Testimony of Lawrence Hill
Illinois House Redistricting Committee
April 17, 2021

My name is Lawrence Hill. I am a former President of the Cook County Bar Association, the oldest Black bar association in America. I am here today to testify as a concerned citizen regarding issues related to the redistricting process currently underway in our state. I submit that the 2021 process is the most significant in our time because of its potential to negatively impact the voting power of African Americans and other communities of color.

While every redistricting process is important, I am especially concerned about African American population shifts and its potential to impact voting strength. At 14.1%, the African American or Black population in Illinois has remained unchanged between 2011 and 2019. However, the Black population in the Chicago Metropolitan Area has shifted such that a number of Illinois Senate and Legislative Districts that were majority Black when the boundaries were determined in 2011 now have Black pluralities, or a very slim majority. For example, when Illinois Senate District 5 was drawn in 2011, it was 55% Black. According to the most recent American Community Survey data published by the U.S. Census Bureau, the District is now 46% Black. When District 16 was drawn in 2011 it was 66 % Black. It is now 50.7% Black.

My objective today is to outline a vision of the minimum prerequisites of a fair redistricting plan for Black residents in Illinois. In so doing, I address three areas of primary concern: 1) The Illinois Voting Rights Act of 2011; 2) Attempts at diluting Black voting power and 3) Other fairness considerations.

The Illinois Voting Rights Act of 2011

I believe that the Illinois Voting Rights Act of 2011 (IVRA) is a momentous and salutary law that ensures a fairer redistricting process for all racial minorities if it is properly implemented. This act fills a void left by the federal Voting Rights Act of 1965 (VRA). In *Bartlett v. Strickland*, the United States Supreme Court held that the VRA's prohibition against minority vote dilution applies only where a minority group could constitute a voting-age majority in a putative district.[1] The Court, however, expressly left to the states whether other protections in addition to majority-minority districts would be available.[2] Illinois has elected to exercise the discretion left to it by the United States Supreme Court.

I interpret the IVRA to require the legislature to create a crossover, coalition or influence district where it is not feasible to create a majority-minority district and where doing so is otherwise consistent with other redistricting edicts and the United States Constitution. I view the IVRA as a protection against gratuitously cracking the Black

[1] 129 S.Ct. 1231, 1246 (2009).
[2] *Id*. at 1248.

vote. Cracking, of course, is a means of diluting the Black vote by spreading the Black population into multiple districts in which it cannot control the outcome of an election. In the absence of IVRA, in a district where Blacks do not constitute a voting-age majority, it would be fair game to redistribute that population. However, assuming the other prerequisites of a vote dilution claim are satisfied,[3] if a Black plurality can demonstrate the existence of white crossover votes sufficient to elect the Black-preferred candidate or can show sufficient support from other minority groups to elect the Black-preferred candidate, then the IVRA mandates that the Black population not be fractured. My first minimum prerequisite for a fair redistricting process is that the Illinois Voting Rights Act of 2011 be followed.

I understand the IVRA and its additional minority-opportunity options to be consonant with the Equal Protection Clause of the Fourteenth Amendment. As Justice Kennedy wrote in *Bartlett*, "[C]rossover districts may serve to diminish the significance and influence of race by encouraging minority and majority voters to work together toward a common goal."[4] Quite apart from encouraging cross-racial coalitions, the flexibility provided by the IVRA helps to debunk the stereotype of the Black vote as race-based and to permit traditional districting factors, such as partisanship and maintenance of communities of interests, to redound to the benefit of Black voters. Let me be more specific.

The United States Supreme Court held in *Easley v. Cromartie* states that where racial identification correlates highly with political affiliation, districts that concentrate Blacks as strong Democrats do not abridge the Constitution.[5] In addition to demonstrating the continued existence of racially polarized voting in Illinois,[6] the 2020 presidential elections underscored Black voters' position as the most loyal Democratic voters in the state. Exit polls show that the Democratic presidential candidate captured 93% of the Black vote.[7] In the United States Senate contest, Black voters delivered a substantial majority of their vote to the Democratic candidate.[8] Political cohesion of this magnitude makes it a stretch to caricature the minority-opportunity districts sanctioned by the IVRA as race-based. Black voters in Illinois are the strongest partisans in the state and, as such, should not be characterized myopically as a racial group in the electoral process.

I also understand the IVRA to be sensitive to the idea of maintaining communities of interest. Many Black voters in Illinois have a unique relationship with their current state representative or senator. These relationships are the product of constituent service and advocacy of issues that bear especially upon communities of color. Where such relationships exist, the IVRA allows for their continuance even if the Black voting-age population does not constitute the majority in a district. Moreover, the United States

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[3] Those prerequisites are the existence of racially polarized voting and sufficient geographic compactness. Thornburg v. Gingles, 478 U.S. 30, 50-51 (1986).
[4] 129 S.Ct. at 1248.
[5] 532 U.S. 234, 258 (2001).
[6] For example, two of three Black candidates for statewide office lost in the 2010 midterm elections.
[7] https://www.nytimes.com/interactive/2020/11/03/us/elections/ap-polls-illinois.html
[8]https://www.cbsnews.com/elections/2020/illinois/senate/

Supreme Court has been solicitous of state efforts to maintain constituency-representative relations.[9] For this reason, I would not expect substantial change in the current map as it relates to African American districts unless there is a compelling reason for such a change.

Concerns Regarding Packing

I next would like to address concerns with the packing of Black voters. Packing refers to the over-concentration of Black voters in a few districts, thereby constricting their ability to control or influence outcomes in a greater number of districts. After the 2011 redistricting, the Illinois Republican Party, along with individual plaintiffs, brought a lawsuit under § 2 of the VRA claiming that two districts where Black and Latino voters constituted an influential, but not majority vote had been created by the redistricting legislation solely to effectuate the perceived common interest of one race.[10] These claims were rejected by the court, which found that the proposed maps were supported by "abundant, uncontroverted evidence that the legislature did not elevate racial considerations above legitimate redistricting principles in drawing the district.[11] The suit was then and is to this day perceived as an attempt by the Republican Party to dilute the voting power of Black and Latino voters.

I understand that the districting process is political. I simply want to ensure that all lawful means are employed to protect Black representation in the legislature. Thus I believe the second minimum prerequisite for fair redistricting is that the legislature be guided by the best available political data in determining which majority-minority districts to create, which IVRA minority-opportunity alternatives to create and what percentage of minority populations will create effective majority-minority and minority-opportunity districts. This obviously may not forestall litigation like the suit brought after the 2011 redistricting, but a baseline commitment to be guided by the best available data rather than generalizations will speed the resolution of any litigation. Of course, I respectfully request that all such data relied on by either of the parties be made available to the public.

Other Fairness Concerns

I conclude my testimony by remarking on two other concerns. First, while I

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[9] *See, e.g.,* White v. Weiser, 412 U.S. 783, 791 (1973) ("The State asserts that the variances present in S.B. 1 nevertheless represent good-faith efforts by the State to promote 'constituency-representative relations,' a policy frankly aimed at maintaining existing relationships between incumbent congressmen and their constituents and preserving the seniority the members of the State's delegation have achieved in the United States House of Representatives. We do not disparage this interest.") (Footnotes omitted). The Court recognized that a similar interest may exist in state legislative redistricting. *Id*.

[10] *See* Radongo v. Illinois State Board of Elections, 836 F.Supp.2d 759 at p. 756 (N.D. IL 2011).

[11] *Id*. at 767.

understand that the practice in Illinois to count prison inmates as residents of the localities in which they are imprisoned has been eliminated with the passage of recent Omnibus legislation, I am very concerned that the law eliminating the practice will not become effective until 2025. I believe that there is still time for the legislature to revise the implementation date to include prisoners in this redistricting cycle. Because Blacks and Latinos constitute a disproportionately high share of the state and federal prison population in Illinois, I believe a delay in implementation of the new law is harmful to minority interests in the redistricting process. Therefore, a third minimum prerequisite for fair redistricting is to count inmates as residents of the locality from which they have come during this redistricting process This is the current practice in other large, racially diverse states such as New York, New Jersey, Maryland, Delaware, Virginia, Colorado, Nevada, California and Washington.[12]

Finally, I am aware that the Illinois Voting Rights Act of 2011 does not expressly apply to congressional redistricting. However, the same discretion afforded to the states in *Bartlett* does apply to congressional redistricting. I believe, as a final minimum prerequisite for fair redistricting, that the legislature should apply the basic framework of the IVRA to its congressional redistricting.

I am looking forward to participating in future hearings, particularly those held on the South Side of Chicago, where I have been a resident for over 50 years. I thank you for your time.

[12] See, e.g., https://theappeal.org/political-report/prison-gerrymandering-states/