12 Q. OKAY. SO THAT'S A NO?

13 A. CORRECT, IT DOESN'T SHOW THAT.

14 Q. OKAY. YOU ALSO TALKED A BIT ABOUT SOCIO-ECONOMIC DATA IN  
15 YOUR DIRECT EXAMINATION. DO YOU RECALL THAT?

16 A. YES.

17 Q. YOU REVIEWED MR. COOPER'S REBUTTAL REPORT IN THIS CASE,  
18 DIDN'T YOU?

19 A. YES.

20 Q. YOU ACTUALLY PREPARED A SURREBUTTAL REPORT RESPONDING TO  
21 THAT REPORT, RIGHT?

22 A. YES.

23 **MS. KEENAN:** COULD THE TECH PLEASE PULL UP PLAINTIFFS  
24 EXHIBIT 89, AND TURN TO PAGE 12, PLEASE. I'M SORRY. IT'S  
25 PLAINTIFFS 89. AND COULD WE TURN TO PAGE 12, PLEASE.

1:19PM

1 **BY MS. KEENAN:**

2 Q. DO YOU RECALL WHETHER YOU READ PARAGRAPHS 47 AND 48 OF  
3 MR. COOPER'S REBUTTAL REPORT?

4 A. YES.

5 Q. AND YOU WOULD AGREE THAT IT SAYS, STARTING IN PARAGRAPH  
6 47, QUOTE, I HAVE PREPARED A SET OF MAP EXHIBITS WHICH  
7 DEMONSTRATE THAT THE ADDITIONAL MAJORITY BLACK DISTRICTS IN THE  
8 ILLUSTRATIVE PLAN GENERALLY KEEP TOGETHER LOW AND MODERATE  
9 INCOME NEIGHBORHOODS, INDEPENDENT OF RACE. DO YOU SEE WHERE IT  
10 SAYS THAT?

11 A. YES, AFTER HE DREW THE MAPS, HE DID DO THAT.

12 Q. RIGHT. HAVE YOU REVIEWED PLAINTIFFS EXHIBITS 107 THROUGH  
13 115 WHICH SHOW THE MAP EXHIBITS DISCUSSED IN PARAGRAPH 47?

14 A. I GLANCED AT THEM.

15 Q. OKAY. AND LIKE YOU SAID EARLIER, YOU PREPARED A  
16 SURREBUTTAL REPORT RESPONDING TO MR. COOPER'S REBUTTAL REPORT,  
17 RIGHT?

18 A. YES.

19 Q. IN THAT SURREBUTTAL REPORT, YOU DIDN'T INCLUDE ANY  
20 OPINIONS ABOUT WHETHER THOSE EXHIBITS TO MR. COOPER'S REBUTTAL  
21 REPORT SHOW THAT HIS MAJORITY BLACK ILLUSTRATIVE DISTRICTS  
22 GENERALLY KEEP TOGETHER LOW INCOME NEIGHBORHOODS, DID YOU?

23 A. I DID NOT LOOK INTO WHETHER AFTER-THE-FACT ANALYSES  
24 RETROACTIVELY EXPLAINED A CORRELATION THAT HE WASN'T LOOKING AT  
25 AT THE TIME HE DREW THE MAPS.



1:20PM 1 Q. SO YOU DON'T KNOW WHETHER THE DISTRICTS THAT WERE DRAWN  
2 COMPLY WITH THE DATA THAT IS IN THOSE EXHIBITS; IS THAT RIGHT?  
3 A. IF I HAD FOUND A FACTUAL ERROR IN THEM, I WOULD HAVE  
4 HIGHLIGHTED THAT, AND I DID NOT.  
5 Q. OKAY. NOW, YOU TOLD US TODAY THAT THE ILLUSTRATIVE  
6 DISTRICTS WERE INCONSISTENT WITH ALL OF THE TRADITIONAL  
7 REDISTRICTING FACTORS THAT MR. COOPER TESTIFIED TO IN HIS  
8 REPORT WITH THE EXCEPTION OF RACE. DID I GET THAT RIGHT?  
9 A. I WOULD -- YOU ARE TRYING TO ENCOMPASS ALL OF MY EARLIER  
10 DIRECT TESTIMONY IN ONE SUMMARY. I'M NOT SURE IT'S A  
11 COMPLETELY FULL ONE-SENTENCE SUMMARY.  
12 Q. SURE. I CAN BE MORE SPECIFIC. GIVE ME ONE MOMENT.  
13 I WROTE DOWN WHAT MR. LEWIS ASKED YOU IN ONE OF HIS  
14 WRAP-UP QUESTIONS. SPECIFICALLY, HE ASKED, "DOES ANY  
15 EXPLANATION GIVEN BY MR. COOPER FOR THE CONFIGURATION OF HIS  
16 ILLUSTRATIVE DISTRICTS CONSISTENTLY LINE UP WITH HOW THE  
17 DISTRICTS WERE DRAWN?" DO YOU RECALL THAT QUESTION?  
18 A. YES.  
19 Q. AND YOU SAID NO, RIGHT?  
20 A. CORRECT.  
21 Q. OKAY. I WANT TO TALK A BIT ABOUT THAT. I'M SHOWING THE  
22 WITNESS HIS REPORT MARKED LDTX51. IF WE COULD TURN TO PAGE 26.  
23 SO YOU RECOGNIZE THIS AS THE SECTION OF YOUR REPORT YOU  
24 DISCUSSED WHERE YOU TALK ABOUT SPECIFIC ILLUSTRATIVE DISTRICTS  
25 IN MR. COOPER'S MAP, RIGHT?

1:22PM 1 A. ARE YOU TALKING ABOUT THE TOP FIGURE OR THE PARAGRAPHS  
2 BELOW?

3 Q. STARTING AT THE TITLE THAT SAYS, "CORRELATION OF RACE AND  
4 THE ILLUSTRATIVE PLAN DISTRICT LINES." THIS IS THE TOP OF THE  
5 SECTION IN YOUR REPORT WHERE YOU DISCUSS THE SPECIFIC  
6 ILLUSTRATIVE DISTRICTS. RIGHT?

7 A. YES.

8 Q. OKAY. NOW, IN DISCUSSING THE ILLUSTRATIVE DISTRICTS, YOUR  
9 REPORT DOESN'T EXPLAIN HOW YOU RULED OUT THE OTHER TRADITIONAL  
10 REDISTRICTING FACTORS WITH RESPECT TO EACH DISTRICT, DOES IT?

11 A. IT DOES. I LOOKED AT THE MAPS AND COMPARED THEM TO THE  
12 TRADITIONAL PRINCIPLES THAT HE HAD LISTED. THE NICE THING  
13 ABOUT MAPS AND COMMUNITY BOUNDARIES IS THERE IS NO ALGORITHM.  
14 IT'S A MAP. YOU JUST LOOK AT IT.

15 Q. OKAY. SO I WANT TO BREAK THAT DOWN A LITTLE BIT. IN  
16 PARAGRAPH 69, TO START, YOU STATE THAT MR. COOPER DREW HIS NEW  
17 MAJORITY BLACK SD 38, QUOTE, WITHOUT ANY REFERENCE TO  
18 COMPACTNESS, MAJOR ROADS, COMMUNITIES, NEIGHBORHOODS, CLEAR  
19 VISIBLE FEATURES, OR ANY OTHER REDISTRICTING PRINCIPLE. AM I  
20 READING THAT QUOTE CORRECTLY?

21 A. YES.

22 Q. OKAY. AND YOU ARE OFFERING THE OPINION, AS I UNDERSTAND  
23 IT, THAT JUST LOOKING AT EACH OF THOSE DISTRICTS AND THE  
24 FIGURES YOU PROVIDED, YOU CAN TELL THAT THE DISTRICT WAS DRAWN,  
25 QUOTE, WITHOUT ANY REFERENCE, CLOSE QUOTE, TO TRADITIONAL

1 REDISTRICTING FACTORS; IS THAT RIGHT?

2 A. WELL, IT IS ACTUALLY MR. COOPER WHO IS GIVING THE FACTORS  
3 THAT HE USED TO DRAW THE MAPS, AND THEN I'M REVIEWING THOSE.  
4 AND HE DIDN'T PROVIDE ANY OF THESE FACTORS THAT EXPLAIN WHY  
5 THAT LINE IS DRAWN THERE.

6 Q. RIGHT. SO YOU ARE OFFERING THE OPINION THAT BY JUST  
7 LOOKING AT THE DISTRICTS AS YOU'VE SHOWN THEM IN YOUR REPORT,  
8 YOU CAN TELL THAT THE DISTRICT WAS DRAWN WITHOUT ANY REFERENCE  
9 TO THE FACTORS MR. COOPER IDENTIFIED IN HIS REPORT. IS THAT  
10 YOUR OPINION?

11 **MR. LEWIS:** OBJECTION, YOUR HONOR, MISCHARACTERIZES  
12 THE WITNESS'S TESTIMONY.

13 **THE COURT:** ACTUALLY, IT IS NOT. HE SAID THAT THESE  
14 AREN'T -- THAT THE NICE THING ABOUT MAPS IS THAT THEY ARE MAPS  
15 AND THAT YOU DON'T HAVE TO DO ANY ANALOGUES ON THEM, YOU JUST  
16 LOOK AT THEM. SO IT REALLY DOESN'T. YOUR OBJECTION IS  
17 OVERRULED. IF YOU NEEDED TO REPHRASE OR RESTATE THE QUESTION,  
18 IF THAT HAS CAUSED YOU TO FORGET IT, I WOULD UNDERSTAND.

19 A. IF YOU COULD RESTATE IT, PLEASE.

20 **BY MS. KEENAN:**

21 Q. SURE. SO JUST TO BE CLEAR, YOU ARE OFFERING THE OPINION  
22 THAT JUST BY LOOKING AT EACH DISTRICT, LIKE YOU SAID, YOU COULD  
23 TELL THAT THE DISTRICT WAS DRAWN WITHOUT ANY REFERENCE TO THE  
24 OTHER TRADITIONAL REDISTRICTING FACTORS THAT MR. COOPER  
25 SPECIFIED IN HIS REPORT?

1:24PM 1 A. NO, THE REFERENCE IS BOTH ON THE MAP AND IN MR. COOPER'S  
2 REPORT. SO MR. COOPER DID NOT PROVIDE ANY REFERENCE TO THESE  
3 FACTORS THAT STAND UP WHEN YOU LOOK AT THE MAP.

4 Q. RIGHT. SO YOU ARE SAYING HE DIDN'T MAKE ANY REFERENCE IN  
5 HIS MAPS TO THE FACTORS THAT HE IDENTIFIED IN HIS REPORT. I  
6 JUST WANT TO MAKE SURE I'M UNDERSTANDING YOUR CRITICISM  
7 CORRECTLY BEFORE I ASK YOU SOME MORE QUESTIONS ABOUT IT.

8 A. OKAY. SO MR. COOPER GAVE HIS STATEMENTS IN HIS REPORT FOR  
9 WHY HE DREW THE LINES WHERE THEY WERE, AND HE LISTED THE  
10 FACTORS AND THE THINGS THAT HE CONSIDERED. YOU CAN LOOK AND  
11 SEE DO THE FACTORS THAT HE LISTS EXPLAIN WHERE THE LINES ARE.  
12 HE CITED HIS KEY CULTURAL REGIONS, THE PLANNING AREAS, THE  
13 VTDS, AND NONE OF THOSE FACTORS THAT HE CITED WOULD EXPLAIN WHY  
14 THE LINE BETWEEN 38 AND 39 IS DRAWN WHERE IT IS.

15 Q. OKAY. SO I WANT TO WALK THROUGH SOME OF THOSE FACTORS AND  
16 HOW YOU CONSIDERED THEM IN TRYING TO RULE THEM OUT. LET'S  
17 STICK WITH MAJORITY BLACK SD 38, WHICH IS STILL ON THE SCREEN  
18 IN PARAGRAPH 69 OF YOUR REPORT. YOU SAID THAT THIS DISTRICT  
19 WAS DRAWN WITHOUT ANY REFERENCE TO COMMUNITIES. IS THAT RIGHT?

20 A. YES.

21 Q. YOU WERE NOT TENDERED AS AN EXPERT ON COMMUNITIES OF  
22 INTEREST IN THIS CASE. DO YOU AGREE?

23 A. YES.

24 Q. AND YOUR REPORT DOESN'T IDENTIFY ANY EXAMPLES OF  
25 COMMUNITIES OF INTEREST IN LOUISIANA, DOES IT?

1:26PM 1 A. I'M JUST RESPONDING TO MR. COOPER, SO THERE'S EXTENSIVE  
2 DISCUSSION OF COMMUNITIES IN MY REPORT BECAUSE I'M DISCUSSING  
3 MR. COOPER'S IDENTIFIED COMMUNITIES.

4 Q. SURE. SO YOU TALK ABOUT SOME OF THE THINGS IN MR.  
5 COOPER'S REPORT, BUT YOU DON'T IDENTIFY ANY ADDITIONAL OR  
6 CONTRARY COMMUNITIES OF INTEREST IN YOUR REPORT, RIGHT?

7 A. I DON'T GO BEYOND WHAT MR. COOPER DID, NO.

8 Q. OKAY. YOU TOLD US THAT YOU REVIEWED MR. COOPER'S  
9 TESTIMONY FROM THE TRIAL THIS WEEK. DID YOU REVIEW ANYBODY  
10 ELSE'S TESTIMONY FROM THE TRIAL THIS WEEK?

11 A. NO.

12 Q. OKAY. SO YOUR REPORT DOESN'T ADDRESS THE COMMUNITIES OF  
13 INTEREST SPECIFIC REPORT OF DR. CRAIG COLTEN, DOES IT?

14 A. NO.

15 Q. YOU DIDN'T REVIEW THAT REPORT, DID YOU?

16 A. NO.

17 Q. AND YOU DIDN'T REVIEW MR. COLTEN'S TESTIMONY HERE AT THIS  
18 TRIAL, RIGHT?

19 A. NO.

20 Q. SO YOU'RE NOT AWARE OF WHETHER THAT REPORT OR THAT  
21 TESTIMONY WOULD CHANGE YOUR OPINION ABOUT WHETHER THE  
22 ILLUSTRATIVE MAP IS CONSISTENT WITH COMMUNITIES OF INTEREST IN  
23 LOUISIANA, ARE YOU?

24 A. AGAIN, I'M FOCUSING ON WHAT MR. COOPER CITED AS WHY HE  
25 DREW THE LINES, AND HE HIMSELF SAID THAT THAT REPORT ONLY HAD A

1:27PM 1 VERY TINY IMPACT ON THE REVISIONS TO THE ILLUSTRATIVE MAP.

2 Q. I'M NOT ASKING YOU ABOUT WHAT MR. COOPER WAS TRYING TO DO  
3 OR HOW HE DREW THE MAP, JUST ABOUT WHETHER YOU ARE AWARE  
4 WHETHER HIS MAPS WERE ULTIMATELY CONSISTENT WITH THE  
5 COMMUNITIES OF INTEREST REFLECTED IN DR. COLTEN'S OPINIONS.  
6 AND YOU ARE NOT AWARE OF THAT, ARE YOU?

7 A. I DID NOT REVIEW MR. COLTEN'S OPINIONS, SO I DON'T HAVE AN  
8 OPINION ON THAT.

9 Q. OKAY. SO YOUR REPORT DOESN'T RULE OUT THAT ANY OF THE  
10 DISTRICT LINES CAPTURE ANY OF THE COMMUNITIES DISCUSSED IN  
11 DR. COLTEN'S REPORT, DOES IT?

12 A. NO, BECAUSE DR. COLTEN DIDN'T DRAW THE MAP.

13 Q. YOUR REPORT ALSO DOESN'T COMPARE THE ILLUSTRATIVE MAP'S  
14 TREATMENT OF COMMUNITIES OF INTEREST TO THE ENACTED MAP'S  
15 TREATMENT OF COMMUNITIES OF INTEREST, DOES IT?

16 A. CORRECT.

17 Q. OKAY. I WANT TO MOVE ON TO COMPACTNESS. YOU ALSO OFFER  
18 THE OPINION HERE IN PARAGRAPH 69, "THE DISTRICT WAS DRAWN  
19 WITHOUT ANY REFERENCE TO COMPACTNESS." AM I READING THAT  
20 CORRECTLY?

21 A. YES.

22 Q. BUT YOUR REPORT DOESN'T COMPARE THE ILLUSTRATIVE MAP'S  
23 COMPACTNESS SCORES TO THE ENACTED MAP'S COMPACTNESS SCORES,  
24 DOES IT?

25 A. WELL, JUST IN TERMS OF -- WELL, I'M WANDERING INTO IN

1:29PM

1 LIMINE TERRITORY.

2 Q. I'M SORRY. I'M TALKING SPECIFICALLY ABOUT COMPACTNESS  
3 SCORES HERE TO START, AND YOUR REPORT DOESN'T COMPARE THE  
4 ILLUSTRATIVE MAP'S COMPACTNESS SCORES TO THE ENACTED MAP'S  
5 COMPACTNESS SCORES, RIGHT?

6 A. OH, TO THE ENACTED MAP, CORRECT.

7 Q. AGAIN, YOU ARE JUST VISUALLY INSPECTING THE MAPS, LIKE YOU  
8 TALKED ABOUT EARLIER, WHEN IT COMES TO COMPACTNESS, RIGHT?

9 A. NO, I'M LOOKING AT WHAT MR. COOPER CITED AS THE REASONS  
10 WHY HE DREW THE LINES FOR THAT DISTRICT AND DOES COMPACTNESS  
11 EXPLAIN WHY THAT LINE WOULD END UP WHERE IT DID.

12 Q. RIGHT, BUT I WANT TO TALK ABOUT HOW YOU DETERMINED WHETHER  
13 COMPACTNESS WOULD COMPLY WITH MR. COOPER'S RATIONALE. WHAT YOU  
14 DID WAS YOU LOOKED AT THE PICTURES OF THE MAPS, RIGHT?

15 A. YES.

16 Q. OKAY.

17 A. I MEAN, I ALSO REVIEWED THE NUMBERS BUT DID SO ONLY BASED  
18 ON HOW IT LOOKS, AS DR. POLSBY OR POPPER CALLED IT, THE  
19 INTRAOCULAR TEST.

20 Q. SURE. BUT YOU SAID YOU LOOKED AT THE NUMBERS. JUST TO BE  
21 PERFECTLY CLEAR, YOUR REPORT DOES NOT INCLUDE ANY OF THOSE  
22 NUMBERS COMPARING THE ILLUSTRATIVE MAP'S COMPACTNESS SCORES TO  
23 THOSE IN THE ENACTED MAP, CORRECT?

24 A. CORRECT.

25 Q. YOU ALSO SAY IN PARAGRAPH 69 AGAIN THAT THE MAP WAS

1:30PM 1 DRAWN -- OR, I'M SORRY, MAJORITY BLACK SD 38 WAS DRAWN WITHOUT  
2 ANY REFERENCE TO MAJOR ROADS. DID I READ THAT CORRECTLY?

3 A. YES.

4 Q. I'M NOW SHOWING THE WITNESS PAGE 27 OF THE SAME REPORT,  
5 LDTX51. THIS IS A PICTURE OF ILLUSTRATIVE SENATE DISTRICT 38  
6 IN FIGURE 16 OF YOUR REPORT, RIGHT?

7 A. YES.

8 Q. THIS IS IMMEDIATELY BELOW THE PARAGRAPH WE JUST DISCUSSED  
9 ABOUT ILLUSTRATIVE SENATE DISTRICT 38?

10 A. YES.

11 Q. OKAY. AND THIS IS THE SAME FIGURE YOU DISCUSSED IN YOUR  
12 DIRECT EXAMINATION, RIGHT?

13 A. YES.

14 Q. I WANT YOU TO TAKE A LOOK AT THIS PICTURE. YOU WOULD  
15 AGREE THAT THIS PICTURE OF SENATE DISTRICT 38 IN FIGURE 16 DOES  
16 DEPICT LINES THAT FOLLOW MULTIPLE MAJOR ROADS, RIGHT?

17 A. A TINY FRACTION OF IT DOES, YES.

18 Q. LET'S WALK THROUGH A COUPLE OF THEM. YOU WOULD AGREE THAT  
19 SOME OF THE BORDERS IN THIS MAP, SPECIFICALLY IN THE BOTTOM  
20 LEFT CORNER OF THIS IMAGE, TRACK INTERSTATE 220. WOULD YOU  
21 AGREE WITH THAT?

22 A. FOR A SHORT SEGMENT, YES.

23 Q. AND YOU WOULD AGREE THAT SOME OF THE BORDERS IN THIS MAP  
24 TRACK I-20, LIKE RIGHT IN THE CENTER OF FIGURE 16 IN YOUR  
25 REPORT, RIGHT?



1:31PM

1 A. A VERY BRIEF SEGMENT, YES.

2 Q. YOU WOULD AGREE SOME OF THE BORDERS TRACK OTHER ROADS,  
3 LIKE THE BORDER IN THE TOP RIGHT CORNER OF FIGURE 16 OF YOUR  
4 REPORT, THE STRAIGHT DIAGONAL ONE PROCEEDING INTO THE BORDER?

5 A. THE ONE RIGHT BY BUT NOT QUITE BY THE PARISH LINE?

6 Q. YES.

7 A. YES, IT DOES FOLLOW THE STREET RATHER THAN FOLLOWING THE  
8 PARISH LINE.

9 Q. AND YOU WOULD AGREE THAT ANOTHER BORDER TRACKS THE  
10 BOUNDARIES AT THE SHREVEPORT REGIONAL AIRPORT LIKE YOU TALKED  
11 ABOUT IN YOUR REPORT -- OR SORRY, LIKE YOU TALKED ABOUT EARLIER  
12 TODAY?

13 A. YES.

14 Q. NOW, YOU STATED REPEATEDLY IN YOUR DIRECT THAT THE FIGURES  
15 IN YOUR REPORT SHOW HOW THE ILLUSTRATIVE DISTRICTS DO NOT  
16 FOLLOW ANY OF THE TRADITIONAL REDISTRICTING CRITERIA THAT  
17 MR. COOPER MENTIONED IN HIS REPORT, RIGHT?

18 A. YES.

19 Q. I NOTICED THAT YOUR REPORT DOESN'T CITE JOINT RULE 21, BUT  
20 YOU ARE FAMILIAR WITH THAT RULE, RIGHT?

21 A. YES.

22 Q. OKAY. AND YOU KNOW THAT'S THE LOUISIANA LEGISLATURE'S  
23 SPECIFIC CRITERIA THAT NEED TO BE CONSIDERED WHEN DRAWING MAPS  
24 IN THE STATE?

25 A. YES.

1:32PM

1 Q. YOU ARE AWARE THAT ONE OF THOSE CRITERIA IS KEEPING  
2 PRECINCTS AS REPRESENTATIVES' VOTING DISTRICTS OR VTDS WHOLE,  
3 RIGHT?

4 A. YES.

5 Q. YOU ACKNOWLEDGED ON DIRECT THAT MR. COOPER LOOKED AT THE  
6 JOINT RULE, RIGHT?

7 A. YES.

8 Q. THAT HE LOOKED AT THE TRADITIONAL FACTORS IDENTIFIED IN  
9 THAT JOINT RULE, RIGHT?

10 A. YES.

11 Q. AND THAT ONE OF THOSE TRADITIONAL REDISTRICTING FACTORS  
12 WAS FOLLOWING VTD LINES?

13 A. YES.

14 Q. SPECIFICALLY NOT SPLITTING VTD LINES, RIGHT?

15 A. YES, I GUESS -- THE VTDS ARE IN THE JOINT RULE. THEY ARE  
16 A LITTLE SEPARATE FROM TRADITIONAL FACTORS, BUT MORE OR LESS IT  
17 IS THE SAME THING.

18 Q. SURE. SO WE CAN BE SPECIFIC, UNDER LOUISIANA'S JOINT RULE  
19 SPECIFYING THE REDISTRICTING CRITERIA THAT MAP DRAWERS NEED TO  
20 USE, MR. COOPER SAID THAT HE COMPLIED WITH THE REQUIREMENT TO  
21 FOLLOW THE VTD LINES, RIGHT?

22 A. I BELIEVE HE SAID TO THE EXTENT PRACTICABLE.

23 Q. RIGHT. WOULD YOU AGREE THAT PRECINCT LINES OR VTD LINES  
24 CAN SOMETIMES SPLIT MUNICIPALITIES?

25 A. WELL, I DON'T KNOW IN LOUISIANA IF THEY CROSS MUNICIPALITY

1:34PM 1 BOUNDARIES, BUT CERTAINLY THERE ARE MANY PRECINCTS OR VTDS IN A  
2 BIG CITY LIKE SHREVEPORT.

3 Q. SURE. AND THERE ARE PRECINCT LINES THAT CAN SPLIT MAJOR  
4 ROADS, FOR EXAMPLE?

5 A. YES.

6 Q. WERE YOU HERE WHEN MR. TRENDE TESTIFIED EARLIER TODAY?

7 A. JUST FOR THE CROSS AT THE VERY END.

8 Q. OKAY. DID YOU HAPPEN TO HEAR HIM STATE THAT TRADE-OFFS  
9 BETWEEN TRADITIONAL REDISTRICTING CRITERIA ARE SIMPLY  
10 INEVITABLE?

11 A. I WASN'T PAYING THAT CLOSE OF ATTENTION, TO BE HONEST.

12 Q. WOULD YOU AGREE WITH THAT STATEMENT, THAT TRADE-OFFS  
13 BETWEEN TRADITIONAL REDISTRICTING CRITERIA ARE INEVITABLE WHEN  
14 YOU'RE DRAWING MAPS?

15 A. MOST OF THE TIME, YES.

16 Q. DID YOU TAKE PRECINCT OR VTD LINES INTO ACCOUNT IN  
17 CRITIQUING MR. COOPER'S MAPS?

18 A. NOT AT THE TIME I WROTE THE ORIGINAL REPORT. OBVIOUSLY IN  
19 MY DIRECT, I WAS REFERRING TO THEM.

20 Q. SURE. I WANT TO BE CLEAR ABOUT WHAT YOU REVIEWED AT THE  
21 TIME YOU PREPARED YOUR REPORT. TO REVIEW MR. COOPER'S MAPS IN  
22 MAPTITUDE, YOU USED A GIS SOFTWARE PACKAGE CALLED MAPTITUDE FOR  
23 REDISTRICTING DEVELOPED BY THE CALIPER CORPORATION, RIGHT?

24 A. YES.

25 Q. THE PL94171 DATA WAS IN THAT MAPTITUDE DATABASE, RIGHT?

1:35PM

1 A. YES.

2 Q. AND THE PRECINCT INFORMATION WAS CONTAINED WITHIN THE  
3 PL94171 DATASET, RIGHT?

4 A. YES.

5 Q. THE SOFTWARE THAT YOU USED MERGES THE DEMOGRAPHIC DATA  
6 FROM THE PL94171 FILES TO MATCH UP WITH THE RELEVANT DECENNIAL  
7 CENSUS GEOGRAPHY, RIGHT?

8 A. IT CAN.

9 Q. SO YOU HAD THE ABILITY TO LOOK AT THOSE PRECINCT OR VTD  
10 LINES AS A LAYER IN MAPTITUDE WHEN YOU WERE REVIEWING MR.  
11 COOPER'S MAPS, RIGHT?

12 A. YES.

13 Q. YOU TESTIFIED ON DIRECT THAT THESE LAYERS CAN BE CLICKED  
14 ON AND OFF TO SHOW DIFFERENT FACETS OF THE DATASET, RIGHT?

15 A. YES.

16 Q. OKAY. YOU ALSO TOLD US ON DIRECT THAT YOU DID NOT JUST  
17 LOOK AT MR. COOPER'S MAPS. YOU ALSO REVIEWED THE DATA  
18 ASSOCIATED WITH THOSE MAPS TOO, RIGHT?

19 A. YES.

20 Q. USING THE MAPTITUDE SOFTWARE, YOU WOULD ALSO AGREE IT IS  
21 POSSIBLE TO DRAW MAPS AT THE PRECINCT OR VTD LEVEL, RIGHT?

22 A. SURE.

23 Q. AND YOU WOULD AGREE THAT'S WHAT MR. COOPER SAID THAT HE  
24 DID IN DRAWING THE MAPS IN THIS CASE, RIGHT?

25 A. TO THE EXTENT PRACTICABLE.

1:36PM 1 Q. RIGHT. NOW, THIS FIGURE IN FRONT OF US, YOU TESTIFIED  
2 THAT IT DIVIDES UP THE AREA IN CENSUS BLOCKS, RIGHT?

3 A. THE MAP IS SHOWING THE ETHNIC DATA BY BLOCK.

4 Q. RIGHT. HAVE YOU LOOKED AT THIS FIGURE WITH THE PRECINCT  
5 DATA LOADED ONTO IT?

6 A. NO, BUT THE PRECINCTS ARE GOING TO BE GROUPINGS OF BLOCKS,  
7 SO I CAN TELL WHAT THE PRECINCT SHADING IS GOING TO LOOK LIKE  
8 BY LOOKING AT THE BLOCKS.

9 Q. SURE. WELL, LET'S TAKE A LOOK. I'M GOING TO SHOW THE  
10 WITNESS ILLUSTRATIVE AID 39, WHICH DEPICTS THE SAME AREA  
11 DEPICTED IN FIGURE 16 OF HIS REPORT BUT WITH AN OVERLAY OF THE  
12 PRECINCT LINES THAT WE JUST TALKED ABOUT.

13 DO YOU HAVE ANY REASON TO DISPUTE THAT THIS IS AN  
14 ILLUSTRATIVE AID SHOWING THE PRECINCT LINES ON THE SAME AREA WE  
15 JUST DISCUSSED IN YOUR REPORT?

16 A. I DON'T KNOW EITHER WAY.

17 Q. OKAY. DO YOU SEE THE 2021 CALIPER STAMP AT THE BOTTOM  
18 CENTER OF THIS ILLUSTRATIVE AID?

19 A. YES.

20 Q. THAT'S THE SAME SOFTWARE THAT YOU USED TO CREATE THE  
21 FIGURES IN YOUR REPORT, RIGHT?

22 A. YES.

23 Q. OKAY. WOULD YOU AGREE THAT MANY OF THE PLACES WHERE MR.  
24 COOPER'S LINES DIVERGE FROM THE MAJOR ROADS YOU JUST TALKED  
25 ABOUT ACTUALLY TRACK PRECINCT BOUNDARIES?

1:37PM 1 A. I MEAN, ALL THE LINES TRACK PRECINCT BOUNDARIES.

2 Q. I WANT TO TAKE A LOOK SPECIFICALLY AT THE MAJOR ROADS AND  
3 WHERE THE LINES DIVERGE FROM THOSE ROADS. SO LET'S LOOK AT THE  
4 BOTTOM CORNER, TRACKING THE SAME BOTTOM CORNER OF FIGURE 16 IN  
5 YOUR REPORT. YOU SEE THAT WHERE THE LINE DIVERGES FROM I-220,  
6 LIKE WE TALKED ABOUT, THE LINE IS FOLLOWING THAT PRECINCT  
7 HIGHLIGHTED IN BLUE, RIGHT?

8 A. NOT IN THE PART TO THE RIGHT.

9 Q. I'M SORRY. I'M JUST TALKING ABOUT WHERE THE LINE DIVERGES  
10 FROM 220 IN THE BOTTOM LEFT CORNER. AND YOU CAN SEE THAT WHEN  
11 IT BREAKS OFF OF 220, IT IS FOLLOWING A PRECINCT LINE EXACTLY  
12 AND THEN REJOINING I-220 ON THE OTHER SIDE OF THAT PRECINCT  
13 LINE. DO YOU SEE THAT IN THE CORNER?

14 A. IN THAT LITTLE PIECE OF IT, YES, BUT OVER ON THE RIGHT,  
15 NO.

16 Q. NOW, I WANT TO ZOOM BACK OUT FOR A MOMENT AND LOOK AT  
17 WHERE THE LINES DIVERGE FROM I-20. THIS IS DIRECTLY ABOVE THE  
18 NUMBER 38 IN BOTH FIGURES, SO THIS ALSO TRACKS FIGURE 16 IN  
19 YOUR REPORT. YOU WOULD AGREE THAT BOTH PLACES THAT THE LINE  
20 DIVERGES FROM THE MAJOR ROAD HERE, SPECIFICALLY ABOVE THE  
21 NUMBER 38, IT IS FOLLOWING A PRECINCT LINE, RIGHT?

22 A. NOT IN BOTH.

23 Q. OKAY. LET'S TALK ABOUT THAT, THEN. NO, NO, CAN YOU  
24 PLEASE ZOOM BACK INTO THE SAME SPOT? ABOVE 38, YOU CAN SEE  
25 THAT -- CAN I DRAW ON IT? I'M NOT SURE IF I CAN DRAW ON IT.

1:39PM 1                   **THE COURT:** YOU CAN. WELL, I DON'T KNOW IF YOU  
2 CAN'T --

3                   **MS. KEENAN:** THAT'S OKAY. NO WORRIES. I CAN EXPLAIN  
4 IT ORALLY BECAUSE IT'S NOT GOING TO BE IN EVIDENCE.

5                   **THE COURT:** I THINK HE CAN ACTIVATE IT. I KNOW THE  
6 WITNESS CAN DRAW, BUT SINCE YOU ARE USING YOUR COMPUTER, I'M  
7 JUST NOT A HUNDRED PERCENT SURE. JAVI, DO YOU KNOW?

8                   **THE CLERK:** SHE SHOULD BE ABLE TO DRAW ON THERE.

9                   **MS. KEENAN:** IS THERE A MOUSE?

10                  **THE CLERK:** NO, IT IS TOUCH SCREEN.

11                  **MS. KEENAN:** I THINK IT'S OKAY. I DON'T NEED TO DRAW  
12 ON IT. I CAN ASK THE QUESTIONS WITHOUT DRAWING.

13                  **THE COURT:** OKAY.

14 **BY MS. KEENAN:**

15 Q. SO YOU CAN FIRST LOOK AT THE LINE HIGHLIGHTED HERE. YOU  
16 WOULD AGREE THAT THERE, WHERE THE LINE DIVERGES FROM I-20, IT  
17 IS FOLLOWING A PRECINCT LINE, YES?

18 A. YES, THERE IT IS.

19 Q. OKAY. THE SAME IS TRUE ON THE LEFT SIDE OF THE IMAGE YOU  
20 SEE HERE, AND ALSO ON FIGURE 16, YOU WOULD AGREE THAT THERE'S A  
21 PORTION THAT BREAKS OFF FROM I-20 WHERE THE BLUE PRECINCT LINE  
22 IS, AND THEN IT FOLLOWS THE YELLOW PRECINCT LINE. AGAIN, IT IS  
23 FOLLOWING THE PRECINCT LINE EXACTLY, RIGHT?

24 A. BUT IN THAT CASE, THE PRECINCT DOES NOT CROSS THE FREEWAY.  
25 IF HE HAD FOLLOWED THE FREEWAY -- HE COULD USE PRECINCTS AND

1:40PM 1 FOLLOWED THE FREEWAY THERE. HE JUST CHOSE NOT TO.

2 Q. YOU WOULD AGREE, THOUGH, THAT IN THE FIRST LINE THAT WE  
3 TALKED ABOUT, HE WOULD ACTUALLY HAVE TO SPLIT TWO PRECINCTS IN  
4 ORDER TO FOLLOW THE MAJOR ROAD, RIGHT?

5 A. YES.

6 MS. KEENAN: CAN WE ZOOM BACK OUT AND REMOVE THE  
7 HIGHLIGHTS?

8 BY MS. KEENAN:

9 Q. DURING YOUR DIRECT TESTIMONY, YOU TALKED ABOUT HOW THE  
10 LINES CURVE AND WIND IN VERY ODD WAYS THAT DON'T FOLLOW THE  
11 CRITERIA THAT MR. COOPER LISTED. DO YOU RECALL TESTIFYING TO  
12 THAT?

13 A. CERTAINLY SOMETHING TO THAT EFFECT, YES.

14 Q. DO YOU AGREE -- I'M SORRY. I'M NOT SURE WHY THAT RED IS  
15 ON THE SCREEN. YOU CAN IGNORE IT.

16 A. NO, I UNDERSTAND. YOUR LINES FINALLY SHOWED UP.

17 THE COURT: YOU CAN CLEAR IT. THERE YOU GO.

18 MS. KEENAN: CAN WE PUT THE IMAGE BACK ON THE SCREEN?  
19 THANK YOU.

20 BY MS. KEENAN:

21 Q. EACH OF THE LINES THAT MR. COOPER DRAWS FOLLOWS A PRECINCT  
22 LINE, YES?

23 A. AND IT CURVES AND SHIFTS IN ODD WAYS, PICKING PRECINCTS  
24 THIS AND THAT IN ODD WAYS.

25 Q. BUT CAN YOU SEE ANY LINE IN THIS ILLUSTRATIVE AID OF



1:41PM 1 SENATE DISTRICT 38 WHERE THE LINES DO NOT TRACK A PRECINCT  
2 LINE?

3 A. NO.

4 Q. OKAY. NONE OF THE IMAGES IN YOUR REPORT SHOW PRECINCT  
5 BOUNDARIES APART FROM THE CENSUS BLOCK BOUNDARIES UNDERNEATH  
6 THEM, RIGHT?

7 A. CORRECT.

8 Q. OKAY. AND YOU RECALL TESTIFYING THAT THE DISTRICT LINES  
9 WEREN'T CONSISTENT WITH ANY, QUOTE, VISIBLE REASON ON THE MAPS  
10 IN YOUR REPORT, RIGHT?

11 A. CORRECT.

12 Q. BUT LOOKING AT THE FIGURES IN YOUR REPORT, YOU WOULD NOT  
13 BE ABLE TO SEE WHETHER MR. COOPER WAS COMPLYING WITH THE JOINT  
14 RULE 21 REQUIREMENT OF FOLLOWING VTD LINES, WOULD YOU?

15 A. NO, BUT THERE ARE MANY WAYS TO COMPLY WITH THAT. HE COULD  
16 HAVE CHOSEN PRECINCTS THAT WERE MORE COMPACT THAT FOLLOWED  
17 MAJOR FEATURES AND FOLLOWED CITY BOUNDARIES.

18 Q. I'M NOT ASKING ABOUT THE OTHER WAYS HE COULD COMPLY WITH  
19 THAT SAME FACTOR, BUT YOU WOULD AGREE THAT IN THE AREAS WHERE  
20 YOU TALK ABOUT HOW A DISTRICT LINE ZIGS AND ZAGS, YOU CANNOT  
21 RULE OUT THAT MR. COOPER WAS SIMPLY FOLLOWING A PRECINCT LINE  
22 BASED ON THE FIGURES IN YOUR REPORT, RIGHT?

23 A. I CAN'T RULE OUT THAT HE WAS SIMPLY FOLLOWING IT.

24 Q. YOU CANNOT RULE OUT THAT MR. COOPER WAS TRACKING THE  
25 BORDERS OF A PRECINCT LINE EXACTLY WHEN HE WAS ZIGGING AND

1:43PM 1 ZAGGING IN THE FIGURES IN YOUR MAPS?

2 A. CORRECT. I HAVE NO REASON TO THINK HE WASN'T FOLLOWING  
3 PRECINCT LINES.

4 Q. OKAY. SO I WANT TO RETURN TO THE WRAP-UP QUESTION THAT  
5 MR. LEWIS ASKED YOU EARLIER. HE SAYS, "DOES ANY EXPLANATION  
6 GIVEN BY MR. COOPER FOR THE CONFIGURATION OF HIS ILLUSTRATIVE  
7 DISTRICTS CONSISTENTLY LINE UP WITH HOW THE DISTRICTS ARE  
8 DRAWN?" DO YOU RECALL THAT QUESTION?

9 A. YES.

10 Q. AND YOU SAID NO. CORRECT?

11 A. CORRECT.

12 Q. BUT YOU WOULD AGREE THAT MR. COOPER'S LINES ARE  
13 CONSISTENTLY DRAWN TO REFLECT THE VTD LINES THAT JOINT RULE 21  
14 REQUIRES, RIGHT?

15 A. I HAVEN'T GONE THROUGH TO SEE WHY HE INCLUDED THE PHRASE  
16 "TO THE EXTENT PRACTICABLE." I HAVEN'T LOOKED FOR WHAT  
17 PRECINCTS HE SPLIT, IF ANY, BUT HIS TENDENCY CERTAINLY IS TO  
18 FOLLOW VTDS.

19 Q. I WANT TO TALK ABOUT THAT "TO THE EXTENT PRACTICABLE"  
20 PHRASE QUICKLY BEFORE WE MOVE ON. YOU HAVE REVIEWED JOINT RULE  
21 21, HAVEN'T YOU?

22 A. YES.

23 **MS. KEENAN:** I BELIEVE IT IS JOINT EXHIBIT 56. CAN  
24 WE PULL THAT UP? I'M GOING FROM MEMORY. OH, THERE WE GO.  
25 COULD WE TAKE A LOOK AT SECTION G OF JOINT RULE NUMBER 21.

1:44PM

1 **BY MS. KEENAN:**

2 Q. I'M JUST GOING TO START READING AT SECTION G1 HERE. IT  
3 SAYS, "TO THE EXTENT PRACTICABLE, EACH DISTRICT WITHIN A  
4 REDISTRICTING PLAN SUBMITTED FOR CONSIDERATION SHALL CONTAIN  
5 WHOLE ELECTION PRECINCTS AS THOSE ARE REPRESENTED AT VOTING  
6 DISTRICTS VTDS." DID I READ THAT CORRECTLY?

7 A. YES.

8 Q. OKAY. IS IT -- DO YOU HAVE ANY REASON TO BELIEVE THAT THE  
9 PHRASE "TO THE EXTENT PRACTICABLE" DIDN'T COME DIRECTLY FROM  
10 JOINT RULE 21?

11 A. NO.

12 Q. OKAY. I WANT TO TURN BACK TO LDTX51, PAGE 29 THIS TIME.  
13 NOW, YOU ALSO TALKED ABOUT THIS FIGURE IN YOUR DIRECT, RIGHT?

14 A. YES.

15 Q. YOU WOULD AGREE THIS FIGURE ALSO DOESN'T SHOW PRECINCT  
16 LINES, DOES IT?

17 A. NO, IT DOES NOT.

18 Q. OKAY. SPECIFICALLY YOU CRITICIZE MR. COOPER HERE FOR  
19 DRAWING THE DISTRICT LINE ACROSS THE MISSISSIPPI RIVER IN THE  
20 LEFT SIDE OF THIS IMAGE INSTEAD OF CONTINUING TO FOLLOW THE  
21 RIVER. DO YOU RECALL THAT?

22 A. YES, ON THE LEFT SIDE, HE CROSSES IT. ON THE RIGHT SIDE,  
23 HE TURNS AWAY FROM IT.

24 Q. BECAUSE YOU DIDN'T REVIEW DR. COLTEN'S OPINIONS, YOU DON'T  
25 KNOW WHETHER HIS DISCUSSION OF COMMUNITIES OF INTEREST WOULD

1:45PM 1 CHANGE YOUR OPINIONS ABOUT WHETHER CROSSING THE RIVER HERE  
2 COMPLIED WITH TRADITIONAL REDISTRICTING FACTORS, RIGHT?

3 A. I DO KNOW THAT.

4 Q. YOU TESTIFIED EARLIER THAT YOU HAD NOT REVIEWED  
5 DR. COLTEN'S OPINIONS, RIGHT?

6 A. CORRECT.

7 Q. AND YOU'VE TALKED ABOUT HOW COMMUNITIES OF INTEREST ARE A  
8 TRADITIONAL REDISTRICTING FACTOR, RIGHT?

9 A. CORRECT.

10 Q. SO YOU WOULD AGREE IF THERE IS A COMMUNITY OF INTEREST ON  
11 EITHER SIDE OF THE RIVER THAT IS SHARED, IT COULD REFLECT A  
12 TRADITIONAL REDISTRICTING FACTOR TO KEEP THE DISTRICT AROUND  
13 THE ENTIRE COMMUNITY OF INTEREST STRADDLING THE RIVER, RIGHT?

14 A. MY OPINION IS THAT THE LINE DID NOT FOLLOW ANY OF THE  
15 TRADITIONAL REDISTRICTING CRITERIA CITED BY MR. COOPER. I  
16 DIDN'T REVIEW ANYTHING THAT MR. COOPER DIDN'T REVIEW.

17 **MS. KEENAN:** YOUR HONOR, I WOULD MOVE TO STRIKE THAT  
18 ANSWER AS NONRESPONSIVE.

19 **THE COURT:** WELL, THE RECORD IS THE RECORD. SO IT'S  
20 NONRESPONSIVE. ASK YOUR QUESTION AGAIN, BUT WE ARE NOT GOING  
21 TO STRIKE ANYTHING OUT OF THE RECORD.

22 **MS. KEENAN:** OKAY.

23 **BY MS. KEENAN:**

24 Q. I WILL REPEAT THE QUESTION, THEN. YOU WOULD AGREE THAT IT  
25 IS CONSISTENT -- IT COULD BE CONSISTENT WITH TRADITIONAL

1:47PM 1 REDISTRICTING PRINCIPLES TO DRAW A DISTRICT ON BOTH SIDES OF A  
2 RIVER IN ORDER TO CAPTURE A COMMUNITY OF INTEREST THAT IS  
3 SHARED ACROSS THAT RIVER, RIGHT?

4 A. I WOULD SAY THAT IS OUTSIDE THE SCOPE OF MY REPORT, BUT IF  
5 YOU WOULD LIKE ME TO OPINE ON THINGS OUTSIDE THE SCOPE OF MY  
6 REPORT, I'M HAPPY TO.

7 Q. WE CAN MOVE ON FROM THAT QUESTION. THAT IS FINE.

8 YOU HAVE REVIEWED THE ENACTED SENATE MAP, HAVEN'T YOU?

9 A. I HAVE LOOKED AT IT.

10 Q. RIGHT. YOU TALKED ABOUT EARLIER HOW YOU LOOKED AT THAT IN  
11 PARTICULAR TO COMPARE THE SHAPES AND THE CONFIGURATION OF THE  
12 DISTRICTS, RIGHT, WITH THE ILLUSTRATIVE MAPS?

13 **MR. LEWIS:** OBJECTION. MISSTATES THE WITNESS'S  
14 TESTIMONY ON DIRECT.

15 **MS. KEENAN:** I'M SORRY. THAT WAS ON CROSS, YOUR  
16 HONOR, BUT I CAN REPHRASE IT.

17 **THE COURT:** REPHRASE.

18 **BY MS. KEENAN:**

19 Q. EARLIER ON CROSS-EXAMINATION, YOU TESTIFIED THAT THE ONLY  
20 WAY YOU LOOKED AT THE ENACTED MAP AND THE ILLUSTRATIVE MAP WAS  
21 WITH REGARD TO THE SHAPES OF THOSE TWO DISTRICTS TO DETERMINE  
22 COMPACTNESS. YOU SAID THAT WAS THE ONLY WAY YOU REVIEWED  
23 COMPACTNESS ACROSS THE TWO MAPS, RIGHT?

24 A. NO, THAT'S NOT WHAT I SAID.

25 Q. WOULD YOU AGREE THAT YOU LOOKED AT BOTH MAPS AND

1:48PM 1 CONSIDERED THE COMPACTNESS OF THE ENACTED AND THE ILLUSTRATIVE  
2 MAPS?

3 A. NO, MY EARLIER TESTIMONY -- WHY I MENTIONED THAT IT WAS  
4 GETTING IN THE IN LIMINE REALM IS I LOOKED AT THE FIRST  
5 ILLUSTRATIVE MAP AND THE SECOND ILLUSTRATIVE MAP.

6 Q. SO IS IT YOUR TESTIMONY THAT YOU'VE NEVER EVEN LOOKED AT  
7 THE ENACTED MAP?

8 A. NO, THAT'S NOT MY TESTIMONY.

9 Q. OKAY. SO YOU DID REVIEW THE ENACTED SENATE MAP THEN,  
10 RIGHT?

11 A. AS I JUST SAID A MINUTE AGO, YES.

12 Q. AND YOU LOOKED AT THE SHAPES OF THOSE DISTRICTS?

13 A. BRIEFLY.

14 Q. OKAY. I'M GOING TO SHOW THE WITNESS ILLUSTRATIVE AID 31,  
15 WHICH DEPICTS ENACTED SENATE DISTRICT 5 WITH RACIAL SHADING. I  
16 WOULD LIKE TO PUT THESE TWO SIDE BY SIDE ACTUALLY WITH THE  
17 FIGURE WE WERE JUST LOOKING AT. THAT WAS LDTX51, PAGE 29.

18 **MS. KEENAN:** AND IF WE COULD ZOOM IN ON THE FIGURE  
19 AGAIN, THAT WOULD BE GREAT, STEPHEN. THANK YOU SO MUCH.

20 **BY MS. KEENAN:**

21 Q. YOU CAN SEE FROM THE TWO IMAGES ON THE SCREEN THAT THIS  
22 IMAGE OF THE ENACTED MAP AND THE ILLUSTRATIVE MAP SHOW ROUGHLY  
23 THE SAME TERRITORY IN THE STATE, RIGHT?

24 **MR. LEWIS:** OBJECTION, YOUR HONOR. THIS GOES BEYOND  
25 THE SCOPE OF DIRECT EXAMINATION. IT GOES BEYOND THE SCOPE OF

1:49PM 1 THE WITNESS' REPORT. THE WITNESS DID NOT ANALYZE THE DISTRICT  
2 LINES OF THE ENACTED PLAN.

3 **MS. KEENAN:** MAY I EXPLAIN, YOUR HONOR?

4 **THE COURT:** YOU MAY RESPOND.

5 **MS. KEENAN:** IN DISCUSSING THE COMPACTNESS OF A  
6 DISTRICT OR THE SHAPE OF A DISTRICT AND WHETHER IT WAS DRAWN IN  
7 A WAY THAT'S CONSISTENT WITH TRADITIONAL REDISTRICTING  
8 PRINCIPLES, IT MAKES SENSE TO CONSIDER WHETHER THE ENACTED MAP  
9 MADE SOME OF THE SAME TYPES OF DECISIONS THAT MR. JOHNSON IS  
10 CRITIQUING IN HIS REPORT HERE. IT GOES TO WHETHER MR. COOPER'S  
11 MAPS ARE REASONABLY CONFIGURED, WHETHER THEY COMPLY WITH  
12 TRADITIONAL REDISTRICTING PRINCIPLES. AND IF I CAN MAKE A  
13 PROFFER OF WHAT THIS WILL SHOW.

14 **THE COURT:** MR. LEWIS?

15 **MR. LEWIS:** AGAIN, YOUR HONOR, MR. COOPER DREW HIS  
16 PLAN. DR. JOHNSON EVALUATED MR. COOPER'S PLAN. GETTING INTO  
17 AN ANALYSIS OF THE ENACTED PLAN, IT GOES BEYOND THE SCOPE OF  
18 THE WITNESS' TESTIMONY. IT IS BEYOND THE SCOPE OF DIRECT,  
19 BEYOND THE SCOPE OF THE REPORT.

20 **MS. KEENAN:** MAY I RESPOND?

21 **THE COURT:** YOU MAY.

22 **MS. KEENAN:** I THINK IT GOES TO THE WEIGHT OF HIS  
23 OPINION, WHETHER SOMETHING THAT MR. COOPER DID THAT HE  
24 CRITICIZED IS SOMETHING THAT THE ENACTED MAP ALSO DID,  
25 SPECIFICALLY, CROSSING THE MISSISSIPPI RIVER IN THIS EXACT AREA

1 OF THE STATE.

2 **THE COURT:** YEAH, IT REALLY IS ALMOST IN THE WAY OF,  
3 FOR LACK OF A BETTER WORD, IMPEACHMENT. I'M GOING TO OVERRULE  
4 THE OBJECTION.

5 **BY MS. KEENAN:**

6 Q. SO JUST TO CONFIRM, YOU CAN SEE FROM THE TWO IMAGES ON  
7 YOUR SCREEN ROUGHLY THE SAME TERRITORY OF THE STATE WITH THE  
8 ENACTED MAP ON THE LEFT-HAND SIDE AND THE ILLUSTRATIVE MAP ON  
9 THE RIGHT-HAND SIDE. WOULD YOU AGREE WITH THAT?

10 A. I'M TRYING TO GET MY BEARINGS BETWEEN THE TWO MAPS. I  
11 MEAN, I CAN SEE THE MIDDLE CURVE OF THE RIVER COMPARES, BUT  
12 THEY ARE VERY DIFFERENT SCALE MAPS.

13 Q. SURE. WELL, YOU DON'T NEED TO WORRY ABOUT THE SCALE FOR  
14 THE QUESTIONS I'M GOING TO ASK YOU. YOU WOULD AGREE THIS IS  
15 THE MISSISSIPPI RIVER THAT YOU ARE LOOKING AT?

16 A. OH, SURE.

17 Q. AND THAT THIS IS ROUGHLY ORLEANS PARISH AND JEFFERSON  
18 PARISH, ALONG WITH THE SURROUNDING AREA? YES?

19 A. PIECES OF THEM, YES.

20 Q. OKAY. I WANT YOU TO LOOK AT ENACTED SD 5, JUST TO REFRESH  
21 YOUR RECOLLECTION OF THE SHAPE OF THAT DISTRICT. WOULD YOU  
22 AGREE THAT THE PORTION OF SD 5 THAT TOUCHES THE RIVER USES THE  
23 MISSISSIPPI RIVER AS A BORDER IN PART?

24 A. IN PART, YES.

25 Q. AND YOU WOULD AGREE THAT THE OTHER PART OF SD 5 REACHES



1:51PM 1 ACROSS THE RIVER. WOULD YOU AGREE WITH THAT?

2 A. YES.

3 Q. YOU WOULD ALSO AGREE THAT IN EFFECT, IT CAPTURED A BLACK  
4 POPULATION IN JEFFERSON PARISH IN DOING SO?

5 A. ARE YOU TALKING ABOUT THE RED AREA AT THE BOTTOM OF SD 5?

6 Q. I AM.

7 A. OKAY. YES, THAT IS BROUGHT INTO 5.

8 Q. OKAY. I WOULD NOW LIKE TO TALK ABOUT LDTX51, PAGE 14. WE  
9 CAN REMOVE THE SIDE BY SIDE. THIS IS FIGURE 7 WHICH YOU TALKED  
10 ABOUT ON DIRECT AS WELL, RIGHT?

11 A. YES.

12 Q. HERE YOU CALLED ATTENTION TO WHAT YOU CALLED A PENINSULA  
13 OR A FINGER EXTENDING FROM DISTRICT 54 IN THIS FIGURE, RIGHT?

14 A. YES.

15 Q. ARE YOU AWARE THAT THE CROSSING FROM LAFOURCHE PARISH INTO  
16 JEFFERSON PARISH THAT YOU CALLED A FINGER ACTUALLY CAPTURES AN  
17 ISLAND?

18 A. I ACTUALLY -- WELL, I THOUGHT IT WAS A PENINSULA. I GUESS  
19 THE BRIDGE IS CONNECTING TO THE ISLAND.

20 Q. THAT'S BECAUSE THIS MAP DOESN'T SHOW WATERWAYS IN THE  
21 STATE, DOES IT?

22 A. NO.

23 Q. ARE YOU AWARE THAT THE ONLY WAY TO GET TO THAT ISLAND FROM  
24 JEFFERSON PARISH IS ACTUALLY BY LAND THROUGH LAFOURCHE PARISH?

25 A. SURE.

1:53PM 1 Q. OKAY. YOU TALKED ABOUT HOW THE MAP DOESN'T -- HOW MR.  
2 COOPER'S DISTRICTS DON'T COMPLY WITH VISIBLE FEATURES IN YOUR  
3 MAPS. WOULD YOU AGREE THIS IS AN EXAMPLE WHERE SEEING A WATER  
4 FEATURE MIGHT BE HELPFUL IN DETERMINING WHETHER MR. COOPER'S  
5 MAPS WERE CONSISTENT WITH VISIBLE FEATURES ON YOUR MAP?

6 A. NO. I MEAN, WHEN I DESCRIBED IT, I MENTIONED IT ON THE  
7 SHORELINE. I THINK EVERYONE KNOWS THAT WE ARE DOWN AT THE GULF  
8 HERE.

9 Q. OKAY. SO YOU DON'T THINK IT WOULD BE HELPFUL TO INCLUDE  
10 THE WATERWAYS AND THE IMAGES IN YOUR REPORT?

11 A. NOT FOR ME.

12 Q. OKAY. NEXT I WANT TO TALK ABOUT THE LAKE  
13 CHARLES/CALCASIEU AREA THAT YOU DISCUSSED EARLIER TODAY. YOU  
14 TALKED ABOUT THE ILLUSTRATIVE MAP'S TREATMENT OF THE LAKE  
15 CHARLES AREA IN CALCASIEU. THAT INCLUDES HD 34. DO YOU RECALL  
16 THAT TESTIMONY?

17 A. GENERALLY, YES.

18 Q. AGAIN, ARE YOU AWARE OF HOW THE ENACTED AND THE  
19 ILLUSTRATIVE PLANS TREAT THE CALCASIEU PARISH AREA WITH RESPECT  
20 TO DRAWING DISTRICT LINES?

21 A. AGAIN, I DID NOT SPEND MUCH TIME ON THE ENACTED MAP. I  
22 LOOKED AT IT, BUT I DID NOT LOOK AT IT IN DETAIL. MY REPORT,  
23 YOU KNOW, IS ALL ABOUT THE ILLUSTRATIVE MAPS.

24 Q. WOULD IT SURPRISE YOU TO LEARN THAT MR. COOPER REDUCED THE  
25 NUMBER OF PARISH SPLITS IN CALCASIEU PARISH FROM THE ENACTED

1:54PM 1 MAP?

2 A. OFF THE TOP OF MY HEAD, I DON'T REMEMBER THE COUNTS OF  
3 SPLITS IN ANY GIVEN PARISH, BUT I WOULD NOTE THE IMAGE ON THE  
4 SCREEN RIGHT NOW HIGHLIGHTS THAT IT IS IMPORTANT TO UNDERSTAND  
5 WHY A PARISH IS SPLIT. THERE ARE SOME VERY UNDERSTANDABLE  
6 REASONS TO SPLIT IT. SO REDUCING THE NUMBER OF SPLITS, IT  
7 SOUNDS NICE, BUT IT REALLY IS WHAT IS THE IMPACT OF REDUCING  
8 THE SPLITS. IF YOU WERE TO REDUCE THE SPLIT THAT WE ARE  
9 LOOKING AT NOW, JEFFERSON, YOU WOULD ACTUALLY BE CUTTING OFF  
10 THAT ISLAND, AS YOU SAID.

11 Q. I KNOW YOU ARE SAYING THAT REDUCING THE NUMBER OF PARISH  
12 SPLITS SOUNDS NICE, BUT YOU WOULD ALSO AGREE IT IS A  
13 TRADITIONAL REDISTRICTING FACTOR, RIGHT?

14 A. IT IS ONE OF THE CONSIDERATIONS, BUT AS THIS MAP SHOWS,  
15 THERE ARE OTHER CONSIDERATIONS THAT CAN JUSTIFY A SPLIT.

16 Q. OF COURSE. THOSE ARE THE TYPES OF TRADE-OFFS THAT WE  
17 TALKED ABOUT EARLIER, RIGHT?

18 A. YES.

19 Q. BUT KEEPING DISTRICTS WITHIN PARISH BOUNDARIES IS ONE OF  
20 THE TRADITIONAL REDISTRICTING FACTORS, YES?

21 A. YES.

22 Q. OKAY. ON DIRECT EXAMINATION YOU ALSO TESTIFIED ABOUT AN  
23 ILLUSTRATIVE AID IN THE BATON ROUGE AREA. DO YOU RECALL THAT?

24 A. YES.

25 Q. OKAY. I'M GOING TO SHOW THE WITNESS THAT ILLUSTRATIVE AID

1:56PM 1 WHICH OUR TECH HAS LABELED AS I4. THIS IS THE FIGURE YOU  
2 TALKED ABOUT DURING YOUR DIRECT EXAMINATION. IS THAT RIGHT?

3 A. YES.

4 Q. OKAY. I WANT TO BE CLEAR ABOUT WHAT IT SHOWS CURRENTLY  
5 BEFORE I MOVE ON WITH MY TESTIMONY. SO LIKE YOU SAID, THIS  
6 INCLUDES ANY ILLUSTRATIVE DISTRICT THAT TOUCHES EAST BATON  
7 ROUGE PARISH, RIGHT?

8 A. WELL, THAT INCLUDES A PIECE OF EAST BATON ROUGE PARISH,  
9 YES.

10 Q. SURE. THE ILLUSTRATIVE DISTRICT BORDERS ARE IN BLACK  
11 HERE. YES?

12 A. YES.

13 Q. AND THE PORTIONS OF THE DISTRICT WITHIN EAST BATON ROUGE  
14 ARE SHADED IN RED?

15 A. CORRECT.

16 Q. AND THE PORTIONS OF THE DISTRICTS THAT ARE NOT IN EAST  
17 BATON ROUGE PARISH ARE SHADED IN BLUE, RIGHT?

18 A. YES.

19 Q. SO FIRST I WANT TO TALK ABOUT MR. COOPER'S TESTIMONY. YOU  
20 TOLD US YOU REVIEWED THE TRANSCRIPT OF HIS TESTIMONY ABOUT THIS  
21 AREA OF THE STATE, RIGHT?

22 A. YES.

23 Q. IN THAT TRANSCRIPT YOU SAW THAT DEFENSE COUNSEL DIDN'T ASK  
24 HIM ANY QUESTIONS ABOUT THIS STATEMENT, RIGHT?

25 A. I DON'T RECALL.

1:56PM 1 Q. YOU DON'T KNOW WHETHER MR. COOPER HAPPENED TO MISSPEAK  
2 ABOUT THE NUMBERS IN THIS AREA?

3 A. I DIDN'T SEE ANY CORRECTION TO IT.

4 Q. WOULD YOU AGREE IT IS NOT UNCOMMON TO MAKE A MISTAKE IN  
5 RECITING NUMBERS WHEN YOU ARE TESTIFYING AND TO ACCIDENTALLY  
6 FAIL TO CORRECT THEM?

7 A. GOOD LORD, THAT'S A GENERAL QUESTION.

8 Q. I CAN BE MORE SPECIFIC.

9 A. OKAY.

10 Q. FOR EXAMPLE, YOU TESTIFIED EARLIER TODAY THAT 11 OF 16  
11 SENATE MAJORITY-MINORITY DISTRICTS ARE BETWEEN 50 AND  
12 53 PERCENT BVAP. DO YOU REMEMBER THAT?

13 A. I DON'T REMEMBER THE SPECIFIC WORDING, BUT THAT WAS  
14 READING FROM MY REPORT, I BELIEVE.

15 Q. WOULD YOU AGREE THERE ARE ACTUALLY ONLY 14 TOTAL SENATE  
16 MAJORITY-MINORITY DISTRICTS?

17 A. I WAS LOOKING AT ALL OF THIS DISTRICT BY DISTRICT, SO I  
18 DON'T HAVE THE TOTAL COUNTS OFF THE TOP OF MY HEAD, BUT IT IS  
19 IN MY CHART HERE.

20 Q. SURE. IT IS POSSIBLE YOU MADE A MISTAKE, RIGHT?

21 A. YEAH. IN THE ILLUSTRATIVE MAP, THERE ARE 14.

22 Q. RIGHT. YOU WOULD AGREE THAT MISTAKE DIDN'T AFFECT  
23 ANYTHING ELSE YOU TESTIFIED ABOUT ON YOUR DIRECT EXAMINATION,  
24 RIGHT?

25 A. CORRECT.

1:58PM 1 Q. YOU DON'T OFFER ANY CONCLUSIONS ABOUT THE NUMBER OF  
2 DISTRICTS IN THE BATON ROUGE AREA IN YOUR REPORTS, RIGHT?

3 A. NO.

4 Q. BUT JUST LIKE WITH THE OTHER DISTRICTS YOU TALKED ABOUT  
5 TODAY, YOU DO OFFER CRITIQUES ABOUT WHETHER THE DISTRICTS IN  
6 THIS AREA COMPLY WITH TRADITIONAL REDISTRICTING PRINCIPLES,  
7 RIGHT?

8 A. YES.

9 Q. AND AGAIN, ON -- IN YOUR REPORT, YOU STATE THAT THESE  
10 DISTRICTS WERE DRAWN WITHOUT REGARD TO THOSE PRINCIPLES,  
11 INCLUDING CITY BORDERS. DO YOU RECALL THAT?

12 A. AS SPECIFIED BY MR. COOPER IN HIS REPORT.

13 Q. NO, BUT I WANT TO BE CLEAR. YOU CONCLUDED THAT MR.  
14 COOPER'S DISTRICTS WERE DRAWN WITHOUT REGARD TO CITY BORDERS,  
15 RIGHT?

16 A. AS FAR AS HIS EXPLANATION OF WHY HE DREW THE LINES WHERE  
17 THEY WERE, HIS CLAIM THAT HE FOLLOWED CITY BORDERS DID NOT  
18 MATCH UP WITH HIS MAP.

19 Q. BEFORE WE GET INTO CITY BORDERS, I WANT TO SHOW YOU AN  
20 ILLUSTRATIVE AID ON THIS ILLUSTRATIVE AID 35, WHICH IS A MOCKUP  
21 OF DR. JOHNSON'S OWN ILLUSTRATIVE AID WE WERE JUST TALKING  
22 ABOUT THAT ADDS AN OVERLAY DISPLAYING THE PRECINCTS IN GREEN  
23 DOTTED LINES --

24 (AUDIO DISRUPTION.)

25 **THE COURT:** WE ARE GOING TO TAKE A RECESS.

1:59PM 1 (RECESS TAKEN AT 1:59 P.M. UNTIL 2:04 P.M.) .

2 THE COURT: OKAY. IT REPAIRED ITSELF BEFORE IT EVEN  
3 GOT HERE. I THINK WE HAVE A POLTERGEIST.

4 MS. KEENAN: CAN I PROCEED, YOUR HONOR?

5 THE COURT: OH, YES, PLEASE. PLEASE PROCEED. I  
6 THOUGHT YOU WERE ALREADY UP THERE.

7 MS. KEENAN: BEFORE WE PULL THAT SAME THING BACK UP,  
8 I'M GOING TO ASK YOU TO SHOW ANOTHER EXHIBIT, JUST A QUESTION I  
9 FORGOT TO ASK ABOUT EARLIER. COULD THE TECH PLEASE PULL UP  
10 EXHIBIT 20 -- IT'S PLAINTIFF'S EXHIBIT 20, I'M SORRY, PAGE 42.

11 BY MS. KEENAN:

12 Q. OKAY. DR. JOHNSON, DO YOU RECOGNIZE THIS AGAIN AS THAT  
13 SAME ORLEANS/JEFFERSON PARISH AREA WE TALKED ABOUT A MOMENT  
14 AGO?

15 A. YES.

16 Q. ON YOUR DIRECT, DO YOU RECALL TALKING ABOUT HOW THE BOTTOM  
17 OF THE ILLUSTRATIVE DISTRICT HAS A CLUB-LIKE SHAPE REACHING  
18 DOWN INTO JEFFERSON PARISH?

19 A. YES.

20 Q. ARE YOU AWARE OF HOW THIS IMAGE SHOWS THE ENACTED AND THE  
21 ILLUSTRATIVE BORDERS?

22 A. IF I'VE SEEN THIS BEFORE, I DON'T RECALL IT.

23 Q. OKAY. I CAN REPRESENT TO YOU THAT THE RED LINE SHOWN ON  
24 YOUR SCREEN IS THE ILLUSTRATIVE DISTRICT. DO YOU RECOGNIZE  
25 THAT CONFIGURATION BASED ON WHAT YOU'VE TALKED ABOUT IN YOUR

2:05PM

1 REPORT?

2 A. YES.

3 Q. SURE. AND THE SHADED DISTRICTS THAT ARE NUMBERED ARE THE  
4 ENACTED DISTRICT. DOES THAT LOOK FAMILIAR WITH THE ENACTED  
5 SENATE DISTRICT 5 THAT WE JUST TALKED ABOUT A MOMENT AGO?

6 A. YES.

7 Q. CAN YOU TAKE A LOOK AT ENACTED DISTRICT 7 SHADED IN PEACH  
8 ON THE JEFFERSON PARISH SIDE OF THE RIVER?

9 A. YES.

10 Q. YOU WOULD AGREE IT INCLUDES THE SAME BORDERS AT THAT  
11 BOTTOM PART OF THE DISTRICT THAT YOU CALLED A CLUB, RIGHT?

12 A. WELL, IT'S MUCH WIDER. RIGHT WHERE THE 7 IS, IN THAT PART  
13 OF THE CLUB, IT DOESN'T HAVE THE NARROW HANDLE, ALTHOUGH IT  
14 DOES GO DOWN TO THE BOTTOM END OF IT, SIMILARLY.

15 Q. YOU WOULD AGREE THAT THE BOTTOM OF THAT DISTRICT IS THE  
16 SAME BORDERS, RIGHT?

17 A. YES, THERE IS VERY LITTLE PEOPLE DOWN AT THE BOTTOM. THE  
18 MAIN PART IS THE HANDLE THROUGH THE -- AROUND WHERE THE 7 IS.

19 Q. I WANT TO GO BACK TO THE BATON ROUGE AREA THAT WE WERE  
20 JUST TALKING ABOUT, STARTING WITH ILLUSTRATIVE AID 35, WHERE WE  
21 LEFT OFF BEFORE THE TECH ISSUE. OKAY. SO I WILL REPRESENT --  
22 AGAIN, THIS IS A MOCKUP OF THE DEMONSTRATIVE AID THAT YOU  
23 TESTIFIED ABOUT ON DIRECT THAT ADDS AN OVERLAY DISPLAYING THE  
24 PRECINCTS IN GREEN DOTTED LINES. BASED ON WHERE THOSE BLACK  
25 BORDERS THAT YOU TOLD US ABOUT OF THE ILLUSTRATIVE DISTRICTS



2:07PM 1 AND THE GREEN DOTTED LINES OVERLAP, CAN YOU IDENTIFY ANY LINE  
2 IN THIS ILLUSTRATIVE AID OF THE BATON ROUGE AREA THAT DOES NOT  
3 TRACK A PRECINCT LINE?

4 A. JUST A QUICK REVIEW. I DON'T SEE ANY.

5 Q. DO YOU RECALL TALKING ABOUT THE CITY OF CENTRAL IN YOUR  
6 REPORT?

7 A. YES.

8 Q. YOU TALKED ABOUT HOW THE ILLUSTRATIVE MAP SPLITS THE CITY  
9 OF CENTRAL, AND YOU REPRESENTED THAT THE ENACTED MAP KEEPS  
10 CENTRAL WHOLE. DO YOU RECALL THAT?

11 A. YES.

12 Q. I'M NOW SHOWING THE WITNESS ILLUSTRATIVE AID 36, WHICH IS  
13 DR. JOHNSON'S -- AGAIN, A MOCKUP OF DR. JOHNSON'S ILLUSTRATIVE  
14 AID, BOTH AN OVERLAY OF THE CITY OF CENTRAL IN WHITE BORDERS,  
15 AS WELL AS AN OVERLAY OF THE ENACTED MAP IN YELLOW BORDERS.  
16 DR. JOHNSON, AGAIN, YOU RECOGNIZE THAT 2021 CALIPER STAMP AT  
17 THE BOTTOM OF THIS IMAGE?

18 A. YES.

19 Q. YOU SEE THAT THE KEY IS SIMILAR TO THE ONES THAT YOU USE  
20 IN THE FIGURES IN YOUR OWN REPORT, RIGHT?

21 A. YES.

22 Q. OKAY. AND SO YOU CAN SEE THAT THE CITY LIMITS OF CENTRAL  
23 ARE REPRESENTED IN WHITE BASED ON THE KEY?

24 A. OKAY.

25 Q. AND THAT THE ENACTED HOUSE DISTRICT BORDERS ARE

2:08PM 1 REPRESENTED IN YELLOW, RIGHT?

2 A. THAT'S WHAT IT SAYS, YES.

3 Q. WOULD YOU AGREE, THEN, THAT THE ENACTED HOUSE DISTRICT 65  
4 DOES SPLIT THE CITY OF CENTRAL?

5 A. ARE YOU REFERRING TO THE WHITE SLIVER AT THE VERY -- THE  
6 LITTLE SLIVER AT THE VERY TOP?

7 Q. I AM.

8 A. IT DOES APPEAR THAT. NOW, WHEN LINES CORRESPOND IN THE  
9 GIS SYSTEM AS CLOSELY AS THOSE DO, THAT'S PROBABLY JUST A  
10 PROJECTION ERROR. IT PROBABLY MEANS THAT THE TWO LINES ARE NOT  
11 DRAWN SIMILARLY AND THAT THEY COULD VERY WELL CORRELATE WHEN  
12 THEY ARE THAT CLOSE TOGETHER, BECAUSE I'M NOT AWARE OF THE  
13 ENACTED SPLITTING OFF FROM VTDS EITHER. I WOULD BE SURPRISED  
14 IF A SLIVER LIKE THAT IS A VTD.

15 Q. YOU WOULD AGREE AGAIN, THOUGH, THAT VTDS AND MUNICIPALITY  
16 LINES DON'T ALWAYS TRACK EACH OTHER, RIGHT?

17 A. IT DEPENDS ON THE STATE. I DON'T KNOW WHAT THE RULE IS IN  
18 LOUISIANA.

19 Q. OKAY. CAN WE GO TO LDTX51 ON PAGE 34. THIS IS FIGURE 22  
20 OF YOUR REPORT SHOWING THE SAME AREA.

21 A. YES.

22 Q. DO YOU SEE THE CITY OF CENTRAL WHERE THOSE PURPLE LINES  
23 CONVERGE ON THE RIGHT SIDE OF THE IMAGE?

24 A. YES.

25 **MS. KEENAN:** AND COULD THE TECH ZOOM TO SHOW THE RED

2:09PM

1 LINE AT THE TOP?

2 **BY MS. KEENAN:**

3 Q. DO YOU SEE THAT RED LINE IN THE FIGURE IN YOUR OWN REPORT?

4 A. YES.

5 Q. YOU WOULD AGREE THAT'S WHAT YOU USE TO SHOW THE CITY  
6 LIMITS OF CENTRAL, RIGHT?

7 A. CORRECT.

8 Q. AND WOULD YOU AGREE THAT THE CITY LIMITS IN THAT LINE  
9 MATCH THE ONES IN THE ILLUSTRATIVE MAP THAT WE JUST SHOWED --  
10 OR THE ILLUSTRATIVE AID THAT WE JUST SHOWED?

11 A. YES.

12 Q. OKAY. DID YOU ALSO REVIEW THE EXHIBITS TO MR. COOPER'S  
13 REPORT?

14 A. THERE WERE A LOT OF THEM, SO, YES, I HAD THEM, AND I  
15 LOOKED AT SOME OF THEM IN DETAIL AND SOME OF THEM JUST VERY,  
16 VERY BRIEFLY.

17 **MS. KEENAN:** COULD THE TECH PULL UP PLAINTIFFS  
18 EXHIBIT 44.

19 **BY MS. KEENAN:**

20 Q. YOU RECOGNIZE THIS AS AN ANALYSIS OF SPLITS OF CERTAIN  
21 CENSUS PLACES?

22 A. YES.

23 Q. OKAY. COULD WE GO TO PAGE 2? DO YOU SEE THAT ABOUT IN  
24 THE MIDDLE OF THE PAGE NEXT TO DISTRICT 64 AND DISTRICT 65,  
25 CENTRAL IS LISTED TWICE?

2:10PM

1 A. YES.

2 Q. AND IF WE COULD ZOOM BACK OUT, YOU WOULD AGREE THIS IS THE  
3 SPLIT FOR THE LA ENROLLED HOUSE, OR THE ENACTED MAP IN THIS  
4 CASE, RIGHT?

5 A. YES.

6 Q. SO YOU WOULD AGREE THAT THESE SPLITS ALSO SHOW THAT THE  
7 ENACTED MAP SPLITS THE CITY OF CENTRAL, CONTRARY TO WHAT YOU  
8 SAID IN YOUR REPORT; IS THAT RIGHT?

9 A. YES, IT LOOKS LIKE I MISSED THAT ABOUT THREE-QUARTERS OF  
10 ONE PERCENT OF THE CITY'S POPULATION WERE NOT INCLUDED IN THE  
11 DISTRICT.

12 Q. YOU WOULD AGREE IT SPLITS THE CITY OF CENTRAL, JUST TO BE  
13 CLEAR?

14 A. JUST A TINY BIT.

15 Q. I WANT TO GO BACK TO ILLUSTRATIVE AID 36.

16 A. I ACTUALLY GAVE THE NUMBER RIGHT THERE, 99.16 PERCENT OF  
17 THE CITY WAS KEPT INTACT.

18 Q. SURE. BUT IT DIDN'T FOLLOW THE CITY LINE, RIGHT?

19 A. CORRECT.

20 Q. YOU MENTIONED CENTRAL IN YOUR REPORT, BUT DID YOU TAKE A  
21 LOOK AT HOW THE ENACTED -- HOW THE ILLUSTRATIVE MAPS TREAT ANY  
22 OF THE OTHER NEARBY CITIES?

23 A. I DID LOOK AT THEM AS THEY WERE IN THE MAP AS AN OVERLAY.  
24 I DID NOT GO INTO DETAIL OR COMMENT ON THEM, OTHER THAN TO  
25 COMMENT THAT I DO NOT SEE THE ILLUSTRATIVE MAP FOLLOWING THE

2:12PM 1 CITY BOUNDARIES IN ANY SIGNIFICANT EXTENT.

2 Q. SURE. YOU SPECIFICALLY MENTION THE CITY OF BAKER IN  
3 ADDITION TO THE CITY OF CENTRAL IN YOUR REPORT. DO YOU RECALL  
4 THAT? IT'S PARAGRAPH 76 OF YOUR REPORT.

5 A. YES, I DON'T REMEMBER WORD FOR WORD OF IT, BUT I CAN FLIP  
6 TO THAT.

7 Q. SURE.

8 **MS. KEENAN:** THIS IS PAGE 33, STEPHEN.

9 A. YES.

10 **BY MS. KEENAN:**

11 Q. SO YOU SEE THE IMAGE IN BOTH CENTRAL AND BAKER HERE?

12 A. YES.

13 Q. DID YOU CHECK HOW THE ILLUSTRATIVE MAP TREATS THE CITY OF  
14 BAKER OR ANY OF THE OTHER NEARBY CITIES TO CENTRAL?

15 A. NO, BECAUSE THAT WASN'T WHAT I WAS DISCUSSING HERE.

16 Q. OKAY. I'M GOING TO SHOW THE WITNESS ILLUSTRATIVE AID 37.  
17 THIS IS THE SAME AID WE WERE JUST DISCUSSING BUT WITH THE  
18 ADDITION OF THE CITY LIMITS IN THE NEARBY CITIES OF BAKER AND  
19 MERRYDALE, ALSO IN WHITE BORDERS.

20 DR. JOHNSON, AS YOU CAN SEE HERE, THE ILLUSTRATIVE MAP  
21 BORDERS REMAIN IN BLACK, AND THE ENACTED MAP BORDERS REMAIN IN  
22 YELLOW. DOES THAT COMPORT WITH YOUR UNDERSTANDING OF WHAT IS  
23 ON THE SCREEN HERE?

24 A. YES.

25 Q. YOU CAN SEE, BASED ON THIS ILLUSTRATIVE AID, THAT THIS IS

2:13PM 1 AN AREA WHERE THERE'S A TRADE-OFF MADE IN THE TWO MAPS, RIGHT?

2 A. I'M NOT SURE WHAT YOU MEAN BY TRADE-OFF.

3 Q. SURE. SO THE ILLUSTRATIVE MAP -- I'M SORRY. THE ENACTED

4 MAP KEEPS MOST OF CENTRAL WHOLE, RIGHT?

5 A. YES.

6 Q. BUT IT SPLITS BAKER AND MERRYDALE RIGHT DOWN THE MIDDLE?

7 A. IT SPLITS THEM. I DON'T KNOW THE PERCENTAGES, BUT YES.

8 Q. SURE. IN CONTRAST, THE ILLUSTRATIVE MAP SPLITS CENTRAL,

9 LIKE YOU TALKED ABOUT IN YOUR REPORT, RIGHT?

10 A. YES.

11 Q. BUT IT APPEARS TO KEEP BAKER AND MERRYDALE WHOLE OR AT

12 LEAST NEARLY WHOLE, RIGHT?

13 A. IT'S HARD TO TELL FROM THIS BECAUSE THE BLACK LINES

14 DISAPPEAR UNDER THE YELLOW LINES.

15 Q. I CAN PUT UP A SIDE-BY-SIDE OF THIS WITH THE INITIAL OF

16 I4.

17 **MS. KEENAN:** STEPHEN, COULD YOU PUT THEM NEXT TO EACH

18 OTHER? AND COULD YOU ZOOM IN ON THIS PLACE WHERE THOSE THREE

19 LINES DIVERGE ABOVE 65, AS WELL AS THE EAST BATON ROUGE

20 BORDERS, SO WE CAN SEE THE SAME TERRITORY. I'M SORRY. IT'S A

21 BIT HIGHER THAN THAT. STARTING AT THE TOP. THERE YOU GO.

22 EXACTLY. THANK YOU.

23 **BY MS. KEENAN:**

24 Q. CAN YOU SEE THE TWO SETS OF LINES NOW?

25 A. YES.

2:15PM 1 Q. AND WOULD YOU AGREE THAT THE ENACTED MAP KEEPS BAKER AND  
2 MERRYDALE LARGELY WHOLE?

3 A. YES.

4 Q. OH, SORRY. I WITHDRAW THE QUESTION BECAUSE I MISSTATED.  
5 IT'S THE ILLUSTRATIVE MAP THAT KEEPS BAKER AND MERRYDALE  
6 LARGELY WHOLE, RIGHT, DR. JOHNSON?

7 A. I WAS WITH YOU. YES.

8 Q. THANK YOU. SORRY FOR THE CONFUSION.  
9 ARE YOU AWARE OF THE POPULATION OF ANY OF THESE THREE  
10 CITIES?

11 A. I KNOW THE POPULATION COUNT OF CENTRAL IS JUST BELOW  
12 30,000, AND MY REPORT MENTIONS THE POPULATION DENSITY, I THINK,  
13 OF THE OTHERS.

14 Q. THAT'S RIGHT. AND YOU MENTIONED THE POPULATION OF CENTRAL  
15 TO SHOW THAT IT WAS SMALL ENOUGH TO BE DRAWN INTO A SINGLE  
16 HOUSE DISTRICT, RIGHT?

17 A. YES.

18 Q. ARE YOU ALSO AWARE OF THE BVAP OF ANY OF THESE THREE  
19 CITIES?

20 A. NO.

21 Q. OKAY. I'M NOW SHOWING THE WITNESS ILLUSTRATIVE AID 38,  
22 AGAIN, SAME AID BUT WITH THE ADDITION OF THE POPULATION AND  
23 BVAP OF EACH CITY. SO YOU WOULD AGREE THAT THE POPULATION OF  
24 CENTRAL COMPORTS WITH THE NUMBER IN YOUR REPORT THAT IS 29,565  
25 PEOPLE IN CENTRAL, RIGHT?

2:16PM

1 A. YES.

2 Q. DO YOU AGREE THAT'S SMALL ENOUGH TO BE DRAWN INTO A SINGLE  
3 HOUSE DISTRICT, LIKE YOU SAID?

4 A. YES.

5 Q. THIS AID SHOWS THAT MERRYDALE AND BAKER BOTH HAVE SMALLER  
6 POPULATIONS, RIGHT?

7 A. YES.

8 Q. ALSO SMALL ENOUGH TO BE DRAWN INTO A SINGLE HOUSE  
9 DISTRICT, RIGHT?

10 A. YES.

11 Q. DO YOU HAVE ANY REASON TO DISPUTE THAT THE BVAP OF CENTRAL  
12 IS 10.94 PERCENT?

13 A. I DON'T KNOW WHAT IT IS.

14 Q. OKAY. DO YOU HAVE ANY REASON TO DISPUTE THAT THE BVAP OF  
15 BAKER IS 80.80 PERCENT?

16 A. I DON'T KNOW WHAT IT IS.

17 Q. AND DO YOU HAVE ANY REASON TO DISPUTE THE BVAP OF  
18 MERRYDALE IS 94.73 PERCENT?

19 A. I DO NOT KNOW WHAT IT IS.

20 Q. ALTHOUGH YOU DON'T KNOW WHAT IT IS RIGHT NOW, YOU WOULD  
21 AGREE THAT YOU HAD THAT INFORMATION AVAILABLE TO YOU WHEN YOU  
22 WERE REVIEWING MR. COOPER'S MAPS, RIGHT?

23 A. YES. IT'S IN THE LAYER. I COULD HAVE PULLED IT AND SEEN  
24 WHAT IT WAS.

25 Q. WHEN YOU TALKED ABOUT THE CITY OF CENTRAL, YOU PULLED SOME



2:17PM 1 OF THAT INFORMATION, INCLUDING THE POPULATION OF CENTRAL,  
2 RIGHT?

3 A. I THINK THAT WAS WHAT I PULLED WAS THE POPULATION OF  
4 CENTRAL.

5 Q. YOU'VE TALKED ABOUT HOW YOU'VE DRAWN MAPS IN THE  
6 REDISTRICTING CONTEXT, RIGHT?

7 A. YES.

8 Q. EARLIER I THINK YOU TESTIFIED YOU HAD DRAWN THOUSANDS?

9 A. YES.

10 Q. YOU'VE TESTIFIED PREVIOUSLY THAT WHEN YOU HAVE TO CHOOSE  
11 BETWEEN DIVIDING ONE OF TWO COMMUNITIES OF INTEREST IN YOUR OWN  
12 MAPS, YOU TRY TO MAKE SURE THAT THE ONE YOU ARE DIVIDING IS NOT  
13 ONE OF THE ONES THAT IS HEAVILY MADE UP OF A PROTECTED CLASS.  
14 DO YOU RECALL THAT TESTIMONY?

15 A. IS THAT FROM THE DEPOSITION?

16 Q. IT IS.

17 A. I DON'T RECALL SPECIFICALLY SAYING, BUT IT DOES SOUND  
18 FAMILIAR.

19 **MS. KEENAN:** I CAN REFRESH THE WITNESS' RECOLLECTION.  
20 COULD THE TECH PLEASE PULL UP PAGE 198 OF HIS DEPOSITION.

21 **BY MS. KEENAN:**

22 Q. COULD YOU TAKE A LOOK AT LINES 10 THROUGH 25 OF THIS  
23 DEPOSITION. YOU CAN JUST READ IT TO YOURSELF. LET ME KNOW  
24 WHENEVER YOU ARE DONE, PLEASE.

25 A. (WITNESS COMPLIES.) SURE. I'M DONE.

2:18PM 1 Q. I WILL ASK THE QUESTION AGAIN. CAN YOU TAKE DOWN THE  
2 DEPOSITION, PLEASE. WHEN YOU HAVE TO CHOOSE BETWEEN DIVIDING  
3 ONE OF TWO COMMUNITIES OF INTEREST IN YOUR OWN MAPS, YOU  
4 TESTIFIED THAT YOU TRY TO MAKE SURE THAT THE ONE YOU ARE  
5 DIVIDING IS NOT ONE OF THE ONES THAT IS HEAVILY MADE UP OF A  
6 PROTECTED CLASS, RIGHT?

7 A. IN GENERAL, YES. THE ISSUE CHANGES IF BOTH DISTRICTS  
8 DIVIDING IT ARE MAJORITY PROTECTED CLASS. THAT IS A DIFFERENT  
9 SITUATION. BUT IN GENERAL, YES.

10 Q. AND BEFORE WE MOVE ON TO BATON ROUGE, YOUR REPORT OFFERED  
11 THE OPINION THAT EACH DISTRICT IS DRAWN WITHOUT REGARD TO MAJOR  
12 ROADS IN BATON ROUGE AS WELL. DO YOU RECALL THAT?

13 A. YES.

14 Q. OKAY. THE ILLUSTRATIVE AID YOU TALKED ABOUT IN COURT  
15 TODAY DOESN'T SHOW MAJOR ROADS, DOES IT, THE ONE WITH THE  
16 DISTRICTS OF -- THAT TOUCH ON EAST BATON ROUGE?

17 A. THE ONE WITH THE PARISH COLORED RED?

18 Q. YES.

19 A. NO, THAT WAS JUST COUNTING HOW MANY DISTRICTS ARE IN THE  
20 PARISH.

21 Q. RIGHT. BUT YOUR REPORT DOES SHOW THE MAJOR ROADS IN BATON  
22 ROUGE, RIGHT?

23 A. YES.

24 Q. SO YOU WOULD RECOGNIZE THE MAJOR ROADS IN THE CITY OF  
25 BATON ROUGE IF YOU SAW THEM?

2:19PM 1 A. CERTAINLY THE FREEWAYS AND HIGHWAYS, THINGS LIKE THAT.

2 MS. KEENAN: COULD THE TECH PLEASE PULL UP  
3 ILLUSTRATIVE AID 12.

4 BY MS. KEENAN:

5 Q. DO YOU RECOGNIZE THESE AS THE MAJOR STREETS IN BATON  
6 ROUGE? SPECIFICALLY, YOU RECOGNIZE THE HIGHWAYS AND FREEWAYS?

7 A. YES.

8 Q. OKAY. ARE YOU FAMILIAR WITH AIRLINE HIGHWAY?

9 A. I DON'T KNOW THE INDIVIDUAL NAMES.

10 Q. ARE YOU FAMILIAR WITH THE ROAD MARKED U.S. 61, U.S. 190,  
11 RIGHT HERE IN THE CENTER OF THIS ILLUSTRATIVE AID?

12 A. I CAN SEE IT, YES.

13 MS. KEENAN: CAN THE TECH PULL UP ILLUSTRATIVE AID  
14 113 NEXT.

15 BY MS. KEENAN:

16 Q. THIS IS A DEPICTION OF THE ILLUSTRATIVE DISTRICTS IN BATON  
17 ROUGE THAT YOU CRITICIZED, RIGHT?

18 A. YES, IT'S SHIFTED A LITTLE BIT SOUTH OF WHAT I WAS  
19 SHOWING, BUT YES.

20 Q. AND ALTHOUGH YOU'VE TESTIFIED THAT THE LINES AREN'T  
21 CONSISTENT WITH MAJOR ROADS, YOU CAN SEE THAT THE MAJOR BORDER  
22 BETWEEN ILLUSTRATIVE HOUSE DISTRICT 68 AND 69 IS AIRLINE  
23 HIGHWAY, RIGHT?

24 A. THAT ONE BORDER, YES.

25 Q. THE ONE BORDER BETWEEN THE TWO ILLUSTRATIVE MAJORITY BLACK

2:20PM

1 DISTRICTS, YES.

2 A. BUT THERE ARE MORE THAN TWO MAJORITY BLACK DISTRICTS HERE.

3 Q. DO YOU AGREE THAT ILLUSTRATIVE HD 68 IS A MAJORITY BLACK  
4 DISTRICT?

5 A. YES.

6 Q. YOU WOULD AGREE THAT ILLUSTRATIVE HOUSE DISTRICT 69 IS A  
7 MAJORITY BLACK DISTRICT?

8 A. JUST BARELY.

9 Q. AND DO YOU AGREE THAT THE BORDER BETWEEN THOSE TWO  
10 DISTRICTS IS AIRLINE HIGHWAY?

11 A. YES.

12 Q. I KNOW WE TALKED A LITTLE BIT ABOUT THIS, BUT YOU DIDN'T  
13 REVIEW DR. COLTEN'S OPINIONS ABOUT THIS AREA OF THE STATE  
14 EITHER?

15 A. CORRECT.

16 Q. SO AGAIN, YOU DON'T KNOW WHETHER HIS OPINIONS WOULD IMPACT  
17 YOUR TESTIMONY ABOUT WHETHER THESE DISTRICTS ARE CONSISTENT  
18 WITH COMMUNITIES OF INTEREST IN THE CITY?

19 A. WITH HIS VIEW OF COMMUNITIES OF INTEREST?

20 Q. YES. CORRECT. YOU CAN TAKE THE DEMONSTRATIVE DOWN.  
21 THANK YOU.

22 YOU TALKED A LITTLE BIT ABOUT THE CONCEPT OF DIFFERENTIAL  
23 PRIVACY EARLIER TODAY. DO YOU REMEMBER THAT?

24 A. YES.

25 Q. OKAY. ON DIRECT EXAMINATION, YOU SAID, AND I'M QUOTING

2:22PM 1 FROM YOUR TESTIMONY, "WE USED TO KNOW THAT THE DATA IN EACH  
2 BLOCK WAS THE ACTUAL COUNT OF PEOPLE THAT THE CENSUS BUREAU  
3 COUNTED." RIGHT?

4 A. YES.

5 Q. AND IT'S YOUR UNDERSTANDING THAT THE NEW PROCEDURE THE  
6 CENSUS BUREAU INTRODUCED THIS YEAR DISRUPTED THAT ACTUAL COUNT  
7 OF PEOPLE THAT YOU USED TO HAVE INFORMATION ABOUT. IS THAT  
8 RIGHT?

9 A. IT ADDS NOISE OR CHANGES THE DATA, YES.

10 Q. IT'S NOT YOUR OPINION, THOUGH, THAT THE CONCEPT OF  
11 DIFFERENTIAL PRIVACY IS NEW FOR THE CENSUS BUREAU, IS IT?

12 A. THE POLICY IS NEW. I DON'T KNOW WHAT YOU MEAN BY THE  
13 CONCEPT.

14 Q. SURE. ARE YOU AWARE THAT THE CENSUS BUREAU HAD  
15 IMPLEMENTED A DATA SWAPPING PROCESS TO PROTECT PRIVACY SINCE  
16 1990?

17 A. OH, YEAH, BUT THAT IS COMPLETELY DIFFERENT THAN  
18 DIFFERENTIAL PRIVACY.

19 Q. THE REASON IT IS DIFFERENT IS THAT UNDER -- ONE REASON IT  
20 IS DIFFERENT, AS YOU EXPLAINED, IS THAT YOU MAY HAVE KNOWN THE  
21 ACTUAL COUNT OF PEOPLE BEING SWAPPED, RIGHT, UNDER THE DATA  
22 SWAPPING MACHINE?

23 A. IT'S NOT REALLY AN ACCURATE DESCRIPTION OF IT.

24 Q. YOU WOULD AGREE, THOUGH, THAT THE DIFFERENCE, ONE  
25 DIFFERENCE BETWEEN THE DATA SWAPPING AND THE NEW DISCLOSURE

2:23PM 1 AVOIDANCE PROCESS IS THAT IT AFFECTS THE ACTUAL COUNT OF PEOPLE  
2 THAT SHOW UP IN THE CENSUS BLOCKS?

3 A. THE DIFFERENTIAL PRIVACY DOES SO, YES.

4 Q. WHEN YOU SAY DIFFERENTIAL PRIVACY, YOU WOULD AGREE THAT'S  
5 THE SAME AS THE DISCLOSURE AVOIDANCE PROCESS THAT THE CENSUS  
6 BUREAU HAS DISCUSSED, JUST TO BE PRECISE?

7 A. WELL, DISCLOSURE AVOIDANCE IS THE BIG TENT. DATA SWAPPING  
8 WAS AN OLD PIECE OF IT. DIFFERENTIAL PRIVACY IS THE NEW  
9 APPROACH TO IT.

10 Q. OKAY. SO LET'S MAKE SURE WE ARE USING THE SAME TERMS  
11 THEN. YOU WOULD DESCRIBE DISCLOSURE AVOIDANCE AS THE UMBRELLA  
12 TERM, RIGHT, OF THOSE TWO CONCEPTS WE JUST TALKED ABOUT?

13 A. I GUESS SO, YES.

14 Q. AND YOU WOULD SAY THAT DATA SWAPPING AND DIFFERENTIAL  
15 PRIVACY ARE TWO DIFFERENT WAYS OF GETTING AT DISCLOSURE  
16 AVOIDANCE BY THE CENSUS BUREAU?

17 A. TWO RADICALLY DIFFERENT WAYS.

18 Q. BUT YOU WOULD AGREE THAT EVEN UNDER DATA SWAPPING, PRIOR  
19 TO THE INTRODUCTION OF DIFFERENTIAL PRIVACY, YOU DID NOT KNOW  
20 THE EXACT RACIAL COMPOSITION OF EACH BLOCK, EVEN IF YOU KNOW  
21 THE ACTUAL COUNT OF PEOPLE?

22 A. DATA SWAPPING IS RARE. IT DOESN'T HAPPEN IN EVERY BLOCK.  
23 IT ONLY HAPPENS IN CERTAIN CIRCUMSTANCES WHERE THERE ARE  
24 CERTAIN CONCERNS. AND SO IN THOSE FEW BLOCKS, YOU ARE CORRECT,  
25 THEY MIGHT CHANGE THE NUMBER. DIFFERENTIAL PRIVACY HAPPENS IN

2:24PM 1 EVERY BLOCK. IT CHANGES EVERY NUMBER.

2 Q. WE WILL TALK MORE ABOUT DIFFERENTIAL PRIVACY IN A MINUTE.  
3 I WANT TO FOCUS ON DATA SWAPPING FIRST. EVEN THOUGH IT DOESN'T  
4 HAPPEN IN EVERY BLOCK, YOU WOULD AGREE THAT THE SWAPPING IS  
5 RANDOMIZED, RIGHT?

6 A. NO.

7 Q. ARE YOU ALWAYS ABLE TO DISCERN WHICH BLOCKS HAVE BEEN  
8 CHANGED?

9 A. TO A DEGREE. IT'S BEEN A LONG TIME SINCE I'VE TALKED  
10 ABOUT DATA SWAPPING, BUT IT WOULD ONLY HAPPEN WHEN THERE WAS  
11 LIKE A -- LIKE A SINGLE PERSON KIND OF FACTOR. THAT IS  
12 PROBABLY TOO SPECIFIC. IT WOULD PROBABLY ONLY HAPPEN WHEN  
13 THERE WERE SO FEW PEOPLE IN A GIVEN GROUP THAT THEY COULD BE  
14 EXPOSED -- THAT THEIR DATA COULD BE EXPOSED, ESSENTIALLY WHEN  
15 THERE'S ONLY ONE NATIVE AMERICAN IN A BLOCK. THEY ARE NOT  
16 GOING TO GIVE THE DATA FOR THE NATIVE AMERICAN IN THAT BLOCK.  
17 SO IT WAS PRETTY RARE. SO IT WOULD TEND TO HAPPEN IN THOSE FEW  
18 SITUATIONS.

19 Q. BUT YOU WOULD AGREE THAT IN BLOCKS WHERE THE DATA HAD BEEN  
20 SWAPPED, YOU WOULDN'T KNOW THE EXACT RACIAL COMPOSITION OF EACH  
21 BLOCK AS IT WAS SHOWN IN THE CENSUS DATA, RIGHT?

22 A. IN THOSE FEW BLOCKS, IT WOULD BE OFF BY ONE PERSON.

23 Q. SO EVEN BEFORE THIS CYCLE, YOU WOULD AGREE THAT THERE WERE  
24 SOME INACCURACIES IN THE CENSUS BUREAU DATA ABOUT THE EXACT  
25 RACIAL COMPOSITION OF CERTAIN DISTRICTS?

2:26PM 1 A. IN DATA SWAPPING YOU ARE TALKING ABOUT THOUSANDS OF A  
2 PERCENT OF A DISTRICT. I MEAN, THE NUMBERS ARE TINY. I DON'T  
3 KNOW -- I CAN'T TELL YOU THE EXACT PERCENTAGE IT WOULD SHIFT,  
4 BUT I WOULD BE STUNNED IF IT WOULD CHANGE A .01 PERCENTAGE OF A  
5 DISTRICT'S DEMOGRAPHICS. I MEAN, THE CENSUS ISN'T ACCURATE.  
6 THAT'S A MUCH BIGGER FACTOR THAN DATA SWAPPING WAS.

7 Q. I WANT TO GET TO THAT IN JUST A MINUTE. FIRST I WANT TO  
8 TALK ABOUT THE DIFFERENTIAL PRIVACY AS YOU ARE DESCRIBING IT.  
9 THIS IS WHAT YOU ARE CALLING THE NEW PROCEDURE THAT THE CENSUS  
10 BUREAU HAS PUT INTO PLACE THAT INVOLVES BLURRING OR ADDING  
11 NOISE TO THE DISTRICTS, RIGHT, JUST SO WE AGREE ON TERMS?

12 A. YES.

13 Q. YOU REFERENCED A BALLPARK OF A ONE-PERCENT MARGIN OF ERROR  
14 IN CONGRESSIONAL PLANS AS THE CENSUS BUREAU HAS DISCUSSED?

15 A. YES.

16 Q. YOU WOULD AGREE THEY HAVEN'T GIVEN ANY PRECISE FIGURE  
17 ABOUT THE MARGIN OF ERROR THAT THIS DIFFERENTIAL PRIVACY  
18 PROCESS INTRODUCES?

19 A. CORRECT.

20 Q. AND THEY HAVE NOT EXPLAINED THE MARGIN OF ERROR IN STATE  
21 LEGISLATIVE REDISTRICTING PLANS AT ALL, RIGHT?

22 A. WELL, THEY HAVE SAID THAT IT'S BIGGER -- AS THE GEOGRAPHY  
23 GETS SMALLER, THE ERROR GETS BIGGER. SO WE KNOW WHATEVER IT  
24 WAS AT THE CONGRESSIONAL LEVEL, THE LEGISLATIVE LEVEL IS GOING  
25 TO BE BIGGER, THE PARISH LEVEL IS GOING TO BE BIGGER, THE CITY



2:27PM 1 AND TRACT LEVELS ARE GOING TO BE EVEN BIGGER.

2 Q. BUT AGAIN, NO PRECISE FIGURE, RIGHT?

3 A. CORRECT.

4 Q. AND YOU ARE NOT TESTIFYING THAT YOU KNOW THE MARGIN OF  
5 ERROR THAT WOULD BE INTRODUCED HERE BY THIS DIFFERENTIAL  
6 PRIVACY PROCESS?

7 A. I WISH I COULD, BUT NOBODY OUTSIDE OF THE CENSUS BUREAU  
8 CAN. AND THEY GO TO JAIL IF THEY SAY.

9 Q. AND FOR THAT REASON, YOU DIDN'T CONDUCT ANY ANALYSIS TO  
10 PROVIDE AN ACTUAL RATHER THAN A HYPOTHETICAL MARGIN OF ERROR IN  
11 THE STATE LEGISLATIVE REDISTRICTING PLANS, RIGHT?

12 A. THAT WOULD BE IMPOSSIBLE.

13 Q. LIKE YOU JUST TOLD US, CENSUS DATA IS ALWAYS IMPERFECT,  
14 EVEN PRIOR TO THE INTRODUCTION OF THE DIFFERENTIAL PRIVACY  
15 PROCESS, RIGHT?

16 A. YES.

17 Q. SOME OF THE OTHER MARGINS OF ERROR IN CENSUS DATA INCLUDE  
18 PROBLEMS THAT RESULT FROM UNDERCOUNTING. ARE YOU FAMILIAR WITH  
19 THAT PROCESS?

20 A. AND OVERCOUNTING, CERTAINLY.

21 Q. YOU WOULD AGREE THAT THE MARGIN OF ERROR CREATED BY  
22 UNDERCOUNTING CAN BE FOR LARGER THAN ONE PERCENT, RIGHT?

23 A. YES.

24 Q. ARE YOU AWARE THAT PAST CENSUS RESULTS HAVE BEEN ESTIMATED  
25 TO UNDERSTATE THE ACTUAL BLACK POPULATION, FOR EXAMPLE, BY MORE

2:28PM

1 THAN 7 PERCENT?

2 A. I DON'T RECALL SEEING A SPECIFIC STUDY SAYING THAT.

3 Q. YOU WOULDN'T DISPUTE THAT, THOUGH, RIGHT?

4 A. OFF THE TOP OF MY HEAD, I DON'T KNOW.

5 Q. DESPITE THESE MARGINS OF ERROR AND THE CENSUS DATA IN  
6 GENERAL, YOU RELY ON CENSUS DATA IN DRAWING YOUR MAPS, RIGHT?

7 A. BY LAW WE DO.

8 Q. RIGHT. YOU ARE NOT AWARE OF ANY COURT THAT HAS REJECTED A  
9 *GINGLES* I EXPERT'S RELIANCE UPON CENSUS DATA IN A SECTION 2  
10 CASE, ARE YOU?

11 A. YOU MEAN THEY REJECTED THE USE OF CENSUS DATA?

12 Q. I'M SAYING THAT'S NEVER HAPPENED, RIGHT? THE USE OF  
13 CENSUS DATA IS COMMON IN REDISTRICTING, ESPECIALLY IN SECTION 2  
14 CASES?

15 A. OH, OF COURSE. IT'S THE BEST AVAILABLE DATA.

16 Q. RIGHT. I NOW WANT TO TALK ABOUT SENSITIVITY OR  
17 EFFECTIVENESS. DO YOU REMEMBER DISCUSSING THAT ON YOUR DIRECT?

18 A. THE SENSITIVITY ANALYSIS? YES.

19 Q. OKAY. WHEN YOU ARE DRAWING MAJORITY-MINORITY DISTRICTS IN  
20 YOUR OWN WORK, YOU AGREE IT IS IMPORTANT TO CONSIDER WHETHER  
21 THAT DISTRICT IS AFFECTED, RIGHT?

22 A. IN MY OWN WORK, YES.

23 Q. THAT'S BECAUSE WHEN YOU ARE TRYING TO EMPOWER A REGION  
24 THAT'S HISTORICALLY BEEN UNDERREPRESENTED, YOU WANT TO BE SURE  
25 THE DISTRICT YOU'VE DRAWN IS ACTUALLY CAPABLE OF EMPOWERING

2:29PM 1 THEM, RIGHT?

2 A. THAT'S PROBABLY A FAIR DESCRIPTION OF IT. IT CERTAINLY  
3 CAPTURES THE IDEA.

4 Q. OKAY. JUST TO MAKE SURE THE RECORD IS CLEAR, I'M GOING TO  
5 SHOW THE WITNESS PAGE 259 OF HIS DEPOSITION. THIS IS JUST  
6 REFRESHING HIS RECOLLECTION, NOT AN ATTEMPT AT IMPEACHMENT.

7 A. I JUST PHRASED MY OWN QUOTE.

8 Q. WOULD YOU MIND READING LINES 4 TO 7 HERE?

9 A. IF WE'RE TRYING TO --

10 Q. I'M SORRY. JUST TO YOURSELF.

11 A. I'M SORRY.

12 Q. HAVE YOU READ IT?

13 A. YES.

14 Q. OKAY. I WILL TAKE IT DOWN. I JUST WANT TO REASK THE  
15 QUESTION AGAIN TO MAKE SURE WE ARE ON THE SAME PAGE. "THE  
16 REASON EFFECTIVENESS IS IMPORTANT TO YOU IS BECAUSE WHEN YOU  
17 ARE TRYING TO EMPOWER A REGION THAT HAS HISTORICALLY BEEN  
18 UNDERREPRESENTED, YOU WANT TO BE SURE THAT THE DISTRICT YOU  
19 HAVE DRAWN IS ACTUALLY CAPABLE OF EMPOWERING THEM," RIGHT?

20 A. YES.

21 Q. NOW, YOUR REPORT STATES -- CAN WE PULL UP LDTX51 AT PAGE  
22 41. I'M LOOKING AT PAGE -- PARAGRAPH 93. YOUR REPORT STATES,  
23 "THE ENACTED MAP PERFORMS MUCH BETTER IN A  
24 SENSITIVITY/ROBUSTNESS TEST." DID I READ THAT CORRECTLY?

25 A. YES.

2:31PM

1 Q. I WANT TO TALK ABOUT WHAT YOU MEAN WHEN YOU SAY YOU  
2 CONDUCTED A SENSITIVITY OR EFFECTIVENESS TEST. YOU DID NOT  
3 ATTEMPT TO CALCULATE THE EFFECTIVENESS LEVEL OF ANY DISTRICT,  
4 CORRECT?

5 MR. LEWIS: OBJECTION. IT MISCHARACTERIZES THE  
6 WITNESS'S REPORT. HE DIDN'T SAY HE CONDUCTED AN EFFECTIVENESS  
7 TEST.

8 MS. KEENAN: MAY I RESPOND, YOUR HONOR?

9 THE COURT: YOU MAY.

10 MS. KEENAN: HE SPECIFICALLY SAID THAT IN HIS DIRECT  
11 TESTIMONY. I OBJECTED AND I WAS TOLD THAT I COULD EXPLORE IT  
12 ON CROSS-EXAMINATION.

13 THE COURT: OVERRULED.

14 BY MS. KEENAN:

15 Q. YOU DID NOT ATTEMPT TO CALCULATE THE EFFECTIVENESS LEVEL  
16 OF ANY DISTRICT?

17 A. CORRECT. I DID A, AS I WROTE HERE, SENSITIVITY/ROBUSTNESS  
18 TEST, NOT AN EFFECTIVENESS TEST.

19 Q. RIGHT. SO IN CONDUCTING WHAT YOU ARE CALLING A  
20 SENSITIVITY OR ROBUSTNESS TEST, YOU DISCUSS A HYPOTHETICAL CASE  
21 WHERE THE EFFECTIVENESS LEVEL OF EVERY DISTRICT MIGHT BE  
22 53 PERCENT AP BLACK VAP, RIGHT?

23 A. YES, I'M SHIFTING FROM -- WELL, I'M SAYING A SENSITIVITY  
24 RANGE AROUND MR. COOPER'S DISTRICTS THAT HE PROVIDED AS  
25 EFFECTIVE. SO I'M ACCEPTING HIS EFFECTIVENESS TESTING AND THEN

2:32PM 1 DOING A SENSITIVITY/ROBUSTNESS TESTING AROUND THAT.

2 Q. I WANT TO BREAK THAT DOWN. MR. COOPER'S REPORT TALKS  
3 ABOUT THE BVAP OF EACH OF HIS DISTRICTS, RIGHT?

4 A. YES.

5 Q. SO THAT'S WHAT YOU ARE DRAWING FROM MR. COOPER'S REPORT IS  
6 THE BLACK VOTING AGE POPULATION PERCENTAGE OF EACH DISTRICT?

7 A. AND HIS STATEMENT THAT THEY ARE EFFECTIVE.

8 Q. RIGHT. HE HAS STATED THAT THEY ARE EFFECTIVE. HE DID NOT  
9 PROVIDE THE 53 PERCENT NUMBER THAT YOU SUPPLY IN YOUR REPORT,  
10 RIGHT?

11 A. CORRECT. THAT'S THE SENSITIVITY/ROBUSTNESS TEST.

12 Q. THAT NUMBER IS A HYPOTHETICAL THAT YOU CAME UP WITH AND  
13 INCLUDED IN YOUR REPORT, RIGHT?

14 A. CORRECT.

15 Q. SAME WITH THE 45 PERCENT NUMBER. THAT NUMBER DID NOT COME  
16 FROM MR. COOPER, RIGHT?

17 A. WHICH 45 PERCENT NUMBER?

18 Q. THAT'S IN PARAGRAPH 89 OF YOUR REPORT, FIRST SENTENCE  
19 THERE IN PARAGRAPH 89.

20 A. OH, CORRECT. THAT'S ALSO A HYPOTHETICAL.

21 Q. RIGHT. SO AGAIN, THIS IS A HYPOTHETICAL NUMBER THAT YOU  
22 INSERTED IN THE REPORT, NOT ANYTHING THAT MR. COOPER SAID HIS  
23 DISTRICTS COMPLIED OR DIDN'T COMPLY WITH?

24 A. CORRECT. I'M JUST USING WORDS TO ILLUSTRATE WHAT CAN BE  
25 DONE VISUALLY ON THOSE CHARTS. YOU CAN USE WHATEVER

2:33PM 1 HYPOTHETICAL NUMBER YOU WISH AND JUST LOOK AT THE CHART TO SEE  
2 HOW MANY DISTRICTS WOULD FALL ABOVE OR BELOW THOSE HYPOTHETICAL  
3 LINES.

4 Q. AND THAT SORT OF HYPOTHETICAL LINE DRAWING, THAT'S THE  
5 EXTENT OF THE EFFECTIVENESS OR SENSITIVITY ANALYSIS THAT YOU  
6 PURPORT TO CONDUCT IN YOUR REPORT, RIGHT?

7 A. YES, THAT'S ALL THAT IT INVOLVES.

8 Q. YOU HAVEN'T TRIED TO REACH ANY CONCLUSION ABOUT THE ACTUAL  
9 EFFECTIVENESS LEVEL REQUIRED TO ELECT A BLACK CANDIDATE OF  
10 CHOICE IN ANY ILLUSTRATIVE DISTRICT IN MR. COOPER'S MAP, RIGHT?

11 A. CORRECT. I AM ACCEPTING HIS ASSERTION THAT THEY MEET THE  
12 EFFECTIVE NUMBERS.

13 Q. WHEN YOU SAY YOU ARE ACCEPTING HIS ASSERTION, DO YOU  
14 RECALL REVIEWING MR. COOPER'S TESTIMONY ABOUT THE EFFECTIVENESS  
15 OF HIS DISTRICTS, HIS TRIAL TESTIMONY, TO BE CLEAR?

16 A. YES.

17 Q. DO YOU RECALL THAT HE TALKED ABOUT RECEIVING INPUT FROM  
18 COUNSEL ABOUT THE REPORT OF DR. LISA HANDLEY?

19 A. YES.

20 Q. YOU HAVE NOT REVIEWED THE REPORT OF DR. LISA HANDLEY?

21 A. CORRECT.

22 Q. YOU HAVE NOT REVIEWED HER TRIAL TESTIMONY?

23 A. CORRECT.

24 Q. YOU DON'T KNOW WHETHER DIFFERENTIAL PRIVACY OR ANY OF THE  
25 OTHER SENSITIVITY ISSUES YOU HAVE DISCUSSED IN THIS REPORT

2:34PM 1 WOULD HAVE ANY EFFECT ON DR. HANDLEY'S OPINIONS, DO YOU?

2 **MR. LEWIS:** OBJECTION, YOUR HONOR, THIS IS PART OF  
3 THE CHANGES BETWEEN THE 2022 AND 2023 ILLUSTRATIVE PLANS.  
4 THAT'S WHERE DR. HANDLEY'S INPUT CAME UP. THAT WAS STRICKEN  
5 FROM HIS REPORT, AND THEREFORE IT IS BEYOND THE SCOPE OF  
6 DIRECT. AGAIN, WE'VE BEEN --

7 **THE COURT:** RESPOND TO THAT.

8 **MS. KEENAN:** MR. COOPER TALKED ABOUT HOW HE DREW HIS  
9 ILLUSTRATIVE PLANS IN PART TO ACCOUNT FOR THE EFFECTIVENESS OF  
10 DISTRICTS AS PROVIDED BY INPUT FROM COUNSEL ABOUT DR. LISA  
11 HANDLEY. THIS IS THE SAME THING THAT DR. JOHNSON JUST  
12 TESTIFIED HE DOES WHEN HE DRAWS ILLUSTRATIVE DISTRICTS, THAT HE  
13 TRIES TO ACCOUNT FOR EFFECTIVENESS THAT IS IMPORTANT TO MAKE  
14 SURE YOU ARE ACTUALLY EMPOWERING THE COMMUNITY --

15 **THE COURT:** BUT YOU MOVED TO EXCLUDE THE COMPARISON  
16 BETWEEN '22 AND '23.

17 **MS. KEENAN:** I AM NOT TRYING TO COMPARE BETWEEN '22  
18 AND '23, JUST TO TALK ABOUT THAT MR. COOPER ACCOUNTED FOR THE  
19 EFFECTIVENESS OF THE DISTRICTS WHEN HE DREW THE ILLUSTRATIVE  
20 PLANS AT ISSUE, THE 2023 PLANS, NOT THE 2022 PLANS WHICH WERE  
21 STRICKEN.

22 **THE COURT:** RIGHT, BUT HE ACCOUNTED FOR EFFECTIVENESS  
23 AFTER CONSULTING WITH YOU, WHO CONSULTED WITH DR. HANDLEY. AM  
24 I NOT REMEMBERING THAT RIGHT? I DON'T SAY YOU, BUT YOUR TRIAL  
25 TEAM OR YOUR REPRESENTATION TEAM CONSULTED WITH DR. HANDLEY,

2:36PM 1 GAVE MR. COOPER SOME ADDITIONAL INFORMATION, AND THEN HE TESTED  
2 -- OR THEN HE MADE SOME, HIS WORDS, MINOR ALTERATIONS TO BE  
3 MORE EFFECTIVE.

4 **MS. KEENAN:** YES, I THINK THAT IS ALL RIGHT.

5 **THE COURT:** WELL, THAT'S A COMPARISON BETWEEN 2022  
6 AND 2023.

7 **MS. KEENAN:** CAN I TRY TO CLARIFY ONE MORE THING AND  
8 SEE IF I CAN REPHRASE -- CAN I ASK YOUR HONOR ONE MORE THING  
9 BEFORE I TRY TO REPHRASE THE QUESTION TO MAKE SURE I'M  
10 COMPLYING WITH YOUR --

11 **THE COURT:** WELL, YOU CAN ASK ME SOMETHING. I'M  
12 GOING TO SUSTAIN THE OBJECTION. WHAT IS YOUR QUESTION?

13 **MS. KEENAN:** SURE. SO OUR UNDERSTANDING IS THAT THE  
14 2023 ILLUSTRATIVE MAP IS THE ONE THAT IS RELEVANT, THE ONE THAT  
15 WE HAVE ALL BEEN DISCUSSING THROUGHOUT THE TRIAL AT THIS POINT.  
16 THAT'S THE ONE WE ARE FOCUSING ON. AND THE EFFECTIVENESS  
17 SCORES ARE ONE OF THE THINGS HE CONSIDERED WHEN DRAWING THOSE  
18 DISTRICTS. SO I'M NOT ASKING ABOUT THE 2022 MAPS AT ALL, JUST  
19 ABOUT THE EFFECTIVENESS SCORE AND HOW IT IMPACTED THE DISTRICTS  
20 THAT WE ARE ALL CONSIDERING HERE TODAY.

21 **THE COURT:** OKAY. MR. LEWIS?

22 **MR. LEWIS:** YOUR HONOR, I THINK OUR RESPONSE TO THAT  
23 IS THAT THERE IS NOTHING IN MR. COOPER'S -- MR. COOPER'S REPORT  
24 DOES NOT REPORT ANALYSIS FROM HANDLEY OR ANY OTHER SOURCE ABOUT  
25 EFFECTIVENESS. THAT COMES FROM HANDLEY, WHO DR. JOHNSON DIDN'T



2:37PM 1 RESPOND TO. AND TO THE EXTENT THAT THERE IS ANYTHING IN MR.  
2 COOPER'S REPORT OR TESTIMONY THAT TALKS ABOUT DISTRICT  
3 EFFECTIVENESS, IT COMES FROM THE CHANGES BETWEEN 2022 AND 2023,  
4 WHICH AGAIN IS OUTSIDE THE SCOPE BECAUSE THAT PORTION OF DR.  
5 JOHNSON'S REPORT WAS STRICKEN.

6 **MS. KEENAN:** MAY I RESPOND TO THAT BRIEFLY?

7 **THE COURT:** YES.

8 **MS. KEENAN:** DR. JOHNSON IS PROVIDING A SENSITIVITY  
9 ANALYSIS THAT TALKS ABOUT THE EFFECTIVENESS OF VARIOUS  
10 DISTRICTS. THAT'S A WHOLE SECTION IN HIS REPORT THAT HE  
11 TESTIFIED ABOUT HERE TODAY. THERE IS A COMPETING EXPERT IN  
12 THIS CASE WHO HAS TALKED ABOUT THE EFFECTIVENESS OF DISTRICTS  
13 IN SOME DETAIL, AND I'M JUST TRYING TO EXPLORE THE INTERACTION  
14 BETWEEN HIS CONCLUSIONS AND HER CONCLUSIONS. I CAN MOVE ON  
15 FROM WHETHER HE CONSIDERED DR. HANDLEY'S TESTIMONY HIMSELF AND  
16 JUST ASK THE QUESTION ABOUT HOW HIS CONCLUSIONS RELATE TO HERS.

17 **THE COURT:** OKAY. WELL, I'VE SUSTAINED THE  
18 OBJECTION. WE ARE GOING TO GO QUESTION BY QUESTION. ASK YOUR  
19 NEXT QUESTION AND WE WILL SEE WHAT MR. LEWIS DOES.

20 **BY MS. KEENAN:**

21 Q. YOU WOULD AGREE THAT THE DIFFERENTIAL PRIVACY CONCEPT THAT  
22 YOU HAVE DISCUSSED DOESN'T HAVE ANY EFFECT ON ELECTION RETURNS  
23 DATA, DOES IT?

24 A. CORRECT.

25 Q. THAT'S BECAUSE IT IS LIMITED TO THE CENSUS BUREAU'S DATA,

2:38PM 1 AND THAT'S THE SET OF DATA THAT IT AFFECTS?

2 A. YES.

3 Q. AND SO IF YOU WERE TO CONDUCT AN ANALYSIS THAT INSTEAD  
4 FOCUSED ON ELECTION RETURNS, THE DIFFERENTIAL PRIVACY  
5 DISCUSSION IN YOUR REPORT WOULD HAVE NO BEARING ON THAT  
6 ANALYSIS, RIGHT?

7 A. IF I HAD DATA ON THE ETHNICITY OF THE VOTERS AND WASN'T  
8 USING CENSUS DATA AS MY DENOMINATOR.

9 MS. KEENAN: CAN I HAVE A BRIEF MOMENT TO CONFER WITH  
10 COUNSEL? I THINK I MAY BE FINISHED.

11 THE COURT: YES.

12 MS. KEENAN: THAT'S ALL FOR PLAINTIFFS. I PASS THE  
13 WITNESS.

14 THE COURT: REDIRECT, SIR?

15 REDIRECT EXAMINATION

16 BY MR. LEWIS:

17 Q. DR. JOHNSON, GOOD AFTERNOON. ARE VOTER TABULATION  
18 DISTRICTS JUST A LARGER BUILDING BLOCK IN A CENSUS BLOCK?

19 A. CORRECT. THEY ARE NOT A TRADITIONAL REDISTRICTING  
20 PRINCIPLE. THEY ARE A TECHNICAL TOOL USED TO BUILD THE MAPS  
21 INTO DISTRICTS THAT COMPLY WITH TRADITIONAL REDISTRICTING  
22 PRINCIPLES. THEY ARE A BUILDING BLOCK USED TO BUILD DISTRICTS  
23 INTO TRADITIONAL REDISTRICTING -- I'M SORRY -- USED TO BUILD  
24 DISTRICTS THAT COMPLY WITH TRADITIONAL REDISTRICTING  
25 PRINCIPLES. DID I MANGLE THAT ENOUGH? SORRY.

2:41PM 1 Q. DR. JOHNSON, WOULD IT HAVE BEEN POSSIBLE TO FOLLOW VTD  
2 BOUNDARIES WITHOUT ALL THE ZIGS AND THE ZAGS THAT WE SAW IN ALL  
3 OF THE ILLUSTRATIVE PLAN BOUNDARIES WE LOOKED AT?

4 A. YES. I MEAN, THE ENACTED MAP FOLLOWS VTDS AS WELL, THAT  
5 MR. COOPER'S POSITION IS THAT THAT DOESN'T COMPLY WITH  
6 TRADITIONAL REDISTRICTING PRINCIPLES.

7 **MS. KEENAN:** OBJECTION TO WHAT HE JUST CHARACTERIZED  
8 AS MR. COOPER'S TESTIMONY ABOUT WHETHER THE ENACTED MAPS COMPLY  
9 WITH TRADITIONAL REDISTRICTING PRINCIPLES. THAT  
10 MISCHARACTERIZES MR. COOPER'S TESTIMONY.

11 **THE COURT:** THE RECORD WILL SPEAK FOR ITSELF. GO  
12 AHEAD. HE HAS ALREADY ANSWERED IT. NEXT QUESTION.

13 **BY MR. LEWIS:**

14 Q. DR. JOHNSON, ARE ANY OF THE ITEMS DISCUSSED DURING YOUR  
15 CROSS-EXAMINATION ABOUT BOUNDARY LINES GIVEN AS REASONS FOR THE  
16 DISTRICT BOUNDARIES IN MR. COOPER'S REPORT?

17 A. SORRY. COULD YOU REPEAT THAT?

18 Q. SURE. SURE. SO WE TALKED ABOUT -- I WILL WITHDRAW THAT  
19 QUESTION AND I WILL ASK A DIFFERENT ONE. FOR EXAMPLE, MS.  
20 KEENAN ASKED YOU ON CROSS-EXAMINATION ABOUT A TRADE-OFF BETWEEN  
21 SPLITTING CENTRAL TO KEEP MERRYDALE AND BAKER WHOLE. DO YOU  
22 RECALL THAT?

23 A. YES.

24 Q. DOES MR. COOPER REFERENCE THAT TRADE-OFF AS A REASON FOR  
25 HIS DISTRICT CONFIGURATION IN HIS REPORT?

2:43PM

1 A. NO.

2 Q. DOES HE REFERENCE IT IN THE BACK-UP TO HIS REPORT?

3 A. NO.

4 Q. OKAY. DOES MR. COOPER DISCUSS THE DECISION TO KEEP -- TO  
5 DRAW A BORDER BETWEEN ILLUSTRATIVE HOUSE DISTRICT 68 AND 69 TO  
6 FOLLOW THE AIRLINE ROAD?

7 A. NO.

8 **MR. LEWIS:** YOUR HONOR, WE HAVE NO FURTHER QUESTIONS.

9 **THE COURT:** OKAY. YOU MAY STEP DOWN, SIR. THANK  
10 YOU. SO WHERE ARE WE IN TERMS OF THESE PROCEEDINGS? HOW MANY  
11 WITNESSES ARE LEFT?

12 **MR. TUCKER:** YOUR HONOR, WE HAVE THREE ADDITIONAL  
13 EXPERT WITNESSES STILL TO CALL AND ONE ADDITIONAL FACT WITNESS  
14 TO CALL.

15 **THE COURT:** IS THERE ANYTHING THAT WE CAN ACCOMPLISH  
16 BETWEEN NOW AND 4:00?

17 **MR. TUCKER:** YOUR HONOR, I'M GOING TO DEFER TO MY  
18 CO-COUNSEL WHO ARE HANDLING THOSE OTHER EXPERTS ON HOW THEY  
19 PLAN ON PROCEEDING FOR THE REST OF THE DAY. WE HAVE WITNESSES  
20 HERE. I JUST WANT TO TURN IT OVER TO THEM TO FIGURE OUT WHAT  
21 WE ARE DOING.

22 **MR. LEWIS:** YOUR HONOR, I KNOW THE NEXT WITNESS UP --

23 **MR. FARR:** YOUR HONOR, I HAVE THE NEXT WITNESS. MAY  
24 I CONSULT WITH HIM FIRST?

25 **THE COURT:** YES, TAKE A MINUTE. SO ARE YOU GOING TO

2:45PM 1 CALL YOUR NEXT WITNESS, MR. FARR?

2 MR. FARR: I WAS GOING TO ASK YOU, YOUR HONOR, ARE  
3 YOU GOING TO HAVE A HARD STOP AT 4:00?

4 THE COURT: YES.

5 MR. FARR: WE CAN'T GET DONE BY 4:00.

6 THE COURT: WELL, GET WHAT YOU CAN DONE.

7 MR. FARR: WE ARE WILLING TO START IF THAT'S WHAT YOU  
8 PREFER.

9 THE COURT: YEAH, I WANT YOU TO GET SOMETHING DONE.

10 MR. FARR: WE NOW CALL MICHAEL BARBER.

11 THE COURT: JUST A MINUTE, SIR, HE IS GOING TO SWEAR  
12 YOU IN.

13 (OATH ADMINISTERED.)

14 THE CLERK: STATE YOUR NAME FOR THE RECORD.

15 MR. FARR: CAN YOU HEAR ME, DR. BARBER?

16 THE COURT: HE'S GOING TO STATE HIS NAME AND SPELL IT  
17 FOR THE RECORD, AND THEN YOU CAN DO YOUR DIRECT.

18 THE WITNESS: MICHAEL BARBER. M-I-C-H-A-E-L,  
19 B-A-R-B-E-R.

20 THE COURT: ALL RIGHT, MR. FARR.

21 DR. MICHAEL BARBER,

22 HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

23 DIRECT EXAMINATION

24 BY MR. FARR:

25 Q. MAY I CALL YOU DR. BARBER?

2:47PM

1 A. YOU MAY.

2 Q. DR. BARBER, HAVE YOU PREPARED TWO EXPERT REPORTS IN THIS  
3 CASE?

4 A. YES, I HAVE.

5 **MR. FARR:** YOUR HONOR, MAY I APPROACH THE BENCH AND  
6 GIVE DR. BARBER HIS EXPERT REPORTS?

7 **THE COURT:** THE WITNESS STAND? YES, YOU MAY.

8 **BY MR. FARR:**

9 Q. OKAY, DR. BARBER. DO YOU HAVE A NOTEBOOK WITH YOUR TWO  
10 EXPERT REPORTS IN THIS CASE?

11 A. YES, I DO.

12 Q. IS YOUR FIRST OPENING EXPERT REPORT MARKED SECRETARY OF  
13 STATE EXHIBIT 1?

14 A. YES.

15 Q. IS YOUR REBUTTAL REPORT MARKED SECRETARY OF STATE EXHIBIT  
16 4?

17 A. YES.

18 **MR. FARR:** YOUR HONOR, WE MOVE FOR THE INTRODUCTION  
19 INTO EVIDENCE OF SECRETARY OF STATE EXHIBITS 1 AND 4.

20 **MR. NAIFEH:** YOUR HONOR, WE WOULD REQUEST THAT THE  
21 DECISION ON ADMITTING THE EXPERT REPORTS BE DEFERRED UNTIL THE  
22 TENDER. WE WILL HAVE SOME CROSS ON THE TENDER, AND WE THINK IT  
23 MAY CHANGE EXACTLY WHICH PORTIONS OF THE REPORT COME IN.

24 **MR. FARR:** EXCUSE ME, SIR. COULD YOU REPEAT THAT?

25 **MR. NAIFEH:** WE WILL HAVE SOME CROSS ON THE TENDER,

2:48PM 1 AND WE WOULD LIKE TO RESERVE ADMISSION OF THE REPORT UNTIL WE  
2 CAN ESTABLISH EXACTLY WHAT HE IS QUALIFIED TO TESTIFY ABOUT,  
3 AND THAT MAY IMPACT WHAT WE WOULD THINK SHOULD COME IN FROM THE  
4 REPORT.

5 **MR. FARR:** I THOUGHT YOU STIPULATED THAT THE REPORT  
6 WOULD COME INTO EVIDENCE IF HE APPEARED TO TESTIFY. ISN'T  
7 THERE A STIPULATION ON THAT?

8 **MR. NAIFEH:** THERE IS A STIPULATION THAT IF HE  
9 APPEARS TO TESTIFY AS AN EXPERT, THE REPORT WILL COME IN. WE  
10 HAVE QUESTIONS ABOUT WHAT EXACTLY HE IS QUALIFIED TO TESTIFY  
11 ABOUT, AND WE WOULD LIKE TO ESTABLISH WHAT THAT IS.

12 **THE COURT:** IN OTHER WORDS, MOVE THE REPORT IN AFTER  
13 YOU HAVE QUALIFIED HIM. SO I'M GOING TO SUSTAIN THE OBJECTION  
14 AT THIS POINT. YOU CAN RE-MOVE THE REPORT -- YOU CAN ASK FOR  
15 THE REPORTS TO BE ADMITTED AFTER YOU HAVE EXAMINED HIM ON HIS  
16 QUALIFICATIONS AND THEY HAVE CROSSED ON HIS QUALIFICATIONS.

17 **MR. FARR:** ALL RIGHT. THANK YOU, YOUR HONOR.

18 **BY MR. FARR:**

19 Q. DR. BARBER, WHO RETAINED YOU TO BE AN EXPERT IN THIS CASE?

20 A. THE SECRETARY OF STATE.

21 Q. WERE YOU ASKED TO RENDER ANY LEGAL OPINIONS?

22 A. NO.

23 Q. I'M GOING TO ASK YOU TO EXPLAIN YOUR EXPERTISE THAT  
24 QUALIFIES YOU TO OFFER THE OPINIONS THAT YOU HAVE IN YOUR  
25 EXPERT REPORTS. TURNING TO SECRETARY OF STATE EXHIBIT 1, IS

2:49PM 1 YOUR CURRICULUM VITAE ATTACHED TO THE END OF YOUR ORIGINAL  
2 REPORT?

3 A. YES, IT IS.

4 Q. COULD YOU TELL US ABOUT YOUR EDUCATIONAL BACKGROUND.

5 A. I HAVE A BACHELOR'S DEGREE FROM BRIGHAM YOUNG UNIVERSITY  
6 AND A MASTER'S AND PH.D. IN POLITICAL SCIENCE FROM PRINCETON  
7 UNIVERSITY.

8 Q. AND WHAT WERE YOUR AREAS OF CONCENTRATION FOR YOUR POST  
9 GRADUATE DEGREES?

10 A. MY AREAS OF CONCENTRATION WERE BROADLY IN AMERICAN  
11 POLITICS AND THE USE OF QUANTITATIVE METHODS.

12 Q. CAN YOU TELL US ABOUT YOUR PROFESSIONAL EXPERIENCE?

13 A. YES. I'M AN ASSOCIATE PROFESSOR WITH TENURE AT BRIGHAM  
14 YOUNG UNIVERSITY IN THE POLITICAL SCIENCE DEPARTMENT. I'M ALSO  
15 THE DIRECTOR OF THE CENTER FOR THE STUDY OF ELECTIONS AND  
16 DEMOCRACY, WHICH IS ALSO LOCATED AT BYU.

17 Q. WHAT CLASSES DO YOU TEACH AT BYU?

18 A. I TEACH A CLASS ON THE LEGISLATIVE PROCESS, AND I ALSO  
19 TEACH A CLASS ON THE USE OF QUANTITATIVE METHODS FOR THE STUDY  
20 OF SOCIAL SCIENCE. AND THEN I ALSO TEACH A SEMINAR FOR THE  
21 STUDY OF -- THE TOPIC OF THE CLASS IS THE STUDY OF  
22 REPRESENTATION IN AMERICA.

23 Q. ARE YOU A TENURED PROFESSOR?

24 A. YES.

25 Q. HAVE YOU WRITTEN ANY PEER-REVIEWED ARTICLES?



2:51PM

1 A. YES, I HAVE.

2 Q. HOW MANY?

3 A. I BELIEVE AT THE MOMENT 25 TO 26 HAVE BEEN PUBLISHED IN  
4 PEER-REVIEWED JOURNALS.

5 Q. ARE THOSE LISTED IN YOUR CV?

6 A. YES, THEY ARE.

7 Q. WHAT ARE SOME OF THE SUBJECTS ON WHICH YOU HAVE WRITTEN  
8 THAT RELATE TO THE MATTERS THAT YOU ARE TESTIFYING ABOUT IN  
9 THIS CASE?

10 A. SO I PUBLISHED BROADLY ON THE CONCEPT OF REPRESENTATION  
11 AND ACCOUNTABILITY IN AMERICAN POLITICS. I HAVE PUBLISHED AND  
12 STUDIED THE QUESTION OF VOTER BEHAVIOR AND VOTER PREFERENCES,  
13 HOW THAT RELATES TO QUESTIONS OF PARTISANSHIP AND RACE, SO  
14 THOSE ARE ALL TOPICS THAT I'VE PUBLISHED ON THAT ARE RELEVANT  
15 TO THE DISCUSSION TODAY.

16 Q. OKAY. HAVE YOU EVER TESTIFIED AS AN EXPERT WITNESS?

17 A. YES, I HAVE.

18 Q. ARE THOSE CASES LISTED IN YOUR CV?

19 A. YES, THEY ARE.

20 Q. AND HOW MANY OF THOSE CASES INVOLVE CHALLENGES TO  
21 REDISTRICTING PLANS?

22 A. I BELIEVE SOMEWHERE BETWEEN 6 AND 8 OF THOSE.

23 Q. HOW MANY OF THOSE CASES INVOLVED CLAIMS INVOLVING SECTION  
24 2 OF THE VOTING RIGHTS ACT?

25 A. TWO. I'VE BEEN AN EXPERT WITNESS IN THE CASE IN GEORGIA

2:52PM 1 REGARDING THE PUBLIC SERVICE COMMISSION, AND I'M INVOLVED  
2 CURRENTLY IN AN ONGOING LAWSUIT IN THE CITY OF COLORADO  
3 SPRINGS.

4 Q. ALL RIGHT. DR. BARBER, WHEN I TALK ABOUT SIMULATED MAPS,  
5 DO YOU KNOW WHAT I'M REFERRING TO?

6 A. YES.

7 Q. WHAT ARE SIMULATED MAPS?

8 A. SO THAT'S A TERM THAT REFERS BROADLY TO A PROCESS OR  
9 CONCEPT OF USING A COMPUTER TO DRAW A LARGE SET OF MAPS IN A  
10 PARTICULAR JURISDICTION. SO IT COULD BE DONE AT A STATE LEVEL,  
11 COUNTY LEVEL, COULD BE DONE FOR A CITY COUNCIL.

12 THERE ARE DIFFERENT WAYS OR DIFFERENT PROCESSES THAT HAVE  
13 BEEN USED, BUT GENERALLY IT'S THE USE OF SOME SORT OF COMPUTER  
14 ALGORITHM, THE USE OF DATA ABOUT THE POPULATION AND THE  
15 DISTRIBUTION OF THE POPULATION WITHIN THAT JURISDICTION, AND  
16 THAT INFORMATION IS THEN USED BY THE COMPUTER TO DRAW A VERY  
17 LARGE SET OF MAPS USING THAT PARTICULAR ALGORITHM.

18 Q. HAVE YOU PREPARED OR ANALYZED SIMULATED MAPS IN ANY OF THE  
19 CASES IN WHICH YOU HAVE BEEN INVOLVED?

20 A. YES, I HAVE.

21 Q. CAN YOU TELL THE COURT WHAT CASES THOSE ARE?

22 A. SURE. SO I HAVE USED SIMULATED MAPS FOR A REDISTRICTING  
23 CASE IN THE STATE OF NEW YORK, IN THE CITY OF BUFFALO, NEW  
24 YORK, ALSO IN THE STATE OF PENNSYLVANIA, AND AS WELL IN THE  
25 STATE OF NORTH CAROLINA.

2:54PM 1 Q. AND HAVE YOU PREPARED SIMULATED REPORTS IN THIS CASE?

2 A. SIMULATED MAPS?

3 Q. SIMULATED MAPS, YES.

4 A. YES, I HAVE.

5 **MR. FARR:** YOUR HONOR, WE WOULD LIKE TO TENDER DR.

6 BARBER AS AN EXPERT IN POLITICAL SCIENCE, AMERICAN POLITICS,

7 VOTING BEHAVIOR AND PATTERNS, AND SIMULATED MAPS.

8 **THE COURT:** YOU WILL HAVE TO GIVE THAT TO ME AGAIN.

9 POLITICAL SCIENCE --

10 **MR. FARR:** I'M SORRY, YOUR HONOR.

11 **THE COURT:** GO AHEAD. TELL ME THE FOUR AREAS AGAIN,

12 PLEASE.

13 **MR. FARR:** YES, MA'AM. POLITICAL SCIENCE, AMERICAN

14 POLITICS, VOTING BEHAVIOR AND PATTERNS, AND SIMULATED MAPS.

15 **THE COURT:** CROSS ON THE TENDER?

16 **CROSS-EXAMINATION ON TENDER**

17 **BY MR. NAIFEH:**

18 Q. GOOD AFTERNOON, DR. BARBER.

19 **MR. NAIFEH:** STEPHEN, COULD WE PULL UP SOS101.

20 **BY MR. NAIFEH:**

21 Q. DR. BARBER, THIS IS YOUR REPORT IN FRONT OF YOU ON THE  
22 SCREEN. AND I DON'T HAVE A SCREEN, BUT I'M GUESSING IT'S UP.

23 A. YES, I SEE IT.

24 Q. IN TURNING TO PAGE 5 OF YOUR REPORT, THIS IS THE SUMMARY  
25 OF YOUR CONCLUSIONS, CORRECT?

2:55PM

1 A. IT IS, YES.

2 Q. AND THEN ON PAGE 6, LOOKING AT THE LAST BULLET IN THE  
3 SUMMARY OF CONCLUSIONS, CAN YOU READ THAT?

4 A. DO YOU WANT ME TO READ IT OUT LOUD?

5 Q. YES, PLEASE.

6 A. "TO CREATE THESE ADDITIONAL MAJORITY BVAP DISTRICTS, IT IS  
7 CLEAR THAT IN THE ILLUSTRATIVE MAPS VARIOUS DECISIONS ABOUT  
8 WHERE TO PLACE THE DISTRICT BOUNDARIES WERE MADE WITH RACE AS  
9 THE PREDOMINANT FACTOR. THIS IS THE CASE BECAUSE THESE  
10 DECISIONS ARE NOT WELL EXPLAINED BY ADHERENCE TO OTHER  
11 TRADITIONAL REDISTRICTING CRITERIA."

12 Q. I KNOW WE WILL GET THERE, BUT IN THIS BULLET ARE YOU  
13 DESCRIBING THE OPINIONS YOU OFFER IN THE SECTIONS OF YOUR  
14 REPORT THAT YOU CALL REGIONAL ANALYSIS?

15 A. ARE YOU ASKING IF THIS BULLET POINT REFERS --

16 Q. TO THE REGIONAL ANALYSIS OR TO THE CONCLUSIONS DRAWN IN  
17 THE REGIONAL ANALYSIS?

18 A. I BELIEVE THIS BULLET POINT REFERS MORE BROADLY TO THE  
19 ENTIRETY OF THE REPORT COLLECTIVELY.

20 Q. OKAY. AND I WOULD LIKE TO ASK JUST ABOUT THE REGIONAL  
21 ANALYSIS. YOU HAVE A SECTION IN YOUR REPORT, TWO SECTIONS, I  
22 BELIEVE, CALLED REGIONAL ANALYSIS IN YOUR REPORT, CORRECT?

23 A. YES.

24 Q. AND NOTHING IN YOUR REGIONAL ANALYSIS IS DERIVED FROM THE  
25 SIMULATIONS, CORRECT?

2:56PM 1 A. IN THIS FIRST REPORT, I BELIEVE IT IS THE CASE THAT THE  
2 REGIONAL ANALYSES ARE SEPARATE FROM THE SIMULATION ANALYSIS.

3 Q. AND THE CONCLUSIONS DO NOT DERIVE FROM THE SIMULATIONS?

4 A. I THINK THE REPORT STATES THAT THE CONCLUSIONS ARE DRAWN  
5 BY CONNECTING THE RESULTS OF THE SIMULATIONS TO THE ANALYSIS IN  
6 THE REGIONAL -- THE SECTION OF THE REPORT THAT TALKS ABOUT  
7 REGIONAL ANALYSES. I THINK THAT THE TWO PORTIONS SPEAK TO ONE  
8 ANOTHER.

9 Q. OKAY.

10 MR. NAIFEH: STEPHEN, CAN WE PULL UP DR. BARBER'S  
11 DEPOSITION AT PAGE 159, AND LOOKING AT LINES 5 TO 12.

12 BY MR. NAIFEH:

13 Q. CAN YOU READ THAT, THOSE LINES?

14 A. THE ANSWER, THE QUESTION, OR BOTH?

15 Q. THE QUESTION IS, "DOES ANYTHING IN THE SECTION ON REGIONAL  
16 ANALYSIS, THESE TWO SECTIONS, DERIVE FROM THE SIMULATIONS YOU  
17 RAN?"

18 THE ANSWER IS, "NOTHING IN THESE SECTIONS IS DERIVED FROM  
19 THE SIMULATIONS. THERE ARE NO MAPS IN THIS SECTION FROM THE  
20 SIMULATIONS OR REFERENCE TO THE METRICS THAT WERE DISCUSSED  
21 EARLIER FROM THE SIMULATIONS." DID I READ THAT CORRECTLY?

22 A. YES, YOU DID.

23 Q. OKAY. AND THIS SECTION ON THE REGIONAL ANALYSIS IS NOT  
24 BASED ON ANY OTHER STATISTICAL ANALYSIS APART FROM THE  
25 SIMULATIONS THAT YOU PERFORMED, CORRECT?

2:58PM 1 A. ARE YOU ASKING IF THERE ARE NO STATISTICAL ANALYSES IN THE  
2 REGIONAL SECTION OF THE REPORT?

3 Q. I'M ASKING IF YOU DID ANY STATISTICAL ANALYSIS TO SUPPORT  
4 THE CONCLUSIONS YOU DRAW IN THE REGIONAL ANALYSIS SECTIONS OF  
5 YOUR REPORT.

6 A. I DO THINK THAT THERE ARE -- I DON'T KNOW IF YOU WOULD  
7 CALL THEM STATISTICAL ANALYSES. THERE IS QUANTITATIVE  
8 ANALYSES --

9 Q. YOU ARE REFERRING TO THINGS LIKE THE COMPACTNESS SCORES  
10 AND THINGS LIKE THAT?

11 A. THAT, IN ADDITION TO COMPUTATION OF THE BVAP SCORES, CORE  
12 RETENTION SCORES, THOSE TYPES OF COMPUTATIONS.

13 **MR. NAIFEH:** YOUR HONOR, WE WOULD MOVE TO EXCLUDE ANY  
14 OPINION TESTIMONY FROM DR. BARBER CONCERNING WHETHER PARTICULAR  
15 LINE DRAWING DECISIONS IN MR. COOPER'S MAPS ARE WELL EXPLAINED  
16 BY ADHERENCE TO TRADITIONAL REDISTRICTING PRINCIPLES. FOR THE  
17 RECORD, THOSE ARE SECTION 8, STARTING AT PAGE 30, AND SECTION  
18 12 STARTING AT PAGE 68 ARE THE TWO SECTIONS THAT HE CALLS  
19 REGIONAL ANALYSIS.

20 AND THE REGIONAL ANALYSIS IS NOT BASED ON THE SIMULATIONS,  
21 WHICH HE HAS ESTABLISHED HIS EXPERTISE IN. IT'S BASED ON HIS  
22 REVIEW OF MAPS AND DATA FROM MR. COOPER'S REPORT AND WHETHER HE  
23 BELIEVES MR. COOPER DREW LINES BASED ON RACE OR BASED ON OTHER  
24 TRADITIONAL REDISTRICTING PRINCIPLES.

25 AND AS YOUR HONOR SAID WITH RESPECT TO DR. JOHNSON IN THE

3:00PM 1 RULING ON THE MOTION IN LIMINE, THE DEFENDANTS HAVEN'T TENDERED  
2 DR. BARBER AS -- THAT HE HAS A SPECIALTY DISCIPLINE OR  
3 EXPERTISE IN DISCERNING A PERSON'S SUBJECTIVE INTENT AND  
4 DECISION-MAKING, SO WE ARE ASKING THAT HE NOT BE PERMITTED TO  
5 TESTIFY REGARDING MR. COOPER'S SUBJECTIVE INTENT IN DRAWING ANY  
6 LINES IN THE ILLUSTRATIVE PLANS.

7 **THE COURT:** I WOULD SUSTAIN ANY OBJECTIONS THAT YOU  
8 MAKE TO SUBJECTIVE INTENT THAT DR. BARBER ATTEMPTS TO TESTIFY  
9 TO, BUT HOW DOES THAT -- HOW DOES THAT DISQUALIFY HIM FROM THE  
10 ENTIRE SECTION ON HIS REGIONAL ANALYSIS?

11 **MR. NAIFEH:** IT'S NOT THE ENTIRE SECTION THAT WE  
12 WOULD SEEK TO EXCLUDE, JUST THE PORTIONS OF IT THAT CONCERN MR.  
13 COOPER'S SUBJECTIVE INTENT.

14 **THE COURT:** MR. FARR, DO YOU WANT TO ADDRESS THAT?

15 **MR. FARR:** YOUR HONOR, IT'S NOT OUR INTENTION TO HAVE  
16 DR. BARBER TESTIFY TO MR. COOPER'S SUBJECTIVE INTENT, BUT WE DO  
17 INTEND TO ASK HIM TO EVALUATE AS A POLITICAL SCIENTIST WHETHER  
18 OR NOT BASED UPON HIS UNDERSTANDING OF THE TERM "PREDOMINANT  
19 FACTOR," WHETHER RACE IS THE PREDOMINANT FACTOR AS A POLITICAL  
20 SCIENTIST IN DRAWING SOME OF THESE DISTRICTS.

21 HE IS NOT TALKING ABOUT MR. COOPER'S SUBJECTIVE INTENT.  
22 HE IS LOOKING AT THE MAPS, HE IS LOOKING AT THE SIMULATIONS,  
23 AND HE IS DRAWING CONCLUSIONS AS A POLITICAL SCIENTIST AS TO  
24 WHAT BEST EXPLAINS THE MAPS. IT HAS NOTHING TO DO WITH MR.  
25 COOPER'S SUBJECTIVE INTENT.

3:01PM

1                   **THE COURT:** THEN YOU NEED TO LAY A -- YOU NEED TO  
2 QUALIFY HIM OR GIVE ME SOME REASON TO UNDERSTAND THAT  
3 PREDOMINANCE IN MAP-DRAWING IS SOME PARTICULAR FIELD OR SUBJECT  
4 MATTER THAT'S A DISCERNIBLE SUBJECT MATTER WITHIN POLITICAL  
5 SCIENCE. MAYBE IT'S JUST THE COURT'S LACK OF UNDERSTANDING OF  
6 THE SCOPE OF THE FIELD OF POLITICAL SCIENCE, BUT I DON'T KNOW.  
7 IS THERE A CLASS ON PREDOMINANCE IN MAP DRAWING?

8                   **MR. FARR:** YOUR HONOR, THE REPORTS LIKE THE ONE MR.  
9 COOPER IS SUBMITTING ARE REGULARLY SUBMITTED IN CASES INVOLVING  
10 RACIAL GERRYMANDERS, THE *BETHUNE-HILL* CASE BEING AN EXAMPLE,  
11 THE CASE IN SOUTH CAROLINA BEING AN EXAMPLE THAT WE'LL TALK  
12 ABOUT LATER WHERE SIMULATED MAPS WERE USED TO ATTEMPT TO  
13 ESTABLISH THAT RACE WAS THE PREDOMINANT EXPLANATION.

14                   AGAIN, WE ARE NOT QUESTIONING MR. COOPER'S SUBJECTIVE  
15 INTENT. WE ARE NOT QUESTIONING HIS GOOD FAITH. WE ARE TRYING  
16 TO SAY THAT WHEN YOU DO A FORENSIC EXAMINATION OF THESE MAPS,  
17 THAT THEY CANNOT BE EXPLAINED FOR ANY OTHER REASON OTHER THAN  
18 RACE. AND YES, I THINK THAT IS PART OF THE REALM OF  
19 DR. COOPER'S EXPERTISE.

20                   **THE COURT:** DR. BARBER.

21                   **MR. FARR:** EXCUSE ME, DR. BARBER'S EXPERTISE. AND I  
22 THINK, AGAIN, IT IS THE TYPE OF EVIDENCE THAT'S BEEN RECOGNIZED  
23 AND SUBMITTED BY OTHER COURTS IN OTHER SIMILAR CASES.

24                   **THE COURT:** DO YOU WANT TO RESPOND?

25                   **MR. NAIFEH:** YOUR HONOR, WHETHER RACE PREDOMINATES IN



3:03PM 1 AN ENACTED MAP OR IN AN ILLUSTRATIVE MAP, IF IT'S EVEN A  
2 RELEVANT CONCEPT, THERE IS A LEGAL CONCLUSION THAT HE IS NOT  
3 QUALIFIED TO RENDER. AND AS YOUR HONOR HAS ALREADY EXPLAINED  
4 IN THE RULING ON THE MOTION IN LIMINE, THAT IS A QUESTION FOR  
5 YOU AS THE FACT-FINDER AND NOT FOR -- AND YOU HAVE ALREADY  
6 EXCLUDED OTHER EXPERTS FROM TESTIFYING ABOUT RACIAL  
7 PREDOMINANCE, AT LEAST AS FAR AS A LEGAL CONCLUSION. HE CAN  
8 TESTIFY ABOUT WHAT TRADITIONAL REDISTRICTING PRINCIPLES THE MAP  
9 DOES OR DOES NOT COMPLY WITH, BUT GOING THE NEXT STEP AND  
10 RENDERING AN OPINION ABOUT WHETHER THAT MEANS RACE PREDOMINATES  
11 IS NOT SOMETHING I BELIEVE HE HAS BEEN QUALIFIED TO TESTIFY  
12 ABOUT.

13 **MR. FARR:** MAY I RESPOND, YOUR HONOR?

14 **THE COURT:** YES.

15 **MR. FARR:** YOUR HONOR, WE HAD A SCHEDULING ORDER IN  
16 THIS CASE, AND THERE WERE DEADLINES FOR *DAUBERT* MOTIONS. THERE  
17 WAS NO *DAUBERT* MOTION FILED ON DR. BARBER. THERE WAS ONE FILED  
18 ON DR. JOHNSON. THE ISSUES WERE BRIEFED, AND THE DEFENSE HAD  
19 NOTICE OF THE ARGUMENTS THE PLAINTIFFS WERE GOING TO MAKE.

20 THIS IS THE FIRST WE'VE HEARD ABOUT PLAINTIFFS' CONTENTION  
21 THAT DR. BARBER IS NOT QUALIFIED TO GIVE THE OPINIONS THAT ARE  
22 STATED IN THIS REPORT, WHICH THEY HAVE STIPULATED COULD COME  
23 INTO EVIDENCE.

24 SO I WOULD JUST SAY, YOUR HONOR, THAT THIS IS CAUSING  
25 SUBSTANTIAL PREJUDICE TO US TO ALLOW THEM TO GET AROUND THE

3:04PM 1 DEADLINE YOU SET FOR THE FILING OF *DAUBERT* MOTIONS, SO WE WOULD  
2 HAVE HAD AMPLE TIME TO BE ABLE TO BRIEF THIS ISSUE.

3 **THE COURT:** A *DAUBERT* MOTION IS NOT THE ONLY METHOD  
4 BY WHICH YOU CAN CHALLENGE AN EXPERT'S -- THE SCOPE OF THEIR  
5 EXPERTISE. I MEAN, THERE'S NO LAW THAT THE COURT KNOWS OF THAT  
6 SAYS THAT FAILURE TO FILE A *DAUBERT* SOMEHOW WAIVES YOUR ABILITY  
7 TO CROSS AN EXPERT, A PROPOSED EXPERT ON THE NATURE AND EXTENT  
8 OF THE FIELD OF TENDER, AND THAT'S WHAT'S BEING DONE HERE. THE  
9 FIELD OF TENDER HAS BEEN CROSS-EXAMINED, AND THEY ARE SEEKING  
10 TO EXCLUDE EXPERT TESTIMONY, OPINION TESTIMONY, IN THAT  
11 PARTICULAR FIELD, NAMELY THE SUBJECT OF RACE PREDOMINANCE.

12 YOUR *DAUBERT* ARGUMENT MISSES THE MARK, AND THE STIPULATION  
13 WAS THAT OF THOSE EXPERTS THAT TESTIFY, THEIR REPORTS WOULD  
14 COME IN. SO IF HE DOESN'T TESTIFY, HIS REPORT DOESN'T COME IN,  
15 OR AT LEAST THOSE AREAS OF HIS REPORT DOESN'T COME IN.

16 NOW, THE BEST I CAN DO FOR YOU IS WE CAN RECESS UNTIL  
17 MONDAY MORNING, BUT I THINK THERE'S A STRONG ARGUMENT HERE THAT  
18 WHILE HE CAN CERTAINLY TESTIFY TO WHAT ARE THE TRADITIONAL  
19 REDISTRICTING FACTORS, A LOT LIKE DR. JOHNSON DID, TO DRAW THE  
20 ULTIMATE CONCLUSION, WHICH IS DID RACE PREDOMINATE, THAT'S A  
21 QUESTION OF FACT FOR ME.

22 **MR. FARR:** YOUR HONOR, I THINK IT IS A QUESTION OF  
23 LAW FOR YOU.

24 **THE COURT:** WELL --

25 **MR. FARR:** IT'S NOT A QUESTION --

3:06PM 1                   **THE COURT:** -- IT'S NOT A QUESTION FOR HIM.

2                   **MR. FARR:** POLITICAL SCIENTISTS REGULARLY LOOK AT  
3 MAPS LIKE THIS AND DRAW CONCLUSIONS ABOUT WHETHER POLITICS WAS  
4 THE PREDOMINANT MOTIVE. WE HAVE HAD YEARS OF LITIGATION OVER  
5 EXPERT REPORTS AND SIMULATED MAPS WITH EXPERTS TESTIFYING THAT  
6 A MAP WAS AN ILLEGAL POLITICAL GERRYMANDER. THIS SAME  
7 PRINCIPLE APPLIES TO CASES WHERE THERE'S A RACIAL GERRYMANDER.

8                   NOW, THE POINT OF THIS CASE, YOUR HONOR, IS THAT FOR THE  
9 PLAINTIFFS TO PREVAIL, THEY HAVE TO PROVE THAT THEY ARE  
10 OFFERING A LEGAL REMEDY. THAT IS PART OF THE BURDEN OF PROOF  
11 FOR A SECTION 2 LAWSUIT. MR. COOPER'S MAPS, WE BELIEVE, ARE  
12 RACIAL GERRYMANDERS IN THE WAY THEY WERE DRAWN, AND ALSO  
13 BECAUSE THEY ILLEGALLY MAXIMIZED THE NUMBER OF MAJORITY BLACK  
14 DISTRICTS ABOVE PROPORTIONALITY. SO WE BELIEVE THAT THIS COURT  
15 COULD NOT ORDER THE STATE TO ADOPT THIS MAP AND THAT THIS MAP  
16 DOES NOT REPRESENT AN EXAMPLE OF A LEGAL REMEDY THAT THE  
17 PLAINTIFFS HAVE TO OFFER TO PROVE THEIR CASE.

18                   THIS IS WELL WITHIN DR. BARBER'S EXPERTISE. HE HAS HAD  
19 GREAT EXPERIENCE INVOLVING SIMULATED MAPS WHERE QUESTIONS OF  
20 INTENT WERE INVOLVED IN THE CASES IN WHICH HE HAS TESTIFIED.  
21 AND THE EXPERT WITNESSES WERE NOT ALLOWED TO GIVE LEGAL  
22 CONCLUSIONS. THAT IS STRICTLY UP TO YOU.

23                   HE'S NOT QUALIFIED TO SAY WHAT MR. COOPER WAS THINKING.  
24 WE ARE NOT CHALLENGING WHAT MR. COOPER WAS THINKING. WHAT WE  
25 ARE SAYING IS, HE IS A POLITICAL SCIENTIST. HE CAN DO A

3:07PM 1 FORENSIC EXAMINATION ON THESE MAPS, WHICH HE HAS DONE IN HIS  
2 REPORT, AND THEN HE CAN DRAW A CONCLUSION BASED ON HIS  
3 UNDERSTANDING OF WHAT THE WORD "PREDOMINANT" MEANS, WHICH WE  
4 WILL GO INTO. HE WILL EXPLAIN WHAT HE MEANS BY PREDOMINANT,  
5 AND THAT THIS IS SOMETHING REGULARLY DONE BY POLITICAL  
6 SCIENTISTS IN CASES LIKE THIS. IT'S BEEN DONE OVER AND OVER  
7 AND OVER AGAIN, YOUR HONOR. AND DR. BARBER IS WELL QUALIFIED TO  
8 DO THAT BECAUSE HE HAS BEEN INVOLVED IN CASES WHERE THIS VERY  
9 ISSUE HAS BEEN LITIGATED.

10 **THE COURT:** OKAY. THE TENDER IS IN POLITICAL  
11 SCIENCE, AMERICAN POLITICS, VOTING BEHAVIOR AND PATTERNS AND  
12 SIMULATED MAPS. WHAT OF THOSE AREAS OF TENDER ARE YOU  
13 OBJECTING TO?

14 **MR. NAIFEH:** WE ARE OBJECTING TO ANYTHING THAT GOES  
15 BEYOND THOSE AREAS OF TENDER, AND WE THINK THAT SOME PORTIONS  
16 OF THE REPORT GO BEYOND THOSE AREAS OF TENDER.

17 **THE COURT:** OKAY. WELL, THEN, ARE YOU AGREEING, OR  
18 ARE YOU WILLING TO STIPULATE THAT HE MAY GIVE OPINION TESTIMONY  
19 IN THE FIELDS OF POLITICAL SCIENCE, AMERICAN POLITICS, VOTING  
20 BEHAVIOR AND PATTERNS, AND SIMULATED MAPS?

21 **MR. NAIFEH:** YES, YOUR HONOR.

22 **THE COURT:** THEN HE WILL BE ACCEPTED TO GIVE OPINION  
23 TESTIMONY IN THAT FIELD, AND YOU MAY MAKE OBJECTIONS TO  
24 ANYTHING THAT YOU THINK IS OBJECTIONABLE. WE WILL DEAL WITH IT  
25 ON A QUESTION-BY-QUESTION BASIS. THE EXHIBIT -- OFFER YOUR

3:09PM 1 EXHIBITS AGAIN, MR. FARR, PLEASE.

2 MR. FARR: THANK YOU VERY MUCH, YOUR HONOR. IT WOULD  
3 BE SECRETARY OF STATE EXHIBIT 1 AND SECRETARY OF STATE EXHIBIT  
4 4 WE MOVE TO BE INTRODUCED INTO EVIDENCE.

5 THE COURT: ADMITTED.

6 MR. FARR: MAY I CONTINUE, YOUR HONOR?

7 THE COURT: YES.

8 DIRECT EXAMINATION (CONTINUING)

9 BY MR. FARR:

10 Q. ALL RIGHT. DR. BARBER, I JUST WANT TO REPEAT A FEW  
11 THINGS. YOU ARE NOT INTENDING TO GIVE A LEGAL OPINION IN THIS  
12 CASE; IS THAT CORRECT?

13 A. THAT IS CORRECT.

14 Q. AND ARE YOU INTENDING TO TESTIFY ABOUT WHAT MR. COOPER WAS  
15 THINKING WHEN HE DREW HIS MAPS?

16 A. NO, I AM NOT.

17 Q. ALL RIGHT. YOU'VE HEARD THIS WORD "PREDOMINANT" THROWN  
18 AROUND. I RECALL THAT MR. COOPER USED THE WORD "PREDOMINANT,"  
19 BUT I DON'T RECALL ANYONE EVER DEFINING WHAT THAT MEANT. SO I  
20 WANT YOU, AS A POLITICAL SCIENTIST, TO DEFINE TO THE COURT WHAT  
21 YOU MEAN AS A POLITICAL SCIENTIST, WHAT DOES PREDOMINANT MEAN?

22 A. SO IN MY VIEW, WHEN SOME FACTOR IN A HOST OF FACTORS  
23 PREDOMINATES, WHAT WE ARE LOOKING AT IS THAT IN ORDER TO  
24 ACHIEVE A PARTICULAR OBJECTIVE OR TO ACCOMPLISH SOME OBJECTIVE  
25 WITH REGARDS TO THAT FACTOR, THAT IF IT IS THE CASE THAT THAT

3:10PM 1 FACTOR CAME IN CONFLICT WITH OTHER FACTORS, THAT THOSE OTHER  
2 FACTORS WOULD GIVE WAY OR TO SOME DEGREE BE SUBORDINATED IN  
3 ORDER TO ACCOMPLISH THE PREDOMINANT FACTOR IN QUESTION.

4 **MR. NAIFEH:** YOUR HONOR, I WANT TO OBJECT NOT TO THE  
5 ANSWER BUT TO ANY FURTHER TESTIMONY ABOUT -- IN THAT AREA OF  
6 THE ANSWER BECAUSE THAT DEFINITION OF PREDOMINANCE IS ABOUT THE  
7 SUBJECTIVE INTENT OF THE MAP-DRAWER.

8 **MR. FARR:** YOUR HONOR, I COMPLETELY DISAGREE WITH IT.  
9 WE ARE NOT TALKING ABOUT THE INTENT. YOU KNOW, MR. COOPER MAY  
10 BE ABSOLUTELY GENUINE, AND I DON'T HAVE ANY DOUBT THAT HE IS  
11 GENUINE IN HIS BELIEF THAT HE DID NOT USE RACE AS A PREDOMINANT  
12 FACTOR, BUT THAT DOESN'T MEAN HE IS RIGHT. THAT IS UP TO YOU  
13 TO DECIDE.

14 IN MAKING THAT DECISION, YOU ARE ENTITLED TO HEAR OTHER  
15 EVIDENCE NOT ABOUT MR. COOPER'S SUBJECTIVE INTENT BUT A  
16 FORENSIC EXAMINATION OF A MAP BY A PERSON WHO IS HIGHLY  
17 QUALIFIED TO LOOK AT A MAP AND TO GIVE YOU HIS OPINION AS A  
18 POLITICAL SCIENTIST AS TO WHAT FACTOR WAS THE DRIVING FORCE  
19 BEHIND THE MAP.

20 **THE COURT:** IT'S A PRETTY THIN LINE, WHAT FACTOR WAS  
21 THE DRIVING FORCE BEHIND THE MAP. I'M GOING TO GIVE YOU SOME  
22 LATITUDE, BUT IT REALLY DOES -- IT'S A HORSE BY A DIFFERENT  
23 COLOR OR A HORSE BY A DIFFERENT NAME, BUT IT DOESN'T MAKE IT A  
24 ZEBRA. I MEAN, IT IS STILL A HORSE, AND YOU ARE STILL  
25 ASKING -- AT ITS BASE, IT IS A QUESTION OF WHAT WAS THE

3:12PM 1 SUBJECTIVE INTENT, WHICH MEANS THAT -- WELL, I'M GOING TO  
2 OVERRULE THE OBJECTION, BUT I THINK THAT IT'S REALLY ON A LINE.

3 **MR. FARR:** THANK YOU, YOUR HONOR. MAY I CONTINUE?

4 **THE COURT:** YOU MAY.

5 **BY MR. FARR:**

6 Q. SO BASED UPON YOUR DEFINITION OF PREDOMINANT, DID YOU  
7 REACH ANY CONCLUSIONS ABOUT MR. COOPER'S MAPS?

8 A. YES.

9 Q. WHAT WERE THEY?

10 **MR. NAIFEH:** OBJECTION, YOUR HONOR. HE IS ASKING  
11 HIM, BASED ON HIS DEFINITION OF PREDOMINANCE, TO OFFER A  
12 CONCLUSION, AND HIS DEFINITION OF PREDOMINANCE WAS SPECIFICALLY  
13 ABOUT WHAT FACTORS WERE PUT INTO PLAY IN -- THE LANGUAGE HE  
14 JUST STATED IN HIS PRIOR ANSWER WAS IN ORDER TO ACHIEVE A  
15 PARTICULAR OBJECTIVE. THAT IS -- THAT'S THE SUBJECTIVE INTENT  
16 OF THE MAP-DRAWER ABOUT WHAT THEY DID IN ORDER TO ACHIEVE AN  
17 OBJECTIVE, AND THAT'S WHAT HE IS ABOUT TO ELICIT AN ANSWER --

18 **THE COURT:** OBJECTION IS SUSTAINED. YOU ARE ASKING  
19 HIM FOR THE ULTIMATE CONCLUSION OF WHAT WAS THE PREDOMINANT  
20 FACTOR IN MR. COOPER'S MIND. OBJECTION IS SUSTAINED.

21 **MR. FARR:** JUST TO ESTABLISH THE RECORD, YOUR HONOR,  
22 MAY I BE HEARD AGAIN?

23 **THE COURT:** NO. YOU MAY ASK ANOTHER QUESTION.

24 **MR. FARR:** MAY I ASK DR. COOPER TO ANSWER THE  
25 QUESTION TO MAKE A PROFFER OF PROOF FOR THE RECORD?

3:13PM 1           **THE COURT:** WHEN THE COURT IS OFF THE BENCH, YOU CAN  
2 MAKE A PROFFER. AND HIS NAME IS DR. BARBER.

3           **MR. FARR:** I'M SORRY, MA'AM. IT IS 3:15, AND I'M A  
4 LITTLE WORN OUT. SO I APOLOGIZE.

5           **THE COURT:** YOU CAN MAKE A PROFFER AT THE APPROPRIATE  
6 TIME, BUT NOT WHILE WE ARE ON THE RECORD IN THIS PROCEEDING  
7 WHILE I'M SITTING HERE, BECAUSE I DON'T NEED TO BE HERE FOR  
8 YOUR PROFFER.

9           **MR. FARR:** WILL I BE ABLE TO MAKE THAT PROFFER WITH  
10 THE COURT REPORTER?

11           **THE COURT:** YES. YES, YOU WILL.

12           **MR. FARR:** THANK YOU.

13 **BY MR. FARR:**

14 Q. NOW, DR. BARBER, YOU STATED THAT YOU HAVE MADE SIMULATED  
15 MAPS IN OTHER CASES. CAN YOU TELL US THE SPECIFICS OF HOW A  
16 SIMULATED MAP COMES ABOUT AND WHAT IS AN ALGORITHM?

17 A. SURE. SO THE BASIC IDEA OF HOW SIMULATED MAPS WORK IS YOU  
18 HAVE AN ALGORITHM THAT IS DESIGNED TO DRAW A LARGE NUMBER OF  
19 MAPS IN A PARTICULAR JURISDICTION, AND IN THIS CASE WE ARE  
20 TALKING ABOUT THE STATE OF LOUISIANA.

21 THE ALGORITHM IS PROVIDED WITH A NUMBER OF PIECES OF DATA  
22 THAT ALLOW IT TO DRAW THE MAPS. INITIALLY, THAT BEGINS BY  
23 GIVING THE COMPUTER A PIECE OF -- A LARGE DATASET THAT CONTAINS  
24 THE INFORMATION ABOUT THE NUMBER OF VOTERS THAT LIVE IN THE  
25 STATE AND THE GEOGRAPHIC LOCATION OF THOSE VOTERS, SO HOW THEY



3:14PM 1 ARE DISTRIBUTED ACROSS THE STATE.

2 BEYOND THAT, YOU THEN WOULD INSTRUCT THE ALGORITHM TO TAKE  
3 THAT INFORMATION AND DRAW A PARTICULAR NUMBER OF DISTRICTS.  
4 AND SO IN THIS CASE WE ARE DEALING WITH 39 DISTRICTS IN THE  
5 SENATE AND 105 DISTRICTS IN THE HOUSE. IN ORDER TO DRAW THOSE  
6 DISTRICTS, YOU THEN INSTRUCT THE ALGORITHM TO TAKE INTO ACCOUNT  
7 VARIOUS FACTORS OR COMPONENTS, AND SO THOSE ARE WHAT ARE OFTEN  
8 REFERRED TO AS THE TRADITIONAL REDISTRICTING CRITERIA, THINGS  
9 LIKE EQUAL POPULATION, GEOGRAPHIC CONTIGUITY, FACTORS LIKE  
10 THAT.

11 Q. WHAT IS MEANT BY THE TERM "CONSTRAINT"?

12 A. SO CONSTRAINT IS ANOTHER WORD FOR THESE FACTORS THAT YOU  
13 PROVIDE TO THE ALGORITHM. SO BY CONSTRAINT, I MEAN WE FORCE  
14 THE ALGORITHM TO DRAW 39 DISTRICTS OR WE FORCE THE DISTRICTS TO  
15 HAVE ROUGHLY EQUAL POPULATION. SO WE CONSTRAIN THE ALGORITHM  
16 TO MEET THESE CRITERIA THAT WE ARE PROVIDED WITH.

17 Q. HOW DID YOU DECIDE WHICH CONSTRAINTS TO IMPLEMENT IN THE  
18 ALGORITHM THAT YOU USED IN THIS CASE?

19 A. SO THE GUIDING DOCUMENT FOR THE PARTICULAR CONSTRAINTS  
20 THAT I PROVIDED THE ALGORITHM ARE THE JOINT -- THE CONSTRAINTS  
21 OUTLINED IN THE JOINT RULE 21.

22 **MR. FARR:** YOUR HONOR, I THINK FOR THE RECORD, THAT  
23 IS EXHIBIT JX53.

24 **THE COURT:** HE IS ASKING YOU TO CLARIFY YOUR  
25 QUESTION. I DON'T THINK HE UNDERSTOOD YOUR QUESTION. CLARIFY

3:16PM 1 YOUR QUESTION. HE SAID -- IS THAT WHAT YOU WERE DOING?

2 **THE WITNESS:** I'M SORRY. THAT WAS MY ANSWER.

3 **THE COURT:** OH, I'M SORRY. I MISUNDERSTOOD YOU.

4 **THE WITNESS:** MY APOLOGIES.

5 **THE COURT:** JOINT RULE 21.

6 **BY MR. FARR:**

7 Q. SIR, JUST TO MAKE SURE WE HAVE A COMPLETE ANSWER, COULD  
8 YOU AGAIN STATE ALL THE CONSTRAINTS THAT YOU USED IN FORMING  
9 THE ALGORITHM THAT YOU USED IN THIS CASE?

10 A. SURE. SO THE ALGORITHM IS PROGRAMMED TO CONSTRUCT THE  
11 APPROPRIATE NUMBER OF DISTRICTS FOR THE SENATE AND HOUSE. IT'S  
12 INSTRUCTED TO, FOR EACH OF THOSE DISTRICTS, TO HAVE ROUGHLY  
13 EQUAL POPULATION, TO BE GEOGRAPHICALLY CONTIGUOUS. I FURTHER  
14 INSTRUCT THE ALGORITHM TO PRIORITIZE DISTRICTS, DRAWING  
15 DISTRICTS THAT HAVE MINIMAL OR MINIMIZE THE NUMBER OF PARISH  
16 AND MUNICIPAL DIVISIONS. AND THEN BEYOND THAT, I INSTRUCT THE  
17 ALGORITHM TO MAKE THE DISTRICTS ROUGHLY GEOGRAPHICALLY COMPACT  
18 AND TO THEN ALSO TRY TO MINIMIZE DEVIATIONS FROM THE PREVIOUS  
19 DECADE'S PLAN.

20 Q. WAS PARTISANSHIP ONE OF THE CONSTRAINTS THAT YOU USED?

21 A. NO, THE COMPUTER HAS NO INFORMATION ABOUT THE PARTISANSHIP  
22 OF VOTERS IN THE STATE.

23 Q. WHAT ABOUT RACE? WAS THAT A CONSTRAINT THAT YOU USED?

24 A. NO. SO THE COMPUTER DOES NOT HAVE ANY INFORMATION ABOUT  
25 THE RACIAL COMPOSITION OF THE VOTERS IN THE STATE.

3:18PM

1 Q. WHY WAS THAT IMPORTANT?

2 A. SO THAT'S KIND OF THE KEY TO WHAT THESE ALGORITHMS ARE  
3 DESIGNED TO DO IS YOU INSTRUCT THE ALGORITHM TO DRAW A LARGE  
4 SET OF MAPS USING THE CRITERIA THAT WE HAVE JUST DISCUSSED.  
5 BUT IN SHIELDING THE ALGORITHM FROM INFORMATION ABOUT RACE, WE  
6 THEN KNOW THAT AT THE END OF THE PROCESS, WE HAVE A LARGE SET  
7 OF MAPS THAT ARE DRAWN WITHOUT ANY REGARD TO RACE. WE KNOW  
8 THAT THE ALGORITHM HAS NOT CONSIDERED RACE IN THE DRAWING OF  
9 THE DISTRICTS.

10 AT THAT POINT, WE ARE THEN ABLE TO COMPARE THAT LARGE SET  
11 OF SIMULATED MAPS TO A MAP IN QUESTION WHERE THERE IS A  
12 QUESTION AS TO WHETHER RACE OR THE DEGREE TO WHICH RACE WAS  
13 USED IN DRAWING THAT MAP.

14 Q. OKAY. AND HOW WOULD THAT WORK IN THIS CASE?

15 A. SO IN THIS CASE, WE DRAW A LARGE SET OF MAPS USING THE  
16 ALGORITHM, AT WHICH POINT WE CAN THEN COMPARE THAT SET OF MAPS  
17 TO, IN THIS CASE, THE ILLUSTRATIVE MAPS THAT WERE DRAWN. WE  
18 CAN THEN COMPARE THEM ON A NUMBER OF METRICS, ONE OF THOSE  
19 METRICS BEING THE RACIAL COMPOSITION OF THE ILLUSTRATIVE MAPS  
20 COMPARED TO THE RACIAL COMPOSITION OF THE MAPS DRAWN BY THE  
21 COMPUTER ALGORITHM.

22 Q. NOW, DR. BARBER, ARE YOU FAMILIAR WITH THE ALABAMA CASE,  
23 *MERRILL V. MILLIGAN*?

24 A. YES.

25 Q. AND ARE YOU AWARE THAT SIMULATED MAPS WERE USED IN THAT

3:19PM 1 CASE?

2 A. YES.

3 Q. IS YOUR USE OF SIMULATED MAPS IN THIS CASE THE SAME AS  
4 WHAT -- AS HOW THE STATE USED SIMULATED MAPS IN THE ALABAMA  
5 CASE?

6 A. NO, IT'S A DIFFERENT UNDERTAKING HERE. MY UNDERSTANDING  
7 IN THE *MILLIGAN* CASE IS THAT THE MAPS WERE USED TO ARGUE THAT  
8 THE STATE'S MAP DID NOT HAVE A DISCRIMINATORY EFFECT, AND  
9 THAT'S NOT WHAT WE ARE DOING HERE. HERE WE ARE DRAWING THE  
10 MAPS TO USE AS A COMPARISON SET AGAINST THE ILLUSTRATIVE MAP  
11 AND IDENTIFY DIFFERENCES THAT EXIST BETWEEN A MAP THAT WAS  
12 POTENTIALLY DRAWN WITH RACE AS A CONSIDERATION AND A LARGE SET  
13 OF MAPS WHERE WE KNOW WITH CERTAINTY THAT RACE WAS NOT A  
14 CONSIDERATION.

15 **MR. NAIFEH:** OBJECT, YOUR HONOR, TO ANY FURTHER  
16 QUESTIONS ABOUT LEGAL -- ASKING FOR LEGAL CONCLUSIONS. HE JUST  
17 TESTIFIED TO HIS UNDERSTANDING OF WHAT MAPS WERE USED FOR IN  
18 THE *MILLIGAN* CASE AND HOW THE COURT TREATED THEM.

19 **THE COURT:** THAT WILL BE SUSTAINED. YOU CAN ARGUE,  
20 MR. FARR, AND I'M SURE YOU WILL AND I'M SURE YOU ARE ABLE TO,  
21 THAT THERE'S SOME DISTINCTION HERE, BUT TO ASK HIM TO DRAW A  
22 DISTINCTION BETWEEN WHAT YOU HAVE ASKED HIM TO DO AND WHAT AN  
23 EXPERT IN ANOTHER CASE DID, I MEAN --

24 **MR. FARR:** I'M SORRY, YOUR HONOR. I WON'T ASK THAT  
25 QUESTION AGAIN.

3:21PM 1                   **THE COURT:** ALL RIGHT. MOVE ON.

2                   **MR. FARR:** THANK YOU.

3 **BY MR. FARR:**

4       Q. NOW, LET'S TURN TO THE RESULTS OF YOUR SIMULATION,  
5 DR. BARBER. HOW MANY SIMULATED MAPS DID YOU PRODUCE?

6       A. I PRODUCED 100,000 SIMULATED MAPS IN THE HOUSE AND 100,000  
7 SIMULATED MAPS IN THE SENATE.

8       Q. WHY DID YOU PRODUCE SO MANY MAPS?

9       A. SO THE PARTICULAR NUMBER IS NOT AS CRITICAL AS THE FACT  
10 THAT IT'S A LARGE SET OF MAPS THAT ARE REPRESENTATIVE OF THE  
11 UNIVERSE OF POTENTIAL MAPS THAT COULD BE DRAWN. GIVEN THE SIZE  
12 OF THE STATE, THE NUMBER OF DISTRICTS THAT WE ARE TALKING ABOUT  
13 AND THE NUMBER OF PRECINCTS THAT COMPOSE THOSE DISTRICTS, THERE  
14 ARE LITERALLY BILLIONS OF POTENTIAL MAPS THAT COULD BE DRAWN.

15           SO WHAT IS GOOD ABOUT THESE ALGORITHMS IS THAT THEY ARE  
16 CAPABLE OF DRAWING A LARGE SAMPLE OF MAPS THAT ARE THEN  
17 REPRESENTATIVE OF THAT UNIVERSE OF POTENTIAL MAPS, IN MUCH THE  
18 SAME WAY THAT WHEN WE DO SURVEY RESEARCH, WE DON'T TALK TO  
19 EVERY PERSON IN THE COUNTRY. WE TAKE A SAMPLE OF THE  
20 POPULATION TO TALK ABOUT BROADER TRENDS ACROSS THE COUNTRY.

21       Q. SO AFTER YOU DREW THE HUNDRED THOUSAND MAPS -- YOU DID A  
22 HUNDRED THOUSAND MAPS FOR BOTH THE SENATE AND THE HOUSE; IS  
23 THAT CORRECT?

24       A. YES, THAT IS CORRECT.

25       Q. OKAY. WHAT DID YOU DO WITH THOSE MAPS AFTER YOU HAD

3:22PM 1 GENERATED A HUNDRED THOUSAND MAPS? HOW DID YOU ANALYZE THEM?

2 A. ONCE WE HAVE THE SET OF MAPS, THEN WE CAN COMPUTE VARIOUS  
3 STATISTICS ABOUT THOSE MAPS AND COMPARE THOSE STATISTICS TO  
4 EITHER THE ENACTED MAP OR THE ILLUSTRATIVE MAP.

5 SO IN THIS CASE, I COMPUTED THE BLACK VOTING AGE  
6 POPULATION IN EACH OF THE DISTRICTS IN EACH OF THE SIMULATED  
7 MAPS AND THEN CAN COMPARE THAT TO THE BVAP IN THE ENACTED MAP  
8 OR THE ILLUSTRATIVE MAP.

9 Q. WHAT WAS THE MAIN TAKEAWAY THAT YOU HAD, DR. BARBER, AFTER  
10 YOU DID THAT COMPARISON?

11 A. THE MAIN TAKEAWAY IS THAT IN USING THE REDISTRICTING  
12 CRITERIA THAT WE JUST DISCUSSED FROM JOINT RULE 21, THE  
13 SIMULATED MAPS PRODUCED FAR FEWER MAJORITY BVAP DISTRICTS THAN  
14 THE ILLUSTRATIVE MAP.

15 **MR. NAIFEH:** YOUR HONOR, I'M GOING TO OBJECT HERE ON  
16 RELEVANCE GROUNDS. HE IS ATTEMPTING TO ESTABLISH THAT HIS  
17 SIMULATIONS CREATED SOME KIND OF REPRESENTATIVE SAMPLE OF  
18 DISTRICTS THAT DID NOT CONSIDER RACE. THE SUPREME COURT  
19 RECENTLY REJECTED DEFENDANT'S ARGUMENTS THAT AN ILLUSTRATIVE  
20 PLAN MUST BE ASSESSED AGAINST A RACE-NEUTRAL BENCHMARK, AND  
21 THAT WAS RECENTLY REINFORCED BY THE FIFTH CIRCUIT IN THE  
22 *ROBINSON* CASE, AND SO THIS WHOLE TOPIC OF SIMULATIONS PRODUCING  
23 A RACIAL NEUTRAL BENCHMARK PROVIDES NO RELEVANT INFORMATION TO  
24 THE RESOLUTION OF THIS CASE.

25 **MR. FARR:** YOUR HONOR, I THINK IT IS VERY RELEVANT TO

3:24PM 1 COMPARE -- YOU SAID WE CAN PUT ON EVIDENCE RELATED TO THE FACTS  
2 OF THE MAPS, AND IT'S RELEVANT IN YOU MAKING YOUR DECISION  
3 ABOUT WHETHER RACE WAS THE PREDOMINANT FACTOR.

4 **THE COURT:** BUT NOW WE COME RIGHT BACK TO SUBJECTIVE  
5 INTENT, AND HE IS CORRECT, THE U.S. SUPREME COURT IN *MILLIGAN*  
6 SAID THAT A BENCHMARK OF RACE-NEUTRAL MAPS WAS NOT SUITABLE FOR  
7 A SECTION 2 INQUIRY.

8 **MR. FARR:** THAT WAS NOT THE PURPOSE OF THE MAPS IN  
9 *MILLIGAN*, YOUR HONOR. THAT'S WHY I ASKED THAT QUESTION. THE  
10 SIMULATED MAPS IN *MILLIGAN* WERE OFFERED TO PROVE THAT IF THE  
11 PLAINTIFFS DID NOT PROPOSE A REMEDIAL MAP THAT WAS ONE OF THE  
12 SIMULATIONS, THAT MEANT THAT THEIR MAP WAS ILLEGAL. WE ARE NOT  
13 OFFERING IT FOR THAT REASON. WE ARE OFFERING THE SIMULATED  
14 MAPS SO YOU CAN MAKE A COMPARISON AND EVALUATE THE EVIDENCE TO  
15 DECIDE WHETHER OR NOT RACE WAS THE PREDOMINANT MOTIVE, WHICH IS  
16 WITHIN THE PROVINCE OF THE COURT.

17 THAT'S EXACTLY WHY I WANTED TO MAKE THE POINT THAT THESE  
18 SIMULATED MAPS ARE NOT BEING OFFERED FOR THE SAME REASON AS  
19 THEY WERE IN THE ALABAMA CASE. I ALSO THINK THAT A LOT OF WHAT  
20 PLAINTIFFS' COUNSEL IS DOING HE CAN BRING UP ON  
21 CROSS-EXAMINATION.

22 **MR. NAIFEH:** YOUR HONOR, MAY I RESPOND?

23 **THE COURT:** YOU MAY.

24 **MR. NAIFEH:** IN *MILLIGAN*, THE ARGUMENT THAT  
25 DEFENDANTS PRESENTED WAS THAT BECAUSE THE ILLUSTRATIVE MAPS DID

3:25PM 1 NOT COME OUT OF A SIMULATION, THAT WAS AN INDICATION THAT RACE  
2 WAS THE PREDOMINANT FACTOR IN THE CREATION OF THOSE MAPS, AND  
3 THE STATE ARGUED THAT THAT MEANT THE PLAINTIFFS HAD NOT  
4 SATISFIED *GINGLES* I. THAT'S THE SAME ARGUMENT THEY ARE  
5 PRESENTING HERE. I MEAN, THAT'S ESSENTIALLY THE SAME REASON  
6 THEY ARE OFFERING THIS EVIDENCE IS TO PROVE THAT RACE  
7 PREDOMINATED IN THE ILLUSTRATIVE MAPS, WHICH SOMEHOW RENDERS  
8 THEM IMPROPER AS EVIDENCE OF, YOU KNOW, UNDER *GINGLES* I IN THIS  
9 CASE.

10 THE COURT: WELL, I DON'T KNOW THAT *GINGLES* I IS HIS  
11 ANGLE.

12 MR. FARR: EXCUSE ME?

13 THE COURT: I SAID I'M NOT CERTAIN THAT *GINGLES* I IS  
14 YOUR ANGLE.

15 MR. FARR: IT'S NOT, YOUR HONOR. IT'S NOT OUR ANGLE.

16 THE COURT: IT'S THE 14TH AMENDMENT.

17 MR. FARR: WHAT'S THAT?

18 THE COURT: IT'S THE 14TH AMENDMENT.

19 MR. NAIFEH: I THINK, AS I UNDERSTAND -- WHETHER IT'S  
20 *GINGLES* I OR IT'S THE 14TH AMENDMENT, THE ARGUMENT IS THAT  
21 BECAUSE THE MAP PURPORTEDLY VIOLATES THE 14TH AMENDMENT, IT  
22 CANNOT BE OFFERED TO PROVE A SECTION 2 VIOLATION. THAT WAS THE  
23 SAME ARGUMENT THE STATE MADE IN THE ALABAMA CASE THAT THE  
24 SUPREME COURT REJECTED.

25 THE COURT: OKAY. THE COURT IS GOING -- WE ARE GOING



3:26PM 1 TO BREAK FOR THE WEEKEND AND COME BACK AT 9:00 ON MONDAY  
2 MORNING SO THAT THE COURT CAN LOOK AT THE ISSUE. IT WOULD HAVE  
3 BEEN MOST HELPFUL HAD YOU TEED THIS UP IN A MOTION IN LIMINE.  
4 WE ARE GOING TO BE AT RECESS UNTIL 9 A.M. MONDAY MORNING.

5 (TRIAL RECESSED UNTIL 9:00 A.M., MONDAY, DECEMBER 3, 2023)

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CERTIFICATE OF COURT REPORTER

I, TERI B. NORTON, RMR, FCRR, RDR, OFFICIAL COURT  
REPORTER FOR THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN  
DISTRICT OF MISSISSIPPI, APPOINTED PURSUANT TO THE PROVISIONS  
OF TITLE 28, UNITED STATES CODE, SECTION 753, DO HEREBY CERTIFY  
THAT THE FOREGOING IS A CORRECT TRANSCRIPT OF THE PROCEEDINGS  
REPORTED BY ME USING THE STENOGRAPHIC REPORTING METHOD IN  
CONJUNCTION WITH COMPUTER-AIDED TRANSCRIPTION, AND THAT SAME IS  
A TRUE AND CORRECT TRANSCRIPT TO THE BEST OF MY ABILITY AND  
UNDERSTANDING.

I FURTHER CERTIFY THAT THE TRANSCRIPT FEES AND FORMAT  
COMPLY WITH THOSE PRESCRIBED BY THE COURT AND THE JUDICIAL  
CONFERENCE OF THE UNITED STATES.

S/ TERI B. NORTON  
TERI B. NORTON, RMR, FCRR, RDR  
OFFICIAL COURT REPORTER