

From: applications.administrator@capitol.local
To: [Senate Redistricting](#)
Subject: INETMAIL: Redistricting Public Input
Date: Sunday, October 3, 2021 11:37:07 AM
Attachments: [10-3-21 letter to Senate PDF.pdf](#)

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Affirm public info: I agree

Regarding: Senate

Message:

PDF of my 10/3/21 letter attached. I will also put in here to be sure you get it.

October 3, 2021

To Senator Joan Huffman, and the other members of the Texas Senate Redistricting Committee:

Senator Huffman is running an incumbent protection racket

Senator Huffman, your official title is “chair of the Senate Redistricting Committee” (“SRC”), but by functional description you are the boss of an incumbent protection racket. The Senate redistricting map approved September 28, 2021, and the proposed Congressional map released by the SRC the same day, proved without doubt that you are not trying to make sure all Texans are fairly represented by their supposed legislators, but you are instead running an incumbent protection racket.

At a SRC hearing on September 25, 2021 Senator Huffman said with a few exceptions (sounds like two) she called the Senators over to the “redistricting room” and got them to approve their new district lines required by the 2020 Census. She admitted she tried to accommodate every Senator’s request to the extent she could. I heard a lot of public testimony this year from Texans about what they want in redistricting. No Texan said “give the Senators the lines they want.”

Similarly Senator Huffman stated at an SRC hearing on September 30, 2021 that she came up with her Congressional map (SB 6; Map C2101; the “Map”) by getting it from the Texas Republican Congressional delegation. She has not produced the map she received so one can compare it to the Map. I heard a lot of public testimony this year from citizens about what they want in redistricting. No one said “draw the Congressional lines based on what the Republican Congressional delegation tells you to do.” We have a Texas Governor and Lieutenant Governor who resist mightily being told what to do by Democrats in Washington DC. In contrast, Senator Huffman meekly complies when she is told

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Senator Huffman's maps draw 69 boundaries, 31 for the Senate and 38 for Congress. There is only one Congressional race that is competitive, and only two in the Senate (if a district voted 55.0% or more for Trump or Biden in 2020, I have designated it as not competitive).

You may believe that there is nothing illegal about running an incumbent protection racket. But that is not true in a highly diverse state like Texas where no ethnic group has a majority and the top two groups are virtually tied in citizen voting age population. When Anglos makes up less than 40% of that population, but 71% of Senate and 67% of Texas's Congressional delegation, that is racial discrimination. Both the Senate Map and the Map (collectively the "Maps") clearly are racially discriminatory because they are designed to keep in place the gross mismatch between what the Senate and Congress looks like and what Texas looks like. The SRC cannot hide such discrimination by cloaking it with the transparent fig leaf of "incumbent protection." After federal employment anti-discrimination legislation was passed, some employers and unions tried to keep their employees overwhelmingly white by saying that only relatives of current employees could be hired (or were given preferential treatment)—"we want to hire people whose families know our business; this has nothing to do with race." This ruse was quickly struck down by the federal courts as racially discriminatory. The same applies here where these maps are designed to keep the same people in their legislative seats.

Map C2101 is intentionally racially discriminatory

The Texas version of the Big Lie is that the Maps have been drawn race blind. That dog won't hunt. The SRC needs to stop stealing the representation and voting power of minority Texans.

Texas's population grew by 4 million between 2010 and 2020 with 95% of that growth coming from minority communities. Nonetheless this is what Senator Huffman's proposed Congressional map does: The current map includes 22 districts with white majorities and the Map INCREASES it to 23. The current map has eight districts with Hispanic majorities and the Map REDUCES it to seven. The current map has one majority African American majority district and the Map ELIMINATES it. Nearly half of the growth in Texas's population in the last ten years was from the Hispanic community. But Hispanics get no new districts where they are the majority. In short, although nearly all the growth the past ten years was from communities of color, they get fewer majority districts and the majority of white districts increases. That is racial discrimination plain and simple, and a clear violation of the Constitution and the Voting Rights Act ("VRA"). It is ridiculous to contend that the Map was drawn race blind and that it just "accidentally" reduced the voting power of minority groups.

Senator Huffman actually does not know first hand if the Map was drawn race blind because she did not draw it. The Republican Congressional delegation did. She is simply just trusting what she was told by the lawyer for the Texas Republican Congressional delegation that the Map was drawn race blind. Senator Huffman left the voting rights of

minority Texans to the tender mercies of the Republican Congressional delegation. That is a fundamental abdication of her independent obligation to protect the voting rights of minority Texans.

Michael Li, probably the preeminent redistricting lawyer in the country, testified before the SRC recently that lines must be drawn so that they do not dilute the votes of minorities and their ability to elect candidates of their choice. Therefore by not considering race to meet this obligation, the Map violates the VRA.

Mr. Li testified on September 30, 2021 that the map drawer must determine first if the Map has sufficient minority opportunity districts. He made it clear that the map drawer cannot credibly contend that she could not have racially discriminated when drawing lines because she did not consider race. Mr. Li stated on September 30, 2021 that there is a “racial dimension to partisan gerrymandering” since regrettably voting in Texas is racially polarized. Mr. Li testified on the same day that that it is “impossible” not to consider race if one wants to draw a legal map. He further testified that the inquiry into protecting the rights of minority voters must be detailed, nuanced, and fact specific. Senator Huffman has refused to provide the analysis from the Texas Attorney General (who she has stated approved the Maps) so one can independently determine if this required analysis occurred in a legally valid way.

If a map drawer prepares her maps “race blind” as Senator Huffman has said occurred, and it turns out that the maps reduce the voting power of communities of color, the map drawer has intentionally produced a racially discriminatory result. For example, Hispanics are the largest ethnic group in the DFW area, but there is no Hispanic Senator or Congressman from this area, the Maps do nothing to change that.

Texas was the only state in the nation not to gain pre-clearance of its maps in 2011. The federal court charged with reviewing those maps found them to be intentionally discriminatory against voters of color. Now that federal pre-clearance no longer restrains the majority party in the Texas Legislature, the Maps double down on the 2011 gerrymandering, taking away more representation from communities of color although those communities drove nearly all of the growth of Texas’s population the past ten years. The clear deliberate racial discrimination embodied in the Maps, particularly when coupled with Texas’s decades long practice of drawing racially discriminatory maps, means that the Maps are not entitled to any presumption that they were drawn in good faith.

Senator Huffman could have chosen (and she still has time to do so) to heed Mr. Li’s very informed and disinterested legal advice about redistricting. Instead she turned the legal analysis of the Maps over to a Texas Attorney General who: (1) has been indicted for fraud; (2) has had many of his employees file whistle blower complaints about him; (3) helped rile up the crowd in Washington DC on January 6, 2021 before they stormed the Capitol; and (4) who in an attempt to overturn the 2020 Presidential election, made the constitutionally preposterous argument that Texas had legal standing to complain about how other states determined who got their state’s Electoral College votes. Senator Huffman has in effect said “That’s my legal guy who approved my Maps”—a hyper-partisan with demonstrated gross incompetence regarding election law-- when she could have chosen to follow the legal advice of a very distinguished law professor who has made it his life’s work to become an expert on redistricting and election law (Mr. Li). Her deliberate choice is further

clear evidence of bad faith in drawing the Maps' boundaries.

Prison gerrymandering makes things worse

The Maps' cracking of urban areas where most of Texas's minority citizens live is further exacerbated by how Texas law counts people who are incarcerated in Texas. Prisoners are not counted based on where they are from, but where they are incarcerated. Since most prisoners are from urban areas, and prisoners are disproportionately from minority communities, this unfairly empowers more Anglo rural areas over urban areas where there is a larger percentage minority population.

The redistricting process has not been fair and open

It is now very clear that all of the hearings held by the SRC before it released its first map were a sham to try to show that Texas had a fair and open redistricting process as required by the federal district court's 2019 "bail in" Perez ruling.

The SRC failed spectacularly to have such a process. Senator Huffman has shown that public comment was entirely irrelevant to her. The pre-map hearings were window dressing built on complete indifference to the input of Texans. The Senate map was drawn based on the wishes of Senators (with minor exceptions), and the Map was drawn based on directions from Texas's Republican Congressional delegation for implementation by Senator Huffman. That is not an "open" process. It is a closed entirely secret back room deal process.

Furthermore, very complex maps were proposed with very little time between their release and when the public could comment on them, and when they were voted on by the SRC. The Map was released on September 27, 2020. A hearing was held on it two business days later on September 30, 2021 and a vote will apparently be held on the Map on October 4, 2021. This clearly is the opposite of the "fair" process that the Perez court's 2019 ruling requires. No judge, for example, would set a hearing a week later (the Map was released on 9/27/21 and will be voted on apparently on 10/4/21) on something this complex because doing so clearly would not be "fair." Fully analyzing the Map on this timetable is likely an impossible (or nearly so) task for statisticians and demographers, and it surely is so for average Texans.

In addition, merely releasing a map is not enough to meaningfully evaluate it. Just as a doctor would never tell a patient to "figure it out yourself" when showing him an MRI image, so the Maps should have disclosed to the "patient"--here the citizens of Texans--sufficient information so they could meaningfully evaluate "what are we looking at". The SRC failed to do so. Please see my September 25, 2021 letter to the SRC for details about what sort of information should have been provided.

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them was needlessly very limited.

Without question the SRC's redistricting process has not been fair and open. It has been redistricting by ambush.

Texas needs an independent redistricting commission now

Senator Huffman's very dismal, demoralizing, and corrupt map drawing process shows why Texas must use an independent redistricting commission to draw the lines like at least 14 other states do. The citizens of Michigan recently got fed up with this perversion of democracy (where its legislature drew the lines), and went to an independent redistricting commission. But that happened because citizens in Michigan can put an initiative on the ballot citizens can vote on, and the citizens of Michigan approved having an independent redistricting commission draw their lines.

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Conclusion

Senator Huffman, stop the steal. Stop stealing the representation and voting power of minority Texans. These maps are another barrier to voting piled on top of the unneeded new Texas election law enacted earlier this year. The Maps violate federal election law.

Much has been made of "election integrity" in Texas recently. Election integrity begins with fair maps transparently drawn. What the SRC has proposed are unfair maps that were created in secrecy and rushed through the SRC for premature committee votes.

Texas legislators are capable people who have other jobs. It will not be a big deal for any Texas legislator if he or she loses the next election. But it will be a very big deal if we continue to have a largely dysfunctional democracy with so much partisan strife, strife that is fueled in huge part by racially discriminatory and partisan gerrymandering. We cannot get another democracy if you continue to do your job so poorly and unfairly when drawing the boundary lines for Texas. We will have not kept our Republic. Let us not disappoint Founding Father Benjamin Franklin. Let us keep our Republic. Keeping it begins with rejecting both racially discriminatory and partisan gerrymandering, starting with the Maps.

The Senate Redistricting Committee has not only acted illegally, but it has also brought shame on the great state of Texas. Professor Li was right on September 30, 2021 when he told you it is not too late to slow down and do the right thing. Please do so, and take your knee off the electoral neck of minority Texans.

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