
IN THE

Supreme Court of Pennsylvania

Middle District 159 MM 2017 LE

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER, MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER, JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY, Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF, IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA; MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO TEMPORE; ROBERT TORRES, IN HIS CAPACITY AS ACTING SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA; JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF STATE, Respondents.

On Appeal from the Commonwealth Court of Pennsylvania at No. 261 MD 2017

**PETITION TO FILE AMICUS CURIAE BRIEF
NUNC PRO TUNC ON BEHALF OF
THE AMERICAN CIVIL RIGHTS UNION**

LINDA A. KERNS (I.D. NO. 84495)
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Philadelphia, PA 19102
(215) 731-1400
Counsel for American Civil Rights Union

The American Civil Rights Union ("ACRU"), through undersigned counsel, respectfully requests this Court to allow it to file an amicus brief that contains a proposed plan for Congressional Districts in the Commonwealth of Pennsylvania. ACRU submits this request nunc pro tunc.

ACRU respectfully submits that the redistricting map contained in the attached amicus brief will substantially assist the court in developing a final congressional redistricting map. First and foremost, the map was drawn using 2010 census data and 2010 census geography only. It was not drawn using any political affiliation criteria. Second, the proposed map does not protect incumbents or challengers. Third, the map maximizes compactness, using a variety of mathematical tests. Fourth, the map minimizes splits in political subdivisions. This is extremely important, because a minimal number of splits in political subdivisions reduces the ability of any party to politically gerrymander a redistricting plan. In short, the proposed map optimizes traditional redistricting criteria, using only fair, neutral redistricting map.

To ACRU's knowledge, the proposed map presents a plan that has not yet been proposed or presented to the Court by any party. Accordingly, ACRU

submits that its proposal will assist the Special Master in evaluating all other maps, creating a map that minimizes (or eliminates) the use of political data, and, and maximizing, to the extent possible, fair and neutral redistricting criteria.

As noted in its Statement of Interest, ACRU has been actively involved in election matters in the Commonwealth of Pennsylvania for several years. Indeed, undersigned counsel has represented ACRU on a variety of election law matters spanning that time, and she has not been retained solely to weigh in on this redistricting matter. Undersigned counsel has monitored the redistricting proceedings, and recently ACRU determined that it could contribute to the redistricting process by submitting a redistricting map to the Court.

The proposed Amicus Brief is attached at Exhibit 1.

Respectfully submitted,

February 15, 2018

/s/ Linda A. Kerns

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215-731-1400
Attorney for American Civil Rights Union

CERTIFICATE OF SERVICE

I, the undersigned, certify that a true and correct copy of the foregoing Brief of Amicus Curiae American Civil Rights Union was served upon all counsel of record, via electronic service, on this date, February 15, 2018.

/s/ Linda A. Kerns

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EXHIBIT 1

IN THE

Supreme Court of Pennsylvania

Middle District 159 MM 2017 LE

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER, MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER, JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY, Petitioners,

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On Appeal from the Commonwealth Court of Pennsylvania at No. 261 MD 2017

BRIEF FOR AMICUS CURIAE THE AMERICAN CIVIL RIGHTS UNION

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IN THE SUPREME COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS ET AL	:	No. 159 MM 2017
	:	
Petitioners	:	
	:	
v.	:	
	:	
THE COMMONWEALTH OF	:	
PENNSYLVANIA, ET AL.	:	

AMICUS BRIEF BY THE AMERICAN CIVIL RIGHTS UNION

I. STATEMENT OF INTEREST

Amicus Curiae American Civil Rights Union ("ACRU") is a non-partisan 501(c)(3) tax-exempt organization dedicated to protecting the civil rights of all Americans by publicly advancing a Constitutional understanding of our essential rights and freedoms. It was founded in 1998 by long time policy advisor to President Reagan, and the architect of modern welfare reform, Robert B. Carleson. Carleson served as President Reagan's chief domestic policy advisor on federalism, and originated the concept of ending the federal entitlement to welfare by giving the responsibility for those programs to the states through finite block grants. Since its founding, the ACRU has filed amicus curiae briefs on various constitutional and election issues in cases nationwide, including redistricting cases.

ACRU has been active in the Commonwealth of Pennsylvania, litigating the Commonwealth's compliance with Section 8 of the NVRA, specifically 52 U.S.C. §20507(I). Additionally, ACRU has been working with Pennsylvania state senators and representatives on election integrity issues. The undersigned counsel has been retained by ACRU since 2016 with regard to election integrity issues and has continuously worked with ACRU since that time. ACRU's attorneys (both undersigned counsel and ACRU-retained counsel located in Denver, Colorado) authored this amicus brief. Furthermore, ACRU is solely responsible for paying an expert to develop the proposed map.

II. DESCRIPTION OF AMICUS' REDISTRICTING MAP

A. Introduction

The American Civil Rights Union ("ACRU") respectfully submits the attached redistricting map to assist the Court and Special Master in drawing Congressional districts for the Commonwealth of Pennsylvania. For purposes of brevity, this amicus brief will merely describe the map.

The attached map has been designed to maximize the criteria described by

the Pennsylvania Supreme Court. The map does not take into account the residency of incumbent members of Congress or the residency of candidates for Congress. It does not create potential Voting Rights Act issues. A printed copy of the statewide map is contained at Exhibit A. A printed copy of the southeastern portion of the Commonwealth is contained at Exhibit B. In addition, ACRU has submitted electronic files for the Special Master to examine more carefully.

B. Compactness

This map maximizes compactness across Pennsylvania:

- Under Reock measurements, 14 of 18 districts measure approximately 0.4. Five are above 0.5, and two are above 0.6.
- Under Polsby-Popper measurements, seven districts are above 0.4.
- Under the Population Polygon scores, 12 districts are above 0.8, and three are over 0.9.
- Under the Minimum Convex Polygon measurements, 13 districts score 0.8 or above.

A report containing the compactness scores is contained at Exhibit C.

C. Population

Thirteen districts contain 705,688 residents, and five districts contain 705,687 residents, based upon the 2010 Census.

D. Political Subdivision Splits

The map leaves 53 counties whole, and splits 14 counties. Of the 14 split counties, 11 are only split once, and three are split three times. All three of the counties containing three splits (Philadelphia, Allegheny, and Montgomery) are the largest three counties in the Commonwealth, are large enough to have at least one wholly contained congressional district within their borders, and are split in such a way that each has the maximum number of districts possible contained within them.

Out of the 20 largest counties in Pennsylvania this map keeps Bucks, Delaware, Lancaster, Chester, York, Northampton, Erie, Lackawanna, Washington, Butler, and Beaver counties whole. It only splits Berks, Westmoreland, Lehigh, Luzerne, Dauphin, and Cumberland once. Amicus' proposed plan splits only three boroughs: Dormont in Allegheny County, Nanty Glo in Cambria County, and Larksville in Luzerne. The proposed plan

splits 11 townships: Spring in Berks, South Newton in Cumberland, Lower Swatara in Dauphin, Shirley in Huntingdon, Little Beaver in Lawrence, Upper Saucon in Lehigh, Chestnuthill in Monroe, Hatfield and Lower Merion in Montgomery, Coal in Northumberland, and Hempfield in Westmoreland.

The City of Philadelphia has two districts wholly contained within it. The balance of Philadelphia is combined with Delaware County in the newly formed 7th district.

Only one Census Bureau Voting District ("VTD") in each of the above townships and boroughs is split, and two VTDs in Philadelphia are split. In all, only 16 VTDs are split statewide.

A report summarizing political subdivision splits is contained at Exhibit D.

In lieu of uploading the DBF and SHP files, which were not accepted by the PACFILE system, these files can be found at the following links:

DBF: <https://www.dropbox.com/s/r3lrlva85bp3omd/ACRU%20MAP.DBF?dl=0>

SHP: <https://www.dropbox.com/s/dbnd77n8bniumc7/ACRU.shp?dl=0>

III. Conclusion

We respectfully request that this Honorable Court accepts our proposal.

Respectfully submitted,

/s/ Linda A. Kerns

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1420 Locust Street, Suite 200

Philadelphia, PA 19102

215-731-1400

Attorney for American Civil Rights Union

CERTIFICATE OF SERVICE

I, the undersigned, certify that a true and correct copy of the foregoing Brief of Amicus Curiae American Civil Rights Union was served upon all counsel of record, via electronic service, on this date, February 15, 2018.

/s/ Linda A. Kerns

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Attorney for American Civil Rights Union

EXHIBIT
A

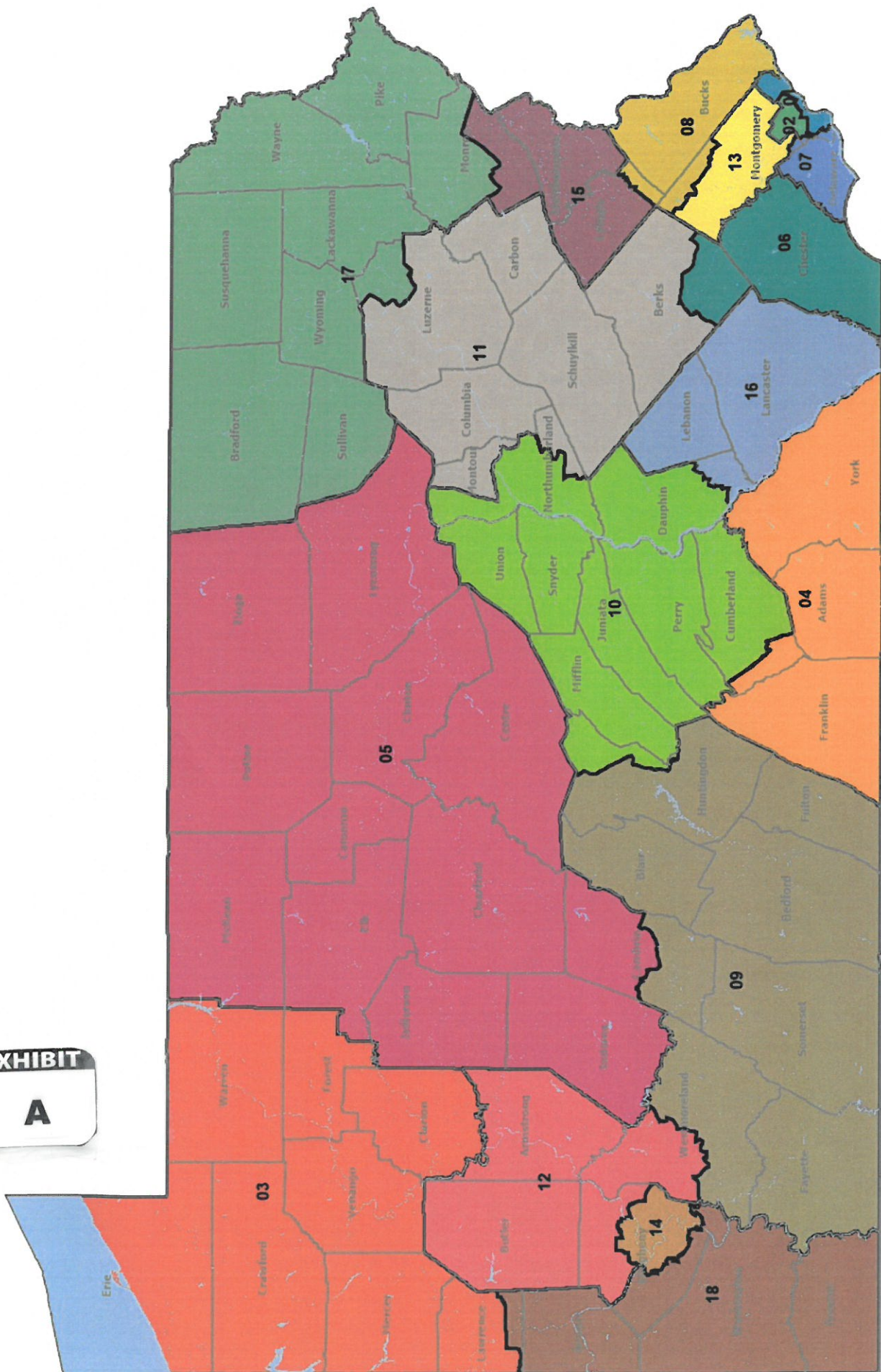
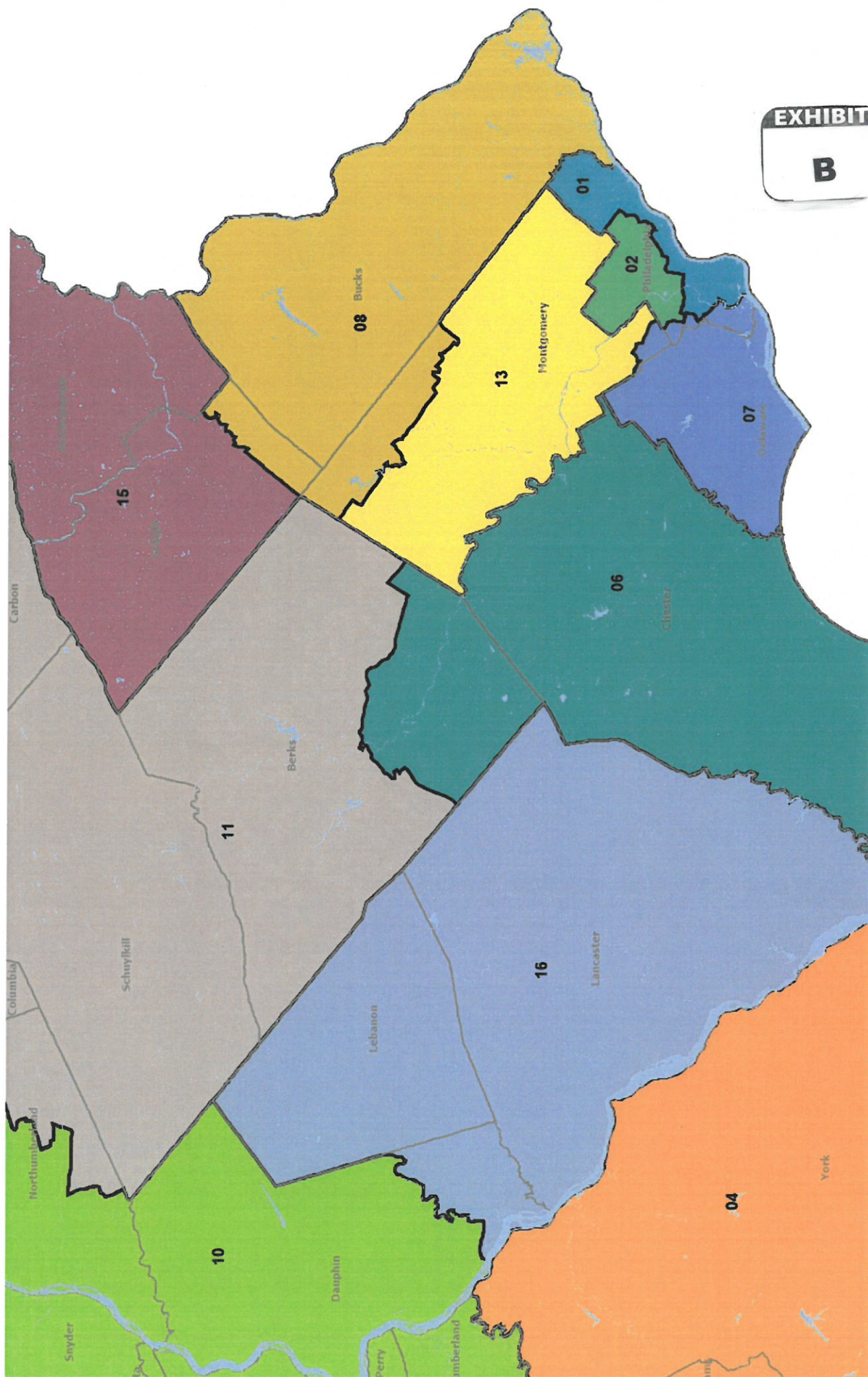


EXHIBIT
B



Plan Name: ACRU
Plan Type: Congressional
Date: 2/15/2018
Time: 11:51:07AM
Administrator:

Measures of Compactness

2/15/2018

Sum	N/A	N/A	N/A	N/A	N/A
Min	0.22	1.33	0.22	0.47	0.60
Max	0.66	2.08	0.49	0.93	0.89
Mean	0.47	1.57	0.37	0.78	0.81
Std. Dev.	0.11	0.18	0.07	0.14	0.06

DISTRICT	Reock	Schwartzberg	Polsby-Popper	Population Polygon	Min Convex Poly
01	0.22	2.08	0.22	0.60	0.60
02	0.51	1.58	0.40	0.85	0.78
03	0.53	1.33	0.43	0.93	0.81
04	0.30	1.59	0.36	0.83	0.82
05	0.47	1.37	0.49	0.85	0.88
06	0.47	1.68	0.30	0.81	0.75
07	0.53	1.42	0.45	0.89	0.87
08	0.41	1.52	0.40	0.71	0.79
09	0.46	1.52	0.39	0.81	0.87
10	0.58	1.55	0.37	0.89	0.84
11	0.61	1.61	0.37	0.59	0.82
12	0.58	1.61	0.32	0.54	0.80
13	0.39	1.74	0.31	0.68	0.81
14	0.66	1.69	0.29	0.89	0.84
15	0.43	1.56	0.39	0.92	0.79
16	0.48	1.34	0.48	0.93	0.89
17	0.43	1.43	0.43	0.83	0.85
18	0.37	1.70	0.32	0.47	0.82

EXHIBIT

C

Plan Name: ACRU
Plan Type: Congressional
Administrator:

Political Subdivisions Split Between Districts

Thursday February 15, 2018

11:55 AM

Number of subdivisions not split:

County 53
Voting District 9,231

Number of subdivisions split into more than one district:

County 14
Voting District 25

Number of subdivision splits which affect *no* population:

County 0
Voting District 0

Split Counts

County

Cases where an area is split among 2 Districts: 11

Cases where an area is split among 3 Districts: 3

Voting District

Cases where an area is split among 2 Districts: 25

County	Voting District	District	Population
<i>Split Counties :</i>			
Allegheny PA		12	244,910
Allegheny PA		14	705,688
Allegheny PA		18	272,750
Berks PA		06	206,802
Berks PA		11	204,640
Cambria PA		05	40,707
Cambria PA		09	102,972
Cumberland PA		04	19,691
Cumberland PA		10	215,715
Dauphin PA		10	215,426
Dauphin PA		16	52,674
Huntingdon PA		09	39,477
Huntingdon PA		10	6,436
Lawrence PA		03	75,216
Lawrence PA		18	15,892
Lehigh PA		08	18,332
Lehigh PA		15	331,165

Plan Name:	H	Administrator:
Plan Type:	Congressional	User:

County	Voting District	District	Population
<i>Split Counties (continued):</i>			
Luzerne PA		11	173,595
Luzerne PA		17	147,323
Monroe PA		15	76,787
Monroe PA		17	93,055
Montgomery PA		07	32,079
Montgomery PA		08	62,107
Montgomery PA		13	705,688
Northumberland PA		10	66,175
Northumberland PA		11	28,353
Philadelphia PA		01	705,688
Philadelphia PA		02	705,688
Philadelphia PA		07	114,630
Westmoreland PA		09	157,194
Westmoreland PA		12	207,975

Split VTDs :

Allegheny PA	DORMONT DIST 03	14	805
Allegheny PA	DORMONT DIST 03	18	501
Berks PA	SPRING TWP DIST 02	06	619
Berks PA	SPRING TWP DIST 02	11	1,777
Cambria PA	NANTY GLO WD 02 ED 02	05	203
Cambria PA	NANTY GLO WD 02 ED 02	09	757
Cumberland PA	SOUTH NEWTON TWP Voting District	04	822
Cumberland PA	SOUTH NEWTON TWP Voting District	10	561
Dauphin PA	LOWER SWATARA TWP DIST 01	10	2,026
Dauphin PA	LOWER SWATARA TWP DIST 01	16	221
Huntingdon PA	SHIRLEY TWP DIST MT. UNION	09	931
Huntingdon PA	SHIRLEY TWP DIST MT. UNION	10	686
Lawrence PA	LITTLE BEAVER TWP	03	1,057
Lawrence PA	LITTLE BEAVER TWP	18	354
Lehigh PA	UPPER SAUCON TWP DIST 01	08	1,082
Lehigh PA	UPPER SAUCON TWP DIST 01	15	1,313
Lehigh PA	UPPER SAUCON TWP DIST 02	08	1,162
Lehigh PA	UPPER SAUCON TWP DIST 02	15	1,308
Lehigh PA	UPPER SAUCON TWP DIST 04	08	5,486
Lehigh PA	UPPER SAUCON TWP DIST 04	15	16
Luzerne PA	LARKSVILLE WD 01	11	189
Luzerne PA	LARKSVILLE WD 01	17	1,345
Monroe PA	CHESTNUTHILL TWP DIST 02	15	1,726
Monroe PA	CHESTNUTHILL TWP DIST 02	17	2,732
Montgomery PA	HATFIELD TWP VTD 3-2	08	2,239
Montgomery PA	HATFIELD TWP VTD 3-2	13	91
Montgomery PA	HATFIELD TWP VTD 4-1	08	1,402
Montgomery PA	HATFIELD TWP VTD 4-1	13	166
Montgomery PA	HATFIELD TWP VTD 4-2	08	131
Montgomery PA	HATFIELD TWP VTD 4-2	13	1,390
Montgomery PA	HATFIELD TWP VTD 5-1	08	490
Montgomery PA	HATFIELD TWP VTD 5-1	13	963

Plan Name:	H	Administrator:
Plan Type:	Congressional	User:

County	Voting District	District	Population
<i>Split VTDs (continued):</i>			
Montgomery PA	LOWER MERION TWP WD 10 PCT 02	07	60
Montgomery PA	LOWER MERION TWP WD 10 PCT 02	13	1,295
Northumberland PA	COAL TWP WD 07	10	1,488
Northumberland PA	COAL TWP WD 07	11	128
Philadelphia PA	PHILADELPHIA WD 03 PCT 01	02	90
Philadelphia PA	PHILADELPHIA WD 03 PCT 01	07	687
Philadelphia PA	PHILADELPHIA WD 06 PCT 02	01	19
Philadelphia PA	PHILADELPHIA WD 06 PCT 02	02	623
Philadelphia PA	PHILADELPHIA WD 06 PCT 12	01	105
Philadelphia PA	PHILADELPHIA WD 06 PCT 12	02	525
Philadelphia PA	PHILADELPHIA WD 44 PCT 07	01	141
Philadelphia PA	PHILADELPHIA WD 44 PCT 07	02	694
Philadelphia PA	PHILADELPHIA WD 62 PCT 01	01	1,278
Philadelphia PA	PHILADELPHIA WD 62 PCT 01	02	216
Philadelphia PA	PHILADELPHIA WD 62 PCT 02	01	1,247
Philadelphia PA	PHILADELPHIA WD 62 PCT 02	02	29
Westmoreland PA	HEMPFIELD TWP VTD	09	627
	MIDDLETOWN		
Westmoreland PA	HEMPFIELD TWP VTD	12	364
	MIDDLETOWN		