

NEW YORK JOINT LEGISLATURE  
LEGISLATIVE TASK FORCE ON  
DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT  
SENATE STANDING COMMITTEE ON THE JUDICIARY  
ASSEMBLY STANDING COMMITTEE ON GOVERNMENTAL OPERATIONS

ONLINE PUBLIC HEARING  
EVALUATING CONSTITUTIONAL PROVISIONS  
IMPACTING REDISTRICTING IN 2022

July 15, 2020  
10:00 a.m. - 12:30 p.m.

Joint Task Force Reapportionment, 7-15-2020

SENATORS PRESENT:

SENATOR MICHAEL GIANARIS, Co-Chair, Legislative Task Force  
on Demographic Research and Reapportionment

SENATOR BRAD HOYLMAN, Chair, Senate Standing Committee  
on the Judiciary

SENATOR NEIL BRESLIN

SENATOR DIANE SAVINO

SENATOR ANDREW GOURNARDES

SENATOR ANNA KAPLAN

SENATOR KEVIN THOMAS

SENATOR TOBY STAVISKY

SENATOR THOMAS F. O'MARA

SENATOR ANDREW J. LANZA

SENATOR PHIL BOYLE

SENATOR TODD KAMINSKY

SENATOR JAMES GAUGHRAN

SENATOR LUIS SEPULVEDA

SENATOR SHELLEY MAYER

SENATOR ZELLNOR MYRIE

SENATOR JAMAAL BAILEY

SENATOR GUSTAVO RIVERA

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ASSEMBLY MEMBERS PRESENT:

ASSEMBLY MEMBER ROBERT RODRIGUEZ, Co-Chair, Legislative  
Task Force on Demographic Research and Reapportionment

ASSEMBLY MEMBER KENNETH ZEBROWSKI, Chair, Assembly  
Standing Committee on Governmental Operations

ASSEMBLY MEMBER SANDRA GALEF

ASSEMBLY MEMBER DAVID BUCHWALD

ASSEMBLY MEMBER HARVEY EPSTEIN

ASSEMBLY MEMBER PHILLIP PALMESANO

ASSEMBLY MEMBER ANDREW GOODELL

ASSEMBLY MEMBER ALICIA HYNDMAN

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PANEL 1:

Blair Horner  
Executive Director  
New York Public Interest Research Group

L Joy Williams  
Branch President  
Brooklyn NAACP

Susan Lerner  
Executive Director  
Common Cause New York

Juan Rosa  
Northeast Director  
National Association of Latino Elected  
and Appointed Officials

Lurie Daniel-Favors  
Interim Executive Director  
Center for Law and Social Justice

PANEL 2:

Jennifer Wilson  
Deputy Director  
League of Women Voters

Amy Torres  
Director of Policy  
Chinese-American Planning Council

Michael Li  
Senior Counsel  
Brennan Center for Justice

Jose Perez  
Deputy General Counsel  
Latino Justice PRLDEF

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PANEL 3:

Jeff Wice 113  
Professor  
New York Law School Census & Redistricting Institute

Eddie Cuesta  
Executive Director  
Dominicanos USA

Tom Speaker  
Policy Analyst  
Reinvent Albany

Rachel Bloom  
Director of Public Policy  
Citizens Union

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2 (The public hearing commenced at 10:00  
3 a.m.)

4 SENATOR MICHAEL GIANARIS, CO-CHAIR,  
5 LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH

6 AND REAPPORTIONMENT: Good morning, everybody and  
7 welcome to this hearing. I want to welcome  
8 everyone who took some time out of their day to  
9 join us on this important subject matter. A  
10 little bit arcane, but important nonetheless as  
11 it relates to our democracy and the districts  
12 that we run under. We are embarking on a new  
13 process in New York for redistricting, and one  
14 that we're all learning as we go because it's  
15 never happened before and it's got a lot of  
16 twists and turns to it, and so this is the first  
17 step forward in that process to talk to some of  
18 the experts, talk to some of the people who were  
19 involved both in establishing this and are just  
20 experts generally on the topic, so that we can  
21 make some evaluations as a legislature to what we  
22 need to do to make this work as efficiently,  
23 productively and fairly as possible.

24 There's been a lot of changes since we

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2 first established this process. Most notably, the  
3 one that's necessitating some reevaluation in  
4 changes as the calendar when this reapportioning  
5 process was initially set up, our state primaries  
6 were in September, which fit easily within the  
7 calendar laid out in the constitution for the  
8 commission revealing its plans and the  
9 legislature reacting to them.

10 Since that time as everyone knows, our  
11 primaries have now been moved to June. The  
12 petitioning process begins late February or early  
13 March, and that has made the timing of the  
14 existing constitutional provisions impractical.  
15 So we thought as long as we're reevaluating,  
16 let's talk to folks about what other changes are  
17 important and necessary that we can make, as well  
18 as talking generally about the commission process  
19 and how we get that moving forward in the  
20 timeframe that we have to work with.

21 I want to recognize my colleagues who  
22 are here on the Senate side. Co-chairing this  
23 hearing with me is the chair of our judiciary  
24 committee, Senator Brad Hoylman, welcome Senator

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2 Hoylman. We are also joined by Senator Savino,  
3 Senator Breslin, Senator Gounardes and Senator  
4 Kaplan. Some of our members have through  
5 redistricting processes before, for some it's  
6 their first time, so we have a good mix of folks  
7 on both sides.

8 We also have with us our friends and  
9 colleagues from the Assembly, and I'm going to  
10 kick it over now to the chair of the Assembly  
11 Government Operations Committee, it's a committee  
12 that I was actually the staff counsel for many  
13 years ago. So it's good be working with them from  
14 this side as well.

15 And, Assemblyman Ken Zebrowski has done  
16 tremendous work in the Assembly, and I want to  
17 welcome and thank him for joining us as well as  
18 my co-chair on [unintelligible] [00:02:52]  
19 Assemblyman Rodriguez and I'll hand it over to  
20 Assemblyman Zebrowski.

21 ASSEMBLY MEMBER KENNETH ZEBROWSKI,  
22 CHAIR, ASSEMBLY STANDING COMMITTEE ON  
23 GOVERNMENTAL OPERATIONS: Thank you, Senator  
24 Gianaris. It's a pleasure to be here with you



1 Joint Task Force Reapportionment, 7-15-2020  
2 today, all my colleagues and all of those that  
3 are both listening and ready to testify. Also  
4 welcome to senator co-chair, Senator Hoylman and  
5 to my assembly co-chairs, Assembly Member  
6 Rodriguez, great to be with everybody today in  
7 this important topic.

8 I just have a few comments to make, and  
9 then, we'll get this rolling. Every ten years,  
10 the nation undertakes the process of counting  
11 citizens, it's critical that New York State  
12 receive an accurate count of its citizens and  
13 apportion representatives in a manner that  
14 results in equal and just representation for the  
15 state. Next year, we will begin a new system of  
16 apportioning legislative representation to people  
17 in the state.

18 In 2014, New York voters approved  
19 amendments to the New York State constitution  
20 which changed the process for drawing legislative  
21 districts. An independent commission of ten  
22 individuals will meet to attempt to decide how to  
23 best construct the representation of the millions  
24 of diverse individuals that make up our state.

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2 We're here in an uncertain time. The  
3 results of the national census have been delayed  
4 due to the COVID-19 outbreak. In times like  
5 these, we need to be flex about and mindful of  
6 our future.

7 Thank you to all of the witnesses that  
8 agreed to testify today. We hope that your  
9 feedback and recommendations on our upcoming  
10 redistricting process will offer us some new  
11 insight that may then to guide us through this  
12 process.

13 First, on the assembly side, let me say,  
14 I mentioned Co-Chair Robert Rodriguez. We also  
15 have Assembly Member David Buchwald, Assembly  
16 Member Harvey Epstein, Assembly Member Sandy  
17 Galef with us this morning, and as additional  
18 people join, I'll announce them at that point.  
19 Thank you, senator.

20 SENATOR GIANARIS: Okay, thank you,  
21 assemblyman. We've also had some additional  
22 joiners, you'll hear us announcing the  
23 legislators as they arrive. But we have been  
24 joined by Senator Kevin Thomas, Senator Toby

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2 Stavisky and make this a bipartisan effort we  
3 have Senator O'Mara and Senator Lanza joining us  
4 from the senate side as well. I'm sure others  
5 will join in as we go.

6 Okay, so we're going to move on to our  
7 first panel, who I understand are all ready and  
8 waiting. Each witness will get five minutes to  
9 testify, followed by questions from the  
10 legislators. And in our first panel, I will read  
11 the names of and affiliations and please testify  
12 in this order. We're going to start with Blair  
13 Horner from NYPIRG, L. Joy Williams from the  
14 Brooklyn NAACP, Susan Lerner from Common Cause  
15 New York, Juan Rosa from the NALGO Educational  
16 Fund, and Lurie Daniel-Favors from the Medgar  
17 Evers Center for Law and Social Justice, so  
18 Blair, take it away.

19 SENATOR THOMAS F. O'MARA: Chairman, is  
20 there some reason that my video is blocked?

21 SENATOR GIANARIS: Not that I'm aware  
22 of. We'll take care of that, senator. Blair,  
23 whenever you're ready.

24 MR. BLAIR HORNER, EXECUTIVE DIRECTOR,

1 Joint Task Force Reapportionment, 7-15-2020

2 NEW YORK PUBLIC INTEREST RESEARCH GROUP:

3 Can you hear me okay?

4 SENATOR GIANARIS: Yes.

5 MR. HORNER: All right. Senators,  
6 assembly members, thank you for the opportunity  
7 to testify on this important topic. This is my  
8 first Zoom hearing, so if I seem a little  
9 discombobulated, please bear with me or tell me  
10 that I'm doing something wrong.

11 We've submitted our written comments and  
12 I will summarize our views here, but first, on  
13 behalf of NYPIRG, we commend the houses for this  
14 hearing, and for the scheduled hearings to come  
15 on a wide range of issues. It's important that  
16 the legislature reestablish itself as the primary  
17 policy making body in New York's governmental  
18 system. These hearings and the action on a wide  
19 range of issues are important and we applaud  
20 those activities.

21 As you may know, NYPIRG opposed the  
22 constitutional amendment in 2014 and our comments  
23 today may touch on some of those concerns that we  
24 had then and have now. But, the focus of our

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Okay

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2 testimony is on what can be done now to deal with  
3 the reality of New York's untested redistricting  
4 system in 2022.

5 There are a number of issues that we're  
6 concern about including the timetable, which is  
7 already been discussed, which is now undermined  
8 by the change in primary date, as well as the  
9 impact the pandemic has had on the ability of the  
10 census to deliver data to the states. Our  
11 concerns are magnified by the fact this will be  
12 the legislature's first time working with the  
13 detailed, complicated redistricting scheme.

14 Redistricting is highly charged without  
15 adding a pandemic and a new law to the mix. If  
16 the census makes its data available for  
17 redistricting at the end of July, 2021, that will  
18 give the commission virtually no time to draft  
19 maps and make them publicly available for comment  
20 in September, as the constitution provides.

21 The public hearings are important and  
22 will inform the commission on weaknesses and  
23 plans. They have to then incorporate relevant  
24 recommendations and make their plan available to

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2 the legislature by January. The commission will  
3 have to operate at warp speed to make that all  
4 happen within five months plus.

5 So the pandemic has created real  
6 logistical problems for compliance with the  
7 constitution's redistricting requirements. Added  
8 to that is the candidates will be gearing up for  
9 primaries, were gearing up for primaries in early  
10 2022, or the legislature may still be haggling  
11 over maps developed by the commission, or making  
12 their own.

13 Proponents of the amendment anticipated  
14 September primaries, so the new June primary date  
15 timetable may leave candidates unclear as to  
16 which districts they're running in. Neither of  
17 these problem can be remedied with constitutional  
18 changes in time, we don't believe. Statutory  
19 budget moves can bolster the ability of the  
20 commission to do its work, assuming that all goes  
21 well with it.

22 The commission is based on the model of  
23 the State Board of Elections, an agency notorious  
24 for gridlock when deciding important issues. The

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2 current commission hasn't yet jointly have chosen  
3 its two additional members and has done nothing  
4 that we can see to prepare for the daunting work  
5 ahead.

6 One of the key reasons that we opposed  
7 the 2014 amendment was our view that the  
8 commission would never be truly independent. The  
9 commissioners may act as agents of their  
10 appointing authorities instead of the public  
11 interest. Given the lateness of the action, the  
12 limited ability to publicly hash out needed  
13 changes, there seems to be not a lot of time that  
14 can be done to amend the constitution that would  
15 be consequential in 2022.

16 However, there is one area that could be  
17 fixed in time. That would be to remove the  
18 unconstitutional provisions adopted in 1894,  
19 provisions that violate the one person one vote  
20 requirements under federal law. But to change the  
21 deadline for a second submission of the  
22 commission's plan by the end of February,  
23 although it does say no later than, and that  
24 could probably be fixed statutorily.

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2 But there are other areas that should be  
3 fixed. But they may have to be for the 2030  
4 redistricting cycle. We discussed those in our  
5 written testimony, but two important ones are  
6 eliminating the partisan redistricting commission  
7 and using language akin to what the Congress uses  
8 for map makers to make districts be comparable in  
9 size, population wise.

10 Lastly, on a related issue, we think  
11 that you should consider capping the number of  
12 senators at whatever the number is that's  
13 appropriate, because, as you all know, the senate  
14 that grown from 50 members in the 1930s to 63  
15 now. So thank you for this opportunity to  
16 testify. Again we applaud your interest in this  
17 issue, and I'm done.

18 SENATOR GIANARIS: I appreciate it. Let  
19 me just answer Senator O'Mara's question of  
20 earlier. I misunderstood his question. The  
21 members' videos turn on so they can be seen when  
22 they are speaking or recognized and then just the  
23 co-chairs and the panelists are on video. We've  
24 also have been joined by Senator Kaminsky,

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2 Senator Sepulveda and Senator Boyle. And next we  
3 have L. Joy Williams from NAACP. Welcome.

4 MS. L. JOY WILLIAMS, BRANCH PRESIDENT,  
5 BROOKLYN NAACP: Good morning and thank you very  
6 much for the opportunity to talk with you this  
7 morning. The New York State Conference of NAACP  
8 is submitting full written testimony, but I just  
9 wanted to highlight a number of issues that the  
10 NAACP are focusing now and will be focusing on  
11 throughout this process.

12 For those of you who don't know, I am  
13 president of Brooklyn NAACP, but I'm also the  
14 legislative coordinator for the New York State  
15 NAACP Conference of Branches, which consists of  
16 thousands of members. We have over 51 branches in  
17 the State of New York, under the leadership of  
18 our New York State Conference president, Hazel  
19 Dukes.

20 I'm sure you will hear from me a number  
21 of times throughout this process, not only on  
22 this issue but on a number of different issues.  
23 But there are some key pieces that I would like  
24 to highlight as you begin this process.

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2 So, back in September of 2011, the late  
3 Reverend Anita Burson, who was then second vice  
4 president of Brooklyn NAACP, testified before the  
5 committee and she began her testimony  
6 highlighting the lack of diversity and minimal  
7 representation of people of color, as well as  
8 diversity in gender, both on the committee and on  
9 the staff.

10 And so as you begin the process and as  
11 the speaker before me mentioned, that we are in  
12 the beginning phases of how this process will  
13 play out, I urge you that as you are staffing up,  
14 if you will, that, you focus on ensuring that the  
15 entire operation of our redistricting process is  
16 reflective of the great diversity of this state.

17 This should be a guiding principle, not  
18 only for the individual staff, legislative aides  
19 and others and I'm talking about even a person  
20 making photocopies, but, also any contractors and  
21 vendors that will be used for this process.

22 In addition, I ask and urge the elected  
23 leaders to go a step further, and expect both the  
24 elected leaders and commission to produce a

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2 report demonstrating not only your commitment but  
3 your actions to this equity principle to ensure  
4 that our redistricting process is reflective of  
5 the people of state of New York.

6 Now, our redistricting process, as  
7 previously mentioned will have a number of  
8 firsts, it is the first time we will have an  
9 independent redistricting commission. And as you  
10 know, and as the previous speaker noted, the New  
11 York State NAACP also opposed the commission at  
12 that time.

13 But this is also the first redistricting  
14 process that will be doing since the Supreme  
15 Court struck down the preclearance directive  
16 under Section 5 of the 1965 Voting Rights Act.  
17 This means that states like ours, which had  
18 districts under preclearance, including Brooklyn,  
19 will not have that preclearance principle to the  
20 Justice Department or Attorney General.

21 Now, you may say given the current U.S.  
22 Attorney General and Justice Department that we  
23 may count that as a blessing. However, just  
24 because the federal version of preclearance is on

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2 hold until Congress takes action, it doesn't mean  
3 that the state of New York should not have some  
4 process and we are advocating having a  
5 preclearance process with our state attorney  
6 general, in the passage of a New York State  
7 voting rights act that will ensure not only the  
8 voting rights and representation of people of  
9 color in state of New York.

10 The other issue that was highlight  
11 highlighted in the previous redistricting  
12 process, was that of counting those who are  
13 incarcerated. As you know, NAACP attempted to  
14 join on two lawsuits on this particular issue.  
15 And it was something that was done in the  
16 previous census operation and has not yet been  
17 for this 2020 cycle. So I'm urging the  
18 legislature to address this issue as well.

19 So, we are obviously behind the eight  
20 ball as I wrap up. The pandemic that is  
21 particularly ravaging communities of color, in  
22 addition to a number of wholesome different  
23 issues in terms of the rising costs of living in  
24 New York, housing gentrification and all of those

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2 issues. And at the center of this will be making  
3 sure that this process is inclusive and is not  
4 just a set number of folks that is separate and  
5 apart from the diversity of the state of New  
6 York.

7 So I urge not only in the hearings that  
8 will happen that are required to happen all over  
9 the state, but that the elected leaders, the  
10 committees and commission, also create a process  
11 for active participation of the public, because  
12 we know our communities, we know our districts in  
13 creating the maps in the process that will go  
14 forward to create a better New York. Thank you.

15 SENATOR GIANARIS: Thank you so much, L.  
16 Joy. Next, we have Susan Lerner from common cause  
17 New York.

18 MS. SUSAN LERNER, EXECUTIVE DIRECTOR,  
19 COMMON CAUSE NEW YORK: Thank you very much. And  
20 I want to join my colleagues, Blair Horner, in  
21 thanking the legislature for this hearing and to  
22 join in with the NAACP's call that the commission  
23 and all of its proceedings should be sensitive to  
24 diversity issues.

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2 As you may be aware, Common Cause New  
3 York drew the only set of statewide reform maps  
4 in the last redistricting process. And as a  
5 national organization, redistricting is one of  
6 our key issues where we advocate across the  
7 country for fair redistricting processes and we  
8 are the organization which wrote and passed the  
9 California system of an independent citizen led  
10 redistricting commission process.

11 I'd like to point out that we did  
12 receive a court ruling in 2014, which clarified  
13 that the commission set up by our constitution  
14 should not properly be called independent because  
15 it really is politically appointed.

16 But, I do differ with Blair on the issue  
17 of what can be done currently to affect  
18 redistricting. I do believe that changes can be  
19 made timely to our constitution which will  
20 provide guidance to the commission, and improve  
21 our process. And there are four areas that we  
22 identify in our written testimony.

23 The first is of course the deadlines  
24 which simply have to be changed. We recommend

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2 that the first set of maps from the commission go  
3 to the legislature on December 1, and that  
4 revised maps also have to be completed in  
5 December. We recognize this is a very collapsed  
6 timeframe with the late provision of information  
7 from the census. But I believe that the  
8 commission's requirements in the constitution to  
9 hold hearings around the state, and get input  
10 from citizens should remain in place and that the  
11 commission should be given the resources to  
12 satisfy that requirement.

13 We agree with NYPIRG, the  
14 uncontrovertibly unconstitutional language that  
15 was placed in our constitution in 1894 and help  
16 unconstitutional by the U.S. Supreme Court in  
17 1964 should simply be removed. It serves no  
18 purpose, it's confusing and a good draftsmanship  
19 requires that it should be removed.

20 We do advocate for some improvements to  
21 the redistricting process which we believe would  
22 improve and add some good redistricting  
23 practices. We agree with the NAACP, the ban on  
24 prison-based gerrymandering can and should be

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2 memorialized in our constitution. It is an  
3 important public policy, and there should not be  
4 any confusion regarding its application in any  
5 redistricting process for our state.

6 We also believe that there should be a  
7 standard set for population equivalence. Based on  
8 our experience drawing maps, we believe that  
9 standard should be plus or minus two percent to  
10 give map drawers sufficient flexibility to  
11 respect communities of interest and other  
12 necessary standards for good redistricting.

13 And we also believe that there should be  
14 some language changes to encourage new and fair  
15 maps. We believe that the requirement that the  
16 map drawers must start from the core of existing  
17 districts really impedes an open and fair  
18 redistricting process and should be stricken.

19 Finally, we believe that the language in  
20 the constitution should be changed to set a fair  
21 and politically neutral voting process for the  
22 commission and for the legislature. As a matter  
23 of policy, we do not support shifting rules of  
24 procedure based upon the results, the political

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2 results of elections. We think particularly, in  
3 this divisive time in our country, that that  
4 precedent is a dangerous one and should be  
5 changed so that, the rules apply equally  
6 irrespective of election results.

7 To the extent that there is a concern in  
8 a not independent commission, that one party or  
9 another would take advantage, we believe  
10 requiring that the approval of the final maps  
11 must include the vote of at least one of the non-  
12 affiliated members of the commission would  
13 alleviate those concerns.

14 And I look forward to further  
15 discussions of changes and improvements to our  
16 redistricting process. Thank you.

17 SENATOR GIANARIS: Thank you Susan. And  
18 I want to thank all of the witnesses to being  
19 incredibly timely to the five-minute requirement.  
20 And next we're going to hear from Juan Rosa from  
21 the NALEO Education Fund.

22 MR. JUAN ROSA, NORTHEAST DIRECTOR,  
23 NATIONAL ASSOCIATION OF LATINO ELECTED AND

24 APPOINTED OFFICIALS: Good morning and thank you

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2 so much to Chairs Gianaris, Rodriguez, Hoylman,  
3 Zebrowski and the committee members from the  
4 Senate and the Assembly for providing us the  
5 opportunity to testify on this important issue. I  
6 am Juan Rosa, the NALEO Education Fund. We are  
7 the nation's leading nonpartisan organization  
8 which facilitates full Latino participation in  
9 America's political process.

10 We have had a physical office here in  
11 New York City for the last 25 years, in which we  
12 have implemented multifaceted voter assistance  
13 and vocational programming.

14 Because redistricting shapes the  
15 contours of our [unintelligible] [00:23:25] of  
16 democracy, we have been involved in several  
17 national and state dialogues for the last two  
18 decades about how to ensure that all  
19 redistricting provide Latinos with a meaningful  
20 opportunity to participates in the process. We  
21 also believe that all redistricting must produce  
22 maps which provide Latinos with a fair  
23 opportunity to elect the candidates of their  
24 choice.

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1 Joint Task Force Reapportionment, 7-15-2020

2 Back into 2005, our board of directors  
3 articulated principles to guide our assessment of  
4 redistricting whether lines are drawn by  
5 legislature, a commission or some other entity.  
6 In my testimony, I will address the extent to  
7 whether New York's current constitutional  
8 provisions comply with our principals and the  
9 impact of the delay in the delivery of census  
10 data on the process and the Latino community.

11 First, our principles require that all  
12 redistricting comply with the U.S. Constitution  
13 and the federal Voting Rights Act. Generally, the  
14 criteria for redistricting set forth in New  
15 York's Constitution appear consistent with this  
16 goal. We are concerned that the provision  
17 prohibiting the drawing of districts that  
18 discourage competition could under certain  
19 circumstances make it more difficult to draw  
20 districts that comply with the DRA.

21 And we will be watching carefully as the  
22 state's redistricting process moves forward to  
23 see if the provision of competition interferes  
24 with the DRA compliant districts.

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2 One of our key principles is the  
3 application and selection process for members of  
4 a commission must result in a commission that  
5 reflects the geographic, racial, ethnic, gender  
6 and age diversity of the political jurisdiction.

7 We will note that there is language in the  
8 Constitution that requires to the extent  
9 practical that New York's redistricting  
10 commission achieve this goal. Yet, we're  
11 extremely dismayed that New York's redistricting  
12 commission -- I'm sorry, I lost my place here.

13 That no one Latino was selected for any of the  
14 first eight seats in New York's commission.

15 Given that Latinos compromise nearly 20  
16 percent of the state's population, the commission  
17 cannot reflect the state's diversity with an  
18 absence of Latinos and without a significant  
19 increase in Latino representation. Thus we urge  
20 the first eight commissioners to select qualified  
21 Latinos for the remaining seats.

22 We will also note that the constitution  
23 requires legislative leadership selecting the  
24 commissioners to the extent practicable, consult

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2 with voting rights advocates and voters from  
3 underrepresented communities. To the best of our  
4 knowledge, this consultation did not occur with  
5 respect to the Latino community. In the future,  
6 it is critical that Latinos have a voice early on  
7 in the selection process.

8 Our principles finally call for  
9 reasonable requirements for the qualifications  
10 and conduct of commissioners to ensure they avoid  
11 conflict of interest and the appearance of  
12 impropriety. While we very much understand the  
13 importance of avoiding conflict of interest for  
14 any commission, we suggest that the restrictions  
15 in New York's Constitution may prevent civically  
16 engaged Latinos from being able to serve on the  
17 commission for past activities which do not  
18 create a meaningful risk of conflict of interest.

19 For example, having served as a  
20 professor administrator at either CUNY or SUNY at  
21 some point in the last three years would bar  
22 anyone from being appointed to one of the last  
23 two seats under the current restriction of the  
24 state employment. Thus, we suggest that these

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2 restrictions in the constitution be reexamined to  
3 determine the extent to which otherwise  
4 qualified, civically engaged Latinos have been  
5 prevented or deterred by the commission service,  
6 for these restrictions.

7 With respect to the potential delay in  
8 the delivery of resident data by the census to  
9 the state of New York, Congress is considering  
10 the legislation which would provide for a 120 day  
11 delay in the delivery of census redistricting  
12 data to states, which would mean the New York  
13 might obtain its data as late as July 15, 2021.

14 Given that the state's commission can  
15 complete its maps by as late as January 15, 2022,  
16 it is possible for the commission to meet its  
17 deadline, even with the delay in delivery of  
18 data. However, the commission must take several  
19 steps to ensure the public has a meaningful  
20 opportunity to participate in the process, given  
21 this delay. For example --

22 MODERATOR: Time has expired.

23 MR. ROSA: Oh, thank you.

24 SENATOR GIANARIS: You can finish up,

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2 Juan, if you just have a couple more sentences.

3 MR. ROSA: Yes, I'll finish up this one  
4 sentence. Thank you, senator. Actually, no, we  
5 will just submit the rest. Thank you, senator.

6 SENATOR GIANARIS: Okay, thank you.  
7 Next, we're going to hear from Lurie-Daniel-  
8 Favors from Medgar Evers Center for Law and  
9 Social Justice.

10 MS. LURIE DANIEL-FAVORS, INTERIM  
11 EXECUTIVE DIRECTOR, CENTER FOR LAW AND SOCIAL  
12 JUSTICE: Hello, good morning. I apologize as  
13 lawn mowers literally just started blowing  
14 outside my window. Hopefully you are still able  
15 to hear me well. Greetings to all, and thank you  
16 for the opportunity to present today. My name is  
17 Lurie Daniel-Favors and I am the interim  
18 executive director and general counsel at Center  
19 for Law and Social Justice, a unit at Medgar  
20 Evers College at CUNY.

21 At the outset, I would be remiss if I  
22 did not state that if this body is considering a  
23 constitutional amendment to make a correction and  
24 eliminate the minority party detail plan which is

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2 currently contemplated in the redistricting  
3 commission provisions of the state constitution,  
4 I would be very happy to comment on that and  
5 would encourage your investigation of that  
6 option.

7 As it now stands, we don't see how a  
8 minority party veto aids black voters and voters  
9 of color across the state, and to the contrary,  
10 this provision is actually disempowering to  
11 members of these communities. And if this body is  
12 considering such an amendment, it should be  
13 publicly announced as soon as possible so that we  
14 can provide comment and we would welcome the  
15 opportunity to do so.

16 During our 35-year history, CLSJ has  
17 consistently worked to defend the voting rights  
18 of New Yorkers of African descent and other  
19 racial minority New Yorkers. We have led or co-  
20 led numerous historic voting rights advocacy  
21 initiatives or litigation across the state, the  
22 details of which are contained in our written  
23 testimony.

24 As it pertains to the upcoming

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2 redistricting cycle, we continue to advocate that  
3 new districts be drawn such that they comply with  
4 the Voting Rights Act one person, one vote rule.  
5 While the Supreme Court adopted a stricter  
6 standard for congressional districts than those  
7 employed for state and local districts, equitable  
8 access to the ballot requires the state  
9 legislature to seek to achieve population  
10 equality among the state legislative districts.

11 Thanks to improvements in computer  
12 software, population equality is far more  
13 possible today than it was even ten years ago.

14 And this is particularly notable in  
15 light of the nationwide calls for racial equity  
16 and justice following the killings of members of  
17 our community like George Floyd, Brianna Taylor,  
18 Ahmaud Arbery and the many others who have lost  
19 their lives due to systemic racist violence.

20 It would be untenable to face another  
21 decade in New York State with small districts  
22 upstate and larger districts downstate,  
23 particularly when these disparately drawn  
24 districts disenfranchise wholesale black

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2 communities and communities of color on a  
3 statewide basis.

4 The requirements of the Voting Rights  
5 Act must also be adhered to. As noted by my  
6 colleagues the SCOTUS Shelby decision gutted the  
7 Section 5 provision preclearance provision of the  
8 VRA and with that demise, New York State must  
9 pass a state Voting Rights Act which contains a  
10 preclearance provision into law, particularly due  
11 to the fact that several New York jurisdictions  
12 were covered by the VRA Section 5. And underlying  
13 reasons for that coverage have not been  
14 ameliorated and a state Voting Rights Act is  
15 necessary. According to Section 2 of the Voting  
16 Rights Act, redistricting plans must not unfairly  
17 [unintelligible] [00:31:04] minority voting  
18 strength and they should not be drawn such that  
19 they reduce the number of minority, majority  
20 minority districts. Nor, such that the minority  
21 population percentage is reduced to such a level  
22 that it makes more challenging for minority  
23 voters to continue electing candidates of their  
24 choice.

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2 In light of these requirements, and the  
3 history of the racially polarized voting  
4 [unintelligible] [00:31:23] in New York,  
5 including New York City, when drawing minority  
6 majority districts, we maintain that the minority  
7 voting population should be at least 55 percent  
8 to ensure that minority voters will be able to  
9 elect candidates of their choice.

10 The reformed state redistricting process  
11 must be transparent and open, which means that  
12 the commission should make public all of its  
13 redistricting criteria and procedures. There  
14 should be public access to redistricting data  
15 within weeks of its receipt from the state by the  
16 Census Bureau, and there should be as many public  
17 hearings across the state as possible with  
18 several densely populated areas of the state.

19 This is particularly significant as the  
20 commission must hear directly from the people,  
21 especially during this heightened age of mass  
22 civic engagement. This is how we ensure that the  
23 process is informed of the concerns and values of  
24 community leaders, residents and activists. Those

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2 voice must not only be welcomed, but they must be  
3 centered throughout the process.

4 To these ends we urge that you make your  
5 data publicly available and that you advocate for  
6 the redistricting commission to hold as many  
7 public hearings as possible.

8 It must also be noted that contrary to  
9 the provisions the New York State Constitution,  
10 which calls for the members of the commission to  
11 reflect the diversity of residents of this state  
12 with regards to race, ethnicity, gender, language  
13 and geographic residence, there is currently a  
14 stunning lack of diversity to the current  
15 composition of the commission. Current membership  
16 only includes one man and one woman of African  
17 descent and does not include a single Asian or  
18 Latinx member. Racial, gender and geographic  
19 equity must be enforced for all redistricting  
20 bodies and their staff.

21 Additionally, as noted, legislators must  
22 advocate to maintain the end of prison  
23 gerrymandering. While prison gerrymandering was  
24 addresses in 2010, it has not yet been resolved

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2 for the 2020 cycle and we're demanding that this  
3 commitment to abolishing prison gerrymandering  
4 for the purpose of redistricting continues. And  
5 we ask that our legislators do the same. And to  
6 be clear, this is a part of the process that can  
7 happen now. The prisons are well aware of the  
8 jurisdictions from whence incarcerated persons  
9 come and they do not wait until 2021 to receive  
10 additional data. And we encourage for you to  
11 advocate for them to start now.

12 We also know the commission has not been  
13 empowered by a budget and cannot functionally  
14 operate. The commissioners are volunteers and  
15 need to have administrative backing behind them  
16 in order to be effective. Upon current knowledge,  
17 it remains an open question as to whether or not  
18 the legislature will allow the commission to use  
19 the LATFOR agency or if the legislative body will  
20 retain control over LATFOR for its own use. We  
21 are encouraging you to give it over to the  
22 commission so that the redistricting process has  
23 the full benefit of the decades of knowledge held  
24 by this agency.

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2 Thank you and we look forward to  
3 remaining engaged with you and all interested  
4 parties to ensure the equitable drawing of maps  
5 that reflect the true diversity of New York  
6 State.

7 SENATOR GIANARIS: Thank you, Lurie, I  
8 appreciate it I also appreciate the dynamic  
9 camera work and the mobile nature of your  
10 testimony. And you reminded me. I should have  
11 apologized in advance. We're all in New York, so  
12 if anyone hears helicopter noise, or airplane  
13 noise, welcome to Queens.

14 For questions, we're asking the  
15 legislators that are interested to raise hair  
16 hand and I don't mean actually raise your hand. I  
17 mean hit the raise hand button on this Zoom  
18 application. And then you'll be called on. We're  
19 going to alternate between the Senate and the  
20 Assembly. And I will begin with a question.

21 There were a couple of witnesses that  
22 had made reference to unconstitutional provisions  
23 of the constitution in Article 3 as it relates to  
24 things that are over 100 years old that have

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2 since been ruled invalid by various rulings of  
3 the Supreme Court and otherwise. So, I guess this  
4 is a question for Blair Horner. Can you just  
5 outline what those provisions are or at least  
6 some of them, so we get a sense of what we're  
7 referring to?

8 MR. HORNER: Well, in the state  
9 constitution, there is language that basically  
10 allocates legislators based on geography instead  
11 of population. And, the Supreme Court, as Susan  
12 mentioned, in the 1960s struck down those  
13 provisions for the country, and said you should  
14 adhere to a system of one person, one vote.

15 Now, I don't know why that language is  
16 still in there. I mean, you would think it would  
17 have occurred to people in 2012, that having dead  
18 letter language in the state constitution doesn't  
19 make any sense and they should take it out. I  
20 never got a good explanation as to why it was in  
21 there other than they were too busy. So, the  
22 fundamental issue really is the issue of basing  
23 legislative district on something other than  
24 population.

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2 SENATOR GIANARIS: Thank you. Thank you  
3 very much, Blair. And I think that Susan Lerner  
4 mentioned as well. Do you have anything that you  
5 want to add to that?

6 MS. LERNER: Yes. In my written  
7 testimony, I specified the provisions that I  
8 believe should be stricken, in Article 3, it's  
9 Section 4D and specific language in Section 5.  
10 And, we also recommend that language in 4C, which  
11 references state constitutional standards, should  
12 be stricken.

13 I fear that the unconstitutional  
14 language was left in and this additional  
15 reference made to muddy the waters should there  
16 be any litigation on further maps. And so we  
17 believe for clarity's sake and just, you know,  
18 good drafting, that the unconstitutional  
19 provisions should be removed, along with the  
20 reference language.

21 SENATOR GIANARIS: Thank you, Susan.

22 ASSEMBLY MEMBER ZEBROWSKI: Senator,  
23 thanks. I want to first mention that we're joined  
24 by Assembly Member Palmesano and Assembly Member

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2 Goodell, and our first assembly member to ask  
3 questions will be Assembly Member Buchwald.

4 ASSEMBLY MEMBER DAVID BUCHWALD:  
5 thank you, Chairman Zebrowski and to all the  
6 chairs and everyone for putting together today's  
7 hearing and to all of the panelists who  
8 presented. First, just as a, [unintelligible]  
9 [00:37:13] for clarification, I think a statement  
10 was made that there are no Asian Americans on the  
11 commission and I think that's incorrect. I think  
12 one of senate majority leader appointees  
13 qualifies.

14 But my question is more broadly, and for  
15 any panelist who wants to answer, a lot of the  
16 remarks up until now have been about what changes  
17 can and should be made to the state constitution  
18 following up on the last constitutional  
19 amendment. As everyone knows, our state  
20 constitution, the process for amending it is a  
21 multistage process that takes at least a few  
22 years, couple of passages through the state  
23 legislature and then a vote of the people of New  
24 York.

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2           So, my more immediate question is, with  
3 the upcoming redistricting, under the existing  
4 constitutional provisions, what proposals do  
5 folks have as to how to address the concerns that  
6 have been expressed without yet getting to the  
7 further constitutional amendments, because we're  
8 going to have a section of redistricting that  
9 affects us for the next decade, and I'd like to  
10 hear the non-constitutional amendment solutions.

11           I do take note of some of the points  
12 made about appropriate appointments for the  
13 remaining commissioners and so forth, but in  
14 terms of the process the commission actually uses  
15 within the framework, that is laid out as is now,  
16 what are the steps that you think the commission  
17 itself, or the legislature should be taking to  
18 make sure that it is as productive and fair of a  
19 process as possible? And I direct that to whoever  
20 wants to take up the question.

21           MR. HORNER:                   I'll take an initial crack  
22 at it. I mean the -- you know, as Susan mentioned  
23 earlier, there are a number of issues that you  
24 could do constitutionally, but you could pass

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2 legislation to I think strengthen the prison  
3 gerrymandering issue more clearly. And one of the  
4 complaints that I've heard is since it passed in  
5 2010, the constitutional amendment was passed in  
6 2012, and did not include it that that might be  
7 an opportunity for mayhem. And so clarifying that  
8 that, in fact, is the law of the land, although I  
9 do know if you need a law to do that, but  
10 certainly some mechanism to make it clear to the  
11 commission they should include it would be one.

12 ASSEMBLY MEMBER BUCHWALD:

Mr. Horner

13 could I just ask, is the existing statute, did it  
14 expire or is it still on the books and applies?  
15 And --

16 MR. HORNER: It's still on the books.

17 ASSEMBLY MEMBER BUCHWALD:

And can yo

18 just explain then why you believe the existing  
19 statute, which as far as I know was adhered to in  
20 the 2010 or 2011 redistricting, why that isn't  
21 sufficient?

22 MR. HORNER: Well, no, I think it would  
23 be sufficient. I mean I have heard people argue,  
24 that it is an issue because the passage of the

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2 constitutional amendment occurred after the use  
3 of it. But, again there's no -- you're right, the  
4 commission should follow the law and that is the  
5 law. The deadlines, you might be able to  
6 statutorily move them up beyond, although the  
7 constitution obviously trumps any statutory  
8 deadlines.

9           It's important that the commission act  
10 more quickly. I agree with Susan, that the  
11 deadlines that would have to be moved up. I think  
12 you could also argue to change the, through  
13 statute, to change the population variance. Right  
14 now under the Supreme Court decisions, the map  
15 makers have up to ten percent range in terms of  
16 population size, and as mentioned by one of the  
17 other testifiers that the senate districts in  
18 particular, the senate district have large  
19 populations, vis-a-vis upstate senate and the  
20 opposite is true in the Assembly, so those are  
21 issues that you can deal with I think  
22 constitution -- I'm sorry, statutorily.

23           But, I think it's really going to come  
24 down to the commission and the resources it has

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2 to getting the job done. And the commission is  
3 not fully appointed yet. It does not reflect the  
4 diversity of the State. And they're going to have  
5 a hell of a time to try to meet the various  
6 deadlines that are in the state constitution,  
7 even if you were able to move them up.

8 And so I think that's really where the  
9 action is in terms of statutory changes or  
10 budgetary changes for the commission.

11 MS. LERNER: And I would like to add  
12 that I think some of the things that we are  
13 proposing including, as Lurie Daniels-Favors  
14 mentioned, the minority veto provisions, even  
15 though they need to be changed constitutionally,  
16 they could through an immediate process be  
17 changed before the final votes on the maps are  
18 necessary. So, even with a constitutional change,  
19 I believe that there's significant ways in which  
20 that constitutional provision can be timely  
21 changed.

22 ASSEMBLY MEMBER BUCHWALD: Thank you,  
23 everyone. I see my time is up.

24 SENATOR GIANARIS: Thank you,

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2 assemblyman. We have also been joined by Senators  
3 Shelley Mayer, Gustavo Rivera, Jim Gaughran and  
4 senator Zellnor Myrie. And I would go to Senator  
5 Myrie for a question.

6 SENATOR ZELLNOR MYRIE: Sorry, I was  
7 just waiting to be unmuted. Firstly, good morning  
8 to everyone and thank you to all of the  
9 panelists. I wanted to direct this question  
10 primarily to Lurie and L. Joy, but obviously  
11 welcome responses from the rest of the panel. My  
12 concern is mostly around the communities of color  
13 that will be impacted by a census undercount, and  
14 no protection from Section 5, or it used to be  
15 known as Section 5 in the federal VRA. And I'm  
16 wondering if you can speak to what the  
17 implications might be if we do not have that  
18 protection and there is an undercount in our  
19 communities, what that means for redistricting,  
20 what that means for the political power of  
21 communities of color all across the state.

22 MS. WILLIAMS: Well, you know, I'm going  
23 to start off by first in our written testimony  
24 talking first and foremost, as you mentioned,

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2 about the census. And while obviously, the census  
3 has been significantly impacted by the pandemic  
4 that we are experiencing and that we all  
5 experienced here in the state of New York, I  
6 think that it is unacceptable that organizations  
7 like ours, who are all volunteers, organizations  
8 were able to quickly determine how we can  
9 continue to do our census outreach and operation  
10 in the midst of a pandemic to ensure our  
11 communities were counted. However, the state  
12 process has been stunted.

13 And so, I find it very disappointing  
14 that a state with its resources, with the plan  
15 and execution that we are still, the State is  
16 still on hold in terms of how it's properly and  
17 I'm talking this is separate from whatever  
18 advertisement that may exist. Advertisement is  
19 different from outreach. It is a method of  
20 outreach, but it is not the sole determinant of  
21 how we ensure that people are counted within our  
22 communities.

23 And so the first piece that I would say  
24 about the census is obviously before we even get

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2 to a redistricting process, we also have to make  
3 sure that people in New York State are properly  
4 counted. We saw and have experienced for the last  
5 decade what an undercount means in terms of  
6 resources for our community and our federal  
7 government. We already send more money than we  
8 actually give back. Why give the federal  
9 government additional ammunition to keep our  
10 money? So, that's one.

11 And so, I urge the legislators to call  
12 the state and operation to task on what is  
13 happening and what is the quick method, because  
14 if volunteers are able to quickly come together  
15 via Zoom and figure out how we can execute a  
16 census operation to ensure our communities are  
17 counted, by all means the state should do so.

18 And to your point, your later point in  
19 terms of what this means, this also means that if  
20 we do not have an accurate count, when we get to  
21 redistricting, that creates this fight and this  
22 tension for resources and for seats that  
23 additionally as the political connotation in it  
24 where we're then putting groups against each

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2 other in terms of political representation.

3 And so, it has disastrous effect for  
4 people of color. You can go throughout the  
5 history in the State of New York on how many  
6 times the NAACP had to sue and black people in  
7 general have had to sue in the State to ensure  
8 that we have proper equal political  
9 representation in this state.

10 We did that on local levels across the  
11 State, in terms of the expansion of New York City  
12 Council, expansion in other councils and school  
13 boards across this state. And so if we did not  
14 start from that premise, and then also make sure  
15 that we have proper representation and equity  
16 throughout the process, we are setting our state  
17 up again to not only receive our fair share from  
18 resources, but further create political fighting  
19 within the State, and then, again, have a whole  
20 other decade where we are scrapping for  
21 resources. And who that hurts is always people of  
22 color that end up being at the bottom.

23 MS. DANIEL-FAVORS: I would also add  
24 that, with the absence of a Section 5

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2 preclearance provision, the redistricting, the  
3 portions of our state that were covered by  
4 Section 5 would have had to submit their  
5 redistricting plans for evaluation and approval  
6 prior to implementation.

7 The fact that we do not have a Section 5  
8 now means that those same jurisdictions, and  
9 quite frankly others that were not covered but  
10 all honesty should have been, are not going to be  
11 held to the same standards of equity as it  
12 pertains to redistricting outcomes. And so, echo,  
13 in addition to what Joy said, there's just a  
14 practical matter of needing to have that  
15 additional referee on the field, who's going to  
16 make sure that the plans that are created are  
17 going to center the same principles that govern  
18 the application of Section 5.

19 And it's to be noted that the Section 5  
20 covered those portions of our state because the  
21 need was ongoing. It had not been ameliorated.  
22 The issues that brought these portions of our  
23 state under the coverage of section 5 are still  
24 in a position where they require that level of

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2 coverage and supervision. And so, I think having  
3 a statewide version is going to be fundamentally  
4 important, not only for redistricting but  
5 ensuring access to voting rights going forward.

6 And I would finally add it would be  
7 extraordinarily helpful if the \$70 million that  
8 had been pledged to the state organizations and  
9 municipalities, for census outreach to go beyond  
10 the media activism that Joy mentioned were  
11 actually released. There was an entire process  
12 the governor announced in January. I actually  
13 spoke at the announcing conference and we were  
14 very excited about that and there has been radio  
15 silence on those funds ever since. So we need  
16 those funds to be distributed now, like two  
17 months ago, and that in and of itself would be  
18 significant as it pertains to helping to ensure  
19 that the first portion of this issue, the  
20 accurate count work was not going to be  
21 undermined.

22 SENATOR GIANARIS: Thank you both.

23 ASSEMBLY MEMBER ZEBROWSKI: Senator,  
24 thanks. And I'll take the next question and for

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1 Joint Task Force Reapportionment, 7-15-2020  
2 Panelist Favors, you mentioned briefly and said  
3 you would expand upon it, that you felt that the  
4 minority veto would or could disenfranchise  
5 minority communities. Just so we have a complete  
6 record, could you expand on that? You said you'd  
7 be happy to expand on it, but I only heard that  
8 one sentence.

9 MS. DANIEL-FAVORS: Yes, are you able to  
10 hear me?

11 ASSEMBLY MEMBER ZEBROWSKI: Yes.

12 MS. DANIEL-FAVORS: Okay. So yes, so the  
13 minority veto as noted by myself and others, is  
14 something that because voters of color across the  
15 state are not equitably enrolled in various  
16 parties, the minority veto is something that  
17 could really work to harm communities of African  
18 descent, communities of color across the state  
19 because, it is essentially a provision that is  
20 not going to recognize the needs and the sanctity  
21 of those communities to have their preferences  
22 and to have their engagement with this process  
23 recognized and respected.

24 And, because the minority provision

1 Joint Task Force Reapportionment, 7-15-2020  
2 essentially, now that we have two members or both  
3 houses, I'm sorry, both the Assembly and the  
4 Senate are both led by members of the same party,  
5 it essentially cedes the approval of the  
6 redistricting plans to the party that is not in  
7 power. And, so, that is a provision that will  
8 work to harm communities of color, particularly,  
9 communities of African descent simply because it  
10 does not allow for the equitable consideration of  
11 the concerns that go into determining where  
12 boundary lines should be drawn because, voters of  
13 color are not equitably enrolled across those two  
14 parties.

15 ASSEMBLY MEMBER ZEBROWSKI: Thank you.

16 SENATOR GIANARIS: Okay, next on the  
17 list, I have Senator Brad Hoylman.

18 SENATOR HOYLMAN: Thank you, Senator  
19 Gianaris and thank you for bringing us together  
20 here along with my Assembly colleagues and it's  
21 appropriate that we've heard already from Senator  
22 Myrie, the elections chair, who represents a  
23 district that looks like a steam shovel. I think  
24 people know about those lines in his district.

1 Joint Task Force Reapportionment, 7-15-2020

2 I just wanted to follow up on the census  
3 question. Because it's of great concern that not  
4 only are communities not possibly being counted,  
5 of course, the black and brown communities which  
6 is of great concern, but, also, the census itself  
7 may be delayed due to COVID-19 and I was  
8 wondering if any of the panelists had thoughts on  
9 how the delay of even an inaccurate count of the  
10 census will have an impact on redistricting  
11 moving forward.

12 And, my district, some of my  
13 neighborhoods, you know, have responded to the  
14 rate of like, less than 40 percent in some  
15 neighborhoods due to COVID-19. Any thoughts from  
16 any of the panelists on that point?

17 MS. WILLIAMS: I think this is where an  
18 issue I believe that Susan and others mentioned  
19 this where the state needs to be nimble and make  
20 sure that we have dates that sync up, this is  
21 things that we can do now to the process. I know  
22 that the federal government has put out an  
23 adjusted timeline as it pertains, right now, so,  
24 us taking action on the adjusted timeline as it's

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2 been put out right now and then what are some of  
3 the things that we can do leading up to and in  
4 preparation for the redistricting process.

5 So, I think the timeline certainly has a  
6 direct effect and particularly as we talk about  
7 municipal elections that happen all across the  
8 state and as people are running for lines next  
9 year that will have to change, you know, further,  
10 so. Those are -- the calendar is something that  
11 we have to pay close attention to and be nimble  
12 enough that the session should not end, that the  
13 year should not end without the legislature  
14 addressing these issues as it pertains to the  
15 schedule right now.

16 MR. HORNER: And, senator, just to add  
17 one thing on that. I mean when you think about  
18 it, by the way, it's the huge unknown. I mean who  
19 know what the pandemic brings us, right. So as of  
20 now, you could have the commission dealing with  
21 the month of August when generally, people take  
22 vacation, and the first half of September, to get  
23 their act -- to get maps ready and materials out  
24 and everything, to hold public hearings across

1 Joint Task Force Reapportionment, 7-15-2020

2 percent the state and that really is hard.

3 Now they could be doing a lot of work to  
4 prepare for that in advance. And, that's why  
5 getting the commission up to speed quickly  
6 matters. But the census timetable, assuming it's  
7 the same next summer, gives it essentially  
8 including work weekends, somewhere in the  
9 neighborhood of 45 days to get the work done and  
10 that's going to be really hard.

11 The timetable that's contemplated in the  
12 constitution was based on a non-pandemic, which  
13 of course why would they expect otherwise, and  
14 primaries being in September. And, those are real  
15 problems in terms of the commission getting your  
16 work done.

17 MS. LERNER: You know, there is no  
18 question that the commission is going to be  
19 squeezed in terms of the timeframe, but I would  
20 agree with Blair that advanced preparation is  
21 absolutely essential. You know, there will be  
22 some surprising demographic shifts, but,  
23 demographic trends are pretty obvious through the  
24 ACS during the entire preceding decade. And there

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1 Joint Task Force Reapportionment, 7-15-2020  
2 are ways in which proper staffing and preparation  
3 can ensure that the commission is ready to draw  
4 down the demographic data, do the necessary  
5 evaluation, and have clear guidance in advance  
6 from the commission in terms of the standards  
7 which are to be applied in the map drawing.

8 As Lurie pointed out, we have advanced  
9 technology. We had it in the last cycle. It is  
10 usually the process of negotiating the politics  
11 of the district lines that take more time than  
12 the actual application of the technology to the  
13 data.

14 ASSEMBLY MEMBER ZEBROWSKI:  
15 want to first mention that, Assembly Member  
16 Hyndman has joined us and our next assembly  
17 member, that's looking to ask questions is  
18 Assembly Member Goodell.

Okay, and

19 ASSEMBLY MEMBER ANDREW GOODELL:  
20 sure if you can hear me or not.

I

21 ASSEMBLY MEMBER ZEBROWSKI:  
22 can.

Yes, yes

23 ASSEMBLY MEMBER GOODELL:  
24 you. I had a question for Ms. Daniel-Favors. You

Okay. Thank

1 Joint Task Force Reapportionment, 7-15-2020  
2 mentioned that the minority voters should be  
3 represented at 55 percent if possible. Now, as  
4 you know, there are two ways to eliminate  
5 representation by members to the minority. One is  
6 by dilution, reducing them by gerrymandering so  
7 that they don't have a controlling influence. The  
8 other approach though is the opposite, by  
9 consolidating them all into one district so that  
10 the remaining districts that are around there,  
11 are clearly not under any influence of being  
12 taken over, if you will, or having a minority  
13 representative. How do you balance those two  
14 conflicting approaches, and, what are your  
15 recommendations on how we approach that? I would  
16 point out by the way, in a competitive district,  
17 it's not your basic results in winning or losing  
18 an election, it's your swing voters, how do you  
19 balance those?

20 MS. DANIEL-FAVORS: Well, I think as  
21 just noted by Susan, the capacity to have access  
22 to technology really does help us to draw  
23 districts that are neither packed nor cracked. I  
24 think that there is a world that exists between

1 Joint Task Force Reapportionment, 7-15-2020  
2 those two goals that when applying principles of  
3 equity and when applying principles of justice in  
4 line with the principles that have been outlined  
5 for us by the courts, we are definitely able to  
6 draw districts that are reflective of the  
7 diversity of the state, and that empower minority  
8 communities to be able to have an equitable shot  
9 at electing candidates of their choice.

10 And I think this is not something new,  
11 this is something that we have seen done before.  
12 And so long as we're adhering to those same  
13 principles, and we're centering the needs of the  
14 community and employing the access that we have  
15 now to technology, which in 2010 was allowing for  
16 equitable drawing of districts, and has only  
17 improved since that time, I do not think that we  
18 are stuck between the two. I think it's a false  
19 choice to look only at packing or cracking a  
20 district.

21 And there are certainly tools available  
22 to us now, particularly in light of having the  
23 access of time that we do right now with  
24 forewarning and proper preparation, that we apply

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2 the judicial principles that should be guiding  
3 these decisions, along with the technology to  
4 ensure that these districts are equitably drawn  
5 in ways that empower minority communities to have  
6 access to the ballot and to have access to  
7 putting candidates into office reflective of  
8 their two choices.

9 ASSEMBLY MEMBER GOODELL: Would it be  
10 your recommendation then you look at all of  
11 demographic factors that you've mentioned,  
12 including communities, neighborhoods, school  
13 districts, things of that nature, trying to group  
14 people of similar interests and concerns  
15 together, rather than perhaps using an artificial  
16 threshold like 55 percent that would be packing  
17 or, a lower threshold?

18 MS. DANIEL-FAVORS: Well, I think if  
19 your 55 percent is informed by the principles of  
20 communities of interest, both existing and  
21 emerging communities of interest, then I think  
22 that you can strike gold. District plans should  
23 not divide populations and communities that have  
24 those common needs and interests as you noted.

1 Joint Task Force Reapportionment, 7-15-2020  
2 And they can be drawn in ways that not just only  
3 consider census data, but they could also be  
4 informed by demographic studies, by surveys and  
5 sociological economic data to determine the  
6 shared social and economic characteristics of  
7 each community.

8 As we testified in 2010, some of those  
9 social and economic characteristics that should  
10 be considered include, but are certainly not  
11 limited to, income level diversity, educational  
12 backgrounds, housing patterns and living  
13 conditions, language and cultural  
14 characteristics, employment and economic  
15 patterns, health and environmental conditions.

16 All of these elements and pieces of data  
17 should be used to inform how these districts are  
18 shaped and they should be used to inform that 55  
19 percent threshold that we are suggesting.

20 ASSEMBLY MEMBER GOODELL: I would agree  
21 with all of the comments that you made with the  
22 exception of an artificial percentage. And, I  
23 agree that our mission should be to avoid either  
24 cramming or cracking. And so, I would hope that

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1 Joint Task Force Reapportionment, 7-15-2020  
2 as we move forward, we don't set artificial  
3 criteria, but look at all of the diverse factors  
4 that you mentioned, which I think are incredibly  
5 important.

6 I have one other question for any of the  
7 panelists. There's a lot of talk about the  
8 minority veto that's contained in the  
9 constitution. As you know, we for the first time  
10 in many years, at least a decade, have split  
11 houses with the Senate and the Assembly. We saw  
12 what happened when the Senate was under  
13 Republican control. We had small districts in New  
14 York, I'm sorry, small districts upstate, large  
15 districts downstate. The flip occurred in the  
16 Assembly. My district was the largest in terms of  
17 population. And the assembly districts in New  
18 York City were as small as they could be so they  
19 could squeeze out a couple of extra members.

20 If we eliminate the requirement that  
21 both parties agree that the redistricting is  
22 fundamentally fair, what would you suggest we do  
23 to protect the minority parties from being  
24 gerrymandered out of existence?

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2 MS. LERNER: So, in my written  
3 testimony, I suggest that the way in which to  
4 alleviate those sorts of concerns for  
5 gerrymandering by either party in their own self  
6 interest, would be to ensure that the final maps  
7 must contain, the majority which would approve  
8 final maps, must include at least one  
9 unaffiliated member of the commission who, one  
10 would assume, does not have a particular  
11 political favorite. And therefore, would be  
12 representative of a class of voters who remain  
13 pretty much unrepresented in our process, which  
14 is the large number of unaffiliated voters. And  
15 so, I think that that would ensure a fairer and  
16 more open process in the final maps.

17 ASSEMBLY MEMBER GOODELL: Thank you, my  
18 team time is up, but I would note a lot of  
19 unaffiliated voters are anything but  
20 unaffiliated. Their only unaffiliation is their  
21 registration and, if we wanted to follow that  
22 process, we might want to consider having the  
23 commission representatives reflect the percentage  
24 of registered but unaffiliated voters. Thank you

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1 Joint Task Force Reapportionment, 7-15-2020

2 very much for your comments.

3 SENATOR GIANARIS: Thank you,  
4 assemblyman. And next we have Senator Gustavo  
5 Rivera.

6 SENATOR GUSTAVO RIVERA: Thank you.  
7 Thank you, senator. And thanks, everyone who is  
8 here today. My question is for Ms. Williams, a  
9 pleasure to see you, ma'am. You mentioned  
10 previously that the state needs to engage in  
11 additional outreach and participation for  
12 redistricting process. So I wanted to have you  
13 expand on that, beyond the hearing, what exactly  
14 do you mean?

15 MS. WILLIAMS: Yeah, I think this is an  
16 important point because I believe that people  
17 believe that the extension of outreach is just on  
18 the hearings, that you come and testify, and,  
19 that's outreach. We talk to the community. And,  
20 rather than having a process in which people are  
21 active participants in the process of drawing  
22 lines, and I'll do this by giving an example.

23 In a previous timeframe, I served on a  
24 local community board for nearly a decade,

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2 serving as a vice chair of our land use committee  
3 at that time, where we actually rezoned Bedford  
4 Stuyvesant. And in doing that process, there is  
5 the official process that happens, right, where  
6 the council actually puts it out and do the  
7 guidance and things of that nature.

8 But we did additional steps in the  
9 summer, before the process started. And those  
10 additional steps were walking through the  
11 neighborhood, talking to people and sort of  
12 creating -- and looking at what is existing, how  
13 people were using the space in different ways, in  
14 order to create the zoning that we now have.

15 The state can do a similar process and  
16 the commission and elected leaders should do a  
17 similar process as it pertains to redistricting.  
18 Certainly, I'm not suggesting y'all walk the  
19 state of New York, although that wrote be a great  
20 reality show.

21 ASSEMBLY MEMBER RIVERA: I commit to  
22 walking in my district, certainly, that's like  
23 you can walk around in my district.

24 MS. WILLIAMS: Right. But that we

1 Joint Task Force Reapportionment, 7-15-2020  
2 actively invite people as Lurie mentioned, sort  
3 of in this heightened period that we are of civic  
4 engagement and actively invite people that as we  
5 are preparing to draw maps and draw district  
6 lines, that you begin to give the commission,  
7 give that additional information on the  
8 communities that exist within the districts in  
9 order to keep them together as we are using the  
10 mapping technology.

11 So yes, technology is great, and  
12 everyone who knows me knows that, you know, that  
13 is something that I invest in and use. But,  
14 mapping software cannot tell you the break of a  
15 community that may be like, you know, different  
16 people living together or certain housing  
17 buildings and things of that nature, right. And  
18 so, I think that the commission, the elected  
19 leaders have to invite the public beyond public  
20 hearings, to actually participate in the process.  
21 I know that last time, we had draw your own maps,  
22 and that kind of software online, but actively  
23 invite people to participate in the process of  
24 drawing lines of their community for their

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2 political power because people vote based upon  
3 their community. They vote based upon the  
4 resources and the things that they need within  
5 their community.

6 So making a redistricting process absent  
7 that community, absent that outreach, is taking  
8 out that life, that engagement that happens on a  
9 daily basis and also happens as it pertains to  
10 our politics.

11 ASSEMBLY MEMBER RIVERA: Would you agree  
12 then that also, that there needs to be a  
13 commitment from the commission that such  
14 participation is actually going to be taken into  
15 account in a real way, so it's not just  
16 ornamental?

17 MS. WILLIAMS: I would say, that is  
18 similar to my call in my testimony as well about  
19 making sure that the entire process has focused  
20 principles of equity and diversity. So I don't  
21 want to also, you know, hear commission members  
22 or elected say yes, we're committed to diversity,  
23 like I want to see a report specifically on how  
24 the staff, the vendors, and everybody that is

1 Joint Task Force Reapportionment, 7-15-2020  
2 involved in this process, you know, demonstrates  
3 that commitment.

4 So, a line that I'm similar to say  
5 saying, I don't want to just see the mural in the  
6 press conference, I want to see the actual work  
7 that you did to demonstrate your commitment to  
8 those principles.

9 ASSEMBLY MEMBER RIVERA: Okay. Thank  
10 you. That's my time. Thank you, senator.

11 ASSEMBLY MEMBER ZEBROWSKI: Assembly  
12 Member Epstein.

13 ASSEMBLY MEMBER HARVEY EPSTEIN: I wa  
14 to thank the panelists. I want to thank the  
15 chairs for holdings this important hearing. I  
16 mean this is a really important topic and I think  
17 so few people actually know anything about  
18 redistricting. And I guess really, this goes to  
19 the crux of what we're trying to do is how do we  
20 engage people in a really meaningful conversation  
21 and where do we find people where they're at. And  
22 I'm wondering if we should be using existing  
23 systems and structures in place, like our CUNY  
24 and SUNY systems, our schools, you know, our

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2 places of higher education, our places of worship  
3 instead of just having this traditional like come  
4 to a public hearing and talk about redistricting.  
5 And really how do people dig in deeper so we can  
6 have meaningful change and meaningful input. And  
7 I'm not sure it's geared to any specific panelist  
8 but I'd love to hear people's feedback.

9 MS. LERNER So, in the New York City  
10 redistricting, Common Cause developed a series of  
11 workshops along with partners to engage  
12 communities in a mapping exercise and thinking  
13 tangibly about what districts should look like.  
14 My favorite one was one we conducted in Sunset  
15 Park, where we have to have translators for both  
16 Spanish and Chinese.

17 I would certainly recommend to all of  
18 the elected officials who are here today that you  
19 could be leading similar discussions in your own  
20 districts. It was shocking to me for the New York  
21 City redistricting, that virtually none of the  
22 city council members engaged their constituents  
23 in that sort of a dialogue. And I would hope  
24 that, you know, the legislators would want to

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2 interact with their constituents, provide some  
3 services in helping them tangibly engage with the  
4 way in which people live, work and gather in  
5 their particular areas, which is a mapping  
6 process.

7 We are more than happy to share our  
8 experience with any legislators in leading those  
9 sorts of discussions, and that could then be  
10 handed to the commission. The commission itself  
11 should be encouraged to develop community mapping  
12 resources, not just technology, but guidelines  
13 for how to facilitate that sort of discussion.

14 MS. DANIEL-FLAVORS: But also I'd like  
15 to add to that, thank you so much for that,  
16 Susan. At the Center for Law and Social Justice,  
17 we, in collaboration with the members of the New  
18 York Voting Rights Consortium, Asian-American  
19 Legal Defense Fund and Latino Justice, engaged in  
20 a unity maps project over the past two cycles,  
21 where we came together for exactly that purpose.  
22 Not only to involve the community but to ensure  
23 that the community was clear about what the  
24 redistricting process is, add a voice in helping

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2 to determine, as Joy mentioned, where do our  
3 communities start and end, and it was one that  
4 was able to uphold principles of equity as it  
5 pertains to representation and fairness.

6 And so I think this is a process that  
7 certainly is one that various organizations have  
8 been involved in. And it's something that I think  
9 elected officials certainly could be doing more  
10 as it pertains to engaging your community  
11 members.

12 But organizations that are represented  
13 here and others that will be testifying later are  
14 already in the process of having those  
15 conversations. Support for that work would be  
16 wonderful. And being clear about value that  
17 communities bring to this process in the ways  
18 that allow them to determine what their  
19 communities look like I think is very, very  
20 important. And so that unity maps project is a  
21 project that is ongoing. And it's something that  
22 we will be doing again in this round, and they  
23 were literally able to create a set of New York  
24 State maps that respected and built upon the

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2 strength of the historically recognized racially  
3 protected groups under the Voting Rights Act. And  
4 we were able to increase the number of districts  
5 from [unintelligible] [01:12:21] Asian  
6 congressional district and kept communities of  
7 interest intact and avoided that typical cracking  
8 and packing of voters that I had mentioned  
9 earlier.

10 MR. HORNER: If I could just add one  
11 thing, on the colleges you referenced, I mean we  
12 have affiliates at a bunch of SUNY, CUNY and some  
13 private schools. And we found getting people  
14 engaged is hard because it's a pretty esoteric  
15 topic. And just by reading the state  
16 constitution, the rules are I guess could be best  
17 described as complicated.

18 But we, the last two cycles, we ran the  
19 name that district contest, which was a big hit  
20 on college campuses, one that became reasonably  
21 well known was Abraham Lincoln riding a vacuum  
22 cleaner in the cycle of 2002. And it was also a  
23 way though to sort of get people engaged and to  
24 talk about what happens.



1 Joint Task Force Reapportionment, 7-15-2020

2 There was a district in, I think it was  
3 in 2002, where the map was drawn to cut out  
4 Hakeem Jefferies out of an assembly seat that he  
5 was seeking to run for. And I think we all know  
6 who he is now. So there's certainly ways to do  
7 it, but the maps are the tool, and getting it  
8 from the esoteric to real life has been certainly  
9 for us the challenge. We're planning another  
10 contest next year.

11 ASSEMBLY MEMBER EPSTEIN: Thank you. I  
12 think my time is up.

13 SENATOR GIANARIS: Okay. Thank you,  
14 assembly member. Next senator, Tom O'Mara.

15 ASSEMBLY MEMBER THOMAS F. O'MARA: Okay.  
16 I think that's set now. Is that right? Can you  
17 hear me?

18 SENATOR GIANARIS: Yep.

19 ASSEMBLY MEMBER O'MARA: Okay. Thank  
20 you. And thank you to the panelists that are here  
21 today on this important topic, and I look forward  
22 to the next two rounds of panelists as well. I  
23 would note for the record that we did not receive  
24 a witness list for these witnesses until a

1 Joint Task Force Reapportionment, 7-15-2020  
2 quarter to 10:00 this morning, when this hearing  
3 started at 10:00. The witnesses have each  
4 referenced their written statements submitted.  
5 The minorities have not received those written  
6 statements. So I hope we do at some point and  
7 we'll be able to follow up with questioning of  
8 these witnesses if we deem it necessary.

9 Further, each of the panelists and each  
10 of the members that have spoken so far have  
11 discussed their concerns over the timeline here,  
12 the compressed timeline because of the census  
13 being delayed.

14 However, while money has been  
15 appropriated in this year's budget for the  
16 funding of the Independent Redistricting  
17 Commission, the majorities of the legislature  
18 have not released that money to the commission,  
19 therefore, they cannot hire executive directors,  
20 they have no resources to have an initial meeting  
21 and they have no resources to hire staff.

22 I just find that unconscionable in this  
23 compressed time frame that we're talking about,  
24 that these resources have not been released. The

1 Joint Task Force Reapportionment, 7-15-2020  
2 commission needs to get together because they  
3 need to pick two independent commissioners from  
4 amongst themselves. That needs to be done and  
5 there needs to be hiring of executive directors  
6 and staff. I would like the panelists here to  
7 please comment on your thoughts on why this  
8 funding has not been released, and do you think  
9 it's important that that money be released as  
10 soon as possible so that the commission's work  
11 can commence. Thank you.

12 MS. DANIEL-FAVORS: I guess I would just  
13 offer I do not know why the funds have not been  
14 released. It is untenable. And quite astounding  
15 that we are at this point of this process  
16 embarking on something this significant and the  
17 body charged with shepherding us through the  
18 process has not been properly funded. And I will  
19 leave it there.

20 MS. WILLIAMS: I will add that, you  
21 know, I understand, and given the pandemic that  
22 everyone is experiencing, that there are shifts  
23 and delays in all of our operations, and so I  
24 understand that. But here's where I think we can

1 Joint Task Force Reapportionment, 7-15-2020  
2 move forward on this is I think the hearing today  
3 and in inviting us to participate and to express  
4 the concerns and also the principles that the  
5 commission, that the legislature and others will  
6 need to have in place in order to move forward is  
7 important.

8 But again, I know for a fact that  
9 government can move quick when it decides it  
10 wants to. And so in this instance, I think this  
11 is one issue, recognizing the timeline,  
12 recognizing the impact the pandemic has had on  
13 all of us, on all our normal operations and on  
14 our community operations, that we can quickly  
15 come together and that government and our  
16 leadership can quickly come together to execute a  
17 plan that we can begin to hire and execute an  
18 operation that will ensure that the state of New  
19 York has a fair, equitable census and  
20 redistricting process.

21 And so while, yes, I stand in agreement  
22 with Lurie and others that we are behind, I also  
23 know that with everybody committed to move  
24 forward, we can do so.

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2 MR. HORNER: I'll just add, I guess from  
3 our perspective, yeah, the commission should get  
4 moving, the money should flow. Hopefully the  
5 hearing will act as a stimulant for that to  
6 happen. But as, senator, I don't know if you were  
7 here for my opening comments, but we were not big  
8 fans of the commission in the first place. I have  
9 to admit I am somewhat skeptical, but certainly  
10 there's no reason for them not to get moving and  
11 the money to flow and to hire the staff and then  
12 we'll get to see what happens with them. There's  
13 a lot of work that needs to be done.

14 We talked about getting the public  
15 involved. And there's no reason why the  
16 commission can't do some of that, even before  
17 they get the census dated to start collecting the  
18 kind of feedback that the Senate and Assembly is  
19 seeking today.

20 ASSEMBLY MEMBER O'MARA: Thank you. I  
21 would further note that none of the commission  
22 members are testifying today. My understanding is  
23 that they have not been requested to testify. My  
24 understanding is that Speaker Heastie's

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2 appointment, Elaine Frazier, has specifically  
3 requested to testify today and has been denied. I  
4 am somewhat skeptical of this hearing as a whole.

5 I am concerned with the lack of moving  
6 forward with the funding for this commission, the  
7 fact that the commission is not involved today,  
8 and I'm skeptical that the majority of the  
9 legislature want the commission to fail, so  
10 therefore the legislative majorities can then  
11 draw the lines themselves. Thank you, Chairman.  
12 Nothing further.

13 SENATOR GIANARIS: thank you, Senator  
14 O'Maraa. I will note that the testimony gets  
15 uploaded to the senate website as we receive it,  
16 so if you're interested in reviewing any of that,  
17 it's available instantaneously and I myself, as  
18 the co-chair of this hearing, only got the  
19 witnesses list last night. So sometimes it's not  
20 a conspiracy, it's just logistics working  
21 themselves through.

22 I believe that's the last legislator  
23 with questions so let me thank our first panel  
24 for their time and their input and I will hand it

1 Joint Task Force Reapportionment, 7-15-2020  
2 over to Assembly Member Zebrowski for the second  
3 panel.

4 ASSEMBLY MEMBER ZEBROWSKI: Thank yo  
5 senator. Our second panel, I'll announce the  
6 names and give our folks running the hearing  
7 logistically the ability to get everybody up and  
8 running. We'll have Jennifer Wilson from the  
9 League of Women Voters, Arva Rice from the Urban  
10 League, Amy Torres from the Chinese-American  
11 Planning Council, Michael Li from the Brennan  
12 Center and Jose Perez from Latino Justice. So  
13 when everybody is up and ready, we will start  
14 with Jennifer Wilson from the League of Women  
15 Voters.

16 MS. JENNIFER WILSON, DEPUTY DIRECTOR,  
17 LEAGUE OF WOMEN VOTERS: Hi, can you guys all see  
18 and hear me? Okay. Fantastic.

19 ASSEMBLY MEMBER ZEBROWSKI: We can.

20 MS. WILSON: Great. Well, thank you  
21 Senators Gianaris and Hoylman and Assembly  
22 Members Rodriguez and Zebrowski for the  
23 opportunity to testify today. I think it's great  
24 that we're starting this process so early. My

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2 name is Jennifer Wilson. I'm the deputy director  
3 of the League of Women Voters of New York State.  
4 And you may remember the League was actually one  
5 of the strong advocates in favor of 2014  
6 constitutional amendment that created the new  
7 redistricting commission.

8 And we believe that the amendment was a  
9 significant improvement to the redistricting  
10 status quo that had the potential to  
11 fundamentally change elections in New York State.  
12 And we were not the only ones who believed this  
13 to be true. New York State voters were the ones  
14 who ultimately voted to approve the  
15 constitutional amendment.

16 Although we realize that some of our  
17 good government partners may be seeking to amend  
18 this process, our overwhelming interest here is  
19 that the process the people supported, be given  
20 the chance to work in the most transparent and  
21 inclusive manner possible. And we're primarily  
22 concerned with ensuring appropriate  
23 representation on the commission, keeping  
24 meetings open to the public, and allowing for

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2 ample community input, and providing assistance  
3 to the commission in a manner that allows them to  
4 remain independent, but also empowers them to  
5 fulfill their mission.

6 And in addition to those procedural  
7 concerns, we do recognize that there is an issue  
8 with the timing with respect to the release of  
9 the proposed maps and the June primary  
10 petitioning process. We don't believe that that  
11 needs to be a constitutional fix. We believe that  
12 can be done statutorily through the legislature  
13 to shorten the timeline for submitting the maps  
14 to the legislature. It doesn't have to be done  
15 through the constitution, especially considering  
16 if we did do it through the constitution, that  
17 wouldn't be in effect until January 1st of 2022  
18 and at that point it's almost too late to have  
19 that make any sort of impact.

20 But outside of that, one of our chief  
21 concerns is still representation and in June of  
22 this year, we had actually sent a letter to all  
23 legislators and commission members that are  
24 currently seated commission members urging them

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2 to consider the need for greater gender and  
3 racial diversity on the commission.

4 Currently there is only one woman and no  
5 Latinx members that have been appointed to the  
6 ten-member commission. And, of course, we know  
7 that women make up more than 50 percent of New  
8 York's population and NALEAO has cited that more  
9 than 20 percent of New Yorkers identify as  
10 Latinx. We supported NALEAO Education Fund and  
11 also Latino Justice in their call for Latinx  
12 representation and believe that in order for the  
13 commission to truly be representative of all New  
14 Yorkers, these final two commissioners must  
15 embody New York State's population.

16 We are also very concerned over the  
17 undefined operational and procedural standards of  
18 the commission. We would urge the legislature to  
19 ensure that the commission adhere to open  
20 meetings laws and that the commission receive  
21 appropriate operational support that allows them  
22 to remain independent while they work to fulfill  
23 their mission.

24 In 2020-2021 budget, you allocated

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2 \$750,000 for the commission through the  
3 Department of State, which Senator O'Mara  
4 mentioned previously, and we were very happy to  
5 see this budget allocation, but we were very  
6 confused as to why it was being made through the  
7 Department of State, considering that the  
8 commission is really supposed to work alongside  
9 the legislature and there really isn't supposed  
10 to be any sort of oversight or input from the  
11 governor.

12 We assumed that the allocation would  
13 have been paid out through the legislature  
14 because of this. And the commission is  
15 responsible for doing pretty everything itself,  
16 as Senator O'Mara mentioned, hiring its own  
17 staff, setting its own meetings, facilitating its  
18 own meeting space. And it could really benefit  
19 from assistance from an already operation a  
20 agency or the legislature.

21 In California, their Independent  
22 Citizens Redistricting Commission receives early  
23 assistance from the Secretary of State there. The  
24 California Secretary of State provides temporary

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2 staff and meeting space until the commission is  
3 fully up and running, and we think here in New  
4 York that could work really well, too. So either  
5 you or the Department of State could offer some  
6 sort of meeting space, some sort of temporary  
7 staff until the commission could be fully set up.

8 And finally, I want to drive home the  
9 importance of the ensuring that the commission  
10 stays on target with regard to appointing its  
11 final members and getting starting planning its  
12 meetings. Recent commissions, including the New  
13 York State Complete Count Commission and the New  
14 York State Public Campaign Financing Commission  
15 encountered serious issues because of delays in  
16 their operations and a lack of staff assistance.  
17 I'm not going to belabor those points, but I will  
18 say both commissions started with the best of  
19 intentions and were derailed because they didn't  
20 have any staff and they had very little  
21 assistance.

22 And that concludes my testimony. I want  
23 to thank you all again for holding this hearing  
24 and we hope that you will review our full

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1 Joint Task Force Reapportionment, 7-15-2020  
2 recommendations. We're very excited to see what  
3 our first independent redistricting commission  
4 will produce and we look forward to working  
5 alongside LATFOR and the new commission on  
6 ensuring ample public participation, public input  
7 and transparency in the state process. Thank you.

8 ASSEMBLY MEMBER ZEBROWSKI: Thank you  
9 very much. I announced second Arva Rice from the  
10 Urban League. I'm not sure I see that panelist  
11 up. I'll give it a second, if not, we'll go to  
12 the next person and come back.

13 MODERATOR: Not present.

14 ASSEMBLY MEMBER ZEBROWSKI: Not present  
15 okay. Next up we have Amy Torres from the  
16 Chinese-American Planning Council.

17 MS. AMY TORRES, DIRECTOR OF POLICY,  
18 CHINESE-AMERICAN PLANNING COUNCIL: Thank you.  
19 Good morning, everyone. Thank you to chairs and  
20 members of both committees for the opportunity to  
21 testify today. I'm just mahogany sure my volume  
22 is working. Yes, it appears that it is, for the  
23 opportunity to testify today. CPC is the nation's  
24 largest social services organization for Asian

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2 Americans. We bridge social services to social  
3 change for over 60,000 low-income immigrant and  
4 Asian American and Pacific Islander New Yorkers  
5 each year. Our community members come from more  
6 than 40 countries, speaking 25 distinct languages  
7 and dialects. We provide over 50 contracted  
8 programs in 35 sites throughout Manhattan,  
9 Brooklyn and Queens. But we also serve a citywide  
10 population that commute to our site there.

11 Our services range from support,  
12 education [unintelligible] [01:27:41] empowerment  
13 and [unintelligible] [01:27:42] programs often  
14 [unintelligible] [01:27:43] in language  
15 [unintelligible] [01:27:45].

16 In addition to our direct services work,  
17 CPC conducts nonpartisan civic engagement and  
18 education across our sites each year. We've been  
19 very humble to join with many other organizations  
20 testifying today on census outreach awareness and  
21 education. And so for these reasons we feel well  
22 poised to comment on the impacts of  
23 reapportionment in our communities and again, we  
24 appreciate the opportunity to share our

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2 recommendations.

3 I want to review a little bit some of  
4 our experience and some of what we've been  
5 looking at for self-response to date, and then  
6 share a few top line recommendations of ours. The  
7 neighborhoods that CPC serves and the communities  
8 that we serve, these are communities that are  
9 historically marginalized and alienated from the  
10 political process. Before the census self-  
11 response period began, the federal bureau's own  
12 analysis found that Asian Americans and Pacific-  
13 Islanders were 55 percent less likely to fill out  
14 the census, 38 percent unfamiliar with the census  
15 and 41 percent concerned that the census would be  
16 used against them, forecasting that APIs would be  
17 the least likely of all immigrant groups to  
18 respond.

19 And indeed, in our own census outreach  
20 and awareness efforts, we found that many of  
21 these sentiments have only deepened between the  
22 xenophobic and anti-immigrant policies that have  
23 come out at the federal level, particularly once  
24 the implementation of public charge happened,

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2 which was very close to the start of the self-  
3 response period, as well as the rising hate  
4 crimes and related incidents in the preceding and  
5 early months of the COVID-19 pandemic where even  
6 before cases were defected in the United States,  
7 Asian Americans and particularly Chinese  
8 Americans reported verbal harassment, public  
9 shunning and customer discrimination at Asian-  
10 serving businesses.

11 So as of July 8th, the July 8, 2020  
12 reporting period from the bureau, Asians in New  
13 York City overall lagged below the citywide self-  
14 response average. The citywide response rate for  
15 Asians is growing over time, but majority Asian  
16 tracts in certain neighborhood remain  
17 significantly below city and borough wide  
18 averages.

19 For example, in South Ozone Park in  
20 Richmond Hill, which is home to significant South  
21 Asian and Indo-Caribbean communities response  
22 rates are over ten percent behind city and  
23 borough wide averages. We see similar lags in  
24 Brooklyn, which has as borough has historically

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2 gone undercounted and in neighborhoods like  
3 Bensonhurst and Sunset Park and Sheepshead Bay.  
4 They're also falling significantly behind  
5 citywide average, which is behind the nationwide  
6 average as well.

7 And when we look outside New York City,  
8 we know new migration trends in asylee and  
9 refugee resettlement show that Asian American  
10 communities are growing, particularly in regions  
11 where those communities haven't historically  
12 settled, so Greater Utica and Rome, Buffalo,  
13 Albany, Syracuse and Rochester. And so we  
14 understand that the COVID-19 pandemic has cause  
15 both necessary operational and unintended delays  
16 to census operations and response rates, so we  
17 really want to issue two initial recommendations.

18 One is encouraging the final moment  
19 point of remaining seats to be timely and more  
20 reflective of communities across the state and to  
21 commit to a robust public participation schedule.

22 As already mentioned, this is a new  
23 process. It's untested. But the hope is that with  
24 the right composition and engagement of the

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2 public, the resulting map will more closely  
3 reflect the voters. The racial and gender  
4 diversity of seated commissioners has raised  
5 flags for advocates, a lot of which has been  
6 mentioned already. And without tokenizing the  
7 identity of commissioners appointed to date, we  
8 hope that the existing appointees will consider  
9 filling the final spots with commissioners who  
10 are reflective, whether that's by geography, by  
11 residency or experience of diverse and  
12 marginalized communities.

13 That's impossible to deal with two  
14 remaining seats, but as Ms. Williams mentioned in  
15 her testimony, there are also aides and staff  
16 engaged in this work and we hope for a  
17 transparent process so that those individuals  
18 more closely reflect communities of color and  
19 minority and marginalized identities.

20 We also urge a commitment to a robust  
21 public participation schedule and process. At  
22 this moment, community-based organizations and  
23 civic associations are stretched extremely thin.  
24 These groups already face limited resources, even

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2 in the best of times, but even more so as  
3 austerity budgets have forced many of our  
4 organizations in response to the economic  
5 downturn to downsize. And as these groups meeting  
6 rising service demands and priorities in their  
7 communities, we're finding less and less capacity  
8 to be able to challenge decisions and weigh-in in  
9 the public process so we really encourage, as  
10 many of my colleagues earlier testified, a  
11 process that invites the community in, in ways  
12 that are easy for them.

13 And that may mean going beyond the  
14 minimum number of geographic hearings to not only  
15 meet those required geographic minimums but also  
16 to bring together community and interest groups  
17 that have been deeply involved to date. The  
18 community surveys that happened during the unity  
19 map process, which were described earlier come to  
20 mind. Other organizations like CPC were part of  
21 the Asian Community Coalition on Redistricting  
22 and Democracy, the ACCORD Coalition and these  
23 invited the public in, in ways where we could  
24 block-by-block understand what the process would

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2 mean for us and put in meaningful engagement not  
3 just from experts but from actual community  
4 members themselves.

5 So we're thrilled to witness this new  
6 process. We appreciate the opportunity to  
7 testify, and we're humbled to do so amongst so  
8 many great and amazing advocates. Thank you.

9 ASSEMBLY MEMBER ZEBROWSKI: Thank you.

10 Next up, we have Michael Li from the Brennan  
11 Center.

12 MR. MICHAEL LI, SENIOR COUNSEL, BRENNAN  
13 CENTER FOR JUSTICE: Thank you. Thank you to the  
14 committees for this opportunity to testify. New  
15 York will face a number of challenges when maps  
16 are redrawn in 2021, both because of COVID and  
17 because it will be using a new system to draw  
18 maps for the first time, and I want to talk about  
19 four challenges in particular.

20 The first is, as several other people  
21 have mentioned, redistricting will be delayed  
22 because of COVID. States normally get the census  
23 data that they use to draw districts in February  
24 or March after the census. That schedule was been

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2 pushed back because of census delays and it could  
3 potentially could be pushed back further because  
4 of the ongoing COVID pandemic elsewhere in the  
5 country.

6 But right now what those delays mean is  
7 that states won't get the data until mid-June to  
8 July of 2021, which means that map-drawing  
9 effectively will not to be able start until late  
10 summer at the very earliest.

11 That will make it is virtually  
12 impossible for the commission to submit  
13 meaningful draft maps by the September 15th  
14 deadline in the constitution, and it may be hard  
15 for the commission to meet the January 15th  
16 deadline for submitting final maps to the  
17 legislature. And those dates may need to be  
18 adjusted in some way.

19 And also because the New York process is  
20 iterative, the legislature could reject the first  
21 set of maps, if they are not approved, then the  
22 commission will have to draw a second sets of  
23 maps and they also -- it will have time to do  
24 that but that will bump up very closely against

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2 the filing deadline for the 2022 primary and that  
3 may need to be moved. In an outside world, it's  
4 possible that the data of the primary might have  
5 to be moved or you might want to consider that to  
6 allow a robust redistricting process to take  
7 place.

8 And the reason that you particularly  
9 want a robust redistricting process relates to  
10 second challenge, which is that New York has to  
11 unwind some fairly bad maps from last decade,  
12 particularly in the legislature where on the  
13 Senate side there's a significant bias in favor  
14 of republicans on the map because, as some  
15 speakers have already talked about, the under  
16 population of districts upstate, the  
17 overpopulation of districts in the New York City  
18 area.

19 The map was legal but it pushed things  
20 to the very edge of legality. And by some  
21 measures, New York City could support up to two  
22 additional senate seats, if you were using the  
23 aggressiveness of those population variances. So  
24 something similar happened on the Assembly side

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2 but it didn't really affect control of the body  
3 as much.

4 The third challenge is significant  
5 demographic change in New York. New York has  
6 grown this past decade, but barely compared to  
7 other states. The state, in fact, has lost over  
8 620,000 white residents, while the black  
9 population has grown a little bit. The state, the  
10 fact that the state is growing at all is duty  
11 increases in its Latino and its Asian  
12 populations, mostly in the New York City and the  
13 downstate regions of the state.

14 Right now the state is the projected to  
15 lose one congressional district. It may, it would  
16 lose more if it weren't for that Latino and Asian  
17 growth. The state's electorate has also become  
18 considerably more diverse. The white citizen  
19 voting age population has decreased by about  
20 50,000. Meanwhile, you have about 200,000 more  
21 black voters, 290,000 Asian voters and a whopping  
22 540,000 Latino voters. In other words, all of the  
23 increase in eligible voters this last decade was  
24 attributable to people of color, which gets to

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2 the fourth challenge.

3 Well, let me stop there. Because of  
4 that, I think it's important to get public input,  
5 and that's something that can happen right now.  
6 When undoing these gerrymandders and figuring out  
7 what the map should look like, it's really  
8 important to get public input and public feedback  
9 and that's something that the commission could  
10 absolutely do now and start hearings around the  
11 state in order to get that public input.

12 The fourth challenge which, I will  
13 mention just briefly is to make sure that the  
14 commission is robustly funded to be able to do  
15 its work. I realize that's a special challenge in  
16 this current fiscal landscape, but the process  
17 will not work, especially for the first time out  
18 for the commission if the commission doesn't have  
19 the resources to have field hearings and to have  
20 adequate staff and to be able to respond to the  
21 community.

22 So with that, thank you again for this  
23 opportunity to testify. We're happy to follow up  
24 on any of these issues.

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2 ASSEMBLY MEMBER ZEBROWSKI:

Thanks very

3 much. Next up we have Jose Perez from Latino  
4 Justice.

5 MR. JOSE PEREZ, DEPUTY GENERAL COUNSEL,  
6 LATINO JUSTICE PRLDEF: Good morning, everyone.

7 Thank you for this opportunity to testify.

8 Senator Gianaris, Hoylman, Assemblyman Zebrowski  
9 and Rodriguez and other elected officials. On  
10 behalf of Latino Justice PRLDEF, we were founded,  
11 some of you may remember us more as the Puerto  
12 Rican Legal Defense and Education Fund founded  
13 back in 1972. Democracy, civic engagement, and  
14 access for Latinos to be able to participate in  
15 the electoral and democratic process have been  
16 cornerstones of our work since our founding  
17 almost 50 years ago.

18 I think you heard references in the  
19 first panel to litigation involving the  
20 application of Section 5 of the Voting Rights Act  
21 to redistricting here in New York City. That was  
22 lawsuits brought by a group of racial civil  
23 rights groups known as the Unity Coalition.  
24 PRLDEF back in that day was among the leaders in

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2 those two lawsuits Herron v. Koch and Gerene-  
3 Valentin v. Koch, which dealt with the city's  
4 attempt to adapt new municipal districts without  
5 first getting preclearance from the Department of  
6 Justice.

7 The courts enjoined the primary days  
8 before the September primary back in 2011. We  
9 have a long history of continuing to engage in  
10 voting rights and redistricting litigation. After  
11 the last round, after in 2011 we participated  
12 again with our Unity partners at the Asian-  
13 American Legal Defense Fund and the Medgar Evers  
14 Center Law for Social Justice, enjoining and  
15 intervening in the Favors lawsuit again where  
16 LATFOR had not yet drawn congressional districts.

17 Our unity map, which was largely a joint  
18 community-driven effort respecting communities of  
19 color, communities of interest, not attempting to  
20 disenfranchise, but working united to preserve  
21 our communities and afford them their opportunity  
22 to elect candidates of their own choosing was  
23 largely adopted by the federal court balk in  
24 2011-12.

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2           There was a second phase to that Favors  
3 litigation or Favors 2 as it was called, which I  
4 think Michael referred to, again, the attempt to  
5 add a senate district, a 63rd senate district was  
6 drawn notwithstanding that all the population  
7 growth was downstate and in the Bronx and that's  
8 where an additional senate district should have  
9 been drawn. However, it was drawn up in the  
10 Albany Capital District area. Although the court  
11 ultimately sustained that district, again it was,  
12 as I think Michael alluded to, on the cutting  
13 edge of passing constitutional and legal muster.

14           Going from there, so in terms of going  
15 forward, and you've heard already this  
16 repeatedly, and I want to thank Jennifer on  
17 behalf of the League of Women Voters for the  
18 letter that they sent and made reference to this,  
19 the fact that our elected leadership has failed  
20 to appoint or nominate yet one Latino among the  
21 first eight appointments, its supposed so-called  
22 independent redistricting commission, is a  
23 travesty. How could this happen in today's day  
24 and age? It's inexcusable.

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2 I appreciate and applaud the efforts of  
3 some of those that are this call, sitting on the  
4 panel, Assemblyman Rodriguez, Sepulveda and  
5 others who have joined with some of the other  
6 panelists. You heard from Juan Rosa and the  
7 NALEAO Educational Fund. You will hear from Eddie  
8 Cuesta from Dominicanos USA. We have joined  
9 together to express our outrage in the failure of  
10 our elected leadership to recognized and include  
11 Latinos in this political process. And that's  
12 what it is. It's not independent. It's political.  
13 Let's get real. Let's change the name as Susan  
14 Lerner mentioned earlier.

15 We have joined with our partners in  
16 sending letters. We've identified, we've done the  
17 homework of looking for the proverbial needle in  
18 the haystack, looking for those, are there  
19 independent Latinos in New York State? Well, we  
20 found at least five eminently qualified that  
21 we've identified and provided to the leadership  
22 and to the commission. And we urge members of  
23 both houses, the leadership, to consider and do  
24 everything in your power so that the existing

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2 eight members fairly evaluate, assess and vote to  
3 support the appointment of a Latino to this  
4 commission. Failure to have a Latino, and you  
5 have two independent spots right now. They should  
6 be permitted to testify, they should be included  
7 in order that we have a voice in this process.

8 The other things I wanted to mention is  
9 there are some changes, again that were touched  
10 upon by the first panel, Susan Lerner, I know  
11 Common Cause is supporting. One thing was not  
12 mentioned in terms of changing some of this  
13 outdated, old language in the constitution, there  
14 is currently a term called excluding aliens still  
15 in language in Article 3, Section 5.

16 As a Latino Civil Rights Legal Defense  
17 Fund uniquely cognizant of the diversity of  
18 immigrant statuses of our communities, we want to  
19 ensure that all New Yorkers counted and included  
20 during reapportionment and not limited to voting  
21 age population. The Supreme Court included that  
22 everyone counts. One person, one vote, as Justice  
23 Ginsburg eloquently cited in the Evenwel case. So  
24 we urge that that language excluding aliens which

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2 is more reflective of the administration and the  
3 politics emanating from Washington, that that  
4 should not be countenanced by a state as  
5 inclusive and diverse as New York.

6 So again, I would urge transparency. I  
7 would urge inclusion, respectful of communities  
8 of color and communities of interest, and not  
9 Withstanding the Shelby County striking down of  
10 the Section 5 preclearing, the principles of the  
11 Voting Rights Act Section 2 still apply and  
12 communities of color and minority communities  
13 rights must be respected. Otherwise,  
14 organizations such as Latino Justice will  
15 continue to be in business and back in the  
16 courts. Thank you.

17 ASSEMBLY MEMBER ZEBROWSKI: Thank you  
18 very much. And I want to thank the panel for your  
19 testimony today and for your insights. We do have  
20 an assembly member who wishes to ask a question.  
21 Assembly member Harvey Epstein.

22 ASSEMBLY MEMBER EPSTEIN: Again, I want  
23 to thank all panelists on really good questions.  
24 And Jose, to you, what do you think we need to do

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2 to push, to ensure that the Latino get  
3 appropriate representation on the commission, and  
4 you know, the things that you think we otherwise  
5 should be doing to ensure the diversity of  
6 representation across this state to ensure that  
7 we include those voices that are being excluded?  
8 Is it a letter to the governor? Is it something  
9 you guys need us to do? Or do you feel you've  
10 bean pushing on your own and you think that  
11 you're going to be successful?

12 MR. PEREZ: We, again, there have been  
13 its sent by -- and not just Latino groups, again,  
14 groups such as the League of Women Voters also  
15 reached out and have identified this, Assemblyman  
16 Epstein. What I think is again was alluded to in  
17 the earlier panel, for in the future, inclusion  
18 in the process, why weren't we invited to be part  
19 of the discussions on these things. If this is  
20 going to be an independent redistricting  
21 commission, maybe we should revisit, you know,  
22 this is not an independent redistricting  
23 commission if the political leaders are  
24 appointing the individuals.

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2 Are we going to be part of that  
3 discussion? We can make suggestions. We did the  
4 work and we've identified candidates, which whom  
5 I understand are being evaluated and perhaps then  
6 being considered, but given it's the existing  
7 eight members that vote upon them, you as an  
8 elected official on behalf of your constituents,  
9 communicate with the existing commissioners. They  
10 have to do that. Communicate this to Speaker  
11 Heastie, technically the leader of your house,  
12 that this is imperative that they consider and  
13 answer, you know, identify suitable candidates.

14 We did homework. We spent hours and we  
15 searched and we found at least five, so we made  
16 it easy. We identified people. Lawyers, I'm a  
17 lawyer, right, doctors, community leaders. It's  
18 imperative that they be able to bring their life  
19 experience.

20 The other part of it is language. I mean  
21 everything is in English. Where is the bilingual?  
22 We're going to be multi-cultural. Language  
23 accessibility has to be recognized, notice of  
24 these proceedings, notice of when their review of

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2 candidates being considered has to be  
3 multicultural, culturally sensitive and language  
4 accessible.

5 ASSEMBLY MEMBER EPSTEIN: So you're  
6 saying that the materials that they're publishing  
7 are not accessible in multiple languages?

8 MR. PEREZ: Well, if they were, I mean,  
9 this is going forward, again, with the initial  
10 appointments, there were no public notices that  
11 the speaker or the senate leaders were  
12 considering who they were accounting. Were there  
13 meetings? Were we -- we were not invited.

14 ASSEMBLY MEMBER EPSTEIN: Right.

15 MR. PEREZ: If there were meetings for  
16 consideration. So that's something. Were members  
17 of the House, members of the Assembly or the  
18 Senate included or asked to weigh in or to do  
19 this? Probably, I think not. So again, if you  
20 were not aware of that, then clearly you were not  
21 apprized, or saying can you make suggestions it?  
22 It should be an inclusive process. Folks, the  
23 members of the Assembly and the Senate should be  
24 able to make recommendations and you all,

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2 representing your constituents and hearing from  
3 advocates and organizations such as ours can  
4 share our insights or comments or make  
5 suggestions and really make this a true  
6 democratic participatory process.

7 ASSEMBLY MEMBER EPSTEIN: So you're  
8 saying some kind of like public notice for, hey,  
9 this is a commission, we want applicants that  
10 express the diversity of New York and have a  
11 deadline for people to apply, to submit and then  
12 have a pool that they could go to.

13 MR. PEREZ: Right. That would be more  
14 akin to a true independent, citizen independent  
15 commission, much as California and some other  
16 states have adopted, where folks can apply  
17 publicly. But if it's going to be in the existing  
18 structure, again then our leaders I think need to  
19 hear from their constituents and their members.

20 ASSEMBLY MEMBER EPSTEIN: Right. Well,  
21 very helpful. Thank you for testifying and being  
22 here today.

23 MR. PEREZ: Good to see you again, my  
24 friend.

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2 ASSEMBLY MEMBER EPSTEIN: You too.

3 Alright. Bye-bye.

4 SENATOR GIANARIS: Thank you. Next, we  
5 have Senator Gustavo Rivera.

6 SENATOR RIVERA: Thank you, senator. Let  
7 me turn on my video here. It's not allowing me to  
8 start the video but I'll I guess I'll speak until  
9 it does. You all can hear me, correct?

10 SENATOR GIANARIS: Yes.

11 SENATOR RIVERA: Good. All right. So  
12 this is actually to, there we go. This is to, I  
13 guess the CPC, Latino Justice and Brennan Center,  
14 I guess you can all chime in. You mentioned both  
15 we're talking about Latino, Latinx, Latino  
16 communities and AAIPi communities, but also some  
17 of their undercounts is obviously a concern that  
18 was shared by the first panel. And I certainly  
19 share it. In the communities that I represent,  
20 the undercounted is definitely, we're behind.

21 But can you say more how that may affect  
22 the existing districts in the future and also, so  
23 future ones that are drawn that retain kind of  
24 core of prior districts? Can you talk a little

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2 bit about how that would break down. CPC maybe  
3 first?

4 MS. TORRES: Sure, I can go first. Thank  
5 you, Senator Rivera. So in our, testimony we  
6 pulled some analysis that the Asian American  
7 Federation had done, which was very helpful to  
8 our understanding of where counts are to date.  
9 And I mentioned some neighborhoods in Queens  
10 where the count is significantly behind the  
11 citywide self-response rate.

12 In that same area where we have a high  
13 and dense population of South Asians, Indian  
14 Americans and Indo Caribbean Americans is also a  
15 place where some of those, the core parts of  
16 those communities are actually split into four or  
17 five assembly districts. And so when we think  
18 about the potential for undercount, the existing  
19 core of -- the core of existing districts and  
20 understanding that some of the undercounted  
21 communities are on the margins of those  
22 districts, the undercount serves to further  
23 marginalize them so they continue that fracturing  
24 effect.

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2 And so I don't have the analysis of what  
3 the full count of other communities is that  
4 district is in front of me right now. But I think  
5 our concern is that without a full public  
6 participation process where one, for those of us  
7 who are continuing to work on get out the count  
8 efforts to make sure that the same organizations  
9 remain at the table and those same community  
10 groups remain at the table so that when we talk  
11 about, line by line, where these communities live  
12 that there's a full public record that reflects.

13 And also we need to understand that many  
14 of these communities that are facing undercounts,  
15 it's also because of a lot of historic  
16 displacement that these communities have  
17 experienced but there's also going to be  
18 significant displacement as a fallout of the  
19 COVID-19 pandemic.

20 ASSEMBLY MEMBER RIVERA: Got you.  
21 Anybody else want to chime in? Obviously, you've  
22 covered it, you've covered it well, Ms. Torres.  
23 Thank you. And thank you all for being part of  
24 this process. Thank you, senator.

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2 SENATOR GIANARIS: Thank you, senator  
3 Rivera. In the absence of a member of the  
4 Assembly, we also have Senator Tom O'Mara.

5 SENATOR O'MARA: Thank you, Chairman. I  
6 just have a follow-up question for I think it was  
7 Jose, who was speaking regarding candidates that  
8 have been put forward for the two open commission  
9 spots and who was evaluating those. I'm not aware  
10 of any candidates that have been put forward by  
11 any of the groups that are testifying here today.  
12 But I guess I would ask if you know who those  
13 individuals are that have been submitted and who  
14 they've been submitted to.

15 MR. PEREZ: Senator, Dominicanos USA,  
16 NALEAO Educational Fund and Latino Justice  
17 identified five. We issued a letter, I believe,  
18 in early June, again, critiquing the failure to  
19 have a Latino appointed to the commission. As  
20 part of that, it's a public press release. A  
21 letter was sent to both the Puerto Rican-Hispanic  
22 Task Force and the legislative leadership in both  
23 the Assembly and the Senate and the Governor as  
24 well.

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2 And in part of that letter, we also  
3 identified five candidates that we had vetted and  
4 cleared. So when I say perhaps in terms of, I  
5 don't want to get into semantics but we  
6 identified or put together a short list that we  
7 had already identified and cleared five  
8 individuals who are independent, independent  
9 registered voters, non-Republican, non-  
10 Democratic, and identified these as potential  
11 candidates for consideration. And it is my  
12 understanding that the leadership has been, that  
13 those names have been shared and are considering  
14 them.

15 SENATOR O'MARA: You had --

16 MR. PEREZ: But that release, that  
17 letter, the list, that is public, so you should  
18 have. I'm happy to send it to you. It's  
19 publicized by all the organizations that I  
20 mentioned earlier.

21 SENATOR O'MARA: Okay. Do you think it  
22 would have been a good idea to perhaps have those  
23 candidates maybe testify at this hearing today?

24 MR. PEREZ: Possibly. Again, the

1 Joint Task Force Reapportionment, 7-15-2020  
2 candidates themselves, and when I say -- and just  
3 to go back, when I say the leadership, it was  
4 sent to both the majority the minority leadership  
5 and we've had discussions with both the minority,  
6 the Republican leadership, as well as the senate  
7 and the Assembly Democratic leadership so it's  
8 both houses. This is not a one side, given that  
9 there's two final spots to be filled. Whether  
10 these candidates, given, if they are not being  
11 idea or doing that, would they share I think the  
12 outrage that I expressed earlier that not a  
13 Latino could do that, to convey that, if you need  
14 repetition, then that would clearly be helpful.

15 SENATOR O'MARA: Okay. Thank you very  
16 much. I'm set here.

17 SENATOR GIANARIS: Thank you, senator.

18 ASSEMBLY MEMBER ZEBROWSKI: All right,  
19 well, I want to thank the panel again for your  
20 testimony today. In the absence of any other  
21 senators or assembly members, Senator Gianaris,  
22 I'll kick it over to you for the third panel.

23 SENATOR GIANARIS: Thank you, assembly  
24 member. And for our third and final panel of the



1 Joint Task Force Reapportionment, 7-15-2020  
2 day, we have Jeff Wice from New York Law School's  
3 Census and Redistricting Institute, Eddie Cuesta,  
4 from Dominicanos USA, Tom Speaker from Reinvent  
5 Albany and Rachel Bloom from the Citizens Union.  
6 We will begin with Jeff Wice.

7 MR. JEFF WICE, PROFESSOR, NEW YORK LAW  
8 SCHOOL CENSUS & REDISTRICTING INSTITUTE:  
9 thought I was live on screen. Sorry. Thanks very  
10 much for this opportunity. Let me get my screen  
11 justice here adjusted here a bit. Well, it's a  
12 pleasure to be addressing you this morning on  
13 redistricting. Again my name is Jeff Wice. I am a  
14 senior fellow and adjunct professor at New York  
15 Law School, where I'm heading up a new institute  
16 on census and redistricting. We created a  
17 redistricting roundtable to engage the public,  
18 veterans, experts, and new organizations with  
19 everything redistricting, especially with  
20 education, training and involving the public.

21 It's been my privilege in the past to  
22 have worked for five assembly speakers and four  
23 democratic senate leaders, with the last four as  
24 a staff or counsel, and it's a pleasure to be

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Okay

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2 providing information to you. I am not advocating  
3 or presenting a particular point of view, but  
4 want to suggest a few ideas in light of the COVID  
5 caused delay in the census delivery and the state  
6 constitution. I will submit a written statement,  
7 but I'll submit the National [unintelligible]  
8 [01:56:42] recently published redistricting red  
9 book, which I was a coauthor and coeditor. That's  
10 a [unintelligible] [01:56:51] and staff primer on  
11 redistricting and will answer many of the legal  
12 questions that came up earlier in this hearing.

13 And I'll also provide a copy of a  
14 recently published primer on the New York State  
15 redistricting process that New York Law School  
16 published last month that walks people through  
17 the current new constitutional scheme.

18 Since the pandemic hit and the Census  
19 Bureau has had to delay its census-taking process  
20 and the expected delay in providing redistricting  
21 data to the states, I've also been working with  
22 other states similarly situated including  
23 California, New Jersey, Virginia, which have much  
24 tighter time frames than New York.

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2 I'm going to suggest that there are  
3 three different options that the legislature can  
4 consider. The first is to work with and urge the  
5 commission to move up deadlines without a  
6 constitutional amendment and to enact chapter  
7 laws that will accommodate the schedule. A second  
8 approach could be to develop basic constitutional  
9 amendment to deal with some of the calendar  
10 dates.

11 And then a third option would be a much  
12 more comprehensive approach to amend the  
13 constitution to change the 2022 dates involved,  
14 make other reforms that, as other before me  
15 mentioned could include creating a bipartisan  
16 commission with a final authority and a neutral  
17 high tiebreaker, similar to the New Jersey  
18 scheme, second, creating a commission with final  
19 authority and being fully independent of the  
20 legislature, similar to California. Other changes  
21 can include prioritizing the criteria used for  
22 redistricting, changing the commission's rules on  
23 voting, adding the prison reallocation law to the  
24 constitution, changing the standard of

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2 traditional review to make, verify the burdens of  
3 proof when challenging redistricting plans. And  
4 there are numerous other changes that could be  
5 made if the thought is to go beyond simply fixing  
6 the dates.

7 In light of the delay, the current plan  
8 will not provide the data to the state until  
9 sometime in June or July 2021. Under the current  
10 framework, this gives the commission only five  
11 months to submit its first set of plans, leaving  
12 the commission with only about 45 days to  
13 conclude its work or as soon as practicable  
14 thereafter, in the words of the constitution.

15 The commission can't expedite its work  
16 after the date arrives next summer, still meet  
17 deadlines in 2021, but make changes in the  
18 political calendar. My colleague and friend Todd  
19 Breitbart, a former state senate redistricting  
20 staffer, and I have looked at the calendar and  
21 would suggest that if the dates for the  
22 commission and the legislature can be moved up a  
23 bit, that a primary can still be held on June  
24 28th with the first day to circulate petitions

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2 would be March 25th, the last date for filing  
3 petitions on April 19th, leaving a 25-day  
4 petition period, reducing the number of  
5 signatures required and having a primary on June  
6 28th.

7 The congressional primary in 2012 was in  
8 the spring. This commission amendment was adopted  
9 in 2012 originally and approved 2014 with full  
10 knowledge that there was going to be a problem.  
11 So I think I've worked out a schedule that could  
12 accommodate this.

13 You can find a much more detailed  
14 analysis of all the suggestions others and I have  
15 made about constitutional amendments in a book  
16 chapter called "New York's Broken Constitution"  
17 from the 2016 SUNY press book, the title of our  
18 chapter was "These Seats Cannot be Saved". But we  
19 looked at the entire recent history of  
20 redistricting in New York and ways to make  
21 further changes.

22 Please don't hesitate to call me for  
23 further assistance as you develop either chapter  
24 amendments or revisions to the 2014 amendment and

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2 it's a pleasure seeing some of the old colleagues  
3 and friends again. Thank you.

4 SENATOR GIANARIS: Thank you, Jeff. It's  
5 great to have your experienced opinion on this  
6 matter. Eddie Cuesta from Dominicanos USA.

7 MR. EDDIE CUESTA, EXECUTIVE DIRECTOR,  
8 DOMINICANOS USA: Greetings. And thank you, Chair  
9 Gianaris, Rodrigeuz, Hoylman, Zebrowski, and  
10 fellow committee members for providing us with  
11 the opportunity to testify on this important  
12 issue. My name is Eddie Cuesta, executive  
13 director of Dominicanos USA, a nonpartisan in a  
14 nonpartisan organization committed to the civic,  
15 social and economic integration of the Dominican  
16 American into all facets of the American life.

17 DUSA advocates and strives to ensure to  
18 every U.S. citizen is able to freely and easily  
19 able to exercise their civic rights, realize  
20 their full potential and capitalize on the  
21 opportunities the U.S. has to offer. Our  
22 contribution to making this vision a reality  
23 begins with our direct and grass root work the in  
24 Dominican American community. Domincanos USA is

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2 here today because the New York State  
3 redistricting process is intimately tied to our  
4 representative democracy, which is essential to  
5 the progress of our growing important population.  
6 We make up a significant portion of New York's  
7 largest and diverse Latino population. According  
8 to the 2017 estimate from the Census Bureau,  
9 there are over 2 million Dominicans or people of  
10 Dominican descent living in the United States.

11 In New York State and New York City, the  
12 population estimates are 872,000 and 720,000  
13 respectively. The 720,000 Dominicans in New York  
14 City accounts for more than one of every nine  
15 city residents, 12 percent, and they also account  
16 for 29 percent of the Latino in the city. The  
17 355,000 Dominicans in the Bronx account for  
18 nearly one of every four, 24 percent can  
19 [unintelligible] [02:02:52] of 43 percent of the  
20 Latino borough residents, making the Bronx the  
21 U.S. county with by far the largest Dominican  
22 population.

23 Considering the magnitude of the  
24 Dominican population in New York and of the

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2 contribution Latinos as a whole to our great  
3 state, we are clearly dismayed to hear that not a  
4 single Latino was pointed to New York State  
5 during the [unintelligible] [02:03:11]  
6 redistricting commission, as has been said in  
7 this panel.

8 It is essential that this commission is  
9 as diverse as practically possible as stated in  
10 its legal guidelines because representation  
11 without such an essential democracy process will  
12 help produce political maps which provide Latinos  
13 a fair opportunity to elect the candidates of  
14 their choice, both for candidates that look like  
15 them and candidates that share their experiences.

16 In an attempt to remedy this oversight  
17 well join, as was mentioned in this panel, and  
18 the previous panel, with our partners at the  
19 NALEAO Educational Fund and Latino Justice  
20 PRLDEF, at the request of the Puerto Rican and  
21 Hispanic Task Force to find and recommend  
22 eminently qualified Latinos, candidates to fill  
23 the remaining two seats open on the commission.

24 After an intense two months of scouring

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2 the entire state, we found five wonderful  
3 candidates and have shared with both minority and  
4 majority leaders in both legislative houses, as  
5 has been mentioned previously. This process was  
6 not easy and we believe that the current legal  
7 structure disproportionately limits the  
8 appointment and participation of Latinos to this  
9 commission.

10 Dominicanos USA believes that the  
11 application and selection process for members of  
12 the redistricting commission, as noted in the  
13 body of law that form the IRC, ones we saw in the  
14 commission will reflect the geography, racial,  
15 ethics, gender and national diversity of the  
16 political jurisdiction.

17 The current qualification makes it  
18 nearly impossible for Dominicans to participate  
19 directly in this process. While we firmly state  
20 by the importance of appointing candidates that  
21 have no conflict of interest, we do find they  
22 should some exceptions to this rule. Thus we urge  
23 the first eight commissioners to select qualified  
24 Latinos for the remaining seats.

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2 Lastly, considering the current state of  
3 our public health and the COVID-19 pandemic, it  
4 is important that the commission make the 12  
5 hearings it is mandated to hold accessible to all  
6 communities. We hope that this can be done  
7 virtually in order to mitigate the spread of the  
8 COVID-19 virus if in-person hearings are not  
9 possible in the future.

10 Historically, as you may know, the  
11 redistricting process have been intentionally  
12 utilized to suppress the electoral power of  
13 communities of interest, like Dominicans. We have  
14 an opportunity to help ensure fair redistricting  
15 process by appointing more Latinos to the  
16 commission and by making the process as  
17 accessible as possible to all communities in New  
18 York State.

19 We have been at the ground to make sure  
20 that the Dominican communities involved in our  
21 nation's democracy process and look forward to  
22 doing the same for redistricting. Thank you again  
23 for this opportunity to testify. We know you  
24 share our goals of a fair redistricting process

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2 to allow all New Yorkers a meaningful opportunity  
3 to participate as a result of maps that provide  
4 underrepresented New Yorkers an opportunity to  
5 elect the candidates their choice. We look  
6 forward to working with you to achieve this  
7 important goal. Thank you again.

8 SENATOR GIANARIS: Thank you, Eddie.  
9 Next, we have Tom Speaker from Reinvent Albany.

10 MR. TOM SPEAKER, POLICY ANALYST,  
11 REINVENT ALBANY: Good morning. My name is Tom  
12 Speaker and I'm a policy analyst for Reinvent  
13 Albany. Reinvent Albany advocates for open and  
14 accountable government in New York State. We  
15 thank the Senate and Assembly for holdings this  
16 hearing today on redistricting, the first hearing  
17 on this topic for the 2022 cycle and for all the  
18 hearings we'll be holdings over the coming week.

19 So today we call on the legislature to  
20 focus their efforts on helping the redistricting  
21 commission function properly, rather than making  
22 major structural changes to the redistricting  
23 process. While we recognize that the  
24 redistricting process needs improvement, the

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1 Joint Task Force Reapportionment, 7-15-2020  
2 earliest constitutional changes would take effect  
3 after voter approval in November 2021, which we  
4 believe to be too far along in the process of  
5 drawing district lines.

6 The first passage of a constitutional  
7 amendment would need to be done by the  
8 legislature in the next couple weeks. While the  
9 public discussion around redistricting has only  
10 started in earnest with this hearing today major  
11 changes to redistricting policy should only be  
12 made after the public has had sufficient time to  
13 weigh in. The constitutional amendment passed in  
14 2014 is not perfect, but it was approved by the  
15 voters and is the only feasible framework for  
16 drawing lines for 2022, given the current time  
17 limitations.

18 That said, we believe that statutory  
19 changes could and should be made to the  
20 redistricting commission's timeframes to address  
21 the consolidated June primary date and delays in  
22 census collection data related to COVID-19. These  
23 ministerial changes can be made via statute and  
24 would provide the commission guidance on how to

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1 Joint Task Force Reapportionment, 7-15-2020  
2 proceed during the cycle while ensuring adequate  
3 time for public hearings and review.

4 We also support the League of Women  
5 Voters of New York State's request to ensure that  
6 the commission is fully equipped with both  
7 funding and staff and that the funding that was  
8 made available is released as soon as possible.  
9 There should also be a greater clarity around the  
10 application of the open meetings law and the  
11 freedom of information law to the commission.

12 Lastly, the commission must work to  
13 appoint its final two non-affiliated  
14 commissioners so that planning can finally begin.  
15 It is important for public trust as the  
16 commission begin its work soon and lay out an  
17 open roadmap for how this redistricting cycle  
18 will unfold.

19 So while discussion of changes is  
20 warranted, we believe that these issues should be  
21 considered when there is more time for thoughtful  
22 public discussion and review. Changing  
23 redistricting midstream would be disruptive and  
24 potentially damage public confidence in the

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2 process. Consideration of larger structural  
3 changes should only be made with more time for  
4 public input. That's all we have, so thank you  
5 for the opportunity to speak today.

6 SENATOR GIANARIS: Thank you, Tom. And  
7 last but certainly not least, Rachel Bloom from  
8 Citizens Union.

9 MS. RACHEL BLOOM, DIRECTOR OF PUBLIC  
10 POLICY, CITIZENS UNION: Hello. Thank you for  
11 having me. I know that you've heard a lot of  
12 people already today, and I'm going to try and  
13 not be as repetitive. So I am representing  
14 Citizens Union, and we are very excited to be  
15 here talking about, for the first time in this  
16 cycle, about redistricting with you, but I'm sure  
17 there are many more to come. Particularly right  
18 now with so much that's going on, we are thankful  
19 for you for having this hearing and shining a  
20 light on it.

21 So eight years ago, when lawmakers  
22 placed on the ballot the biggest reform to  
23 redistricting in decades, received the decisive  
24 support of New Yorkers, and it created a more

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2 fair and open redistricting process. Having said  
3 all of that, the amendment also called for  
4 extensive public hearings and the release of maps  
5 and other data which would allow the members of  
6 the public to draw their own maps, thus fostering  
7 public participation. As we head into this  
8 process for the first time, it's exciting but  
9 there are also challenges we face, and I'm going  
10 to try and run through these.

11 First, as we obviously all know, it's a  
12 new and yet untested process. We have to  
13 establish the commission, including staffing. We  
14 are excited that the legislature allocated  
15 \$750,000 for the budget, and urge them to get  
16 going with the creation and staffing and  
17 appointing an executive director.

18 We call on the commissioners to reach an  
19 agreement on their picks as soon as possible, and  
20 as they consider filling the two remaining  
21 vacancies, we note that according to the  
22 constitution, the commission should reflect the  
23 diversity of the residents of the state. And with  
24 that, we amplify those who spoke before us,

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2 noting that there's only one woman on the  
3 commission and no Latinx commissioners, which  
4 does not as at the moment seem reflective of New  
5 York State.

6 Next, I'm actually going to skip ahead  
7 to something and go back to this if I have time.  
8 Our third, what was originally our most important  
9 point is that we oppose any process which seeks  
10 to amend the state constitution to address the  
11 2022 redistricting cycle. The 2014 revision was a  
12 result of a long process of deliberation, public  
13 input and media coverage.

14 Changing the constitution without public  
15 notice during a last minute session would be  
16 counter to the objective of an open and fair  
17 redistricting process, especially since timeline  
18 problems we believe can be solved through  
19 legislative action and do not need to happen  
20 merely through constitutional amendment. The  
21 current redistricting process is not perfect.  
22 There are things that we had hoped the 2014  
23 amendment would have included, more improvements  
24 to the process. But we very much supported the

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2 final version as an important opportunity to fix  
3 a rigged system.

4 We believe the public, which strongly  
5 supported the 2014 amendment, should be given the  
6 chance to see those amendments implemented for  
7 the first time. A thoughtful debate on the merits  
8 and drawbacks of the process should follow ahead  
9 of next redistricting process.

10 Changes should not be made during a  
11 redistricting process in the current highly  
12 rushed timeline. We are especially concerned by  
13 any attempts to eliminate the bipartisan nature  
14 of the current redistricting process, either by  
15 changing the special voting rules on the  
16 commission or the needed majority in legislature  
17 in case of one-party control. That would  
18 contradict the intent of 2014 amendment.

19 We have advocated for fair redistricting  
20 for many decades, during which time we have  
21 watched as one party or the other sought to  
22 reduce by gerrymander the voting rights of  
23 supporters of the opposing party. The goal of  
24 fair redistricting for every person's vote to

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2 have equal value, regardless of party  
3 affiliation. We are concerned that any process  
4 which seeks to amend the constitution at this  
5 moment would create confusion, limit public input  
6 and will not influence the timeline.

7 The earliest that an amendment can take  
8 affect is January 1, 2022, well past the when  
9 commission is set to require its preliminary plan  
10 for public comment and on the same day when it is  
11 supposed to present its first plan to the  
12 legislature. The commission must be able to  
13 operate with full knowledge of what criteria it  
14 needs to follow.

15 If amendments are placed on ballot, the  
16 commission will not know until November which  
17 constitutional provisions would be in effect. If  
18 there is a change in January, the commission  
19 would have to operate would have to operate with  
20 different criteria and possibly produce new maps.

21 The tight timing would greatly limit, if  
22 not exclude public input on revised plans. And if  
23 there are pending amendments, we doubt members of  
24 the public would be able to provide meaningful

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2 input to the process. This may also compound the  
3 risk of lawsuits, both during and after the  
4 process. We fear this will delay the process  
5 rather than expedite it.

6 And with that I will be submitting my  
7 written testimony which has more in it, which  
8 cannot be contained in these five minutes. And I  
9 just end it by urging the legislature to keep the  
10 redistricting process set forth in the 2014  
11 amendment intact for the upcoming redistricting  
12 cycle. Thank you.

13 SENATOR GIANARIS: Thank you. And before  
14 I go to questions, let me just point out the  
15 irony for those who say that the current process  
16 was subject to great public input and no vote.  
17 Anything that would happen now would also be  
18 subject to the exact same process. It would be at  
19 least a year plus before the public would get to  
20 opine on it and it would be the same vote that  
21 would be known in November of '21, even if it  
22 would take effect in January, so the commission  
23 would have full knowledge for two months about  
24 what the changes would be. With that Senator

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2 Gustavo Rivera is first on this.

3 SENATOR RIVERA: Thank you, sir. All  
4 right, thank you all for being here. Jeff, it is  
5 good to see you and I've worked with this  
6 gentleman before, and obviously good to see the  
7 rest of the panelists, Eddie, good to you as  
8 well. But Jeff, I wanted for you to -- you took  
9 some time during your testimony to talk about the  
10 timeline that, because obviously we are under  
11 constraints as far as what the timeline would be,  
12 and I want to go a little bit deeper into that.  
13 Because obviously our choices are limited because  
14 of when the primary is set and what the amendment  
15 says. I voted against it. That's neither here nor  
16 there. It is reality. So tell us a little bit  
17 more about the timeline that you think could  
18 potentially work, as far as how it would  
19 breakdown.

20 MR. WICE: That's a great question.  
21 Without going to the constitutional amendment  
22 issue, I think the simplest way of approaching  
23 things is to first persuade the commission, once  
24 it's up and running, to work as expeditiously as

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2 possible, to have everything it can possibly do  
3 ready to go at the time the state receives the  
4 census data, where if Congress approves, will be  
5 now later than July 30th of 2021 and possibly or  
6 probably earlier in July, if not late June. The  
7 Census Bureau is still working out that schedule.

8 Having said that, if the data comes, you  
9 know, as the late case scenario, on July 30th,  
10 the commission needs to upload and analyze the  
11 data, it needs to work out the kinks. It takes a  
12 few weeks to do that. To look at the mal-  
13 apportionment of current districts and the new  
14 populations, determine where districts are over  
15 or under the ideal population size. Then it's,  
16 the commission is required to hold a series of 12  
17 hearings throughout the state. I looked back at  
18 recent schedules --

19 ASSEMBLY MEMBER RIVERA: Sorry to  
20 interrupt. So that 12 hearings, that is a  
21 requirement that exists in law or in the --

22 MR. WICE: In the constitution. The  
23 actual cities and counties are listed in the  
24 constitution and it's similar to the hearings

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2 that were held ten years ago and 20 years ago,  
3 when each series of hearings went for about two  
4 and a half weeks. Although, to be more expedited  
5 in 2021, I calendared out if hearings can start  
6 in September, late September, that you can hold  
7 12 hearings and you can do Manhattan, Bronx,  
8 Staten Island five days in a row, you can do  
9 every other day or Rochester, Syracuse, Buffalo,  
10 Albany in four days straight. That's how it's  
11 been done in the past.

12 So you can work with a month and get,  
13 develop public input, develop plans. And drawing  
14 plans is not that difficult, given the software  
15 that's out there. It's just a matter of applying  
16 the public input and weighing, I think, the  
17 tremendous amount of greater public involvement  
18 that we'll see in 2021. But to develop the first  
19 iteration draft plan at some point by November,  
20 December of next year, and then send the plan to  
21 the legislature if the commission can agree on a  
22 plan, and even have a second plan. Let's say if  
23 the first plan can be done in November and if the  
24 legislature can meet, either adopt and it send it

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2 to the governor or if it's rejected by either the  
3 legislature or the governor, then go back in  
4 December and try it again. But at some point to  
5 have a plan in place, signed by the governor,  
6 that would allow -- this would be for really, I  
7 guess February final enactment, so that then  
8 boards of elections can redraw the election  
9 districts to comport with the new assembly  
10 districts, and then begin a primary process for  
11 June 28th primary date beginning on March 25th.

12 You need at least about a month for the  
13 boards of elections to administer the process. I  
14 went back and looked at the 1982 process, when  
15 both petitions and dates were collapsed. I look  
16 back at the 2020 schedule. So it's fast-tracked,  
17 but as many of the speakers talked about, the  
18 more that's done at the frontend to gain input,  
19 to reach out to people, to get the sense of what  
20 various communities are looking at, this could be  
21 done rather quickly.

22 ASSEMBLY MEMBER RIVERA: I want to make  
23 sure, we only have 20 seconds so I wanted to just  
24 say, I wanted to make sure that we get all of

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 2 that on the record, since it is clear that we're  
 3 going to have a very compressed timeline and we  
 4 want to make sure that we move it expeditiously,  
 5 so that we can do all these things, that it is  
 6 possible to do it. It is tight, but it is  
 7 possible to do. So in your expert opinion that is  
 8 the case?

9 MR. WICE: And I don't think the  
 10 constitution could be amended to impact the 2021  
 11 dates since any amendment couldn't go into effect  
 12 until January 1, 2022.

13 ASSEMBLY MEMBER RIVERA: Okay. Thank  
 14 you, Jeff.

15 MR. WICE: You're welcome.

16 SENATOR GIANARIS: Okay. Member  
 17 Zebrowski, do you have any members of the  
 18 assembly?

19 ASSEMBLY MEMBER ZEBROWSKI: Not at  
 20 point.

21 SENATOR GIANARIS: Okay. We have senator  
 22 Tom O'Mara.

23 SENATOR O'MARA: Thank you, Chairman.  
 24 That was Mr. Wice that was just answering



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2 questions at the end there, correct?

3 MR. WICE: That's correct.

4 SENATOR O'MARA: Can you, for the  
5 public's benefit, you mentioned the redistricting  
6 software and capabilities that are out there  
7 today and that it can be done quickly. Can you  
8 just generally explain to myself and to the  
9 public just exactly how this software works and  
10 how quickly these lines can actually be drawn  
11 now.

12 MR. WICE: Well, sure. There are three  
13 major commercial vendors that have developed  
14 redistricting software, and when I say software,  
15 you get the census data from the Census Bureau.  
16 It's called the PL94171 file. It basically  
17 provides all of the racial and age data for every  
18 election district in the state. You upload that  
19 data into the software. And the software enables  
20 to you look at the current districts to see all  
21 of the racial and ethnic numbers that comport  
22 with each district, each election district,  
23 senate district or assembly district, and then  
24 allows you, using geographic information

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2 assistance, GIS science, to move populations  
3 around so that you're changing district  
4 populations, and as you do that, you get to see  
5 the racial, ethnic and age differences as you  
6 change them, so that you draw districts that  
7 comport with one person, one vote, that all  
8 districts be equal in size roughly, the Voting  
9 Rights Act, so that you know what the racial  
10 composition of districts look like. You also get  
11 a sense to see the other kinds of factors that  
12 you can add to the software.

13           An experienced line drawer, of which  
14 there are very few, can draw a map in a matter of  
15 days. It's just a matter of how much advanced  
16 work has gone into the process, how much politics  
17 and policy making goes into what the line drawer  
18 is being told to weigh. But it's not a process  
19 that takes a month to draw a map, a relatively  
20 short period of time.

21           But again, it depends on the  
22 circumstances of what is going on then, what  
23 needs to be done, whether there are policy or  
24 political differences that need to be worked out.

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2 But I am talking about doing that on a fast  
3 track.

4 SENATOR O'MARA: Right. Now, you didn't  
5 mention the criteria or the data point of party  
6 affiliation. Does that not go into that system?

7 MR. WICE: You look at party affiliation  
8 when you do racial voting analysis to determine  
9 whether you need to comport with the Voting  
10 Rights Act to maintain or draw districts that are  
11 required based on racially polarized voting  
12 patterns. So you need to look ac back at ten  
13 years of primaries and general elections, so the  
14 partisan data there does play in. It's not  
15 prohibited to use partisan data. It's not  
16 prohibited to use any kind of data. That's up to  
17 the policy making body as to what data it wants  
18 to consider.

19 However, all data that goes into the  
20 redistricting machinery should be made public and  
21 divulged so that the public knows what factors  
22 went into the line drawing. If you're hiding some  
23 kind of a data, then you're making some kind of a  
24 mistake.

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2 SENATOR O'MARA: Thank you. At the first  
3 panel I asked a question about the money not  
4 being released that's been appropriated for this.  
5 Would you agree that the sooner that money gets  
6 released to set up the commission and that staff  
7 and executive directors get hired, that these  
8 final two commissioners get chosen, and that they  
9 begin their work is imperative?

10 MR. WICE: It's imperative from an  
11 objective point of view that things get moving  
12 along, because we say that the longer you take to  
13 wait, the harder it is to catch up. But again I  
14 just want to reiterate that I'm not making  
15 recommendations to the legislature. I'm just  
16 giving you examples based on my experience that  
17 early planning leads to a better result.

18 SENATOR O'MARA: Okay. Now, that  
19 \$750,000 for this commission was appropriated in  
20 this year's budget that was passed in the first  
21 week of April. That money's been appropriated,  
22 and it's up to the majorities of each house of  
23 the legislature to get that money released. That  
24 has not been done. Do you think the later we go

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2 on this, we might potentially need more resources  
3 for the need to hire more staff to do more work  
4 in less time?

5 MR. WICE: That's hard to say because  
6 the money that was appropriated goes through  
7 April 1st of next year. There needs to be an  
8 entirely new appropriation for the fiscal year  
9 beginning 2021-22. The unknown factor that none  
10 of us anticipated at all prior to mid-March, was  
11 the possible need to work remotely. We have no  
12 idea what the future holds and whether we'll be  
13 back at our offices next year. That would add up  
14 costs in terms of more hearings like this. Then  
15 again, it can save costs by not having to travel  
16 to travel 12 cities, but that's a factor to be  
17 thinking about. But it might also cost that each  
18 staff person, each legislator have his or her own  
19 commuter and software and each software license  
20 can cost about \$1,000 each. So there are factors  
21 that hadn't been planned for. We don't know yet.

22 SENATOR O'MARA: Well, right now the  
23 commission isn't staffed, doesn't have resources,  
24 so they can't even make a choice of which

1 Joint Task Force Reapportionment, 7-15-2020  
2 software to purchase to use. And I would just  
3 note that I think it's imperative that this money  
4 get released and the commission get on with its  
5 work. But I thank you for testifying here today,  
6 Mr. Wice and the rest of the panelists here.  
7 Thank you very much, Chairman.

8 SENATOR GIANARIS: Thank you, Senator  
9 O'Mara. Let me point out to you that I believe  
10 the trigger for the hirings and the rest of the  
11 work the commission needs to do is the  
12 establishment of the commission. And until the  
13 final two members are selected, I'm not sure that  
14 that can proceed regardless, but do I share your  
15 view that the commission needs to start moving  
16 expeditiously, given the tight time frame we all  
17 have.

18 I believe that wraps up the hearing. Let  
19 me thank all our panelists, all my colleagues, my  
20 co-chairs, Assembly Member Zebrowski, Assembly  
21 Member Rodriguez, Senator Hoylman. This is  
22 certainly something we're going to be talking a  
23 lot more about as the weeks and months unfold and  
24 we'll have the opportunity for even more input.

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2 With that, I would like to ask my Senate Co-Chair  
3 Senator Hoylman to give some closing remarks and  
4 then we'll pass it over to Assembly Member  
5 Zebrowski.

6 SENATOR HOYLMAN: Thank you, Senator  
7 Gianaris. This is an unprecedented time for us,  
8 but it's also unprecedented in that the Senate  
9 has never actually had hearings leading up to a  
10 redistricting in this manner previous. So I'm  
11 very proud of our participation today, Senator  
12 Gianaris and looking forward to putting deed  
13 behind the words of so many of our panelists  
14 today who gave us an expert insight into one of  
15 the most fundamental issues involving our  
16 democracy, whether every person's vote counts  
17 equally. Thank you very much, Senator Gianaris.

18 ASSEMBLY MEMBER ZEBROWSKI: Thank you,  
19 Senator Gianaris and Senator Hoylman. I'd like to  
20 give my co-chair for this hearing, Assembly  
21 Member Robert Rodriguez, who chairs the task  
22 force on demographic research and  
23 reapportionment, an opportunity for a statement.

24 ASSEMBLY MEMBER RODRIGUEZ: Thank you,

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2 Assembly Member Zebrowski and thank you to my  
3 senate colleagues for the opportunity to have  
4 this very important discussion about  
5 redistricting and the process. And certainly the  
6 comments that were made about diversity are  
7 important I think both to the Senate majority as  
8 well as the Assembly majority and certainly  
9 something that we are committed to enacting  
10 throughout this process. And endeavor to meet and  
11 respond to the comments that were made through  
12 actions and hopefully to the final appointments.

13 But more importantly, we would be remiss  
14 if we didn't look at the inputs to the process  
15 that we are evaluating now. The census and our  
16 ability to respond and get good data will inform  
17 our ability to make good decisions with respect  
18 to redistricting that actually reflect one  
19 person, one vote.

20 And as we talk about the efforts around  
21 census, we have to recognize that we are still  
22 below the national average in terms of response,  
23 and still have appropriations outstanding to help  
24 us to achieve those numbers. So I think it's



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2 important that we recognize there's \$30 million  
3 that needs to get utilized to ensure that the  
4 census numbers are meaningful. And I think it's  
5 important that that information come into play so  
6 that we are able to have a successful outcome  
7 that we all hope for in this process. Thank you.

8 SENATOR GIANARIS: Thank you, Assembly  
9 Member Rodriguez, and that concludes this joint  
10 public hearing. I want to thank everybody that  
11 participated, all of my colleagues, everyone that  
12 testified and all those out there that are  
13 listening and engaging in this process. I also  
14 want to thank both the Senate and Assembly staff  
15 who worked very hard on put this on and I hope  
16 everyone has a wonderful day. Thank you.

17 (The public hearing concluded at 12:30  
18 p.m.)  
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20  
21  
22  
23  
24

CERTIFICATE OF ACCURACY

I, Claudia Marques, certify that the foregoing transcript of the Online Public Hearing on Evaluating Constitutional Provisions Impacting Redistricting on July 15, 2020 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By

Date: July 28, 2020

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