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**BEFORE THE SENATE STATE GOVERNMENT COMMITTEE
OF THE COMMONWEALTH OF PENNSYLVANIA**

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**TESTIMONY BY BRIAN A. GORDON
ON BEHALF OF CONCERNED CITIZENS FOR DEMOCRACY**

**A METHODOLOGY FOR REDISTRICTING TO END OR
DRAMATICALLY LIMIT THE USE OF PARTISAN
GERRYMANDERING
WHICH CAN STAND ALONE OR BE PART OF A NEUTRAL
REDISTRICTING PROCESS**

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1

I. Introduction

Concerned Citizens for Democracy ("CCFD") is a non-profit unincorporated association organized under the laws of Pennsylvania pursuant to 15 P.S. 9111 et seq. Since February of 2017, CCFD has been studying the same criteria for Congressional redistricting recognized by this Court on January 22, 2018. A similar set of criteria, based on Article II, Section 16 of the Pa Constitution was presented by CCFD's expert Anne Hanna in the matter of *Agre v. Wolf*, USDC EDPA No 17-4392. Anne Hanna is a Cal-Tech engineer and physicist who has been working on neutral redistricting rules since February of 2017.

There is an answer to these more obvious forms of gerrymandering as seen in the 2011 Congressional Map as well as some of the more subtle forms of gerrymandering as seen in the proposed "remedial plans" submitted to the Pennsylvania Supreme Court in the matter of League of Women Voters, et al. v. Commonwealth of Pennsylvania, et al. Middle District, 159 MM 2017 LE.

The answer lies in rules for redistricting that make it geographically and geometrically difficult or impossible for those holding the pen to pick and choose their voters. The Rules rely on the strict assembly of territory for electoral district based on counties and political subdivision where people choose to live.

The PA Supreme Court got it about 80% right in their January22, 2018

Order in the <u>League</u> case. What is omitted was a methodology for strict adherence

to the traditional rules of redistricting that drastically limits the picking and

choosing of territory for districts and creates compact districts in the first instance.

As applied to Congressional districts the rule set would appear as follows:

II. **A Step by Step Guide to Complying with this Court's January 22, 2018**

Order in creating new Congressional Districts.

Step 1: Throw out the current unconstitutional, incumbent-protecting,

partisan gerrymandered 2011 Congressional map in which the Legislature

selected the voters instead of allowing the voters to elect their Members of

Congress.

Step 2: Using the 2010 Census, assemble smaller population counties

(below the target population of 705,688 persons) into groupings and divide

larger population counties (above the target population of 705,688 persons) a

minimum number of times to create 18 roughly equal size Congressional

districts. For example, Philadelphia County, with a population of 2.16

Congressional districts may be divided ONLY 2 times; Montgomery

County, with a population of 1.13 Congressional districts, may be divided

ONLY 1 time; and Allegheny County, with a population of 1.73

Congressional districts, may be divided ONLY 1 time. This step will yield an initial map with a population deviation between 5% and 10%.

Step 3: To get closer to exactly equal population districts, add or subtract territory consisting of whole townships, boroughs, towns, or cities, along the whole border of each divided County in a linear fashion before moving into or out of a neighboring county. (This is an extremely important step as it will prohibit picking and choosing territory based on past partisan voting performance and will help to form very compact districts from the start.) The drafter must use up ALL of the district-to-district abutting whole townships, boroughs, towns, and cities before adding the next row of abutting townships, boroughs, towns, and cities (one district removed from the border districts). Continue this process down to the last whole township, borough or city along the border of each of the 18 districts. This step will yield an initial map with population deviations of about 2%.

Step 4: Then choose one and only one township, borough, town, or ward along each common border between two districts to divide in order to equalize population using census block data down to a single person. This step will allow the drafter to get to get to equal populations + or − one person. (5 districts comprised of 705,687 and 13 districts comprised of 705,688 persons)

Step 5: Look at concentrations of minority voters in any relevant region of Pennsylvania. Adjust the division of wards or other political subdivisions to ensure that minority votes are not diluted in violation of the Voting Rights Act, 42 U.S.C. §1973 et seq.

Notes

Where a County already has a population which is larger than the target population, do not add population from a neighboring county. This will minimize the number of splits of counties with larger populations as required by the Court. (Philadelphia, Montgomery, and Allegheny Counties)

A drafter may not consider partisan data in forming districts or drawing any boundary lines and must be able to articulate a neutral non-discriminatory reason for any choice made in the redistricting process. While the foregoing methodology using the Court's 4 Rule Set will minimize the potential for partisan manipulation of districts, we anticipate that legislators who are used to gerrymandering, will nevertheless try to game any system through the use of computers using partisan voting data, or mere knowledge of voting patterns to determine where to add or subtract whole municipalities to protect incumbents and/or pick up an additional seat for their party. Therefore, any Map proven to have used partisan data or partisan intent in the manipulation of district boundaries must be stricken.

This step-by-step approach is 100% compliant with the Court's January 22, 2018 Order (the "Court's 4-Rule Set"). All 4 criteria are met. The requirement for compact and continuous territory is met. The requirement for not unnecessarily dividing Counties and other political subdivisions is met. The requirement for exactly equal population districts is met. The requirement for compliance with the Voting Rights Act is met.

This step-by-step approach, applied in good faith, will create stable Congressional districts with minimal partisan effect.

III.   How the Court's 4-Rule Set for Redistricting, Strictly Applied with the CCFD/Hanna Methodology Will Greatly Reduce or End Gerrymandering.

A. Historical Background

To understand how the Court's 4-Rule Set, strictly applied, will prevent gerrymandering it will be useful to note that during much of the last century, the Pennsylvania Legislature was able to draw Congressional Maps that were contiguous and compact, had roughly equal populations, and avoided splitting political subdivisions with little guidance from this Court.

The 1911 Federal Reapportionment Act, Session 1, Ch 4, 5, August 8, 1911, contained three of the four redistricting requirements found in Article II, Section 16 of the 1968 Pennsylvania Constitution; namely the requirements that districts be

6

compact, contiguous and have districts with equal populations to the extent reasonably practicable. The 1911 Act was deemed to have expired in the next reapportionment act which did not contain these provisions, See: *Wood v. Broom*, 287 U.S. 1 (1932). However, an examination of the Pennsylvania Congressional Maps enacted in 1943, 1951, 1962, and 1972 reveal that, despite this repeal, these rules continued to be followed. See: the Pennsylvania Redistricting website at http://www.redistricting.state.pa.us/congressional-redistricting.cfm.

These Maps show that the Pennsylvania Legislature had little problem creating Congressional Maps with districts that were compact, contiguous, equal in population to the extent reasonably practicable and did not divide political subdivisions unless absolutely necessary. Id.

As mentioned above, the 1972 Pennsylvania Congressional Map is of particular interest because it was drafted after the U.S. Supreme Court's decision in *Wesberry v. Sanders*, 376 U.S. 1 (1964) and after the newly enacted 1968 Pennsylvania Constitution. In *Wesberry* the Court emphasized the need to equal population districts to the extent reasonably practicable. The 1972 Map reveals a sincere effort to draft Congressional districts that are both compact and avoid splitting political subdivisions. The drafter appears to have begun with county boundaries and added or subtracted whole townships in a compact manner along the border of counties.

The 1982 Pennsylvania Congressional Map (Appendix F, Map No. 4.) continued the custom of creating Congressional districts that assume all of the requirements of Article II Section 16 and the 1911 Reapportionment Act. The drafter, once again, appears to have begun with county boundaries and added or subtracted whole townships in a compact manner along the border of counties. There are some minor irregularities in the choice of which township to add to a district which may be accounted for simply by getting closer to equal population districts based upon the preceding census. Beginning with the 1992 Map (Appendix F, Map 6) , the Pennsylvania Legislature began to move away from respecting County and other political subdivision boundaries and show signs of gerrymandering in the choices made around Philadelphia and Pittsburgh.

From observation and historical facts, the first extreme gerrymandering in Pennsylvania occurs in the 2002 Pennsylvania Congressional Map (Appendix F, Map 6. In 2002, the Pennsylvania Legislature split Montgomery County into 6 pieces after the voters of the 13th Congressional District twice elected Democratic Members of Congress (Rep. Marjorie Mezvinski and Rep. Joe Hoeffel). The Democratic territory from Montgomery County was distributed in the neighboring 7th, 6th, 15th, and 2nd. We also see a significant gerrymander in the southwestern corner of the state, where Democrats from inner-ring suburbs of Pittsburgh were added to the 14th District. This packing would have affected the composition of the

abutting 4th, 18th, and 12th Congressional Districts. The 12th Congressional District is especially egregious and may reflect a personal gerrymander for incumbent Representative John Murtha.

B. The 2011 Map - Patterns in Gerrymandering

None of the past maps compare to the aggressive gerrymandering found in the 2011 Congressional Map. (Appendix E and Appendix F Map 8) Here, the Republican Majority Legislature and Republican Governor employed three techniques to dramatically increase the chances for Republican victories in 13 of 18 Congressional districts.

From careful examination of the maps and comparison to underlying partisan data introduced at trial, it is clear that the Republican Legislature gerrymandered the map on a state-wide basis, packing Democratic performing territory into five seats: the 1st, 2nd, 13th, 14th, and, to a lesser extent, the 17th.

The Republican drafters further packed the 1st Congressional District by attaching Democratic performing Swarthmore and Nether Providence Township in neighboring Delaware County. This also had the effect of cleansing Democrats from the 7th Congressional District.

The Republican drafters further packed the 2nd District by attaching Democratic performing Lower Merion in Montgomery County to an

overwhelmingly Democratic 2nd District in Philadelphia. This also had the effect of cleansing Democrats from the 7th Congressional District.

By carefully dividing Republican and Democratic voting territory between the 13th District and the 7th District, the Republican drafters simultaneously constructed a Republican leaning 7th and a Democratic packed 13th. The circuitous border on the eastern edge of the 7th, which appears as the ears and neck of the Disney character "Goofy", is essentially a careful divide between Republican and Democratic voting territory.

Republican drafters of the 2011 Map packed the 14th District by attaching the City of Pittsburgh to its inner-ring Democratic performing suburbs and excluding outer-ring Republican performing suburbs in the same county. Not satisfied with that level of partisan manipulation, the drafters then extended the 14th to include Democratic voting river towns along the Allegheny, Monongahela, and Ohio rivers to cleanse Democratic votes out of the 12th and 18th Districts.

Republican drafters then assembled large portions of Democratic voting territory in Schuylkill, Carbon, Monroe, Lackawanna, and Luzerne Counties in order to form the 17th District.

Not satisfied with packing Democrats into these 5 districts, the Republicans then split concentrations of Democrats in Erie County and allocated those voters to

the 5th and the 3rd Districts where their votes were lost in a sea of Republican voting territory, and so, could not significantly influence election outcomes.

The Republican drafters split the City of Harrisburg <u>and</u> its Democratic voting suburbs and divided these concentrations of Democratic voters between the 4th and 11th Districts.

The Republican drafters drew a line around the Democratic voting City of Reading and made those votes "disappear" by adding this Democratic voting territory to the overwhelmingly Republican voting 16th District. The same was done with the Borough of West Chester by adding this Democratic voting territory to overwhelmingly Republican voting 16th District. This configuration also made the 7th District more Republican voting for Congressman Pat Meehan.

The Republican drafters split Democratic Stroudsburg from the 17th and added it to the Republican majority 10th to make those votes disappear as well.

In the western part of Pennsylvania, Republican drafters split Democratic performing territory in Washington, Greene, and Fayette Counties and added these voters to the overwhelmingly Republican majority 9th District.

Not satisfied with packing and cracking concentrations of Democratic territory, Republican drafters elongated the districts of Republican incumbents westward in the eastern part of the State, and eastward in the western part of the State, to add proven, durable and strongly Republican voting territory to each

11

Republican majority district. It was this technique that helped ensure 13

Republican Congressional victories in 2012, 2014 and 2016 regardless of the vote

share of each party in strong or weak years. Westward expansion of eastern

districts into rural conservative voting counties is reflected in the addition of the

"Donald Duck" portion of the 7th. Here, conservative portions of Chester, Lancaster

and Berks Counties were added to a Philadelphia suburban district.

The westward elongation of districts in the east into rural portions of

Pennsylvania is also seen in the westward loop of the 6th District into Berks and

Lebanon Counties; the westward elongation of the 15th District into rural Lebanon

and Dauphin Counties; the westward elongation of the 17th District into Schuylkill

County; the westward elongation of the 11th District into rural Dauphin, Perry, and

Cumberland Counties. In the western half of the state the elongation of districts

into rural Republican territory is reflected in the southeastward elongation of the 3rd

District into rural Clarion and Armstrong Counties; the eastward elongation of the

12th District into Cambria and Somerset Counties; and the eastward elongation of

the 18th District into Westmoreland County.

A special mention must be given to the 12th District. If there were a

"gerrymander of the decade award" it clearly belongs to the drafters of this district.

 The 12th District employs all of the aforementioned techniques of partisan

gerrymandering, with the added bonus that two incumbents in the opposing

Democratic party, Rep. Jason Altmire (D-PA 4th) and Rep. Mark Critz (D-PA

12th), were simultaneously unseated by the formation of a single District. The new

12th was made less Democratic by shifting additional Democratic territory into the

14th District (to the south) along the Ohio and Allegheny Rivers. The club portion

of the 12th was the result of expanding the 12th District north and south into rural

Republican voting territories of Cambria and Somerset Counties. Curiously the

new 12th District was also drawn to include the home of Speaker Mike Turzai, who

had expressed interest in running for Congress, and to exclude a potential

Republican opponent, Keith Rothfus. Turzai did not run. Rothfus won the seat

and moved into the district.

C. How the Court's 4-Rule set, strictly applied using the CCFD methodology, makes the 2011 Map impossible

The strict application of the requirement that districts shall be composed of

compact territory and the strict application of the requirement that Districts shall

not "divide any county, city, incorporated town, borough, or ward except where

necessary to ensure equality of population" will severely hamper partisan

gerrymandering in Pennsylvania. Each of the gerrymandering techniques

displayed in the 2011 Map depends on being able to break through county and

other municipal boundaries. By starting with counties to form districts and

requiring the addition or subtraction of only whole municipalities (except for one)

13

along county boundaries while requiring that districts remain compact, the Legislature will make it extremely difficult for gerrymanderers to ply their trade.

It is the combination of the rule for compactness and rule for not splitting counties or other political subdivisions, strictly applied that makes it nearly impossible for gerrymanderers to pick and choose desired territory. If a drafter cannot pick and choose territory, a drafter cannot choose territory based on partisan voting behavior.

Compact districts would have rendered unlawful the following districts that were elongated to add Republican voting territory for the purpose of diluting Democratic votes: the 7th, 6th, 15th, 10th, 9th, 18th, 12th, and 3rd Districts.

Compact districts would have rendered unlawful the 1st, 17th, 13th, and 14th where Democratic tendrils were added to Democratic districts and removed from neutral or Republican leaning districts.

Requiring a drafter to minimize county splits and form Congressional districts using territory along the boundaries of counties before attaching other territory further inside of a county would render unlawful the partisan manipulation of all 18 Congressional districts. Compare 1972 Map (Appendix D) with 2011 Map (Appendix E).

In sum, the strict application of compactness and minimizing the number of splits will geometrically and geographically prevent virtually all of the gerrymandering (voter selection) seen in the 2011 Map.

More importantly, by geometrically and geographically preventing politicians from choosing their voters based upon partisan voting history in past elections and by insisting on boundaries composed of established municipal boundaries, the voters will once again choose their Congressional representatives instead of allowing politicians to choose the voters. Democracy and free and equal elections of Congressional representatives will again be restored in Pennsylvania.

D. Other reasons to minimize the division of counties and other municipalities

In addition to providing an objective and historically-grounded framework for neutral redistricting and frustrating the work of gerrymanderers, the preservation of whole counties and other municipalities should be paramount in drafting Congressional districts for the following policy reasons:

(1)   Counties, cities, townships, and other municipalities have meaning to citizens because this is where people choose to live and/or raise their families.

(2)   Counties, cities, townships, and other municipalities have meaning to citizens because this is where people face common problems that may be unique to their communities, such as failing schools, congested highways, the need for parks, libraries, or after school programs, storm water management, medical care, jobs,

and economic development. On many specific issues, needs of communities may differ from county to county or township to township.

(3)   Counties, cities, townships, and other municipalities have meaning to citizens because this is where people pool their resources in the form of taxes to solve common problems.

(4)   Because of the above needs, it is important for citizens to know the identity of their Congressperson and it is important for their Congressperson to know and advocate for their communities. This is made far more difficult when districts' shapes are attenuated or elongated to influence the outcome of elections.

(5)   Compact districts based on county boundaries will make it easier for people to visit, get to know, and lobby their Congressional representative and feel less alienated.   All of the elongated districts noted above make it very difficult for citizens to get to know their Congressional representative and for their Congressional representative to get to know them.

(6)   Districts that begin with county boundaries establish an objective framework to create meaningful districts that can be judicially administered. By having clear geometric standards for keeping counties, townships and wards or boroughs whole, additional breaks in counties, townships, wards or boroughs become an indication of partisan manipulation. For illustration, if a map is presented to a Court with a less obvious gerrymandered shape, such as the 6th, 16th,

17th or 11th, by requiring Congressional districts to follow county boundaries and add or subtract territory only along county boundaries, a deviant district would create a prima facie case of partisan intent which would have to be explained by those defending the map. If the unexplained boundaries that did not follow county borders corresponded to underlying partisan voting territory, the map should be stricken as the product of partisan gerrymandering.

E. The emergence of a judicially manageable standard

There is a nexus between the 4-Rule framework in the Court's January 22, 2018 Order and a manageable judicial standard. The requirement to base districts, where possible, on compact and unbroken political subdivisions, creates a neutral objective standard to form and evaluate districts. Neutral and objective standards gives courts important benchmarks to determine whether gerrymandering has occurred, or at least whether a prima facie case has been stated, thereby requiring an explanation from the drafter. In the absence of objective standards, the courts have been unwilling to protect the rights of individual voters from discrimination and vote dilution by legislators who choose to manipulate the boundaries of districts to favor their own party or political allies. In the absence of objective standards and Court intervention, the drafting of districts becomes lawless. Might makes right. Those in power take advantage of those out of power to rig elections and entrench positions.

The Court's 4 Rule Set, strictly applied, ends that chaos, lawlessness and perversion of fair elections and the subversion of democracy by allowing courts to intervene with objective neutral standards.

The 4-Rule Set is therefore, essential to protect Pennsylvania voters and candidates from discrimination based on their political views in violation of Article I, Section 26 of the PA Constitution and protect Pennsylvanians from rigged elections in violation of Article I, Sections 1, 2, 5, 20, 25 and 26 of the PA Constitution.

More specifically, if the drafter of Congressional districts had to form districts by assembling whole counties, compact portions of counties, and avoid breaks in political subdivisions then a map that failed to follow these simple standards, would create a *prima facie* case of partisan intent. At this point, the drafter would be required to explain why the chosen boundaries deviated from these standards. If the drafter fails to explain or offer an inadequate explanation, the map should be stricken and the drafter would be sent back to redraw the map.

If the drafter of the map presented a plausible explanation for a shape that deviated from the Court's criteria, the opposing party should then be given the option of presenting underlying political and geographic data to show that district boundary lines were more likely used to pack or crack concentrations of opposing

voters to otherwise manipulate boundaries for partisan ends. In such instance, the map should be rejected by the Court and the drafter sent to redraw the map.

So for example, suppose a litigant complains about the 6th District in the 2011 Map. The 6th splits four counties. The 6th is visually non-compact. The 6th District fails to adhere to any county boundaries. The 6th District is elongated with a tail to the west. From a visual inspection alone it is clear that the drafter could have swapped territory with the 7th to make the 6th more compact and primarily a Chester County district but chose not to do so. Each of these attributes would make out a *prima facie* case of gerrymandering.

At this point, the drafter would be required to explain why the chosen boundaries deviated from these standards. If the drafter failed to explain the boundary deviations, the map would fail.

If the drafter presented a non-partisan explanation of the boundary choices, the opposing party could also present underlying political and geographic data that showed the chosen lines, that deviated from established standards, were likely used to pack or crack concentrations of opposing voters or artificially make a district more Republican or Democratic performing. If such a showing were made, the map should be rejected by the Court and the drafter sent to redraw the map.

IV. <u>Why Incumbency Can Play No Role In Redistricting.</u>

CCFD opposes incumbency protection for the following reasons: (1) incumbency protection is a fundamental violation of Article I, Sections 1, 2, 5, 20 and 26 of the Pennsylvania Constitution; (2) incumbency protection reinforces past partisan gerrymanders; (3) incumbents already enjoy a 5% to 15 % advantage over a challenger due to name recognition, the ability to raise funds, constituent service opportunities and party recognition; (4) the U.S. Constitution does not require an individual running for Congress to reside in his or her district; and (5) providing incumbency protection will destroy any framework for neutral objective criteria based on the Court's 4-Rule Set.

Article I Section 1 of the Pennsylvania Constitution provides that all people are "born equal and free." If all people are equal and free, how could any court approve an advantage for one person over another in running for elected office?

Article I Section 5 of the Pennsylvania Constitution provides that "Elections shall be free and equal…" This provision clearly means that elections shall be run fairly and that it would be patently unfair for the Court to permit one person from being given a governmentally sanctioned advantage over his or her rival in an election. This would be the equivalent of saying that incumbents start on the 50 yard line of a football game and challengers start their drive on the 20 yard line.

More specifically, districts should not be drawn to favor the political party of an incumbent. Drafting a map to give an incumbent additional territory of his or

her own party would be the equivalent of giving the incumbent an extra 20,000, 30,000 or 40,000 votes. Once again, how could any court allow an incumbent to start on the 50 yard line on every drive down the field? Just as a Court would never allow a candidate to steal votes after they were cast, the Court should be equally concerned about a majority party stealing votes before they are cast by moving the boundaries of Congressional districts to exclude unwanted opposing voters.

Article I Section 26 prohibits discrimination against any person in the exercise of their civil rights under Pennsylvania law. This clause states, "Neither the Commonwealth nor its political subdivision thereof shall deny any person the enjoyment of any civil right, nor discriminate against any person in the exercise of any civil right." The right to run for Congress is a civil right. An incumbent who chooses to run for Congress is nothing more than a person choosing to exercise the civil right of running for office. A challenger who chooses to run for Congress is nothing more than a person choosing to exercise the civil right of running for office. If one meets the federal requirements to run for Congress, it would be unconscionable for any court to discriminate between these two people and make it easier for one to win by designing a district with voting territory which favors his or her own party.

Nor should districts be designed to include or exclude the home of incumbents. This act would once again treat one citizen more equal than others. Instead, only objective standards should be used to form districts, and candidates can choose to move into districts, if that is their desire.

Second, incumbency protection reinforces past gerrymandering. All 18 Pennsylvania Congressional districts are the result of Republicans' successful packing or cracking Democratic voters, or adding durable Republican voting territory to Republican districts. Any attempt to keep these districts intact, whether Republican or Democratic, would simply reinforce past gerrymandering of the Congressional district map.

Third, incumbents do not need protection. Incumbent Congressional representatives have enormous advantages in running for office. They have free official mailings, name recognition, press coverage, an opportunity for constituent service and an ability to raise funds which is superior to most challengers. Some experts estimate that incumbents have a 5% to 15% advantage over challengers in running for office. If those figures are correct, incumbents need no additional advantages by drawing districts in their favor.

Fourth, the Constitution does not require incumbents to live in their districts. Article I Section 2 of the U.S. Constitution requires only that a Representative "be

an inhabitant of that state in which he shall be chosen."   Both Bob Brady (D PA

1st) and Keith Rothfus (R PA 12th) ran while living outside their districts and won.

Finally, providing incumbency protection will destroy any framework for

neutral objective criteria based on the Court's 4-Rule Set. Incumbency protection

would provide an easy excuse not to follow one or more of the Court's redistricting

rules and would end up destroying the integrity of a neutral districting framework

based on drafting principles that are consistently applied.

V. <u>The Importance of the Court's Rule Set.</u>

The Pennsylvania Supreme Court has landed on a set of criteria for

redistricting that will bring order to chaos and fairness to political discrimination.

 The rules will prevent the drafter's pen from being used as a political weapon

against concentrations of opposing voters. The rules are easy to use, create

objective standards to detect partisan gerrymandering and reject maps that contain

any district formed with partisan intent. It is also important to note that

Pennsylvania is not alone in applying the rules for compactness, contiguity and

equal population in elections. A total of 42 states require that state legislative

district lines be drawn to account for political boundaries (e.g., the limits of

counties, cities and towns). A total of 19 states require that similar considerations

be made in the drawing of congressional district. See:

https://ballotpedia.org/Redistricting_in_Iowa. In addition, 23 states require their

congressional districts to be contiguous and 18 states require their congressional districts to be compact. Id.

VI. <u>Conclusion</u>

The Court's 4-Rule Set, strictly applied, using the CCFD methodology for redistricting, not only creates judicially manageable standards in Pennsylvania, it responds to Justice Kennedy's plea in *Veith et al v. Jubelirer*, 541 U.S. 267 (2004) at 317, for a neutral, workable, judicially manageable standard to detect partisan gerrymandering and reject maps or plans that are the product of the manipulation of districts with partisan intent. Sadly, the Court in *Veith* did not understand that the answer lay before them in the strict application of all four criteria contained in the Pennsylvania Constitution. *Gerrymandering depends on the capacity to pick and choose territory* based on voting history to generate election results that perversely favor one party or another or favor or disfavor an individual candidate. By strictly applying rules that are part of the fabric of both Pennsylvania Law and U.S. Law and applying the lessons of the 1972 Congressional Map by requiring drafters to start with counties to create Congressional districts and add or subtract territory along county boundaries before moving inboard within a county gerrymandering, geometrically and geographically, will become difficult if not impossible.

We also urge this committee to consider a standard that allows no partisan intent and no protection for incumbents in choosing district boundaries. To allow the small amounts of partisan intent would make the process unmanageable. To allow the protection of incumbents, who in many cases were elected as a result of gerrymandering, would further damage the integrity of our election process.

Respectfully submitted,

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