

NEW YORK STATE
NEW YORK STATE LEGISLATIVE TASK FORCE ON DEMOGRAPHIC
RESEARCH AND REAPPORTIONMENT

PUBLIC HEARING
CONGRESSIONAL AND STATE LEGISLATIVE REDISTRICTING

SUNY College at Old Westbury

Maguire Theater

223 Store Hill Road

Old Westbury, NY

Thursday, October 27, 2011

10:00 a.m.

DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT, 10-27-2011

TASK FORCE MEMBERS PRESENT:

SENATOR MICHAEL F. NOZZOLIO, Co-Chair, NYS Legislative
Task Force on Demographic Research and Reapportionment

ASSEMBLY MEMBER JOHN J. MCENENY, Co-Chair, NYS Legislative
Task Force on Demographic Research and Reapportionment

SENATOR MARTIN M. DILAN

ASSEMBLY MEMBER ROBERT OAKS

DEBRA LEVINE

ROMAN HEDGES

WELQUIS LOPEZ

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2 (The public hearing commenced at 10:03
3 a.m.)

4 (Crosstalk)

5 ASSEMBLY MEMBER JOHN J. MCENENY, CO-
6 CHAIR, NYS LEGISLATIVE TASK FORCE ON DEMOGRAPHIC
7 RESEARCH AND REAPPORTIONMENT: Good morning and
8 thank you very much for coming to this. The 13th
9 public hearing of LATFOR which is the New York
10 State Legislative body which has the
11 responsibility to draw lines which at this point
12 will be the preliminary lines which we hope to
13 have drawn after the last and 14th meeting which
14 is happening next week in Plattsburg. These
15 meetings have been held across the state. We
16 started as soon as we could once the session was
17 over. And my name is John McEneny better known
18 as Jack McEneny. I'm the co-chair representing
19 the assembly. I am joined with my co-chair,
20 Senator Mike Nozzolio. We have members of the
21 minority in each house. To my right, Bob Oaks,
22 member of the assembly. To my left, Senator
23 Martin Dilan, Senator. We have two citizen
24 members who are with us as well. Welquis Lopez

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2 representing the Senate side and Roman Hedges in
3 regards to the assembly. We're also joined up
4 here on the Panel with Debra Levine who is one of
5 the executive co-chairs that do the day to day
6 work of LATFOR which goes on literally even
7 beyond this period. We are joined so far by a
8 number of elected officials. I'm going to ask
9 some of them to come up early because I know they
10 have some conflicts in scheduling. Phil Ra--
11 Ramos and Ed Ra and Mike Montizano [phonetic],
12 all members of the New York State Assembly, Devon
13 Abrahams, and Wayne Wink representing the County
14 legislature and Nassau and Carmen Piñeyro, who's
15 a village of--Village of Freeport person who is
16 on the counsel there.

17 And I advise you all that the only
18 people that we can only recognize up here sit at
19 that table because the rest of you are back
20 lighted. So if you do see another elected
21 official that should be properly recognized, that
22 would be helpful.

23 Before we start, I'd like to offer my
24 co-chair an opportunity to speak, Mike Nozzolio,

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2 and that'll be followed by any other members of
3 the Panel who wish to have some opening remarks.

4 SENATOR MICHAEL F. NOZZOLIO, CO-CHAIR,
5 NYS LEGISLATIVE TASK FORCE ON DEMOGRAPHIC
6 RESEARCH AND REAPPORTIONMENT: Thank you,
7 Assembly Member McEneny. Good morning ladies and
8 gentlemen. My name is Mike Nozzolio. I'm
9 honored to be the Senate's Majorities
10 representative on this task force. This is our
11 now 13th Hearing that we have conducted across New
12 York State that Nassau was specifically requested
13 to have a hearing here by assem--Senator Dilan.
14 I thank Senator Dilan for his suggestion and that
15 we look forward to hearing the input from our
16 Nassau citizenry. We've asked--I've asked for
17 this theatre type approach to be changed, bring
18 up the house lights, and let us all engage in
19 less than hopefully not theatrical situation.
20 This is a hearing. We want to hear from
21 everyone. There is a video record being taken of
22 this proceeding. The record will be placed on
23 the LATFOR website for all to view. We encourage
24 those who cannot be at a public hearing to attend

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2 either through written or other com--the LATFOR
3 website. We are making a lengthy official record
4 of the interests of our citizens across New York
5 State and that we ask and welcome--we ask for and
6 welcome the participation of everyone in this
7 process. Without further ado, I thank you
8 assemblymen, it's good to see you again, and I
9 look forward to having the input from the
10 citizen's of Nassau County. Senator Dilan?

11 SENATOR MARTIN DILAN, NYS LEGISLATIVE
12 TASK FORCE ON DEMOGRAPHIC RESEARCH AND
13 REAPPORTIONMENT: Good morning. I'm State
14 Senator Martin Malave Dilan, 17th Senatorial
15 District and I am representing the Democratic
16 Minority Conference at these hearings.

17 First of all, I'd like to thank both co-
18 chairs for honoring my requests that my
19 colleagues for holding a hearing here in Nassau.
20 I just sincerely hope that the maze of Westbury
21 is accessible to all those that wish to testify.
22 And nonetheless I am happy to be here and to
23 listen to the residents of this county as to what
24 they would like to see within their future in the

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2 State Senate assembly and congressional lines.
3 So I look forward to hearing from you. Thank
4 you.

5 ASSEMBLY MEMBER MCENENY: Assemblyman
6 Oaks?

7 ASSEMBLY MEMBER ROBERT OAKS, NYS
8 LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH
9 AND REAPPORTIONMENT: I'd just like to quickly
10 add my welcome to everyone and a appreciation for
11 you taking time out of your schedule to be here
12 and look forward to hearing your comments today
13 as it impacts redistricting and for next year.
14 Thank you.

15 ASSEMBLY MEMBER MCENENY: Thank you.
16 Many people are submitting written testimony. In
17 some cases, the testimony is very thick. We
18 would ask you, we don't like to cut anyone off.
19 You certainly have a minimum of five minutes. If
20 you're about to wrap it up, we can go a little
21 bit longer. But when you do have large testimony
22 being submitted, we would appreciate it if you
23 would summarize that testimony. Everything that
24 you say is being recorded. And will be turned

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2 into a transcript. Everything you submit is part
3 of the official record. And I'd like to start
4 with County Legislature Kevan Abrams, Abrahams.
5 Good morning.

6 HONORABLE KEVAN ABRAHAMS, LEGISLATOR,
7 NASSAU COUNTY: Good morning. Thank you for
8 accommodating my schedule. I'll be brief as I
9 read into my statement into the record. But I
10 want to thank first LATFOR for hosting two forums
11 on the Long Island area so the public can voice
12 their concerns regarding the upcoming
13 redistricting process.

14 I have served with the Nassau County
15 Legislature for nine years. As most of you know,
16 this year we endured our own ill advised
17 redistricting process in which the New York State
18 Court of Appeals had to intervene to rule against
19 a proposal that would implement redistricting for
20 two years prior than past practice as per our
21 county charter. Though this proposal was struck
22 down, due to the lack of insight and public
23 meetings, it disenfranchised many areas and split
24 communities of common interests. In light of the

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2 judicial intervention, preventing the majority in
3 the legislature from going forward, this will now
4 become a fight in two years to ensure and
5 preserve communities of common interest. Moving
6 forward to this process, the state and
7 congressional district redistricting, I would
8 like to encourage this body to integrate some of
9 the general themes to ensure the process is fair
10 to taxpayers in this state.

11 First, make the redistricting process an
12 open process. This will improve the
13 imperceptions that residents have of government.
14 There should be no secret deals. Thank you.
15 There should be no secret deals behind closed
16 doors. Two, create districts which are not
17 gerrymandered and allow communities of common
18 interest to vote as a block. And three, schedule
19 as many redistricting meetings possibly in the
20 evenings to allow working individuals an
21 opportunity to participate.

22 On a point of history, the Latino and
23 the African American communities and Nassau and
24 Suffolk have been split dating back to the 1970s.

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2 Being the representative of the first district in
3 Nassau County, there are currently three senators
4 that cover my area. Hempstead, I'm sorry. At
5 the same time, District Six and Eight have
6 continued to be divide the communities of color.
7 Hempstead, Uniondale, Roosevelt, Freeport, and
8 Lakeview have been divided into two districts. I
9 encourage this body to address this disservice.

10 These communities have much in common
11 such as social and economic status. I cannot see
12 a reason why we would continue to divide these
13 communities especially since African American and
14 Latino pop--populations have increased and
15 they're increasing in population in these
16 portions of the county. We can very well warrant
17 our very own district above the communities--as I
18 mentioned in the above communities if they join
19 together. Many of my legislative district feel
20 this is an unfair process and undermines
21 democracy. Though this is a disservice to the
22 public, I am not asking for more districts. The
23 Senate should remain at 62. It is my
24 understanding that the State constitution form a

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2 mandates a 62 state senate, senate, senatorial
3 district based on the 2010 census. In my
4 opinion, what happened in 2002 when the Senate
5 Majority chose to increase the number of Senate
6 districts from 61 to 62, did the public a
7 disservice. This action was seen as a device to
8 prevent reapportionment of a district which
9 warranted its lines to change so it would--may
10 reflect the true population shift of New York
11 State.

12 On Long Island, it is important we do
13 not make the same mis-steps. We should give
14 every effort to the reapportionment that the
15 current lines of Long Island to reflect district
16 lines that focus on the guiding principles of re-
17 districting, such as vote--the Voter Rights Act
18 and the state constitution. The rationale to
19 divide these communities of common interests
20 feeds into my constituents mindset that this
21 process is unfair and not balanced.

22 I believe this is more of a question of
23 how the lines are drawn with the current
24 allotment of 62 seats more than the new lines

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2 coming up with 63. We shouldn't ignore how our
3 communities are changing. Therefore should join
4 communities such as Hempstead, Lake View, and
5 Uniondale, Freeport, and Roosevelt within the
6 same senatorial district.

7 In conclusion, when you draw these
8 district lines, put people before politics,
9 please keep in mind the public is watching and
10 accepting a fair and balanced process. LATFOR
11 should use the following basic criteria to govern
12 the redistricting process. Population equality,
13 a 2% overall deviation from legislative
14 districts, strict population equality for
15 congressional districts, opportunities for
16 minority communities, voting right compliance,
17 common--communities of common interest and
18 inherent to the state constitution as it
19 mandates. Thank you for giving me an opportunity
20 to speak.

21 ASSEMBLY MEMBER MCENENY: Thank you very
22 much.

23 MR. ABRAHAMS: Thank you.

24 ASSEMBLY MEMBER MCENENY: County

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2 Legislature Wayne Wink.

3 MR. WAYNE WINK, LEGISLATOR, NASSAU

4 COUNTY: Good morning lady and gentlemen.

5 ASSEMBLY MEMBER MCENENY: Good morning.

6 MR. WINK: I have not prepared text.

7 But I have jotted down a few notes which I'd like
8 to read at this time.

9 I was planning on coming here today to
10 discuss as a cautionary tale the fiasco of the
11 Nassau County Legislature redistricting which
12 Kevan Abrahams referred to just previously. And
13 which was done without public input by a relative
14 handful of political insiders and it was
15 redistricting that would have shifted roughly
16 43%, over 570,000 people, in Nassau County from
17 their existing districts into new districts
18 throughout the county. The attempted larceny
19 that was made of nearly 60% of my district was
20 fortunately thwarted by the courts.

21 I had also expected to come here today
22 to discuss the inflammatory memo that was drafted
23 back in the last redistricting process on behalf
24 of the Senate Republicans and addressed the fact

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2 that there was the use of the term undesirables
3 strewn throughout that memo which I found both
4 politically and racially insensitive. Though it
5 does provide a unique, this memo does provide a
6 unique but unintended over--insight into the
7 opaque insular nature of these procedures. I had
8 also hoped to address the historical division
9 gerrymandering of Long Island's minority
10 populations which have taken place each census
11 historically, as I had planned to talk about
12 these and several other issues. Instead, I find
13 myself today in light of the New York Times
14 editorial as well as the stories that have been
15 previously run with respect to this process,
16 calling upon you to end the charade as the Times
17 refers to it and go to an independent commission,
18 a commission which was actually endorsed by many
19 of the incumbent legislators on both sides in
20 both houses. I ask that you end this charade--

21 SENATOR NOZZOLIO: [Interposing] I want
22 you to interrupt you right there.

23 MR. WINK: By all means.

24 SENATOR NOZZOLIO: That you have the

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2 right to use whatever word you want to use.

3 MR. WINK: Well I'm quoting the New
4 York Times.

5 SENATOR NOZZOLIO: Well I didn't hear
6 you say you were quoting the New York Times.

7 MR. WINK: Well I can submit if you'd
8 like a copy of the editorial.

9 SENATOR NOZZOLIO: I'd be glad to have
10 that submitted for the record. This is our 13th
11 Hearing. We've spent countless hours. Hundreds
12 and hundreds of hours taking testimony from
13 citizens like yourself. Now you may agree or
14 disagree with the fact that LATFOR has a
15 responsibility under current law to do its job.
16 And each member of the Board here of the
17 Commission here, each member, which are four
18 legislators and two citizen members, are spending
19 their time to listen to citizens to provide their
20 input. If you disagree with the fact that the
21 laws require LATFOR to do this, I certainly
22 respect that. Many citizens have voiced their
23 opinion on that very issue. But to say what--to
24 say the individual members of this commission are

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2 engaging in a charade, is untrue, it's un-
3 factual. We have a fiduciary responsibility
4 under the current laws of New York to establish
5 the process. Your argument is not with LATFOR.
6 It's with the entire state legislature. And that
7 I would respectfully ask you--

8 MR. WINK: [Interposing] And four are
9 represented here today.

10 SENATOR NOZZOLIO: Well we are not--we
11 are representing under the laws that currently
12 exist of the state legislature. We are
13 representing those laws. We were appointed to
14 this Commission. Have a fiduciary obligation to
15 adhere to the laws of the State of New York as
16 they are existing today. If you want to change
17 those laws, fine. Change those laws. Introduce
18 resolutions and I'm sure you've authored many
19 resolutions as a county legislator to establish
20 an independent redistricting process for the
21 State of New York. Have you not?

22 MR. WINK: For the State of New York?
23 No I have not.

24 SENATOR NOZZOLIO: Well then if you

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2 haven't then, then, then--

3 MR. WINK: [Interposing] Because,
4 because Senator, if I, if I may, let me explain
5 my answer. I have not issued such resolutions on
6 behalf of Nassau County legislature for two very
7 simple reasons. One, being as a member of the
8 minority in the County legislature, I know for a
9 fact that the presiding officer would never let
10 that go anywhere. Two, we are blocked by the
11 Nassau County charter from issuing what are known
12 as sense of the legislature resolutions. Since
13 we do not have direct control over, over the New
14 York State legislature and over the redistricting
15 process that, that takes place in New York State
16 that would be a sense of the legislature
17 resolution, we are not empowered to do that.
18 Were we able to? I would. And were we in the
19 majority, I would put it on a calendar. I do not
20 have that power in either respect.

21 SENATOR NOZZOLIO: Well I respect that.
22 And frankly we do not have the power and maybe
23 you could understand this since you're--you
24 indicated the structural problems that you would

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2 have to engage in such a resolution. The four
3 members of the legislature that are on this
4 panel, the two citizen members who are on this
5 panel, do not have the authority in and of
6 ourselves to change the laws of the State of New
7 York as they exist today. So--

8 MR. WINK: [Interposing] Well Senator--

9 SENATOR NOZZOLIO: So, so my comment to
10 you is certainly voice whatever opinion you have
11 but don't claim the members of this Panel in any
12 way, shape, or form are engaging in as you term
13 them under the cover of an editorial that you're
14 using to call what we're doing here a charade.

15 MR. WINK: Well Senator, with all due
16 respect, you may claim not to have the power to
17 alter the LATFOR process and yet I know many,
18 many members of the State legislature, in
19 particular the Senate majority leader and my com-
20 -my current state senator, all signed onto the
21 proposal for independent redistricting--

22 SENATOR NOZZOLIO: [Interposing] And the
23 State Senate enacted a proposal to change the
24 state constitution to require a independent from

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2 the legislature process to engage in
3 redistricting.

4 MR. WINK: Ten years from now?

5 SENATOR NOZZOLIO: No. Well we had
6 changed the constitution. The constitution was a
7 constitutional amendment was put forward and at
8 that a constitutional amendment if enacted will
9 change the process.

10 MR. WINK: Ten years from now?

11 SENATOR NOZZOLIO: As--well it could be
12 earlier than that.

13 MR. WINK: So you plan on doing this
14 again in the future? Is that, is that what we're
15 talking about here?

16 ASSEMBLY MEMBER MCENENY: It's been so
17 much fun. It's a great time.

18 MR. WINK: Well assemblymen, I welcome
19 you here to Nassau County. Any time you wish
20 and, and I can certainly find you good
21 accommodations but to come here for the LATFOR
22 process, I think is to, to come here with all due
23 respect, Senator, on a fool's errand. And in
24 fact, I call upon the governor to create the

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2 independent commission that can provide the lines
3 that are believed to be the most transparent, the
4 most accurate, and the most representative of the
5 entire state and what the state strives to be and
6 what the state should be, in an immediate
7 fashion.

8 Now I know Senator, you know, there were
9 those who were going to say that there was a
10 significant separation of powers issue and that
11 the governor shouldn't be responsible for
12 figuring out how the legislative lines should be
13 crafted. And yet we sit here today fully aware
14 in the knowledge and seemingly okay with the fact
15 that eventually this is going to go to the Courts
16 and a special master appointed by a separate
17 level of government, by a separate branch of
18 government will in all likelihood draw all the
19 lines that we're discussing here today. And if
20 we're okay with that, then why aren't we okay
21 with the governor appointing a commission and
22 doing this on an independent basis. And that's
23 my question to all of you here today.

24 SENATOR NOZZOLIO: If I may, there is a

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2 bill, it's a Shelly Silver Mill bill requested
3 introduced at the request of the governor. A lot
4 of people are on it. I'm on it as a co-sponsor
5 of it. The governor was not able to convince the
6 senate that that bill without amendment, would
7 not wind up with a balance of power in the ends
8 of the democratic party versus the republican
9 party. Now I'm sorry that the governor was
10 unable to sit down and come to some kind of
11 compromise over in the Senate. And I respect
12 Senator Scallos for holding whatever opinion he
13 feels is the responsible opinion representing his
14 House. But if the governor had been successful
15 to do that and we waited until the end of session
16 and let's say a so-called independent commission
17 was set up. By the way, most of these
18 independent commissions are correctly bipartisan.
19 They're not independent, looking for somebody
20 with, uh, no strong bands.

21 MR. WINK: I understand.

22 SENATOR NOZZOLIO: Yeah.

23 MR. WINK: I mean, there's only so many

24 - - -

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2 SENATOR NOZZOLIO: [Interposing] I, I
3 think what they mean--

4 MR. WINK: --administrators that are
5 willing to step up.

6 SENATOR NOZZOLIO: Yeah, I think what
7 they mean is non-legislative.

8 MR. WINK: Right.

9 SENATOR NOZZOLIO: People from outside
10 the legislature.

11 MR. WINK: I suspect you're right.

12 SENATOR NOZZOLIO: Although in the
13 Governor's, there's still appointments from
14 legislative leaders. The governor's bill does
15 need some amendment. The 1% variance makes a lot
16 of sense until you read the New York State
17 constitution. And then you get into town on
18 border, lock on border, the Voting Rights Act of
19 1965, and you get into areas where the percent
20 has to be changed to protect the rights of
21 minorities to ensure their participation and
22 proper representation. And not everything that's
23 ugly in the, in the lines now is a result of
24 gerrymandering. Very often our people have moved

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2 around. And the population has shifted
3 enormously. Particularly with minorities who are
4 now very significant percentage of different
5 districts. But let's say that the governor was
6 able to have that kind of leadership or
7 diplomatic skill that we did have an independent
8 commission. You'd be sitting right where you are
9 now and you'd have six different people up here
10 because the procedure is pretty basic to good
11 government. We have originally 12, thanks to the
12 urging of Senator Dilan and Bob Oaks, who felt we
13 needed a higher profile in Nassau County
14 respectively and up in Plattsburg for the North
15 Country, its 14 public hearings. These hearings
16 are more or less conceptual. What's wrong with
17 the present lines, where would you like to see
18 them changed? We invite written testimony. We
19 also love to see a follow-up with maps. Maps
20 would be very, very helpful. It's easy to talk
21 about it in the abstract. I love these people
22 who say they're going to do it in an afternoon
23 because of the software. These are people that
24 have never done it.

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2 MR. WINK: Well I hate to you, I hate
3 to tell you Mr. Chairman--

4 ASSEMBLY MEMBER MCENENY: [Interposing]
5 But you'd be--

6 MR. WINK: [Interposing] That's exactly
7 what happened in the county legislature this
8 year.

9 ASSEMBLY MEMBER MCENENY: Yeah.

10 MR. WINK: It was pretty much done in
11 an afternoon.

12 ASSEMBLY MEMBER MCENENY: Oh yeah well
13 we have one where they did all the election
14 districts by software. Absolute disaster.

15 MR. WINK: Right.

16 ASSEMBLY MEMBER MCENENY: By the way,
17 when you go to the Courts, are you aware of what
18 happened with the Erie County legislature? A
19 bipartisan committee was set up. No, no
20 legislatures on it.

21 MR. WINK: Mm-hm.

22 ASSEMBLY MEMBER MCENENY: They came up
23 with a plan. It went to the late legislature.
24 They made a couple of changes and passed it. The

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2 county executive vetoed it. There wasn't enough
3 votes for an override. And some citizen or
4 citizens group somewhere quite properly sued
5 because they're going into an election, an
6 election with a malapportioned legislature. It
7 went to the Court's. They cancelled the primary.
8 So if you're a real good buddy with the political
9 people in the--that alleged backroom, that's when
10 you get to run this year in Erie County for the
11 County legislature.

12 MR. WINK: Mm-hm.

13 ASSEMBLY MEMBER MCENENY: I listen to
14 people again and again say we'd like to see
15 competitive districts. Well all these districts
16 will be competitive. If it's heavily one party
17 or another, that's what we have primaries for.
18 And to see a primary cancelled by the Court's,
19 that's, that's a real scary thing. That's one of
20 the major reforms in our government. It's almost
21 a century old.

22 MR. WINK: And Mr. Chairman, I, I
23 concur with that.

24 ASSEMBLY MEMBER MCENENY: Yeah.

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2 MR. WINK: Because I do understand that
3 when it's left to the will of the political
4 parties, it is not necessarily the will of the
5 voters that is, that is first and foremost
6 served. And that's all the more reason quite
7 frankly why we should not be entertaining a
8 tainted process. And I'm not saying that any of,
9 of you ladies and gentlemen who are up here today
10 are tainted in and of yourselves. But you are
11 participating in a tainted process which
12 inevitably will lead to litigation, that will
13 inevitably lead to some of the absurd outcomes
14 that, that Erie County raised and that we all are
15 fearful of.

16 ASSEMBLY MEMBER MCENENY: That's if it
17 goes to the courts. We, we do stress and we have
18 been told by good government groups which by the
19 way is a self-designated title, same as reformer
20 is, that these have been helpful hearings. We
21 have them on record. Because I've asked them,
22 was this worthwhile to listen to what your fellow
23 citizens had as an opinion? These were very
24 useful hearings. And to see the New York Times

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2 call it a sham, the same hearings would have been
3 held probably in the same locations. And as far
4 as having them at night instead of by day, we
5 have legislatures from all over who has have--who
6 have had town meetings. We have groups that have
7 been in contact with their people. When they--we
8 come in, we assume that they know their people
9 well, that they've had evening and weekend
10 meetings as well. We don't have to restart the
11 whole process when we're trying to govern
12 19,000,000 people plus. But just to call it a
13 sham, believe me, the League of Women Voters if
14 they were doing it, and I have the greatest
15 respect for the league, they'd be doing the exact
16 same thing that we're doing right now.

17 MR. WINK: And Mr. Chairman, I, I
18 appreciate your comments and, and as I say, I'm
19 not trying to cast dispersions on any of the
20 members of this, of this commission, but one of
21 the things I've learned in my ten years of
22 elected office and in my lifetime as, as an aid
23 to elected officials before that, is that
24 invariably bad process trumps good policy every

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2 single time. And you are involved in a tainted
3 process here. A number of members of the state
4 legislature signed on to a procedure to
5 independent commissions, signed onto literally a
6 movement quite frankly, which required that
7 LATFOR not exist inherently. And unfortunately,
8 due to certain legal interpretations which I
9 think were, were political in nature, you, you
10 are still involved in a process that is tainted.
11 So as much as I appreciate your, your concerns,
12 as much as I know that each and every member of
13 this commission have been involved legitimately
14 and diligently in hearing public input, the fact
15 of the matter is once again, bad process trumps
16 good policy.

17 SENATOR NOZZOLIO: The--you believe that
18 those who give large sums of money should to
19 political candidates be allowed to serve on an
20 independent commission?

21 MR. WINK: Are we talking and--

22 SENATOR NOZZOLIO: [Interposing] Before
23 redistricting?

24 MR. WINK: Are we talking about the

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2 need for public financing and election.

3 SENATOR NOZZOLIO: No, no, no.

4 MR. WINK: You've got my vote on that.

5 SENATOR NOZZOLIO: No, no, no.

6 ASSEMBLY MEMBER MCENENY: Definitely.

7 SENATOR NOZZOLIO: I--and let me--it's
8 not a debate. It's a question.

9 MR. WINK: Okay.

10 SENATOR NOZZOLIO: Do you believe that
11 major contributors to the governor, to the state
12 legislatures, should be allowed to serve on an
13 independent commission?

14 MR. WINK: I believe that the
15 appointees of any independent commission, whether
16 it be redistricting or any other, should be as
17 transparent and as free of undue influence as
18 possible. We have a system right now and the
19 reason why I, I left to the conclusion of public
20 financing, we have a system right now that is
21 anything but public financing. And it's a
22 system--

23 SENATOR NOZZOLIO: [Interposing] Is that
24 a yes or a no?

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2 MR. WINK: Sir, I'm, I'm trying to give
3 you--

4 SENATOR NOZZOLIO: [Interposing] I, I
5 don't understand, I mean, I, I asked a simple
6 question.

7 MR. WINK: The law as it states today--

8 SENATOR NOZZOLIO: [Interposing] How
9 about a simple answer? A direct answer.

10 MR. WINK: The law, the law as it
11 exists today does not make it illegal to
12 contribute small or large sums of money to
13 individual can--

14 SENATOR NOZZOLIO: [Interposing] I
15 didn't ask you that question. I asked you
16 whether--

17 MR. WINK: [Interposing] And therefore
18 there is no taint that comes with that under the
19 existing law.

20 SENATOR NOZZOLIO: So you--

21 MR. WINK: [Interposing] If you want to
22 discuss changing the law, I am absolutely in
23 favor of that.

24 SENATOR NOZZOLIO: So in your mind then,

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2 and I guess the answer is yes?

3 MR. WINK: In my mind--

4 SENATOR NOZZOLIO: [Interposing] That
5 it, it's--

6 MR. WINK: --that until, until the day
7 comes that we correct that--

8 SENATOR NOZZOLIO: --okay to--

9 MR. WINK: --that injustice system.

10 SENATOR NOZZOLIO: Then the answer is
11 yes.

12 MR. WINK: The answer is yes.

13 SENATOR NOZZOLIO: Okay. Then if the
14 answer is yes, how could you suggest that an
15 individual would in fact be independent? That is
16 the essence of the independent commission that
17 you, a spouse, you're saying is a campaign
18 contributions are okay. How about being a
19 director of a political action committee? Would
20 that, that's certainly legal enterprise but
21 should it be part, should someone who is that be
22 allowed to serve as a member of the so called
23 independent commission?

24 MR. WINK: I imagine that to the extent

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2 that they're not identified with one or another
3 individual candidate or individual party, that
4 that would be appropriate as well. But Senator,
5 let, let's get to the crux of this. Unlike
6 partisan elections, okay, which are very
7 straightforward and we know who we're voting for
8 and we know who's supporting to a great extent
9 due to our online contributions, my contributions
10 are as public as yours or anyone else's in the
11 state government, to the extent that we are
12 running with known quantities. With known, with
13 known supporters and, and known contributors,
14 then that is, that is where we find ourselves in.
15 The difference here, however, is that many, many
16 and I'm not asking of any of the four of you in
17 particular, signed onto the New York Uprising
18 petition, but certainly we know the number of
19 state legislatures signed onto that petition and
20 then proceeded to go against what that petition
21 called for by pro--by perpetuating and continuing
22 the LATFOR system. And that I think is the
23 hypocrisy in the system.

24 SENATOR NOZZOLIO: The independent

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2 commissions of other states have had numerous
3 missteps and hiccups because the selection
4 process in effect replaced or was, was
5 mislabeled. There was no, no genuineness behind
6 a label of--you can stick a label of independent
7 on somebody but if the process in New York for
8 instance, has six democrats and two republicans
9 chosen to select the membership of this
10 committee, how is that independent?

11 MR. WINK: Well, Senator, first of all,
12 I, I, I have read many of the same accounts you
13 have, of the hiccups as you call them in other
14 states. First and foremost, I would say that we
15 are the empire state and we should and can do
16 better than other states experiences have been.
17 Secondly, I don't discount for a moment the
18 possibility of hiccups and mistakes happening in
19 our system, and yet I don't know think that
20 perfection should be the enemy of the good. And
21 I think taking that step is, is proper and right
22 irrespective of whether or not it becomes the
23 perfect solution.

24 SENATOR NOZZOLIO: That's very well

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2 stated. But I guess my question was more in line
3 with elementary school mathematics. How does six
4 democrats and two republicans create a commission
5 that's not tilted to one political party? And
6 then therefore, not independent?

7 MR. WINK: Well I think, I think--

8 SENATOR NOZZOLIO: [Interposing] Because
9 that's the formula--

10 MR. WINK: [Interposing] Part of the
11 disposition though--

12 SENATOR NOZZOLIO: That just, just let
13 me add why I'm asking the question.

14 MR. WINK: Mm-hm.

15 SENATOR NOZZOLIO: For the record, I'm
16 asking the question because the governor's bill
17 which you indicated you're fully in support of,
18 the governor's legislation created a process that
19 has that dramatic imbalance between a republican
20 and democrats. Six democrats selected, two
21 republicans selected. How is that a fair system?

22 MR. WINK: Well first of all, I, I
23 never endorsed the governor's bill. And in point
24 in fact, as, as the co-chairman, Mr. McEneny has

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2 indicated, there, there are tweaks necessary and
3 I think proper to that bill. Secondly, I, I
4 don't necessarily support the supposition that a
5 democratic governor inherently is required to
6 appoint democratic appointees. Anymore than a
7 republican senate majority leader is required to
8 appoint republicans. I do believe that the
9 process for appointing these people should be as
10 transparent as the ultimate outcome of these
11 district lines. So to the extent that, that,
12 that answers your question, you know, and I thank
13 you for the compliment by the way.

14 SENATOR NOZZOLIO: Any other comments
15 you wish to make Mr. Wink?

16 MR. WINK: I, I, I think, I think I
17 have expired my time.

18 SENATOR NOZZOLIO: Any other questions--

19 MR. WINK: [Interposing] Thank you very
20 much.

21 SENATOR NOZZOLIO: Another questions of
22 the panel? Thank you very much.

23 MR. WINK: Thank you.

24 ASSEMBLY MEMBER MCENENY: I should point

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2 out, I had your position. It was my first
3 elected office. I was elected as a write in
4 candidate, not even in the machine, no party.

5 MR. WINK: Well I, I commend you on
6 that and I commend you on, on showing once again
7 there is life after the county legislature.

8 ASSEMBLY MEMBER MCENENY: Yeah, it's,
9 it--

10 MR. WINK: [Interposing] Thank you.

11 ASSEMBLY MEMBER MCENENY: By the way,
12 that was 20 years ago and I'm still not forgiven
13 in some circles.

14 ASSEMBLY MEMBER OAKS: Mr., Mr.--

15 ASSEMBLY MEMBER MCENENY: [Interposing]
16 Yup?

17 ASSEMBLY MEMBER OAKS: Mr. Chairman, if
18 I might just make a, a quick comment on that.
19 Obviously the, the issue of legislation that
20 would create some independence or a bipartisan
21 non-legislative entity to do this function, I
22 think various people have expressed here
23 concerns. I have concerns with the governor's
24 bill. There's, there's a number of alternatives.

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2 Actually I'm a co-sponsor or a main sponsor of a
3 piece of legislation that would do many of the
4 procedures of the governor's bill. But I, I
5 think your comment of saying fairness republicans
6 or democrats, the reality is if that bill became
7 law, ten years from now, if the governor were
8 republican, it would skew it the same way. It's
9 the insertion of the executive into the process
10 and giving the executive from whichever party
11 more of an involvement, I think that's the
12 concern and so looking forward, I think whatever
13 may come down and certainly I know a number of
14 the members on this panel support an alternative
15 process, but we're here as a part of this one
16 today, is that it should be something that
17 doesn't favor of one political party or the other
18 as it goes forward.

19 ASSEMBLY MEMBER MCENENY: Thank you.

20 Deborah Misir. And if I mispronounced your name,
21 would you please--good morning.

22 MS. DEBORAH N. MISIR: Good morning,
23 Honorable members of the Committee. My name is
24 Deborah Misir, I'm an Attorney residing and

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2 practicing law here in Nassau County. I
3 previously served as an attorney in the White
4 House Counsel's office and the US Department of
5 Justice.

6 ASSEMBLY MEMBER MCENENY: Would you move
7 in a little bit towards the mic or move toward--

8 MS. MISIR: [Interposing] Yup. Okay.
9 I'm here as President of the Indian American Bar
10 Association of Long Island and Queens. I also
11 serve on the Board of Advisors of the Irish
12 American Bar Association of New York. My
13 testimony today reflects solely my legal opinion.
14 First, I'd like to thank the task force for
15 holding this public hearing in Long Island and
16 for your commitment to listening to as many
17 different voices in this great diverse state of
18 ours. I'd like to focus on two issues of concern
19 to the, to the committee. First, whether the
20 proposed redistricting commission can be created
21 without an amendment to the New York State
22 Constitution. My review of the New York State
23 Constitution in applicable precedent, shows that
24 the Commission cannot be created without an

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2 amendment to the New York State Constitution.

3 Second issue I'd like to focus on is
4 whether the size of the New York State Senate
5 should be expanded to 63 members from the current
6 62. From a public policy on good government
7 perspective, I suggest that increasing the size
8 of the Senate to 63 would prevent dilution of
9 each New York citizens vote and stop the
10 legislative deadlock that unfortunately would
11 have experienced in the last few sessions.

12 One reason I'm here today is I've read
13 in the media that state legislatures and this
14 task force have received some criticism for not
15 supporting the establishment of a so called
16 independent commission. I don't think this
17 criticism is fair because as, as I mentioned, I
18 believe you need to have a New York State
19 amendment. You need to have an amendment to the
20 New York State Constitution. Under the New York
21 State Constitution, the State legislature is
22 vested and only vested with the power to readjust
23 and reapportion Senate and assembly districts.
24 No other branch of government is given that

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2 power. The state legislature as a matter of law
3 cannot simply forego or delegate its
4 constitutional responsibility. Moreover, it's
5 questionable whether a redistricting commission
6 could be created for a period extending beyond
7 the existing legislative session. Finally, I
8 would suggest the state legislature cannot bind
9 its future actions through the creation of such
10 an independent commissioner.

11 An amendment, on the other hand, would
12 be a leg--legitimate method of establishing an
13 independent commission. It would have the power
14 to provide for the commission's powers,
15 authorization, and funding. And they would also
16 be able to lay out what role the commission would
17 play in any inevitable litigation over the
18 proposals the commission came up with. I would
19 also note, just as a legal matter, that if there
20 is an amendment to the New York State
21 Constitution considered, we should look at other
22 provision, provisions that need to be upgraded in
23 our, in our voting scheme. As currently written,
24 certain apportionment provisions do not appear to

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2 pass muster with the equal protection clause of
3 the US Constitution. And here I'm referring to
4 that old case in 1964, the Laminzo [phonetic]
5 case. Now the New York State Constitutional
6 Convention of 1967 proposed certain amendments to
7 the New York State Constitution to meet the
8 concerns of the US Supreme Court in Laminzo, but
9 the proposals were rejected by the voters. So
10 the legal issues still remains. So any effort to
11 amend the constitution and any effort to look at
12 these eff--these redistricting provisions should
13 be carefully reviewed in light of that old
14 Laminzo case.

15 Also, just to echo what has been said
16 earlier, the current proposal, the current
17 proposal for an independent commission, does not
18 fairly represent the spectrum of political
19 parties across the state. The proposal would
20 have the commission comprised of eight
21 appointees, four appointed by the governor, one
22 by the Senate Majority Leader, one by the Senate
23 Minority leader, one by the assembly speaker, and
24 one by the assembly minority leader. So six

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2 members would be elected by democrats as current-
3 -as we are currently constituted and only two by
4 republicans. This does not strike me as an
5 independent commission. If we had a republican
6 governor, it would be similarly unfair to
7 democrats because it would be skewed towards
8 republicans. So I believe this proposal runs
9 directly contrary to the spirit and text of the,
10 of the New York State Constitution which vests
11 the legislative branch, not the executive branch
12 or the power to reapportion.

13 I do support the legislation passed by
14 the New York State Senate this past March because
15 it was a bit more evenly balanced with four
16 members selected by the legislature, a democrat
17 and republican from the Senate and a democrat and
18 republican from the assembly who would then work
19 together to pick an independent citizen member
20 similar to the citizen members we have sitting on
21 LATFOR today. This is exactly the kind of
22 bipartisan process we need in New York. However,
23 as you all are more familiar than I am, we are
24 running against the clock at this point. I

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2 understand that primaries have been moved to June
3 of 2012. So the state government must complete
4 red--redistricting in the next six months. We
5 simply do not have the time to experiment with a
6 redistricting commission. For that reason, I, I,
7 I suggest that the task force itself should
8 conduct redistricting for this election cycle.
9 It is bipartisan and comprised of experienced
10 members who have had the opportunity to listen to
11 the voices of New York State citizens at these
12 hearings. I believe the ta--the task force can
13 at this point best represent the interests of New
14 Yorker's.

15 And with regard to the second issue I'd
16 like to bring to your attention on the increase
17 of the New York State Senate, I know it's been
18 raised at several previous hearings. I'm here to
19 support the proposal to increase it to 63 for two
20 reasons. First, the increase of the size of the
21 Senate would prevent the dilution of each New
22 Yorker's vote. Second, as a practical matter,
23 increasing the size of the Senate to 63 would
24 avoid legislative gridlock. Certain individuals

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2 who have testified before this task force in the
3 past, have suggested there is no constitutional
4 basis for creating other than 62 seats in the
5 current redistricting. And respectfully, I, I'm
6 here to testify that that position is simply not
7 true and it's ludicrous. Contrary to the plain
8 language of the New York State Constitution. The
9 New York State Constitution initially fixed the
10 number of senators at 50. And here I'm looking
11 at a Article 3 Section 2 of the New York State
12 Constitution. However, the New York State
13 Constitution goes on in Section 4 to provide that
14 the state legislature can readjust or alter the
15 number of senators above 50 to ensure the
16 integrity of populous counties and that the
17 residents of those counties are not deprived
18 representation. And in fact, the New York State
19 Court of Appeals itself in the Case Dowling in
20 1916 approved increasing the number of state
21 senators. Indeed, this was most recently
22 demonstrated in 2002 when state law section 123
23 increased the size of the senate from 61 to 62.
24 So there's no question that increasing the size

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2 of the senate at 63 is lawful and permitted.

3 When if the task force decides to recommend that

4 or the senate and or the assembly decide to

5 proceed along those lines, the--they would want

6 to be mindful of the requirements of the US

7 Constitution relating to the one person, one

8 vote, one vote requirement, and the New York

9 State Con--Constitution which requires that the

10 integrity of the various counties be preserved

11 when redistricting. With respect to the federal

12 one person, one vote requirement, the US Supreme

13 Court has held that the State legislative plans

14 may not deviate from a below 10%--may not deviate

15 above 10% to be acceptable under the voting

16 rights act and the US Constitution and that was

17 affirmed in the Rodriguez case in 2004. With

18 regard to the New York State Constitution, the

19 New York Court of Appeals has again said that we

20 have to respect integrity of the county units.

21 So any redistricting effort has to look at those

22 two, those two competing concerns and, and come

23 up with the fairest plan.

24 The most important reason to me why we

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2 should increase from 62 to 63 is frankly the
3 voter dilution. New York's population has
4 increased over the past 10 years from 18,976,811
5 persons to 19,378,102 persons. So currently,
6 each of the 62 senators represents approximately
7 360,077 individuals. So the average number of a
8 person represented by a senator in a 63 setup,
9 would be 307,588 people. If we remained at 62
10 however, they would be representing a larger
11 number of individuals at 312,550 individuals.
12 And of course, we'd be better served having an
13 odd number of senators so we would not have
14 deadlocked votes in the senate. And stop the
15 conduct of business in Albany.

16 In conclusion, I'd like to also add as
17 President of the Indian American Bar Association,
18 that there are no Indian American's in the US
19 State Senate, to my knowledge none in the New
20 York State Assembly, none on the New York State
21 Bench. We make up a considerable portion of the
22 New York State population. We're active, proud
23 Americans. I would urge the committee to
24 consider redistricting so the Indian American's

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2 have an opportunity to have their voices heard in
3 the Senate. And I would urge the task force to
4 do your best to ensure that we have competitive
5 districts for the state legislature and
6 congressional seats after redistricting. I think
7 everyone here would agree that our interests are
8 better served when competitive elections are run.
9 Thank you very much for your time and
10 consideration.

11 ASSEMBLY MEMBER MCENENY: Thank you.

12 Senator Dilan?

13 SENATOR DILAN: Yes. Thank you for your
14 testimony and I see that you have done a somewhat
15 thorough job with respect to abiding by the law.

16 MS. MISIR: Yes, sir.

17 SENATOR DILAN: And I believe you have
18 cited some cases here for us. My question has to
19 do with the current formula that's in the New
20 York State Constitution. According to
21 information that I have and testimony from
22 previous hearings, many individuals have
23 testified that if we literally interpreted the
24 constitution of the State of New York and the

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2 current formula that's in there, you come up with
3 a number of 62. How do you come up with a
4 number of 63?

5 MS. MISIR: Well you're absolutely
6 right, sir. The formula is indeed very complex.
7 The formula does not specify a specific number.
8 It goes by the census numbers as they're fed into
9 the county numbers.

10 SENATOR DILAN: How do you answer my
11 question as to many have testified that if you
12 apply the formula the way it's written, you come--
13 -it equals 62. And if you want to argue from--
14 for an odd number, you talk about 63.

15 MS. MISIR: Yes, sir.

16 SENATOR DILAN: Why not 61? You also
17 talk about dilution of the boat. Maybe you want
18 to explain that a little further because if you
19 maintain the lowest deviation possible in every
20 single district within the Senate throughout the
21 entire state, then you would be abiding by the
22 one person, one vote principal so how would you
23 be diluting someone's vote? If you made all
24 districts equal in terms of population, wherever

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2 that is possible.

3 MS. MISIR: Well I hear what you're
4 saying Senator Dilan. And I actually share your
5 perspective. I, I think that--

6 SENATOR DILAN: [Interposing] But my
7 point is here you're asking us to apply the law
8 everywhere with the exception of a formula that's
9 within the constitution of State of New York.
10 Why the exception?

11 MS. MISIR: No, no that's not true
12 Senator. That's not true. I'm suggesting that
13 we strictly adhere to the New York State
14 Constitution and it does not fix the number of
15 state senate seats at 62. It is, it is a
16 flexible in, in their wisdom, the folks who wrote
17 the New York State Constitution understood that
18 the population could grow and increase. They
19 also were very concerned with maintaining the
20 integrity of representation of counties and not
21 breaking up counties. So they provided for an
22 increase of your--of state senators from 50 up to
23 whatever amount the, the, the, the body found to
24 be acceptable, they provided for that in the New

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2 York State Constitution itself. Now I'd be happy
3 to provide you with a, with an analysis of the
4 formula.

5 SENATOR DILAN: Well I, I believe--

6 MS. MISIR: [Interposing] I'm not, I'm
7 not prepared--

8 SENATOR DILAN: --I believe--

9 MS. MISIR: I'm not prepared to do that
10 right now.

11 SENATOR DILAN: I believe, I believe
12 that you indicated previously that as others have
13 testified that if you actually followed the
14 formula, you come up with the number 62. Isn't
15 that correct just a few minutes ago you stated
16 that?

17 MS. MISIR: No, I, I apologize if I
18 wasn't clear. What I said was other have
19 testified that it has to be 62.

20 SENATOR DILAN: That has to be that the
21 formula--

22 MS. MISIR: [Interposing] I've, I've
23 seen test--

24 SENATOR DILAN: --results in 62.

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2 MS. MISIR: I've seen testimony--

3 SENATOR DILAN: [Interposing] Do you
4 agree with that?

5 MS. MISIR: --where folks have said--

6 SENATOR DILAN: Do you agree with that?

7 MS. MISIR: --that--I'm, I'm sorry, I
8 didn't catch that question.

9 SENATOR DILAN: Do you agree that if you
10 applied the formula in the constitution and
11 strictly applied it that the number would equal
12 62?

13 MS. MISIR: No absolutely not. And I
14 think I--

15 SENATOR DILAN: [Interposing] Well then
16 you'll have to show us--

17 MS. MISIR: [Interposing] I, I'd be
18 glad--

19 SENATOR DILAN: --how it's different and
20 you can apply--

21 MS. MISIR: --to submit--

22 SENATOR DILAN: You can submit that
23 later.

24 MS. MISIR: --an analysis to you guys

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2 later.

3 SENATOR DILAN: Sure. We'd love to see
4 that.

5 MS. MISIR: But it's, it's absolutely
6 clear from the plain language of the New York
7 State Constitution, that the number does not have
8 to be 62. It merely has to reflect the increase
9 in population of New York State residents and
10 comport with the notion that counties cannot be
11 split up, that counties must remain integrated.

12 SENATOR DILAN: We understand that has
13 to do also here we have a situation where
14 although the population of the State of New York
15 did increase, however, here we are losing two
16 congressional districts and according to the
17 information I have, it's strictly applied, the
18 formula would equal 62. And then we have to
19 justify, justify to the people of the State of
20 New York that if we're increasing the size of the
21 Senate, doesn't make sense.

22 MS. MISIR: Senator Dilan, you're,
23 you're right. We are losing two congressional
24 seats. That's unfortunate but that's actually a

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2 totally different matter. That's on the federal
3 side because we lost population. And so they've
4 given our two congressional seats to other
5 states.

6 SENATOR DILAN: I look forward to seeing
7 your analysis.

8 MS. MISIR: Thank you, sir. Thanks for
9 the questions.

10 ASSEMBLY MEMBER MCENENY: Senator
11 Nozzolio?

12 SENATOR NOZZOLIO: Thank you, Mr.
13 Chairman and, and thank you counselor for your
14 discussions and--

15 MS. MISIR: [Interposing] Thanks, sir.

16 SENATOR NOZZOLIO: --your input. I
17 think Senator Dilan's question about the size of
18 the Congress--

19 SENATOR DILAN: [Interposing] Oh I never
20 talked about the size of the Congress. I
21 mentioned that we're losing two Congressional
22 seats sir.

23 SENATOR NOZZOLIO: Well then Senator
24 Dilan's comments about losing--

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2 SENATOR DILAN: [Interposing] Congress
3 equals 435. I wasn't talking about that.

4 SENATOR NOZZOLIO: I guess the apples and
5 oranges of what I'm talking about it's an apple
6 and an orange in terms of comparing the two and I
7 think that--

8 SENATOR DILAN: [Interposing] It's
9 ironic that you do it every time you talk about
10 the prisoner law.

11 SENATOR NOZZOLIO: Pardon me for
12 continuing to talk while you're interrupting
13 Senator. That what I had hoped in our dialogue,
14 I would better understand these questions and
15 these formulas and they are extremely complicated
16 but I think you're, you're mentioning that it's
17 constitutional based in terms of the size of the
18 Senate. Is that not right?

19 MS. MISIR: Yes, sir. We believe that
20 it's set by the constitution and we should adhere
21 to the state constitution.

22 SENATOR NOZZOLIO: And that state
23 constitution has a formula?

24 MS. MISIR: Yes, it does.

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2 SENATOR NOZZOLIO: And that formula has
3 been affirmed by prior courts, counselor, is that
4 your understanding?

5 MS. MISIR: Yes, Senator. And the
6 Dowling case in 1916 her in New York and no one
7 has, no one has said it's anything other than
8 appropriate.

9 SENATOR NOZZOLIO: So the formula,
10 although complex, is stated clearly in the
11 constitution and refined further by case law?

12 MS. MISIR: Yes, sir.

13 SENATOR NOZZOLIO: That your assessments
14 are helpful and that I too would look forward to
15 further analysis that you may provide on this
16 question?

17 MS. MISIR: Thank you, sir, I would be
18 glad to do that.

19 SENATOR NOZZOLIO: Thank you.

20 ASSEMBLY MEMBER MCENENY: Senator Dilan?

21 SENATOR DILAN: Yeah, just, just to
22 clarify, I'm not questioning the formula. I am
23 asking questions as to how the witness comes up
24 with the number 63. She has indicated that she

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2 will provide additional analysis to show us that
3 and to prove all the other witnesses that have
4 testified here wrong. And I look forward to
5 seeing that and, and when I mention the
6 congressional districts, I was talking about the
7 size of the New York State delegation and
8 indicating that we're losing two seats there and
9 here we're trying to increase the size of the
10 Senate. Thank you.

11 MS. MISIR: Thank you, Senator.

12 SENATOR NOZZOLIO: And I guess I have
13 yet to see analysis from other than Mr. Breitbart
14 that those who have testified in favor or opposed
15 to increasing the size of the Senate, that I have
16 yet to see any formal analysis done, even though
17 that was requested I know by myself in our
18 Suffolk hearing, that that has yet to be
19 obtained. So I think certainly when it is
20 obtained, we need to share it with all members of
21 the task force. So thank you very, very much for
22 your testimony today.

23 MS. MISIR: Thank you.

24 ASSEMBLY MEMBER MCENENY: Yes, if I may.

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2 You, you mentioned the importance of the growing
3 Indian American population in New York State.
4 And we were addressed in a number of cases we've
5 had alternative plans that have already been
6 submitted on a, on the band, on behalf of number
7 of minorities in a coalition. We certainly had a
8 number of Asians at the Queens hearing for
9 example. Is the Indian Community a part of that
10 coalition or those coalitions?

11 MS. MISIR: I'm sure that some Indian
12 folks may be part of it sir. Indian people are
13 both democrats and republicans.

14 ASSEMBLY MEMBER MCENENY: Yes, I know.

15 MS. MISIR: So we're not supporting one
16 party or another.

17 ASSEMBLY MEMBER MCENENY: Okay.

18 MS. MISIR: We're simply saying we've
19 been in the United States now for many
20 generations. There are many Indian folks in New
21 York State, serve in the military proudly, work
22 hard, pay their taxes, and simply want to make
23 sure their voices are heard. That does not
24 necessarily mean that there should be an Indian

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2 seat or an Indian representative. It merely
3 means that we would like to see re--redistricting
4 so they have a chance to express their voice.

5 ASSEMBLY MEMBER MCENENY: Well in a
6 practical matter, would you--would it be fair to
7 say that where there are concentrations, you
8 would urge those concentrations be kept together
9 in one district at whatever level?

10 MS. MISIR: Yes, sir. And I think
11 that's no different what--than what other groups
12 have done in our state historically.

13 ASSEMBLY MEMBER MCENENY: Mm-hm. That's
14 true. Just for the record since this becomes a
15 permanent record, there's no constitutional
16 prohibition on having, for example, speaker
17 Silvers bill which was submitted at the
18 introduced at the request of the governor.
19 There's no prohibition on having a so called
20 independent committee involved constitutionally
21 as long as the final vote is the New York State
22 Legislature. It's still totally a legislative
23 matter.

24 The other thing that I would personally

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2 urge is that the governor should read the bill
3 before he decides to veto it. I think that's not
4 good government to say you're going to veto
5 something just because people put it together
6 through a legal process that you don't agree
7 with. Read the bill, judge it on its merits,
8 just as we judge people and appointments on their
9 merits and then either pass it, sign it, or veto
10 it based upon whether it meets good public
11 policy.

12 MS. MISIR: We agree with that sir.

13 Thank you.

14 ASSEMBLY MEMBER MCENENY: Yes, Senator
15 Dilan?

16 SENATOR DILAN: I, I just have one more
17 question. How are they to receive notice of this
18 meeting?

19 MS. MISIR: I'm sorry, sir?

20 SENATOR DILAN: How did you become aware
21 of this meeting?

22 MS. MISIR: Just from my general civic
23 knowledge. I pay attention what's going on in my
24 state.

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2 SENATOR DILAN: Okay. So, so where did
3 you--

4 MS. MISIR: [Interposing] And what's
5 going in my, in my country.

6 SENATOR DILAN: Where did you pay
7 attention that you found out about this meeting?

8 MS. MISIR: It's widely known that
9 LATFOR is holding hearings.

10 ASSEMBLY MEMBER MCENENY: Really?

11 MS. MISIR: Yes it is.

12 SENATOR DILAN: Were you asked to
13 testify here by anyone?

14 MS. MISIR: I, I asked to testify
15 actually.

16 SENATOR DILAN: Sure.

17 MS. MISIR: Because I feel that--

18 SENATOR DILAN: [Interposing] So you
19 cannot cite your source to me as to how you found
20 out about this meeting?

21 MS. MISIR: Mr. Dilan, I, I did. I just
22 told you that my source is my generalized
23 knowledge of what is going on in New York State.

24 SENATOR DILAN: So you just got it from

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2 the--thank you very much.

3 MS. MISIR: You, you do have a website.

4 SENATOR DILAN: So?

5 MS. MISIR: So, so anyone who pays
6 attention can--is free to go to your website.

7 SENATOR DILAN: Cite the website.

8 MS. MISIR: And see what you're doing.

9 SENATOR DILAN: Just cite the website.

10 MS. MISIR: It's LATFOR, isn't it?

11 SENATOR DILAN: That's how you found
12 out?

13 MS. MISIR: Absolutely.

14 SENATOR DILAN: Okay thank you.

15 ASSEMBLY MEMBER MCENENY: Thank you.

16 Are, are there any further questions? We're glad
17 that you made it. We appreciate your comments.
18 We would look forward, that is, as you know, a
19 controversial issue and if you do have anymore
20 that you want to submit in writing on the
21 question of the size of the Senate, that could be
22 helpful. Thank you very much.

23 MS. MISIR: Thank you. I would be glad
24 to do that. Thank you for your time.

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2 SENATOR NOZZOLIO: Thank you.

3 ASSEMBLY MEMBER MCENENY: David

4 Stonehill? If any elected officials that have
5 not been at least recognized have come into the
6 hall, please let us know because we can't
7 recognize you because of the, the lighting. Good
8 morning Mr. Stonehill.

9 MR. DAVID STONEHILL: Good morning
10 everyone.

11 ASSEMBLY MEMBER MCENENY: Good morning.

12 MR. STONEHILL: I--excuse me. I brought
13 in a friend and colleague, Paul Evans. Mr. Evans
14 is also an election attorney. He can--

15 MS. MISIR: [Interposing] Can you scoot
16 up--

17 MR. STONEHILL: He can mention a little
18 more in terms of who he is and that sort of
19 thing. And since he was intending on speaking
20 today anyway, it just made more sense that, you
21 know, we'd come up together.

22 MR. PAUL EVANS: I think our testimony
23 we're going to overlap significantly.

24 ASSEMBLY MEMBER MCENENY: Thank you.

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2 Close it. Put it back and close it. There you
3 go.

4 MR. STONEHILL: Now?

5 ASSEMBLY MEMBER MCENENY: Now you got
6 it.

7 SENATOR DILAN: How did you find out
8 about the meeting?

9 MR. EVANS: How did we find out about
10 the meeting?

11 SENATOR DILAN: Yes.

12 MR. EVANS: I saw it on the LATFOR
13 website.

14 SENATOR DILAN: Okay. Thank you. Thank
15 you. That's good.

16 MR. STONEHILL: And you saw me in
17 Suffolk. So I found out.

18 MR. EVANS: Yeah and like I said, and
19 Dave and I talked about coming today too.

20 MR. STONEHILL: Good morning. My name
21 is David H. Stonehill. I'm an attorney with an
22 office in Merrick, New York. I had the pleasure
23 of testifying before this distinguished task
24 force on October 5th in Farmingdale.

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2 Today I wanted to discuss briefly some
3 policy perspectives regarding how the
4 redistricting process, scheduled for 2012, should
5 be handled. Generally, redistricting in New York
6 State has been handled on a bipartisan basis.
7 However, both major--two major parties have to
8 recognize that a change in legislative and
9 congressional district lines should occur in such
10 a way as to benefit all citizens of this state.
11 Line drawing should not be blatantly or directly
12 political in scope but should be viewed as a way
13 to encourage political participation by citizens
14 and not as a way to suppress it for any reason.
15 Currently, the state senate is a 62 person
16 chamber. Proposals have been aired about
17 increasing this number to 63. Whether the upper
18 chamber of the New York State legislature should
19 be composed of an even or odd number of seats,
20 makes for a fascinating philosophical debate.
21 But we're not present today to have a
22 philosophical debate. The question we should be
23 considering is what should be the proper number
24 of New York State Senators now that we have the

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2 2010 census statistics. The answer to this
3 question needs to comport with the New York State
4 constitution and relevant case law. How these
5 districts should be drawn is yet another question
6 but I will not be going into that matter.

7 There's certainly enough people here today who
8 will be going into that.

9 The formula for determining a number of
10 state senate districts is based on Article 3,
11 Section 4, paragraph 3, of the New York State
12 Constitution originally adopted in 1894. The
13 ratio for apportioning Senators shall always be
14 obtained by dividing the number of inhabitants by
15 50 and the Senate shall always be composed of 50
16 members accept that if any county having three or
17 more senators at the time of any apportionment
18 shall be entitled on such ratio to add an
19 additional senator or senators. Such additional
20 senator or senators shall be given to such county
21 in addition to the 50 senators and the whole
22 number of senators shall be increased to that
23 extent. Policy behind this was to prevent
24 smaller upstate counties from being overly

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2 dominated by large downstate cities. Of course
3 things have changed since 1894. We have the
4 internet as well as the fact that the Bronx and
5 Nassau Counties were created. The Bronx was
6 carved out of New York and Westchester Counties.
7 Nassau was taken out of Queens County. Richmond
8 and Suffolk County formed one senatorial district
9 in 1894 which is certainly not the case now.
10 With an increase in state population over the
11 years, the creation of the two new counties and
12 the rise of the legal doctrine of equal
13 representation, it would be no surprise to an
14 attorney anyway, that a legislative reapportion,
15 reapportionment would be challenged in a state
16 court. A challenge to the legislative
17 interpretation of paragraph 3 was litigated in
18 Snyder versus Rockefeller, 1972. This case
19 involved a 1972 legislative reapportionment based
20 upon the 1970 census. In a nutshell, the Court
21 of Appeals upheld the legislatures determination
22 that the population of the Bronx, New York, and
23 Westchester Counties should be added together and
24 then divided by 150th, 50 being a number of 1894

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2 senators of the entire New York State Population
3 in order to determine the number of senators for
4 these three counties. The same method was also
5 applied to Queens, Nassau, Richmond, and Suffolk
6 Counties. This meth--this method resulted in 60
7 total senate districts in 1972. The legislature
8 followed this procedure in 1982 and 1992. I
9 should add that this method has not been
10 challenged in Court since 1972. Following this
11 rule, meant a total of 61 senators in 1982 and
12 1992. Utilizing the rule in 2002 would have
13 provided for 61 districts. Applying it today
14 would provide 62 districts. However, the above
15 rule was not followed by the senate in 2002.
16 Instead, it's outside counsel, Michael Carvin
17 used a more complex formula that counted total
18 population of the six affected counties. This
19 particular formula was not used the Court in
20 Snyder. Mr. Carvin came up with the total of 62
21 senators and that is the number the Senate, the
22 state currently has.

23 Utilizing the 2010 census and the Carvin
24 method, you still would have 62 senators in 2012.

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2 Whether you prefer the Court of Appeals method or
3 the Carvin method, you were still left with a
4 Senate with 62 seats for re-apportionment next
5 year. It would be fun to speculate new numbers
6 in the future but right now, we have to follow
7 the provisions of the State Constitution.

8 With all due respect, I do not see how
9 we can legally justify more than 62 senators. If
10 we added more than 62 senators, the redistricting
11 process becomes arbitrary and capricious and
12 nobody wants that. I want to thank this task
13 force for again allowing me the opportunity to
14 testify before you. Your work is more important
15 than ever and I promise not to be in Plattsburg.

16 ASSEMBLY MEMBER MCENENY: Thank you.

17 MR. STONEHILL: Thank you.

18 ASSEMBLY MEMBER MCENENY: Perhaps we go
19 to Mr. Evans since you're on a similar topic?

20 MR. EVANS: I don't have--I would just
21 repeat what he said. I would think I would waste
22 your time.

23 ASSEMBLY MEMBER MCENENY: Senator Dilan?

24 SENATOR DILAN: Yes, sir. Thank you for

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2 your testimony. So in essence, what you're
3 testifying relates to the question that I asked
4 the previous witness that if you strictly apply
5 the formula of the constitution in the sections
6 that you mentioned, it equals 62.

7 MR. EVANS: Yes, Senator.

8 SENATOR DILAN: So strictly apply it
9 making no exceptions?

10 MR. EVANS: Yes.

11 SENATOR DILAN: Okay.

12 MR. EVANS: Under, under either of the
13 two methods that Mr. Stonehill just discussed,
14 the method that the Court of Appeals used in the
15 Snyder case or the method that's on the LATFOR
16 website right now, under the question of how
17 should redistricting be done, which is the Carvin
18 memorandum, memo that Mr. Stonehill mentioned
19 earlier. Both, both methods would yield 62
20 senators?

21 ASSEMBLY MEMBER MCENENY: Could you,
22 could you speak up? I can't hear you. Could you
23 speak up?

24 [Crosstalk]

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2 ASSEMBLY MEMBER MCENENY: Pull that,
3 pull that closer.

4 SENATOR DILAN: So if we follow--

5 SENATOR NOZZOLIO: [Interposing] I'm
6 sorry. Go ahead.

7 MR. EVANS: Repeat what I just said?

8 ASSEMBLY MEMBER MCENENY: Would you Mr.
9 Evans? Yes.

10 MR. EVANS: Sure.

11 ASSEMBLY MEMBER MCENENY: Thank you.

12 MR. EVANS: Apologies. Under either the
13 method that the Court of Appeals used in the
14 Snyder case which Mr. Stonehill mentioned earlier
15 or the method that was used by Mr. Carvin and is
16 recorded in a memo that's on the LATFOR website
17 under how redistrict--under the frequently asked
18 question how should redistricting be done, both
19 methods would yield 62 senate, 62 senators.

20 SENATOR DILAN: All right. So I don't
21 have any further questions. Thank you very much.

22 MR. STONEHILL: Thank you very much.

23 SENATOR NOZZOLIO: I, I have some
24 questions. Mr. Chairman, if I may? Very nice to

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2 see you again. You were in Suffolk County and
3 that I'd hope that we'd see further submissions
4 from you.

5 MR. STONEHILL: Always a pleasure sir.

6 SENATOR NOZZOLIO: Mr. Stonehill. Mr.
7 Stonehill and Skinner?

8 MR. EVANS: Evans.

9 MR. STONEHILL: Evans.

10 SENATOR NOZZOLIO: Evans, Evans. This
11 is very helpful to discuss these issues. And I
12 would like to further discuss them with you. Do
13 you--are you saying that the Court of Appeals had
14 changed their minds since the Snyder decision and
15 have somehow overturned that decision? Were you
16 saying that either one of you?

17 MR. EVANS: Not any way.

18 MR. STONEHILL: No.

19 SENATOR NOZZOLIO: Okay. So you--in
20 your view that, that formula that the Court had
21 put forward in Snyder is still existing today?
22 There have been no--

23 MR. EVANS: [Interposing] Snyder--

24 SENATOR NOZZOLIO: Yes. So there was no

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2 additional Snyder v. Rockfield. There's no
3 additional changes in your mind in that formula
4 since the 1972 decision? Is that not correct?

5 MR. EVANS: Snyder has not been
6 overruled.

7 SENATOR NOZZOLIO: Have there been any
8 cases that have said that 63 seats are not
9 acceptable for the Senate? You know of any cases
10 that, that indicated that?

11 MR. EVANS: I'm not sure why there
12 would--I'm not sure why there would be a case
13 that would say that.

14 SENATOR NOZZOLIO: So you're not aware
15 of any cases that, that have indicated that this-
16 -

17 MR. EVANS: [Interposing] If you, if you
18 adopt the formula, if you use the formula that
19 was used for the Court of Appeals in the Snyder
20 case, you get to 62 senators. This may come a
21 time when the New York population is such that
22 you may yield 63. So the, the, the same case,
23 the case that I just mentioned could eventually
24 yield 63. It's possible.

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2 MR. STONEHILL: I, I guess we're a
3 little confused also because we don't have a
4 situation in which the task force or for that
5 matter any official body of the State of New York
6 has said there should be 63. So it hasn't been
7 challenged--that, that aspect hasn't been
8 challenged in Court.

9 SENATOR NOZZOLIO: Do you have--and I, I
10 appreciate that you walking through some legal
11 steps, but as we discussed in Suffolk, there's no
12 at least with your written submission, there's no
13 mathematical analysis that accompanies this.
14 There you suggest the formula but you don't
15 discuss the, the mathematics.

16 MR. EVANS: I'd be happy to submit a
17 chart.

18 SENATOR NOZZOLIO: Pardon me sir?

19 MR. EVANS: I would happily to submit a
20 chart.

21 SENATOR NOZZOLIO: A chart?

22 MR. EVANS: That will show how the
23 mathematics is done. How the formula is, is used
24 on the numbers.

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2 SENATOR NOZZOLIO: That, that's really
3 what I had asked for in Suffolk and that any
4 mathematical submission would be welcome because
5 it just doesn't--your testimony, at least Mr.
6 Stonehill's testimony does not get into any of
7 the mathematical formulas that you used and I'm,
8 I, I don't see how you're questioning any of the
9 mathematical formulas that the Court used in--

10 MR. EVANS: [Interposing] I'm not going
11 to--

12 SENATOR NOZZOLIO: [Interposing] 70 or--

13 MR. STONEHILL: [Interposing] We're not.

14 MR. EVANS: I'm not questioning when
15 you--

16 SENATOR NOZZOLIO: [Interposing] How can--

17 -

18 MR. EVANS: --the Court in Snyder sir.

19 SENATOR NOZZOLIO: And again, I know
20 this is very complicated so if you're not
21 questioning the formula that the Court has used,
22 you then need to show how it would be very
23 helpful if you could how your math somehow is
24 reflective of what the Court and the constitution

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2 require. And you said you have a chart for us
3 on, on that?

4 MR. EVANS: Yeah it's easy. It's no
5 problem.

6 SENATOR NOZZOLIO: It's easy?

7 MR. EVANS: I could explain it to you
8 right now but it'll take a little bit more time.

9 SENATOR NOZZOLIO: Very good. Then I
10 would appreciate, appreciate that and we'll look
11 forward to see your mathematical explanation of
12 what you had put forward in today's testimony.
13 Thank you very much.

14 ASSEMBLY MEMBER MCENENY: Senator Dilan?

15 SENATOR DILAN: In, in your statement
16 here, do you describe how the formula works? I
17 think you, you take steps in here. Can you refer
18 to that in here because he's saying we're hearing
19 that there's no description as to the math--
20 mathematical formula, that I think you try to
21 describe that in the statement. Is that correct?

22 MR. STONEHILL: I, I, I'm mentioning it.
23 I'm not going into the entire--

24 SENATOR DILAN: [Interposing] Detail

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2 okay.

3 MR. STONEHILL: --process. So I think

4 it'd--

5 SENATOR DILAN: [Interposing] We'll wait

6 for your chart.

7 MR. STONEHILL: --be better--

8 SENATOR DILAN: We'll wait for your

9 chart.

10 MR. STONEHILL: Yes.

11 MR. EVANS: Yeah, didn't--we didn't

12 crunch the numbers. But it's, it, I mean, it's
13 easy to do.

14 SENATOR DILAN: But the issue is here--

15 MR. EVANS: [Interposing] It's easy to

16 do.

17 MR. STONEHILL: Right.

18 SENATOR DILAN: --that you're not

19 questioning the law. You're not questioning the
20 Court of Appeal or you're not questioning anyone
21 or, or the way they calculate it. You're merely
22 stating that if you apply their methods, you get
23 to 62?

24 MR. STONEHILL: That is the sum and

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2 substance of what we're saying.

3 SENATOR DILAN: Thank you.

4 MR. STONEHILL: Thank you.

5 SENATOR DILAN: Yes.

6 ASSEMBLY MEMBER MCENENY: Thank you very
7 much. Todd Breitbart? Good morning.

8 MR. TODD BREITBART: Good morning.

9 Before I begin with the remarks I have prepared
10 today, I have with me the table that Senator
11 Nozzolio just asked for. In fact, it, it's
12 available in the written testimony that I
13 submitted to you on September 22nd. I would be
14 happy to give you another copy so that you could
15 see how, how the two formulas work.

16 ASSEMBLY MEMBER MCENENY: Is it the same
17 thing that Mr. Evans--

18 MR. BREITBART: [Interposing] It
19 probably will be because there's only one way to
20 make a calculation.

21 ASSEMBLY MEMBER MCENENY: But it is--is
22 it identical or you--have you verified his that
23 it matches yours?

24 MR. BREITBART: I haven't seen any

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2 independent calculation by, by him. But you will
3 find tables in the statement that, that I just
4 gave you another copy of that I submitted on
5 September 22nd which--

6 ASSEMBLY MEMBER MCENENY: [Interposing]
7 No your, your assumption is that his will match
8 yours?

9 MR. BREITBART: Well anyone who gets the
10 county combobulations right will, will, will
11 produce the same, the same results. And the
12 tables that I've given you show how the formula
13 that the, the interpretation that was upheld in
14 Snyder and used in '72, '82, and '92 and the
15 alternative or interpretation that was propounded
16 by the Senate majorities outside counsel, Mr.
17 Carvin in 2002, both of those interpretations--

18 ASSEMBLY MEMBER MCENENY: [Interposing]
19 Yup.

20 MR. BREITBART: --if applied to the 2010
21 census counts, would yield a Senator 62 district.
22 So you don't even have to resolve the question
23 for 2012 or whether one or the other is, is the
24 better. Any number of Senate districts accepts

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2 62 would be a departure from all constitutional
3 precedent. I've also included tables showing
4 that after you finish making the amendment of the
5 redistricting data said based upon the prisoner
6 populations, that that cannot produce any change
7 in the application of this formal.

8 What Senator Nozzolio said earlier to
9 the effect that he had not seen any
10 interpretation or analysis except mine, that
11 would produce a Senate of 62 districts is not
12 quite correct because as Mr. Evans pointed out,
13 you go to the frequently asked questions page of
14 the LATFOR website. And if you click on the link
15 that says click here for technical determination
16 of the size of the Senate, you will get Mr.
17 Carvin's memorandum from March 7th, 2002 and if
18 you apply the same legal interpretation that he
19 lays out very carefully in that memorandum to the
20 2010 census data, then you will get 62 districts
21 as is explained in the technical appendix to the
22 statement I gave you on September 22nd. You paid
23 Mr. Carvin handsomely for his legal advice.
24 You're doing so again. You've given his law firm

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2 a contract for billings of up to \$3,000,000 in
3 connection with the current redistricting ground.
4 What I urge you to do as I did on September 22nd
5 is to embrace the interpretation and his
6 memorandum of March 7th, 2002 and just settle
7 finally the fact that there will be 62 senates,
8 senate districts if the third paragraph of
9 Article 3, Section 4 of the state constitution is
10 interpreted properly. Now, now I'd like to
11 proceed with the other remarks I had prepared for
12 today which are, are on another subject.

13 My name is Todd Breitbart for the
14 record. I directed the staff work on
15 redistricting for the democratic leaders of the
16 State Senate from 1980 through my retirement in
17 two--at the end of 2005. I do not now work for a
18 representative min--minority leader. The
19 opinions I express are solely my own. The
20 written statement and maps I have submitted today
21 are the same that I submitted on October 5th. At
22 that hearing, I summarized the facts relating to
23 Suffolk County. Today I will discuss the history
24 of racially discriminatory Senate redistricting

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2 in Nassau County.

3 Since its figures show that the non-
4 Hispanic white population of Long Island has
5 declined during each of the last two decades, but
6 Long Island has maintained its share of the total
7 state population and its share of State Senate
8 districts, because of the growth of black,
9 Hispanic and Asian American populations. The
10 large and growing African American and Latino
11 communities in Nassau and Suffolk Counties are
12 concentrated in the same villages and hamlets,
13 district boundaries that divide one group
14 diluting its volume power dived both. The
15 African American and Latino communities have been
16 systematically split each time the Senate
17 district boundaries have been redrawn after the
18 census. This pattern can be seen in 1972, 1982,
19 1992, and 2002 in Nassau County and in 1982,
20 1992, and 2002 in Suffolk County.

21 At your previous hearing, I described
22 how the minority communities in the town of Islip
23 were repeatedly split between the third and
24 fourth senate districts by a boundary that never

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2 varied from one decade to the next. And how the
3 minority communities in the town of Babylon were
4 split between the fourth and eighth districts.
5 Also by a boundary that varied hardly at all from
6 one decade to the next even while the districts
7 were extensively redrawn around those fixed
8 features. The boundary between the sixth and
9 eighth districts of Nassau County shows the same
10 design. In 1972, that boundary ran east to west
11 through Roosevelt and in 1982, 1992, and 2002, it
12 was moved a little bit to the north and has
13 followed the Roosevelt Uniondale boundary.

14 In all other respects, however, two
15 districts, the two districts have been changed
16 greatly over the decades. Both were first
17 entirely within the town of Hempstead. Then they
18 were extended into the town of Oyster Bay as far
19 as the county line. And the eighth district
20 later reached across the county line into the
21 town of Babylon. But all the changes have
22 preserved one fixed feature. The line dividing
23 the minority communities. Uniondale and the
24 Village of Hempstead are always in the Sixth

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2 District, Roosevelt and Freeport always in the
3 Eighth District. The adjoining area of Westbury
4 and New Castle has meanwhile been placed in the
5 Seventh District along with Almont and South
6 Flora Park while North Valley, Valley Stream has
7 consistently been placed in the Ninth District
8 and South Hempstead and Baldwin have been divided
9 between the Eighth and Ninth Districts.

10 Contrary to suggestions made by the co-
11 chairman on October 5th, the persistence of this
12 pattern when, when the 2002 Senate districts are
13 overlaid on 2010 cen--10 census data, is not an
14 accident. It represents the success of an
15 intentional discriminatory design. Look at pages
16 four and eight of the map set I have provided
17 which show the black and Hispanic populations of
18 Nassau County from the 2000 census overlaid with
19 the 2002 senate districts and you will see the
20 same pattern as in map, map pages five, nine, and
21 ten which show the 2010 census data overlaid with
22 the same 2002 Senate districts. For Suffolk
23 County, look at pages 14 and 18 showing the 2000
24 census data overlaid with the 2002 census

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2 districts and you will see the same pattern as in
3 pages 15, 19, and 20 which show the 2010 census
4 data overlaid with the 2002 census districts.

5 Pages four to six of my written statement provide
6 the numerical data showing how the district
7 boundaries that split the minority communities in
8 each redistricting were so artfully designed that
9 those communities remained evenly divided even as
10 they continued to grow during the subsequent
11 decade. Do not attribute this accom--this
12 accomplishment to mere chance. Take credit for
13 the artfulness of this design but resolve not to
14 repeat it. It remains to be seen, whether as a
15 matter of law, you can get away with continuing
16 this discriminatory pattern through what would
17 now be a full half century. That will depend in
18 part on the statis--the statistical analysis of
19 recent voting patterns and other data and unstill
20 evolving judicial precedence.

21 But the important question before you is
22 not a question of law. It is a question of
23 justice and wisdom. What sort of redistricting
24 will produce a healthy democracy? It would be

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2 unwise and unjust to continue the systematic
3 splitting of the minority communities in Long
4 Island so that minority votes cannot exercise a
5 substantial voice in the election of any senator
6 and cannot compel effective representation of the
7 interests of their communities. Even if you may
8 do it, you should not. You have repeatedly
9 asserted that the governor should not veto a
10 redistricting plan merely because this task force
11 has designed it without considering its merits.
12 But if your new design perpetuates through a full
13 half century, the systematic splitting of Long
14 Island minority communities, the governor should
15 certainly veto that design for it's appalling
16 lack of merit.

17 ASSEMBLY MEMBER MCENENY: Members?

18 Senator?

19 SENATOR DILAN: Yeah, I just have--I
20 just have one quick question and it refers again
21 to the size of the Senate. You indicated that
22 the Carvin memo is still on the LATFOR website?

23 MR. BREITBART: Yes, if you go to the
24 frequently asked question page, you'll see a link

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2 that says click here or words to that effect for
3 technical determination, the size of the Senate,
4 you click on that link, you'll get Carvin's memo.
5 Now Mr. Carvin in the memo says his, his, his
6 interpretation yields 62 districts. He was
7 referring of course to the 2000 census data from
8 2000. But if you apply the same method, the same
9 interpretation of the constitution to the 2010
10 census data, you will again get 62 districts as
11 the written statement that I su--that is shown in
12 the written statement that I submitted on
13 September 22nd and of which I've just given
14 Senator Nozzolio the one copy that I happen to
15 have, that I happen to have with me. I should
16 also point out that because that--because that
17 mem--memorandum is still on your website and will
18 be found by anyone who wants to find out from the
19 frequently asked questions page, which is
20 supposed to inform the public that the number of
21 senate districts should be, that means that you
22 are now currently soliciting proposals from the
23 public for Senate districts and as some--McEneny
24 has said, you look forward to getting maps from

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2 the public. You are submitting such proposals
3 from the public specifically for 62 senate
4 districts and no other number. If you were now
5 to substitute another number, you would be
6 pulling a bait and switch on the members of the
7 public from whom you are soliciting these
8 proposals.

9 SENATOR DILAN: Okay. Now is there any
10 reason why that method of calculation could or
11 should change?

12 MR. BREITBART: Well the only other
13 interpretation that has been used by the leg--
14 legislature and plans that have taken effect as a
15 result of legislative action in the one person,
16 one vote here, the, the legislative--the plans
17 that were, that were used in the 60s were, were
18 court imposed. But the only other interpretation
19 that has been used by the legislature is the
20 interpretation that was used in 1972 and upheld
21 by the Court of Appeals in the, in the Snyder
22 case. It happens that both of those
23 interpretations and this is a coincidence
24 resulting from the way particular populations

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2 fell out in the 2010 census. It happened that
3 both of those interpretations have applied to the
4 2010 census would yield the same number of
5 districts, 62. So the question of which is a
6 better interpretation need not be resolved for at
7 least another, another ten years assuming that
8 the constitution is not amended between, between
9 now and then. And I should point out also that
10 in each of these four decades, the interpretation
11 that was used, one or the other, both of which
12 were now produced 62 seats, were interpretations
13 used by a republican Senate majority in deciding
14 the Senate districts. So in urging you to, to
15 adopt one or the other of these interpretations,
16 both of which would pro--now produce the same
17 results, I'm not urging upon, urging something
18 upon you that is tainted with, with partisan
19 considerations. In fact, Mr. Carvin's
20 interpretation which was used in 2002 and which
21 you are still presenting to the public as the
22 correct interpretation could be regarded as a, as
23 a bipartisan consensus because it happens to be
24 exactly the same interpretation that was

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2 advocated by the unsuccessful plaintiffs in the
3 Snyder case, the Schwartz plaintiff's who were
4 democrats.

5 The way in which and the circumstances
6 in which Mr. Carvin's interpretation was
7 substituted in 2002, is objectionable because the
8 record as, as you will see from the exhibits that
9 are attached to the document which I give--just
10 gave you another copy shows that the decision was
11 actually made for reasons that had nothing to do
12 with faithfulness to the constitution and that
13 Mr. Carvin's interpretations was provided
14 afterwards as a rationale for doing something
15 that had been decided for other entirely.
16 Nevertheless, as an interpretation of the
17 constitution. Considering it simply as law and
18 ignoring the historical circumstances in which it
19 was substituted in 2002, as an interpretation of
20 the constitution, it is quite reasonable. And as
21 I say was, was exactly the interpretation that
22 was, what was proposed by the unsuccessful
23 plaintiff's in the Snyder case. But you need not
24 determine which of the two interpretations that

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2 have been used is the better one because they
3 would both now produce the same result 62
4 districts and therefore any other number of
5 districts would be a departure from all
6 constitutional precedent. And as to whether
7 there, you know, has been a, you know, a court
8 ruling saying that you can't do that, well I'm
9 sure that would be tested if you were to, if you
10 were to abandon every constitutional precedent to
11 come up with another number because it seems to
12 you convenient.

13 SENATOR NOZZOLIO: So if I--

14 SENATOR DILAN: [Interposing] Thank you.

15 SENATOR NOZZOLIO: --if--thank you,
16 Senator. If I may Mr. Breitbart, if I may try to
17 sort through what you're saying and understand it
18 which is very complex.

19 MR. BREITBART: It got me my pension.

20 SENATOR NOZZOLIO: It, it, it, let me
21 try to rephrase what you said so I can at least
22 confirm my understanding of what you're saying as
23 accurate. You're saying that the formula that is
24 put forward, you do not have--it was put forward

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2 that actually is on the LATFOR website, you're
3 not disagreeing with that formula? But you're a-
4 -disagreeing with the interpretation of that
5 formula?

6 MR. BREITBART: Well I, I, I don't know
7 whether I'm disagreeing with anyone's
8 interpretation that formula--Ms., Ms. Misir, I'm
9 sorry she left, would, would do well to read Mr.
10 Carvin's memo. I gathered from her testimony
11 that she's not done so. Because it, it--some of
12 the errors that I believe she made would be very
13 clear to her if she, if she were to read, read
14 the memo. But, you know, the question of, of,
15 of, of who was right in, in Snyder, whether,
16 whether the formula that was used in '72, '82,
17 and '92 which was upheld in Snyder is the better
18 interpretation or whether the formula that was
19 proposed by the plaintiff's in Snyder and then
20 advocated in 2002 by Mr. Carvin and adopted by
21 the legislature in 2002. The question of which
22 should those formulas is the better formula is
23 one which coincidentally need not be resolved for
24 the current redistricting round because for the

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2 first time, it happens that because--that
3 applying either formula to the 2010 census data,
4 you would get 62 districts. So it's, it's a very
5 easy questions to, to resolve. You don't even
6 have to decide which of those formulas is the, is
7 the better interpretation of, of Article 3,
8 Section 4.

9 SENATOR NOZZOLIO: That your methodology
10 itself may be questioned and that I, I guess I'm,
11 I'm trying to indicate for my knowledge which
12 part and you're, you're saying that the formula
13 itself is something that we have no--you have no
14 quarrel with but it's--

15 MR. BREITBART: [Interposing] The
16 interpretation yes.

17 SENATOR NOZZOLIO: It's the
18 interpretation that, that is--you have
19 interpreted a certain way.

20 MR. BREITBART: Well...

21 SENATOR NOZZOLIO: And that way may or
22 may not be an accurate interpretation?

23 MR. BREITBART: Now I, I think that
24 either the, the, the interpretation that was used

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2 in '72, '82, '82 an '92 and upheld in Snyder, and
3 the interpretation that was rejected by the Court
4 in Snyder but substituted by the legislature in
5 2002 and, and explained in Mr. Carvin's memo, I
6 think there, they're both reasonable. I, I
7 objected--I would, I would say that it was
8 improper to have substituted a different
9 interpretation in 2002 simply because after the
10 experience of '72, '82, and '92, the question,
11 the proper interpretation should have been
12 regarded as a settled matter. And it's quite
13 clear from the history as revealed in the, the
14 internal Senate majority memo, memoranda that
15 became available in the discovery phase of the
16 Rodriguez case in 2003, that the, the decision to
17 change, adopt a different interpretation was made
18 as, as part of--was made in order to facilitate
19 the malapportioned of Senate districts between
20 upstate and downstate, that had nothing to do
21 with the desire to, to adhere to or show respect
22 for the New York State Constitution. So I don't
23 believe that, that Mr. Carvin's formula should
24 have been substituted, not because it is an

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2 unreasonable interpretation, the constitution,
3 but because it should already have been regarded
4 as a settled matter at that point. Nevertheless,
5 we don't have to resolve that question for 2012,
6 because both interpretations as applied to the
7 2010 census data, would yield a senate of 62
8 districts. And if you believe that the
9 calculations in the table that I have given you
10 and, and the table that in fact I, I gave to you
11 more than a month ago, if you believe those
12 calculations are false or that I quoted the, the,
13 the census data incorrectly, it is to be hoped
14 that, that you will find an occasion to explain
15 where my, my error is, if I have made an error, I
16 will, I will thank you for having called it to my
17 attention.

18 SENATOR NOZZOLIO: Thank you very much.

19 ASSEMBLY MEMBER MCENENY: I appreciate
20 your knowledge and your passion in this matter
21 and look forward to hearing you testify at
22 Plattsburg next week.

23 MR. BREITBART: I've, I've been at the
24 other side of the lake. It's quite beautiful.

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2 But I don't think I'll be able to make it.

3 ASSEMBLY MEMBER MCENENY: Thank you. It
4 was good to see you again.

5 MR. BREITBART: Thank you.

6 ASSEMBLY MEMBER MCENENY: Could we have
7 Assembly Man Edward P. Ra?

8 ASSEMBLYMAN EDWARD P. RA: Thank you
9 Assemblymen. I just wanted to thank the co-
10 chairs Mr. McEneny and Senator Nozzolio for
11 hearing my testimony today as well as my assembly
12 colleague Mr. Oaks and Senator Dilan for your
13 leadership in bringing this hearing to Nassau
14 County today. I'm just going to read a brief
15 statement that I have submitted to the committee.

16 A few things are more important in
17 defining who we are than our identity, our sense
18 of integrity, and knowing where we stand in a
19 world that is increasingly chaotic. My
20 grandfather often cautioned me to know who you
21 are and be true to yourself. No matter what else
22 happens, nobody can take away your identity and
23 integrity. Well I've always attempted to live by
24 those wise words that take on a greater residence

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2 as I speak to you today. In government,
3 territorial integrity can be just as important as
4 personal integrity. In particular, the 25--21st
5 assembly district which I am proud to serve, has
6 a unique identity based on the common values,
7 ideals, and priorities that my constituents
8 share. At a recent hearing before this panel, my
9 assembly colleague Michelle Shimmel [phonetic]
10 cautioned this panel about the dangers of extend,
11 extending Western Nassau assembly districts into
12 Queens County. I have discussed this issue with
13 Assemblywoman Shimmel on several occasions. This
14 is not a partisan issue but rather one of keeping
15 communities together under common representation.
16 Lovely bedroom communities like Elmont, South
17 Floral Park, Franklin Square, Floral Park,
18 Bellerose, Stewart Manner, Garden City South, and
19 North Valley Stream, are all rich with a sense of
20 pride. This district is composed of people who
21 have moved to Nassau County, whether it be in
22 this generation or the families in prior
23 generations, to celebrate a suburban lifestyle
24 and raise their families in hometowns that do

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2 justice to my grandfather's words. A legislative
3 committee should not strip away the identity and
4 integrity of this assembly district and its
5 residents. The assembly districts of Western
6 Nassau deserve the same protections that
7 communities of districts throughout the five
8 boroughs are afforded. Namely, that our
9 communities will not be cracked, absorbed, or
10 otherwise disenfranchised without federal review.
11 Sound and sensible redistricting practices demand
12 that the voices of suburban voters not be
13 diluted. I urge this panel to consider the
14 character of our region given due sensitivity to
15 our identity and respect for the integrity of our
16 neighborhoods. I have been blessed to be part of
17 a large and diverse family of residents who
18 comprise the 21st assembly district. We are a
19 district of proud Nassau residents who have
20 embraced a common identity in our shared suburban
21 experience. We are much more than just a
22 political jurisdiction carved out on a map. In
23 fact, we are a community in every sense of the
24 word and I want to conclude by saying that I

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2 believe staying consistent with these
3 considerations and those expressed by my
4 colleague, Assembly Woman, Woman Shi--Shimmel is
5 certainly consistent with the statutorily charge
6 of this committee, the New York State
7 constitutions charge of this committee, and
8 federal law as it governs this committee. And I
9 thank you for hearing my testimony today.

10 ASSEMBLY MEMBER MCENENY: Thank you.

11 SENATOR NOZZOLIO: Thank you.

12 ASSEMBLY MEMBER MCENENY: Assembly
13 member Phil Ramos? We'll take someone else and
14 when he comes back, if you'd advise me, I'll call
15 him up again. Ellen Auerbach. Elliott. I'm
16 sorry I misread that. Good morning.

17 MR. ELLIOT AUERBACH, MEMBER OF BOARD,
18 CHAIR OF ELECTION COMMITTEE, NEW YORK CITY CIVIL
19 LIBERTIES UNION: Good morning.

20 ASSEMBLY MEMBER MCENENY: Good afternoon
21 now.

22 MR. AUERBACH: - - . My name is Eliot
23 Auerbach. I'm a resident of Suffolk County. I
24 appeared before the LATFOR of ten years ago on

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2 behalf of the Suffolk County Chapter of the New
3 York Civil Liberties Union. I'm currently a
4 member of the Board of Directors of the New York
5 Civil Liberties Union, and chair of the committee
6 on elections of that board. But I am not here to
7 make an official statement on behalf of the
8 NYCLU. I'm here representing myself as a citizen
9 of New York. We've heard people here earlier ask
10 for what might have been, that is a commission
11 that does not exist at the present time. I
12 personally would have preferred if the
13 constitutional amendment proposed by the Bar
14 Association of the City of New York had been
15 adopted. But that is not the case. And so what
16 we face now is a situation where redistricting is
17 to be done by the legislature, by a bill which
18 then can be signed or vetoed by the governor.
19 And so since you, this Panel, are the input to
20 the legislature, I will address my concerns along
21 those, along those lines.

22 Historically, I'll just use ten years
23 ago because that's what I'm familiar with. There
24 are two matters that I'd like to address. One is

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2 the fragmentation of minority communities in the
3 two counties for purpose of senate apportionment.
4 And the second issue is what I see as the
5 underrepresentation in the assembly of the two
6 counties taken as a whole. The latter one is
7 fast. I'll take care of that right away. In the
8 2000 census, the more appropriate number of
9 assembly persons for the two counties would have
10 been 22. It was given as 21. Now, this is part
11 of an attempt to shift emphasis elsewhere in the
12 state. If we look t New York State as a whole,
13 there are essentially four regions that have some
14 sort of regional cohesion. Long Island, the
15 city, the northern suburbs, and the rest of the
16 state. I think there is no justification for
17 mal-apportionment in terms of numbers of the
18 senators or assembly persons, there's no
19 justification for that in under representing any
20 one of these four interests. With respect to the
21 Senate, because the numbers work out, nine
22 senators is almost perfectly the number that Long
23 Island should get and it has gotten it in the
24 last apportionment and I assume it will in this

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2 one. But with respect to the assembly, I would
3 urge that the number be 22, not 21.

4 Okay. Now we came to the Senate. I'm
5 considering the two counties as a whole. So it's
6 reasonable for me to appear here even though I'm
7 a Suffolk resident. The minority communities
8 that are predominantly along the central spine of
9 the island, have consistently been split so that
10 their influence in any one district is pretty
11 small. Now there are people who might argue that
12 this gives nine senators the reason to cover
13 their interests. But that's not really the case.
14 The most important function, as I see it, that
15 the Senate provides for the suburban districts is
16 protecting their school districts or their school
17 funding. And if you take communities that are
18 predominantly of low economic means, low means to
19 produce--to pro--to provide for their school
20 districts, and bury them among larger districts
21 which have a different economic profile, that
22 interest gets lost. So I would suggest that you
23 look at the minority communities which have a
24 certain cohesiveness, they may not meet some

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2 federal test I think that goes under the names of
3 the Jingle's Test but that's not a reason not to
4 give them a cohesiveness representation.

5 So now we come to the questions of how
6 you proceed here. There is a certain distrust of
7 government mentioned in many areas. There are
8 people who claim that New York State is
9 dysfunctional. I don't think it is. I think it
10 has rough times but it manages to get things done
11 compared to California, we got a budget and
12 California didn't for a long while. So I call
13 upon this panel as the input to a legislature to
14 produce an apportionment that will meet the test
15 of fairness, that will meet the test of having an
16 appearance of reasonable work.

17 Now since you do this by legis--by
18 legislation, by a bill as required by the state
19 constitution, a bill of necessity has to be
20 presented to the governor for his signature or
21 veto. Now there are people who feel that the
22 governor's main objection to this whole business
23 is process. It isn't the process that he wanted
24 therefore he won't--doesn't like it. Now that

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2 may or may not be the motive at this point for
3 the governor's statements. But if you produce an
4 apportionment that is as bad as the 2002
5 apportionment, then on matters of substance,
6 there are many people in the state and many
7 organizations with access to the governor's
8 office who will urge him to veto it on substance.
9 So I urge you and the governor to jointly produce
10 a bill which is fair and which can be signed by
11 the governor and which indicates that New York is
12 a functioning state. Thank you.

13 ASSEMBLY MEMBER MCENENY: Thank you very
14 much. Members any, any questions?

15 MR. AUERBACH: Thank you.

16 ASSEMBLY MEMBER MCENENY: I think
17 everyone here would like to see what the governor
18 would come up with. It's not, it's not that easy
19 but thank you very m much.

20 MR. AUERBACH: And I'm aware, I'm, I'm
21 aware of that but what, what I would say is that
22 if what you meaning the legislature rather than
23 this panel, comes up with, has serious problems
24 of substance, then there will be good reason for

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2 people to approach the governor on grounds other
3 than straight politics.

4 ASSEMBLY MEMBER MCENENY: Yes.

5 MR. AUERBACH: To ask for a veto.

6 ASSEMBLY MEMBER MCENENY: I think we
7 don't object to that.

8 ASSEMBLY MEMBER AUERBACH: Thank you.

9 ASSEMBLY MEMBER OAKS: Mr. Auerbach, if,
10 if I might, just one quick question.

11 MR. AUERBACH: Surely.

12 ASSEMBLY MEMBER OAKS: You had mentioned
13 Long Island focus on the assembly seats and just
14 looking at the numbers.

15 MR. AUERBACH: The two counties.

16 ASSEMBLY MEMBER OAKS: You, you
17 suggested that perhaps that, that number should
18 be 22 as, as we go forward as opposed to 21.

19 MR. AUERBACH: Correct.

20 ASSEMBLY MEMBER OAKS: Similarly, you
21 know, if you looked at the map of this, say you
22 put it into four sections or if you put it into
23 three, let's say with the city and--

24 MR. AUERBACH: [Interposing] I'll allow

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2 you to adjoin the northern suburbs to the eastern
3 suburbs. That's a detail.

4 ASSEMBLY MEMBER OAKS: But, but within
5 that, should those numbers, I, I know your focus
6 is on Long Island.

7 MR. AUERBACH: Yeah.

8 ASSEMBLY MEMBER OAKS: That's where we
9 are todody but should those numbers
10 proportionately be similar, would it be your
11 suggestion then that the numbers it adjust up or
12 wherever--

13 MR. AUERBACH: [Interposing] No the
14 assembly cannot be to adjust it up.

15 ASSEMBLY MEMBER OAKS: No, no, no I
16 don't, I don't mean in the total numbers.

17 MR. AUERBACH: Okay.

18 ASSEMBLY MEMBER OAKS: You, you've
19 mentioned obviously if you add one somewhere,
20 it's got to come from somewhere else but--

21 MR. AUERBACH: [Interposing] Yes, I
22 mean, it's clear that when Long Island was
23 reduced from 22 in the, in the 1992 apportionment
24 to 21 in the 2002 apportionment, without any

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2 significant percentage change that, that one
3 district went elsewhere.

4 ASSEMBLY MEMBER OAKS: Sure. And, and,
5 and my only suggestion would be is if north of
6 New York and, and upstate should those numbers
7 come out in a similar mathematical way, would you
8 agree that it would make sense to adjust that
9 area of--

10 MR. AUERBACH: [Interposing] Well what
11 I, what I would call for is if you had a, a
12 nearly round number upstate, that number should
13 be used. If you have a nearly round number on
14 Long Island as you do, which is 22, that should
15 be used. Maybe you need to run a district across
16 the city of Westchester line. I don't, I don't
17 know. I haven't looked at those details. But
18 yes, I think they should, I think that those four
19 regions as I stated should be dealt with
20 appropriately.

21 ASSEMBLY MEMBER OAKS: Thank you.

22 ASSEMBLY MEMBER MCENENY: When you
23 mentioned that with county line, are you
24 recommending that county line should be crossed

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2 if the math is more exact? Or if it's within
3 tolerance, should the county line or city of New
4 York for example be respected?

5 MR. AUERBACH: I think that the idea of
6 respecting political jurisdictions such as
7 counties is something that is a reasonable thing
8 provided it does not violate equal protection.
9 That's a matter of law and provided it doesn't
10 violate my concept of fairness. Because, you
11 know, the difference between 21 and 22 is less
12 than 5%. So you meet the standard of Rodriguez
13 versus Patocky, but just because you meet the
14 standard doesn't mean you should do that. So I,
15 I, I think--I don't know what the numbers are in
16 the upstate area but I think that you see that
17 there's an application there and I would say
18 absolutely. Let's say that the upstate numbers
19 come out to be 47, I don't know that it is, .2.
20 Then 47 is fine. If it comes out 40, 46.6, then
21 maybe you have to slop something over. But I
22 would not count downward in the case of Suffolk
23 and Nassau, in the apportionment of ten years
24 ago, 20, I think the exact numbers was something

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2 like 21.9 and another digit after the nine. And
3 it went to 21. That's the issue I'm raising.

4 ASSEMBLY MEMBER OAKS: Thank you.

5 MR. AUERBACH: Thank you.

6 ASSEMBLY MEMBER MCENENY: Thank you very
7 much.

8 ASSEMBLY MEMBER OAKS: Yeah.

9 ASSEMBLY MEMBER MCENENY: Assembly
10 member Phil Ramos please? Good afternoon.

11 ASSEMBLYMAN RAMOS: Good afternoon. I
12 would also like to thank all the members of
13 LATFOR for this opportunity to speak on behalf of
14 my constituents. I represent the towns of Islip
15 in Suffolk County and I'm happy to be here to
16 present to you with a unique viewpoint when it
17 comes to this important issue. I, I first want
18 to say that I will not pass judgment on LATFOR or
19 the process. Although I have my own opinions and
20 I would rather reserve that until we see what,
21 what is produced from this body here. And at
22 that point, I think, you know, it would be the
23 time to speak about whether the process at least
24 from a personal standpoint, whether process works

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2 or not. So the task at hand is to talk about
3 what suggestions could come out of this body here
4 that, that would be appropriate.

5 In 2002, I was elected to represent the
6 Sixth District in, in New York State Assembly
7 which encompasses a communities of Brentwood,
8 Central Islip, Bay Shore, North Bay Shore, Islip,
9 and Ilandeio [phonetic]. This district was
10 created for the purpose of giving an
11 underrepresented and underserved community a
12 voice in interstate government. A large
13 percentage of the constituents I represent come
14 from minority backgrounds. And before the
15 creation of this sixth district, this population,
16 this population that had common interest, common
17 heritage, was split amongst several assembly
18 districts. Which had the affect of diluting
19 their voice and disenfranchising our community.
20 The creation of this new district gave them for
21 the first time a strong and active voice in state
22 government. Not only was it the right thing to
23 do, but it is the law of the land. The Voting
24 Rights Act of 1965 was passed partly in order to

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2 prevent the disenfranchisement of minority groups
3 through the political gerrymandering. As a
4 result, minority communities have been given a
5 voice in their government and have experienced
6 tremendous results and improved quality of life
7 in that district. Right now, Hispanic voters are
8 the fastest growing segment of the US population.
9 At the time of the 2000 census, the Hispanic
10 share of Long Island's population had grown--was
11 growing at 15.5%. Furthermore, in the 2010
12 census figures, that was released this spring, it
13 counted 441,594 Hispanics on the island which now
14 represents a growth rate of that went up from
15 15.5% to 56.2% jump since the year 2000. This
16 year, as you all know, we will be drawing a new
17 district lines. These dis--these districts
18 should represent the ethnic and cultural
19 diversity of New York's many communities and
20 should continue to give minority groups a voice
21 in their state government. Any new lines should
22 reflect the growth of, of the minority
23 communities on Long Island. Therefore, I would
24 like to see similar and equitable representation

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2 amongst the minority areas in Suffolk County as
3 well as Nassau County.

4 As we have seen historically, those who
5 do not wish to see minority districts tend to
6 lump them all into one district and ignore other
7 districts that might not have a majority
8 minority, but would have a significant portion,
9 say 30%, 25%. And those we traditionally see
10 lines drawn right through them.

11 In my own district, in the town of
12 Brentwood, in the heart of the Latino Community,
13 when the Puerto Ricans march on in the Fifth
14 Avenue in the Puerto Rican Day parade, they have
15 one foot in one senate district and another foot
16 in another senate district. That's shameful.
17 I'm hoping that districts with more integrity
18 come out and more representatives.

19 Here in Nassau, given the growth of the
20 minority population, there is a potential for at
21 least two districts, one in the assembly and the
22 second in the Senate that would give good
23 representation to good minority groups. Given
24 the demographics interests and the needs of the

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2 many communities in South Nassau, it is easy to
3 make a compelling case for areas such as
4 Freeport, five towns to be included in one new
5 assembly district. The new district lines should
6 try to maintain the integrity of counties, towns,
7 villages, as well as schools, fire and library
8 districts. Perhaps the most significant example
9 is the Village of Hempstead. It is also
10 shameful, and perhaps unconstitutional, to keep
11 dividing up the Village of Hempstead into two or
12 more Senate districts. I urge members of this
13 task force to pay special attention and
14 consideration to this case. My district is an
15 example of the successes of our redistricting
16 process. Communities with common interests
17 should be untied and represented by one elected
18 official. Not divided and silenced. We have
19 come too far in terms of extending a political
20 voice to underrepresented and underserved
21 minority communities in New York and across the,
22 the country. And I urge my colleagues to
23 preserve this measure of fairness and justice
24 when considering the new district maps in this

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2 upcoming legislative session. I thank you very
3 much for your time.

4 ASSEMBLY MEMBER MCENENY: Thank you very
5 much. We appreciate your sitting through all
6 this 'cause I know we gave you the opportunity to
7 come ahead and I know you wanted to listen to
8 some more testimony first and I appreciate that.
9 Susan Lerner? Does this mean you're not coming
10 to Plattsburg?

11 MS. SUSAN LERNER, EXECUTIVE DIRECTOR,
12 COMMON CAUSE NY: First I want to know who's
13 betting on me and who's betting against me.
14 You're registered though.

15 ASSEMBLY MEMBER MCENENY: You'll
16 probably be there. I got my money on you Susan.
17 You'll be there.

18 MS. LERNER: Well the person who is
19 betting that Brooklyn that loves nature is going
20 to win.

21 ASSEMBLY MEMBER MCENENY: All right.

22 MS. LERNER: So good afternoon. Good to
23 see you again.

24 ASSEMBLY MEMBER MCENENY: Yeah.

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2 MS. LERNER: I'd like to refer to the
3 maps that we attached to our testimony because I
4 think again they graphically illustrate a lot of
5 what people have been saying. I don't think we
6 have a significantly different interpretation
7 other than the interpretation you've heard from
8 local folks and from the elected representatives
9 but the maps hopefully will illustrate for you
10 graphically what we've been talking about.

11 I'd like to start with the first one
12 because Nassau is quite singular. There are
13 100.--1.3 million people packed into Nassau
14 County, roughly 15 miles from east to west, 20
15 miles from north to south. And that makes Nassau
16 County one of the densest suburbs not just in New
17 York but in the entire country. So it has a lot
18 of attributes of the urban areas yet it is
19 demographically distinct as we've looked at it.

20 And when you look at the median income,
21 I think it illustrates what numerous people were
22 testifying that there is a demographic
23 distinction between the north and the south for
24 sure with the North Shore having a concentration

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2 of higher income people if we were look at other
3 occupation related demographics, we'd see the
4 same thing on the map. The percentage of
5 residents with college degrees again. A lot of
6 people have been talking about the Hempstead
7 area. When you look at median income, when you
8 look at residents with college degrees, you're
9 going to see a distinct demographic cluster that
10 is the Hempstead area. Here we're looking at
11 residents with college degrees, lower
12 concentration of people with college degrees,
13 lighter color, bingo, Hempstead. Percentage of
14 foreign born residents. Again, you're going to
15 see some very distinct demographic clusters,
16 again it tends to cluster around Hempstead and
17 the other communities that have been mentioned.
18 So our map number five is an attempt to put
19 together what we see as the demographically
20 similar areas in the Hempstead area, Elmont,
21 North Valley Stream, Valley Stream, down to
22 Baldwin Harbor, and all the way up to New Castle.
23 This to us really is what we've attempted to do
24 is to bring together the areas which are

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2 demographically similar and we suggest that this
3 is a reasonable grouping even though it may not
4 be the most compact district that you could draw
5 if you were ignoring the demographic factors.
6 We've also tried to adhere to the boundaries of
7 the existing villages and towns and that's why
8 it's less compact than it would be if we drew it
9 abstractly.

10 The next couple of maps, six, deals with
11 the non-Hispanic black voting population, sevens
12 the Hispanic voting population. Again, it
13 illustrates the way in which that population is
14 very significantly clustered in that area. Where
15 we find a deviation, a difference is in the Asian
16 voting age population and that's our map number
17 eight. Because that population is an expansion
18 from communities in Queens and what we're seeing
19 is that population is expanding in the North
20 Shore because that's the most reasonable street
21 and public transportation expansion from the
22 areas of concentration in Queens.

23 So there's been a lot of discussion
24 about the current lines. We have them here. Our

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2 map number nine is the current state senate
3 districts and our map number ten is a graphic
4 illustration of what many of the earlier
5 testifiers talked about in terms of cracking of
6 the black community by the current senate lines.
7 So as you can see what people are talking about,
8 it is frankly very graphic. Same thing true on
9 our map number 11 when you look at the way in
10 which the Latino of the Hispanic community is
11 cracked by the current lines.

12 And we agree also with some of the
13 earlier commentary that the assembly district
14 lines in Long Island, also have some issues to
15 them. The--while for instance assembly district
16 18 is appropriately clustered around the minority
17 community, it has some very odd aspects to it
18 where it just reaches out and picks up portions
19 of adjoining towns and villages that don't seem
20 to have much geographic logic. And we also
21 believe that we agree with the earlier testifier
22 that linking the Queens areas with the Nassau
23 areas in a district that spans that particular
24 county border is to us problematic, that is not a

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2 district where you have a lot of commonality of
3 interest as the earlier person testified and we
4 think that that is not a district we'd like to
5 see preserved in its current form.

6 I'm afraid that Long Island really is a
7 test case. It has been traditionally
8 gerrymandered by both parties. Gerrymandered by
9 the assembly to cut down on what they anticipated
10 would be a number of republican districts so the
11 number of districts was reduced to 21 even though
12 the population we believe then and now because
13 Nassau and Suffolk has expanded in number would
14 support 21 assembly districts. And then what has
15 been referred to repeatedly is a classic racial
16 gerrymander on the Senate side. So I think that
17 I do have to agree with some of the earlier
18 commentators that as someone who has said that
19 LATFOR should complete the process simply because
20 the clock has been run out. I think that there's
21 a lot of pressure and a lot of scrutiny on the
22 lines that you drawn in, in Long Island because
23 it has traditionally been politically
24 gerrymandered in a particularly overt way. And

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2 to the extent that you are urging us to give you
3 an opportunity to show that even a legislatively
4 dominated body can draw some fair non-politicized
5 lines. Unfortunately I think the test case is
6 going to be the lines you draw in Long Island.
7 Thank you.

8 ASSEMBLY MEMBER MCENENY: Thank you.

9 Senator?

10 SENATOR NOZZOLIO: Susan, always great
11 to see you.

12 MS. LERNER: Yeah.

13 SENATOR NOZZOLIO: Just a quick
14 question. And first a thanks though. Again this
15 information is very, very helpful, provides not
16 only information but good focus. And thank you
17 for your continuing involvement with this
18 process. Does your organization have an opinion
19 on the primary date?

20 MS. LERNER: We have taken a position on
21 the primary date and we have--are supporting a
22 June primary date because we're very concerned
23 that with vacation and school schedules, that a
24 traditionally low turnout date, a low turnout

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2 election which is the primary election, would be
3 negatively impacted for even lower turnout if the
4 primary were August.

5 SENATOR NOZZOLIO: That I certainly
6 understand that objective. What we found and I'm
7 not sure if you were in Buffalo. I think one of
8 the few hearings you didn't attend was Buffalo.

9 MS. LERNER: Well I had help.

10 SENATOR NOZZOLIO: But we heard--I know
11 you were in Westchester and it did come out in
12 Westchester. Two of the bigger counties of our
13 state, outside the City of New York, and if it's
14 a problem for them, it's certainly going to be a
15 problem for the Nassau Suffolk as well as the
16 City. And that's the coordination of getting all
17 this done in time to have a June primary this
18 year, this coming year. This coming cycle, 2012.
19 It's not only the district lines that have to be
20 created as you know of the assembly, the Senate
21 and the Congress, it's then the polling place
22 jurisdictions that must be commensurate with
23 those and the coordination of that. In Buffalo,
24 it was testified too by some of the Board of

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2 Elections and county legal staff that it would be
3 as much as a \$3,000,000 unfunded mandate just to
4 put this together. And then to have it together
5 in time for this year is a problem that we've
6 seen and heard from various administrators across
7 the state. And that's, that's sort of a perfect
8 storm this year to change the primary date which
9 may or may not happ--may or may not happen but to
10 have it then if it's a early primary date,
11 whenever the date is selected, that to have that
12 date then have all the other information ready,
13 I, I think that they just wondered what you're--
14 if you had any sense of opinion on that
15 particular part of it.

16 MS. LERNER: Yeah, I, I understand that
17 it, it's challenging for the Boards of Election.
18 I know that there are other boards who feel that
19 they can indeed satisfy the time schedule. I've
20 also heard feedback from Boards of Elections that
21 having the date in August complicates the
22 selection of locations because to the extent that
23 they have relied on schools as a location, the
24 school staff is generally still on site in June.

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2 In August, it becomes more expensive and more
3 complicated to reopen the schools when a lot of
4 the janitorial staff is on vacation and the
5 administrative staff is also not available. So
6 there are a lot of different factors and in this
7 situation, I don't know that there's a perfect
8 solution. We came down on the side of June
9 because we had heard from various Boards of Ed
10 including the state board as they felt it was
11 doable, we felt that it made it easier with a
12 school situation as well as vacation situation
13 and so we factored that in. But, but we
14 understand it's a push for everybody.

15 SENATOR NOZZOLIO: Thank you.

16 MS. LERNER: Thank you.

17 ASSEMBLY MEMBER MCENENY: Now we have
18 another concern with an August primary other than
19 college kids away at jobs and people focusing on
20 other things. In upstate New York, we were
21 devastated by floods in the Adirondacks, the
22 Catskills, and a number of other areas. And a
23 lot of the schools are sort of limping along.
24 They're, they're lucky to be open. The time that

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2 you do capital expenses, capital repairs is
3 usually if you have the summer school right
4 after.

5 MS. LERNER: Yeah.

6 ASSEMBLY MEMBER MCENENY: So in August,
7 that's when you're sanding down the gym floor and
8 repairing it. And a lot of heavy construction
9 has to go on in the summer rather than during the
10 school year. So that's another concern as well.

11 MS. LERNER: Another fact. And also,
12 you know, historically in the past, we have had
13 June primaries.

14 ASSEMBLY MEMBER MCENENY: Yes.

15 MS. LERNER: So it is less confusing to
16 an already confused electorate that finds it
17 difficult--

18 ASSEMBLY MEMBER MCENENY: [Interposing]
19 You and I may remember them but I think there's a
20 lot of the electorate that has no idea what it--

21 EXECUTIVE DIRECTOR LERNER: [Interposing]
22 Right.

23 ASSEMBLY MEMBER MCENENY: --a June
24 primary is. We, we got rid of them in the

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2 earlier mid-70s.

3 MS. LERNER: Right.

4 ASSEMBLY MEMBER MCENENY: I would say
5 one thing, just that I have you here, for you
6 Boards of Elections out there, don't use software
7 to do election districts. It has been a
8 disaster. Software is based on the census
9 blocks. We're not allowed to split a block. But
10 for an election district, you can. So if you
11 have an enormous ravine that nobody can get
12 across, it's going to be on the same block, from
13 this street to this street. And normally, a
14 Board of elections will go down the middle of the
15 ravine and the houses on both sides of the street
16 are together. But software won't accommodate
17 that and we've had some very awkward situations
18 with people running it through. It's like the
19 people say you could do it all in an afternoon.
20 You could but you wouldn't want to have to live
21 with it for the next so many years.

22 MS. LERNER: Well, you know--

23 ASSEMBLY MEMBER MCENENY: [Interposing]
24 Do the work.

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2 EXECUTIVE DIRECTOR LERNER: --computers
3 can only take us so far.

4 ASSEMBLY MEMBER MCENENY: Yeah.

5 MS. LERNER: It's really the input of
6 people who know the patterns on the ground, the
7 geography and so forth. I mean, it's--it, when
8 we're drawing the maps or rural areas, we have to
9 look at the roads--

10 ASSEMBLY MEMBER MCENENY: [Interposing]
11 Yeah.

12 MS. LERNER: --in order to make sure
13 that a district, that we're thinking of makes any
14 sense. Because the software doesn't tell us
15 where the mountains are.

16 ASSEMBLY MEMBER MCENENY: And the
17 software can only--

18 MS. LERNER: [Interposing] But when
19 there's only one little road.

20 ASSEMBLY MEMBER MCENENY: Yup.

21 MS. LERNER: That's connecting the north
22 and the south areas that we're thinking about
23 that we know that we're transcending a mountain
24 area, but there might be a lot of road connection

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2 to an area--

3 ASSEMBLY MEMBER MCENENY: [Interposing]
4 Right.

5 MS. LERNER: --to the east, and that
6 tells us something. So there are a lot of
7 different factors. It's unfortunately not an
8 instantaneous process. It's what makes it
9 interesting and I think one of the reasons why
10 there can be many different versions of good maps
11 just as there can be many different versions of
12 projection-able maps.

13 ASSEMBLY MEMBER MCENENY: Thank you very
14 much.

15 MR. ROMAN HEDGES, NYS LEGISLATIVE TASK
16 FORCE ON DEMOGRAPHIC RESEARCH AND
17 REAPPORTIONMENT: Before you go.

18 MS. LERNER: Yes.

19 ASSEMBLY MEMBER HEDGES: I was a little
20 confused in your comments regarding the Nassau
21 Queens border.

22 MS. LERNER: Yes.

23 ASSEMBLY MEMBER HEDGES: There isn't
24 currently a district that crosses that.

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2 MS. LERNER: Congressionally I think
3 there is.

4 ASSEMBLY MEMBER HEDGES: Congressionally
5 there is?

6 MS. LERNER: Yes.

7 ASSEMBLY MEMBER HEDGES: Or equal
8 population purposes.

9 MS. LERNER: There is, there is some of
10 that concern.

11 ASSEMBLY MEMBER HEDGES: But, but you
12 were arguing don't cross that for state
13 legislative lines?

14 MS. LERNER: Yes, that's correct.

15 ASSEMBLY MEMBER HEDGES: Did I
16 understand you correctly?

17 MS. LERNER: That's correct. We think
18 that you can hold them separately. And, you
19 know, again, you know, certainly to the extent
20 that you have North Shore, you know, the
21 congressional district really does pick up a very
22 suburban aspect of North Shore and is joining it
23 with some very urbanized dense area of Queens
24 than we question whether that's the best

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2 demographic match in terms of trying to put
3 together the right numbers.

4 ASSEMBLY MEMBER HEDGES: On a different
5 topic, I apologize, I had to step out of the room
6 for a moment, are you still planning to submit a
7 plan?

8 MS. LERNER: Yes. But it's taking us--

9 ASSEMBLY MEMBER HEDGES: [Interposing]
10 When are we expecting to get it?

11 MS. LERNER: We're, we're expecting to
12 have it to you sometime around the 2nd week of
13 November. It's taken us longer than we
14 anticipated. There's some things that we
15 realized we needed to go back and adjust for.

16 ASSEMBLY MEMBER HEDGES: Very good,
17 thank you.

18 MS. LERNER: Thanks.

19 ASSEMBLY MEMBER MCENENY: Thank you very
20 much.

21 MS. LERNER: Thank you.

22 ASSEMBLY MEMBER MCENENY: Leo Fernandez?
23 Leo Fernandez? We will go back over the list
24 before we leave or give people a chance to

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2 testify in case they stepped out. Ernst Ulysse?

3 Were you here before at another hearing?

4 MR. ERNST ULYSSE: No.

5 ASSEMBLY MEMBER MCENENY: Oh okay.

6 There's a similar name I think up in Westchester.

7 MR. ULYSSE: Okay. Good afternoon. My
8 name is Ernst Ulysse and I reside in Elmont. I'm
9 here, you know, to tell you that I'm impressed so
10 far with the task force.

11 ASSEMBLY MEMBER MCENENY: Would, would
12 you move in closer to the mic?

13 MR. ULYSSE: I'm impressed so far--

14 ASSEMBLY MEMBER MCENENY: [Interposing]
15 We're, we're, we're recording this. We want to
16 make sure this goes out to everyone.

17 MR. ULYSSE: Okay. I'm impressed so far
18 with the task force that both parties so far has
19 been represented which I believe is a critical
20 compliment for fair redistricting. The LATFOR
21 committee and the governor legislation that picks
22 possible members of the commission as it's
23 appointees, four by the governor and one by the
24 Senate majority leader, and one by the Senate

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2 minority leader, and one by the assembly speaker
3 and one by the assemblyman or leader. In my
4 opinion, six members are appointed by the
5 democratic elected officials and only two members
6 appointed by a republican elected official.
7 These, those notes strike me as a very fair and
8 also independent commission. As a matter of
9 fact, it's, it's, it's--if you ask me, it is not,
10 is not independent. And if it was the other, if
11 it was the other way around, such as if, if we
12 had a Republican governor, it, it will be unfair
13 to the democrats in the same way. I also cannot
14 imagine why either house of the legislature would
15 give the governor so much power in the
16 redistricting process which have never been the
17 case on the New York State Law which clearly
18 provides that this, this legislature would want
19 redistricting. I'm here today, you know, I'm
20 here today because I strongly believe if we
21 follow that model, we will be spending a lot of
22 time and also resources arguing about
23 redistricting moving forward in the future
24 whether it's next year or ten years from now.

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2 With that, you know, I will say thank you for
3 your time and wish the task force much luck in
4 the implement task of redistricting.

5 ASSEMBLY MEMBER MCENENY: Thank you.

6 Did I pronounce your name correctly?

7 MR. ULYSSE: Yes.

8 ASSEMBLY MEMBER MCENENY: Thank you.

9 Carmen Julia Pinyero? Good afternoon.

10 MS. CARMEN JULIA PINYERO, TRUSTEE

11 VILLAGE OF FREEPORT: Good afternoon. Good
12 afternoon, Senators, assemblymen, and task force
13 members. Thank you for you, your service.

14 My name is Trustee Carmen Pinyero from
15 the Incorporated Village of Freeport. My
16 statement here today is to bring to light, when
17 we look at the census data going as far as back
18 as 1972 to the present, we see how communities of
19 the same interests have been divided throughout
20 decades. You now have the chance of making
21 things right for these communities. Especially
22 here on Long Island. I share with you the
23 community which I represent, Freeport. My
24 community is split into two senate seats, two

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2 assembly seats, and the same goes for the town.
3 At the school district level, it's divided into
4 three as well as the county legislature. How can
5 it be that communities of common needs and
6 interests continue to be divided decades after
7 decades? Even though these communities black,
8 Latino, Asian American have continued to increase
9 in the last decades. By dividing these groups of
10 common interests, the Senate and the legislatures
11 are diluting its voting power by continuing to
12 divide their interests. The 2010 census shows
13 that communities of Freeport, Baldwin, Roosevelt,
14 Uniondale, Hempstead, West Hempstead, Lakeview,
15 and Westbury which are currently divided into
16 three Senate seats have increased collectively by
17 combining Latino, African American, and Asian
18 both. What percentage increase between 63% to
19 100% depending which town or village you see
20 that--you take the numbers from. Today you have
21 now the chance to keep these communities together
22 and interests by creating or redesigning a new
23 Senate district, a new assembly district which
24 represents them. I conclude by stating to you

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2 that the critical and most important questions
3 before you is to make sure you act justly and
4 wisely in deciding and making the redistricting
5 lines which will impact the next generation of
6 leaders and the well-being of our community.

7 Thank you.

8 ASSEMBLY MEMBER MCENENY: Thank you very
9 much. Walter Perug [phonetic]. Beatrice Perug.
10 I assume that's a relationship or a great
11 coincidence. We'll call the names again later
12 on. H. Scottie Coads. Would you just state your
13 name again for the record?

14 MS. HAZEL SCOTTIE COADS, CHAIR, CIVIC
15 ENGAGEMENT, NAACP NY CONFERENCE: Okay. It's
16 Hazel Scottie Coads.

17 ASSEMBLY MEMBER MCENENY: Coads. Thank
18 you very much. I apologize for mispronouncing
19 it.

20 MS. COADS: Good afternoon, Mr. Chairman
21 and members of the LATFOR committee. My name
22 again is Hazel Scottie Coads. I am the Civic
23 Engagement Chair of the NAACP, New York State
24 Conference. The National Association for the

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2 Advancement of Colored People, NAACP, was founded
3 in 1909 and is the oldest civil rights
4 organization in the country. In its 102 years of
5 existence, we have seen our share of
6 disappointments, disenfranchisements, and yes
7 downright blatant racism. Through all of it, we
8 continue to stay in the struggle fighting, and
9 supporting causes that will benefit all people.

10 Today, our fight is on behalf of all of
11 the communities but especially for the minority
12 communities in Nassau and Suffolk Counties.

13 Nassau County has been deemed one of the most
14 segregated counties in the United States. I am
15 willing to bet we got that reputation because of
16 how the districts have been drawn through the
17 years. The lines were drawn with pockets of
18 minority communities scattered across the county
19 with no possibility of ever having minority
20 representation from Nassau County. It is mind
21 boggling thinking of how the redistricting,
22 gerrymandering, re-apportionment process has
23 disenfranchised so many minorities for so long.
24 Since the beginning of these counties existence,

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2 as well as throughout the State of New York,
3 minorities have been left out of fair
4 representation in government. Each of you were
5 appointed to this distinguished legislative task
6 force with a huge responsibility of drawing lines
7 that hopefully will not disenfranchise
8 minorities. We are here today for a very
9 important purpose. To recommend to you how new
10 legislative districts should be drawn for the
11 next decade. The lines should revert--should
12 reflect diverse communities with great inclusions
13 of, of minorities. I'm not asking for more
14 districts. Only the fair and correct numbers of
15 districts. You should draw each Senate district
16 to be as equal in population as possible. One
17 person, one vote requires fair representation for
18 everyone. I ask that you draw the districts that
19 maintain pop--population across the state and
20 that follows where people live in their
21 communities. When drawing the lines, please
22 don't play politics. Respect the boundaries of
23 where people live. You should not look into
24 other areas to connect boundaries that would

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2 reshape the political landscape.

3 Let me be more--make more points of
4 concern. The NAACP is quite disappointed that
5 this legislature body does not have any African
6 American representative as part of the LATFOR
7 Task Force. Each of you should be proud to serve
8 on the committee but should be equally concerned
9 that of the 3.1 million African Americans in the
10 State of New York, not one sit on the LATFOR
11 committee. I'm sure some of you possibly have
12 African American's living in your districts. The
13 absence of African American's on the committee is
14 a blatant disregard for the minority communities.
15 Because of this, the importance of fairness and
16 good government, and the decision you make
17 regarding redistricting is a real concern for us.
18 It has been four decades, 40 long years, since
19 LATFOR came to Nassau County. Forgive me, I
20 prefer to say 40 years because it resonates
21 better when the people of Nassau County begin to
22 take notice of how long it took us to have our
23 voices heard, on how lines are to be drawn. It
24 makes African Americans and Latino realize how

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2 disenfranchised and marginalized we have been for
3 all these years. The NAACP commend you for
4 holding the 12 hearing--I think I heard 14.

5 ASSEMBLY MEMBER MCENENY: Yeah we added
6 two.

7 MS. COADS: Throughout the state. But
8 must add it was not nearly enough. Working
9 citizens of these counties are not able to attend
10 meetings held 10:00 in the morning. This too is
11 being disenfranchised. Redistricting in New York
12 slash Nassau County. The residents of Nassau
13 County experience redistricting, gerrymandering
14 at its worst this year, 2011, due to insults and
15 total disregard for individual expressing the
16 concern to have good government representation.
17 We were ashamed and claim--to claim Nassau as
18 home. Our ability to be a part of redistricting
19 of the redistricting process was challenged in
20 unbelievable ways in Nassau County--in the Nassau
21 County legislature. The NAACP will not stand
22 idly by and tolerate the mistreatment of
23 minorities being disenfranchised nor accept the
24 blatant disregard of elected officials who

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2 trample on and ignore what the Voting Rights Act
3 of 1965 represents. The most sacred and precious
4 part of democracy is the right to vote and or the
5 right to choose who's going to govern them. For
6 102 years, NAACP has recognized the power of the
7 vote and has always valued and fought for the
8 right to vote. Then came finally the passing of
9 the Voting Rights Act of 1965 permi--prohibiting
10 attempts to dilute African American's voting
11 strength, authorizing federal officials to ensure
12 fair voting practices. The African American
13 communities experienced and witnessed lots of
14 tragedies prior to 1965 and many since then. We
15 have seen it all. And have been through a lot.

16 Disenfranchisement at the polls is not a
17 tragedy that the NAACP will tolerate. On
18 election day, attempts to weaken and dilute our
19 voting strength, broken machines, and now
20 mandated government photo ID's in 34 states in
21 order to vote is rapidly overtaken minority
22 communities. The US census report of the last 40
23 years as well as 2010 census report always
24 indicating voting age population growth in Nassau

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2 and Suffolk Counties. Although there was
3 increase in voting age population every ten
4 years, the minority community, communities always
5 got sliced and diced to the interests of the
6 political party in power. It is mind boggling
7 that after each US census report, we always find
8 ourselves in Court fighting the redistricting
9 gerrymandering that happens in New York State.
10 The cutting up of election districts downstate
11 and the strengthening districts upstate must
12 stop. I thank you for listening. I also would
13 like to add that inasmuch as we are appreciate
14 your coming to Nassau County after 40 years, it's
15 your, your place of venue left a lot to be
16 desired. It was the most difficult to find.
17 Thank you.

18 SENATOR NOZZOLIO: Wait a minute. Hold
19 on. You're not the only one.

20 ASSEMBLY MEMBER MCENENY: Yeah, you're
21 not the only one.

22 SENATOR NOZZOLIO: Obviously by those
23 applause, I mean, it took me 45 minutes to find
24 the building. Once I got on the grounds, I was

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2 three miles--I stayed at a hotel three miles away
3 from here. My GPS got sick trying to get here
4 and that I agree that this is not the, the best
5 venue. And we've got a good--just so you know,
6 we're going to do at least another dozen hearings
7 or so across the state after we finish Plattsburg
8 next week. I know you've attended a couple of
9 them. We're going to be going through--
10 Assemblyman McEneny and I are--haven't discussed
11 the specifics of the schedule but we have to have
12 another series of hearings and that we certainly
13 appreciate the hospitality of the school here but
14 at the same token it was the choice of the staff
15 here, the task force on this particular venue.
16 And I don't think we'll be returning here, to
17 this venue, but we certainly will be on Long
18 Island and throughout the state as well as the
19 City of New York and look forward to your further
20 testimony once plans are put forward.

21 ASSEMBLY MEMBER MCENENY: Do you have a
22 recommendation of a location for a second public
23 hearing that's centrally located and easy to get
24 to in Nassau?

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2 MS. COADS: We have Hofstra University
3 and quite frankly, I think the legislature, the
4 legislative building.

5 ASSEMBLY MEMBER MCENENY: Mm-hm.

6 MS. COADS: We have a beautiful
7 legislative building. Actually the Theodore
8 Roosevelt Building at 1550 Franklin Street in
9 Minneola.

10 ASSEMBLY MEMBER MCENENY: Well why, why
11 don't, why don't you think about it, it would be
12 helpful to us considering the weather turns a
13 little difficult as time goes on, if it's
14 something you could reach by train too.

15 MS. COADS: Yes.

16 ASSEMBLY MEMBER MCENENY: That would
17 make life a lot easier.

18 MALE VOICE: How about Malloy College--

19 MS. COADS: Malloy College is close also
20 but most people know where Hofstra is also.

21 ASSEMBLY MEMBER MCENENY: Right.

22 MS. COADS: Also, you know.

23 ASSEMBLY MEMBER MCENENY: Well we, we--

24 MS. COADS: [Interposing] And if I

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2 might, if I might add, I just want to thank that
3 we have some people here, some seniors who wanted
4 to observe you in action.

5 ASSEMBLY MEMBER MCENENY: Mm-hm.

6 MS. COADS: And I, I want to say thanks
7 to them for coming and they're in the audience.

8 ASSEMBLY MEMBER MCENENY: Thank you.

9 Thanks for coming. Now on the issue of
10 diversity, my predecessor and several
11 predecessors before were in fact African
12 American. There are no African American
13 republicans in either conference. And we have to
14 have two elected, one assemblyman and one Senator
15 would seem to me and I think they would agree
16 that you have to get a republican African America
17 elected so there's an option to appoint somebody.
18 We are also criticized for not having woman here.

19 MS. COADS: You don't have any women.

20 ASSEMBLY MEMBER MCENENY: Certainly
21 affects 51% but there are reasons for that and
22 the reasons are not a racial, who was available,
23 who had expertise, et cetera. I created the
24 first two black wards in the City of Albany in

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2 1972. And have a great deal--

3 MS. COADS: [Interposing] And we had one
4 African American on the commission 20 years ago.
5 Is that correct?

6 ASSEMBLY MEMBER MCENENY: I don't know.
7 I didn't do it 20 years ago.

8 MS. COADS: Oh okay.

9 ASSEMBLY MEMBER MCENENY: We had one.
10 Yeah.

11 MS. COADS: You had one last--yes, we
12 had last year.

13 ASSEMBLY MEMBER MCENENY: Now on the
14 issue, when you come forward and represent a
15 group, especially with prepared testimony, I'm
16 assuming that the NAACP has had evening meetings,
17 town meetings, seminars, when you're speaking for
18 a group as prestigious as the NAACP, which I've
19 been a member of for years. I think others up
20 here have as well. We're assuming that for
21 people who can't make it, this is usually an all
22 day affair and I realize that people can't all
23 attend it. There's transportation problems. I
24 also realize there's people with child raising

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2 responsibilities that can't make the meetings at
3 night. So a number of elected officials have
4 held those kinds of meetings discussing,
5 discussing redistricting, what it is, what the
6 constraints are under the Voting Rights Act,
7 under the constitution, et cetera. And I'm
8 assuming that when a group comes forward, that
9 those kinds of meetings have already been held.
10 This is getting near the 11th hour. And that you
11 respect--that you're representing not your
12 personal opinion, but the opinion of a wi--a wide
13 group of people who are representative of the
14 African American other communities that are at
15 risk for proper representation.

16 MS. COADS: Mr. McEneny, let me just
17 say, the NAACP has been on this road,
18 redistricting road, since 2009 preparing its
19 members--

20 ASSEMBLY MEMBER MCENENY: [Interposing]
21 Yes.

22 MS. COADS: --for the census of 2010 and
23 onto the redistricting of 2011. And we are proud
24 that we're able to put the redistricting to the

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2 forefront, one of the organizations, not all, but
3 one of the organizations that did a fantastic job
4 in making sure our people were aware, people in
5 general, but our communities were aware of what
6 was happening and what was going to happen in
7 2011. And you're right. We did meet and have
8 meetings in the evenings. We had meetings
9 various times at our conventions, be it state or,
10 or national, we talked about redistricting. But
11 I also want to add that I too worked for
12 government. And I know that in the Town of
13 Hempstead, they used to have all meetings during
14 the day. It was only when we had some more
15 progressive elected officials to come forward and
16 really fight the issue that we were able to get
17 night meetings in the Town of Hempstead. It is
18 just absolutely important to be able to at least
19 have some of your meetings in the evenings. All
20 of them at 10:00 does not address the concerns of
21 the--everybody, constituents hearing the
22 concerns. And it's an important issue. You have
23 a major, major important job to do. And as many
24 people should hear it as possible. And that's

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2 all we are saying, 10:00 for 12 or 14 meetings is
3 just not so fair. And we hope that you will look
4 into changing it for the future. And maybe when
5 you have those other meetings, maybe hopefully
6 you can come back to Nassau County at Hofstra or
7 somewhere.

8 ASSEMBLY MEMBER MCENENY: Thank you.

9 MS. COADS: More convenient than where
10 we are today.

11 ASSEMBLY MEMBER MCENENY: Once again,
12 anyone who wishes to watch this hearing can do so
13 on their home computer.

14 MS. COADS: Okay.

15 ASSEMBLY MEMBER MCENENY: And or
16 computer that's accessible to them. You and I
17 are now immortal in cyberspace somewhere.

18 MS. COADS: And I thank you so much.

19 ASSEMBLY MEMBER MCENENY: Thanks so much
20 for coming.

21 SENATOR NOZZOLIO: Thank you so much.

22 ASSEMBLY MEMBER MCENENY: Au--Aubrey,
23 Aubrey Phillips [phonetic]. Aubrey Phillips.
24 Wilton Robinson [phonetic]. Wilton Robinson.

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2 Carol Gordon [phonetic]. Carol Gordon. Give a
3 little yell if you're coming down 'cause we can't
4 see the audience beyond that. Andrew Hardwick
5 [phonetic]. Joyce Stow [phonetic]. Eugene
6 Bernett [phonetic]. Dennis Jones. Thank you.
7 Good afternoon.

8 MR. DENNIS JONES, RETIRED NYPD

9 DETECTIVE: Good afternoon, yes sirs. And ma'am.
10 Well here we are again at--as a complainant on
11 the Federal case concerning the Nassau Republican
12 legislature redistricting plan, I felt obligated
13 to come and speak to you about some concerns that
14 should be on this table regarding the New York
15 State Senatorial redistricting and assembly
16 redistricting.

17 As this commission reviews testimony and
18 information and, and attempt to do that which
19 some of you may have thought was a simple task, I
20 ask you to honestly consider our pleas. What I
21 hope is not on your mind is any mental comments
22 like let's redraw the lines of the Senate
23 districts and in the process, we can silence the
24 voting power of some of these larger black

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2 communities. Oh and let's not forget the
3 Hispanic vote. This will silence their emerging
4 communities also. Well a similar plan didn't go
5 well in the Nassau County legislature. The
6 people came out to show their displeasure.
7 However today, what we are discussing here, is a
8 much more serious nature and has remained a
9 systemic form of voter disenfranchisement for a
10 number of years. There are nine Senate seats
11 from this area in Albany and not one seat has
12 been designated a minority seat from Nassau or
13 Suffolk. The 2010 census report indicated our
14 voting age population has grown even larger,
15 however minority representation in the Senate
16 still escapes this densely minority populated
17 area. Systemically public hearings on
18 redistricting and reapportionment have not been
19 held in Nassau County in four decades. How come?
20 In this democracy--is this democracy or voter
21 suppression? Can you imagine 40 years and no
22 hearings in Nassau County? Nassau County where
23 it matters, where laws were put in place to
24 ensure that two minority legislature seats exist.

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2 Someone said it's time we fight for fair
3 representation in our state government and I
4 agree. The Voting Rights Act of 1965 and the
5 Civil Rights Act of 1964, has, has indeed helped
6 us. However, when others in power choose to
7 ignore its words and intentions, it becomes a
8 lesson unlearned. If we must fight for fair
9 representation in the New York State Senate, then
10 let the fight begin. Enough is enough.

11 The Nassau County areas are unlike
12 minority areas in Brooklyn and Queens where they
13 have representation indicative of their map drawn
14 districts. Here in Nassau County, the lines are
15 drawn inadvertently or intentionally to disperse
16 the minority vote in its entirety. No district
17 is a clear representation of the greatest number
18 of minority represented in Nassau. I hope that
19 what transpires here results in more than hearing
20 testimony for more that have testified before me
21 and will testify after I do. I hope that it
22 brings you members of the Commission pause. I
23 hope, I hope that you recognize our cry for an
24 opportunity to vote for true representation.

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2 Discrimination is a hell hound that gnaws at
3 Negroes in every walking American--in every
4 waking moment of their lives to remind them that
5 the lie of their inferiority is accepted as truth
6 in the society dominating them. And that was
7 said by Martin Luther King, Junior. I want to
8 thank you all.

9 SENATOR NOZZOLIO: I'd like to ask just
10 a--whatever the years have been, I, I assume
11 you're happy that this task force has here taking
12 testimony and listening and conducting the hear,
13 the first of what--a hearing no matter how many
14 years it's been, this year, this task force is
15 conducting this hearing and it's been our goal to
16 be as open and as transparent and as available
17 in an unprecedented way. So I guess in a sort of
18 a back door way, you pointed out how this task
19 force is doing its job. You might not have liked
20 what happened in the past but in the present,
21 we're doing what you want us to do. And that's
22 something that we appreciate you taking the time
23 to be here today to discuss the issues.

24 MR. JONES: Yes, thank you. That is,

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2 that is correct. I am, I am most appreciative of
3 you coming out to Nassau and I, I'm so sorry that
4 there is not a full house for you to hear and,
5 and not more of the officials or the community
6 leaders that need to be here to, to express to
7 you what they've seen over the years. And what
8 they would have expected you as this commission
9 can do for them. So, you know, I could only
10 speak for myself. I, I am involved in the
11 Hempstead community and, and I see where the
12 disenfranchisement exists. We fought very hard
13 with the, the legislative just recently and I,
14 like I said, I'm a member of a--as a complainant
15 on a federal case that existed because of that.
16 So I again wanted to just express my concern that
17 and hope that maybe we can draw you back again to
18 probably pick up some more of those that were not
19 able to attend today.

20 SENATOR NOZZOLIO: That's a great point.
21 And if I may make another point that certainly
22 we'd welcome your involvement in getting the word
23 out for people to take a look at some of your
24 testimony and others testimony today, that may

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2 encourage additional thoughts of people in Nassau
3 County in particular, that although they might
4 not have been able to make this hearing or know
5 about this hearing, that nonetheless they
6 certainly can view your testimony and others of
7 today on the task force's website in the very
8 near future, encourage them to do so, encourage
9 them to email us with other information that may
10 be on their minds, and that thank you for being a
11 catalyst in that endeavor.

12 ASSEMBLY MEMBER MCENENY: These, these
13 here--

14 MR. JONES [Interposing] You're welcome.
15 I, I am the second vice present for the Hempstead
16 democratic club and we have a meeting tonight and
17 I will definitely forward that information that
18 they're accessible to send emails out to you and
19 make their, their comments known. Thank you.

20 ASSEMBLY MEMBER MCENENY: Let, let me
21 assure you that the people who show up at these
22 meetings which in some cases last for six hours
23 straight, are only some of the input that we get.
24 We also get indirect input where somebody comes

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2 in and speaks for an entire group where they've
3 done their homework, they've had community
4 meetings over the months, if not the years, but
5 also there are maps being submitted and there are
6 letters being submitted the old fashioned way and
7 electronically and all of that becomes part of
8 the record and it influences the final drawing.

9 MR. JONES: Thank you for that. Thank
10 you for that so much.

11 ASSEMBLY MEMBER MCENENY: Thank you very
12 much.

13 SENATOR NOZZOLIO: Thank you.

14 ASSEMBLY MEMBER HEDGES: Could I ask
15 that you simply state your name so that we get
16 it--

17 MR. JONES: [Interposing] Oh I'm so
18 sorry.

19 ASSEMBLY MEMBER HEDGES: --in the
20 transcript and on the video?

21 MR. JONES: My name is--yeah, my name is
22 Dennis Jones.

23 ASSEMBLY MEMBER HEDGES: Thank you.

24 ASSEMBLY MEMBER MCENENY: Thank you.

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2 Karie Solonges [phonetic] Esquire. Karrie
3 Solonges. Archie Spigner.

4 SENATOR NOZZOLIO: He's coming.

5 HONORABLE ARCHIE SPIGNER: Hi.

6 ASSEMBLY MEMBER MCENENY: Good afternoon
7 sir.

8 HONORABLE SPIGNER: Good morning. Good
9 afternoon. It is now. Good afternoon Co-Chairs,
10 McEneny, McEneny and Nozzolio as well as Senator
11 Oaks. And Senator Dilan, Senator Dilan. Dilan
12 excuse me, I forgot. I serve with Senator Dilan
13 on the New York City Counsel for ten years and
14 I'm glad that you're here making sure that this
15 redistricting cycle is fair and considers
16 communities we fought for together as elected
17 officials. My name is Archie Spigner. I reside
18 at 112-10 175 Street in Jamaica. I served as a
19 member of the New York City Counsel for 27 years.
20 And I'm currently a democrat district leader in
21 the 29th Assembly District in Southeast Queens.
22 I'm also the executive member of the Guy Brewer
23 United Democratic Club.

24 Every ten years we go through this

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2 process which always yields a mixed bag of
3 results. On the one hand, LATFOR makes certain
4 adjustments that keep communities together such
5 as reconfiguring Senate District 10 which used to
6 travel from Williamsburg, Brooklyn to Southeast
7 Queens. That matter was addressed in 2002 in the
8 2002 redistricting. And I commend you for taking
9 that district and making it more com--compact.
10 However, a neighboring district, Senate District
11 14 was created in a way that violates principals
12 of con--con--contiguity, a lesser closed course
13 as a low tide on Jamaica Bay. I was around in
14 1982 when former Senate Majority Leader Warren
15 Anderson misinterpreted the State Constitution
16 and decided that redistricting did not have to
17 happen that year. In effect, he did not want to
18 face the demographic realities made clear in the
19 1980 census. This trepidation disrupted the
20 democratic process for a full year. In effect it
21 was a case of just delayed is justice denied.
22 The landmark US Supreme Court redistricting case
23 of Plateau versus Anderson corrected this
24 injustice and set the stage for new black and

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2 Latino Districts in various counties of New York.

3 Allow me to touch on the following three
4 points for your consideration. First, prison
5 based gerrymandering. It is great to know that
6 one of the great injustices of the redistricting
7 process was corrected when Governor Patterson
8 signed the Prisoner Census Adjustment Act into
9 law in 2010. Also known as Part 20, Chapter 57,
10 the laws of 2010. I was either more pleased when
11 President Barack Obama's justice department saw
12 fit to pre-clear that just law, that seek to
13 make, that seek to count prisoners at their homes
14 of record and not some faraway prison community.

15 However, LATFOR not need delay full
16 implementation of this law. I would hope that
17 this law is fully implemented in advance of the
18 first draft of maps. In effect, no di--
19 redistricting maps should be drawn that does not
20 do the proper addition and subtraction of the
21 state's prison population.

22 Secondly, bi-county district. As I
23 previously mentioned, LATFOR corrected an
24 injustice with the guards to the old senatorial

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2 District 10 which straddled North West Brooklyn
3 and Southeast Queens. New York City and its
4 suburbs are densely populated areas that should
5 have little need for too many districts splitting
6 county lines to achieve political goals or
7 disenfranchised communities. A 2002 memo by
8 Senate Republican Staffer Michael Carvin, made a
9 reference to politically undesirable areas in
10 Nassau County that, that inhabited by a sizeable
11 black community. Under a scenario described in
12 this memo, portions of Southeast Queens would
13 have been jointed to the communities of Elmont,
14 Lakeview, Hempstead, Roosevelt, and Baldwin.
15 This was being considered in order to give
16 several Nassau County Republican senators a
17 political advantage by not representing a, by not
18 having to represent a more diverse district.
19 This ill conceived idea was put into the
20 political garbage can in 2002 and I'm asking for
21 the record that it not be recycled in 2011, 12.
22 Do not dilute our influence as a community by
23 adjoining Southeast Queens which all, which
24 already has two very competent black senators

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2 with Nassau County for purposes of providing
3 political cover on Nassau republicans. The black
4 community should not be used as a pawn in the
5 redistricting process.

6 Please do not--don't do this to our
7 community on the assembly state senate or the
8 congressional level. The size of the senate
9 population and the equality. The population
10 equality. Ten years ago, LATFOR had multiple
11 hearings in which the public was asked to submit
12 their own plan for, considered plans for
13 consideration. As it pertains to the Senate, we
14 are all under the assumption that the size of the
15 tenant would--we were all under the assumption
16 that the size of the Senate would be 61 seats.
17 At last minute, in ex--inexplicable political
18 deals resulted in another senate district being
19 added. For the record, I support the senate
20 remaining at 62 seats. No deviation from this
21 number should be considered that would violate
22 the state constitutional formula which allows for
23 62 seats. Now I know that there are some that
24 have called for an odd number of seats to prevent

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2 a tie or gridlock. Lie--Lieutenant Governor was
3 supposed to serve this purpose in the senate
4 until the majority conference stripped him of
5 some of this power in presiding over the senate.
6 Furthermore in these times of fiscal austerity,
7 we have folks who are losing their homes and
8 being laid off, are laid off from work, adding to
9 the state budget by creating more senate
10 districts is inexcusable. We cannot have
11 political calculation drive up the cost of
12 running government.

13 With regards to the issue of population
14 equality, Queens District in 2002 were drawn at
15 318,000 individuals while some districts in
16 Upstate New York were drawn at 291,000, many of
17 which included prisoners. This practices flies
18 in the face of concept of one person, the concept
19 of one person, one vote. The individual vote of
20 an upstate voter carries much more weight than
21 one in Queens. Why should voters in the
22 districts of Senators Huntley or Smith or Generis
23 [phonetic] or Stavisky or Avella or Divore
24 [phonetic] or Peralta have a, a less of a voice

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2 than an Upstate voter. Every district should
3 have the same number of constituents.

4 In conclusion, I know that I've said a
5 handful today but it is rooted in my years of
6 observing redistricting and the impact good and
7 bad that it has had on my community. LATFOR,
8 please do the right thing. I will be back when
9 you release those proposed plan to hope,
10 hopefully praise LATFOR on putting on a plan
11 that, that puts fairness above partisan politics.
12 As Dr. Martin Luther--Martin Luther King said,
13 "Injustice anywhere is a threat to justice
14 everywhere." Let's show the country that New
15 York knows how to do redistricting in an
16 objective, fair, and compassionate way. Thank
17 you.

18 ASSEMBLY MEMBER MCENENY: Thank you very
19 much.

20 HONORABLE SPIGNER: Thank you very much.

21 ASSEMBLY MEMBER MCENENY: You were on
22 the counsel for 27 years in the City of New York?

23 HONORABLE SPIGNER: Yes. In the city,
24 in the city of New York.

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2 ASSEMBLY MEMBER MCENENY: Who drew the
3 districts?

4 HONORABLE SPIGNER: Pardon me?

5 ASSEMBLY MEMBER MCENENY: Who drew the
6 districts the last time they were drawn?

7 HONORABLE SPIGNER: The counsel. No
8 the--it was a special committee that, that an
9 independent committee that was appointed.

10 ASSEMBLY MEMBER MCENENY: Okay.

11 HONORABLE SPIGNER: Or a special
12 committee that was appointed. Prior to that
13 change in the law, the counsel drew its own
14 lines.

15 ASSEMBLY MEMBER MCENENY: Okay. Thank
16 you.

17 HONORABLE SPIGNER: You're welcome.

18 ASSEMBLY MEMBER HEDGES: Be, before you
19 leave, I understand that you've tried to submit
20 plans to the task force. We've gotten two emails
21 from you, neither of which have the plan
22 attached. I wondered if you could re-send your
23 email with the plans attached?

24 HONORABLE SPIGNER: I, I'm sorry, I

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2 didn't hear you.

3 ASSEMBLY MEMBER HEDGES: My
4 understanding is that we've gotten two emails
5 from you that indicate in the email that there's
6 a plan attached for drawing district lines. But
7 there is no attachment.

8 HONORABLE SPIGNER: That, there's some,
9 some misunderstanding there which we have to
10 clarify. No I did not--

11 ASSEMBLY MEMBER HEDGES: [Interposing]
12 You, you don't--

13 HONORABLE SPIGNER: [Interposing] No.

14 ASSEMBLY MEMBER HEDGES: -- you have not
15 submitted it?

16 HONORABLE SPIGNER: I did not submit two
17 emails with any plans, no.

18 ASSEMBLY MEMBER HEDGES: Okay thank you.

19 HONORABLE SPIGNER: All right. Then
20 you're welcome.

21 ASSEMBLY MEMBER MCENENY: Will you
22 submitting any plans?

23 HONORABLE SPIGNER: And I make any
24 plans?

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2 ASSEMBLY MEMBER MCENENY: Yeah.

3 HONORABLE SPIGNER: I'm, I'm doing more
4 watching to this to see that what is put out is
5 appropriate. But I'm, I'm working with some
6 people who--

7 ASSEMBLY MEMBER MCENENY: [Interposing]
8 Who are?

9 HONORABLE SPIGNER: --who are doing work
10 and, and observing very closely what the lines
11 are. But we will await the outcome of whatever
12 you, you do and we will look at that and if it's
13 fair, we'll praise and support it. If not, we'll
14 tackle it and suggest changes.

15 ASSEMBLY MEMBER MCENENY: Thank you.

16 HONORABLE SPIGNER: You're welcome.

17 ASSEMBLY MEMBER MCENENY: Leroy Gadsden.
18 It's on trip too. I didn't fall. Good afternoon
19 Mr. Gadsden.

20 PRESIDENT LEROY GADSDEN, NAACP-JAMAICA
21 BRANCH: Good afternoon. Good afternoon to the
22 Panel.

23 ASSEMBLY MEMBER MCENENY: Good
24 afternoon.

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2 SENATOR NOZZOLIO: Good afternoon.

3 MR. GADSDEN: I am Leroy Gadsden,

4 President of the Jamaica branch of the NAACP. I
5 sit before you today with mixed emotions as I
6 look at you and your willingness to serve in such
7 a worthy and civil cause. I am offended as an
8 American that this body with such an awesome
9 legislative task of duties of the highest
10 standard is the board of no African Americans and
11 only one woman is seated amongst you. True that
12 we have evolved beyond the 1950s. if we were to
13 turn back the hands of time, 100 years from 1911,
14 this is exactly how this panel would look. I
15 don't fault you for answering the call of serving
16 this capacity. However, I question the manner of
17 composing a segregated panel with the purpose of
18 creating and making redistricting decisions in
19 the just and fair interest of all of the citizens
20 of New York State. This is a terrible indictment
21 upon the great state of New York. This makes
22 your job and responsibilities even more so
23 important. How are we expected to have trust in
24 a system that discriminates against us in the

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2 creation and onset of this great task that lies
3 before you? It is our hope that as you carry out
4 your duties and responsibilities, that you will
5 rise above it all and update the hands of time in
6 the government of structure of this state.

7 I also join my predecessors in raising
8 the issue of the location of this hearing. Even
9 though we have talked about we have small evening
10 meetings in our own particular groups and
11 organization, however though when you put a
12 hearing at a very distant location, without any
13 means of public transportation, and by any decent
14 mapping, that sends a solid message of certain
15 people in the inner city that your opinion
16 doesn't count, you do not have a right to observe
17 or to participate. That's the message that's
18 sent, that is the message that is received. I
19 hope we go forward that whoever make these
20 decision will give careful consideration that all
21 the people can get there but with public
22 transpiration and as a way that people can go and
23 they can be accommodated. Going back to your--

24 SENATOR NOZZOLIO: [Interposing] We

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2 fully agree that I'm--if I may interrupt you. We
3 fully agree. I don't know if you heard our
4 discussions with other representatives from the
5 NAACP. But we agree with you. How about helping
6 us out, send us a list of places where you do
7 think the hearing should be held.

8 MR. GADSDEN: Definitely we'll do that
9 sir.

10 SENATOR NOZZOLIO: Thank you.

11 MR. GADSDEN: And saying that, we thank
12 you and give you our utmost respect for agreeing
13 to serve in such a capacity. You have an awesome
14 task before you.

15 As I said earlier and we agreed that the
16 most cherished part of a democracy is a right to
17 vote. And the right of the people to pick who is
18 going to govern them. There is no greater right
19 than that right to vote in democracy. Here in
20 the NAACP, we view and cherish this concept of
21 good government. But since our inception since
22 102 years ago, until the present minute, we have
23 always recognized and invited the right to vote.
24 America has always invited this voice of

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2 government. In fact, this nation was found on
3 the principal of no taxation without
4 representation. However, when it comes to
5 African American's and black folks, America has
6 always had a double standard of what is good and
7 beneficial to the rest of the country as opposed
8 to what is good and beneficial for African
9 American's. So while the calmness and eventually
10 America was enjoying the fruits of the
11 representative government, people of color were
12 still living in a so called democracy with no
13 right to vote. Although not restricted, such
14 existence was usually found on the plantation.
15 Prior to the Civil War, the South went to count
16 black slaves for representation in Congress, but
17 now them--but denied them representation or any
18 right to participate in government. We have to
19 be very careful. Very careful that here in New
20 York State we don't duplicate the attitude of the
21 south in our redistricting efforts. As the
22 people, we built this country for free. We did a
23 good job because she is still standing. We
24 fought on every war of conflict. Truly, we are

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2 some of America's loyal citizens. If anyone has
3 a right to participate in this democracy, it is
4 the African American citizen. We are the only
5 race where laws were created for the simple
6 purpose of denying us the right to vote. Nor the
7 race of people has been killed or destroyed or
8 mayhem in the - - which we have in the pursuit of
9 the right to vote. First, we couldn't vote. And
10 then when it was legal to vote, we were denied
11 the opportunity to vote. There were many rebels
12 and hurdles across, killings and beatings, et
13 cetera. A few of our white brothers, Adam
14 Goodman, 21 years of age from Queens and New
15 York's 25 year old Michael Schwarler, both
16 conscientious young men who were killed in the
17 pursuit of this right to vote for all men. I can
18 present you with a volume of names of persons
19 killed in the pursuit of this right. But I chose
20 these two because they were local, they were sons
21 of New York. In fact, one went to school right
22 here in Queens. But they're conscientious level
23 rose above their surroundings. They gave their
24 life in pursuit of this thing. You have the

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2 charge to make sure these brave men and women
3 both black and white didn't die in vain. When
4 you draw district lines to dilute and weaken
5 minority voting strip, you allow them to die in
6 vain. Because the right to vote is on the half
7 of the answer. Full participation means the
8 ability to cast a decided and meaningful vote or
9 influence of who will represent you. We're not
10 asking you to lay down your life. We're asking
11 you to do the right thing. But what is the right
12 thing? The right thing is to draw district lines
13 that would not dilute the strip of the minority
14 voters of this state.

15 In 1965, the United States Congress
16 passed the Voting Rights Act. In your actions,
17 we ask that you not trivialize the voting right
18 act. This act did not come by as a goodwill
19 gesture. But this act was the result of many
20 tears shedding the blood and even the loss of
21 profit and life. We paid a price for the Voting
22 Rights Act. Let us not forget the obstacle
23 placed before African Americans trying to vote.
24 Our ballot box like any other ballot box is

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2 covered with blood of those both black and white
3 of a greater conscience who laid down their life
4 just to ensure that we're not only have access to
5 the ballot box, but a meaningful access and
6 involvement in deciding who's going to represent
7 us in government. But if you look back at key
8 wording in this landmark voting rights
9 legislation, includes such words that prohibits
10 attempts to dilute African American voting
11 strength. We remind you the need and the intent
12 of the 1965 Voting's Right Act was to protect and
13 ensure that constitution rights are those persons
14 in America who were traditionally discriminated
15 against the ballot box. The 1965 Voting Right
16 Act is still on the books and in full effect.
17 And the people whom those laws were designed to
18 protect are still here and in need of that same
19 protection and guarantee of their right to vote.
20 We ask that any and all restriction decisions be
21 made, excuse me, redistricting decisions, be made
22 in compliance with the 1965 Voting Right Act.

23 In addition, we ask you to regard the
24 fact that the New York State formula requires 62

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2 senate seats. We strongly believe that any
3 deviation or departure from this 62 senate seats
4 would be a violation of that Voting Right Act.
5 We also believe that the creation of a new senate
6 seat in Upstate New York by the commingling and
7 conjoining of any district in Queens with Nassau
8 County, will violate, will violate the 65 Voting
9 Rights Act as well as the Equal Protection Clause
10 of the 14th Amendment to the United States
11 Constitution.

12 We also remind you that according to the
13 laws of New York State, all prisoners must be
14 counted in the city of home of their
15 jurisdiction. The redistricting lines must be in
16 compliance with this new population shift from
17 Upstate to downstate. We put this body on notice
18 that we will view any redistricting attempt in
19 this state to cut up election district that
20 weakens a heavily populated downstate minority
21 vote and strengthen the less populated
22 predominantly while Upstate voting district as a
23 violation of the Equal Protection Clause and the
24 14th Amendment as well as the Voting Right Act of

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2 '65. We challenge you to remain true to the
3 intent of both the constitution, the Voting Right
4 Act, and the 15th Amendment of the constitution.

5 And then we ask you to do the following:

6 One, we ask that you draw legislative district
7 that will not dilute the ability of minority
8 group voters to elect the representatives of
9 their choice or to influence the electoral
10 outcomes.

11 Two, we ask that you make an
12 redistricting election decision based on the New
13 York State Constitution, Article 3, Section 4,
14 which requires Senate districting on the basis of
15 the growth of certain county population. Three,
16 we ask you to count and design every district
17 with the same population ratio with no more than
18 a 2% deviation, and four, the redistricting and
19 legislative district we ask you to refrain from
20 race and gerrymandering where as you like count
21 the less populated upstate predominantly white
22 district in Upper New York State while
23 undercounting the heavily populated minority
24 district in downstate New York. We are looking

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2 very close at that Fourth Amendment and that
3 Equal protection clause. Because if we look at
4 the Upstate, excuse me, if we look at the
5 downstate currently, the 29 downstate districts
6 contains 75% of the black population, 80% of the
7 Asian population, and 81% of the Hispanic
8 population of New York State. These over
9 populated district only contain 47.88% of the
10 state population, yet they constitute it on a
11 46.77% of the 62 Senate district. Honorable Mr.
12 Spigner raised the issue earlier that a man
13 upstate and a woman upstate have more electoral
14 power than and woman downstate just by like the
15 one man, one vote and thus violating the equal
16 protection clause of the 14th Amendment to the
17 United State Constitution. I thank you for the
18 time to render this testimony.

19 ASSEMBLY MEMBER MCENENY: Members?

20 Thank you very much.

21 SENATOR NOZZOLIO: I, I, I have a
22 question. I agree with a lot of what you say but
23 I guess what I tend to in a sense you sort of
24 taken the parts of the constitution you like and

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2 discount the parts of the constitution that you
3 don't like. And that that--one constitution,
4 that's all. You have to have adherence to the
5 constitution of the State of New York and the
6 Constitution of the United States. You can't
7 pick and choose and say well this part I like,
8 this part I don't like. And I point to one
9 particular aspect of the constitution that you
10 said a deviation should be 2%. The Constitution
11 of State of New York and it says that you cannot
12 split towns. That deviation of 2% is virtually
13 impossible to reach, is, is impossible to reach
14 with that type of constitution provision. So I,
15 I guess I'm, I'm saying to you, I certainly
16 respect what you're saying, I respect your
17 advocacy on behalf of encouraging everyone to
18 vote, the protection of that right, of a right
19 that you so adequately indicate has been hard
20 fought by blacks, by women, by others who have
21 been discriminated against in this nation for,
22 for a number of years. That certainly should
23 never be tolerated. But at the same token, there
24 are constitutional provisions that protect

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2 regions of the state, protect the integrity of
3 certain subdivisions of the state, and that you
4 just can't say ones good and one's not good.
5 You've got to look at them all and, and indicate
6 that we want to adhere to every constitutional
7 principal, not just those that are the ones that
8 we like the most.

9 MR. GADSDEN: Yes, sir. And
10 respectfully as we may respond is that however
11 though we look at the federal constitution that I
12 think the state constitution has to be in
13 compliance with and not violate that in,
14 individual rights, guaranteed by the federal
15 constitution, I think the 2% is possible if we
16 can be creative enough to create those districts.
17 We go beyond 2% will not destroy us but when we
18 get up to 9% and 10%, then that would, that would
19 definitely create a new form of, let's say
20 however in New York State where it would be in
21 violation of that 14th Amendment 'cause I don't
22 think we can take the state and say the state has
23 an attempt to do the right thing when in the
24 meantime we're going to violate the New York

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2 State constitution in doing the right thing. I
3 think we have to pick a choice and be an
4 attorney.

5 SENATOR NOZZOLIO: That's a--are you an
6 attorney?

7 MR. GADSDEN: What sir?

8 SENATOR NOZZOLIO: Are you an attorney?

9 MR. GADSDEN: I don't practice sir.

10 SENATOR NOZZOLIO: Well I guess the, the
11 assumption that many courts have held that
12 numbers well beyond 2% are within constitutional
13 dictates and the Supreme Court dictate of one
14 person, one vote. The rationale is important and
15 there has to be reason. And that certainly one
16 of the reasons that New York is based is to
17 ensure that those areas that--and we've heard
18 testimony from a number of individuals that have
19 said it's part of the worst thing that's ever
20 happened is when a town was split and that we
21 wouldn't have the similar type of representation
22 and you're not talking about a town where one
23 representative may be hundreds of miles away from
24 that town as a result of the split. And the

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2 rationale basis of the constitution stayed in New
3 York. And I think that not only ask you to say
4 that your points are well taken but not those--
5 we're not going to--certainly not going to
6 advocate for the destruction of constitutionally
7 protected principals that also are in place for
8 the integrity of the voting public. So and the
9 citizens of the state.

10 MR. GADSDEN: Well yes sir. And we
11 believe that--we think this panel can be creative
12 enough to console the districts and we redesigned
13 those districts because we would have a problem
14 if we look at the district into today and if a
15 person upstate has almost one and a half time
16 more power in an electing a representative as a
17 person downstate, we think that is going to be so
18 definitely skewed and so far away from the intent
19 of the constitution, that we do not--we, we don't
20 believe that say when we're in compliance with
21 the state constitution, it's got to be
22 satisfactory. Like you say, if you've got 2% to
23 maybe 5% on deviation, perhaps that could be
24 possible. And we're talking about 8% to 10%,

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2 that would definitely put a cit--a, a citizen of
3 upstate New York in a higher class position than
4 a citizen of downstate New York, therefore I
5 don't know if we can get away from that fact of
6 the one man, one vote, if that's our intent. If
7 we go a district up, even respecting city lines,
8 et cetera, when we get away from the one man, one
9 vote, I think we're travelling all over that 14th
10 Amendment and that's what will protect us.

11 And yes sir, I do agree, we have to pick
12 the counselors we like. But our history in
13 American has shown that US Constitution has been
14 our bread and butter. They have saved us, they
15 have given us power that the states are not one
16 to give us and so we have to stay down to the--we
17 have to hide on the banner of the United States
18 Constitution and we hope that this panel will
19 just keep that in mind when making a decision
20 that we citizen, we need the protection, we want
21 to make sure that we're in compliance with that
22 14th Amendment, that one man, that one vote.

23 SENATOR NOZZOLIO: And I assure you
24 every member of this task force is dedicated to

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2 ensuring that whatever product is produced, it
3 complies with the letter and spirit of both the
4 federal constitution and the constitution of the
5 State of New York.

6 MR. GADSDEN: Thank you sir.

7 SENATOR NOZZOLIO: Thank you.

8 MR. GADSDEN: Thank you.

9 ASSEMBLY MEMBER MCENENY: Thank you.

10 Rachel Krinsky. Yup. Good afternoon.

11 PRESIDENT RACHEL KRINSKY, THE LEAGUE OF
12 WOMEN VOTERS, NASSAU COUNTY: Good afternoon.
13 First, I would like to thank the embers of LATFOR
14 for holding these, for holding these hearings.
15 They are much appreciated. I'm sure you see
16 that. Even though I too object to the location,
17 but I understand you will try to have a more
18 centrally located place next time.

19 My name is Rachel Krinsky and I'm here
20 as President of the League of Women Voters of
21 Nassau County. The League is a non-partisan
22 organization which encourages informed and active
23 involvement in government and influences public
24 policy through education and advocacy. We are

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2 also members of a statewide coalition to reshape
3 New York which is dedicated to reforming New
4 York's redistricting process and which consists
5 of 35 organizations including civic groups, issue
6 advocacy groups, unions, and business
7 organizations. Though we consider today's
8 hearing a good vehicle for citizens to comment on
9 the redistricting process, we believe that New
10 Yorker's have already made their position quite
11 clear regarding the drawing of district lines.
12 The voters of New York State want an independent
13 commission rather than LATFOR to draw state
14 legislative and congressional district boundaries
15 according to fair and objective criteria while
16 allowing for public input into the process. An
17 independent commission drawing impartial district
18 lines would still allow for the legislature to
19 give input on the plan and ultimately pass
20 legislation in accordance with the state
21 constitution. Voters across all parties believe
22 an independent body should draw the lines. The
23 governor proposed legislation to form an
24 independent commission. 61 of the 62 senators

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2 and 123 of the 150 assembly members either signed
3 onto his legislation or legislation proposed in
4 their respective houses, or signed pledges and
5 questionnaires from good government groups in
6 support of reforming the redistricting process.

7 An important element of reforming the
8 di--redistricting process is keeping the
9 differences in the allowable population between
10 legislative district smaller to prevent favoring
11 one region over another. The current
12 redistricting process has historically protected
13 incumbents. It has even carved incumbents
14 competitor's homes out of districts and
15 significantly discouraged competition. Voter
16 participation in New York State is distressingly
17 low. People tend not to vote if they face no
18 real choice in candidates. Meaningful discussion
19 of public policy has taken a backseat to years of
20 partisan rhetoric and late budgets because
21 partisan interests have been honored before
22 interests. It is time for legislators to honor
23 their words and keep their commitments. They
24 should return to Albany during a special

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2 legislative session to end partisan
3 gerrymandering and enact redistricting reform by
4 creating an independent commission to draw
5 impartial legislative and congressional lines.
6 The state legislature should be a model of good
7 government for local governments to emulate.
8 Here in Nassau County, there was an attempt to
9 push through new county legislative lines for the
10 2011 election. With minimal public input and
11 totally partisan planning. Fortunately the
12 Courts have stopped this travesty for now. The
13 League of Women Voters of Nassau County strongly
14 advocated for an independent non-partisan
15 commission to draw our county legislative lines
16 and will continue to do so when the lines for
17 2013 are being determined. We urge the
18 legislature to institute an independent
19 commission now as so many senators and assembly
20 members led us to believe we would be done when
21 they were running for office. New Yorkers cannot
22 wait another ten years for reform. Thank you
23 very much.

24 ASSEMBLY MEMBER MCENENY: Thank you.

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2 Robert Smith? Good afternoon.

3 PROFESSOR ROBERT SMITH, SCHOOL OF PUBLIC
4 AFFAIRS, BARUCH COLLEGE-CUNY: Good afternoon.

5 Thank you for the opportunity to appear before
6 the task force. My name is Robert Smith and I am
7 a professor at Baruch College in the graduate
8 center of CUNY. And I'm drawing on an expert
9 affidavit that I wrote for the case of Boone v.
10 Nassau in making this statement today.

11 My statement will focus on three points.
12 One is a history of segregation and equality on
13 Long Island. Two is the notion of blacks and
14 Latino's constituting having a community of
15 interests and the third are the implications of
16 this for the drawing of districts that the Voting
17 Rights Act and fair districting principals
18 require the recognition of communities of
19 interest in drawing districts that enable
20 minorities to elect representatives of their
21 choice.

22 The first point is that segregation and
23 equality have been built into the development of
24 Long Island primarily in the post second World

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2 War period and has become institutionalized to
3 the point where that inequality does not require
4 people to be individually racist in their day to
5 day life. The inequalities get reproduced
6 systematically and structurally. A prime example
7 of this is the development of housing.

8 Segregation Long Island is the, is the third most
9 segregated suburban place in the entire country
10 and the roots of this are quite clear. For
11 example, Levittown required that the houses could
12 only be only sold to members of the Caucasian
13 race when they were originally built. That
14 requirement lasted through the 60s. Levittown is
15 still 94% white. Urban renewal in the 50s and
16 40s and 50s pushed blacks out of incorporated
17 into unincorporated areas. Today real estate
18 agents routinely steer black and Latino clients
19 to black and Latino areas and away from white
20 areas and steer white clients to white areas.
21 73% of the race based complaints by African
22 Americans to the New York State Housing
23 Authorities were against real estate agents. Now
24 in addition to this segregation, there's also

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2 notoriously ineffective enforcement of these laws
3 against discrimination. In the New York State
4 Division of Human Rights, the central office,
5 took between five and ten years to reach a
6 decision on most cases, even though the law
7 requires it be done within 465 days. The
8 regional offices were much faster. They took
9 from one to four years. In this case, many of
10 the complainants had moved away or died before
11 their complaints were adjudicated. In addition
12 to the lack of infest--ineffective investigation,
13 there has also been--there's also no punitive
14 damages so the realtors begin to look at this
15 steering. If they get fined, it's just a cost of
16 doing business. The point in terms of
17 redistricting is that if blacks and Latinos are
18 divided politically it would be harder for them
19 to elect representatives of their choice who will
20 advocate for their interests which are very
21 different here than, than white Long Islanders.

22 There's a second history of division and
23 equality. And that is in the school districts.
24 Long Island has 125 school districts. Normally

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2 in the United States, the average is 15 school
3 districts per county. This--more school
4 districts is systematically tied to greater
5 levels of segregation and inequality. There are
6 more than 1,000 separate governmental units in
7 Long Island's 1,199 square miles. One of the
8 results of this is that this segregation--the
9 education is funded by property taxes.
10 Segregation has reduced the property values in
11 places where blacks and Latinos live so that
12 spending in primarily white higher income
13 districts is 26,000 per student while lower
14 income districts spend 18,000 per student. This
15 is a very glaring inequality. The Roosevelt
16 School district is 99.9% black and there were
17 four white students in the entire school district
18 in the year 2000. The half of black and Latino
19 children on Long Island live and go to school in
20 districts that are more than 95% black and
21 Latino. This is a very high level of
22 segregation. In addition to these high levels of
23 segregation and inequality, blacks and Latinos
24 form a community of interest on Long Island which

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2 I define as when groups of common interests
3 confront similar problems and relate similarly to
4 structures of inequality and power. There are
5 several ways that these communities of interests
6 are expressed. One of them is they have common
7 social locations. The statistic on half of the
8 students of, of color going to schools that are
9 95% black and Latino is one. Another is that
10 blacks and Latinos on Long Island are three times
11 more likely to live in poverty than whites. They
12 are also much more high--affected by the
13 foreclosure crisis. A second thing is that
14 blacks and Latinos on Long Island believe
15 themselves to be in the same boat in terms of
16 opportunity. 60% of African Americans and, and
17 40% of Latino's reported having had significant
18 experiences of discrimination, 39% of African
19 Americans and 21% reported direct housing
20 discrimination. White's by the way in these, in
21 these surveys also believed that housing
22 discrimination happens.

23 Another example, and I know that we're
24 supposed to keep our, ourselves limited here is

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2 that blacks and Latinos on Long Island are much
3 more likely to depend on public transportation.
4 83% of whites versus 59% of Hispanics and 65% of
5 blacks drove their own vehicle to work. Latinos
6 and blacks are six times and seven times more
7 likely than whites to use public transportation
8 system to get around in New York. Black and
9 Latino leaders that I have interviewed have
10 talked about the fact that they are material in
11 the same, in the same boat and legislature Robert
12 Troyano, an LD2, said to me that blacks and
13 Latinos if he had to succinctly describe their
14 conditions of life on Long Island it would be
15 separate and unequal from whites.

16 The point of this analysis and I've gone
17 as quickly as I could to keep into the five
18 minute limit, is that in the drawing of
19 legislative districts, the Voting Rights Act and
20 fair districting principals in case law require
21 that communities, communities of interest be
22 considered and respected. There's been ample
23 testimony today that blacks and Latinos have not
24 been--that, that community of interest has not

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2 been grouped together and that that--those
3 communities of interest have grown significantly
4 over the last ten years. I commend the
5 commission for looking, the task force for
6 looking at these issues and I encourage you to
7 take advantage of the opportunity before you to,
8 to draw districts that in fact do take note of
9 these very significant communities of interest
10 between blacks and Latinos. Thank you.

11 ASSEMBLY MEMBER MCENENY: Thank you. An
12 earlier person testified, gave maps, common
13 cause, gave a wonderful rendition of divisions
14 based on income and education which seemed to
15 indicated that in Nassau County on the Southern
16 Shore, it tended to be poor less educated, having
17 more needs associated with, with poverty and
18 discrimination. There were no Asians in that
19 map. But north of a line in between, the out
20 migration of Asians from upper Queens seemed to
21 be going to the North Shore. Do you think that
22 the Asian population on Long Island identified
23 more with the proposed minority districts of
24 primarily blacks and Hispanics or do you think

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2 they identify more with overwhelmingly white
3 districts?

4 MS. KRINSKY: When you say Asians, you
5 mean south Asians, Indians, [crosstalk] or?

6 ASSEMBLY MEMBER MCENENY: Everybody
7 udder that category. Just as with the African
8 Americans we include Caribbean's and Africans as
9 well.

10 MS. KRINSKY: Are you referring to
11 Elmont and areas like that?

12 ASSEMBLY MEMBER MCENENY: Yes.

13 MS. KRINSKY: I'm not sure I can make an
14 informed comment on that, on the Asian
15 population. But I would say, I have noticed when
16 I and, and the research that I've done, that
17 there is a higher income level for example--

18 ASSEMBLY MEMBER MCENENY: [Interposing]
19 Mm-hm.

20 MS. KRINSKY: --among blacks and Latinos
21 moving into those north areas into Elmont and
22 places like that. However, even when you don't--
23 'cause the, the story that I just related very
24 quickly is one of, you know, income levels,

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2 educational opportunities, et, et cetera between
3 whites versus Latinos and blacks being very, very
4 different. In Elmont, the income level of blacks
5 and Latinos is actually higher than of whites.
6 However, you do not get in those school districts
7 integration. You get almost perfect segregation.
8 Elmont Memorial High School has 90 plus percent
9 black students and Sewanhaka High school has 90
10 plus percent white students and they're in the
11 same school district right?

12 ASSEMBLY MEMBER MCENENY: Mm-hm.

13 MS. KRINSKY: And you get the same
14 rhetoric in the local newspaper. It's--we have a
15 Western border with Queens. We're being invaded.
16 They're ruining the schools. Instead of an
17 extrication story, these guys are coming in and
18 driving housing prices up. The story that's
19 being told about these blacks and Latinos with
20 20,000 higher income per year is they're ruining
21 the school system. So that race really does make
22 a, a, a tremendous difference. There's actually
23 research that's been done that you can map
24 housing prices based more on school districts

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2 than on anything else. So if you have a house--
3 and this is not rocket science to most of us.

4 ASSEMBLY MEMBER MCENENY: I'm, I'm from
5 Albany. It's the exact same thing.

6 MS. KRINSKY: But you have houses in the
7 same neighborhood. Houses--same housing stock.
8 This side of the streets one school district and
9 this side of the streets the other. You get a
10 massive different in price because one is
11 perceived to be in a black district and the
12 others in a white district. So--

13 ASSEMBLY MEMBER MCENENY: [Interposing]
14 We have that with urban and rural, rural as well.

15 MS. KRINSKY: Yeah.

16 ASSEMBLY MEMBER MCENENY: One is
17 considered to be more suburban. It's preferred
18 for, for housing versus across the road where
19 it's in a, in a rural district.

20 MS. KRINSKY: So in answer--your
21 question, I did the professor thing which is that
22 you asked me a certain question but I didn't have
23 a lot of information on and then I answered a
24 question I did have a lot of information on. But

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2 the--I do think that in a place like Elmont that
3 there, there is a non-white--there's a white,
4 non-white divide. And I think for example
5 Caribbean's who moved in there, many of whom have
6 also South Asian ancestry--

7 ASSEMBLY MEMBER MCENENY: [Interposing]
8 Mm-hm.

9 PRESIDENT KRINSKY: --identify, in that
10 case, identify with blacks and Latinos. And, and
11 the voting, for example, in school board
12 elections in Elmont is very polarized. Schools
13 with mainly white students always vote for the
14 white candidates. Schools with mainly black and
15 Latino candidates vote for those candidates. So
16 and even in the place where you have nearly--you
17 have the ideal conditions for sort of a very
18 positive kind of integration, you still have this
19 racial division and you have a rhetoric and a
20 public narrative that those guys are ruining the
21 schools by coming in. And I think that's very
22 important when you think about the idea of a
23 community of interest, that even people that are
24 making a lot of money and, and really should--if

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2 race didn't matter, no one would remark on this
3 right? They would be saying my housing prices
4 are going up because those guys are making more
5 money. That's not the story. The story is we're
6 being invaded from Queens.

7 ASSEMBLY MEMBER MCENENY: Yeah, racism
8 is never based on logic. So that's--thank you
9 very much. We appreciate your testimony.

10 MS. KRINSKY: Thank you very much.

11 SENATOR NOZZOLIO: Thank you. That we
12 have been joined and I apologize because I think
13 it's been for awhile by a couple of our
14 colleagues in the legislature. It's difficult to
15 see out there but I understand that Senator Ruth
16 Hassell-Thompson is here. Senator Thompson,
17 thank you very much Ruth to--for your
18 participation. You've been to a number of
19 hearings we do appreciate your involvement.
20 Also, Assemblyman Joe Salidino. Joe, thank--
21 Saleman, thank you very much for being here to--
22 if you're--are we in your district or close,
23 close by in the general vicinity. Well thank you
24 for your participation.

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2 ASSEMBLY MEMBER MCENENY: Thank you.

3 James McDonald. James McDonald.

4 MR. JAMES J. MCDONALD: Do you envy
5 Solomon when he only had the baby to worry about?

6 ASSEMBLY MEMBER MCENENY: What was that?

7 MR. MCDONALD: Do you envy Solomon? All
8 he had to do was slice the baby in half.

9 ASSEMBLY MEMBER MCENENY: No matter what
10 happens with any redistricting, someone is always
11 unhappy and there's almost always some kind of
12 lawsuit somewhere.

13 MR. MCDONALD: That's well I'm a little
14 hard of hearing.

15 ASSEMBLY MEMBER MCENENY: Yeah.

16 MR. MCDONALD: My wife screaming at me
17 over the years. So if you'll bear with me. My
18 name is Jim McDonald. I represent nobody but
19 myself. The views I express are my own. And
20 while I may deviate a little bit from the purpose
21 of the hearing, I think in some sense it's all
22 related. I thank the Committee for the
23 opportunity to speak on this issue. I support
24 the concept that all legislative districts in New

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2 York State should be drawn to contain equal
3 populations aiming for a deviation from the
4 mathematical average of no more than 1% or 2% at
5 most. Districts should be compact and
6 contiguous, the ideal being a circle where every
7 point on the perimeter is approximately the same
8 distance, distance from the geographic center.
9 Districts should not be gerrymandered to include
10 or exclude specific populations or voting blocs
11 as to, as is so often the practice now.
12 Geography and political boundaries should be
13 respected as much as possible. Many of the
14 current legislative districts in New York State
15 were drawn to enhance the fortunes of a political
16 party or an incumbent or to strengthen or weaken
17 one group of voters at the expense of other
18 voters within the same district. That practice
19 is undemocratic and should end. Geography makes
20 communities of interest. Congressional and
21 legislative lines should be drawn to serve the
22 community's needs and not the legislators. The
23 practice in New York State, as in most other
24 states, if for each legislative house to draw its

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2 own lines and predictably the majority party
3 seeks to maintain this majority by creating
4 districts to satisfy its own needs. I don't know
5 if there will ever be a better way to tackle this
6 problem but the legislature should consider
7 surrendering this task to an imperial impartial--
8 sorry, impartial commission if such a group can
9 ever be created. I doubt it. As far as
10 congressional districts are concerned, the same
11 rules should apply. Compact and contiguous while
12 respecting geography and political boundaries as
13 much as possible.

14 My understanding is that ten years ago
15 the congressional delegation from Nassau and
16 Suffolk Counties worked out a deal among
17 themselves to swap blocks of voters across
18 different communities to solidify, to solidify
19 their hold on their own districts. And that the
20 state legislature ratified the arrangement. If
21 true, arrangements like this only serve to deepen
22 the cynicism and distain that so many Americans
23 now feel towards politicians and the political
24 process. I think legislative candidates should

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2 also be allowed to run and serve in contiguous
3 districts close to where they live. A line on a
4 map should not prevent voters in a given district
5 from making the decision as to who should
6 represent them. I say this because if you're a
7 candidate for Congress in New York State, you can
8 run anywhere in the state of New York. But very
9 often district lines have been drawn where you
10 might say that two candidates who live across the
11 street from each other are now suddenly put
12 either in the same district or in opposite
13 districts. And this in a sense is a, a selective
14 form of gerrymandering. We've seen some really
15 exotic districts drawn over the years to
16 accomplish exactly that task.

17 Rather than quibble over the size of the
18 state senate, 61 versus 62 districts, I would
19 like to eliminate the senate altogether and
20 replace it with a 211 member legislature. 150
21 plus 61. A single legislative body of this size
22 would bring the state government closer to that
23 public, to the people of the state in smaller
24 districts and perhaps even allow more voters to

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2 actually meet their legislatures. I would like
3 to see the legislative term of office increased
4 to four years. So that the governor and the
5 members of the legislature are all up for
6 election at the same time giving the people of
7 New York State an opportunity to affect a change
8 in their government if they so desire. A single
9 legislative chamber would be more productive,
10 would be an effective counter weight against the
11 executive if necessary, and would allow the
12 public to easily determine which party should be
13 awarded or punished for their policies. It would
14 also give legislators more time to govern and
15 make some of the necessary hard decisions. I
16 would like to see the state fund all legislative
17 campaigns so that the citizens in each district
18 get the opportunity to hear from all of the
19 candidates in that district. At the present
20 time, the incumbent is usually the only one the
21 voters ever hear from. Primarily because the
22 challenger or challenges lack the financial means
23 to mount even a minimum campaign. The large
24 amounts of private money donated to political

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2 campaigns taints the process and increases voters
3 cynicism. In 2008, a presidential election year,
4 approximately 72% of registered voters in New
5 York State turned out to vote. Of the 62 state
6 senate districts, 11 were completely uncontested
7 and three others had only minority party
8 opposition. Many of the senate races were
9 lopsided or fair as with the incumbent facing
10 token opposition while enjoying all of the
11 advantages. The assembly races were no
12 different. Money, or the lack of it, is the root
13 of the problem. With so many citizens expressing
14 dissatisfaction with government, while more than
15 95% of incumbents are re-elected year after year,
16 something must be wrong with the process.

17 I would also like to discuss one other
18 issue in regards to improving voter participation
19 in the elections. There are only a handful of
20 states that allow a candidate to appear on more
21 than one party line and we are one of them. The
22 Wilson Pikula Law in New York State has perverted
23 the political process by allowing party leaders
24 to trade their parties endorsement for jobs,

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2 judges, and a whole host of political favors. It
3 has gotten to the point in Suffolk County where
4 whole segments of the population have been
5 routinely disenfranchised because party leaders
6 have made deals to guarantee the winners in a
7 political contest before the ballots are even
8 printed. To cite just a few examples. In 2010,
9 the county clerk and the controller received all
10 four lines and each received 100% of the vote.
11 In 2009, the district attorney, the sheriff, and
12 the county treasurer were on all four lines and
13 each received 100% of the vote. In 2007, the
14 county executive in his first bid for reelection
15 received all five lines but only received 96% of
16 the vote because two minor party candidates went
17 to great trouble to get on the ballot in a
18 courageous but futile attempt to provide
19 opposition. These are only some of the contests
20 where the voters have been rendered superfluous.
21 This law is a terrible law and should be repealed
22 as soon as possible.

23 Finally, I would like to see all judges
24 in New York State appointed rather than elected.

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2 The voters should not have to wade through a
3 forest of judicial candidates to find and vote
4 for the policy makers. A ballot without judges
5 would focus voter's attentions on those who
6 actually make the laws. Besides, most voters
7 have no idea who these judicial candidates are.

8 I recognize that this committee is
9 specifically tasked with gathering input on
10 redistricting but even in the fairest set of
11 lines were drawn to satisfy every voter in New
12 York State, it would not necessarily make our
13 elections any fairer because of these and other
14 issues which only the state legislature can
15 successfully address. I urge you to do so.
16 Thank you for your time.

17 ASSEMBLY MEMBER MCENENY: Mr. McDonald,
18 I appreciate a lot of the things that you said
19 there. In fact, most of them. And if we ever
20 did have a constitutional convention, I wouldn't
21 mind having you sitting there asking those
22 questions. A few things that you bring up. A
23 question of residency which is anyplace in the
24 state for Congress and don't be on the wrong side

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2 of the street or virtually everything else. In
3 an election year, you can run pretty much
4 anywhere in a redi--excuse me, a redistricting
5 year. The problem is, you could wind up selling
6 your house if you wanted to continue for the--

7 MR. MCDONALD: [Interposing] Assuming
8 you could do so in this market.

9 ASSEMBLY MEMBER MCENENY: Yes. Exactly.
10 Exactly. I, I'd like to see that softened within
11 a distance or in an enjoining district. The four
12 year term would make a lot of sense, particularly
13 running the same time as the governor. Single
14 legislative chamber, the number of bad
15 legislation which gets rescued and changed by the
16 time it makes it to the other house and then
17 comes out as good legislation, more than
18 justifies splitting it up. It also means that if
19 you have more than one representative, there's
20 always somebody there that has to be responsible
21 to you where if you've only got one and you ran
22 against him and he can't stand you, you're not
23 going to get the same legislation. I'd like
24 smaller districts because special interests money

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2 can be over common. The smaller the district,
3 the better it is to know your own people, your
4 own media. I'm very worried having congressional
5 districts going for about \$650,000 up to
6 \$718,000. When you, when you get into Senator
7 Nozzolio's part of, part of the state, this means
8 many, many, many counties, different media
9 markets which forces you to buy advertisement
10 which means you've got to turn to special
11 interests for funding. And I certainly agree
12 with the campaign--

13 MR. MCDONALD: [Interposing] I'd like--

14 ASSEMBLY MEMBER MCENENY: [Interposing]
15 finance.

16 MR. MCDONALD: --to make an observation.
17 I ran six times for, I'm sorry, three times for
18 the state senate. 1968, 1972 against Owen
19 Johnson by the way who--

20 ASSEMBLY MEMBER MCENENY: [Interposing]
21 Yup.

22 MR. MCDONALD: --we know each other well.

23 ASSEMBLY MEMBER MCENENY: Sure.

24 MR. MCDONALD: And again in 2006 against

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2 Owen Johnson. We're both aging warriors and but
3 there--the reason I ran in 2006 was because there
4 was an arrangement made between the political
5 leaders in Suffolk County that if the democrats
6 didn't put a candidate up against the republican
7 state senator, the republicans wouldn't put a
8 candidate up against the democratic assemblyman.
9 And what this did was effectual, effectively
10 disenfranchised three-quarters of the entire town
11 of Babylon and so for 2000, 2002, 2004 and 2006,
12 there was absolutely no choice. The leaders had
13 selected our representatives in the legislature.
14 So I decided along with some friends of mine that
15 maybe we should give them a contest. And this
16 happens a lot. All over the state. And I
17 recognize that for an incumbent who spent 20 or
18 30 years of legislature, it's probably a
19 harrowing experience to be confronted with let's
20 say a pick and shovel job or being out on the
21 street as a result of the voters suddenly going
22 mad and choosing somebody else. You see but
23 after awhile, this is what happens in a democracy
24 or at least an alleged democracy.

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2 The argument against having two houses
3 is basically this. When the constitution was
4 originally drafted, the idea was initially a
5 single house. It was only the states arguing
6 that what about us, Delaware primarily and I
7 believe Rhode Island. But at that time, Delaware
8 was only one-tenth the size of Virginia. Montana
9 with 550,000 people right now is one-sixtieth or
10 one-seventieth the size of California. And so
11 that whole argument no longer holds water. And
12 one of the problems we have in the entire country
13 is the fact that this vestige of poor thinking,
14 230 some odd years ago, has now locked us into a
15 situation with those who have the power refused
16 to surrender it. And even the way in which we've
17 constructed a three-quarter majority, by the way,
18 the original constitutional convention debated
19 whether it was a simple majority in Congress, a
20 unanimous vote by every single member of
21 congress, a unanimous vote by the various states,
22 and they actually kicked around a variety of
23 different ways to amend the constitution. So we
24 have the same thing. I believe the 1894

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2 Constitution of New York State said no two
3 counties separated by a river which by the way
4 was the East River, that you'll ever have a
5 majority in this state assembly. And that was an
6 effort by the upstate people to keep, keep power.
7 But it's, it's undemocratic. And what I'm
8 suggesting here is this. We should have a
9 constitution convention. The only way we're ever
10 going to have it is somebody's got to ask for it
11 and start that. I believe it was Kennedy who
12 once said the longest journey begins with the
13 single step. Somebody has to make the proposal
14 to make these changes because basically if we
15 don't do this, all we're basically doing is
16 spinning our wheels and ten years from now, when
17 I'm probably pushing up daisies, somebody else
18 will be up here asking the same questions. So we
19 should really try to deal with this.

20 You know, I, I, I wish you gentlemen
21 well. I realize you have a very tough task
22 trying to satisfy everybody. But I guess the
23 argument that I would use is that you should
24 always put yourself in the other guy's shoes.

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2 What about the guy who doesn't have the power,
3 what about the guy who isn't represented, you
4 know, how do I take care of him? Right now,
5 public financing, if we were to spend a million
6 dollars in 211 assembly districts without a
7 Senate, and divvy that money up in such a way
8 that whoever ran in that particular district
9 which would have about 92,000 people in it, that
10 million dollars would guarantee that every single
11 voice would be heard. As at the moment, that's a
12 hell of a lot cheaper than what we have I believe
13 member items roughly run about \$285,000,00 a
14 year. Right?

15 ASSEMBLY MEMBER MCENENY: They've been
16 gone for two years.

17 MR. MCDONALD: Well I haven't--

18 ASSEMBLY MEMBER MCENENY: [Interposing]
19 No member items left.

20 MR. MCDONALD: I haven't, I haven't run
21 in two years so I didn't know that. But that
22 was, that was a, a considerable amount of money.
23 And \$50,000,000 a year which would be roughly
24 what it would account to run every four years, is

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2 miniscule in the state budget. But what it would
3 do for politics in New York State, it would be--
4 we would lead the nation on this. And we haven't
5 really done this. And at the present time, every
6 candidate who runs in order to get his message
7 out requires money and no matter how you coat it,
8 it almost looks like legalized extortion. Not
9 that you ever promise anybody anything in return
10 for their contribution but there are very few of
11 us who doubt that those who sit around a table at
12 \$10,000 a head or \$20,000 a head or \$50,000 a
13 head, do so because they're interested in civic
14 virtue, you see. So I would like to see all of
15 these issues addressed including redistricting.
16 Thank you very much.

17 ASSEMBLY MEMBER MCENENY: Thank you very
18 much. Cecil Lawrence [phonetic]. Cecil
19 Lawrence. Reverend Charles Norris. Yeah, yeah
20 he came up before. Good afternoon sir.

21 REVEREND CHARLES NORRIS, PASTOR
22 EMERITUS, BETHESDA BAPTIST CHURCH, RELIGIOUS
23 LEADER, SOUTHEAST QUEENS, CLERGY UNITED FOR
24 COMMUNITY EMPOWERMENT (CUCE): Good after--good

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2 afternoon. My name is Bishop Charles L. Norris,
3 Senior. And I served as the Pastor of Bethesda
4 Missionary Baptist Church of Jamaica Queens for
5 37 years. I also serve as the Executive
6 Secretary for Clergy United for Community
7 Empowerment which was originally known as
8 Southeast Queens Clergy for Community
9 Empowerment. We came together in 1984 to try to
10 elect Jessie Jackson as the President of the
11 United States. And we tried it again in '88 and
12 didn't succeed. I think we finally made it in
13 2008 when we were able to elect Barack Obama.

14 But what does a Baptist preacher have to
15 say about redistricting and the demographic
16 changes in communities? First off, the Bible
17 makes reference to the census when it describes
18 how Joseph and Mary had to travel from Galilee to
19 Bethlehem to be counted in the census. It was a
20 practice of the Roman government to have
21 individuals travel to their native land to be
22 counted in the census. Bethlehem was the
23 ancestral land of Joseph who was the descendant
24 of King David. So even back then, there was an

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2 awareness that counting individuals and counting
3 them in the right place had a purpose. Joseph
4 knew that he had to be counted in his home of
5 record. Thank God for that was, that was done
6 2000 years ago. Our government decided to count
7 everyone in their homes of record. This is why
8 there is no reason why this task force should
9 delay in assigning the state prisoners to their
10 homes of record.

11 As someone has ministered to the dozens
12 of formally incarcerated young men, I must say
13 that it is a travesty of justice to argue that an
14 Upstate Senator or assembly member adequately
15 cares and re--represents prisoners in their
16 district. I was saddened to hear that some
17 republican senators are challenging this law in
18 the court. So let's stop the waffling and
19 reassign these--those prisoners back to their
20 homes in of record. If this legislation can
21 count billions of dollars in the budget of this
22 strict time, timeline, and can count votes every
23 two years during the election, you can certainly
24 reassign 58,000 prisoners back to their homes of

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2 record for redistricting purposes.

3 The Voting Rights Act has done a great
4 deal in increasing representation in our
5 community. Some have said that since we now have
6 the black president, it may not be relevant.
7 That's hogwash. Laws are in place and I--and as
8 a check against the worst instinct of societies.
9 If Cain had been, had been his, his brother's
10 keeper and not murdered Able, perhaps we would
11 not--never or not ever have the need for the laws
12 against murder. But history has shown that--
13 shown us that the law helps keep the scales of
14 justice balanced. I believe that the Voting
15 Rights Act should always protect African
16 Americans, Latinos, Asians, and Native Americans.
17 And in the election and in redistricting process.
18 If there are some in this body that may think
19 that race should not be a determinative factor in
20 redistricting here in Nassau County for more
21 legislative representative, excuse me, when--well
22 let us look at the geography. There are enough
23 blacks and Latinos right here in Nassau County
24 for a legislature, for a legislative

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2 representation. This can be done without having
3 to reach into Queens for more folks of color. It
4 can be done by drawing compact districts. In
5 communities such as Hempstead, Lakeview,
6 Uniondale, Baldwin, Freeport, Westbury, Elmont,
7 there are sizeable communities. These are
8 sizeable communities of color. To elect another
9 assembly member and another senator, it can be
10 done to serve a political purpose. So if you
11 don't want to look at race, well look at the
12 village town or the school district, the
13 boundaries, and you will see that oftentimes,
14 people live around others that they share their
15 history, culture, and values. But please don't
16 decide or rather divide us up for political ends.

17 We ask all the senators serving on this
18 task force. I am talking about your district for
19 the Bible says there is nothing hidden that will
20 not be disclosed and nothing concealed that will
21 not be known or brought to the, to the open.
22 These four districts, these four districts exist
23 the way they do because black and Latino
24 communities were divided. Thank God for

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2 transparency in government and hearings such as
3 these. Do the right thing, not just because God
4 is watching but because we people are watching as
5 well.

6 Let me, let me, let me just also be sure
7 that this task force does everything possible to
8 ensure that every district has the same
9 population across, across the state. According
10 to the prisoners that should be expeditiously be
11 assigned to their homes of record. Every
12 district should have the same population, no
13 excuse. No delay. Because as we said earlier,
14 justice may have said earlier, justice delayed is
15 justice denied.

16 Let me thank you for the time that I
17 have looked forward to testifying again before
18 this task force and release, under release its
19 purpose, its proposed district maps. Let me just
20 say from the memory that I have of the last time
21 Nassau County and Queens were together, they had
22 a senator by the name of Karen Burstine. And if
23 I remember correctly, I can't remember too many
24 member items coming across my desk in Queens as I

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2 would imagine came across the desk of those
3 people who lived in Hewlett, Woodmere, Cedars,
4 Lawrence, and we must include Inwood. But what
5 I'm saying is that I would hope that we can count
6 the people who are in prison in their homes where
7 they came from. And also, keep the district so
8 that we will have a senator in Nassau and a
9 senator in Queens. We should not combine those
10 two counties together. Thank you very much and
11 we trust that you will do the right thing.

12 SENATOR NOZZOLIO: Reverend, thank you
13 very much for your testimony. Before you go, I
14 just wish you to know that the task force is not
15 dragging its feet on the issue you addressed
16 which is the counting issue of prisoners from
17 their place of incarceration to a place of last
18 known address.

19 MR. NORRIS: Uh-huh.

20 SENATOR NOZZOLIO: Just please
21 understand though that this is a monumental task.
22 It's not simply a, a--the subtraction and
23 addition is a very cumbersome and difficult
24 process. Without any regulations in the statute.

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2 It's the first time this is happening. The
3 statute did not have any regulatory guidance as
4 to direct the task force to move forward. The
5 task force has moved forward even without that
6 regulatory direction. And we're coming on
7 establishing in effect an entire process that
8 normally the United States Census Bureau
9 undertakes. So we're--we've rolled up our
10 sleeves a number of months ago. Each member of
11 the task force, on both sides of the aisle,
12 including our citizen representatives have been
13 very involved in that process and that there is
14 no foot dragging. It's a task that required a
15 lot of work and that the members who have worked
16 on it should be congratulated as opposed to
17 indicating that they're dragging their feet
18 because no one is dragging their feet.

19 MR. NORRIS: Right. I hope they, I'm
20 sure they will con--they will work at it and
21 continue to work at it until this is concluded to
22 the best interest of the people of the State of
23 New York and especially where those--well I don't
24 want to call them convicts but where those person

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2 who are incarcerated live. Because it's very
3 important that they're counted in their homes of
4 origin.

5 SENATOR NOZZOLIO: Thank you Reverend.

6 MR. NORRIS: Thank you very much.

7 ASSEMBLY MEMBER MCENENY: Thank you
8 Reverend. Barbara Scott.

9 MS. BARBARA SCOTT: Good afternoon.

10 SENATOR NOZZOLIO: Good afternoon.

11 MS. SCOTT: Ladies and gentlemen, I
12 represent the FFI Alpha Senior Center of Jamaica
13 Queens and due to the restrictions of time, I
14 would just like to add to what Reverend Norris
15 has said. We are clear that the prison
16 industrial complex, as it stands now with the
17 counting of inmates, brings money upstate. It
18 brings jobs. I don't know if that's true now but
19 that's the information that I have. If I've been
20 misinformed, I beg your pardon. But we deal with
21 the prison industrial complex as well as other
22 complexes that have been set up against us here
23 in America. So that just to piggyback on what he
24 says, I don't know if there's a dragging of feet.

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2 But we know that when dollars are involved,
3 there, there's a lot that goes on. With that,
4 I'd like to say good afternoon.

5 ASSEMBLY MEMBER MCENENY: Thank you.
6 Thank you very much. Oh Senator Dilan, I'm
7 sorry.

8 SENATOR DILAN: The issue--I don't know
9 if the mic is on here. Oh. The issue with the
10 prisoner law only impact for redistricting
11 purposes. That means that everything goes well,
12 they will be recorded at their last address of
13 record. That goes through, everything goes well
14 as the law indicates. Whatever funding happens,
15 it rightfully belongs where the person is
16 currently located because that's where they were
17 receiving services.

18 MS. SCOTT: And how can we change that?

19 SENATOR DILAN: Well it still would--
20 that, I mean, just to do it for the purposes of
21 redistricting--

22 MS. SCOTT: [Interposing] I understand.

23 SENATOR DILAN: --to be sufficient, but
24 if you have a person in a physical location, the

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2 services should follow that person.

3 MS. SCOTT: I understand. Then I've
4 been misinformed. I beg your pardon. Good
5 afternoon.

6 SENATOR NOZZOLIO: Thank you.

7 ASSEMBLY MEMBER MCENENY: Thank you.
8 I'll go through the list one more time. And if
9 there's anyone here who would like to testify
10 after I've gone through this list, by all means
11 come forward. These were names that we had on
12 the list. Leo Fernandez, Walter and Beatrice
13 Peruq, Audrey Phillips, Wilton Robinson, Carol
14 Gordon, Andrew Hardwick, Joyce Stow, Eugene
15 Bernett, Kerie Solonges, and I think did we have
16 Cecil Lawrence? Is there any--are any of those
17 individuals here at this time? And is there
18 anyone else who would like to testify and go on
19 record? We believe a number of these people will
20 follow-up in writing with whatever their feelings
21 were on this important issue.

22 That being the case, this, this portion
23 of our hearing is closed. We thank you. We
24 thank the hospitality of, of Old Westbury Campus

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2 for having us. And just for logistics, I think
3 Senator you were suggesting that we have a brief
4 business informational meeting.

5 SENATOR NOZZOLIO: For the record we
6 have one more hearing in the first round. That
7 again being next, I believe, it's Wednesday the
8 2nd of November in Plattsburg. And thank you
9 assemblymen for conducting the meeting today.

10 SENATOR DILAN: I recall a conversation
11 that we had last the last time we met and I
12 thought that we were going to have a business
13 meeting today because we have one member of this
14 panel who was not available at that time. And it
15 was indicated to me that he would be available
16 today and we would be dealing with the issue of
17 the prisoner count or, or what was going on with
18 that. I think there was a question also as to a
19 memorandum from Senator Nozzolio that we wanted
20 to address. That was, I believe, given
21 assurances that we would do that today. However,
22 if you're not ready today, I can't make you do it
23 today. But I would expect that at the Plattsburg
24 meeting, that we would be ready with those

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2 issues. Also, I would also request that at the
3 Platt, at the Plattsburg meeting, that we could
4 also perhaps be ready with proposed dates for our
5 second round of hearings. That way, I mean, if
6 we're going into the holiday season and, and
7 pretty soon, you know, January is going to creep
8 up and we're going to have session, so I think
9 that we seriously need to take a look at that
10 right now and have those dates so everyone can
11 schedule accordingly. And I believe there was
12 one--oh.

13 And finally, with respect to the draft
14 plans themselves, if we can have an idea of when
15 plans are going to be released, and I think that
16 at one point I may have sent a letter, I believe,
17 also that there should be public drafting,
18 drafting sessions and I don't believe I've gotten
19 a response of that letter. How are we working on
20 these plans and can other members of this panel
21 be available when work is actually being
22 performed on drafting these lines?

23 ASSEMBLY MEMBER HEDGES: With respect to
24 the first item that you brought up, I was not

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2 available the last time around. And, and--

3 SENATOR DILAN: [Interposing] But today-

4 -

5 ASSEMBLY MEMBER HEDGES: No, no, no. I
6 understand. But I, I believe that the staffs
7 have been talking and I think that those staff
8 conversations are getting close to a point where
9 we can get a positive conclusion and I would like
10 to give the staff a little bit more time to fi--
11 finish that. So if we could have that discussion
12 next week, I think that would be more productive
13 for all of us.

14 SENATOR DILAN: Okay. I did not mention
15 any name of who was or wasn't here last time.
16 But I'm glad you came forward. But with the
17 issue of staff talking, I remember that we passed
18 a resolution on this panel that when those
19 sessions of staff talking, that all staff be
20 included and I don't know but--

21 SENATOR NOZZOLIO: [Interposing] I, I
22 need to explain.

23 SENATOR DILAN: I don't know that my
24 staff was informed that staff is talking so I

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2 believe that I have a right to question that as
3 we're moving forward. When we passed that
4 resolution that all staff majority, minority
5 staff should all be informed as to when there are
6 discussions or working session. So that means
7 that we're not following the resolutions that we
8 have passed and since I don't know this, I have a
9 right to ask this question.

10 SENATOR NOZZOLIO: Senator, you
11 certainly do have the right. And let me try to--
12 I, I think I should have spoken before Roman
13 because Roman was away for awhile, that we have
14 been analyzing the data. The Task Force has
15 analyzed the data that was reviewed. And that I
16 think--I don't want to speak for Mr. Hedges, but
17 I believe that the staff's analysis is what I
18 have been talking about with staff. Now that to
19 be is a preliminary discussion based on
20 preliminary review of the data that was put
21 together by the task forces sort of sub-committee
22 that Roman seized the day and, and pulled
23 together. And the technical staff of LATFOR is
24 reviewing as we have all discussed we wanted them

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2 to do, including yourself, Senator, that we would
3 have the technical staff review what was being
4 done. And I think that may be what Roman is
5 referring to. What I would like to see occur at
6 our next meeting is a delineation of where we are
7 with that issue, a prisoner counting, and that,
8 that your suggestion is well taken. I think that
9 should be certainly discussed at our meeting next
10 week and hopefully there will be an opportunity
11 to resolve any outstanding issues on that score
12 between now and next week. And that the task
13 force will be able to make a presentation to us
14 in terms of where the technical staff of the task
15 force will be able to make a presentation to us
16 as to where they are with that information. The
17 issue of a calendar, I agree that we should get a
18 calendar together as soon as possible. Sort of
19 the problem we have, and I'd like your input, is
20 the calendar of the political calendar. That
21 calendar, what happens if we do have a June
22 primary, that really does put us under the gun
23 for the hearing schedule. And then I would hate
24 to agree to a hearing schedule that was rendered

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2 inoperative by an early primary. Not to say that
3 we shouldn't begin this process as soon as
4 possible but we'd are, are flying blind here in
5 the sense we do not know what the determination
6 is for the primary. And if that primary becomes
7 very early, then we really have an expedited
8 schedule. We may all be spending the month of
9 December together and then I certainly want to
10 know what Senator Dilan wants for Christmas if
11 I'm going to be with him because we're certainly
12 going to be together during those weeks if there
13 is an early primary.

14 So I, I don't know if anyone has
15 anything to shed on, on that light on that issue
16 but I, I would welcome the opportunity to start a
17 schedule to review. And, and with that becomes
18 the determination of a drafts of plans. Because
19 we all agree that you can't take out hearings
20 unless you--and the second rounds of hearings
21 should be hearings that have the outlines or the
22 specifics rather of the, the suggested plans.

23 SENATOR DILAN: Yeah I, I bring these
24 issues now so hopefully we can be prepared for

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2 the Plattsburg meeting and, and so we can take
3 the next couple of days to see what we can put
4 together and where we can work together on these
5 issues. I, I would love to work on an expedited
6 or accelerated type schedule on the assumption
7 that we have an early primary date. And whatever
8 the case may be, that way the public can see
9 exactly what we're doing. I also ask the
10 question about how are we drafting these plans,
11 when are we having these working sessions, and as
12 Mr. Chairman, you indicated that we did agree
13 that staff should be involved but I do want to
14 make it very clear that as staff is talking,
15 they're not talking to my staff.

16 ASSEMBLY MEMBER HEDGES: Let, let me be-

17 -

18 SENATOR DILAN: [Interposing] And, and
19 that--

20 ASSEMBLY MEMBER HEDGES: [Interposing]
21 No, no let, let me be clear because it was
22 something I said.

23 SENATOR DILAN: No stop, stop, stop.
24 I'm not asking you directly. I'm asking the

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2 group that--

3 ASSEMBLY MEMBER HEDGES: [Interposing]

4 No, no, no, no.

5 SENATOR DILAN: --we work together to do
6 this. I'll make--I'll finish my comment very
7 quickly and, and I do this in a positive sense
8 not challenging anyone. I, I'm just looking for
9 us to work together. So we need to deal with the
10 issue of the draft plans, the working sessions.
11 When the plans come out, we need to talk about
12 the dates, we need to fi--conclude. We need to
13 come to a conclusion really on--with respect to
14 the prisoner count and start to implementing it.
15 We've been talking about this since day one. We
16 did pass a resolution on, on this panel that we
17 were going to allow the members of the state
18 assembly really to take the lead and do almost
19 all of the work on this issue. I remember that
20 we passed a resolution doing that. We can always
21 go back to the record and, and check it. And
22 then at the same time, we've been talking about
23 criteria. We've been talking about transparency.
24 We've been talking about letting the public know

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2 the size of the senate. And how could we even
3 release draft plans if we don't conclude the
4 numbers with respect to the prisoner count. And
5 if the public's going to submit plans, they have
6 to have these answers the size of the senate and
7 the numbers that apply to the district. And, and
8 I'm--I do this all in a positive and cooperative
9 spirit.

10 ASSEMBLY MEMBER HEDGES: I, I certainly
11 didn't hear it as anything other than that. I
12 just wanted to clarify something because I was
13 the one that said something. What's happened in
14 the last three weeks, four weeks, is really
15 individuals calling each other with questions and
16 trying to make sure we understood what it was
17 that largely we said. I think that there was a
18 lot of confusion about that. And, and a lot of
19 confusion about what it is that we had done and
20 how had we done it. And so we've really just
21 been asking--answering questions. It hasn't been
22 negotiation. It hasn't been discussion in that,
23 in that sort of a broader sense of the word. I
24 think that that broader discussion has to happen.

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2 But up till now for the last several weeks, what
3 we've been doing is when somebody had a question,
4 we've been trying to make sure we gave a clear
5 answer. And that took quite a bit of back and
6 forth. I'm not sure whether or not your staff
7 was talking to people that work with me but
8 largely what it was as far as I know and as I
9 said, I was away for a portion of that period,
10 was people calling folks that work with me and
11 asking how did you do this, what is it that this
12 number means. We talked in broad policy terms
13 only about a couple of issues and we have not
14 made any effort to resolve any of those issues.
15 An example being what geo-coding software was
16 used. And what was the underlying data that were
17 embedded in that geo-coding software. An example
18 being we had available to us a commercial product
19 that doesn't base its work, its underlying data
20 on the Tiger data file. That's a major policy
21 call. That's something that everyone should be
22 involved in. The fact question was what software
23 did you use, what was the data that underlies
24 that software? And we've been going back and

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2 forth on that. I know the most recently ideation
3 of that conversation took place yesterday and it
4 was this kind of a technical detail. Something
5 we were not aware of that the software that all
6 of us use has the same ability to handle the geo-
7 coding task in a what's the technical folks would
8 call a batch mode, we've been doing that
9 interactively, we didn't have the technical
10 knowledge that would have allowed us to do
11 exactly what the joint staff had asked us
12 questions about until yesterday. I got an email
13 as we were arriving today saying yup, we--now
14 that we know how to do that, we can run it too.
15 I'll get you the answer as to how it differs from
16 what we've got and we should convey that. That's
17 a conversation that I think was largely
18 technical. I don't think there was a policy call
19 at all. And I think that policy call
20 conversation now, that we've got most of the
21 technical issues from the joint staff asking us
22 hundreds of questions, I think we can actually
23 have that conversation productively. I don't
24 think yesterday we could have.

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2 SENATOR DILAN: Okay. I appreciate your
3 comments and I just look forward to us having
4 some answers at the next meeting.

5 ASSEMBLY MEMBER HEDGES: I think that's
6 great.

7 SENATOR DILAN: And hopefully bring a
8 finality to some of these issue so we can start
9 with the second round. Thank you.

10 SENATOR NOZZOLIO: Any other comments
11 members of task force?

12 ASSEMBLY MEMBER MCENENY: I'm a little
13 uncomfortable with coming out with a schedule for
14 this series of public hearings. While we said
15 they were all state wide in their focus,
16 realistically, because they weren't as
17 controversial or as specific, most of them like
18 the hearing here today, of the 20 people who
19 testified, I think 20 of them were concentrating
20 on regional issues. I think there may be an
21 obligation to have everything including the
22 Congress before we schedule because in theory at
23 least, I'm sure legally, anyone can show up at
24 any hearing. It can be on Plattsburg and they

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2 may be concerned with what happened to Staten
3 Island or Buffalo. And I think it wouldn't have
4 hurt for the first wave to have regional ones and
5 then schedule the other ones later on. But I, I
6 think the nature of it is, unless we have all the
7 maps because what goes on in the western part of
8 the state literally affects what is possible by
9 the time you get to Montague. Then unless all
10 those maps are there, we shouldn't start the
11 hearings until we have a complete product. And
12 the product will be a first draft. A lot of it
13 will stay, I'm sure. Some of it I'm also sure
14 will be amended. And I think people need to see
15 the entire, entire picture.

16 SENATOR DILAN: I just have a quick
17 question there. For those of you have, who have
18 been here in the past, I have not, have we always
19 had the entire package senator assembly and
20 congress or have we done the assembly senate and
21 then proceeded to congress?

22 SENATOR NOZZOLIO: The--it's been the
23 other way around. The latter. It's been
24 Assembly, Senate, and Congress. But this year,

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2 we are faced with an extraordinary issue of
3 having that if we have a primary as early as pr--
4 as some have suggested, it could be difficult.

5 SENATOR DILAN: So we should be moving
6 at a, at a, at an accelerated rate?

7 SENATOR NOZZOLIO: Yes.

8 SENATOR DILAN: All right.

9 SENATOR NOZZOLIO: Yes.

10 SENATOR DILAN: Thank you.

11 SENATOR NOZZOLIO: And I just--Senator
12 Dilan, I consider you--I respect you as a
13 colleague and I, I care for you as a friend. I
14 think that we--you raised some excellent points.
15 I, I do want to, to, to just reiterate that we
16 did ask the task force technical staff to review
17 what the assembly had put together. And I know
18 you were part of those discussions. So this
19 wasn't something to be done as one side I was
20 very technical and I think it's, it's a
21 responsibility we had because our technical
22 people are, are full time staff, they're non-
23 partisan in nature, they're very technically
24 competent. And that's really I think what the

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2 discussions were that I could see happening
3 about. Or I could hear about. So with that,
4 let's look to pursue some difficult work next
5 week. Hopefully we can get some of it, if not
6 all of it, bitten off, and concluded.

7 SENATOR DILAN: I just want to say that
8 I do have some staff members that are also
9 technical that have worked on this for many
10 years.

11 SENATOR NOZZOLIO: Thank you very much.

12 ASSEMBLY MEMBER MCENENY: And I would
13 also urge 'cause we're still broadcasting these
14 people that say it's easy to put it together with
15 all the software, get it in here. We don't want
16 to find out there's a marvelous plan out there
17 after we've already drawn it up. If you
18 sincerely have input and you really want your
19 input incorporated in the plan, you have to let
20 us know what it is. Monday morning
21 quarterbacking is not particularly helpful.
22 Thank you. This hearing is closed. We
23 appreciate the hospitality of the campus and we
24 appreciate all who came and testified as well as

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2 those who will send in information in writing.

3 (The public hearing concluded at 3:02

4 p.m.)

C E R T I F I C A T E

I, Lynn M. Reinhardt, do hereby certify that the foregoing typewritten transcription, consisting of pages number 1 to 239, inclusive, is a true record prepared by me and completed from materials provided to me.



Lynn M. Reinhardt,

Transcriptionist

November, 10, 2011 Date