

Buffalo Public Hearing with the New York State Independent Redistricting Commission on Wednesday, October 20^h, 2021 at 4pm at Buffalo State College, Burchfield Penney Art Center, 1300 Elmwood Avenue Buffalo, New York.

Testimony by Frank Housh, Esq., Housh Law Offices, PLLC, 70 Niagara Street, Buffalo, NY, 14202, Adjunct Professor of Law, State University of New York School of Law (Buffalo), *Legislative Redistricting and the Voting Franchise*, Fall 2021.

I thank the Commission for the opportunity to testify.

You are off to an auspicious start, as you have wisely chosen to begin your public hearings both in the Queen City and in one of its many, beautiful public spaces.

I am a trial lawyer of 26 years and for the past two years I have taught *Legislative Redistricting and the Voting Franchise* at UB Law. This year my class prepared the University's official entry in the 2021 Public Mapping Project's Redistricting Competition.

Roxanna Herreid, UB Law Student and my Teaching Assistant, will be testifying about the maps themselves.

In my brief time today, I would like to discuss the unique political environment in which your important work takes place, and how that environment will both reflect and influence the strength of our democratic foundations.

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Although redistricting has taken place in some form every ten years since the first federal census on August 2, 1790, each redistricting is uniquely reflective of its times.

As we sit here today, we are only months removed from a violent insurrection which sought to prevent the certification of the Presidential election.

None of us will forget the images in the Capitol of that day. Police officers were bludgeoned with flagpoles displaying our nation's flag, and traitorous

criminals roamed the halls, calling out the names of our elected officials to be summarily executed on the makeshift gallows they had erected.

Since January 6th, one of the two political parties which will be participating in the legislative redistricting in New York and all over the United States, has blocked the creation of an official January 6th Commission in Congress.

They have created and perpetuated what has become known as “The Big Lie,” a propaganda tactic which seeks to discredit our election system with a false counter-narrative that suggests – without evidence – that our President is illegitimate.

Perhaps we shouldn’t be surprised that those who seek subvert the rule of law hold high positions. As was pointed out in today’s WASHINGTON POST, when our Capitol was last attacked during the War of 1812, Congress never completed an investigation, explaining that it did not wish to implicate “so many marked personages.”

It is within this toxic environment of extremist misinformation, gaslighting, and stochastic terrorism that you begin your task.



How does this Commission act in good faith in a politically poisonous atmosphere?

How does one negotiate with a party which as demonstrated bad faith?

For example, two days ago, Texas reapportioned its Congressional seats to protect and increase GOP seats in the United States House of Representatives, despite the fact that its population increase is 95% attributable to people of color a group which gained not a single majority-minority seat.

Does this Commission ignore this or does it seek to mitigate such anti-democratic behavior by redistricting to protect the opposition party?

When the people in charge won’t follow the rules, why should anyone?

Indeed, if one half of this Commission seeks to include communities of interest in contiguous, well-apportioned legislative districts which encourage the

election of moderate voices which seek political consensus, is that half surrendering our democracy “To the Big Lie?”

This is the paradox of democratic regimes, and it often precedes the end of a society’s rule of law.



I urge you do all you can to make fair, diverse, politically neutral maps despite the poisonous political environment.

Doing so is neither futile nor naïve.

History has demonstrated that that the only way to protect our democracy in the face of internal attack is to reinforce rather than subvert its political institutions.

If our democratic institutions themselves ignore the rule of law, so will its people, and then our nation is doomed.

Hannah Arendt described totalitarianism as the presence of the state in the absence of the rule of law.

I respectfully suggest that the continued rule of law in our great republic on this day is not guaranteed.

Rather, our republic depends on what all of us choose to do next.

I urge you to follow the rule of law.



I thank you all for your attention and the opportunity to testify.

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