

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

NOV 4 2011

STATE OF WEST VIRGINIA ex rel.,  
ELDON A. CALLEN, JIM BOYCE, PETRA WOOD,  
JOHN WOOD, and FRANK DEEM,

Petitioners,

v.

HONORABLE NATALIE E. TENNANT,  
Secretary of State of the State of West Virginia,

Respondent.

11-1517

Case No. \_\_\_\_\_

APPENDIX

Roger D. Forman (WV Bar# 1249)  
Daniel T. Lattanzi (WV Bar# 10864)  
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## CERTIFICATION

I, Daniel T. Lattanzi, do hereby certify that the contents of the Appendix, as a whole, is sufficient to permit the Court to fairly consider the questions presented in the Petition.

  
\_\_\_\_\_  
**Roger D. Forman (WV Bar# 1249)**  
**Daniel T. Lattanzi (WV Bar# 10864)**  
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June 28, 2011

Senator John R. Unger II, Chairman  
Senate Task Force on Redistricting  
West Virginia State Senate  
Room 227M, Bldg. 1  
1900 Kanawha Blvd. E.  
Charleston, WV 25305

***Re: 2011 Redistricting of Monongalia County—Senate and House***

***Subject: Citizens of Monongalia County demand to be ONE Monongalia County***

Dear Chairman Unger and Members of Senate Task Force on Redistricting:

As Commissioners of Monongalia County, we applaud your decision to hold public meetings on redistricting. In our County, the redistricting decisions made 10 years ago have made our citizens angry and frustrated each election period, while leaving many of our citizens feeling disenfranchised and unrepresented. On top of the enormous confusion created by multiple Senate and House districts in Monongalia County, these same citizens must bear the added cost of printing eight different ballot styles, which clearly represents wasteful spending of the taxpayers' money.

No other county in the State is as chopped up and divided as we are in Monongalia County. With 4 Delegate districts encompassing 64 of 71 precincts in the 44<sup>th</sup> Delegate District, the remaining 7 precincts are pulled out of the County into 3 Delegate Districts with the 5<sup>th</sup> Delegate District with 2 of our precincts; the 42<sup>nd</sup> with 1 of our precincts; and the 43<sup>rd</sup> with 4 of our precincts. Meanwhile in the senatorial districts of Monongalia County, the 13<sup>th</sup> Senatorial District has 49 precincts; the 2<sup>nd</sup> has 12 precincts; and the 14<sup>th</sup> has 10 precincts. Studying the census population from 2000 and the resulting redistricting disparities between all delegate and all senatorial districts throughout the State, the population did not justify this type of division 10 years ago and certainly can not be justified this year.

According to the 2010 census data, West Virginia's total population is 1,852,994. With 17 senatorial districts, an equal division of the population for each senate district is 109,000 people per district. With 100 delegates in the House, each delegate would represent 18,530 people. Although there has been much discussion of single delegate districts, we are opposed to such a division in the larger counties such as Monongalia County, because as stated above the

cost and the confusion created by multiple districts in a single county serves no justifiable purpose and results in wasteful spending of the taxpayers' money.

Further, the ultimate purpose of single-member districts is to give special interest groups a tactical political advantage and not to promote equal, non-discriminatory representation of the citizens. For example, a single member district approach would cut up municipalities and almost certainly discriminate against minorities and women. Additionally, a single-member district by requiring residency in the district eliminates thousands of otherwise qualified delegates from the pool of eligible candidates.

Monongalia County's population from the 2010 census is 96,189. Looking at the delegate district first, we can easily see that a single district encompassing all of Monongalia County would support 5 delegates, i.e. 5 delegates times 18,530 people equals 92,650 people. Although lower than the County population, this disparity is certainly in an acceptable range for redistricting and in line with the United States and West Virginia constitutional and statutory principles for equality in population between districts. Similarly, the resulting benefit of cost savings by requiring only a single ballot throughout the County and the clarity of a Monongalia citizen voting for a Monongalia delegate should not be diminished and would be applauded by all the citizens of Monongalia County.

Now turning to the senatorial district for Monongalia County, the population of the County is approximately 12% out of range of the optimum division of 109,000 per senatorial district. However, given the current and expected growth rate in the County, this disparity would very likely disappear within the first half of the next decade. For this reason, we believe that a Monongalia County senatorial district with 2 senators from the County can be justified. Just as Senate District 1 with a lesser population of 95,975 and Senate District 6 with a lesser population of 93,502 have had over-representation with 2 senators respectively for the latter years of this past decade. Monongalia County 2010 census population should not be used as an excuse to deprive our citizens of equal representation in the latter years of the next decade. Akin to this comparison is Kanawha County with 2 senatorial districts and 4 senators, the 2010 census population is only 193,063; equaling 96,531 per senatorial district. Thus, Kanawha County can no longer justify 2 senatorial districts and if it does, we believe that a Monongalia County senatorial district with 2 senators is equally justified despite the disparity.

Still, if the Task Force remains unconvinced in the above justification for a single senatorial district covering the entire County, we call your attention to the senatorial district map drawn 10 years ago. No other county in this state and especially not the large counties are divided into 3 separate and almost equal parts as can be seen on the current senatorial district map. This division of our County can not be justified under any of the principles advanced in the West Virginia Constitution and West Virginia Code. For this Task Force to deprive Monongalia County citizens the unity and equality of representation enjoyed by all other large counties in the State is offensive and smells of politics. Therefore, in the alternative of the preferred Monongalia County senatorial district outlined above, we ask that Monongalia County be made ONE and parts of the surrounding counties of Preston, Marion, Wetzel or Taylor Counties; or even all of Wetzel County with a population of 16,583, or all of Taylor County with a population of 16,895 be added to the senatorial district. Either of these 2 counties when added to the

population of Monongalia County would be within the acceptable range of disparity for redistricting.

Now that we have proved the numbers justify redistricting Monongalia County into one delegate district with 5 delegates and one senatorial district with 2 senators, let's turn to the principles that should guide this Task Force and the Legislature when redistricting, for the numbers are not the sole guiding principle that should be followed. As to senatorial districts which should equally apply to delegate districts, the West Virginia Constitution in Article VI, Section 4 -- Division of state into senatorial districts, states in relevant part:

The districts shall be compact, formed of contiguous territory, **bounded by county lines**, and, as nearly as practicable, equal in population, to be ascertained by the census of the United States. (Emphasis added).

Also, in the West Virginia Constitution in Article VI, Section 6 -- Provision for delegate representation, we find the following charge:

For the election of delegates, **every county containing a population of less than three fifths of the ratio of representation for the House of Delegates, shall, at each apportionment, be attached to some contiguous county or counties**, to form a delegate district. (Emphasis added).

And, in the West Virginia Constitution in Article VI, Section 7 -- After census, delegate apportionment, indicates further that county boundary lines be a key guiding consideration when redistricting:

After every census the delegates shall be apportioned as follows: The ratio of representation for the House of Delegates shall be ascertained by dividing the whole population of the state by the number of which the House is to consist and rejecting the fraction of a unit, if any, resulting from such division. Dividing the population of every delegate district, **and of every county not included in a delegate district, by the ratio thus ascertained**, there shall be assigned to each a number of delegates equal to the quotient obtained by this division, excluding the fractional remainder. The additional delegates necessary to make up the number of which the House is to consist, shall then be assigned to those delegate districts, **and counties not included in a delegate district**, which would otherwise have the largest fractions unrepresented; but every delegate district **and county not included in a delegate district, shall be entitled to at least one delegate**. (Emphasis added).

When reading the West Virginia Constitution *pari materia*, and giving full force and effect to the total of the constitutional language dealing with redistricting, the Monongalia County Commission is convinced that to divide up Monongalia County for the sole purpose of adding to smaller counties or delegate district is violative of the mandate outlined in the West Virginia Constitution.

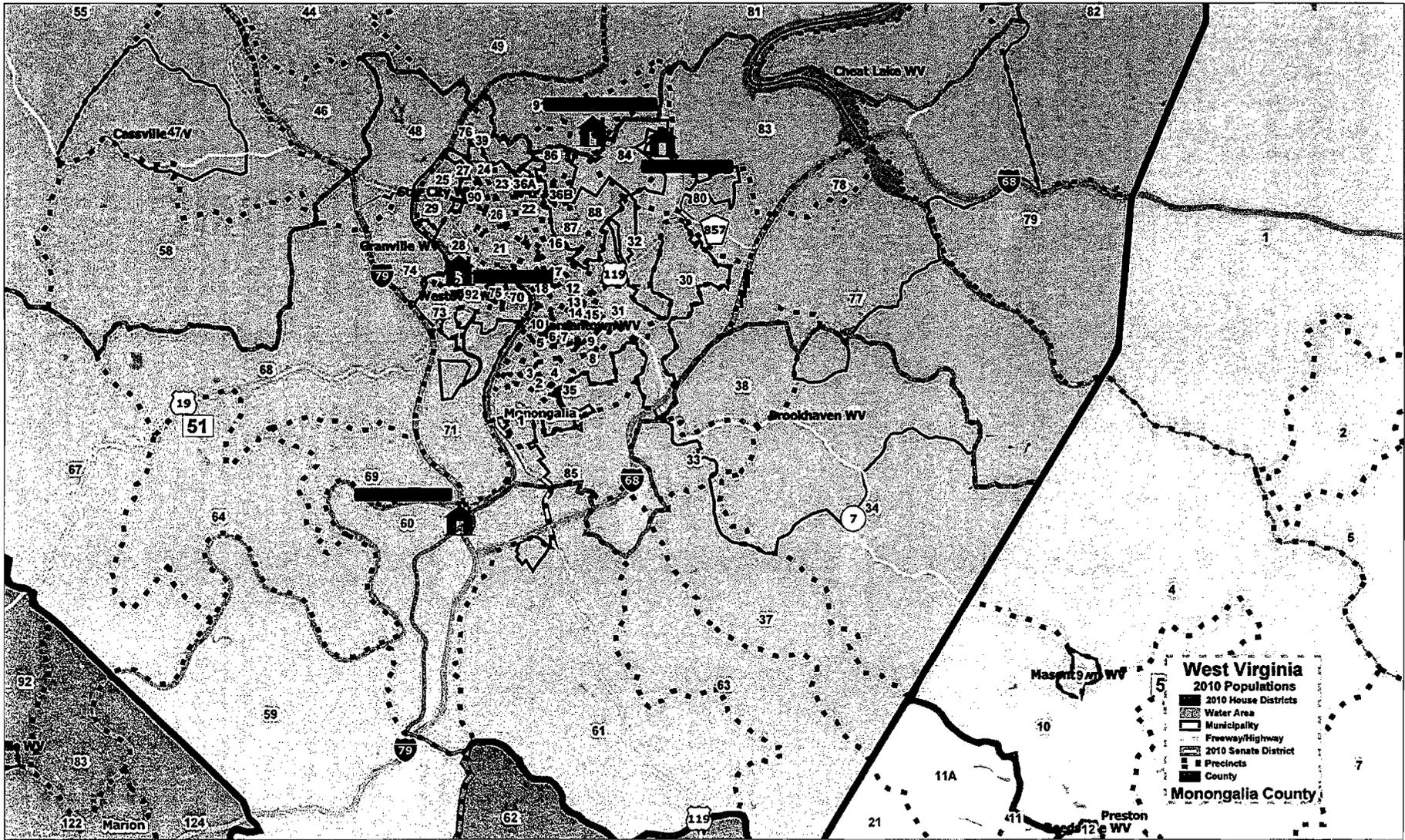
Therefore, we the members of the Monongalia County Commission respectfully ask this Task Force and the Legislature to make Monongalia County ONE again. We are not asking to

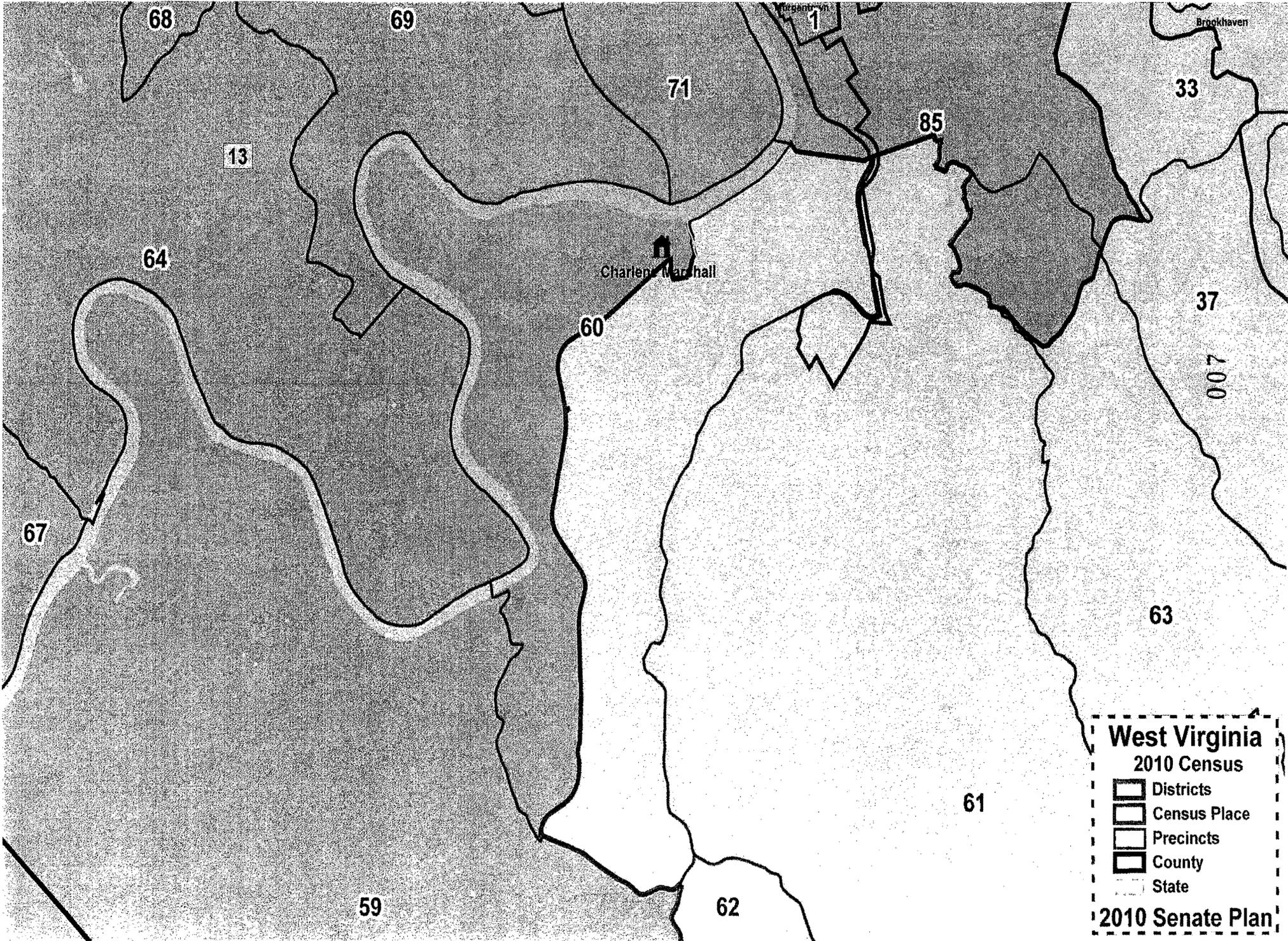
be given favored treatment, but we are asking that the citizens of Monongalia County be given the same consideration and equality of representation that the other counties such as Kanawha, Cabell, Fayette, Raleigh, Harrison and Randolph, to name a few, are given.

Respectfully yours,

On Behalf of the  
Monongalia County Commission  
Asel Kennedy, President  
L.W. "Bill" Bartolo, Commissioner  
Eldon A. Callen, Commissioner



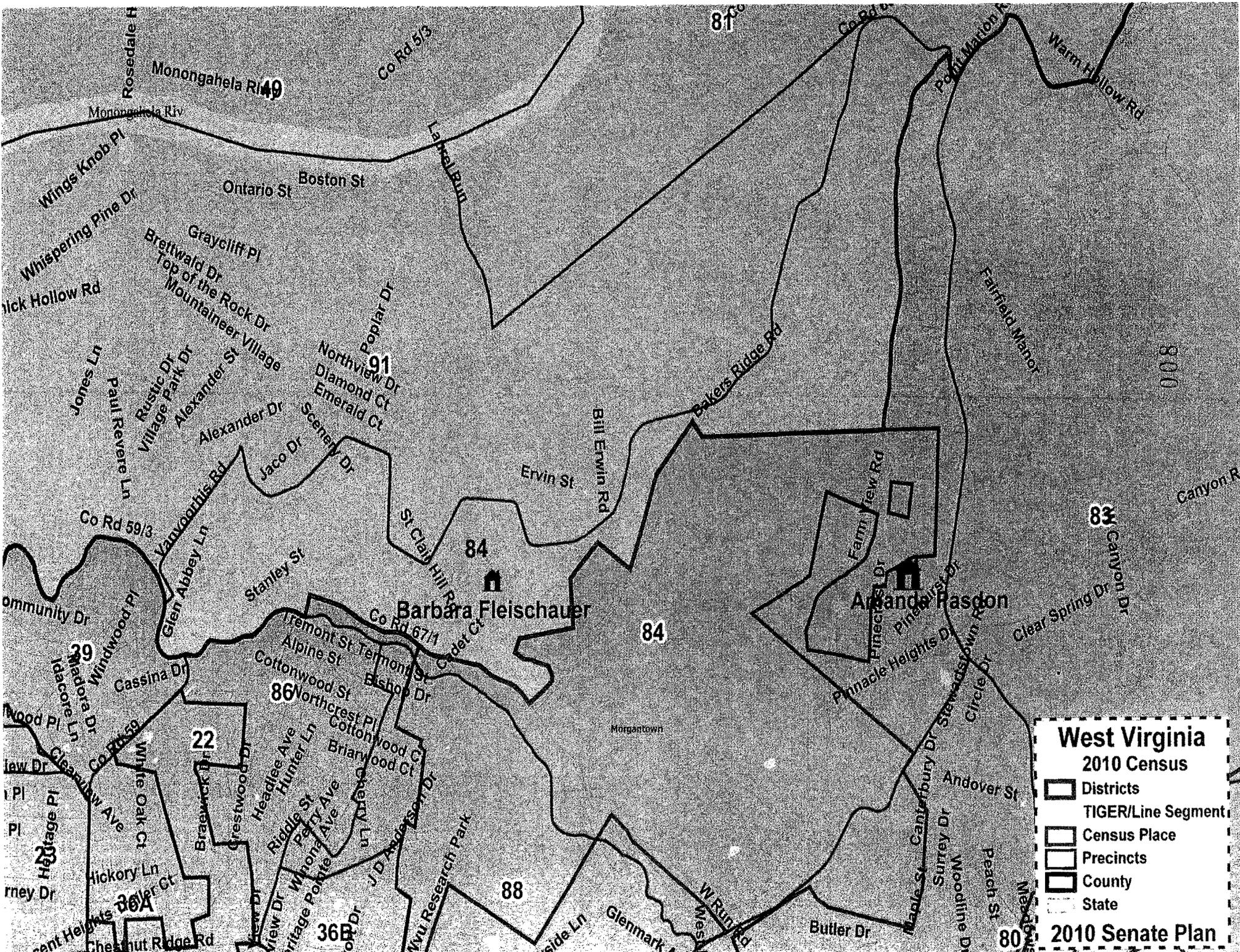




**West Virginia  
2010 Census**

-  Districts
-  Census Place
-  Precincts
-  County
-  State

**2010 Senate Plan**



**West Virginia**  
**2010 Census**

-  Districts
-  TIGER/Line Segment
-  Census Place
-  Precincts
-  County
-  State

**2010 Senate Plan**