



**NYS LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND  
REAPPORTIONMENT VIRTUAL PUBLIC HEARING TO EVALUATE THE NEW  
LEGAL STRUCTURE OF REDISTRICTING IN NYS FOR 2021-2022**

**TESTIMONY OF JOSÉ PÉREZ  
DEPUTY GENERAL COUNSEL, LATINOJUSTICE PRLDEF**

July 15, 2020

On behalf of LatinoJustice PRLDEF, I want to thank the NYS Assembly Standing Committee on Government Operations and the NYS Senate Standing Committee on the Judiciary for the opportunity to appear before the NYS Legislative Task Force on Demographic Research and Reapportionment and testify about New York's *new* legislative redistricting process. As you know, the 2014 amendments to the New York State Constitution resulted in the creation of a new ten-member purported Independent Redistricting Commission "to propose new legislative districts during the upcoming once-a-decade reapportionment".

Initially, I must express LatinoJustice's continuing concern and severe disappointment regarding the lack of any Latino representation on the New York State Independent Redistricting Commission ("Commission"). Inasmuch as Latinos are the both the nation's<sup>1</sup> and the state's<sup>2</sup> largest minority group, it is simply incomprehensible that New York's Assembly and Senate leadership neglected to appoint a single Latino when announcing their eight initial appointments to this so-called Independent Redistricting Commission earlier this year. The Commission now runs the palpable risk of perpetuating the continuing inequitable treatment of Latinos in our great Empire State and ignoring the voices and needs of Latino New Yorkers. We respectfully urge the Task Force and the duly elected Members of the State Legislature to do everything in your power to ensure that the existing eight Commissioners address this oversight and duly consider, support and vote for Latino candidates to fill the remaining two independent seats on the Commission. We also suggest the reform of several pertinent sections of the New York Constitution to further ensure equitable representation and inclusion.

Founded in 1972 as the Puerto Rican Legal Defense and Education Fund, LatinoJustice PRLDEF champions an equitable society by protecting, defending and advancing the rights of the greater pan-Latinx communities in the United States. Voting rights and political participation have been touchstones of our mission from our organization's nascence. In the early 1980's, LatinoJustice litigated both *Gerena Valentin v. Koch*<sup>3</sup> and *Herron v. Koch*<sup>4</sup>, which led to the first successful application of Section 5 of the Voting Rights Act to a discriminatory redistricting plan in New York City. Most recently, following the 2010 Census, LatinoJustice joined with our civil rights partners in the Unity Redistricting Coalition to intervene and litigate *Favors v. Cuomo*<sup>5</sup> concerning LATFOR's failure to draw congressional districts. The federal court largely adopted our proposed "Unity Map" resulting in the creation of a third majority Latino-influenced congressional district, currently held by Representative Adriano Espaillat, the first

---

<sup>1</sup> <https://www.pewresearch.org/fact-tank/2020/01/31/where-latinos-have-the-most-eligible-voters-in-the-2020-election/> (last visited, July 13, 2020)

<sup>2</sup> <https://statisticalatlas.com/place/New-York/New-York/Race-and-Ethnicity> (last visited, July 13, 2020)

<sup>3</sup> *Gerena-Valentin v. Koch*, 739 F.2d 755 (2d Cir. 1984)

<sup>4</sup> *Herron v. Koch*, 523 F. Supp. 167, 168 (E.D.N.Y. 1981)

<sup>5</sup> *Favors v. Cuomo*, 285 F.R.D. 187 (E.D.N.Y. 2012).



Dominican-American congressman elected in history.<sup>6</sup> Without efforts towards a more just representation model, communities of color would seldom have the opportunity to successfully elect officials of their choosing who also come from that community and culturally represent them.

Latinos are the fastest growing minority group in this country with increasing political power and participation. Latinos ages 16 to 24 account for the highest plurality of United States citizens, the largest of any minority group<sup>7</sup>. In New York alone, Latinos represent nearly 20 percent of the State's population<sup>8</sup>. With redistricting efforts occurring once every 10 years, it is imperative that any reapportionment process include the voices and demographics of Latino communities. Latino inclusion on the Commission would bring their unique substantive and experiential knowledge to future crucial redistricting deliberations. Without proper representation and voice on the Commission, Latino New Yorkers are being unconstitutionally deprived the opportunity to ensure their equal protection of "one person, one vote" under apportionment principles under both the United States and New York constitutions.

Given the current political climate, we find it of the utmost importance to highlight the devastating realities that would result if the Commission, a supposed independent body tasked with upholding and safeguarding democracy, fails to have meaningful representation from the largest minority community group in the State. We cannot list the countless examples throughout both our nation's and State's histories where redistricting efforts led to gerrymandered districts that diluted the votes of Latino and other voters of color, and hindered democracy. We accordingly urge you to recognize that diversity does indeed matter. Representation matters. Let us enter the next decade with the diverse coalition building needed to protect the voting rights of Latino New Yorkers.

Furthermore, we also support several key changes to both Art. III, §4 (Readjustments and Reapportionments) and Art. III §5 (Apportionment of Assembly Members; Creation of Assembly Districts) of the New York Constitution to further protect voting rights during the redistricting process. To achieve further voter protection and defend against disenfranchisement, we recommend the following modifications. First, we endorse the addition of a requirement to Art. III § 4(c)(2)<sup>9</sup> that guarantees that districts be no more than +/- 2% in size deviation, as is common practice, and that a written explanation must be given if there is a greater deviation in size. Moreover, we urge the legislature to pass a ban on prison-based gerrymandering<sup>10</sup> by adding language to § 4(c)(3).<sup>11</sup> In addition, we recommend striking Art. III §4(c)(6) to eliminate the block-on-border rule, which often leads to the creation of "inconveniently small election districts, by preventing the alignment of assembly, senate, and congressional district boundaries, and it frequently tends to produce ragged district boundaries."<sup>12</sup>

---

<sup>6</sup> [https://www.huffpost.com/entry/adriano-espallat-undocumented\\_n\\_5822a7e2e4b0d9ce6fbfdcf1?guccounter=1&guce\\_referrer=aHR0cHM6Ly9lbi53aWtpcGVkaWEub3JnLw&guce\\_referrer\\_sig=AQAAAADSt2LtmuXBj-SH7J9yQ6a4FNXK3DpKchhlMHI1p5jMbX5lIr82YxN2oCF65pE2bG8zFLwFMA9o1aPI82N3YGnQPSiro2qNtUJ4UdjQkE\\_VDIrnfKE\\_j0tkBDVu009i6cyXe-9GLXZVpfoPO9AjbI4yugPll6Ud8ZWEalfsxYw](https://www.huffpost.com/entry/adriano-espallat-undocumented_n_5822a7e2e4b0d9ce6fbfdcf1?guccounter=1&guce_referrer=aHR0cHM6Ly9lbi53aWtpcGVkaWEub3JnLw&guce_referrer_sig=AQAAAADSt2LtmuXBj-SH7J9yQ6a4FNXK3DpKchhlMHI1p5jMbX5lIr82YxN2oCF65pE2bG8zFLwFMA9o1aPI82N3YGnQPSiro2qNtUJ4UdjQkE_VDIrnfKE_j0tkBDVu009i6cyXe-9GLXZVpfoPO9AjbI4yugPll6Ud8ZWEalfsxYw) (last visited July 13, 2020).

<sup>7</sup> <https://www.pewresearch.org/fact-tank/2018/09/13/key-facts-about-young-latinos/> (last visited July 13, 2020)

<sup>8</sup> <https://www.pewresearch.org/hispanic/states/state/ny> (last visited July 13, 2020).

<sup>9</sup> "To the extent practicable, districts shall contain as nearly as may be an equal number of inhabitants. For each district that deviates from this requirement, the commission shall provide a specific public explanation as to why such deviation exists." N.Y. Const. art. III, § 4.

<sup>10</sup> Prison-based gerrymandering is a deceptive practice whereby states and local governments "count incarcerated persons as residents of the areas where they are housed when election district lines are drawn," thus distorting the population numbers (and by extension the political power) of "districts where prisons and jails are located." <https://www.naacpldf.org/case-issue/prison-based-gerrymandering-reform/> (last visited on July 14, 2020).

<sup>11</sup> "Each district shall consist of contiguous territory." N.Y. Const. art. III, § 4.

<sup>12</sup> [https://www.nycbar.org/pdf/report/redistricting\\_report03071.pdf](https://www.nycbar.org/pdf/report/redistricting_report03071.pdf) (last visited on July 14, 2020).



Further, we strongly recommend striking the outdated, discriminatory, and prohibitive “*excluding aliens*” language in Art. III §5.<sup>13</sup> As a Latino civil rights legal defense fund uniquely cognizant of the diversity of immigration statuses in our communities, we want to ensure that *all* New Yorkers are counted and included during reapportionment, and not limited solely to voting age population as recommended by the Trump Administration. As the Supreme Court ruled in the unanimous decision of *Evenwel v. Abbott*<sup>14</sup> equitable representation requires elected representatives to serve all people in their constituency, not only those who may be eligible to vote. Ignoring the lessons of *Evenwel* will lead to potential and irreparable discriminatory effects upon communities of color, youth, immigrant communities, people with disabilities and other underrepresented people. It is imperative that “every individual of the community” irrespective of immigration status “has an equal right to the protection of government.”<sup>15</sup> To achieve this, *every* New Yorker must be included and counted.

In sum, LatinoJustice PRLDEF fervently calls for the appointment of at minimum at least one Latino to the two open independent seats on the Commission; and supports reforms to the New York Constitution to ensure that all New Yorkers are adequately represented and their voting rights are protected. As a matter of public health safety, all New Yorkers must have accessible virtual options to attend future Commission public hearings to provide testimony, share concerns, and submit maps. We welcome the opportunity to again join with our Unity Coalition Partners at the Asian American Legal Defense Fund and the Medgar Evers Center for Law and Social Justice and submit maps uniting and empowering our respective communities of interest.

Thank you again for this opportunity to testify and share our concerns. Please do not hesitate to contact us at 212.219.3360 with any questions.

Respectfully Submitted,

/s/  
Jose Perez  
Deputy General Counsel  
jperez@latinojustice.org

/s/  
Jorge Vasquez  
Associate Counsel  
[jvasquez@latinojustice.org](mailto:jvasquez@latinojustice.org)

Principally drafted by Stephanie Guzmán  
Columbia Law School Class of 2022  
LatinoJustice Summer Legal Intern.

---

<sup>13</sup> N.Y. Const. art. III, § 5.

<sup>14</sup> *Evenwel v. Abbott*, 136 S. Ct. 1120, 194 L. Ed. 2d 291 (2016).

<sup>15</sup> Alexander Hamilton, Constitutional Convention. Remarks on Equality of Representation of the States in the Congress (June 29, 1787).