

MEMORANDUM

Summary and Recommendation from the Voting Rights Act (VRA) Compliance Subcommittee for the 2020 California Citizens' Redistricting Commission (CRC)

Over the last several weeks, the VRA subcommittee has met several times and had conversations both with staff and VRA experts to help inform our process. This memo reports our recommendations to the Commission:

- 1. Write and distribute two Requests for Information (RFIs) to hire VRA counsel and Outside Litigation counsel.**
 - a. The purpose of VRA counsel is to provide a legal advice on the creation of districts that are VRA compliant. The purpose of outside litigation is to provide counsel if/when our maps are challenged in court. The commission will be best served by identifying and recruiting litigation counsel and having them on retainer as soon as possible so that they are available to us for any matters as they arise. The VRA counsel and the outside litigation team *could* be the same entity, however they need not be. In our conversations we discovered there was a general consensus that the 2010 Commission was not best served by having a single entity, as they lacked relevant experience. We therefore recommend the release of separate RFIs to draw the best possible pool of applicants.
 - b. The use of the RFI (rather than a more formal Request for Proposals (RFP)) is preferable for hiring counsel. The Commission will select counsel based on factors other than simply cost – we should consider the quality of the experience and the kind of relationship we will establish between our general counsel, VRA counsel, outside litigation, line drawers and statistical analyst. The RFI is a noncompetitive, attorney to attorney contract and thus allows the commission to consider these factors in a more meaningful way.
- 2. Combine the task of RPV Statistician and VRA Analyst**
 - a. It was previously suggested that we would need to establish Requests for Proposals for both a RPV statistician and for VRA analyst, we recommend finding someone who can do both stages of this analysis for continuity.
 - b. Identify an analyst who can begin work early to develop a report on the broad picture of racially polarized voting in California and some of the key considerations we will need to consider for VRA compliance. This document should be made public.
- 3. Discuss and develop a plan for contracting RPV+VRA analysis, possibly in closed session, as it relates to potential future litigation.**
 - a. Beyond a public assessment of racially polarized voting in California, we will likely need more specific analysis at localized levels
 - b. This is the level of analysis that was and remains confidential for the 2010 CRC
- 4. Develop a larger legal subcommittee that meets publicly to review VRA and Litigation applications and to coordinate VRA compliance and any legal strategies.**
 - a. Ideally a subcommittee of at least 3 and no more than 5 members.

- b. December: make a plan with staff (General Counsel & Assistant General Counsel) for reviewing applicants.
 - c. January: Review initial applications with staff and make recommendations for interviews to the full commission.
 - d. Serve as the oversight/coordinating subcommittee for VRA compliance, legal strategy moving forward and provide recommendations and reports to the Commission throughout the redistricting process.
- 5. Continue to develop trainings and training materials on the VRA and other legal requirements to which the commission must adhere.**
- a. The existing subcommittee will continue to prepare training materials and future trainings for the commission.
 - b. In the end, after all advice and counsel, line drawing decisions fall to the commission.