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3   PUBLIC MEETING

4   CITY OF NEW YORK 2022-2023

5   DISTRICTING COMMISSION

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7   August 11, 2022
                               10:04 a.m.
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10   RACIAL BLOC VOTING SEMINAR

11   Held Virtually via Zoom

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18   Court Reporter: STEPHANIE O'KEEFFE

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2   APPEARANCES:

3   Dr. John Flateau, Executive Director

4   Joseph Maligno, Deputy Executive Director

5   Dennis Walcott, Chair

6   Yovan Samuel Collado, Commissioner

7   Hon. Marilyn Go, Commissioner

8   Kevin Hanratty, Commissioner

9   Msgr. Kevin Sullivan, Commissioner

10   Maf Misbah Uddin, Commissioner

11   Michael Schnall, Commissioner

12   Kristen Johnson, Commissioner

13   Marc Wurzel, Commissioner

14   Darrin Porcher, Commissioner

15   Lisa Sorin, Commissioner

16   Marie Mateo, Commissioner

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18   Presenter

19   Dr. Lisa Handley

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2   CHAIR WALCOTT: I just want to,

3   before we ask for the roll call, to

4   report that pursuant to the Governor's

5   Emergency Executive Order on COVID-19

6   protocol, we are meeting -- convening

7   this all-virtual public meeting. So,

8   it's a pleasure to welcome all of you,

9   both to Commissioners, to our

10   fantastic staff, and to the public,

11   who is watching as well.

12   My name is Dennis Walcott, and I

13   have the honor to be the chair, but

14   more importantly, just one of fifteen

15   members of the Commission.

16   And with that being said, I'd

17   like to call on our Deputy Executive

18   Director, Joseph Maligno, to give the

19   roll call, please.

20   MR. MALIGNO: Good morning,

21   everyone. I'm going to conduct the

22   roll call now.

23   Dennis Walcott?

24   CHAIR WALCOTT: Present.

25   MR. MALIGNO: Yovan Samuel

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2   Collado?

3   MR. COLLADO: Present.

4   MR. MALIGNO: Honorable Marilyn

5   Go?

6   MS. GO: Present.

7   MR. MALIGNO: Kevin Hanratty?

8   MR. HANRATTY: Present.

9   MR. MALIGNO: Maria Mateo?

10   (No response.)

11   MR. MALIGNO: Joshua Schneps?

12   (No response.)

13   MR. MALIGNO: Lisa Sorin?

14   (No response.)

15   MR. MALIGNO: Monsignor Kevin

16   Sullivan?

17   MONSIGNOR SULLIVAN: Present.

18   MR. MALIGNO: Kai-Ki Wong?

19   (No response.)

20   MR. MALIGNO: Maf Misbah Uddin?

21   (No response.)

22   MR. MALIGNO: Michael Schnall?

23   MR. UDDIN: Present. Present.

24   MR. SCHNALL: I'm present, too.

25   MR. MALIGNO: So that was

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2   present for Michael Schnall and Maf

3   Uddin?

4   MR. UDDIN: Yes.

5   MR. SCHNALL: Yes.

6   MR. MALIGNO: Kristen Johnson?

7   MS. JOHNSON: Present.

8   MR. MALIGNO: Gregory

9   Kirschenbaum?

10   (No response.)

11   MR. MALIGNO: Mark Wurzel?

12   MR. WURZEL: Present.

13   MR. MALIGNO: Darrin Porcher?

14   MR. PORCHER: Present.

15   MR. MALIGNO: That is the end of

16   roll call.

17   CHAIR WALCOTT: Thank you, sir.

18   And all of you have received the

19   minutes beforehand, if there are any

20   foundations for corrections, we'll

21   entertain that. If not, can we have a

22   motion to --

23   MR. UDDIN: So moved.

24   CHAIR WALCOTT: So moved.

25   Is there a second?

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2   MR. PORCHER: Second the motion.

3   CHAIR WALCOTT: Thank you,

4   Doctors. There is a second.

5   All those in favor, please say

6   aye.

7   (Chorus of ayes.)

8   Any opposition?

9   If not, it is passed that we

10 accept the minutes.

11   (Reporter asks for clarity.)

12   CHAIR WALCOTT: Thank you for

13 clarifying, Court Reporter.

14   MR. UDDIN: This is Maf Uddin.

15   MR. PORCHER: And it was Darrin

16 Porcher that seconded the motion.

17   CHAIR WALCOTT: Thank you very

18 much.

19   Any time I go too fast, or we go

20 too fast, please let us know because

21 also, we are having, as usual, our

22 meeting transcribed. So, again, thank

23 you for asking the question.

24   With this, I would like to turn

25 it over to our great Executive

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2   Director, Dr. John Flateau, because

3   this is a very unique meeting, and

4   we're excited to have people watching

5   us on YouTube, as well, in addition to

6   the commissioners.

7   And then at the end of the

8   presentation, we will have the

9   opportunity for the commissioners to

10   have Q&A, and while the presentation

11   is taking place and also Dr. Flateau

12   is talking, if we can mute our mics,

13   so that way we don't have any

14   background noise.

15   With that being said, Dr.

16   Flateau, the floor is yours.

17   DR. FLATEAU: Thank you, Chair

18   Walcott and Districting Commission.

19   The Districting Commission, at

20   its July 15th meeting, approved the

21   public release of the preliminary

22   plan. The Commission utilized several

23   inputs, including legal guidance

24   framed by the federal voting rights

25   laws, state laws, City Charter, census

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2   data, other research, five public

3   hearings, and other inputs, to assist

4   the Commission in producing the

5   preliminary plan.

6   A very important research tool

7   which also assists the Commission's

8   important City Council redistricting

9   work is known as Racial Bloc Voting

10   analysis, or RBV. This Racial Bloc

11   Voting methodology uses statistical

12   regression analyses and diagnostics on

13   the preliminary plan maps and

14   districts, as well as on subsequent

15   draft maps, to ensure that proposed

16   New York City Council districts are

17   constructed to be in compliance with

18   voting rights and other important

19   requirements.

20   Our Districting Commission is

21   fortunate to, again retain a national

22   expert on RBV analysis. A renowned

23   social scientist, Dr. Lisa Handley,

24   PhD, who also served as the 2013

25   Districting Commissioner's expert,

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2   providing this similar research and

3   guidance for New York City's very same

4   current City Council districts; she

5   ably assisted by Sid Parker, our own

6   senior data manager.

7   Dr. Handley is statistically

8   analyzing five years of voting

9   patterns of more than 150 municipal

10   and state elections for this ongoing

11   RBV analysis.

12   Jeff Wice, the Commission's

13   special counsel for redistricting, a

14   national expert who advised the 2013

15   Commission as well, he is now advising

16   our Commission on federal, state, and

17   local redistricting and voting rights

18   laws, along with the New York City Law

19   Department and our general counsel,

20   Grace Pyun.

21   I have academic training in this

22   field as well and have served on a

23   number of redistricting commissions.

24   I'm honored to serve as your executive

25   director with our great Commission

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2   staff on this important work.

3   At this time, I am pleased to

4   present Dr. Lisa Handley, PhD, who

5   will now conduct, for our Commission

6   and for the public, an information

7   seminar on Racial Bloc Voting analysis

8   and its application to the New York

9   City Council redistricting process.

10   Dr. Handley.

11   DR. HANDLEY: Good morning. Can

12   you hear me?

13   DR. FLATEAU: Yes.

14   DR. HANDLEY: I would like to

15   share my screen because I have lots of

16   statistics to show you but -- I'm only

17   teasing.

18   You have a very challenging task

19   in front of you, and I want to spend a

20   little bit of time today talking about

21   one bit of it.

22   (Whereupon, a document was

23   displayed on the share screen for

24   all parties to view.)

25   Can you see my screen? Yes.

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2   What I want to talk about is how

3   to determine if any redistricting plan

4   that you draw, any proposed plan

5   complies with the Voting Rights Act or

6   not.

7   When you have a whole lot of

8   redistricting criteria that you have

9   to balance, and this slide shows some

10   of these, but this is not an equal

11   balancing act. Some of these are more

12   important than others. Some are going

13   to get you in federal court if you

14   don't comply.

15   So the triangle behind this list

16   is meant to show that some things,

17   like the U.S. Constitution and the

18   Federal Voting Rights Act trump some

19   things below that, like the New York

20   City Charter. And, in fact, near the

21   top of that triangle is the Federal

22   Voting Rights Act of 1965.

23   Now, you also have to pay

24   attention to all of these other

25   criteria, but the only one that's

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2   going to actually trump it is going to

3   be equal population. So, for example,

4   you couldn't draw districts that did

5   not comply with equal population in

6   order to create minority districts or

7   districts that would elect

8   minority-preferred candidates. But

9   you can't say, we're going to, for

10   example, keep this community of

11   interest intact, if doing so would

12   violate the Voting Rights Act.

13   So here are the criteria that

14   you have to pay attention to. And

15   again, a particularly important one is

16   complying with the Federal Voting

17   Rights Act, that you cannot dilute

18   minority votes. And now this is also

19   incorporated into New York State law

20   with the recently passed John Lewis

21   Voting Rights Act.

22   So the Voting Rights Act of 1965

23   used to have more sections than it

24   does now. Section 2 is the section

25   that we're going to pay attention to

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2   today. It prohibits any voting

3   standard practice or procedure,

4   including a redistricting plan, that

5   results in the denial or dilution of

6   minority voting strength.

7   The section that the Superior

8   Court held as unconstitutional not

9   very long ago was Section 5. When I

10   was involved with New York

11   redistricting ten years ago, not only

12   did you have to make sure that the

13   plan complied with section 2 or you

14   would be sued, you had to submit the

15   plan to the Department of Justice

16   because three New York City boroughs

17   were actually covered by Section 5,

18   and the Justice Department would have

19   to pre-approve them before you could

20   put them into place.

21   So ten years ago, we drew plans,

22   you chose the plan, we submitted it,

23   and we had to wait for the Justice

24   Department to give the okay before you

25   could actually enact it. This time,

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2   you don't have that process to go

3   through. But, of course, if you don't

4   comply with section 2 of the Voting

5   Rights Act, you will -- at least, you

6   can be sued and you can lose.

7   Now, one important thing about

8   Section 2 is that it looks at the

9   effect of the plan and not the intent

10   behind the drawers of the plan. So

11   you can put into place a plan that you

12   don't intend will discriminate, but if

13   it has the effect of discriminating

14   against voters, it will be declared

15   illegal.

16   Same is true of voters. You may

17   have voters that vote differently, but

18   it doesn't mean that they're

19   prejudiced and they're not willing to

20   vote for other people. You don't have

21   to show that for people of other

22   racial or ethnic groups. You just

23   have to show that by voting for the

24   candidates that they do support, this

25   means that the candidates that are

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2   preferred by minority -- by minority

3   voters are defeated.

4   So a redistricting plan that

5   violates the Voting Rights Act is one

6   that either cracks or packs or

7   submerges a geographically

8   concentrated minority community across

9   districts.

10   Now, in the upper right-hand

11   corner is an example of a District

12   that cracks a minority community. You

13   see the pink, the salmon color, is a

14   geographically concentrated minority

15   community. And what's happened is,

16   the lines have been drawn in such a

17   way that the community is spread

18   across five districts so that they

19   never make up more than 35 percent of

20   a district and, therefore, cannot

21   elect a candidate of choice in any of

22   these districts.

23   The example below that, is an

24   example of the plan that packs a

25   community into a single district. Now

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2   in this particular example, it created

3   a district that's a hundred percent

4   pink, and so they will be able -- this

5   district will be able to elect the

6   pink candidate of choice, but they

7   will have no impact on any of the

8   other districts. And this minority

9   community is probably large enough to

10   be able to elect the candidates of

11   choice in two communities, but it was

12   not drawn that way. They were packed

13   into a single community, so they could

14   only elect one candidate of choice.

15   Now, these examples are examples

16   that we have seen over and over again.

17   We end up in court a lot of times with

18   exactly this kind of situation.

19   Okay. In 1982, the Voting

20   Rights Act of 1965 was amended. And

21   it was amended to make it clear that

22   the intent of the line drawers didn't

23   matter, what only mattered was the

24   effect of the plan and whether it

25   diluted minority votes. Whether it

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2   was intentional or not.

3   In 1986, a Supreme Court case

4   called Thornburg v. Gingles actually

5   told us how to determine if a plan

6   diluted minority votes in a way that

7   violated section 2. And the Superior

8   Court put out what's called the three

9   prong test.

10   First, the minority group must

11   be sufficiently large and

12   geographically compact to form a

13   majority in a single-member district.

14   Second, the minority group must be

15   politically cohesive. Third, whites

16   must vote as a bloc to usually defeat

17   minority-preferred candidates.

18   So, in terms of the first prong,

19   what that has meant over time in court

20   cases that followed Thornburg, we now

21   know that by sufficiently large, we

22   mean the group must be able to make

23   up, if you're talking about black

24   votes, 50 percent of the black voting

25   age population. You can create

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2   another -- a district or another

3   district that had at least 50 percent

4   black voting age population. With

5   Hispanics, we think it's citizen

6   voting age population. The 5th

7   Circuit has not decreed that, but, for

8   example, the 9th Circuit and the 5th

9   Circuit have both said, it's not

10   voting age population, it's citizen

11   voting age population.

12   Geographically compact, well,

13   you don't have to draw a district that

14   strings across the state, but we don't

15   really have a definition of

16   geographically compact, other than the

17   old inner ocular case, let's look at

18   it and make sure that it doesn't look

19   funny.

20   By minority group being

21   politically cohesive, meaning the

22   minority group, if given a district,

23   would actually support the same

24   candidate, it wouldn't make sense to

25   create a district in which the

1

2   minority group wasn't cohesive and

3   wouldn't support a single candidate.

4   So it means that they are voting for

5   the same candidate.

6   And finally, in terms of white

7   bloc voting, what we mean is, they

8   don't have to bloc vote for a single

9   nother (sic) candidate, they just have

10   to not support the minority-preferred

11   candidate in such a way that the

12   minority-preferred candidate is always

13   losing.

14   So how do we know these things?

15   What we do is a racial bloc voting

16   analysis. A racial bloc voting

17   analysis is a way to estimate the

18   voting patterns of white voters and

19   minority voters to determine if the

20   minority voters are politically

21   cohesive and determine if whites are

22   bloc voting against this.

23   So this is what I did here in

24   New York. This is what I did ten

25   years ago. This is what I do in

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2   hundreds of jurisdictions across the

3   country. I do a racial bloc voting

4   analysis, and estimate how white

5   voters and minority voters are voting.

6   What's required is two pieces of

7   information. Again, we don't know

8   from the ballot, the race of the

9   voter. So we need to do some

10   analyses, and do it at an advocate

11   level. We look at election precincts

12   or, what are called election districts

13   here in New York. And we're going to

14   look at patterns across election

15   districts.

16   We need to know the racial

17   composition of these election

18   districts, and we need to know the

19   voting patterns of these election

20   districts. And we're gong to look for

21   patterns across these election

22   districts or precincts.

23   The easiest way to do this would

24   be something called homogenous

25   precinct analysis. And this is, we

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2   would look at precincts that we know,

3   for example, all of the voters are

4   black voters or all of the voters are

5   Hispanic voters or all of the voters

6   are white voters or all of the voters

7   are Asian voters, and we would compare

8   who they're supporting in any

9   particular election and see if there's

10   differences.

11   And I always do this kind of

12   analysis, but first of all, most

13   precincts aren't homogeneous. And

14   second of all, voters who live in

15   these overwhelmingly one-race

16   precincts might vote differently than

17   voters who live in more integrated

18   precincts.

19   So here are the two statistical

20   techniques that are used. Now, these

21   have been used since the 1980s and

22   1990s. Ecological regression analysis

23   was developed, actually, in the 1970s.

24   And it was used by the expert in the

25   Thornburg v Gingles in 1982. So it's

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2   been around for a long time.

3   And ecological inference was

4   developed in the 1990s and has gone

5   through various iterations. And both

6   of these are well accepted by the

7   courts. Any voting rights case will

8   include this kind of statistical

9   analysis. Ecological simply means

10   that we're not doing -- looking at,

11   like, individual surveys, we're

12   looking at an area. In this case, a

13   precinct.

14   Okay. So these are the two

15   kinds of analysis that I did, and I'm

16   going to explain them.

17   The first one, the one that's

18   been around the longest, is ecological

19   regression. Now, this is a county in

20   Georgia. And this is the election in

21   2021, the runoff, that included

22   Raphael Warnock.

23   Now, in Georgia, we actually

24   know turnout by race. Here, in New

25   York City, we do not. So, here in New

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2   York City, that horizontal access

3   would not be "proportion black

4   turnout." It would be "proportion

5   black of the voting age population."

6   But Georgia, we can get a lot closer

7   to the data because they actually

8   collect registration data. When you

9   go register to vote, you indicate your

10   race, and then we can go back and look

11   at the voter list to see the

12   proportion of blacks that -- the black

13   voters that turned out in any given

14   election.

15   Each of these points on this

16   diagram are election precincts. So,

17   for example, this point would be an

18   election precinct in which about 25

19   percent of the turnout was -- or about

20   30 percent of the turnout was black

21   voters and about 40 percent of the

22   vote went for Warnock.

23   So, you can see a clear pattern

24   here, I presume. You can see that, as

25   the proportion of black turnout

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2   increases, the proportion of votes for

3   Warnock increases dramatically. And

4   we're going to use that pattern to

5   estimate how many whites voted for

6   Warnock and how many black voters

7   voted for Warnock.

8   Okay. So, this was the standard

9   up until Gary King, a professor at

10   Harvard, developed a new methodology

11   called ecological inference. The main

12   reason that he did that was, there is

13   a problem with ecological regression,

14   in that, if voting is very polarized,

15   as in this particular example, you can

16   get estimates of, say, negative five

17   percent of whites voting for Warnock

18   and a hundred and five percent of

19   blacks voting for Warnock. So this,

20   obviously didn't happen, and we would

21   tend to round them down and say a

22   hundred percent and zero percent. But

23   Gary King came up with a new method

24   that avoided that problem altogether,

25   and that's called ecological

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2   inference. And this is a lot more

3   complicated.

4   This is called a tomographic

5   plot. Here, instead of every point

6   being a precinct, these lines are

7   precincts. And it's showing you every

8   possible, conceivable relationship

9   given the number of black voters and

10   the votes for Warnock that could have

11   occurred and produced that particular

12   result in that particular in the

13   particular -- in that particular

14   precinct.

15   So, all of these lines are

16   precincts, or election districts as

17   you call them here. And then we do a

18   fancy thing calling maximum likelihood

19   statistics to come up with the

20   strongest grouping of where the

21   estimates are likely to be. And you

22   can see along this line (indicating),

23   this is where the heaviest

24   concentration of this tomographic plot

25   occurred we can estimate that Warnock

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2   go between 80 and hundred percent of

3   black votes using this process.

4   So when I do this analysis,

5   typically what I do is, I report the

6   results of both methodologies because

7   they both approach the question

8   slightly differently. And I also

9   actually use homogenesis precinct as

10   well because these are three different

11   methods and presumably, they're going

12   to come up with estimates very close

13   together.

14   Now, if they don't come up with

15   estimates very close together, we

16   think that we don't really know who

17   voted and we -- who voted for who, and

18   we say it's inconclusive. But when

19   you come up with estimates like this,

20   you can see that the estimate for this

21   county is, using ecological

22   regression, 94.9, using ecological

23   inference, 94.4 percent of black

24   voters supporting Warnock. While, in

25   terms of white voters, you can see

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2   that 23.5 percent and 25.5 percent.

3   So our estimate doesn't matter exactly

4   the percentage, we can just clearly

5   see from this that black voters are

6   strongly supportive of Warnock and

7   white voters are strongly in support

8   of his white opponent, I forgot

9   Loeffler's first name, but his white

10   opponent. So this contest is racially

11   polarized. In this instance, black

12   voters and white voters supported

13   different candidates.

14   Now, this happens to be a county

15   in which Warnock won. In fact, you

16   remember Warnock won the state.

17   So we also have to pay attention

18   to, not only the voting patterns, but

19   is the black preferred candidate

20   winning or losing.

21   This is what I've been doing for

22   the last few months here in New York

23   City, looking at hundreds of contests

24   to determine -- here in Georgia, there

25   are two racial groups that you're

1

2   interested in. You're interested in

3   whites and blacks. It's more

4   complicated in New York because we

5   have all -- there are six protected

6   groups -- five protected groups under

7   the Voting Rights Act, and three of

8   them are here. You have Hispanics,

9   you have black voters and you have

10   Asian voters. We have to pay

11   attention to what all of those voters

12   are doing. So this is a very complex

13   statistical problem to figure out, not

14   only how each group is voting in each

15   of these elections, okay.

16   Okay. Back in 2013 -- or 2012,

17   I think in this analysis, I determined

18   that voting was polarized. That black

19   voters, Hispanic voters, Asian voters,

20   and white voters typically voted for

21   different candidates. It wasn't

22   necessarily true in the general

23   election, although, it is true, for

24   example, in Staten Island, and Queens,

25   and some areas of Brooklyn. But it's

1

2   almost always true in the Democratic

3   primary, that each of these groups

4   prefer different voters -- different

5   candidates.

6   What that means is, if you have

7   polarized voting, then you have to

8   make sure that you create districts

9   that give minority voters an

10   opportunity to elect their candidates

11   of choice. And if they already exist,

12   and you have quite a number of them

13   here in New York City, they should be

14   maintained so that they continue to

15   allow minority voters to elect their

16   candidates of choice.

17   Now, I look at each group

18   individually, but in some areas, and

19   in particular in general elections,

20   you will find, for example, that

21   blacks and Hispanics might vote

22   similar. But each group is considered

23   separately, and then, at the end of

24   the process, you might consider

25   whether you're going to draw what's

1

2   called a coalition district or not.

3   But, typically, you have to show that,

4   let's say, a coalition district is

5   going to be a black and Hispanic

6   district. You have to show -- for it

7   to be required by the Voting Rights

8   Act, you have to show that black

9   voters and Hispanic voters typically

10   support the same candidates.

11   Okay. So in 2013, as I said,

12   voting was polarized and you did have

13   to create, or maintain, minority

14   districts. This was done. The plan

15   was submitted to the Department of

16   Justice. And it was precleared, and

17   you did not get sued. And you want to

18   do the same thing this time around, I

19   assume.

20   How do we tell if a district is

21   going to provide minority voters with

22   an opportunity to elect? The first

23   thing you can't do is say, "Okay. I'm

24   just going to create all these fifty

25   percent bloc voting age population

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2 districts" because sometimes you

3 don't -- well, first of all, it

4 violates the Constitution. In a case

5 in 2015, that was called racial

6 gerrymandering. You have to look at

7 each district individually, and you

8 have to look -- you have to do a

9 district-specific functional analysis

10 and actually look at voting patterns

11 in that district to determine if the

12 candidates choice of minority voter

13 should be elected. So, you're not

14 going to work with an arbitrary

15 demographic target like fifty percent

16 black voting age population.

17 And this is a good thing

18 because, it turns out, for example,

19 in -- in the state of Ohio, turns out

20 that if you're in northern Ohio, if

21 you're up near Cleveland, you don't

22 need a 50-percent district, you could

23 have a 45-percent district because you

24 have enough white voters who are

25 willing to vote for black candidates,

1

2   that candidate will get elected. But

3   if you're in Southern Ohio, down near

4   Cincinnati, it turns out that you

5   would need a 50-percent.

6   And sometimes, like in a case I

7   worked on in Arkansas, 50 percent is

8   not enough if black turnout is

9   depressed and virtually no whites will

10   vote for a black candidate, sometimes

11   you need 55 percent.

12   So, we want to take into account

13   things like turnout -- the relative

14   rates of turnout. And we want to look

15   at how much white crossover voting we

16   might expect, or how much voting of

17   any of the groups we might expect for

18   the candidates of choice.

19   So, what I've done through this

20   racial bloc voting analysis is, I have

21   identified what are called bellwether

22   elections. And these bellwether

23   elections will help us to determine if

24   the proposed districts will actually

25   elect minority-preferred candidate. A

1

2   bellwether election is a racially

3   polarized election in which white

4   voters preferred a different candidate

5   than if we were looking at creating

6   black BAP districts and black voters

7   supported. And we're going to take

8   this previous election and we're going

9   to see what would happen in that

10   previous election -- in that previous

11   polarized election under the new

12   proposed district boundaries. We want

13   to see if the candidate preferred by

14   black voters or Hispanic voters

15   actually carries that district, and we

16   want to see that across a series of

17   elections. And if the black voters

18   are successful in electing their black

19   preferred candidate over time and over

20   these series of elections, we can

21   assume that we have a district that

22   will provide black voters with an

23   opportunity to elect their candidates

24   of choice.

25   And again, this doesn't

1

2   necessarily mean that it's a black

3   voting age population district of 50

4   percent, it might be less, it might be

5   more.

6   Now, if you want to bring a

7   section to suit, if a plaintiff group

8   wants to sue, they have to show that

9   they could draw an additional -- I'm

10   going to use black voters as the

11   example here, but a district that has

12   at least a black voting age population

13   of 50 percent. But you don't have to

14   draw districts that are 50 percent.

15   You just have to draw districts that

16   are opportunity districts.

17   So with black voters,

18   sometimes -- in fact, quite often, it

19   doesn't have to be 50 percent. On the

20   other hand, with Hispanic voters, it

21   turns out, it quite often needs to be

22   more than 50 percent.

23   So, that's what we're going to

24   be doing here. That's what we've been

25   doing. What I've been doing is doing

1

2   the racial bloc voting analysis.

3   Determining if voting is polarized.

4   And then, taking these bellwether

5   elections, looking at whether the

6   candidates of choice of each of these

7   groups are winning the proposed

8   district.

9   That is all I have. And I would

10   look to answer your questions, if you

11   have any.

12   CHAIR WALCOTT: Thank you,

13   Doctor, much appreciated.

14   With that being said, if we can

15   put it up to our Commission for

16   questioning. And also, Doctor, if you

17   can -- there you go, we can see you.

18   Commissioners, the floor is

19   yours.

20   Judge.

21   MS. GO: What was your role in

22   helping review the maps that were

23   created and released in July?

24   DR. HANDLEY: What I did was --

25   at this point the racial bloc voting

1

2   analysis hadn't been completed. But

3   using the information that I had, I

4   used some bellwether elections to

5   determine if we had effective minority

6   districts or not.

7   CHAIR WALCOTT: Judge, do you

8   want to follow-up?

9   MS. GO: Now that you have

10   completed your analysis, would your

11   review be different at this point?

12   DR. HANDLEY: It would be more

13   detailed.

14   MS. GO: And is there a report

15   that you made?

16   DR. HANDLEY: I will be writing

17   a report, yes.

18   MS. GO: Okay.

19   CHAIR WALCOTT: Yeah, the

20   process will be, Judge and the

21   Commissioners and the audience, that

22   we will be receiving a report, and so

23   we'll let folks know when the report

24   is complete. But that will be the

25   next step in the process as well.

1

2   Other Commissioners?

3   MS. JOHNSON: Hi there. I

4   wonder if you can answer this

5   question, though. How many years back

6   did you look when looking at

7   bellwether elections?

8   DR. HANDLEY: To 2017. So, we

9   have 2017 and 2021, when we're talking

10   about citywide and borough-wide

11   contests. I also looked at a couple

12   of contests that occurred in 2019 and

13   2022. But the furthest back I went

14   was 2017.

15   CHAIR WALCOTT: Commissioner

16   Johnson, follow-up?

17   MS. JOHNSON: Not right now.

18   Thank you.

19   CHAIR WALCOTT: Alright. Also,

20   just for the individual who is

21   transcribing, with any commissioner,

22   can you identify yourself, so that way

23   she can record it efficiently.

24   So prior to that was Judge Go.

25   And this is Commissioner Johnson.

38

1

2   Other commissioners?

3   MR. UDDIN: Yes, Mr. Chair, I

4   have raised my hand.

5   CHAIR WALCOTT: Jump on in, sir.

6   MR. UDDIN: Okay. Good morning.

7   This is Maf Uddin.

8   Dr. Lisa Handley, thank you very

9   much. It's a very good presentation.

10   And I think we have learned more than

11   what we knew until we had the district

12   analysis before.

13   So, now, in your explanation on

14   tomographic plot, based on the Georgia

15   election, Warnock, you know,

16   re-election, I understand that. I

17   don't know how important for us to

18   know what black people votes majority

19   or not for their own candidate.

20   The important part that I think

21   you mentioned, or that I understood it

22   right is this, you said that the black

23   voting district are voting for black

24   candidate, we must try to maintain

25   that district. In our situation that

1

2   we have experienced, that in order to

3   accommodate additional census-related

4   population within that district, it

5   will be difficult to maintain such.

6   Is it that we must, or it is

7   also allowable that in some places,

8   you may have to increase non-black

9   population in this case, or bring down

10   within that district, black population

11   to accommodate other districts'

12   numbers? Those things are allowable,

13   or those things are not allowable as

14   far as your explanation was concerned?

15   DR. HANDLEY: You are not

16   required to draw a district if it's

17   impossible to draw the district. If

18   the district would have to be

19   extremely strange in shape, for

20   example, or if you were losing

21   population. For example, in Alaska,

22   where they're losing Alaskan Native

23   population in general, but it's moving

24   into Anchorage and it's hard to draw

25   districts. If you can't draw a

1

2   district, you can't maintain the same

3   number of districts, then, of course,

4   you don't have to. You can't. The

5   law does not require you to drew

6   strange non-contiguous districts in

7   order to do that.

8   If population is shifting in

9   such a way that you're losing

10   population and you cannot maintain a,

11   say, an Asian district in South

12   Manhattan because you're gaining white

13   population and losing Asian

14   population, then you just can't do it.

15   I mean, it is -- the law isn't going

16   to require you to do something it's

17   not possible to do. At least not

18   possible without creating strange, you

19   know, noncontiguous districts. It's

20   just not going to be required.

21   On the other hand, New York City

22   has been -- has lost a little white

23   population, lost a little black

24   population, and the Asian population

25   has grown enormously. And I should

1

2   probably leave this up to the lawyers,

3   but you -- I feel that you are going

4   to be obliged to draw at least one, if

5   not two, Asian districts to recognize

6   this demographic shift in the increase

7   in the Asian population.

8   MR. UDDIN: So, I think that the

9   way I now got the clearance from your

10   answer, so, so far the way we are, you

11   know, plotting, or doing this, we are

12   almost following all the rules and

13   regulations that you mentioned.

14   And of course I agree with you

15   and we always -- all did that more

16   than half 629,000 are Asian

17   population. If there would have been

18   new district creation, there would

19   have been at least two Asian districts

20   so -- and I think that is why in our

21   draft, we are have one Brooklyn,

22   district was almost 57 percent of

23   Asian district was there, which was

24   not there before.

25   So the issue that was my concern

1

2   that I think we have heard some of the

3   complaints that the -- especially

4   where there is people has been

5   electing they own people, own

6   minority, ethnic-based people are now,

7   with this accommodation of the

8   increased population, has shifted

9   their district, either it has

10   increased or it has decreased.

11   So that is the concern, I think,

12   that we will be addressing the way you

13   just answered, that wherever possible,

14   we will do that, wherever not

15   possible, we must do the way you just

16   gave the answers.

17   Thank you very much.

18   CHAIR WALCOTT: Thank you,

19   Commissioner.

20   Other commissioners?

21   MR. SCHNALL: Dr. Handley, I

22   have a follow-up for you.

23   CHAIR WALCOTT: Michael Schnall.

24   MR. SCHNALL: Yes. Hi. Mike

25   Schnall, representing Staten Island.

1

2   So following Maf's questioning

3   about the South Brooklyn District.

4   There was a District 38, which had --

5   it had a plurality of Latino voters

6   but -- and slightly less percentage of

7   Asian voters. They voted for a Latino

8   elected official.

9   When you look at District 1 in

10   Manhattan, it has a plurality, or even

11   a majority of Asian voters and yet,

12   they elected a Latino elected official

13   in 2021. Prior to that, had elected

14   an Asian elected official.

15   How do you deal with a community

16   that is in inconsistent in the way in

17   which they vote? Meaning, you talked

18   about black communities overwhelmingly

19   voting for black candidates. But if a

20   community, like the Asian community,

21   sometimes votes for Asian candidates,

22   sometimes votes for white candidates,

23   sometimes votes for Latinos or others,

24   how does that square up with this

25   analysis?

1

2   DR. HANDLEY: Well, first I have

3   to correct you about District 38.

4   What you're describing is not correct.

5   District 38 was a plurality Hispanic

6   district when it was drawing, but it

7   is now plurality Asian district.

8   And the candidate who was

9   elected is supported by Hispanics, but

10   not by Asians.

11   MR. SCHNALL: I apologize.

12   Thank you for correcting me.

13   DR. HANDLEY: So, but it -- when

14   you're drawing a district, you want to

15   make sure that the group that you're

16   incorporating in the district is

17   cohesive. So, let's say you decide

18   that you wanted to draw a Hispanic

19   district, but you know in this

20   particular area, Hispanics are Puerto

21   Rican and they support a different set

22   of candidates, and another area where,

23   they're -- let's say they're Latinos

24   from Mexico and they support a

25   different -- you would want to try and

1

2   keep those districts as separate

3   districts, if you could.

4   I mean, it is true that groups

5   will vote differently. I mean, not

6   all the black voters across the state

7   will support all black candidates.

8   MR. SCHNALL: And generally, I

9   mean, I think the work of the

10   Commission reflects this, that the

11   vast majority of the districts that we

12   drew adhered to the -- or close to the

13   existing lines that were drawn back in

14   2012/2013.

15   Do you see other instances

16   across the country, in your

17   experience, where districts are drawn

18   from whole cloth to create a majority

19   of an ethnic group, or is the majority

20   of the work to tinker with the lines

21   to increase the plurality or the

22   majority?

23   DR. HANDLEY: There are examples

24   of both across the country, and

25   sometimes it's good and sometimes it's

1

2   bad.

3   Let's say, for example, you had

4   a plan in place that didn't recognize

5   the number of black voters in the

6   state, and you redrew that plan and it

7   still didn't recognize the black

8   voters and it wouldn't have been a

9   good idea to adhere to the old lines.

10   But in another example, let's say the

11   population shifted, I gave Alaska as

12   an example, they're maintaining -- it

13   didn't matter what you did, whether

14   you redrew it or whether you stayed to

15   the old lines as closely as possible,

16   just tinkering around the edges to

17   meet one person/one vote, you weren't

18   going to get another Alaskan Native

19   district.

20   So, you know, the circumstances

21   change, but you cannot use typing the

22   current districts as closely aligned

23   with the previous district as an

24   excuse not to meet the Voting Rights

25   Act. That's what you cannot do.

1

2   MR. SCHNALL: Right. However,

3   to your point, if a district like 38

4   has a plurality or even a majority of

5   Asian voters, it is not required of us

6   to get them over 50 percent, right?

7   We can -- the requirement is not 50

8   percent plus one. The requirement is

9   a demographic that allows them to vote

10   for the candidate that they'd like to

11   likely win, not guarantee that they

12   have over 50 percent and guarantee

13   that their candidate wins; am I right

14   on that?

15   DR. HANDLEY: You are right.

16   But the Asian voters are not electing

17   their candidate of choice in 38,

18   they're not. So that's not a good

19   example.

20   MR. SCHNALL: But you said in

21   New York, we don't have the type of

22   data that they provided in Georgia, so

23   we don't know, in fact, that Asian

24   voters are not voting. We can't know

25   if Asian voters are voting for Latino

1

2   candidates, black candidates, white

3   candidates, or Asian candidates. We

4   do know who wins, but we don't know

5   the make up of the voters who actually

6   voted, correct?

7   DR. HANDLEY: The whole point of

8   this was to tell you exactly what

9   you -- we do know. That's what I did.

10   I did an estimation, and I can tell

11   you that Asian voters did not support

12   the representative in District 38.

13   This analysis is done all the

14   time. In Georgia, you have turnout by

15   race, but in most jurisdictions, you

16   don't. You have what you have here

17   and that's voting age population.

18   So what I have done here is an

19   analysis of voting patterns. I can

20   tell you how Asians are voting and who

21   they're supporting. I can tell you

22   who blacks are -- black voters are

23   supporting, I can tell you who

24   Hispanic voters are supporting.

25   That's the whole purpose of the

1

2   analysis that I just did.

3   MR. SCHNALL: Okay. Great.

4   Thank you. I appreciate your time and

5   your expertise and looking forward to

6   your report.

7   CHAIR WALCOTT: Thank you for

8   the questions.

9   Other commissioners?

10   MS. SORIN: If I may, it's Lisa

11   Sorin. How are you?

12   CHAIR WALCOTT: Ms. Sorin,

13   Commissioner.

14   MS. SORIN: Please forgive me, I

15   am a little bit confused. So the

16   analysis will be released when?

17   I guess, backtracking my

18   question, how do we know that when we

19   drew the lines, based on so many

20   conversations maintaining the

21   percentages as we saw based on the

22   census, that we followed the law based

23   on your analysis? Does it mean we go

24   back to the drawing board if your

25   analysis doesn't match the work that

1

2   we all did because we may not have

3   followed the law based on the

4   analysis?

5   I guess I'm a bit confused as

6   to, if we were doing it based on the

7   census demographics, communities of

8   interest, and keeping within the

9   percentages, which took many hours, if

10   your analysis contradicts what we have

11   done, do we then go back to the

12   drawing board and start from scratch

13   and re-educate our residents about

14   what we may have done wrong?

15   It's a loaded question, I know.

16   DR. HANDLEY: I see no need to

17   go back to the drawing board and start

18   all over again. I think there is room

19   for improvement. But I also think

20   that you're not only going to get

21   input from me, but you're going to get

22   input from the community, and so

23   you're going to, most likely, change

24   some of the plan anyway. But I don't

25   see a whole lot of, let's start all

1

2   over from scratch, kind of effort in

3   this.

4   MS. SORIN: Okay. I guess, the

5   reason I say is because I have heard

6   the rumblings of some elected or

7   residents who say we may not have

8   followed the regulations as they're

9   supposed to be. You know, whether

10   it's frustration, or personal

11   frustration or legality, but they use

12   the word legal, right, or the

13   transparency and used the fact of the

14   chaos that happened at the State.

15   So I guess my personal concern,

16   and I can imagine -- I don't want to

17   speak for my colleagues, my other

18   Commissioners, but I guess it would

19   concern me that if we didn't know a

20   piece that we may not have been

21   following legally, right, based on the

22   analysis, that it would concern me

23   that we didn't have all the

24   information prior to drawing the

25   lines.

1

2   And I may be wrong. This is

3   really coming from an area of not

4   totally understanding why we're

5   listening to -- and please forgive me,

6   it's not meant for -- listening to

7   something so drastically important

8   after the first draft has been

9   released. And, you know, maybe there

10   is not an answer, but I -- you know,

11   I'm really trying to understand the

12   process for the best interest of the

13   residents.

14   We're being asked to participate

15   in these community meetings, and I

16   just want to make sure that the

17   information we have, as commissioner

18   and as residents, really falls within

19   the guideline of everything we have

20   committed to our residents, that we

21   are crossing our Ts and dotting our

22   Is.

23   MONSIGNOR SULLIVAN: May I ask a

24   clarifying question? Because I

25   thought in the review sections, we

1

2   were told by the map drawers that they

3   were presenting the lines to Dr.

4   Handley for her input, that we were in

5   compliance, not saying definitive baa,

6   baa, baa, but that they did comply.

7   At least that's what I heard being

8   said by the guys drawing the lines.

9   Did I mishear that?

10   DR. HANDLEY: You did not. I

11   did a preliminary review of the

12   boundaries. I did it for three plans.

13   And it is my belief that you selected

14   the best of the three plans. But I

15   think that there is room for

16   improvement, not just in terms of

17   Voting Rights Act compliance but you

18   probably want to include it in other

19   ways as well.

20   MS. SORIN: Thank you for that

21   clarifying question, and thank you so

22   much, Dr. Handley.

23   CHAIR WALCOTT: If I may just

24   interject for a second because I think

25   the clarifying question and

1

2   Commissioner Sourin's question were

3   outstanding questions.

4   I think we had a solid

5   foundation based on both the input

6   from Dr. Handley, as well as from our

7   legal team as well.

8   I think, as we have stated a

9   number of times both internally, as

10   well as externally, as it being a

11   preliminary draft plan, it allows us

12   to adjust accordingly. But I think

13   the foundation was there that put us

14   in, both the legal compliance, but

15   also in the compliance of what the

16   doctor just articulated in her

17   presentation.

18   But obviously, there's always

19   room for improvement, and there will

20   be room for improvement, and as a

21   result, I think, of the feedback from

22   the public, which includes our elected

23   officials, we will factor those

24   decisions in because people really do

25   have -- which is the whole point of

1

2   the process, great feedback as far as,

3   well, you didn't include this or you

4   need to include that. But I think,

5   based on what Dr. Handley just said,

6   that foundation had been applied to a

7   variety of scenarios, and as a result

8   of that, that was what the vote was

9   based on.

10   So, that's my interpretation of

11   the step-by-step process that we

12   undertook and the next phase of what

13   we'll be doing starting next week.

14   Other commissioners?

15   MR. COLLADO: Hi, this is

16   Commissioner Collado. Thank you, Dr.

17   Handley for your presentation. I just

18   have a quick clarifying question for

19   your analysis.

20   I know that it's primarily --

21   it's a racial analysis, but are there

22   any other factors that are considered

23   when you determine that, for instance,

24   the Asian community is not electing

25   their candidate of choice in the

1

2   certain district?

3   DR. HANDLEY: No. It's a

4   statistical analysis that only looks

5   at voting patterns based on race or

6   ethnicity. So, for example, the

7   quality of the candidates or the

8   amount of money the candidates spend

9   are not considered in the analysis.

10   MR. COLLADO: Understood.

11   What about, are there any other

12   factors intrinsic to the voting

13   population, maybe age or income, that

14   may be considered, or no?

15   DR. HANDLEY: Not in this

16   analysis, no. It literally is just

17   the demographic composition of the

18   precincts and the voting patterns.

19   MR. COLLADO: Understood. Thank

20   you.

21   MONSIGNOR SULLIVAN: A follow-up

22   question to that, from one of the

23   things you said, Dr. Handley, the

24   analysis is based upon those, what,

25   five categories according to the

1

2   Voting Rights Act of groups; am I

3   correct on that?

4   DR. HANDLEY: The Voting Rights

5   Act recognizes certain protected

6   groups --

7   MONSIGNOR SULLIVAN: Right.

8   DR. HANDLEY: And those voters

9   are black voters, Hispanic voters,

10   Asian voters, Alaska Native, and

11   American Indian. Those are the groups

12   that are protected.

13   MONSIGNOR SULLIVAN: Right.

14   You -- let me use an example far away,

15   and you mentioned it a little bit, but

16   there isn't any ability -- or there

17   isn't any requirement and there --

18   whether or not there is an ability to

19   do the analysis for subgroups within

20   those groups. So, for example, you

21   mentioned Mexicans voting one way, et

22   cetera. According to the Voting

23   Rights Act, and what the analysis --

24   I'm going to use a completely

25   non-professional term, it doesn't make

1

2   any difference. Because there's not a

3   sub-protection under that. And let me

4   give you an example far away from

5   home. It doesn't matter whether you

6   are Puerto Rican or Cuban in Florida,

7   it's all considered Hispanic?

8   DR. HANDLEY: There was a court

9   case in Florida in which this became

10   an issue because the factors that --

11   what the State of Florida wanted to do

12   is draw an extra Hispanic district in

13   Dade County for Hispanics who lived in

14   Tampa. But, in fact, they're not

15   cohesive. Hispanics was lived in

16   Tampa were Puerto Rican or old Mexican

17   and they were Democrats, and Hispanics

18   who lived in Florida -- in south

19   Florida were Republican, and they

20   weren't cohesive. So it made no sense

21   to draw the extra district down in

22   Dade County for Hispanics up in Tampa

23   where you couldn't draw a district.

24   They weren't geographically

25   concentrated.

1

2   So it is -- you do sometimes

3   take that into account, into whether

4   the group is cohesive or not. And

5   there, there is a big difference

6   between those groups, and it comes out

7   that they just simply aren't

8   politically cohesive, so you wouldn't

9   be drawing a district in Dade County

10   for Hispanics who voted very

11   differently up in Tampa.

12   CHAIR WALCOTT: Monsignor,

13   follow-up?

14   MONSIGNOR SULLIVAN: So, let me

15   be a little precise, in that -- but is

16   that -- but in terms of the protected

17   categories, there's no distinction?

18   DR. HANDLEY: That's correct.

19   MONSIGNOR SULLIVAN: That's all

20   I wanted to know.

21   DR. HANDLEY: Well, let me --

22   that is true in terms of the federal

23   Voting Rights Act. I am not sure what

24   the John Lewis Voting Rights Act --

25   MONSIGNOR SULLIVAN: Okay.

1

2   DR. HANDLEY: -- has to say

3   about this issue.

4   MONSIGNOR SULLIVAN: Okay.

5   Good. Thank you.

6   CHAIR WALCOTT: Thank you.

7   Commissioners, further

8   questions?

9   MS. JOHNSON: Hi. This is

10   Commissioner Johnson. Just a quick

11   follow-up to that.

12   Is it that -- Dr. Handley, is it

13   that the lack of political

14   cohesiveness that you talked about in

15   those two different Hispanic

16   communities in Florida, that would be

17   reflected, though, in the racial bloc

18   voting analysis, right?

19   DR. HANDLEY: That is correct

20   because it was area-specific. I mean,

21   if I had done it statewide, it

22   wouldn't show, but it's area --

23   This is how, for example, you

24   could tell if, say, Mexican Hispanics

25   were located in one district, they

1

2   were geographically concentrated in

3   one district and you had a

4   different -- and you had Cuban

5   Hispanics in another, you could tell

6   the voting patterns were different

7   because they were geographically

8   separate, but that's the only way you

9   could tell.

10   MS. JOHNSON: Thank you.

11   CHAIR WALCOTT: Other

12   commissioners?

13   Judge, please, Judge Go.

14   MS. GO: This is Marilyn Go.

15   You had mentioned that there are

16   six protected groups under the state

17   law.

18   And does your analysis cover the

19   other three non-minority groups?

20   DR. HANDLEY: You don't have

21   enough Native Americans, and you don't

22   have enough Alaskan Natives, so those

23   two groups, I didn't analyze. You

24   couldn't do an analysis and, you

25   couldn't draw a district for those two

1

2   groups, for American Indians or

3   Alaskan Natives.

4   MS. GO: And related to that is

5   the question of defining the critical

6   mass for having a community of

7   interest, what would be the numbers

8   that you would put to that?

9   DR. HANDLEY: Community of

10   interest is a totally different

11   concept; although, of course, many of

12   these communities that we're looking

13   at their voting habits are communities

14   of interest. But, you know, you can

15   have a community of interest that's

16   quite small and not large enough to be

17   a district but might want to be intact

18   within a district.

19   So there is a relationship

20   between communities of interest and

21   the work that I do, in that some of

22   these are all communities of interest,

23   but communities of interest is a much

24   broader term that also would cover

25   groups that aren't covered by the

63

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1
2          Voting Rights Act.
3               CHAIR WALCOTT:  Judge,
4    follow-up?
5               DR. HANDLEY:  You don't have to
6    have a certain number in order to
7    create a district for them.  In fact,
8    you don't have to create a district
9    for them, you might just keep them
10   intact as opposed to, you wouldn't
11   want to divide them.
12              MS. GO:  Okay.  And from your
13   research, I mean, is it fair to say
14   that communities of interest tend to
15   be geographically clustered?  I'm just
16   trying to get a handle on what we need
17   to be looking at in mapping?
18              DR. HANDLEY:  So communities of
19   interest aren't necessarily
20   geographically concentrated, but if
21   you're mapping, those are the only
22   communities of interest that you can
23   take into account because you're
24   drawing maps.  So if it's, you know,
25   dispersed across the city in a way
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1

2   that you couldn't draw a district, you

3   know, there's nothing that you can do

4   about them in terms of creating a

5   district.

6   MS. GO: And for us, and this is

7   just from pure ignorance and

8   technological awkwardness in dealing

9   with the software, how do you locate

10   these communities of interest on -- I

11   mean, where is the data for this, if

12   there is any?

13   DR. HANDLEY: That is not

14   something that I can tell from these

15   voting -- from the analysis that I do,

16   other than saying, for example, you

17   know, black voters here are definitely

18   a politically cohesive community of

19   interest.

20   But if you want communities of

21   interest beyond that, mostly this

22   comes from the public hearings.

23   Although, there are demographers and

24   geographers out there that might be

25   putting together communities of

1

2   interest maps that are looking at

3   something beyond with a broader

4   definition, broader strokes that I'm

5   looking at it. But often, it just

6   comes from the community itself. And

7   the community will come into a hearing

8   and say, "We're a community of

9   interest. Here is where we're

10   located. This is why we're a

11   community of interest." But I'm

12   afraid that my analysis won't really

13   help with that.

14   CHAIR WALCOTT: Can we take a

15   second, especially since I know we

16   have the public as a part of this

17   discussion as well, for definitions

18   itself?

19   So, when we talk about, say, for

20   example, opportunity districts or

21   community of interest, can you just

22   take us through a little bit of

23   overview of how that's defined?

24   And, also, one of my questions,

25   towards the end of year presentation,

1

2   I heard you mention a distinction

3   between black and Hispanic voters, and

4   I think some like to meet threshold

5   levels, are you talking about 50

6   percent or more than 50 percent?

7   Can you do a deeper dive into

8   that type of question? And also just

9   from your vantage point of what you

10   studied and what's part of your

11   purview, any type of definitions that

12   people may need to have, including,

13   say for example, me and maybe other

14   commissioners as well, in addition to

15   the public.

16   DR. HANDLEY: Okay. I'll start

17   with majority/minority districts. So

18   a majority district -- a

19   majority/minority district means

20   typically that you have a district

21   that's at least 50 percent black in

22   voting age population. Or, if you're

23   dealing with Hispanics, the courts,

24   for example, the 9th and the 5th

25   districts have said because the number

1

2   of non-citizens is higher for this

3   group, we're actually going to not

4   look at voting age population, we're

5   going to look at citizen voting age

6   population. So, typically, when you

7   say majority black district, you're

8   talking about a district that's at

9   least 50 percent black in voting age

10   population, or 50 percent Hispanic in

11   citizen voting age population. So

12   that's one.

13   Now, it might be different than

14   a minority opportunity district. A

15   minority opportunity district might be

16   more than that or it might be less

17   than that, and it will depend on the

18   voting patterns of not just the

19   minority group, but, say the other

20   groups within the district. So a

21   black opportunity district, you have

22   more than one here in New York City,

23   that is clearly not majority black and

24   voting age population, but is

25   consisting electing the black

1

2   preferred candidate. So that would be

3   a black opportunity district, that is

4   what the Voting Rights Act encourages

5   you the draw not -- but you have to

6   show that you -- if you're going to

7   challenge a plan, you have to show

8   that you can draw a black voting age

9   population district. But the remedy

10   might not be a 50 percent black voting

11   age population district, it might

12   actually be a 45 percent. So, that's

13   the -- they're not necessarily the

14   same, you've got a majority district,

15   you've got an opportunity district.

16   And the other thing I'm going to

17   talk about is the coalition district.

18   And this is a district that -- well,

19   you have a coalition district, at

20   least one that I can think of and that

21   in Staten Island, where no minority

22   group is predominant. It's only when

23   you combine all three groups that you

24   get a 50 percent plus district, but it

25   consistently elects a candidate this

1

2   is supported by all three minority

3   groups, so it's a coalition district.

4   I never heard the term community

5   of interest district used, but

6   clearly, you want to take communities

7   of interest into account when you're

8   drawing districts, and it may be the

9   case that that community of interest

10   predominates in that group. So, I'm

11   thinking, for example, when we were

12   drawing districts in Michigan, there

13   was a big Arab American population

14   that's not protected by the Voting

15   Rights Act, but was large enough to

16   create a district and that became a

17   community of interest district drawn

18   for a group that was not protected by

19   the Voting Rights Act.

20   I think that covers you

21   questions.

22   CHAIR WALCOTT: Thank you.

23   Further questions from the

24   commissioners?

25   MR. UDDIN: Mr. Chair, I just

1

2   want to make a comment because I think

3   I am feeling good about Dr. Handley's

4   presentation.

5   It clearly indicates that

6   commissioners, whatever they draft

7   map, we have submitted, we have

8   followed U.S. Constitution, Voting

9   Rights Act of 1965, and later amended

10   New York State Law, and New York City

11   Charter very well. I think we got an

12   A. Now we'll be shooting for A plus.

13   Thank you very much.

14   CHAIR WALCOTT: Wow, you're a

15   tough grader, but I appreciate the A,

16   I think there would be some saying

17   that we didn't achieve the A level

18   yet.

19   But, I think, in all

20   seriousness, the goal is to have this

21   as a part of the process, to make sure

22   that we are more educated as far as

23   the details of what Dr. Handley

24   provided us in her presentation, but

25   also to share with the community, as

1

2   suggested by commissioners, that we

3   have that opportunity to do that.

4   And with that being said, we

5   still have a lot of work to do.

6   And I will take us, as a group,

7   back to, I think, the opening of the

8   doctor, when she, I'm paraphrasing,

9   basically said she doesn't envy our

10   task moving forward in that, there are

11   a lot of variables that we have to

12   deal with, and as I've said publicly,

13   we're dealing with the city of Memphis

14   being relocated into New York City

15   within the same 51 council districts.

16   And I think that's what the challenge

17   is as we take the next step, which

18   will take place starting next week

19   with the hearings that will be, first

20   in Queens and also listening to both

21   the public and the commissioners in

22   moving the meetings to later in the

23   afternoon/evening hours, as well as

24   one on Sunday. So we encourage people

25   to spread the word.

1

2   I don't want to monopolize, but

3   again, to the commissioners or to

4   staff, are there any other questions

5   for the doctor?

6   MS. JOHNSON: Hi. Commissioner

7   Johnson here.

8   CHAIR WALCOTT: Yeah, go ahead.

9   MS. JOHNSON: Dr. Handley,

10 correct me if I'm wrong, but for the

11 last time, was it 2013 -- 2012/2013,

12 you did this for New York City you --

13 the Commission was working with a

14 10 percent deviation, and so now we're

15 working with 5 percent.

16   How does that impact your

17 particular analysis, if at all? I'm

18 curious.

19   DR. HANDLEY: That's a very good

20 question.

21   It does not impact the way that

22 I do my analysis. But what would be a

23 curious question would be, what if you

24 could draw a minority district, if you

25 were allowed a 10 percent deviation,

1

2   but State law requires you to have

3   only a five percent deviation? And

4   I'm going to leave it up to lawyers to

5   answer that question.

6   But that's the only way I could

7   see it impacting what I do is, does it

8   make it harder to draw minority

9   districts.

10   MS. JOHNSON: Thank you.

11   MR. SCHNALL: Mike Schnall here

12   again. Just a quick follow-up, Dr.

13   Handley.

14   When you provide your analysis

15   to the Commission, do you do it as an

16   analysis of the drafted lines that we

17   presented in juxtaposition to the

18   existing lines from the previous

19   district, or are you just looking at

20   what we redrew in totality?

21   DR. HANDLEY: That is a little

22   complicated, and the reason why it's

23   complicated is the racial bloc voting

24   analysis I've done is off of previous

25   elections, so that's off of the

1

2   districts that are in place now. And

3   then when I look at proposals, I'm

4   looking to take those voting patterns

5   and apply them to a new situation.

6   And so in a way, I'm doing both.

7   MR. SCHNALL: Right. Thank you.

8   CHAIR WALCOTT: Please, go

9   ahead.

10   MS. GO: Marilyn Go again.

11   I'm just curious, you did make

12   the comment you thought the set of

13   maps that the Commission voted to move

14   forward was the best but two questions

15   related to that.

16   One, is, you know, because of

17   the way it's drawn and the state

18   5 percent deviation, it does affect

19   the size of the council districts

20   outside of Staten Island, and would

21   that affect your analysis?

22   Secondly, you know, would you be

23   prepared, I mean, we're going to be

24   having another session with you to

25   talk about any suggestions you have

1

2   for improvements to the map because,

3   as you know, there has been a lot of

4   feedback from certain sectors about

5   the map, so there has to be

6   consideration of their views, too?

7   Anyway, I'll let you answer

8   first before I follow up.

9   DR. HANDLEY: So, at this point

10   my review of the preliminary plan was

11   based on what I knew about the current

12   plan and preliminary plan and two

13   other alternatives. One thing I'm

14   here in New York today to do is to

15   explore other possibilities because,

16   at this point I've only reacted to

17   maps that have been drawn, and I'm

18   curious about what's possible that

19   hasn't been presented in a map. So I

20   am going to look at that today.

21   I think -- I'm afraid I don't --

22   I don't know if I've answered your

23   entire question or not.

24   MS. GO: And you know, by

25   focusing, by having three districts

1

2   wholly contained in Staten Island and

3   having the 5 percent deviation under

4   State law, would your analysis of the

5   Voting Rights Act -- would your Voting

6   Rights Act analysis and

7   appropriateness districts drawn change

8   if we were -- if the other boroughs

9   weren't subject to the very minimum

10   variation that they're currently

11   subject to under the present maps

12   presented.

13   DR. HANDLEY: I think that's an

14   excellent question.

15   What I can tell you at this

16   point is that keeping Staten Island

17   intact certainly did not hurt

18   coalition district that's within

19   Staten Island. What I don't know is,

20   if you crossed to one of the boroughs

21   and therefore were able to decrease --

22   increase the amount of deviation in

23   other five boroughs -- the other four

24   boroughs, that would help you draw

25   minority districts or not. I don't

1

2   know the answer to that, but that is

3   something that needs to be explored

4   because if, in fact, it meant that

5   these very rigid deviations in the

6   other four boroughs meant you couldn't

7   draw a minority district, that would

8   be a problem. I don't know the answer

9   to that. It may not be a problem. It

10   maybe, you know, keeping Staten Island

11   intact might be a problem for a

12   different reason, but it might not be

13   for the Voting Rights Act, and I don't

14   know the answer to that.

15   I do know it isn't a problem for

16   coalition district on Staten Island,

17   but I don't know what the implications

18   are for the possibilities of, say an

19   Asian district in Queens or keeping a

20   Hispanic district in Brooklyn. I

21   don't know.

22   MS. GO: I guess my concern is

23   because all of the other districts are

24   larger than the districts of Staten

25   Island, and in particular, the black

1

2   districts in Brooklyn. We are talking

3   about percentages that are just barely

4   over 50 percent. You know, I would --

5   I'm just curious, and we could -- you

6   know, you may not be prepared to

7   answer this, but I just want to make

8   sure that having the proper deviations

9   will protect the minority communities

10   in the other boroughs because there is

11   no question that Staten Island

12   district 49 has a coalition voting

13   bloc, but that coalition will still

14   hold if the Staten Island -- that

15   district were larger and there was a

16   crossover, and I think, just based on

17   my look at where the population is

18   located in Staten Island.

19   Anyway, it's half question and

20   half preaching and hoping we'll get

21   more answers from you.

22   DR. HANDLEY: I think that's an

23   excellent question, and I think it is

24   something that needs to be explored.

25   CHAIR WALCOTT: Thank you,

1

2   Judge.

3   As we wrap up, any final

4   questions to Dr. Handley?

5   John, would you like to give any

6   type of closing remarks before we

7   close out this session?

8   DR. FLATEAU: I would just say

9   that this is going to be an ongoing

10   dialogue with our experts on the

11   quantitative side, social science

12   side, and as well, legal experts that

13   are working with us, along with the

14   commissioners, and our input from New

15   Yorkers to help solve these puzzles

16   and bring us a new set of council

17   districts for new New Yorkers.

18   CHAIR WALCOTT: Thank you, John.

19   Commissioners, let me thank you.

20   And since this is a formal meeting, if

21   there aren't any further questions,

22   can I have a motion to adjourn.

23   MS. SORIN: Motion. Lisa.

24   CHAIR WALCOTT: Thank you, Lisa.

25   MR. PORCHER: Motion, second.

1

2   Darrin Porcher.

3   CHAIR WALCOTT: Thank you, Dr.

4   Porcher.

5   All those in favor to adjourn?

6   (Chorus of ayes.)

7   CHAIR WALCOTT: Any opposition?

8   (No response.)

9   Thank you for an excellent

10   session. Doctor, thank you also for

11   an excellent presentation and we look

12   forward to future discussions.

13   All the best.

14   Thank you all.

15   (Time Noted: 11:24 a.m.)

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1

2                    C E R T I F I C A T E

3    STATE OF NEW YORK   )
                         ) ss:
4    COUNTY OF SUFFOLK   )

5

6                    I, STEPHANIE O'KEEFFE, a Reporter

7    and Notary Public within and for the State of New

8    York, do hereby certify that the within is a true

9    and accurate transcript of the proceedings taken on

10   August 11, 2022.

11                   I further certify that I am not

12   related to any of the parties to this action by

13   blood or marriage, and that I am in no way

14   interested in the outcome of this matter.

15                   IN WITNESS WHEREOF, I have hereunto

16   set my hand this 11th day of August, 2022.

17

18                   _____
                         Stephanie O'Keeffe

19

20

21

22

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25
```

11th 81:16

15th 7:20

1970s 21:23

1980s 21:21

1990s 21:22 22:4

45percent 31:23

50percent 31:22
32:5

5th 18:6,8 66:24

9th 18:8 66:24

ability 57:16,18

able 16:4,5,10
17:22 76:21 (5)

ably 9:5

about 10:20 11:2
14:7 17:23
23:18,19,21 37:10
43:3,18 44:3
50:13 56:11
60:3,14 64:4
65:19 66:5 67:8
68:17 70:3 74:25
75:4,11,18 78:3
(26)

academic 9:21

accept 6:10

accepted 22:6

access 23:2

accommodate
39:3,11

accommodation
42:7

according 56:25
57:22

accordingly
54:12

account 32:12
59:3 63:23 69:7
(4)

accurate 81:9

achieve 70:17

across 15:8,18
18:14 20:2,14,21
33:16 45:6,16,24
63:25 (11)

act 11:5,11,18,22
12:12,17,21,22
14:5 15:5 16:20
28:7 30:8 46:25
53:17 57:2,5,23
59:23,24 63:2
68:4 69:15,19
70:9 76:5,6 77:13
(28)

action 81:12

actually 12:2
13:17,25 17:4
18:23 21:23 22:23
23:7 26:9 31:10
32:24 33:15 48:5
67:3 68:12 (15)

addition 7:5
66:14

additional 34:9
39:3

addressing 42:12

adhere 46:9

adhered 45:12

adjourn 79:22
80:5

adjust 54:12

advised 9:14

advising 9:15

advocate 20:10

affect 74:18,21

afraid 65:12
75:21

after 52:8

71:23

again 6:22 8:21
12:15 16:16 20:7
33:25 50:18 72:3
73:12 74:10 (10)

against 14:14
19:22

age 17:25
18:4,6,10,11 23:5
30:25 31:16
34:3,12 48:17
56:13 66:22
67:4,5,9,11,24
68:8,11 (20)

ago 13:9,11,21
19:25 (4)

agree 41:14

ahead 72:8 74:9

alaska 39:21
46:11 57:10

alaskan 39:22
46:18 61:22 62:3
(4)

aligned 46:22

allow 29:15

allowable
39:7,12,13

allowed 72:25

allows 47:9 54:11

allvirtual 3:7

almost 29:2
41:12,22

along 9:18 25:22
79:13

already 29:11

alright 37:19

also 6:21 7:11
8:7,24 11:23
12:18 26:8 27:17
35:16 37:11,19
39:7 50:19 54:15
62:24 65:24 66:8
70:25 71:20 80:10
(20)

alternatives
75:13

although 28:23
62:11 64:23

altogether 24:24

always 19:12
21:11 29:2 41:15
54:18 (5)

am 10 10:3 47:13
49:15 57:2 59:23
70:3 75:20 80:15
81:11,13 (11)

amended
16:20,21 70:9

american 57:11
62:2 69:13

americans 61:21

amount 56:8
76:22

analyses 8:12
20:10

analysis 8:10,22
9:11 10:7
19:16,17 20:4,25
21:12,22 22:9,15
26:4 28:17 31:9
32:20 35:2
36:2,10 38:12
43:25 48:13,19
49:2,16,23,25
50:4,10 51:22
55:19,21
56:4,9,16,24
57:19,23 60:18
61:18,24 64:15
65:12 72:17,22
73:14,16,24 74:21
76:4,6 (51)

analyze 61:23

analyzing 9:8

anchorage 39:24

another 18:2,2
44:22 46:10,18
61:5 74:24 (7)

answer 35:10
37:4 41:10 52:10
73:5 75:7
77:2,8,14 78:7
(10)

answered 42:13
75:22

answers 42:16
78:21

anyway 50:24
75:7 78:19

apologize 44:11

appearances 2:2

application 10:8

applied 55:6

apply 74:5

appreciate 49:4
70:15

appreciated
35:13

approach 26:7

appropriateness
76:7

approved 7:20

arab 69:13

arbitrary 31:14

are 3:6 5:19 6:21
8:16 11:11,12
12:13 14:25 15:3
16:15 19:4,20,21
20:5,12
21:3,4,6,7,19,20
22:6,14 23:16
25:6,15,21 26:10
27:5,7,25
28:5,8,12 31:24
32:21 33:18
34:14,16 35:7
38:23 39:12,13,15
41:3,10,11,16,21
42:6 44:20
45:17,23
47:15,16,24,25
48:20,22,22,24
49:11 52:21
55:21,22 56:9,11
57:9,11,12 58:6
61:15 62:13,22
63:21 64:17,23
65:2 66:5 70:22
71:10 72:4 73:19
74:2 77:18,23
78:2,3 79:13 (89)

area 22:12
44:20,22 52:3
60:22 (5)

areas 28:25
29:18

areaspecific
60:20

aren't 21:13 59:7
62:25 63:19 79:21
(5)

arkansas 32:7

around 22:2,18
30:18 46:16 (4)

articulated 54:16

asian 21:7
28:10,19
40:11,13,24
41:5,7,16,19,23
43:7,11,14,20,21
44:7 47:5,16,23,25
48:3,11 55:24
57:10 77:19 (26)

asians 44:10
48:20

ask 3:3 52:23

asked 52:14

asking 6:23

asks 6:11

assist 8:3

assisted 9:5

assists 8:7

assume 30:19
33:21

attention 11:24
12:14,25 27:17
28:11 (5)

audience 36:21

august 7 81:10,16

avoided 24:24

away 57:14 58:4

awkwardness
64:8

aye 6:6

ayes 6:7 80:6

baa 53:5,6,6

back 23:10 28:16
37:5,13 45:13
49:24 50:11,17
71:7 (9)

background 7:14

backtracking
49:17

bad 46:2

balance 11:9

balancing 11:11

ballot 20:8

bap 33:6

barely 78:3

based 38:14
49:19,21,22 50:3,6
51:21 54:5 55:5,9
56:5,24 75:11
78:16 (14)

basically 71:9

became 58:9
69:16

because 6:20 7:2
10:15 13:16 23:7
26:6,10 28:4
31:2,18,23 40:12
50:2 51:5 52:24
53:24 54:24
58:2,10 60:20
61:7 63:23 66:25
70:2 74:16

75:2,15 77:4,23
78:10 (30)

before 3:3
13:19,24 38:12
41:24 75:8 79:6
(7)

beforehand 5:19

behind 11:15
14:10

being 3:16 7:15
18:20 25:6 35:14
52:14 53:7 54:10
71:4,14 (10)

belief 53:13

bellwether
32:21,22 33:2
35:4 36:4 37:7 (6)

below 11:19
15:23

best 52:12 53:14
74:14 80:13 (4)

between 26:2
59:6 62:20 66:3
(4)

beyond 64:21
65:3

big 59:5 69:13

bit 10:20,21
49:15 50:5 57:15
65:22 (6)

black 17:23,24
18:4 21:4
23:3,5,12,20,25
24:6 25:9 26:3,23
27:5,11,19 28:9,18
30:5,8 31:16,25
32:8,10
33:6,6,14,17,18,22
34:2,10,12,17
38:18,22,23 39:10

40:23 43:18,19
45:6,7 46:5,7
48:2,22 57:9
64:17 66:3,21
67:7,9,21,23,25
68:3,8,10 77:25
(60)

blacks 23:12
24:19 28:3 29:21
48:22 (5)

bloc 10 8:9,10
10:7 17:16
19:7,8,15,16,22
20:3 30:25 32:20
35:2,25 60:17
73:23 78:13 (18)

blood 81:13

board 49:24
50:12,17

boroughs 13:16
76:8,20,23,24 77:6
78:10 (7)

boroughwide
37:10

both 3:9 18:9
22:5 26:6,7 45:24
54:5,9,14 71:20
74:6 (11)

boundaries 33:12
53:12

bring 34:6 39:9
79:16

broader 62:24
65:3,4

brooklyn 28:25
41:21 43:3 77:20
78:2 (5)

c 81:2,2

call 3:3,17,19,22
5:16 25:17 (6)

called 17:4,8 20:12,24 24:11,25 25:4 30:2 31:5 32:21 (10)

calling 25:18

came 24:23

can 5:21 7:12 10:11,25 14:6,6,11 17:25 23:6,10,23,24 24:15 25:22,25 26:20,25 27:4 33:20 35:14,17,17 37:4,22,23 47:7 48:10,19,21,23 51:16 62:14 63:22 64:3,14 65:14,21 66:7 68:8,20 76:15 79:22 (42)

can't 12:9 30:23 39:25 40:2,4,14 47:24 (7)

candidate 15:21 16:6,14 18:24 19:3,5,9,11,12 27:19 32:2,10,25 33:4,13,19 38:19,24 44:8 47:10,13,17 55:25 68:2,25 (25)

candidates 12:8 14:24,25 16:10 17:17 27:13 28:21 29:5,10,16 30:10 31:12,25 32:18 33:23 35:6 43:19,21,22 44:22 45:7 48:2,2,3,3 56:7,8 (27)

cannot 12:17 15:20 40:10 46:21,25 (5)

carries 33:15

case 17:3 18:17

22:7,12 31:4 32:6 39:9 58:9 69:9 (9)

cases 17:20

categories 56:25 59:17

census 7:25 49:22 50:7

censusrelated 39:3

certain 56:2 57:5 63:6 75:4 (4)

certainly 76:17

certify 81:8,11

cetera 57:22

chair 2:5 3:2,13,24 5:17,24 6:3,12,17 7:17 35:12 36:7,19 37:15,19 38:3,5 42:18,23 49:7,12 53:23 59:12 60:6 61:11 63:3 65:14 69:22,25 70:14 72:8 74:8 78:25 79:18,24 80:3,7 (37)

challenge 68:7 71:16

challenging 10:18

change 46:21 50:23 76:7

chaos 51:14

charter 7:25 11:20 70:11

choice 15:21 16:6,11,14 29:11,16 31:12

32:18 33:24 35:6 47:17 55:25 (12)

chorus 6:7 80:6

chose 13:22

cincinnati 32:4

circuit 18:7,8,9

circumstances 46:20

citizen 18:5,10 67:5,11 (4)

city 4 7:25 8:8,16 9:4,18 10:9 11:20 13:16 22:25 23:2 27:23 29:13 40:21 63:25 67:22 70:10 71:13,14 72:12 (20)

city's 9:3

citywide 37:10

clarifying 6:13 52:24 53:21,25 55:18 (5)

clarity 6:11

clear 16:21 23:23

clearance 41:9

clearly 27:4 67:23 69:6 70:5 (4)

cleveland 31:21

close 26:12,15 45:12 79:7 (4)

closely 46:15,22

closer 23:6

closing 79:6

cloth 45:18

clustered 63:15

coalition 30:2,4 68:17,19 69:3 76:18 77:16 78:12,13 (9)

cohesive 17:15 18:21 19:2,21 44:17 58:15,20 59:4,8 64:18 (10)

cohesiveness 60:14

collado 2:6 4:2,3 55:15,16 56:10,19 (7)

colleagues 51:17

collect 23:8

color 15:13

combine 68:23

come 25:19 26:12,14,19 65:7 (5)

comes 59:6 64:22 65:6

coming 52:3

comment 70:2 74:12

commission 5 3:15 7:18,19,22 8:4,20 9:15,16,25 10:5 35:15 45:10 72:13 73:15 74:13 (16)

commission's 8:7 9:12

commissioner 2: 6,7,8,9,10,11,12,1

3,14,15,16 37:15,21,25 42:19 49:13 52:17 54:2 55:16 60:10 72:6 (21)

commissioner's 8:25

commissioners 3:9 7:6,9 35:18 36:21 37:2 38:2 42:20 49:9 51:18 55:14 60:7 61:12 66:14 69:24 70:6 71:2,21 72:3 79:14,19 (21)

commissions 9:23

committed 52:20

communities 16:11 43:18 50:7 60:16 62:12,13,20,22,23 63:14,18,22 64:10,20,25 69:6 78:9 (17)

community 12:10 15:8,12,15,17,25 16:9,13 43:15,20,20 50:22 52:15 55:24 62:6,9,15 64:18 65:6,7,8,11,21 69:4,9,17 70:25 (27)

compact 17:12 18:12,16

compare 21:7

complaints 42:3

complete 36:24

completed 36:2,10

completely 57:24

complex 28:12

compliance 8:17
53:5,17 54:14,15
(5)

complicated 25:3
28:4 73:22,23 (4)

complied 13:13

complies 11:5

comply 11:14
12:5 14:4 53:6 (4)

complying 12:16

composition
20:17 56:17

conceivable 25:8

concentrated
15:8,14 58:25
61:2 63:20 (5)

concentration
25:24

concept 62:11

concern 41:25
42:11 51:15,19,22
77:22 (6)

concerned 39:14

conduct 3:21
10:5

confused 49:15
50:5

consider 29:24

consideration
75:6

considered 29:22
55:22 56:9,14

58:7 (5)

consistently
68:25

consisting 67:25

constitution
11:17 31:4 70:8

constructed 8:17

contained 76:2

contest 27:10

contests 27:23
37:11,12

continue 29:14

contradicts 50:10

convening 3:6

conversations
49:20

corner 15:11

correct 44:3,4
48:6 57:3 59:18
60:19 72:10 (7)

correcting 44:12

corrections 5:20

could 13:19,25
16:13 25:10 31:22
34:9 45:3 60:24
61:5,9 72:24 73:6
78:5 (13)

couldn't 12:4
58:23 61:24,25
64:2 77:6 (6)

council 8:8,16
9:4 10:9 71:15
74:19 79:16 (7)

counsel 9:13,19

country 20:3
45:16,24

county 22:19
26:21 27:14
58:13,22 59:9
81:4 (7)

couple 37:11

course 14:3 40:3
41:14 62:11 (4)

court 18 6:13
11:13 13:8 16:17
17:3,8,19 58:8 (9)

courts 22:7 66:23

cover 61:18
62:24

covered 13:17
62:25

covers 69:20

covid19 3:5

cracks 15:6,12

create 12:6 17:25
18:25 29:8
30:13,24 45:18
63:7,8 69:16 (10)

created 16:2
35:23

creating 33:5
40:18 64:4

creation 41:18

criteria 11:8,25
12:13

critical 62:5

crossed 76:20

crossing 52:21

crossover 32:15
78:16

cuban 58:6 61:4

curious 72:18,23
74:11 75:18 78:5
(5)

current 9:4 46:22
75:11

currently 76:10

dade 58:13,22
59:9

darrin 2:14 5:13
6:15 80:2 (4)

data 8:2 9:6
23:7,8 47:22
64:11 (6)

day 81:16

deal 43:15 71:12

dealing 64:8
66:23 71:13

decide 44:17

decisions 54:24

declared 14:14

decrease 76:21

decreased 42:10

decreed 18:7

deeper 66:7

defeat 17:16

defeated 15:3

defined 65:23

defining 62:5

definitely 64:17

definition 18:15
65:4

definitions 65:17
66:11

definitive 53:5

democratic 29:2

democrats 58:17

demographers
64:23

demographic
31:15 41:6 47:9
56:17 (4)

demographics
50:7

denial 13:5

dennis 2:5
3:12,23

department 9:19
13:15,18,24 30:15
(5)

depend 67:17

depressed 32:9

deputy 2:4 3:17

describing 44:4

detailed 36:13

details 70:23

determine 11:3
17:5 19:19,21
27:24 31:11 32:23
36:5 55:23 (9)

determined
28:17

determining 35:3

developed 21:23
22:4 24:10

deviation
72:14,25 73:3
74:18 76:3,22 (6)

deviations 77:5
78:8

diagnostics 8:12

diagram 23:16

dialogue 79:10

didn't 16:22
24:20 46:4,7,13
51:19,23 55:3
61:23 70:17 (10)

difference 58:2
59:5

differences 21:10

different 26:10
27:13 28:21
29:4,4 33:4 36:11
44:21,25 60:15
61:4,6 62:10
67:13 77:12 (15)

differently 14:17
21:16 26:8 45:5
59:11 (5)

difficult 39:5

dilute 12:17

diluted 16:25
17:6

dilution 13:5

director 2:3,4
3:18 7:2 9:25 (5)

discriminate
14:12

discriminating
14:13

discussion 65:17

discussions 80:12

dispersed 63:25

displayed 10:23

distinction 59:17
66:2

district
15:11,20,25 16:3,5
17:13
18:2,3,13,22,25
30:2,4,6,20
31:7,11,22,23
33:12,15,21
34:3,11 35:8
38:11,23,25
39:4,10,16,17,18
40:2,11
41:18,22,23 42:9
43:3,4,9 44:3,5,6,7
,14,16,19 46:19,23
47:3 48:12 56:2
58:12,21,23 59:9
60:25 61:3,25
62:17,18 63:7,8
64:2,5 66:18,19,20
67:7,8,14,15,20,21
68:3,9,11,14,15,17
,18,19,24
69:3,5,16,17 72:24
73:19 76:18
77:7,16,19,20
78:12,15 (98)

districting 5
7:18,19 8:20,25
(5)

districts 8:14,16
9:4 12:4,6,7
15:9,18,22 16:8
20:12,15,18,20,22
25:16 29:8 30:14
31:2 32:24 33:6
34:14,15,16 36:6
39:25 40:3,6,19

41:5,19
45:2,3,11,17 46:22
65:20 66:17,25
69:8,12 71:15
73:9 74:2,19
75:25 76:7,25
77:23,24 78:2
79:17 (52)

districts' 39:11

districtspecific
31:9

dive 66:7

divide 63:11

doctor 35:13,16
54:16 71:8 72:5
80:10 (6)

doctors 6:4

document 10:22

does 12:24 40:5
43:24 49:23 61:18
72:16,21 73:7
74:18 (9)

doesn't 14:18
18:18 27:3 33:25
34:19 49:25 57:25
58:5 71:9 (9)

doing 12:11
22:10 27:21 28:12
34:24,25,25,25
41:11 50:6 55:13
74:6 (12)

done 30:14 32:19
48:13,18 50:11,14
60:21 73:24 (8)

dotting 52:21

down 24:21 32:3
39:9 58:21 (4)

dr 2:3,19
7:2,11,15,17 8:23

9:7
10:4,10,11,13,14
35:24 36:12,16
37:8 38:8 39:15
42:21 44:2,13
45:23 47:15 48:7
50:16 53:3,10,22
54:6 55:5,16
56:3,15,23 57:4,8
58:8 59:18,21
60:2,12,19 61:20
62:9 63:5,18
64:13 66:16
70:3,23 72:9,19
73:12,21 75:9
76:13 78:22
79:4,8 80:3 (61)

draft 8:15 41:21
52:8 54:11 70:6
(5)

drafted 73:16

dramatically
24:3

drastically 52:7

draw 11:4 12:4
18:13 29:25
34:9,14,15
39:16,17,24,25
41:4 44:18
58:12,21,23 61:25
64:2 68:5,8 72:24
73:8 76:24 77:7
(24)

drawers 14:10
16:22 53:2

drawing 44:6,14
49:24 50:12,17
51:24 53:8 59:9
63:24 69:8,12 (11)

drawn 15:16
16:12 45:13,17
69:17 74:17 75:17
76:7 (8)

drew 13:21 40:5

45:12 49:19 (4)

e 81:2,2

each 23:15
28:14,14
29:3,17,22 31:7
35:6 (8)

easiest 20:23

ecological 21:22
22:3,9,18
24:11,13,25
26:21,22 (9)

edges 46:16

educated 70:22

effect 14:9,13
16:24

effective 36:5

efficiently 37:23

effort 51:2

either 15:6 42:9

elect 12:7 15:21
16:5,10,14
29:10,15 30:22
32:25 33:23 (10)

elected 31:13
32:2
43:8,12,12,13,14
44:9 51:6 54:22
(10)

electing 33:18
42:5 47:16 55:24
67:25 (5)

election 20:11,12,
14,17,19,21 21:9
22:20 23:14,16,18
25:16 28:23
33:2,3,8,10,11
38:15 (19)

elections 9:10
28:15 29:19
32:22,23 33:17,20
35:5 36:4 37:7
73:25 (11)

elects 68:25

emergency 3:5

enact 13:25

encourage 71:24

encourages 68:4

end 5:15 7:7
16:17 29:23 65:25
(5)

enormously
40:25

enough 16:9
31:24 32:8
61:21,22 62:16
69:15 (7)

ensure 8:15

entertain 5:21

entire 75:23

envy 71:9

equal 11:10
12:3,5

especially 42:3
65:15

estimate 19:17
20:4 24:5 25:25
26:20 27:3 (6)

estimates 24:16
25:21 26:12,15,19
(5)

estimation 48:10

et 57:21

ethnic 14:22
45:19

ethnicbased 42:6

ethnicity 56:6

even 43:10 47:4

every 25:5,7

everyone 3:21

everything 52:19

exactly 16:18
27:3 48:8

example 12:3,10
15:11,23,24 16:2
18:8 21:3 23:17
24:15 28:24 29:20
31:18 34:11
39:20,21
46:3,10,12 47:19
56:6 57:14,20
58:4 60:23 64:16
65:20 66:13,24
69:11 (30)

examples
16:15,15 45:23

excellent 76:14
78:23 80:9,11 (4)

excited 7:4

excuse 46:24

executive 2:3,4
3:5,17 6:25 9:24
(6)

exist 29:11

existing 45:13
73:18

expect 32:16,17

experience 45:17

experienced 39:2

expert 8:22,25
9:14 21:24 (4)

expertise 49:5

experts 79:10,12

explain 22:16

explanation
38:13 39:14

explore 75:15

explored 77:3
78:24

externally 54:10

extra 58:12,21

extremely 39:19

f 81:2

fact 11:20 27:15
34:18 47:23 51:13
58:14 63:7 77:4
(8)

factor 54:23

factors 55:22
56:12 58:10

fair 63:13

falls 52:18

fancy 25:18

fantastic 3:10

far 39:14 41:10
55:2 57:14 58:4
70:22 (6)

fast 6:19,20

favor 6:5 80:5

federal 7:24 9:16
11:13,18,21 12:16
59:22 (7)

feedback 54:21
55:2 75:4

feel 41:3

feeling 70:3

few 27:22

field 9:22

fifteen 3:14

fifty 30:24 31:15

figure 28:13

final 79:3

finally 19:6

find 29:20

first 17:10,18
21:12 22:17 27:9
30:22 31:3 44:2
52:8 71:19 75:8
(11)

five 8:2 9:8 15:18
24:16,18 28:6
56:25 73:3 76:23
(9)

flateau 2:3
7:2,11,16,17 10:13
79:8 (7)

floor 7:16 35:18

florida
58:6,9,11,18,19
60:16 (6)

focusing 75:25

folks 36:23

follow 75:8

followed 17:20
49:22 50:3 51:8
70:8 (5)

following 41:12
43:2 51:21

followup 36:8
37:16 42:22 56:21
59:13 60:11 63:4
73:12 (8)

forgive 49:14
52:5

forgot 27:8

form 17:12

formal 79:20

fortunate 8:21

forward 49:5
71:10 74:14 80:12
(4)

foundation
54:5,13 55:6

foundations 5:20

four 76:23 77:6

framed 7:24

front 10:19

frustration
51:10,11

functional 31:9

funny 18:19

further 60:7
69:23 79:21 81:11
(4)

furthest 37:13

future 80:12

gaining 40:12

gary 24:9,23

gave 42:16 46:11

general 9:19
28:22 29:19 39:23
(4)

generally 45:8

geographers
64:24

geographically
15:7,14 17:12
18:12,16 58:24
61:2,7 63:15,20
(10)

georgia 22:20,23
23:6 27:24 38:14
47:22 48:14 (7)

gerrymandering
31:6

get 11:13 23:6
24:16 30:17 32:2
46:18 47:6
50:20,21 63:16
68:24 78:20 (12)

gingles 17:4
21:25

give 3:18 13:24
29:9 58:4 79:5 (5)

given 18:22
23:13 25:9

go 2:7 4:5,6
6:19,19 14:2
23:9,10 26:2
35:17,21
36:9,14,18 37:24
49:23 50:11,17
61:13,14,14 62:4
63:12 64:6 72:8
74:8,10,10 75:24
77:22 (30)

goal 70:20

going 3:21 11:12
12:2,2,9,25 20:13
22:16 24:4 26:11
29:25 30:5,21,24
31:14 33:7,8
34:10,23 40:15,20
41:3 46:18
50:20,21,23 57:24
67:3,5 68:6,16
73:4 74:23 75:20
79:9 (35)

gone 22:4

gong 20:20

good 3:20 10:11
31:17 38:6,9
45:25 46:9 47:18
60:5 70:3 72:19
(11)

got 41:9 68:14,15
70:11 (4)

governor's 3:4

grace 9:20

grader 70:15

great 6:25 9:25
49:3 55:2 (4)

gregory 5:8

group
17:10,14,22
18:20,22 19:2
28:14 29:17,22
34:7 44:15 45:19
59:4 67:3,19
68:22 69:10,18
71:6 (19)

grouping 25:20

groups 14:22
27:25 28:6,6 29:3
32:17 35:7 45:4
57:2,6,11,20 59:6

61:16,19,23
62:2,25 67:20
68:23 69:3 (21)

grown 40:25

guarantee
47:11,12

guess 49:17 50:5
51:4,15,18 77:22
(6)

guidance 7:23
9:3

guideline 52:19

guys 53:8

habits 62:13

hadn't 36:2

half 41:16
78:19,20

hand 34:20 38:4
40:21 81:16 (4)

handle 63:16

handley 2:19
8:23 9:7
10:4,10,11,14
35:24 36:12,16
37:8 38:8 39:15
42:21 44:2,13
45:23 47:15 48:7
50:16 53:4,10,22
54:6 55:5,17
56:3,15,23 57:4,8
58:8 59:18,21
60:2,12,19 61:20
62:9 63:5,18
64:13 66:16 70:23
72:9,19 73:13,21
75:9 76:13 78:22
79:4 (52)

handley's 70:3

hanratty 2:8

4:7,8

happen 24:20
33:9

happened 15:15
51:14

happens 27:14

hard 39:24

harder 73:8

harvard 24:10

has 14:13 17:19
18:7 22:4 34:11
40:22,22,25
42:4,8,9,10 43:10
47:4 52:8 60:2
75:3,5 78:12 (19)

hasn't 75:19

having 6:21 62:6
74:24 75:25 76:3
78:8 (6)

he 9:15 24:12

hear 10:12

heard 42:2 51:5
53:7 66:2 69:4 (5)

hearing 65:7

hearings 8:3
64:22 71:19

heaviest 25:23

held 11 13:8

help 32:23 65:13
76:24 79:15 (4)

helping 35:22

her 53:4 54:16
70:24

here 12:13 19:23
20:13 21:19
22:24,25 23:24
25:5,17 27:22,24
28:8 29:13
34:11,24 48:16,18
64:17 65:9 67:22
72:7 73:11 75:14
(23)

hereby 81:8

hereunto 81:15

hi 37:3 42:24
55:15 60:9 72:6
(5)

higher 67:2

his 27:8,9

hispanic 21:5
28:19 30:5,9
33:14 34:20
44:5,18 48:24
57:9 58:7,12
60:15 66:3 67:10
77:20 (16)

hispanics 18:5
28:8 29:21
44:9,20
58:13,15,17,22
59:10 60:24 61:5
66:23 (13)

hold 78:14

home 58:5

homogeneous
21:13

homogenesis
26:9

homogenous
20:24

hon 2:7

honor 3:13

honorable 4:4

honored 9:24

hoping 78:20

horizontal 23:2

hours 50:9 71:23

how 11:2 17:5
19:14 20:4 24:5,6
28:14 30:20
32:15,16 37:5
38:17 43:15,24
48:20 49:11,18
60:23 64:9 65:23
72:16 (21)

however 47:2

hundred 16:3
24:18,22 26:2 (4)

hundreds 20:2
27:23

hurt 76:17

i'd 3:16

i'll 66:16 75:7

i'm 3:21 4:24
9:24 10:16 22:15
30:23 34:9 50:5
52:11 57:24 63:15
65:4,11 68:16
69:10 71:8
72:10,17 73:4
74:3,6,11
75:13,17,21 78:5
(26)

i've 27:21 32:19
34:25 71:12 73:24
75:16,22 (7)

idea 46:9

identified 32:21

identify 37:22

ignorance 64:7

illegal 14:15

imagine 51:16

impact 16:7
72:16,21

impacting 73:7

implications
77:17

important
8:6,8,18 10:2
11:12 12:15 14:7
38:17,20 52:7 (10)

importantly 3:14

impossible 39:17

improvement
50:19 53:16
54:19,20 (4)

improvements
75:2

include 22:8
53:18 55:3,4 (4)

included 22:21

includes 54:22

including 7:23
13:4 66:12

income 56:13

inconclusive
26:18

inconsistent
43:16

incorporated
12:19

incorporating
44:16

increase 39:8
41:6 45:21 76:22
(4)

increased
42:8,10

increases 24:2,3

indian 57:11

indians 62:2

indicate 23:9

indicates 70:5

indicating 25:22

individual 22:11
37:20

individually
29:18 31:7

inference 22:3
24:11 25:2 26:23
(4)

information 10:6
20:7 36:3 51:24
52:17 (5)

inner 18:17

input 50:21,22
53:4 54:5 79:14
(5)

inputs 7:23 8:3

instance 27:11
55:23

instances 45:15

instead 25:5

intact 12:11
62:17 63:10 76:17
77:11 (5)

integrated 21:17

intend 14:12

intent 14:9 16:22

intentional 17:2

interest 12:11
50:8 52:12 62:7,1
0,14,15,20,22,23
63:14,19,22
64:10,19,21
65:2,9,11,21
69:5,7,9,17 (24)

interested 28:2,2
81:14

interject 53:24

internally 54:9

interpretation
55:10

into 12:19 13:20
14:11 15:25 16:13
32:12 39:24
59:3,3 63:23 65:7
66:7 69:7 71:14
(14)

intrinsic 56:12

involved 13:10

is 3:11,12 5:15,25
6:4,9,14
7:3,11,12,16
8:9,20 9:7,15
11:2,10,16,21
12:2,15,18,24
14:8,16 15:5,11,13
,15,17,23 16:9 19:
7,12,15,17,23,24,2
5 20:6,25
22:18,19,20
24:12,14 25:2,4,23
26:5,21
27:10,19,21
28:12,14,23
29:6,22 30:4,20,23
31:17 32:7,8,20
33:2 34:25

35:3,9,18 36:14,24
37:20,25 38:7,22
39:6,6 40:8,15
41:20 42:4,11
43:16 44:4,7,9,16
45:4,19 47:5,7,8
48:13,18 50:18
51:5 52:2,10,22
53:13,15 54:25
55:15,24 56:16,24
57:18 58:12
59:2,4,5,15,22
60:9,12,12,19,23
61:14
62:4,10,19,23
63:13
64:6,11,12,13
65:9,10 67:2,23,24
68:3,17,18,22 69:2
70:20 71:17
73:7,21,23,24
74:16 75:14
76:16,19 77:2,22
78:10,17,23
79:9,20 81:8 (158)

island 28:24
42:25 68:21 74:20
76:2,16,19
77:10,16,25
78:11,14,18 (13)

isn't 40:15
57:16,17 77:15 (4)

issue 41:25 58:10
60:3

iterations 22:5

its 7:20 10:8

itself 65:6,18

jeff 9:12

john 2:3 7:2
12:20 59:24
79:5,18 (6)

johnson 2:12
5:6,7
37:3,16,17,25

60:9,10 61:10
72:6,7,9 73:10
(14)

joseph 2:4 3:18

joshua 4:11

judge 35:20
36:7,20 37:24
61:13,13 63:3
79:2 (8)

july 7:20 35:23

jump 38:5

jurisdictions
20:2 48:15

just 3:2,14 14:22
19:9 27:4 30:24
34:15 37:20
40:14,20 42:13,15
46:16 49:2 52:16
53:16,23 54:16
55:5,17 56:16
59:7 60:10
63:9,15 64:7
65:5,21 66:8
67:18 69:25
73:12,19 74:11
78:3,5,7,16 79:8
(39)

justice
13:15,18,23 30:16
(4)

juxtaposition
73:17

kaiki 4:18

keep 12:10 45:2
63:9

keeping 50:8
76:16 77:10,19 (4)

kevin 2:8,9
4:7,15 (4)

kind 16:18 21:11
22:8 51:2 (4)

kinds 22:15

king 24:9,23

kirschenbaum
5:9

knew 38:11
75:11

know 6:20 17:21
19:14 20:7,16,18
21:2 22:24 26:16
36:23 38:15,17,18
40:19 41:11 44:19
46:20 47:23,24
48:4,4,9 49:18
50:15 51:9,19
52:9,10 55:20
59:20 62:14 63:24
64:3,17 65:15
74:16,22
75:3,22,24 76:19 7
7:2,8,10,14,15,17,
21 78:4,6 (50)

known 8:9

kristen 2:12 5:6

lack 60:13

large 16:9
17:11,21 62:16
69:15 (5)

larger 77:24
78:15

last 27:22 72:11

later 70:9 71:22

latino 43:5,7,12
47:25 (4)

latinos 43:23
44:23

law 9:18 12:19

40:5,15 49:22
50:3 61:17 70:10
73:2 76:4 (10)

laws 7:25,25 9:18

lawyers 41:2
73:4

learned 38:10

least 14:5 18:3
34:12 40:17
41:4,19 53:7
66:21 67:9 68:20
(10)

leave 41:2 73:4

legal 7:23 51:12
54:7,14 79:12 (5)

legality 51:11

legally 51:21

less 34:4 43:6
67:16

let 6:20 36:23
57:14 58:3
59:14,21 75:7
79:19 (8)

let's 18:17 30:4
44:17,23 46:3,10
50:25 (7)

level 20:11 70:17

levels 66:5

lewis 12:20 59:24

like 3:17 6:24
10:14 11:17,19
22:11 26:19 31:15
32:6,13 43:20
47:3,10 66:4 79:5
(15)

likelihood 25:18

likely 25:21
47:11 50:23

line 16:22 25:22

lines 15:16
25:6,15 45:13,20
46:9,15 49:19
51:25 53:3,8
73:16,18 (13)

lisa 2:15,19 4:13
8:23 10:4 38:8
49:10 79:23,24 (9)

list 11:15 23:11

listening 52:5,6
71:20

literally 56:16

little 10:20
40:22,23 49:15
57:15 59:15 65:22
73:21 (8)

live 21:14,17

lived 58:13,15,18

loaded 50:15

local 9:17

locate 64:9

located 60:25
65:10 78:18

loeffler's 27:9

long 13:9 22:2

longest 22:18

look 18:17,18
20:11,14,20 21:2
23:10 29:17
31:6,8,10 32:14
35:10 37:6 43:9
67:4,5 74:3 75:20
78:17 80:11 (21)

looked 37:11

looking 22:10,12
27:23 33:5 35:5
37:6 49:5 62:12
63:17 65:2,5
73:19 74:4 (13)

looks 14:8 56:4

lose 14:6

losing 19:13
27:20 39:20,22
40:9,13 (6)

lost 40:22,23

lot 11:7 16:17
23:6 25:2 50:25
71:5,11 75:3 (8)

lots 10:15

made 36:15
58:20

maf 2:10 4:20 5:2
6:14 38:7 (5)

maf's 43:2

main 24:11

maintain 30:13
38:24 39:5
40:2,10 (5)

maintained
29:14

maintaining
46:12 49:20

majority 17:13
38:18 43:11
45:11,18,19,22
47:4 66:18
67:7,23 68:14 (12)

66:17,19

make 13:12
15:19 16:21 17:22
18:18,24 29:8
44:15 48:5 52:16
57:25 70:2,21
73:8 74:11 78:7
(16)

maligno 2:4
3:18,20,25 4:4,7,9,
11,13,15,18,20,22,
25 5:6,8,11,13,15
(19)

manager 9:6

manhattan 40:12
43:10

many 24:5,6 37:5
49:19 50:9 62:11
(6)

map 53:2 70:7
75:2,5,19 (5)

mapping
63:17,21

maps 8:13,15
35:22 63:24 65:2
74:13 75:17 76:11
(8)

marc 2:13

maria 4:9

marie 2:16

marilyn 2:7 4:4
61:14 74:10 (4)

mark 5:11

marriage 81:13

mass 62:6

match 49:25

mateo 2:16 4:9

matter 16:23
27:3 46:13 58:5
81:14 (5)

mattered 16:23

maximum 25:18

may 14:16 39:8
49:10 50:2,14
51:7,20 52:2,23
53:23 56:14 66:12
69:8 77:9 78:6
(15)

maybe 52:9
56:13 66:13 77:10
(4)

me 10:12 44:12
49:14 50:21
51:19,22 52:5
57:14 58:3
59:14,21 66:13
72:10 79:19 (14)

mean 14:18
17:22 19:7 34:2
40:15 45:4,5,9
49:23 60:20 63:13
64:11 74:23 (13)

meaning 18:21
43:17

means 14:25 19:4
22:9 29:6 66:19
(5)

meant 11:16
17:19 52:6 77:4,6
(5)

meet 46:17,24
66:4

meeting 3 3:6,7
6:22 7:3,20 79:20
(7)

meetings 52:15

71:22

members 3:15

memphis 71:13

mention 66:2

mentioned 38:21
41:13 57:15,21
61:15 (5)

method 24:23

methodologies
26:6

methodology
8:11 24:10

methods 26:11

mexican 58:16
60:24

mexicans 57:21

mexico 44:24

michael 2:11
4:22 5:2 42:23 (4)

michigan 69:12

mics 7:12

might 21:16
29:21,24 32:16,17
34:4,4 62:17 63:9
64:24 67:13,15,16
68:10,11 77:11,12
(17)

mike 42:24 73:11

minimum 76:9

minority 12:6,18
13:6
15:2,2,8,12,14
16:8,25 17:6,10,14
18:20,22
19:2,19,20 20:5

29:9,15 30:13,21
31:12 36:5 42:6
67:14,15,19 68:21
69:2 72:24 73:8
76:25 77:7 78:9
(36)

**minoritypreferre
d** 12:8 17:17
19:10,12 32:25 (5)

minutes 5:19
6:10

misbah 2:10 4:20

mishear 53:9

money 56:8

monopolize 72:2

monsignor
4:15,17 52:23
56:21 57:7,13
59:12,14,19,25
60:4 (11)

months 27:22

more 3:14 9:9
11:11 12:23 15:19
21:17 25:2 28:3
34:5,22 36:12
38:10 41:15 66:6
67:16,22 70:22
78:21 (18)

morning 3:20
10:11 38:6

most 21:12 48:15
50:23

mostly 64:21

motion 5:22
6:2,16 79:22,23,25
(6)

move 74:13

moved 5:23,24

moving 39:23
71:10,22

ms 4:6 5:7 35:21
36:9,14,18 37:3,17
49:10,12,14 51:4
53:20 60:9
61:10,14 62:4
63:12 64:6 72:6,9
73:10 74:10 75:24
77:22 79:23 (26)

msgr 2:9

much 6:18
32:15,16 35:13
38:9 42:17 53:22
62:23 70:13 (9)

municipal 9:9

must
17:10,14,16,22
38:24 39:6 42:15
(7)

mute 7:12

my 3:12 10:15,25
38:4 41:25 49:17
51:15,17,17 53:13
55:10 65:12,24
72:22 75:10 77:22
78:17 81:16 (18)

name 3:12 27:9

national 8:21
9:14

native 39:22
46:18 57:10 61:21
(4)

natives 61:22
62:3

near 11:20 31:21
32:3

necessarily 28:22
34:2 63:19 68:13
(4)

need 20:9,16,18 31:22 32:5,11 50:16 55:4 63:16 66:12 (10)

needs 34:21 77:3 78:24

negative 24:16

never 15:19 69:4

new 4 8:16 9:3,18 10:8 11:19 12:19 13:10,16 19:24 20:13 22:24,25 24:10,23 27:22 28:4 29:13 33:11 40:21 41:18 47:21 67:22 70:10,10 71:14 72:12 74:5 75:14 79:14,16,17,17 81:3,7 (35)

next 36:25 55:12,13 71:17,18 (5)

no 4:10,12,14,19,21 5:10 16:7 32:9 50:16 56:3,14,16 58:20 59:17 68:21 78:11 80:8 81:13 (18)

noise 7:14

nonblack 39:8

noncitizens 67:2

noncontiguous 40:6,19

nonminority 61:19

nonprofessional 57:25

northern 31:20

notary 81:7

noted 80:15

nother 19:9

nothing 64:3

now 3:22 9:15 10:5 11:23 12:18,24 14:7 15:10,25 16:15 17:20 21:20 22:19,23 26:14 27:14 29:17 34:6 36:9 37:17 38:13 41:9 42:6 44:7 67:13 70:12 72:14 74:2 (28)

number 9:23 25:9 29:12 40:3 46:5 54:9 63:6 66:25 (8)

numbers 39:12 62:7

o'keeffe 18 81:6

obliged 41:4

obviously 24:20 54:18

occurred 25:11,25 37:12

ocular 18:17

off 73:24,25

official 43:8,12,14

officials 54:23

often 34:18,21 65:5

ohio 31:19,20 32:3

old 18:17 46:9,15 58:16 (4)

one 3:14 10:21 11:25 12:15 14:7 15:5 16:14 22:17,17 41:4,21 46:17 47:8 56:22 57:21 60:25 61:3 65:24 67:12,22 68:20 71:24 74:16 75:13 76:20 (25)

onerace 21:15

ongoing 9:10 79:9

only 10:16 11:25 13:11 16:14,23 27:18 28:14 50:20 56:4 61:8 63:21 68:22 73:3,6 75:16 (15)

opening 71:7

opponent 27:8,10

opportunity 7:9 29:10 30:22 33:23 34:16 65:20 67:14,15,21 68:3,15 71:3 (12)

opposed 63:10

opposition 6:8 80:7

order 3:5 12:6 39:2 40:7 63:6 (5)

other 8:2,3,18 11:24 14:20,21 16:8 18:16 34:20 37:2 38:2 39:11 40:21 42:20 45:15 49:9 51:17 53:18 55:14,22 56:11 61:11,19 64:16 66:13 67:19 68:16 72:4 75:13,15

76:8,23,23 77:6,23 78:10 (36)

others 11:12 43:23

our 3:9,17 6:21,25 7:12 8:20 9:5,16,19,25 10:5 27:3 35:15 38:25 41:20 50:13 52:20,21,21 54:6,22 71:9 79:10,14 (24)

out 17:8 23:13 28:13 31:18,19 32:4 34:21 59:6 64:24 79:7 (10)

outcome 81:14

outside 74:20

outstanding 54:3

over 6:25 16:16,16 17:19 33:19,19 47:6,12 50:18 51:2 78:4 (11)

overview 65:23

overwhelmingly 21:15 43:18

own 9:5 38:19 42:5,5 (4)

packed 16:12

packs 15:6,24

paraphrasing 71:8

parker 9:5

part 38:20 65:16 66:10 70:21 (4)

participate 52:14

particular 16:2 21:9 24:15 25:11,12,13,13 29:19 44:20 72:17 77:25 (11)

particularly 12:15

parties 10:24 81:12

passed 6:9 12:20

pattern 23:23 24:4

patterns 9:9 19:18 20:14,19,21 27:18 31:10 48:19 56:5,18 61:6 67:18 74:4 (13)

pay 11:23 12:14,25 27:17 28:10 (5)

people 7:4 14:20,21 38:18 42:4,5,6 54:24 66:12 71:24 (10)

percent 15:19 16:3 17:24 18:3 23:19,20,21 24:17,18,22,22 26:2,23 27:2,2 30:25 31:15 32:7,11 34:4,13,14,19,22 41:22 47:6,8,12 66:6,6,21 67:9,10 68:10,12,24 72:14,15,25 73:3 74:18 76:3 78:4 (43)

percentage 27:4 43:6

percentages 49:21 50:9 78:3

personal 51:10,15

personone 46:17

phase 55:12

phd 8:24 10:4

piece 51:20

pieces 20:6

pink 15:13 16:4,6

place 7:11 13:20 14:11 46:4 71:18 74:2 (6)

places 39:7

plaintiff 34:7

plan 7:22 8:5,13 11:3,4 13:4,13,15,22 14:9,10,11 15:4,24 16:24 17:5 30:14 46:4,6 50:24 54:11 68:7 75:10,12,12 (25)

plans 13:21 53:12,14

please 3:19 6:5,20 49:14 52:5 61:13 74:8 (7)

pleased 10:3

pleasure 3:8

plot 25:5,24 38:14

plotting 41:11

plurality 43:5,10 44:5,7 45:21 47:4 (6)

plus 47:8 68:24

70:12

point 23:17 25:5 35:25 36:11 47:3 48:7 54:25 66:9 75:9,16 76:16 (11)

points 23:15

polarized 24:14 27:11 28:18 29:7 30:12 33:3,11 35:3 (8)

political 60:13

politically 17:15 18:21 19:20 59:8 64:18 (5)

population 12:3,5 17:25 18:4,6,10,11 23:5 30:25 31:16 34:3,12 39:4,9,10,21,23 40 :8,10,13,14,23,24, 24 41:7,17 42:8 46:11 48:17 56:13 66:22 67:4,6,10,11,24 68:9,11 69:13 78:17 (40)

porcher 2:14 5:13,14 6:2,15,16 79:25 80:2,4 (9)

possibilities 75:15 77:18

possible 25:8 40:17,18 42:13,15 46:15 75:18 (7)

practice 13:3

preaching 78:20

preapprove 13:19

precinct 20:25

22:13 23:18 25:6,14 26:9 (6)

precincts 20:11,22 21:2,13,16,18 23:16 25:7,16 56:18 (10)

precise 59:15

precleared 30:16

predominant 68:22

predominates 69:10

prefer 29:4

preferred 15:2 27:19 33:4,13,19 68:2 (6)

prejudiced 14:19

preliminary 7:21 8:5,13 53:11 54:11 75:10,12 (7)

prepared 74:23 78:6

present 3:24 4:3, 6,8,17,23,23,24 5:2,7,12,14 10:4 76:11 (14)

presentation 7:8,10 38:9 54:17 55:17 65:25 70:4,24 80:11 (9)

presented 73:17 75:19 76:12

presenter 2:18

presenting 53:3

presumably 26:11

presume 23:24

previous 33:8,10,10 46:23 73:18,24 (6)

primarily 55:20

primary 29:3

prior 37:24 43:13 51:24

probably 16:9 41:2 53:18

problem 24:13,24 28:13 77:8,9,11,15 (7)

procedure 13:3

proceedings 81:9

process 10:9 14:2 26:3 29:24 36:20,25 52:12 55:2,11 70:21 (10)

produced 25:11

producing 8:4

professor 24:9

prohibits 13:2

prong 17:9,18

proper 78:8

proportion 23:3,4,12,25 24:2 (5)

proposals 74:3

proposed 8:15 11:4 32:24 33:12 35:7 (5)

protect 78:9

protected 28:5,6 57:5,12 59:16 61:16 69:14,18 (8)

protocol 3:6

provide 30:21 33:22 73:14

provided 47:22 70:24

providing 9:2

public 3 3:7,10 7:21 8:2 10:6 54:22 64:22 65:16 66:15 71:21 81:7 (12)

publicly 71:12

puerto 44:20 58:6,16

pure 64:7

purpose 48:25

pursuant 3:4

purview 66:11

put 13:20 14:11 17:8 35:15 54:13 62:8 (6)

putting 64:25

puzzles 79:15

pyun 9:20

q&a 7:10

quality 56:7

quantitative 79:11

queens 28:24 71:20 77:19

question 6:23 26:7 37:5 49:18 50:15 52:24 53:21,25 54:2 55:18 56:22 62:5 66:8 72:20,23 73:5 75:23 76:14 78:11,19,23 (21)

questioning 35:16 43:2

questions 35:10 49:8 54:3 60:8 65:24 69:21,23 72:4 74:14 79:4,21 (11)

quick 55:18 60:10 73:12

quite 29:12 34:18,21 62:16 (4)

r 81:2

race 20:8 22:24 23:10 48:15 56:5 (5)

racial 10 8:9,10 10:7 14:22 19:15,16 20:3,16 27:25 31:5 32:20 35:2,25 55:21 60:17 73:23 (17)

racially 27:10 33:2

raised 38:4

raphael 22:22

rates 32:14

rbv 8:10,22 9:11

reacted 75:16

really 18:15 26:16 52:3,11,18 54:24 65:12 (7)

reason 24:12 51:5 73:22 77:12 (4)

received 5:18

receiving 36:22

recently 12:20

recognize 41:5 46:4,7

recognizes 57:5

record 37:23

redistricting 8:8 9:13,17,23 10:9 11:3,8 13:4,11 15:4 (10)

redrew 46:6,14 73:20

reeducate 50:13

reelection 38:16

reflected 60:17

reflects 45:10

register 23:9

registration 23:8

regression 8:12 21:22 22:19 24:13 26:22 (5)

regulations 41:13 51:8

related 62:4 74:15 81:12

relationship 25:8 62:19

relative 32:13

release 7:21

released 35:23 49:16 52:9

relocated 71:14

remarks 79:6

remedy 68:9

remember 27:16

renowned 8:22

report 3:4 26:5 36:14,17,22,23 49:6 (7)

reporter 18 6:11,13 81:6 (4)

representative 48:12

representing 42:25

republican 58:19

require 40:5,16

required 20:6 30:7 39:16 40:20 47:5 (5)

requirement 47:7,8 57:17

requirements 8:19

requires 73:2

research 8:2,6 9:2 63:13 (4)

residents 50:13 51:7 52:13,18,20 (5)

response 4:10,12,14,19,21 5:10 80:8 (7)

result 25:12 54:21 55:7

results 13:5 26:6

retain 8:21

review 35:22 36:11 52:25 53:11 75:10 (5)

rican 44:21 58:6,16

right 37:17 38:22 47:2,6,13,15 51:12,21 57:7,13 60:18 74:7 (12)

righthand 15:10

rights 7:24 8:18 9:17 11:5,18,22 12:12,17,21,22 14:5 15:5 16:20 22:7 28:7 30:7 46:24 53:17 57:2,4,23 59:23,24 63:2 68:4 69:15,19 70:9 76:5,6 77:13 (31)

rigid 77:5

role 35:21

roll 3:3,19,22 5:16 (4)

room 50:18 53:15 54:19,20 (4)

round 24:21

rules 41:12

rumblings 51:6

runoff 22:21

said 3:16 7:15 18:9 30:11 35:14 38:22 47:20 53:8

55:5 56:23 66:25 71:4,9,12 (14)

salmon 15:13

same 9:3 14:16 18:23 19:5 30:10,18 40:2 68:14 71:15 (9)

samuel 2:6 3:25

saw 49:21

say 6:5 12:9 24:16,21 26:18 30:4,23 40:11 44:17,23 46:3,10 51:5,7 60:2,24 63:13 65:8,19 66:13 67:7,19 77:18 79:8 (24)

saying 53:5 64:16 70:16

scenarios 55:7

schnall 2:11 4:22,24 5:2,5 42:21,23,24,25 44:11 45:8 47:2,20 49:3 73:11,11 74:7 (17)

schneps 4:11

science 79:11

scientist 8:23

scratch 50:12 51:2

screen 10:15,23,25

second 5:25 6:2,4 17:14 21:14 53:24 65:15 79:25 (8)

seconded 6:16

secondly 74:22

section 12:24,24 13:7,9,13,17 14:4,8 17:7 34:7 (10)

sections 12:23 52:25

sectors 75:4

see 10:25 15:13 21:9 23:11,23,24 25:22 26:20,25 27:5 33:9,13,16 35:17 45:15 50:16,25 73:7 (18)

seen 16:16

selected 53:13

seminar 10 10:7

senior 9:6

sense 18:24 58:20

separate 45:2 61:8

separately 29:23

series 33:16,20

seriousness 70:20

serve 9:24

served 8:24 9:22

session 74:24 79:7 80:10

set 44:21 74:12 79:16 81:16 (4)

several 7:22

shape 39:19

share 10:15,23

70:25

she 9:4 37:23 71:8,9 (4)

shift 41:6

shifted 42:8 46:11

shifting 40:8

shooting 70:12

should 29:13 31:13 40:25

show 10:16 11:16 14:21,23 30:3,6,8 34:8 60:22 68:6,7 (11)

showing 25:7

shows 11:9

sic 19:9

sid 9:5

side 79:11,12

signature 81:18

similar 9:2 29:22

simply 22:9 59:7

since 21:21 65:15 79:20

single 15:25 16:13 19:3,8 (4)

singlemember 17:13

sir 5:17 38:5

situation 16:18 38:25 74:5

six 28:5 61:16

size 74:19

slide 11:9

slightly 26:8 43:6

small 62:16

so 3:7 4:25 5:23,24 6:22 7:13 11:15 12:3,11,13,22 13:21 14:10 15:4,18 16:4,13 17:18 19:4,14,23 20:9 21:19,25 22:14,25 23:16,23 24:8,19 25:15 26:4 27:3,10,17 28:12 29:14 30:11 31:13 32:12,19 34:17,23 36:22 37:8,22,24 38:13 41:8,10,10,20,25 42:11 43:2 44:13,17 46:20 47:18,22 48:18 49:15,19 50:22 51:15 52:7 53:21 55:10 56:6 57:20 58:20 59:2,8,14 61:22 62:19 63:18,24 65:19 66:17 67:6,11,20 68:2,12 69:3,10 71:24 72:14 73:25 74:6 75:5,9,19 (94)

social 8:23 79:11

software 64:9

solid 54:4

solve 79:15

some 11:9,11,12,16,18 20:9 28:25 29:18 36:4 39:7 42:2 50:24 51:6 62:21 66:4 70:16 (16)

something 20:24 40:16 52:7 64:14 65:3 77:3 78:24 (7)

sometimes 31:2 32:6,10 34:18 43:21,22,23 45:25,25 59:2 (10)

sorin 2:15 4:13 49:10,11,12,14 51:4 53:20 79:23 (9)

sourin's 54:2

south 40:11 43:3 58:18

southern 32:3

speak 51:17

special 9:13

spend 10:19 56:8

spread 15:17 71:25

square 43:24

ss 81:3

staff 3:10 10:2 72:4

standard 13:3 24:8

start 50:12,17,25 66:16 (4)

starting 55:13 71:18

state 7:25 9:10,16 12:19 18:14 27:16 31:19 45:6 46:6 51:14 58:11 61:16 70:10 73:2 74:17 76:4 81:3,7 (18)

stated 54:8

staten 28:24 42:25 68:21 74:20 76:2,16,19 77:10,16,24 78:11,14,18 (13)

statewide 60:21

statistical 8:11 21:19 22:8 28:13 56:4 (5)

statistically 9:7

statistics 10:16 25:19

stayed 46:14

step 36:25 71:17

stepbystep 55:11

stephanie 18 81:6

still 46:7 71:5 78:13

strange 39:19 40:6,18

strength 13:6

strings 18:14

strokes 65:4

strongest 25:20

strongly 27:6,7

studied 66:10

subgroups 57:19

subject 76:9,11

submerges 15:7

submit 13:14

submitted 13:22
30:15 70:7

subprotection
58:3

subsequent 8:14

successful 33:18

such 15:16 19:11
39:5 40:9 (4)

sue 34:8

sued 13:14 14:6
30:17

sufficiently
17:11,21

suffolk 81:4

suggested 71:2

suggestions
74:25

suit 34:7

sullivan 2:9
4:16,17 52:23
56:21 57:7,13
59:14,19,25 60:4
(11)

sunday 71:24

superior 13:7
17:7

support 14:24
18:23 19:3,10
27:7 30:10
44:21,24 45:7
48:11 (10)

supported 27:12
33:7 44:9 69:2 (4)

supporting 21:8
26:24 48:21,23,24
(5)

supportive 27:6

supposed 51:9

supreme 17:3

sure 13:12 18:18
29:8 44:15 52:16
59:23 70:21 78:8
(8)

surveys 22:11

t 81:2,2

take 32:12 33:7
59:3 63:23
65:14,22 69:6
71:6,17,18 74:4
(11)

taken 81:9

taking 7:11 35:4

talk 11:2 65:19
68:17 74:25 (4)

talked 43:17
60:14

talking 7:12
10:20 17:23 37:9
66:5 67:8 78:2 (7)

tampa
58:14,16,22 59:11
(4)

target 31:15

task 10:18 71:10

team 54:7

teasing 10:17

techniques 21:20

technological
64:8

tell 30:20

48:8,10,20,21,23
60:24 61:5,9
64:14 76:15 (11)

ten 13:11,21
19:24

tend 24:21 63:14

term 57:25 62:24
69:4

terms 17:18 19:6
26:25 53:16
59:16,22 64:4 (7)

test 17:9

than 9:9 11:12
12:23 15:19 18:16
21:16 33:5 34:22
38:10 41:16 64:16
66:6
67:13,16,17,22
77:24 (17)

thank 5:17
6:3,12,17,22 7:17
35:12 37:18 38:8
42:17,18 44:12
49:4,7 53:20,21
55:16 56:19
60:5,6 61:10
69:22 70:13 73:10
74:7 78:25
79:18,19,24
80:3,9,10,14 (33)

their 29:10,15
33:18,23 38:19
42:9 47:13,17
55:25 62:13 75:6
(11)

them 13:19,20
22:16 24:21 25:17
28:8 29:12 47:6,9
63:7,9,9,11 64:4
74:5 (15)

there's 21:9
54:18 58:2 59:17
64:3 (5)

therefore 15:20
76:21

these 11:10,11,24
15:22 16:15 19:14
20:17,19,21
21:15,20 22:6,14
23:15 25:6,15
26:10 28:15 29:3
30:24 32:22 33:20
35:4,6 52:15
62:12,22 64:10,14
77:5 79:15 (31)

they'd 47:10

they're 14:18,19
21:8 26:11 39:22
44:23,23 46:12
47:18 48:21 51:8
58:14 68:13 76:10
(14)

thing 14:7 25:18
30:18,23 31:17
68:16 75:13 (7)

things 11:16,19
19:14 32:13
39:12,13 56:23 (7)

think 18:5 26:16
28:17 38:10,20
41:8,20 42:2,11
45:9 50:18,19
53:15,24
54:4,8,12,21 55:4
66:4 68:20 69:20
70:2,11,16,19
71:7,16 75:21
76:13 78:16,22,23
(33)

thinking 69:11

third 17:15

thornburg
17:4,20 21:25

those 6:5 28:11
39:12,13 45:2
54:23 56:24

57:8,11,20 59:6
60:15 61:22,25
63:21 74:4 80:5
(17)

though 37:5
60:17

thought 52:25
74:12

three 13:16 17:8
26:10 28:7
53:12,14 61:19
68:23 69:2 75:25
(10)

threshold 66:4

through 14:3
22:5 32:19 65:22
(4)

time 6:19 10:3,20
13:25 17:19 22:2
30:18 33:19 48:14
49:4 72:11 80:15
(12)

times 16:17 54:9

tinker 45:20

tinkering 46:16

today 10:20 13:2
75:14,20 (4)

together
26:13,15 64:25

told 17:5 53:2

tomographic
25:4,24 38:14

too 4:24 6:19,20
75:6 (4)

took 50:9

tool 8:6

top 11:21

totality 73:20

totally 52:4 62:10

tough 70:15

towards 65:25

training 9:21

transcribed 6:22

transcribing 37:21

transcript 81:9

transparency 51:13

triangle 11:15,21

true 14:16 28:22,23 29:2 45:4 59:22 81:8 (7)

trump 11:18 12:2

try 38:24 44:25

trying 52:11 63:16

ts 52:21

turn 6:24

turned 23:13

turnout 22:24 23:4,19,20,25 32:8,13,14 48:14 (9)

turns 31:18,19 32:4 34:21 (4)

two 16:11 20:6 21:19 22:14 27:25 41:5,19 60:15

61:23,25 74:14 75:12 (12)

type 47:21 66:8,11 79:6 (4)

typically 26:5 28:20 30:3,9 66:20 67:6 (6)

typing 46:21

uddin 2:10 4:20,23 5:3,4,23 6:14,14 38:3,6,7 41:8 69:25 (13)

unconstitutional 13:8

under 28:6 33:11 58:3 61:16 76:3,11 (6)

understand 38:16 52:11

understanding 52:4

understood 38:21 56:10,19

undertook 55:12

unique 7:3

until 24:9 38:11

up 15:19 16:17 17:23 24:9,23 25:19 26:12,14,19 31:21 35:15 41:2 43:24 48:5 58:22 59:11 73:4 75:8 79:3 (19)

upon 56:24

upper 15:10

us 6:20 7:5 11:17 17:5 32:23 38:17

47:5 54:11,13 64:6 65:22 70:8,24 71:6 79:13,16 (16)

use 24:4 26:9 34:10 46:21 51:11 57:14,24 (7)

used 12:23 21:20,21,24 36:4 51:13 69:5 (7)

uses 8:11

using 26:3,21,22 36:3 (4)

usual 6:21

usually 17:16

utilized 7:22

v 17:4 21:25

vantage 66:9

variables 71:11

variation 76:10

variety 55:7

various 22:5

vast 45:11

very 6:17 7:3 8:6 9:3 10:18 13:9 24:14 26:12,15 28:12 38:8,9 42:17 59:10 70:11,13 72:19 76:9 77:5 (19)

via 11

view 10:24

views 75:6

violate 12:12

violated 17:7

violates 15:5 31:4

virtually 11 32:9

vote 14:17,20 17:16 19:8 21:16 23:9,22 29:21 31:25 32:10 43:17 45:5 46:17 47:9 55:8 (15)

voted 24:5,7 26:17,17 28:20 43:7 48:6 59:10 74:13 (9)

voter 20:9 23:11 31:12

voters
14:14,16,17 15:3 19:18,19,20 20:5,5 21:3,4,4,5,5,6,6,7, 14,17 23:13,21 24:6 25:9 26:24,25 27:5,7,12,12 28:9, 10,11,19,19,19,20 29:4,9,15 30:9,9,21 31:24 33:4,6,14,14,17,22 34:10,17,20 43:5,7,11 45:6 46:5,8 47:5,16,24,25 48:5,11,22,24 57:8,9,9,10 64:17 66:3 (72)

votes 12:18 16:25 17:6,24 24:2 25:10 26:3 38:18 43:21,22,23 (11)

voting 10 7:24 8:9,11,18 9:8,17 10:7 11:5,18,22 12:12,16,21,22 13:2,6 14:4,23 15:5 16:19 17:24 18:4,6,10,11

19:4,7,15,16,18,22 20:3,5,19 22:7 23:5 24:14,17,19 27:18 28:7,14,18 29:7 30:7,12,25 31:10,16 32:15,16,20 34:3,12 35:2,3,25 38:23,23 43:19 46:24 47:24,25 48:17,19,20 53:17 56:5,12,18 57:2,4,21,22 59:23,24 60:18 61:6 62:13 63:2 64:15 66:22 67:4,5,9,11,18,24 68:4,8,10 69:14,19 70:8 73:23 74:4 76:5,5 77:13 78:12 (101)

wait 13:23

walcott 2:5 3:2,12,23,24 5:17,24 6:3,12,17 7:18 35:12 36:7,19 37:15,19 38:5 42:18,23 49:7,12 53:23 59:12 60:6 61:11 63:3 65:14 69:22 70:14 72:8 74:8 78:25 79:18,24 80:3,7 (36)

want 3:2 10:19 11:2 30:17 32:12,14 33:12,16 34:6 36:8 44:14,25 51:16 52:16 53:18 62:17 63:11 64:20 69:6 70:2 72:2 78:7 (22)

wanted 44:18 58:11 59:20

wants 34:8

warnock 22:22

23:22
24:3,6,7,17,19
25:10,25 26:24
27:6,15,16 38:15
(14)

wasn't 19:2
28:21

watching 3:11
7:4

way 7:13 15:17
16:12 17:6
19:11,17 20:23
37:22 40:9
41:9,10 42:12,15
43:16 57:21 61:8
63:25 72:21 73:6
74:6,17 81:13 (22)

ways 53:19

we'll 5:20 36:23
55:13 70:12 78:20
(5)

we're 7:4 12:9,25
20:13,20 22:10,11
24:4 33:7,8 34:23
37:9 52:4,14
62:12 65:8,9,10
67:3,4 71:13
72:14 74:23 (23)

we've 34:24

week 55:13 71:18

welcome 3:8

well 3:11 7:5 8:14
9:15,22 18:12
22:6 26:10 31:3
36:25 44:2 53:19
54:6,7,10 55:3
59:21 65:17 66:14
68:18 70:11 71:23
79:12 (23)

went 23:22 37:13

weren't 46:17

58:20,24 76:9 (4)

what 11:2 16:23
17:19
19:7,15,23,24,25
20:12 26:5 27:21
28:11 29:6
32:19,21 33:9
34:23,24,25
35:21,24 38:11,18
44:4 46:13,25
48:8,9,16,18
50:10,14 53:7
54:15 55:5,8,12
56:11,24 57:23
58:11 59:23 62:7
63:16 66:9 68:4
70:23 71:16
72:22,23 73:7,20
75:11 76:15,19
77:17 (56)

what's 15:15
17:8 20:6 29:25
66:10 75:18 (6)

whatever 70:6

when 11:7 13:9
23:8 26:4,18
36:23 37:6,9 43:9
44:6,13 49:16,18
55:23 65:19 67:6
68:22 69:7,11
71:8 73:14 74:3
(22)

where 25:20,23
39:22 42:4 44:22
45:17 58:23 64:11
65:9 68:21 78:17
(11)

whereof 81:15

whereupon 10:22

wherever
42:13,14

whether 16:24,25
29:25 35:5
46:13,14 51:9

57:18 58:5 59:3
(10)

which 8:7 18:25
23:18 27:15 33:3
41:23 43:4,17
50:9 54:22,25
58:9 71:17 (13)

while 7:10 26:24

white 19:6,18
20:4 21:6 26:25
27:7,8,9,12 28:20
31:24 32:15 33:3
40:12,22 43:22
48:2 (17)

whites 17:15
19:21 24:5,17
28:3 32:9 (6)

who 3:11 8:24
9:14 10:4
21:8,14,17
26:16,17,17 31:24
37:20 44:8
48:4,5,20,22,23
51:7 58:13,18
59:10 (22)

whole 11:7 45:18
48:7,25 50:25
54:25 (6)

wholly 76:2

why 41:20 52:4
65:10 73:22 (4)

wice 9:12

will 7:8 10:5
14:5,12,14
16:4,5,7 22:7
29:20 32:2,9,23,24
33:22
36:16,20,22,24
39:5 42:12,14
45:5,7 49:16
54:19,23 65:7
67:17 71:6,18,19
78:9,13 (34)

willing 14:19
31:25

win 47:11

winning 27:20
35:7

wins 47:13 48:4

within 39:4,10
50:8 52:18 57:19
62:18 67:20 71:15
76:18 81:7,8 (11)

without 40:18

witness 81:15

won 27:15,16

won't 65:12

wonder 37:4

wong 4:18

word 51:12 71:25

work 8:9 10:2
31:14 45:9,20
49:25 62:21 71:5
(8)

worked 32:7

working
72:13,15 79:13

would 6:24 10:14
12:7,11 13:14,18
18:23 20:23
21:2,7 23:3,4,17
24:20 32:5 33:9
35:9 36:10,12
39:18 41:17,18
44:25 51:18,22
60:16 62:7,8,24
68:2 70:16
72:22,23 74:20,22
76:4,5,24 77:7
78:4 79:5,8 (42)

wouldn't 18:24
19:3 46:8 59:8
60:22 63:10 (6)

wow 70:14

wrap 79:3

writing 36:16

wrong 50:14 52:2
72:10

wurzel 2:13
5:11,12

x 2,6

yeah 36:19 72:8

year 65:25

years 9:8
13:11,21 19:25
37:5 (5)

yes 5:4,5
10:13,25 36:17
38:3 42:24 (7)

yet 43:11 70:18

york 4 8:16 9:3,18
10:8 11:19 12:19
13:10,16 19:24
20:13 22:25 23:2
27:22 28:4 29:13
40:21 47:21 67:22
70:10,10 71:14
72:12 75:14
81:3,8 (26)

yorkers 79:15,17

you're 17:23
27:25 28:2 29:25
31:13,20,21 32:3
40:9,12 44:4,14,15
50:20,21,23
63:21,23 66:22
67:7 68:6 69:7
70:14 (23)

you've 68:14,15

your 9:24 23:9 35:10,21 36:10,10 38:13 39:14 41:9 45:16 47:3 49:4,5,6,23,24 50:10 55:17,19 61:18 63:12 66:9,10 72:16 73:14 74:21 75:22 76:4,5 (29)

yours 7:16 35:19

yourself 37:22

youtube 7:5

yovan 2:6 3:25

zero 24:22

zoom 11

235 27:2

255 27:2

944 26:23

949 26:22

1124 80:15

1965 11:22 12:22 16:20 70:9 (4)

1982 16:19 21:25

1986 17:3

2012 28:16

2013 8:24 9:14 28:16 30:11 72:11 (5)

2015 31:5

2017 37:8,9,14

2019 37:12

2021 22:21 37:9 43:13

2022 7 37:13 81:10,16 (4)

629000 41:16

20122013 45:14 72:11

20222023 4