MEMORANDUM

TO: Christian Cullen

FROM: Brett Dalrymple

DATE: June 24, 2021

RE: Public opinion based on the results of the 2013 Reapportionment.

Question Presented

What was the general opinion of the public concerning the 2013 New York reapportionment, which was conducted using the results of the 2010 census?

Brief Answer

Generally, very little public opinion of the reapportionment is available, aside from that of some elected officials. From the available opinions, which was compiled from mostly elected officials from Dutchess county or those surrounding, Democratic and Republican officials aligned their views of the reapportionment with that of their party. Democrats, including Governor Cuomo did not think the lines that were drawn were fair or appropriate, whereas Republicans were more likely to approve or be indifferent. A common view between the opinions regardless of affiliation was a desire to keep town lines intact and have a process transparent to the public.

Facts

In January of 2013, Dutchess County adopted the newly reapportioned county district map. The reapportionment, which took nearly three years to accomplish, was based on the 2010 census. Despite being outnumbered by Democrats by nearly 20,000, the Republican party in Dutchess County has managed to maintain control over the county government for roughly three

decades. The ability to maintain the highest positions of leadership in the county despite being vastly outnumbered, brings about the question of whether reapportionment has played a role in Republican victory, and what was the opinion of Dutchess County residents on the reapportionment of 2013?

The public view of the reapportionment is seemingly unheard of except through the County politicians and their allies. In 2010, prior to the redistricted map being adopted, the Democratic led legislation passed independent redistricting without a referendum rather than the party led redistricting. However, the Republican Party ultimately repealed this referendum in 2010, allowing them to create their own districts for the map[1].

As a result of the reapportionment, the only three districts to remain the same were those of Red Hook, Clinton/Rhinebeck, and Western Hyde Park. As Legislator Mike Kelsey explains, "In shaping the lines, legislators focused on grouping census blocks and in keeping as many towns whole as possible. In our region various drafts proposed splitting Amenia and Millbrook, but opposition to these plans were vocalized by the general population.[2]" Alongside the opinions of the towns themselves, several government officials had opinions on the new districts after the reapportionment. Republican Senator Steve Saland of Poughkeepsie "looked at it with mixed emotions…and was excited to represent more of Dutchess county and a portion of a county (Putnam) he never had.[3]" Senator Greg Ball, a Republican from Patterson expressed "For me nothing will change…My focus before and after redistricting will continue to be on job creation,

[1] Kristofer Munn, End gerrymandering in Dutchess County, Kristofer Munn, Dutchess County Legislator. End gerrymandering in Dutchess County (munnforredhook.com)

[2] George., Search Results for redistrict, Legislator Kelsey's Blog (Dec. 20, 2010), legislatorkelsey.wordpress.com/.
[3] Joseph Spector, Legislative Redistricting Plan Changes Dutchess Lines: Critics say proposal Reflects Republican Gerrymandering, Poughkeepsie Journal. 1,2 (Jan. 27, 2012). Legislative redistricting plan changes Dutchess lines.doc (live.com)

lowering taxes and working with Governor Cuomo to get New York state back on track.[4]" Saland and Ball look at the results of the reapportionment and the process itself in a somewhat positive light, expressing that no matter what the results were, their actions and goals to help their represented people will not change. Assemblyman Kevin Cahill, a Democrat from Kingston "believes that the lines be thoroughly vetted to make sure no one is disenfranchised, and communities remain whole.[5]" Two other Democrats, one a Governor and one a former Mayor, had a much more sinister outlook on the reapportionment. Former New York Mayor Ed Koch, a lifelong Democrat, said "I am disappointed in this result and in the dishonorable lawmakers who openly pledged to do things differently this year, and then reneged when it wasn't to their political advantage.[6]" Governor Cuomo explained that his "position hasn't changed. I've said all along I want an independent commission to draw the lines.[7]" Another Democrat that did not approve of the redistricting process was Patrick Kelly, from local Red Hook, who is an active member of the Dutchess County Democratic Committee. Kelly discussed the process of redistricting and how it was approved, claiming that voters were unaware that redistricting was being discussed, and some were unable to speak up against it. He writes on the Dutchess Democratic Party's website, "…the issue was tabled at committee, meaning that it was never on the agenda. Voters had no notice that it would come to a final vote that evening.[8]" He further claims that when he "tried to speak on the topic at 7 p.m., I was forced off the podium, because I was only allowed to speak to agenda items. At 1:30 a.m., it was added on to the agenda anyway. Only then was I allowed to comment, having waited over six hours and into the middle of the

[4] Id.
[5] Id.
[6] Id.
[7] Id.
[8] Patrick Kelly, GOP Kills Bipartisan County Redistricting, Dutchess County Democratic Committee, Category, Sidebar (December 20, 2010). Sidebar Archives - Dutchess County Democratic Committee (dutchessdems.com)

night.[9]" Patrick Kelly, along with other Democratic leaders such as Governor Cuomo and Ed Koch resent the redistricting and the way the Republican legislature went about the process. Patrick Kelly further expresses his animosity toward the process by saying, "Voters have a right to choose their legislators – legislators do not have a right to choose their voters…Common sense tells us that politicians do not hand themselves power at 1:30 a.m. because they are acting in the public's best interest. This is a blatant power grab so that the majority party can ensure their own re-election in November.[10]" Kelly is a strong advocate for independent redistricting, saying "Fair representation shouldn't be a political issue, and it shouldn't be controlled by one party.[11]"

Democrats such as Governor Cuomo, Mayor Ed Koch, and Patrick Kelly adamantly oppose the 2013 redistricting, claiming it was an unfair power grab perpetuated by Republicans to gain power and an advantage in the next election. However, Legislator Mike Kelsey has an almost completely opposite view of the redistricting process, along with an inside view that average citizens such as Patrick Kelly do not have access to. He claims "The process by which the new map came to be was both transparent and bipartisan. All legislative concerns were accommodated regardless of party affiliation, and the concerns of the public raised at five public hearings were incorporated into the final draft. Even at the January 30th adoption of the map those who dissented praised the process.[12]" Mike Kelsey is an advocate against the prospect of an independent redistricting process. He claims that "an Independent Commission based solely on party affiliation neglected larger demographic considerations including regional composition,

[9] Id.
[10] Id.
[11] Id.
[12] George., Search Results for redistrict, Legislator Kelsey's Blog (Dec. 20, 2010), legislatorkelsey.wordpress.com/.

history, ethnicity and the consent of the governed.[13]" He further advocates against an Independent Commission by claiming that "elected legislators are already entrusted by voters to represent them – and that unlike Independent Commissioners – accountability exists at the ballot box for legislators.[14]" Kelsey is explaining that because legislators are elected, they have to appease the people who voted for them. An Independent Commission does not have to worry about being re-elected or any negative consequences of going against the public's wishes. Elected legislators must appease and satiate the citizens that voted to put them into office, because if they do not, they will not be re-elected in the next election. On the other hand, an Independent Commission faces no consequences for not voting for the will of the people.

A prevalent theme in the sentiment of many citizens is the issue of transparency in the redistricting process. Patricia Doxsey discusses in a Daily Freeman news article the sentiments of Majority Whip Angela Flesland, a Republican from the town of Poughkeepsie, and Legislature Chairman Robert Rolison, a Republican from the city of Poughkeepsie. Both Flesland and Rolison "believe there should be an open and transparent process that gives the public faith in the Legislature and allows the best possible districts for the future of Dutchess County.[15]" These two legislators were responsible for overriding the County Executive, William Steinhaus', veto of the GOP's idea of putting the redistricting process back in the hands of county legislators. Steinhaus claims that his veto of the legislature's plan was due to "the legislature's failure to reduce the size of the body from the current 25 members to 15.[16]" His distaste for the size of the body comes from his belief that the "the current Legislature is unwieldy and makes for too many

[13] Id.
[14] Id.
[15] Patricia Doxsey, Dutchess GOP promises fairness in redistricting, Daily Freeman (Jan. 26, 2011), www.dailyfreeman.com/news/dutchess-gop-promises-fairness-in-redistricting/article_f8349543-86a3-59f8-a667-94186898ed63.html.
[16] Id.

personalities, too many individual legislators put more parochial interests ahead of broader county needs and interests.[17]" Costas Panagopoulos, Ph. D., of the Times Union, was another concerned citizen worried about the transparency of the reapportionment. Panagopoulos states "partisan gerrymandering often slices communities apart and creates districts that fail to ensure effective minority representation…For all kinds of communities to be fairly represented in government, redistricting must be accountable to the communities being represented. The process must be transparent, accountable and open to public engagement.[18]" Panagopoulos an Associate Professor of Political Science at Fordham University, discusses the use of the program that he directs to aid in the making of district maps. The program is called "The 2012 New York Redistricting Project,[19]" and provides the population with free software that allows them to make legislative maps and be involved in redistricting.

When looking at the public opinion of the 2013 reapportionment, we see that there was support, opposition, and even indifference to the redistricting results from citizens of both spectrums of the political field. However, according to Bill Mahoney of the New York Public Interest Research Group, "the maps are the most gerrymandered in recent New York history. Despite the vast array of varying opinions on the 2013 redistricting, the data taken by the New York Public Interest Research Group must be taken into account. According to the NYPIRG, "districts should ideally have population deviations of no more than three percent. In the proposal, only 13 of the 63 Senate Districts would meet that guideline; 10 years ago, 43 districts met the 3 percent deviation.[20]" Despite what the NYPIRG may believe, three percent is not the

[17] Id.
[18] Costas Panagopoulos, Make the public part of redistricting process, Times Union (Oct. 30, 2011), www.timesunion.com/opinion/article/Make-the-public-part-of-redistricting-process-2243816.php.
[19] Id.
[20] Patrick Kelly, GOP Kills Bipartisan County Redistricting, Dutchess County Democratic Committee, Category, Sidebar (December 20, 2010). Sidebar Archives - Dutchess County Democratic Committee (dutchessdems.com)

legal threshold that the state must hold the differential to be. As ruled on by the United States Supreme Court, Gaffney v. Cummings, "state legislative districts, on the other hand are usually allowed to range within 10 percent from smallest population to largest, plus or minus 5 percent of the average size.[21]" United States Supreme Court Case Reynold v. Sims stated the rule that "the achieving of fair and effective representation for all citizens is…the basic aim of legislative apportionment.[22]"

Analysis

Evidence of the public consensus on the 2013 reapportionment of New York is almost non-existent, except for the views of a few politicians and journalists. Views of the reapportionment varied from one end of the spectrum to the other, and even included some indifference. Republicans, such as Senators Greg Ball and Steve Saland were somewhat indifferent to the reapportionment and chose to focus more on the scope of their representation of the people they represent not changing. They were less worried about political alignment, and more focused on their jobs, as politicians should. Republicans such as Legislator Mike Kelsey were much more adamant in their opposition to Independent Commission and support for the map. Even Kingston Democratic Assemblyman Kevin Cahill, was in support of the map, as long as no one suffered, and it was fair. However, other Democrats such as Governor Cuomo, former Mayor Ed Koch, and a Dutchess Democratic Committee member Patrick Kelly were steadfast in

[21] NYPIRG, Can the Plan: How the 2012 Redistricting Deal Denies New Yorkers Fair Representation and the Fundamentally Flawed Redistricting Reform (June, 2014). cantheplan.pdf (nypirg.org)
[22] Id.

their aversion to the reapportionment map that was drawn up. Governor Cuomo's stubbornness caused him to "vow to veto any lines that ware not independently drawn.[23]" Ed Koch, called the lawmakers "dishonorable…who openly pledged to do things differently this year, and then reneged when it wasn't to their political advantage.[24]" However, not much credibility or weight can be put into the judgement of "honorable" by an ex-mayor with sexual assault allegations against him. Patrick Kelly proposes the idea that the republican politicians attempted not only to hide the fact that they were voting on the reapportionment, but then proceeded to censor him when he tried to speak out against it. It is completely understandable to be upset, as any reasonable person would be, for waiting 6 hours to discuss something that was not on the original agenda. However, citizens as opposed to politicians, have skewed views about politics because they often do not understand how it works.

Overall, Republican legislators tended to either be supportive or indifferent to the reapportionment. They expressed that nothing would change for their agenda to represent their respective citizens, regardless of the outcome of the reapportionment. From an outside view, the Republicans whose opinions were available, they were more focused on the reapportionment being fair, rather than their party winning, and that no matter what happened, they still had people to represent. There were even some democrats such as Kevin Cahill, whose views mirrored those of the republicans, saying his concerns were that "no one is disenfranchised, and communities remain whole. On the other side of the spectrum, the Democratic citizens and legislators whose opinions were available, were almost exclusively against the reapportionment. It is evident that leaders such as Governor Cuomo were more worried about political polarization

[23] Joseph Spector, Legislative Redistricting Plan Changes Dutchess Lines: Critics say proposal Reflects Republican Gerrymandering, Poughkeepsie Journal. 1,2 (Jan. 27, 2012). Legislative redistricting plan changes Dutchess lines.doc (live.com)
[24] Id.

than the actual outcome of the reapportionment. He vowed to veto any maps that were not independently drawn, because he did not want Republican politicians drawing lines.

Transparency was a sentiment shared by almost all legislators and citizens alike. As stated by Majority Whip Angela Flesland and Robert Rolison, "there should be an open and transparent process that gives the public faith in the legislature and allows the best possible districts for the future of Dutchess County.[25]" Every opinion available mentioned the transparency and trustworthiness of the reapportionment, with the exception of the Democrats, to whom that was not the main concern. Overall, from what can be gathered, trustworthiness, transparency, and maintenance of towns were the most prevalent concerns of the public.

[25] Patricia Doxsey, Dutchess GOP promises fairness in redistricting, Daily Freeman (Jan. 26, 2011), www.dailyfreeman.com/news/dutchess-gop-promises-fairness-in-redistricting/article_f8349543-86a3-59f8-a667-94186898ed63.html.