

STATE OF CALIFORNIA
CITIZENS REDISTRICTING COMMISSION (CRC)

In the matter of:

CRC BUSINESS MEETING

WEDNESDAY, NOVEMBER 18, 2020

9:30 a.m.

Transcribed by:

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APPEARANCESCOMMISSIONERS

J. Ray Kennedy, Chair
Antonio Le Mons, Vice-Chair
Isra Ahmad, Commissioner
Linda Akutagawa, Commissioner
Jane Andersen, Commissioner
Alicia Fernández, Commissioner
Neal Fornaciari, Commissioner
Sara Sadhwani, Commissioner
Patricia Sinay, Commissioner
Derric Taylor, Commissioner
Pedro Toledo, Commissioner
Trena Turner, Commissioner
Angela Vasquez, Commissioner
Russell Yee, Commissioner

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Daniel Claypool, Executive Director
Marian Johnston, CRC Legal Counsel
Freda Ceja, Communications Director
Wanda Sheffield, Office Technician

TECHNICAL CONTRACTORS

Kristian Manoff, AV Technical Director/Comment Moderator

PRESENTERS

Justin Levitt, Loyola Law School

Also PresentPublic Comment

Lori Shellenberg, California Common Cause
Megha Manohar
Steve Harnisch
Deborah Howard, California Senior Advocates League
Lupe Camacho
Rosalind Gold, NALEO

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P R O C E E D I N G S

1
2 November 18, 2020 9:30 a.m.

3 CHAIR KENNEDY: Welcome everyone. This is the final
4 day of our meeting this week. We have done well on our
5 agenda, I believe, and I will review where we are and
6 what we have yet to do in just a moment.

7 And I would ask, first of all, that the roll be
8 called.

9 MS. SHEFFIELD: Good morning, Commissioners.

10 CHAIR KENNEDY: Good morning.

11 MS. SHEFFIELD: Good morning.

12 Commissioner Ahmad?

13 COMMISSIONER AHMAD: Here.

14 MS. SHEFFIELD: Commissioner Akutagawa?

15 COMMISSIONER AKUTAGAWA: Here.

16 MS. SHEFFIELD: Commissioner Andersen?

17 COMMISSIONER ANDERSEN: Here.

18 MS. SHEFFIELD: Commissioner Fernandez?

19 COMMISSIONER FERNANDEZ: Here.

20 MS. SHEFFIELD: Commissioner Fornaciari?

21 COMMISSIONER FORNACIARI: I'm here. And I like your
22 hat.

23 MS. SHEFFIELD: Oh, thank you.

24 Commissioner Kennedy?

25 VICE CHAIR KENNEDY: Here.

1 MS. SHEFFIELD: Commissioner Le Mons? No?

2 Commissioner Sadhwani? I don't --

3 COMMISSIONER SINAY: Your mic's not working,

4 Commissioner Sadhwani.

5 COMMISSIONER SADHWANI: Oh, here. Can you hear me?

6 MS. SHEFFIELD: Okay.

7 COMMISSIONER SADHWANI: Sorry.

8 MS. SHEFFIELD: Commissioner Sinay?

9 COMMISSIONER SINAY: Here.

10 MS. SHEFFIELD: Commissioner Taylor?

11 COMMISSIONER TAYLOR: Present.

12 MS. SHEFFIELD: Commissioner Toledo?

13 COMMISSIONER TOLEDO: Here.

14 MS. SHEFFIELD: Commissioner Turner?

15 COMMISSIONER TURNER: Here.

16 MS. SHEFFIELD: Commissioner Vasquez? No?

17 And Commissioner Yee?

18 COMMISSIONER YEE: Here.

19 MS. SHEFFIELD: Okay. Thank you.

20 CHAIR KENNEDY: Let's check again. I think

21 Commissioner Vasquez is on.

22 MS. SHEFFIELD: Hmm. I don't see Vasquez.

23 CHAIR KENNEDY: Commissioner Vasquez? Oh, she's --

24 I think she's trying to dial in also. She may be having

25 some problems.

1 MS. SHEFFIELD: Okay. Nothing yet.

2 CHAIR KENNEDY: Okay. Are there any general
3 announcements, Director Claypool, or any of the
4 Commissioners?

5 EXECUTIVE DIRECTOR CLAYPOOL: I have none, Chair.

6 CHAIR KENNEDY: Thank you. Not seeing any. Okay.

7 On the agenda, we have two main topics for today. We
8 have Voting Rights Act issues coming from the VRA
9 Subcommittee this morning. We have outreach discussion
10 this afternoon, item 10 on the agenda, brought to us by
11 the Outreach Subcommittee. Depending on how things go,
12 we may have an extended break in between, just because of
13 various schedules, but that is the general outline of the
14 day.

15 And so with that, let me ask Katy to start us off
16 with the instructions for public comment.

17 Good morning, Katy.

18 PUBLIC COMMENT MODERATOR: Good morning,
19 Commissioner.

20 In order to maximize transparency and public
21 participation in our process, the Commissioners will be
22 taking public comment by phone. To call in, dial the
23 telephone number provided on the livestream feed. It is
24 (877) 853-5247. When prompted, enter the meeting I.D.
25 number provided on the livestream feed. It is

1 91505532099 for this week's meeting. When prompted to
2 enter a participant I.D., simply press the pound key.

3 Once you are dialed in you will be placed in a queue
4 from which a moderator will begin un-muting callers to
5 submit their comment. You will also hear an automatic
6 message to press star 9. Please do this to raise your
7 hand, indicating you wish to comment. When it is your
8 turn to speak the moderator will unmute you and you will
9 hear an automatic message that says, "The host would like
10 you to talk. Press star 6 to speak." Please make sure
11 to mute your computer or livestream audio to prevent any
12 feedback or distortion during your call.

13 Once you are waiting in the queue, be alert for when
14 it is your turn to speak and, again, please turn down the
15 livestream volume.

16 These instruction are also located on the website.

17 The Commission is taking general public comment at
18 this time.

19 CHAIR KENNEDY: Thank you, Katy.

20 PUBLIC COMMENT MODERATOR: And --

21 VICE CHAIR KENNEDY: We'll stand by for -- we have
22 someone already?

23 PUBLIC COMMENT MODERATOR: No. I was going to say
24 we do not have anyone in the queue.

25 CHAIR KENNEDY: Very good. We'll stand by for a

1 couple minutes to let the livestream catch up.

2 PUBLIC COMMENT MODERATOR: Okay.

3 CHAIR KENNEDY: There's Commissioner Vasquez. Good
4 morning.

5 COMMISSIONER VASQUEZ: When can I throw this into
6 the ocean?

7 CHAIR KENNEDY: I feel your pain. I was panicking
8 yesterday and it turned out that it was my ISP that was
9 having an outage. It's like, how am I supposed to chair
10 a meeting if I can't even get online?

11 Commissioner Fornaciari?

12 COMMISSIONER FORNACIARI: So I thought yesterday
13 someone said that the phones showed up. And I was just
14 wondering if we have an update on what -- you know, when
15 those might get distributed?

16 CHAIR KENNEDY: Director Claypool?

17 EXECUTIVE DIRECTOR CLAYPOOL: So Raul is picking
18 them up, I believe either today or tomorrow, and checking
19 with how quickly he can simply turn them right back
20 around at the same location and ship them to you. So
21 we're still at the mercy of Verizon. But it appears as
22 though the sun is going to shine on us and you will all
23 get better telephones.

24 And Commissioner Vasquez, you can't throw your old
25 telephone in the ocean either. We need to return those

1 to Department of General Services.

2 COMMISSIONER VASQUEZ: Ah. But the computer would
3 work so well under water compared to above water.

4 EXECUTIVE DIRECTOR CLAYPOOL: Okay.

5 CHAIR KENNEDY: Katy, do we have anyone in queue?

6 PUBLIC COMMENT MODERATOR: We do not.

7 CHAIR KENNEDY: Okay. Then with that -- and I know
8 that we have Professor Levitt joining us at 10 o'clock.

9 I wonder if the VRA Compliance Subcommittee would
10 like to start with a more general introduction? And I
11 realize you had some time yesterday, as well, but the
12 floor is yours.

13 COMMISSIONER YEE: Thank you, Chair.

14 You can go ahead and take a look at the three
15 handouts, or you probably have, in the meeting handouts
16 for today. I apologize that one of the -- we apologize
17 that one of the handouts is duplicated, so you'll see
18 four handouts listed, the Litigation Counsel Statement of
19 Work, VRA Counsel Statement of Work, and then the next
20 two, the Memo of VRA Subcommittee. And the last one,
21 Memo-VAR Compliance Subcommittee, that was an earlier
22 version of that same third memo. So those are the things
23 we'll be discussing.

24 Sara, what else can we say to introduce?

25 COMMISSIONER SADHWANI: So perhaps we can start

1 going through the memo and reviewing the recommendations
2 that we have laid out. And I'm just trying to pull it up
3 in front of me. My apologies. So -- and then that way
4 we, you know, we can all kind of be on the same page when
5 Justin arrives.

6 Oh, Commissioner Fornaciari?

7 CHAIR KENNEDY: Commissioner Fornaciari?

8 COMMISSIONER FORNACIARI: I'm sorry.

9 COMMISSIONER SADHWANI: Your frozen.

10 CHAIR KENNEDY: And now you're frozen.

11 COMMISSIONER FORNACIARI: I just want to be clear.

12 Which is the correct memo? I'm sorry.

13 COMMISSIONER YEE: The third one.

14 COMMISSIONER FORNACIARI: Okay.

15 COMMISSIONER YEE: The Memo-VAR Subcommittee.

16 COMMISSIONER FORNACIARI: Okay. Sorry.

17 COMMISSIONER YEE: It's the late version, yeah.

18 COMMISSIONER FORNACIARI: Internet problems. Thank
19 you.

20 COMMISSIONER SADHWANI: The differences between them
21 are fairly minor. It's a matter of language, I think,
22 that was used in some of them. Excuse me.

23 And you know, Commissioner Yee, feel free to jump in
24 at any point in time.

25 As we have reported previously, we've had a number

1 of conversations. We have attempted to talk with many of
2 you about some of the needs folks have for additional
3 training on the VRA. And we've put together this memo to
4 really provide, hopefully, a consolidated report back to
5 you all about the work that we have been doing and, also,
6 the recommendation that we have for the full Commission.

7 So the first one, as we discussed yesterday, is to
8 distribute the RFIs. I don't want to go into too great
9 of detail here, unless there are additional questions,
10 because I feel like we did talk at length yesterday about
11 the processes. Basically, we wanted to just let you all
12 know that we had had many conversations about RFPs, IFBs,
13 RFIs, interagency agreements. And what we came to learn
14 is that the RFI would make the most sense for hiring both
15 VRA Counsel and Outside Litigation.

16 As I believe we've even mentioned previously, point
17 A refers to the fact that we are putting out two RFIs,
18 one for VRA Counsel and one for Outside Litigation. We
19 recognize that this could be the same entity but it
20 doesn't have to be. And so we wanted to make sure that
21 there are two separate RFIs because it could be the case
22 that we could have a VRA expert who we would bring
23 onboard, but we would have a litigation expert for if and
24 when we face any lawsuits regarding the maps. So we
25 wanted to put them both out, but again to stress that it

1 could be the same entity. We really want to be flexible
2 there so that we can get the very best kinds of feedback
3 and the best kinds of proposals in response to the RFI.

4 Point 2 is combining the task of the statistician
5 and analyst. So there had been mention at the last
6 meeting of putting out four RFPs or four requests. We
7 don't think that that's actually necessary. We think that
8 we would hope that we can identify a statistician who
9 also has expert experience in the VRA. Certainly, right,
10 we could hire, potentially, a grad student or something
11 just to do racially-polarized voting analysis of the
12 entire state for us.

13 But ideally, we would rather hire someone at a
14 higher level, right, who has experience in the VRA and
15 VRA litigation and lawsuits. And therefore, that should
16 really just be one person. So in that, we feel like we
17 just need one person, rather than the two that was
18 previously mentioned.

19 Ideally, we would like to recommend having someone
20 brought onboard as soon as possible. And so we've had
21 several conversations with Matt Barreto, who was the 2010
22 analyst for the 2010 Commission. We would advise to the
23 Commission and recommend that we would actually move
24 forward in hiring Matt to, at minimum, start with an
25 overview of racially-polarized voting in California.

1 So what does that mean? And I think Justin, when he
2 gets here, can also help talk through some of these
3 pieces as well. But racially-polarized voting, if we
4 kind of go back and try to remember the training that we
5 had quite some time ago, it is not reliant upon census
6 data. It's actually reliant upon voting data, which the
7 statewide database already has. And so that analysis
8 could begin.

9 The purpose of racially-polarized voting analysis is
10 to identify historically -- communities that have been
11 historically discriminated against and to identify the
12 ways in which they vote together; right? And so
13 hopefully, Justin will be able to talk more about how our
14 PV analysis is used in VRA cases.

15 But we feel like a top-level analysis could be done
16 now, potentially, or soon. Obviously, I know
17 Thanksgiving is coming up, but we could get started with
18 this work. And that could be an externally-facing
19 document for the full Commission, for the public, so that
20 we have a sense of some of the key areas that we might
21 need to be taking a greater look at.

22 We anticipate that that kind of assessment could
23 help us identify additional conversations that we might
24 need to have, additional outreach that we might need to
25 have in select areas. For example, right, if we can have

1 a sense of even the number of voters in new areas where
2 2010 didn't have to really look, right?

3 So for example, yesterday the Black Census and
4 Redistricting Hub talked about how there has been a
5 migration of African-Americans in California since 2010.
6 We can begin to start thinking about some of those things
7 and looking at it with an overview of racially-polarized
8 voting.

9 In the next piece, which is point three, again, this
10 is the piece that we would like to change our
11 recommendation. From some of the conversations with
12 Justin, we had talked more about why and under what
13 circumstances racially-polarized voting analysis should
14 be kept under attorney-client privilege. That was the
15 case for the 2010 Commission. That report has never been
16 released and continues to be held under attorney -- as an
17 attorney work product, I believe. And all of this is
18 important because it matters in how we hire the
19 statistician to do this work. Okay?

20 So when it -- so, for example, going back to 2B,
21 hiring someone now, our recommendation is that our Chief
22 Counsel, Ms. Marshall, could go ahead and hire Matt
23 Barreto, or another statistician, but we, after having
24 several conversations, we feel very comfortable with Matt
25 Barreto and would recommend him. She could go ahead and

1 hire that person now and we can choose to have that be
2 public-facing.

3 In the 4.3,, however, we may need to hire in that
4 regard, and it could be the same person, it could,
5 potentially, not, we would want to hire through our
6 attorney for that role if we want to keep the RPV
7 analysis at a more localized level as attorney work
8 product. And I hope Justin can speak more to this when
9 he comes.

10 But I think, I don't know, Commissioner Yee, if you
11 have anything you want to add to this kind of piece? But
12 he was very helpful in laying out some of the pros and
13 cons of whether or not to keep -- to make everything
14 public or to keep some of those pieces, you know, under
15 attorney work product in case of future litigation.

16 Commissioner Yee, do you have anything else you want
17 to add to that piece?

18 COMMISSIONER YEE: Right. So basically, the
19 considerations -- I mean, he can speak more to it when he
20 comes -- but you know, on one hand, making things public,
21 just out of principle, versus keeping data at that level
22 private to reduce the likelihood of challenges based on
23 this or that particular piece of data. Obviously, we
24 would have other data and, you know, public debates and
25 so forth, sufficient to justify, you know, whatever

1 decisions we finally do make.

2 But the question is whether the RPV analysis, the
3 technical side of it, is kept confidential or not?

4 COMMISSIONER SADHWANI: Yeah. And so ultimately,
5 that is a decision that we will have to make as a
6 Commission. We should, certainly. And that's really
7 part of why we wanted to have Justin come today. You
8 know, we have not -- I know Ms. Marshall just started, so
9 we haven't had a chance to talk about this with her, but
10 we have talked about it with Marian previously. And so
11 these are some of the things that, as a Commission, we
12 need to decide. And what our decision is will inform how
13 we hire people, right?

14 And so for the previous point, in terms of hiring
15 Matt Barreto or someone else as soon as possible, we feel
16 that could be done as an interagency agreement as it was
17 done for 2010, and we could move forward with that quite
18 quickly. He is a senior professor at UCLA, and so
19 certainly, that's something that we could ask of him.

20 So my guess is there's some questions about point
21 two and three. But perhaps we can hold off until Justin
22 is here. I'm sure he can also help give additional
23 background to some of the choices that we need to make.

24 It would be my recommendation that the more
25 localized RPV analysis does remain under client --

1 attorney-client privilege.

2 COMMISSIONER YEE: Another quick note, just that the
3 VRA Counsel does not have to be California-based. You
4 know, VRA is a federal law. And there was some thought
5 that, in 2010, the Commission -- that Commission should
6 have looked more widely. And so just keep that in mind
7 when we get to that point.

8 COMMISSIONER SADHWANI: Yes. I think that's such an
9 important point.

10 As we had mentioned in previous meetings, you know,
11 just to uplift what Commissioner Yee is saying, there had
12 been a letter from community groups with deep concern
13 about the VRA Counsel that was hired. So I think
14 Commissioner Yee is absolutely right on. That is
15 something that we have learned from multiple
16 conversations with prior Commissioners, as well as
17 community groups, about some of the concerns over VRA
18 Counsel.

19 And Commissioner Yee is absolutely correct, the VRA
20 is a national law. And while it might be helpful to have
21 someone here in California, we're on Zoom for now at
22 least, so they could really be anywhere and providing
23 that expertise.

24 Our fourth point here is to actually develop a
25 larger Legal Subcommittee that would be public-facing.

1 So as of right now, thus far, we have been operating for
2 the whole Commission in creating small subcommittees of
3 two because those subcommittees can, you know, do work,
4 get things done.

5 Moving forward, however, and as well as in terms of
6 the hiring of VRA Counsel, we would recommend creating a
7 larger subcommittee, perhaps, specifically, inviting our
8 Commissioner, who is an attorney, to join, if he so
9 chooses, as well as, you know, perhaps one or two others,
10 if there is interest, so that as we've thinking about who
11 to hire, those meetings would be public. We would have
12 public input. And we would have to figure out the
13 logistics of that. Is it a breakout room somehow? Is it
14 a separate login? I'm not certain of all of those. I
15 would ask that staff assist us in figuring out how to
16 make that happen.

17 This was the tactic used in 2010. And we had had a
18 long conversation with Angelo Ancheta from the 2010
19 Commission, and he also shared this recommendation, and
20 we very much agree. You know, we want the public's input
21 moving forward. Certainly, when it comes to the VRA, we
22 can -- there could be multiple understandings of the law
23 or the application of the law. And I think it does
24 serve/will serve us well to have those meetings of the
25 subcommittees in public.

1 And I think it's something that other subcommittees
2 may want to consider moving forward also. Once we get
3 into the, you know, more of the external, you know,
4 relations, shall we say, of actually holding the
5 meetings, that it might be something that we would want
6 to do in other areas also. Certainly, as we've seen,
7 there's a lot of overlap between subcommittees.

8 And then our final point, really, here is to -- that
9 we'll continue to develop trainings and training
10 materials. Mr. Levitt coming today, just given -- I
11 think at one point I said, "We don't have to do a
12 training," so we didn't put it on the agenda, but we did
13 want him to be available to answer any questions and
14 provide a little bit of background for Commissioner
15 before we ask you to approve a statement of work or
16 anything of that nature. So at minimum, he's here to do
17 that today.

18 But we are still, most certainly, in the planning
19 phases of additional trainings. As I've mentioned
20 previously, we've had this idea of putting together some
21 sort of briefing book, potentially, as well as having
22 additional trainings on the VRA, a hands-on sort of
23 workshop about what VRA considerations might look like,
24 as well as additional training on future-proofing voting
25 analysis, how it's conducted, and how to interpret those

1 results.

2 So that's kind of the overview of the memo. We also
3 have for you two Statements of Work.

4 Commissioner Yee, do you want to talk about the
5 Statements of Work?

6 COMMISSIONER YEE: Sure. With the memo, just two
7 quick additional thoughts.

8 One is that, you know, the VRA training. So I mean,
9 my sense is that of the six criteria that we use to draw
10 these maps, this is the trickiest one.

11 COMMISSIONER SADHWANI: Um-hmm.

12 COMMISSIONER YEE: You know, it's the one that's
13 going to require the most judgment calls and kind of
14 debate among ourselves, and even within our own heads,
15 you know? So that's what I'm anticipating.

16 Let's see, oh, the recommendation to form a larger
17 committee, Legal Subcommittee, too, that would meet in
18 public, especially when it comes choosing a firm.

19 You know, as it happens, these firms will have done
20 work in the past and often, representing one side or the
21 other, which means that they are sometimes often, and
22 2010 certainly was the case, perceived, you know, as
23 leaning one side or the other, which becomes a point of
24 public debate, of course.

25 And so the hope would be that in having those

1 discussions, you know, whom to choose, which firm to
2 select, in public, that we can, you know, just be ahead
3 of the curve in meeting any objections that one choice or
4 another may have, rather than having that come up, you
5 know, later, after our choice is made, so.

6 Okay, the two memos. So one is for the VRA Counsel,
7 one is for Litigation Counsel. So these are the
8 Statements of Work that would be embedded into the
9 larger, full RFI.

10 COMMISSIONER SADHWANI: Before you move into the
11 Statement of Work, I did see that Marian had raised her
12 hand.

13 I don't know if you have something more to add,
14 Marian, about the --

15 COMMISSIONER YEE: Yes, please.

16 COMMISSIONER SADHWANI: -- points of the memo?

17 MS. JOHNSTON: I have no idea, technically, how to
18 accomplish that, though I'm sure Kristian can do it. But
19 legally, there is no problem having a meeting of a
20 committee at the same time as there is a noticed meeting,
21 or it could be done as a separate noticed meeting with
22 the 14-day requirements. So there's no problem
23 procedurally in doing it.

24 COMMISSIONER YEE: Very good.

25 CHAIR KENNEDY: Okay.

1 COMMISSIONER YEE: Let's see.

2 CHAIR KENNEDY: Commissioner Yee, before you
3 proceed, Commissioner Turner had also had her hand up
4 earlier.

5 COMMISSIONER TURNER: Thank you.

6 COMMISSIONER YEE: And I think Commissioner Andersen
7 as well. Yeah.

8 COMMISSIONER TURNER: Thank you, Chair. It was a
9 point of clarification and I received it through
10 Commissioner Yee. Thank you.

11 CHAIR KENNEDY: Okay.
12 Commissioner Andersen?

13 COMMISSIONER ANDERSEN: I do have a quick question
14 before you jump into the scopes of work, if you don't
15 mind, on just, again, for clarification here?

16 The two scopes of work that you're talking about are
17 both for -- one for VRA Counsel, the other for VRA
18 Litigation Counsel, but -- so that's two. Then you have
19 the Racially-Polarized Analyst/Statistician, essentially
20 one. And then you also have -- then you're talking
21 about, in item number 3, VRA analysis.

22 COMMISSIONER YEE: Right.

23 COMMISSIONER ANDERSEN: Isn't that --

24 COMMISSIONER YEE: Yes.

25 COMMISSIONER ANDERSEN: -- the same as the Counsel

1 or are you talking about two different people? I mean, I
2 thought we're going to three contracts, but now it looks
3 almost like four. So maybe --

4 COMMISSIONER YEE: Right.

5 COMMISSIONER ANDERSEN: -- you can clarify that,
6 please?

7 COMMISSIONER YEE: Right. Sorry for that confusion.
8 So the four idea was an early iteration of how it was put
9 up to work. At this point we were thinking that the
10 VRA -- the analyst, maybe Matt Barreto, and the VRA
11 analyst could be the same hire. So that's what we're
12 proceeding with at this moment.

13 COMMISSIONER ANDERSEN: Thank you.

14 COMMISSIONER YEE: And then there's the two
15 counsels, yeah, which could be the same firm also. So in
16 the end it could actually be only two hires and not three
17 and not four. Yeah.

18 CHAIR KENNEDY: So on that, I mean, it's clear on
19 the Outside Litigation Counsel and the VRA Counsel that
20 there are going to be two, or the proposal is to have two
21 separate RFIs with the potential for deciding in the end
22 to collapse them or to award both to the same entity.

23 And I'm wondering, you know, would it not make sense
24 to do the same with the other two, is go ahead out with
25 two instruments with the possibility of awarding both to

1 the same entity but not have to if for some reason there
2 was a determination that maybe it could be better done by
3 two entities rather than one? I mean, if we only put out
4 one, then we're stuck with going with one. If we put out
5 two, we still have the possibility of awarding both to
6 the same entity.

7 COMMISSIONER YEE: Yes, that's entirely possible. We
8 haven't gotten to that point yet of drawing out an RPV
9 for VRA Analysis State of Work and RFI.

10 COMMISSIONER SADHWANI: If I may?

11 I think that when it comes to this analysis we do
12 want someone who understands the implications of the VRA,
13 right? I can do this analysis. I've written papers
14 using it. I wouldn't necessarily feel confident,
15 however, because I have generally done this statistically
16 analysis to then come and say, okay, we should be
17 conducting this analysis in particular locations. I
18 think that that does require a secondary level of
19 understanding of the application of the VRA.

20 And so to me, while we could have them be separate,
21 my sense is that we will be better served by someone of
22 that kind of higher caliber who could actually do both,
23 who could be kind of strategic in helping us think about
24 where do we need to have this analysis conducted?

25 COMMISSIONER YEE: It's a big state.

1 COMMISSIONER SADHWANI: That's kind of my --

2 COMMISSIONER YEE: Yeah.

3 COMMISSIONER SADHWANI: -- thoughts.

4 COMMISSIONER YEE: So --

5 COMMISSIONER SADHWANI: Yeah, it's a very big state.
6 So if we do every school board, every local city council,
7 that would be a lot of data. But instead, if we have
8 someone who can kind of help us, you know, think about
9 like, well, these are the areas that we really need, my
10 sense is that that might serve us better.

11 CHAIR KENNEDY: Well, and I agree, and I'm just
12 asking if that is a decision that we want to make before
13 we issue the RFI or after?

14 COMMISSIONER SADHWANI: Absolutely. Absolutely. And
15 that's why it's written as a recommendation to have them
16 be together, right? It's a recommendation to keep this
17 together as one entity that would provide all of this.

18 CHAIR KENNEDY: Okay, Marian, I've got too more
19 points, and then your next.

20 COMMISSIONER SADHWANI: And I also see that John
21 Levitt has joined us.

22 CHAIR KENNEDY: Okay. Perfect.

23 How are the RFIs going to be disseminated?

24 COMMISSIONER SADHWANI: We haven't gotten that far
25 yet. I think my sense is that, certainly, we would have

1 them on our websites. And I think that we would need to,
2 most certainly, engage everyone in reaching out to their
3 contacts, as we did with the Chief Counsel search. We've
4 also asked Justin Levitt if, well, if it's something he
5 would be interested in applying for, but also to assist
6 in that dissemination, as well, just to make sure we have
7 a great pool of candidates with VRA expertise.

8 CHAIR KENNEDY: Okay. Perfect.

9 And finally, you might recall that I had suggested
10 as a possible training activity that we try to find a
11 moot-court exercise on video and sit through that
12 together and learn from it. I started looking for some.
13 I didn't find any moot-court exercises specifically on
14 this yet.

15 But what I did find that looks interesting, Street
16 Law, which is streetlaw.org, has a number of free
17 resources dealing with the VRA, including a lesson plan.
18 And you know, perhaps it's worth taking a look at some of
19 those resources from Street Law, and there may be other
20 providers, but there are some resources out there.

21 Marian?

22 MS. JOHNSTON: Just two points. One, the RFI would
23 also have to be posted, of course. But for the
24 consultant/analyst, if you go with the Subcommittee's
25 recommendation, you don't need to do an RFI because it

1 would be done as an interagency contract, so you skip
2 that step altogether.

3 CHAIR KENNEDY: Very good.

4 MS. JOHNSTON: Thank you.

5 CHAIR KENNEDY: Thank you, Marian.

6 And I turn it back over to the Subcommittee.

7 COMMISSIONER SADHWANI: Well, I see that Justin
8 Levitt is here.

9 Commissioner Yee, shall we move into that portion
10 then we talk more about -- good morning.

11 COMMISSIONER YEE: Yes. Good morning, Professor
12 Levitt.

13 PROFESSOR LEVITT: Good morning.

14 COMMISSIONER SADHWANI: Oh, go ahead.

15 Well, Professor Levitt, we've been discussing
16 the -- we didn't have any public comment this
17 morning, so we were able to get started a little bit
18 earlier. We had provided -- Commissioner Yee and I had
19 provided a series of recommendations to the Commission in
20 a memo, which is available on our website. I'm not sure
21 if you have seen that but we had discussed many of them
22 with you. And then, also, we've developed draft versions
23 of the Statement of Work portion for two RFIs, one for
24 VRA Counsel and one for Outside Litigation.

25 I think, since you're with us now, I would hate --

1 you know, I certainly want to maximize your time, and so
2 I would say I'd love to move into that conversation with
3 you. I know you have slides prepared. And then we can
4 kind of come back to the statement of -- reviewing the
5 Statement of Work, perhaps, with you and you can respond
6 to questions?

7 PROFESSOR LEVITT: Sure. Happily. And with your
8 permission, Commissioners, I'll do something very
9 similar.

10 First of all, I'm delighted to be back before you
11 again. Thank you, again, for your continuing work. I'm
12 just as proud of you now as I was before, and I'm sure
13 that won't change, and just as grateful for your service.

14 The training that I had the opportunity to give you
15 before I thought went really well with sort of a guided
16 presentation where then you could stop and pepper me with
17 questions whenever you have them, and so I've prepared
18 something similar today. The presentation part is
19 designed to last about a half-an-hour-ish, but that
20 should be plenty of room for questions, both during and
21 after.

22 And at Commissioner Sadhwani and Commissioner Yee's
23 request, what I've done is try to focus on the Voting
24 Rights Act in particular. The last training was
25 considerably broader, and both deliver something of a

1 refresher of the conversation we had last time on the VRA
2 very quickly, but then also move into the sort of
3 challenges you might expect in litigation, the sort of
4 challenges you might expect from contests of your work,
5 that would help you better assess, this is designed in
6 order to help you better assess the sort of personnel
7 you'll want to bring in from the get-go, so very much a
8 part of the same conversation we were having moments ago
9 that I happened in on. This is designed to help you
10 better appreciate the work that the counsel will do so
11 that you can figure out who you want as that people or
12 those people.

13 So if I might, I will try to share my screen once
14 again and see if I have as little success this time as I
15 did last.

16 Theoretically, you're all looking at something that
17 says, "Voting Rights Act Litigation," VRA Litigation.
18 Excellent. And because in this mode I can only see some
19 of you, if you have questions in the meantime, please
20 shout out. That's the only way that I'll be able to see
21 that you have a question either. I don't know whether
22 you've been asking people to use the participant's list
23 in raising a hand or whether you otherwise -- whether
24 you've been otherwise collecting engagement. But I'm
25 happy to pause if you signal to me that you want me to

1 pause.

2 So just to begin, briefly a fresher. Where we last
3 left our heroes, we had talked about three basic rules
4 for staying out of trouble when it comes to race and
5 ethnicity in the redistricting process. I'm trying to
6 distill down, obviously, a lot of much more complicated
7 stuff. But I think these rules accurately capture the
8 bulk of what you'll be asked to do, and so they may be
9 helpful as a mnemonic device for a lot of other detail
10 beyond.

11 First, don't set out to hurt voters based on their
12 race or ethnicity, either by dividing and diluting,
13 what's generally known as cracking, or by
14 overconcentrating voters in order to tokenize,
15 essentially, in order to bring all voters of a certain
16 type into one district to deprive them of influence
17 elsewhere, what's generally known as packing. It doesn't
18 matter if the lines are pretty. It doesn't matter the
19 ultimate motive, we did this in order to X. If your goal
20 is to use race in order to injure, not okay, flat out.

21 The second rule, comply with the Voting Rights Act.
22 Obviously, that's a big chunk of what this conversation
23 is today. Actually, rules two and three go together, and
24 that's part of the point I want to make. So the basics
25 of the Voting Rights Act have to do with a certain set of

1 thresholds. Below those thresholds there's no obligation
2 to draw districts under the Voting Rights Act. You may
3 choose to draw around various communities independent of
4 this. The Voting Rights Act is not the maximum that you
5 can decide to accommodate race of ethnicity. It sets a
6 floor but not a ceiling.

7 So that floor asks three basic questions to
8 determine whether there's an obligation, that you all
9 have an obligation to draw particular districts in and
10 around minority communities.

11 One: Are there sizeable, relatively concentrated
12 minority communities? Could you draw a district such
13 that about half of the electorate in that district was a
14 minority group or a combination of minority groups voting
15 together, so they're big enough and reasonably compact
16 enough to be district size?

17 The second question: Do minority communities have
18 distinct electoral preferences, and this is the
19 shorthand, different from other communities in the
20 district? So do one or more minority groups have a
21 distinct set of electoral preferences? Does the
22 remaining population in the district have a different set
23 of electoral preferences? Normally, that's going to mean
24 that the minority communities get outvoted most of the
25 time.

1 And the third question: Did they or do they, do
2 underrepresented minorities, minorities that haven't yet
3 achieved a proportional degree of district control across
4 the state, do they face discrimination, and are there
5 lingering impacts from historical discrimination that
6 they face? In, unfortunately, most parts of California,
7 that answer to that third question is going to be, yes,
8 we have a history of not being particularly kind in much
9 of California. But you'll also want to bolster that with
10 local historical information and not just rely on --
11 across the board, not just rely on a statewide stereotype
12 of any kind, but in this analysis as well.

13 If those three questions are yes, if they're
14 sizeable relative to the concentrated communities of
15 minority groups with different preferences from the rest
16 of the electorate, and if they did or do face
17 discrimination, then the question is: Can you design
18 districts to give minorities a fair shot?

19 COMMISSIONER SINAY: Professor Levitt?

20 PROFESSOR LEVITT: Yes, please.

21 COMMISSIONER SINAY: It's Commissioner Sinay. Can
22 you talk a little bit more about the do they face
23 discrimination, just so that we can have a better
24 understanding?

25 PROFESSOR LEVITT: Yeah. I actually don't have a

1 slide on that one. Normally, I would click to the next
2 slide down. That refers to a group of characteristics, a
3 group of present and historical factors called the Senate
4 Factors, so called because they reflect what the Senate
5 Judiciary Committee wrote up extensively when amending
6 the Voting Rights Act in 1982, as a list of factors to
7 try and suss out whether there are -- whether there was
8 past discrimination or present discrimination or the
9 lingering impacts of past discrimination.

10 So that includes things like is there discrimination
11 in the voting process, both official and unofficial? Are
12 there slating practices that generally work for --
13 against minorities? Are there features of local
14 elections that generally work against minorities, things
15 like at-large districts that subsume minority
16 preferences? Is there a real hurdle or burden to
17 minority's participation in campaigns through campaign
18 finance structures of through local organizing?

19 It also embraces discrimination outside of the
20 voting process that might have an impact on the voting
21 process. So historical educational discrimination,
22 housing discrimination, general racial appeals in
23 campaigns or beyond campaigns that might tend to work to
24 a minority groups disadvantage in an electoral context,
25 even though the discrimination itself was outside of that

1 content.

2 There's a list of between eight to ten factors that
3 courts generally consider. And you'll actually find that
4 list in my last presentation to you, but that's what
5 that's about. And it's a very guided, structured, not --
6 checklist is the wrong way to approach it because you
7 don't have to hit every bullet on the list. It's a
8 guided, structured analysis for are there real problems
9 beyond just current voting patterns that give reason for
10 concern?

11 COMMISSIONER SINAY: Thank you.

12 PROFESSOR LEVITT: You bet. Great question.

13 The third factor or the third rule is make sure,
14 when you are considering race and ethnicity, that you
15 consider other factors at the same time. There's a
16 constitutional limitation on race predominating unless
17 there's a really good reason. The courts have always
18 said that compliance with the Voting Rights Act
19 constitute a really good reason. But you don't ever want
20 to have to get there if you can avoid it. So to the
21 extent that you can draw districts conscious of race and
22 ethnicity without allowing race and ethnicity to
23 predominate, to really drive the discussion exclusively
24 to the subordination of everything else, that leaves you
25 on safer legal ground.

1 The analogy I presented last time, everybody knows
2 it's important not to speed. But if you spend the entire
3 time in a car driving staring at the speedometer and
4 ignoring everything else, including the traffic,
5 including the weather, including other cars on the road,
6 including where you're doing, including music, including
7 in-car comfort like heat and air, including passengers in
8 the back seat kicking up a storm, you're going to crash.

9 So watch the speedometer but also watch the other
10 stuff. And if you are watching the other stuff, while
11 also being very conscious of the speedometer, that's
12 where you don't run into a problem.

13 Avoid fixating, I guess is a better way to it, on a
14 particular racial number. It's fine to have a number in
15 mind. But also consider other aspects of a district
16 whenever you're drawing that provides some insulation.

17 So as a brief refresher, overly brief refresher, but
18 what I really want to do is get into how this actually
19 plays out in a real-world context so that you can start
20 processing what this means for your choices of who you
21 will choose and how you engage them.

22 When the lawsuits come, and I put it that way
23 because the lawsuits will come, unfortunately -- by the
24 way, you should not take the fact of a lawsuit as a sign
25 that you have done anything wrong. You should take the

1 fact of a lawsuit as somebody's unhappy but that's very
2 different. And you should not be alarmed by the fact of
3 a lawsuit if you've done what you've been asked to do by
4 counsel, by the constitution. You'll prevail. And
5 that's the way the system should work. You're going to
6 get sued.

7 And you're going to get sued from two different
8 directions or the options will come from two different
9 directions on this. One allegation is that you've made
10 an improper use of rates, that you violated rule three.
11 You're staring at the speedometer so much that you
12 crashed. And another allegation from the opposite side
13 will be that you paid insufficient attention to race.
14 You had a voting rights obligation that you ignored or
15 that you did not live up to.

16 Avoiding the improper use of race, that looking --
17 staring so hard you're going to crash, is really pretty
18 straightforward. It's fine -- I really want to emphasize
19 this, it's fine to consider race and ethnicity when you
20 consider where to draw districts. That is totally okay.

21 If you don't set out to overpack voters inside a
22 district and dilute their strength elsewhere, if you
23 don't set out to divide and splinter minority groups,
24 that is to draw lines through minority groups so that its
25 influence is dispersed, and you consider factors in

1 addition to race and ethnicity, and when you produce the
2 report that California law asks you to produce at the end
3 of the process, you explain that you used those other
4 factors in addition to race and ethnicity, things like
5 communities of interest, things like political
6 boundaries, like cities and counties and neighborhoods,
7 things like the California Unique Compactness Standard
8 based not on pretty geometric shape but based on
9 bypassing nearby population, if you consider those things
10 in addition to race and ethnicity and you say as much,
11 that will actually help avoid or fight back against
12 allegations that you have improperly used race.

13 The other side of the coin, avoiding insufficient
14 attention to race, the litigation is going to come in
15 these places instead, right? They're going to challenge
16 whether local minority groups -- whether you paid
17 attention to local minority groups that were large enough
18 to be over fifty percent of the CVAP, the citizen voting
19 age population, either separately or together, that is
20 either groups on their own or groups considered together
21 if they have voting preferences together. So if there's
22 a large minority group that you ignore, that's trouble.

23 If there are local minority groups that have
24 distinct political preferences, so challenges will come
25 about their evaluation of their distinct voting

1 preferences, that's the racially-polarized voting studies
2 that I know I heard Commissioner Sadhwani talking about
3 just before we got started at this point, you'll want to
4 consider both distinct political preferences or
5 individual minority groups, but also occasions where
6 minority groups tend to vote together where. For
7 example, African-American and Latino voters may have
8 common political preferences, and that may be true in
9 some parts of the state and not true in other parts of
10 the state, that's a localized determination and
11 relentlessly based on actual facts on the ground, you'll
12 also want to consider the differences between primaries
13 and general elections.

14 So there may be some common choices in a primary or
15 there may be some common choices in a general election.
16 You'll want to consider them both to make sure that
17 you're giving voice to make sure that if there's a
18 sizeable community with particular distinct preferences,
19 they're actually drawing a district that provides a fair
20 opportunity for political power that arise through both
21 the primary and the general election process. And with
22 the top two primaries (indiscernible) than just deciding
23 if somebody can win the Democratic Primary or the
24 Republican Primary. And that will automatically bring
25 them to a viable general election. The top two primaries

1 complicates that a little bit.

2 You'll want to make sure that you evaluate whether
3 there's a history of discrimination with lingering
4 effects, that same sort of analysis we just discussed,
5 the Commissioner just asked me about, with a localized
6 analysis.

7 You'll want to find out -- these are sort of the
8 last two elements of a Voting Rights Act claim. Do
9 minority groups have a meaningful opportunity in a
10 proportional number of districts so the Voting Rights Act
11 does not impose an obligation? If, for example, Latino
12 communities constitute -- I'm making up the number -
13 thirty-five percent of the state, and already having
14 meaningful opportunity to elect candidates of their
15 choice in thirty-five percent of the districts, the
16 Voting Rights Act might create an obligation up to that
17 point but it does not create an obligation beyond that
18 point. And again, you can choose to account for race and
19 ethnicity beyond what the Voting Rights Act creates an
20 obligation for. I'm just talking about the legal
21 obligation to at least that, as I said before.

22 Finally, you're going to have to evaluate what it
23 would take for local minority groups to have meaningful
24 opportunities to elect candidates of their choice. And
25 I'm going to get into what that means and give an example

1 in just a second.

2 So I want to bring you through the wrong approach to
3 help you see what not to do. And then talk about what a
4 group of individuals trying to do a better job might
5 actually do. And I don't want to use California as the
6 example. I've been critical of some of the advice that
7 the last Commission got from their counsel. It turns out
8 they did something very similar to what happened in
9 Virginia. But I want to focus on Virginia so that we can
10 avoid talking about what happened in California. This is
11 an easier example. It also went up to the Supreme Court.
12 So in this extent, I know I'm right because of what the
13 Supreme Court said.

14 So here we have an example of the wrong approach.
15 The trouble in Virginia -- this is for the Virginia House
16 of Delegates election, the lower -- their state assembly,
17 effectively -- when Virginia redrew the lines in 2011,
18 those are the actual districts that you see in outline
19 there, and the districts that are colored in were the
20 districts presented on the right-hand side of the slide,
21 individual districts with a certain percentage of
22 African-American voter -- voting age population.

23 The assembly found that the gold district, right
24 sitting there in the sort of southeastern section of
25 Virginia, actually needed fifty-five percent of the

1 voters in that district to be of voting age, fifty-five
2 percent African-American voting age population, in order
3 to give the African-American community there a reasonable
4 equitable opportunity to elect candidates of their choice
5 based on some past elections, based on demographic data,
6 based on political analysis of how voters voted in the
7 area.

8 And I want to emphasize, they didn't do formally
9 racially-polarized voting studies beforehand. They had a
10 different means of evaluating elections. They looked at
11 a number of very close elections and they talked to the
12 representatives there to determine at what point they
13 thought the line would tip. It wasn't particularly
14 rigorous. But it was informed by something other than
15 guesswork. It was informed by actual past election
16 results.

17 And so in that gold district they determined that in
18 order to give African-Americans a real opportunity to
19 elect the candidates of their choice, there's a sizeable
20 group of African-Americans in that area, the district had
21 to be at least fifty-five percent Black voting age
22 population. And then the legislature just assumed that
23 meant everybody had to be at fifty-five percent across
24 the board, that the only effective way for African-
25 Americans to elect voters in any other part of the state

1 was if they had fifty-five percent of a district.

2 And so you can see that every one of the districts
3 that are colored in here, every one of the districts that
4 are listed on the right-hand side of the slide, had an
5 African-American voting age population percentage of more
6 than fifty-five percent because the legislature took
7 fifty-five percent from the one district and made it a
8 floor across the board, independent of local facts
9 statewide. That got them in trouble.

10 And it led to things like this. It led to -- this
11 is House District 95 in Virginia. It's small. I know
12 it's small. The white dots represent African -- sorry,
13 represent Anglo voters. The black dots represent
14 African-American voters. The solid black outline
15 represents the outline of the district. And you can see
16 that the inside of the district is a whole lot more
17 heavily African-American than the outside. And they took
18 census tracts, those are the little dotted red lines, and
19 they selected census tracts that were very heavily
20 African-American in order to get up and over this fifty-
21 five percent. And then there was a fight about whether
22 they were staring at the steering wheel too closely.

23 The litigation that came out of this used records,
24 used legislative history from the legislature where it
25 sure seemed like they had taken this fifty-five percent

1 assumption or stereotype and applied it statewide, and
2 they took individual demographics from each of the
3 challenged districts. And they looked at population maps
4 of each of the challenging districts in order to try and
5 reconstruct, was race the predominant reason for drawing
6 the district as it was? Was race the predominant reason
7 why voters were put either inside the district or outside
8 the district? Were they staring too hard at the
9 speedometer?

10 In litigation, this gets contested. So you can see
11 that not every African-American is put within this
12 district. There are little pockets of black dots outside
13 of the district lines and zones. And I've basically
14 copied the exhibit from the defense here pointing out,
15 hey, we didn't do this everywhere. There are pockets of
16 African-Americans outside the district too. And there
17 was long and painful litigation over whether this
18 evidence showed staring too closely at the steering
19 wheel, at the speedometer, or whether it showed attention
20 to race but not racial predominant?

21 The court ultimately found that given the comments
22 on the records, and that given the patterns, that it sure
23 looked like the reason House District 95 was drawn as it
24 was and the reason people were put inside or outside
25 House District 95 was their, way over and above anything

1 else. That is, the legislature couldn't really
2 articulate any other reason why 95 looked as it did,
3 other than we felt we had to get over fifty-five percent.
4 And that fifty-five percent wasn't justified based on the
5 Voting Rights Act because they just used assumptions
6 about what level of Black voting-age population would be
7 necessary to actually give a meaningful opportunity here?

8 Virginia's politics are -- well, they're not unusual
9 any longer. They are not the stereotypical politics of
10 the Deep South. In some areas, African-Americans need
11 more than fifty percent in order to have a reasonable
12 opportunity to elect. In some areas, they need just
13 about fifty percent. In some areas, considerably less
14 than fifty percent; forty-two, forty-three, forty-four
15 percent provided more than enough opportunity for
16 (indiscernible) had, in the past, demonstrated that
17 districts with that level would reliably elect the
18 representatives of choice of the African-Americans
19 community.

20 And so once the court found that the legislature had
21 been starting too closely at the speedometer, it looked
22 to whether that could have been justified by the Voting
23 Rights Act and found out, no, that the legislature didn't
24 do enough homework to show that the speedometer number it
25 was fixated on was actually necessary based on the Voting

1 Rights Act. It was, instead, an assumption taken from
2 elsewhere.

3 Curiously, the original district, that gold
4 district, District 75, the basis for the fifty-five
5 percent assumption, that district was grounded on fact.
6 And so the court said, we actually find that you focused
7 too much on race here. You focused predominantly on race
8 here. You need a really good reason but you have one.
9 The Voting Rights Act actually does require that in that
10 district you have an obligation to create a reasonable
11 app for African-Americans to elect. And fifty-five
12 percent is a reasonable judgement about what that might
13 be.

14 So where there was no empirical basis for the
15 assumption the court struck down those districts. But
16 even when the legislature was overly fixated on race
17 where there was empirical backup for what we need to make
18 this necessary for the Voting Rights Act the court said,
19 fine, that's okay.

20 So the legislature got itself in more trouble than
21 it needed to by fixating on race to the exclusion of
22 everything else. But at least in the districts where
23 they had empirical support, the court said, that's okay.
24 Where they didn't, where they made assumptions that they
25 just translated to elsewhere, the court struck down that

1 part of the method.

2 How do you do this right, rather than landing where
3 Virginia landed? They started in the right place.

4 So you can see that those portions of the Virginia
5 map in the south and east, unsurprisingly, are portions
6 where there are an awful lot of African-Americans. This
7 map is a heat map of the voting-age population that's
8 African-Americans by precinct. And you can see the
9 warmer colors, the red and the orange, are where there's
10 relatively more African-Americans in each precinct, and
11 the blue are areas or the gray areas of where there's
12 relatively few.

13 So the legislature started off with a good idea,
14 which is go find out where there are sizeable compact
15 communities to see where you have an obligation. That
16 part was right. And I would encourage you to use your
17 analysts and your counsels to help you find similar heat
18 maps in California of individual racial and ethnicity
19 groups, but also of groups in combination, that show you
20 where there are sizeable communities that you might have
21 an obligation for. That's step 1. You'll find lots of
22 them in California.

23 Step 2 is to actually get some empirical support for
24 whether you need to draw districts to satisfy the Voting
25 Rights Act or not. This is the thing that the Virginia

1 legislature sort of, kind of, did in the one district
2 where it was based on past election results and didn't do
3 at all in the other districts. And that's where it
4 really ran into trouble.

5 There are more empirically-grounded techniques than
6 just kind of guesstimating at where, what level of
7 disparate elections, whether there's polarization in the
8 community or not. It's generally called racially-
9 polarized analysis. I know you've discussed this before.
10 We discussed this last time.

11 This happens to be an exhibit that I have changed
12 the labels on, this happens to be an exhibit from Matt
13 Barreto from Los Angeles at the beginning of the decade,
14 showing, in particular, one race. Each circle is a
15 precinct. The circle sizes vary a little bit because of
16 the number of voters in the precinct. And what you're
17 trying to do in this sort of analysis is to look for
18 patterns.

19 Not every precinct is going to behave exactly in the
20 same way. You're looking for an overall pattern. As the
21 percentage of minority voters in the precinct increases,
22 does the vote share for a particular candidate increase?

23 And based on background knowledge, do we think
24 that's probably because minority voters prefer a
25 particular candidate? Sometimes the patterns are super

1 clear. I would call this one super clear. There's a
2 very tight cluster that shows this probably means, on my
3 legend, this is not the actual legend but on my legend,
4 that African-Americans reliably prefer one type of
5 candidate.

6 You're not done here. You also want to find out
7 what the rest of the voters in the area look like. If
8 you saw a pattern like that, and I've cheated, this is
9 just the inverse of the same graph that I showed you a
10 second ago, but if you saw a pattern like that showing
11 radically declining Anglo support for a candidate, the
12 more Anglo voters there are, the less they support that
13 candidate, then you would see that voting is pretty
14 clearly racially-polarized.

15 This example here shows you, very likely, that
16 African-Americans voters prefer one type of candidate and
17 that Anglo voters prefer another type of candidate, even
18 though we can't see the individually racial designations
19 on any individual ballot.

20 Not all analyses will be this clean. Sometimes the
21 patterns are not this clear. That's why you want to hire
22 somebody to do the work. You can evaluate -- you can
23 both perform the analysis and evaluate it for you to let
24 you know, well, this is kind of clear, this is very
25 clear, that's not clear at all, actually, I can't find

1 any pattern here. All of those are possibilities in
2 various parts of California.

3 This would be the next way to do this correctly, is
4 to look for the large and sizeable pockets, perform the
5 analysis to find out if voting is polarized, and then set
6 out about the final factors on your Voting Rights Act
7 checklist.

8 Is there a history of discrimination or is there
9 present discrimination using the Senate Factors that we
10 just talked about? Are there already districts elsewhere
11 in the state that provide proportional opportunities to
12 minority groups? And if there is a history and there's
13 not already sort of the right proportion of opportunity
14 elsewhere, then, okay, what's the right number? What
15 speed limit should we be aiming for? It doesn't have to
16 be exact. You don't have to peg to the Xth decimal place
17 the precise number of -- the precise percentage of voters
18 to give a reliable opportunity to elect. But you do want
19 to have, and this is the legal, this is actually the
20 legal framework, a strong basis in evidence for letting
21 you know that you're in the right zone.

22 The same racially-polarization analysis can help you
23 decide what the right number-ish is or what the right
24 range is because it helps you know, yes, on average,
25 eighty-five percent of Latinos prefer a particular type

1 of candidate and ten percent of Anglo voters prefer that
2 same type of candidate. It lets you know the rough
3 percentage of any one district that you have to have in
4 order to give the Latino population a real opportunity to
5 win that race.

6 Kind of the outcome is, essentially, algebra.
7 There's a lot of both art and science to developing the
8 analysis itself. But once you have a rough feel for
9 polarization in the community, it's not that difficult to
10 indicate a rough range for a real minority concentration
11 of voters.

12 And again, I want to emphasize, in some communities,
13 particularly given turnout patterns and other factors
14 that go into real-world elections, that right range is
15 going to be more than fifty percent. In some communities
16 it's going to be right around fifty percent. In some
17 communities it's going to be less than fifty percent. In
18 large parts of Virginia and North Carolina, local
19 African-Americans communities can reliably elect the
20 candidates of their choice with forty-three or forty-four
21 or forty-five percent of the district, just based on
22 patterns locally.

23 And then the last step, consider other factors, too.
24 When you're doing this analysis, make sure that you're
25 not only focused on whatever that percentage or range is,

1 but other local aspects that will help guide where the
2 districts should be. This is the right way to do it so
3 that you're not stuck facing a map like this and having
4 people question, okay, was the only reason we drew that
5 map as it was because of race?

6 So consider communities of interest. Consider city
7 and county and neighborhood boundaries. Consider making
8 the district compact based on where the population lives,
9 not based on geometry. And that will help guide you to
10 stay out of trouble in the right approach. That's a
11 balance of living up to your obligations under the Voting
12 Rights Act --

13 COMMISSIONER SINAY: Professor Levitt?

14 PROFESSOR LEVITT: Yes?

15 COMMISSIONER SINAY: On these three points, the
16 community of interest, city, county and neighborhood
17 boundaries, and compactness, a lot of that will come
18 later when we actually get the census data. So we can do
19 the VRA, you know, some of the stuff ahead of time, but
20 we won't be able to set those -- map those VRA
21 communities until we have the other data as well?

22 PROFESSOR LEVITT: That's correct. So you can
23 get -- that's absolutely right. You can get started on a
24 lot of things. You can get started on analysis of
25 electoral results, because all of this is based on past

1 electoral results. There's no reason you need to wait
2 for the census data on anything like that.

3 You can even get started on estimates of where
4 minority populations are. This will formally come -- the
5 best data will come from the census when it arrives but
6 you can get started. You've got a pretty good estimate
7 now, not just based on 2010 data but based on constantly
8 updated data, including the most recent is probably going
9 to be for 2018 or so. So you can get started on this
10 part now as well.

11 And in places where there are sizeable communities
12 and where you've done that polarization analysis to know
13 where there's distinct preferences, you can look into the
14 history or present discrimination in order to see if you
15 have an obligation. You don't need census data for that
16 either.

17 The last factor in sort of considering other
18 factors, too, that's only important when you are actually
19 drawing the final map. And so you're right, you'll have
20 to wait for census data on that. You actually may not
21 have to wait for census data to start collecting
22 information on some of those. City and county and
23 neighborhood boundaries aren't going to change in the
24 census. Communities of interest, you can, if you choose,
25 go out into the community and ask about various

1 assortments of people with different interests in the
2 legislature before you get census data. So you can do a
3 lot of the prework for this.

4 The only thing I want to make sure is that once you
5 know there's a VRA obligation, when you're actually
6 drawing a map in order to live up to that obligation,
7 consider other stuff, too, that helps insulate the
8 mapping challenge.

9 COMMISSIONER SINAY: And one other question. I know
10 I asked this last time but my brain is a little foggy on
11 remembering the answer.

12 You know, we're drawing the lines for ten years. How
13 do we take into account the young vote, those who are
14 under eighteen, who will be voters within those ten
15 years?

16 PROFESSOR LEVITT: It's still a great question.
17 That will continue to be a great question.

18 So the answer is the law asks you to respond to the
19 population that is there now. So if there is an
20 obligation the obligation is based on now. That doesn't
21 mean that you have to ignore how demographics might
22 change in the future. You can certainly consider that.
23 But the law doesn't allow you to bank on the future in
24 terms of living up to a present obligation.

25 So for example, in drawing a district that provides

1 a real opportunity for minority communities to elect
2 candidates of choice you can't say, and there's case law
3 on this, I know we're drawing this at a level where the
4 opportunity doesn't exist now but it's probably going to
5 exist in four or five years. That's -- so we'll -- they
6 call it the snowsuit approach. We'll let the population
7 grow into their opportunity. That's not okay.

8 But when designing districts that do live up to that
9 present obligation it is fine to consider how
10 demographics are likely to shift in the next couple of
11 years, as long as that's not a tradeoff of future
12 representation for representation there.

13 COMMISSIONER SINAY: And then one follow-up
14 question, I'm sorry, is around the incarcerated
15 population and how now it's going to be -- you know,
16 we're looking at it differently. How do we consider that
17 within the VRA?

18 PROFESSOR LEVITT: So that, you'll consider
19 individuals who are incarcerated and their demographic
20 components. In the data that you hopefully will receive,
21 so hopefully you'll engage a vendor to provide you the
22 data, I don't know whether Karen's going to be able to do
23 that or whether that's going to be somebody else
24 associated, I don't know what that's going to be within
25 the statewide database or beyond. But you'll have to --

1 the data you'll receive, hopefully, should allow you to
2 consider these local demographic patterns in way that
3 include incarcerated populations that you are returning
4 home, that have always been home for legal purposes, back
5 to the communities where they resided before they were
6 incarcerated.

7 They won't impact voting patterns much because, at
8 least for individuals who have been incarcerated, they
9 won't have voted, and they're not going to be able to
10 vote until they are out of incarceration. So it
11 shouldn't really impact the voting assessments but they
12 will impact the demographics. And hopefully when you
13 receive these sorts of maps, you'll be looking to see
14 with the information, with the data already pulled in.

15 I'll say that for the most part, when you're talking
16 about communities that are this sizeable for state house
17 districts and state senate districts and congressional
18 districts, you're unlikely to change the heat map much
19 based on reallocation of the incarcerated population.

20 So it's important. I'm a big supporter of the
21 change in the law. It actually provides better
22 representation for all of those individuals. But it
23 shouldn't actually change your assessment of where
24 there's a Voting Rights Act obligation much at all. And
25 that's simply by virtue of the size of the incarcerated

1 population when compared to the size of a California
2 Assembly district. Great question.

3 So that was really, essentially, the end of the
4 presentation. The one guidance I'd give to you is in all
5 of this, and when you're thinking about engaging or
6 retaining VRA Counsel or a VRA analyst or other people it
7 his structure, you want to start early. Thank you. That
8 was a magnificent segue. You want to start as early as
9 you can with getting the data and with considering the
10 data, even before the Census Bureau provides you. You
11 want to give yourself time to consider not just
12 individual minority groups but blocks of multiple
13 minorities who may or may not be voting together.

14 And you want to give yourself time to try different
15 combinations without getting locked into one particular
16 approach that, if you're blinded to, well, what if we did
17 this slightly different? That's easier said than done.
18 And the best way to effectuate that is to draw up some
19 proposals and then get feedback on them. And then be
20 prepared to throw them out in part or in whole and
21 drawing up a different set of proposals. The more you
22 can remind yourselves not to get too terribly attached to
23 first drafts the easier that will be, which is hard as a
24 human.

25 And that's really the end of the presentation I had.

1 I'm more than happy to take other questions if you have
2 them.

3 CHAIR KENNEDY: I do have a couple of questions.

4 So first, and I think this is a question that I
5 posed to Professor Barreto when he was with us, I still
6 have a little bit of discomfort of uncertainty about how
7 we tease out or how we isolate the effect of candidate
8 quality. Because we talk about, you know, we talk about
9 candidate of your preference.

10 But sometimes, you know, there's just a candidate
11 that's bad or, you know, there's a candidate that, you
12 know, wouldn't necessarily fit into a category that a
13 group would normally vote for but, because the quality of
14 the candidate is so good, they end up voting in a way
15 that doesn't fit their historical pattern.

16 So how do we -- and I know that we don't necessarily
17 have to be the ones doing that, but I want to make sure
18 that, you know, that's -- we understand that phenomenon
19 and how it could be dealt with.

20 PROFESSOR LEVITT: Yeah. So that's absolutely right
21 in terms of the empirical reality. That happens.
22 Obviously, that happens. The way that researchers
23 generally address it is by -- is twofold.

24 One, don't ever just use one race to gauge racially-
25 polarization. So the right way to do this is with a

1 blend of several races to see whether the patterns are
2 consistent, not only across group and across precinct but
3 across time and race, not racial preference, across time
4 and candidacy. So if you find a pattern from four
5 different elections that's the same in four different
6 elections, or very similar, that's going to tend to cut
7 against the this was a really bad candidate or really bad
8 candidate (indiscernible).

9 And the second is to have somebody to engage
10 somebody who either knows themselves or is willing to do
11 a little bit of research into the qualitative measures of
12 particular races to see whether there are those sorts of
13 anomalies. It is embedded in the law of the Voting
14 Rights Act and the law of doing racially-polarized voting
15 analysis.

16 There may be weird races that you count but discount
17 a bit. So it's not like you eliminate them but you give
18 them less weight when you're assessing them if something
19 odd happened in a race where there was a odd candidate
20 quality, that it's not true that every race is treated
21 exactly the same, every candidacy is treated exactly the
22 same when you're doing this polarization analysis. And
23 that means you want to retain somebody who either, again,
24 knows or can find out whether there are some super
25 bizarre qualities to a particular candidate in a

1 particular race or a particular issue that sunk one
2 candidate or elevated them. It doesn't mean that they're
3 not particularly representative of how the community
4 feels.

5 The goal in all of this is to try and assess how the
6 community feels, how the community votes, not the success
7 or failure of any particular candidate. And so
8 optimally, you want to talk to the community and say,
9 hey, was there something weird going on in this
10 particular race? And get you several so you (audio
11 interference).

12 CHAIR KENNEDY: And somewhat related to this, I
13 mean, how do we deal -- we talk about citizen voting-age
14 population. But you know, that doesn't guarantee that
15 those people are voting. You know, how do we deal with
16 ascertaining preferences of nonvoters that we really
17 should be? I mean, to me, people are out there who
18 aren't voting because they just don't like any of the
19 candidates. But theoretically, there's a world in which
20 there could -- they could be voting.

21 PROFESSOR LEVITT: True, or they're not voting
22 because they know they're going to lose because the
23 districts aren't currently built for them. And I think I
24 used this analogy that last time. If you put me in a
25 footrace with Usain Bolt, I might not try super hard

1 because I know what the answer is going to be before I
2 even get off the blocks.

3 This is very much related to Commissioner Sinay's
4 question. The law asks you to take the voters as they
5 are. You can acknowledge, always, that designing a
6 district differently may lead to different turnout
7 effects, and so voters may show up in the future where
8 they have not shown up in the past. But the analysis
9 asks you to take the communities where they are in terms
10 of who has actually voted and what preferences does that
11 demonstrate, that is the law, generally, it asks you not
12 to assume, flat out.

13 That's the sort of -- the biggest overarching
14 statement I can give. It doesn't say you have to blind
15 yourself to what might happen in the future. But it asks
16 you not to make your decisions based on assumptions.

17 So just like you take the composition of the
18 district as it is and not based on who might be coming
19 into the electorate in the future. You take the
20 political preferences and the voting preferences of the
21 electorate as they are and not what might change in the
22 future, even though if you do this right and you're
23 creating a district where the Voting Rights Act has an
24 obligation for a community that had no opportunity
25 before, you would actually expect to see a change. You

1 would hope to see a change. That's what the Voting
2 Rights Act is for.

3 So you're right, that happens, but the law asks you
4 to evaluate the community as it exists.

5 CHAIR KENNEDY: Thank you.

6 Commissioner Sinay?

7 COMMISSIONER SINAY: Sorry. I'm just so intrigued
8 with all of this now. I didn't think I was a data
9 person.

10 So how do we look at --

11 PROFESSOR LEVITT: For a data person, by the way,
12 that really warms my heart.

13 COMMISSIONER SINAY: Well, I guess I always
14 have --

15 PROFESSOR LEVITT: (Indiscernible.)

16 COMMISSIONER SINAY: -- I guess I always have been a
17 data person but I like to put faces on data, is more what
18 I see myself.

19 And so the question is 2020 has been -- the election
20 that just happened was an unprecedented election, and
21 that makes me giddy. I love that people voted from all
22 walks and life and stuff. How is that going to affect
23 how we look at a lot of this?

24 PROFESSOR LEVITT: So first of all, the circles will
25 probably be bigger in 2020. The precincts, that's

1 actually not just precinct size, that's the number of
2 voters within each precinct, and those will get bigger
3 than they have been in the past. I agree with you, that
4 seems like a good thing.

5 So this is relating. Your questions are all
6 relating to each other. This relates to the question of
7 what if we get a weird race? And there may be plenty of
8 ways in which the presidential race of 2020 was not the
9 norm for anybody across the board. That's part of why
10 you want to choose a selection of races to view racially-
11 polarization so that you're not capturing any one
12 anomaly.

13 You may find that the -- first of all, assume
14 there's a pattern, but in some places you may find
15 there's no pattern, right, that there is no real reliable
16 polarization based on race. That's possible. It will
17 often depend on which racial or ethnic groups you're
18 considering at the time. There may be one group that's
19 quite polarized. And there may be a different group
20 that's quite polarized in another part of the state.

21 But assume there's a pattern. You may find that the
22 latest race followed the pattern or you may find that the
23 latest race didn't quite follow the pattern. But that's
24 why you're looking for an overall pattern. So if it
25 really stands out as weird, and not just weird in the

1 presidential race but weird in a number of other races in
2 2020, that may mean you've got a changing electorate. If
3 it doesn't stand out as weird, that may mean you've got
4 more of the electorate than before but according to very
5 familiar facts.

6 CHAIR KENNEDY: Commissioner Sadhwani, and then
7 Commissioner Toledo.

8 COMMISSIONER SADHWANI: Sure. Just to add on to
9 this from some of my own research, I know Commissioner
10 Sinay and I are asking to put a face on this, right? And
11 so I very strong agree that having multiple datapoints
12 and multiple pieces of analysis from various elections
13 would be, ultimately, very helpful.

14 You know, in this Commission, I haven't really
15 talked at all about my research, but it's all published
16 and out there. So there are pieces that I've done
17 specifically, for example, looking at Asian-Americans in
18 Orange County. I would argue that that is a community
19 that is very much in a process of changing.

20 So a piece, and I'm happy to share it with you, it's
21 in the Washington Post, that looks at the Asian-American
22 community in Orange County. And a handful of districts
23 will show that there is this kind of variation from one
24 election to the next.

25 In one district, for example, what we saw, what I

1 found was that while there was a predominance, you know,
2 there was this push for reelecting Republican incumbents
3 until there was a Chinese-American on the ballot. And I
4 found racially-polarized voting amongst the Asian-
5 Americans.

6 In the 2016 election, right, with Hillary Clinton,
7 she had won that district. And I find that it was due to
8 the polarization of the Asian-American community for --
9 in support of Hillary Clinton in that district alone.

10 Similarly, in 2018, that same district sent a
11 Democrat who was a Latino to congress. Again, Asian-
12 Americans were polarized in support for that candidate.

13 However, in this past election an Asian-American
14 Republican has won. Did they switch their vote? Is it
15 because there was greater turnout? I don't have the
16 answer to that yet. The vote is not certified, so
17 hopefully we'll be able to take a look at those kinds of
18 pieces.

19 But my sense is when we look, when it comes to
20 actually looking at some of these areas, yes, we're going
21 to need a pattern in those districts. But we might also
22 need to drill down more locally to better understand how,
23 you know, people in Fullerton might be voting in local
24 city council elections versus other elections. And we
25 might need to start thinking about those kind of local

1 areas, which is where it ties into those communities of
2 interest as well.

3 Similarly, I've studied Latino voters, as well, you
4 know, under the constraint of the top two primaries.
5 When you arrive at a general election with two Latinos on
6 the -- or excuse me, two Republicans on the ballot, one
7 being Anglo, one being Latino, what we saw is that --
8 with my coauthor, what we saw that was Latinos were
9 polarized towards a Latino candidate, regardless of the
10 fact that they were Republican, right?

11 So I think all of these kinds of considerations we
12 can begin looking at now so that we have a sense of,
13 okay, well, where is it that we need to go? What
14 additional information might we need to make the best
15 kinds of decisions, right? Because the RPV analysis
16 isn't going to be the only datapoint, it will be one,
17 right? It will be an important one. But we'll have to
18 kind of have a sense of, okay, we should probably be
19 focusing in here, and really having a lot of those
20 conversations in those areas, right, when we go out to do
21 the public testimony and receive public testimony.

22 PROFESSOR LEVITT: And what Commissioner Sadhwani is
23 speaking to is very -- first of all, it is very in line
24 with how the courts actually treat these races, and very
25 in line with just not making assumptions, even

1 assumptions that, you know, you feel like you may know
2 how the community feels. The data will show whether your
3 assumption or your history or your sense is right, or
4 might have been right but is now wrong, or wasn't right
5 all along. It's really important to have that empirical
6 data to back you up on how different groups go to
7 different places.

8 CHAIR KENNEDY: Great.

9 Commissioner Toledo?

10 COMMISSIONER TOLEDO: Thank you.

11 Given the likelihood of legal challenges, I'm just
12 wondering and curious about your thoughts around the
13 changes to the Supreme Court, the composition of the
14 Supreme Court, and whether there's any insight as to
15 changes to the VRA or any thoughts about how the
16 interpretation might differ with the new composition?

17 PROFESSOR LEVITT: That's a really good question. I
18 want to premise this with, similar to Commissioner Sinay,
19 your obligation at the moment is to take the law as it
20 exists and not how it will. So I realize that's not what
21 you -- you weren't suggesting anything different. I
22 don't know that it's clear how this court will view these
23 issues that I've talked about and whether there will be
24 departures are all, much less radical departures.

25 There are -- the basic push against stereotyping,

1 against assumption, I was critical of the past Commission
2 and of other states that adopted a similar sort of
3 numbers-only demographic without political reality. In
4 2011, well before this court had the opportunity to
5 evaluate some of those cases in 2016 and '17 and '18 and
6 '19, and that was a very different court that evaluated
7 them later in the decade, and they felt about the issue
8 exactly as I had thought they would, which was exactly as
9 prior courts had.

10 So even though the court as a whole changed
11 composition over the course of a decade, their approach
12 later in the decade was exactly what I thought it -- what
13 it was and what I thought it would be in 2011. And I
14 don't know that that part is going to change much at all.

15 Similarly, the courts have been -- just like the
16 court says don't make assumptions, and I would expect
17 that to continue, the court has always looked to the
18 basics of the Voting Rights Act, the sort of provision
19 that you have in front of it. It's not I'll leave aside
20 some changes the court made in 2013. That's something
21 that you no longer have to consider.

22 The court has always held up that part of the Voting
23 Rights Act as the example of good, valid congressional
24 litigation when it's striking down other things that do
25 bad things. So it has always turned to -- unlike the

1 Voting Rights Act, this thing that we're evaluating here
2 doesn't do one of the following things. And that has
3 been true across administrations, across appointees, sort
4 of independent of the composition of the court. Even
5 when members of the court are fighting about applications
6 or particular circumstances, they tend to take the basic
7 core of the Voting Rights Act that I've described to you
8 today as an example of the good stuff, and so I don't
9 know that I would expect that to change either.

10 On the margins, it's entirely possible that the
11 court's interpretation of some elements of these things
12 may change. I don't know. I don't know that we'll know
13 until your map or others has the opportunity to get
14 presented to them. But actually, just like the law asks
15 you not to make assumptions, I don't make assumptions
16 about what the court is going to do outside of the
17 context of a particular factual scenario, outside of a
18 particular case they've given.

19 So it's a really good question. And the straight
20 answer is in some cases I would expect nothing to change
21 with respect to what we're talking about today. And in
22 some cases it might well change but I don't really have a
23 good feel for how. And I don't know that the simple
24 membership of the court tells me.

25 CHAIR KENNEDY: Very good.

1 After our break, we will have Commissioner Taylor
2 and Commissioner Yee. But we are at the point where we
3 are required to take a fifteen-minute break. Actually,
4 let's -- since we went over, let's make it just a little
5 bit longer and be back at 11:20.

6 (Whereupon, a recess was held from 11:02 a.m.
7 until 11:20 a.m.)

8 CHAIR KENNEDY: Welcome back everyone. Thank you
9 for your patience during our break.

10 And as indicated just before the break, we have,
11 first of all, a question from Commissioner Taylor,
12 followed by Commissioner Yee.

13 COMMISSIONER TAYLOR: Good morning, Professor
14 Levitt. Again, thank you.

15 PROFESSOR LEVITT: Thank you.

16 COMMISSIONER TAYLOR: In your advice you say start
17 early, time to try different combinations. And you also
18 say to consider blocks of minority groups. Can you
19 further expand upon that? And I guess, can you speak as
20 to what's the relationship when you have a district that
21 has multiple groups that might fall under VRA criteria?

22 PROFESSOR LEVITT: So that's a great question and
23 one where I think, unfortunately, your predecessors left
24 themselves too little time to consider real possibilities
25 in this respect. Data came too late for them to really

1 evaluate.

2 The obligations under the Voting Rights Act, this is
3 very much of a pattern with everything we've discussed
4 before, are relentlessly driven by local data. So there
5 will be some instances where different minority groups
6 have very different political preferences. And there may
7 be instances where each of those groups is sufficiently
8 sizeable or sufficiently compact to merit protection on
9 its own.

10 There may be other circumstances where different
11 minority groups have very different political preferences
12 but only some of those groups are sufficiently sizeable
13 or sufficiently compact to merit VRA obligations. Again,
14 you can consider race and ethnicity beyond what the
15 Voting Rights Act requires if you wish.

16 And there may be other circumstances still where
17 data on the ground showed that some minority groups had
18 similar political preferences, and that you can
19 effectively treat members of those groups for Voting
20 Rights Act purposes as one coordinated voting block if
21 the data show that they perform as a coordinated voting
22 block.

23 So there may be instances where, for example,
24 African-Americans and Latino voters have very similar
25 political preferences distinct from the rest of the

1 voters in a community. And in that circumstance, if the
2 data actually show that's a thing, you can never assume
3 it, but if the data show that's a thing then you might
4 have an obligation to draw districts to give that
5 combined group, to give African-Americans and Latinos
6 together, the reliable opportunity to elect the
7 candidates of their choice. And their choice would be,
8 the data would show, collectively very similar. If the
9 data don't show that, then you can always consider
10 coalition districts like that beyond the Voting Rights
11 Act but the Voting Rights Act wouldn't impose the same
12 obligation.

13 So it really depends on how members of different
14 minority groups tend to vote. And that's shown by the
15 same sort of polarization analysis that you do for any
16 one minority group on its own.

17 Does that answer your question?

18 COMMISSIONER TAYLOR: Thank you very much. Thank
19 you.

20 CHAIR KENNEDY: Commissioner Yee?

21 COMMISSIONER YEE: Thank you. I so appreciate your
22 time and help, Professor Levitt. You've been so
23 magnificently generous and forthcoming and we really
24 appreciate it.

25 So I have a question about defining a minority

1 group. The VRA language talks about race or color or
2 membership in a language minority group.

3 So one specific question, and a more general
4 question, the specific question is how to apply that with
5 the census categories? So the census, of course, divides
6 Hispanic/Latino out as an ethnicity versus categories of
7 race, so how do those get applied in a VRA situation?

8 And then the more general question is how
9 straightforward were these VRA categories applied in the
10 past? If another group comes along and, outside these
11 specific categories, you know, would we consider that,
12 and so forth?

13 PROFESSOR LEVITT: Yeah. So you're absolutely
14 right, these, for better or worse, the racial and
15 ethnicity groups are defined in the statute. It's not
16 merely a free-floating determination. So the statute
17 talks about, exactly as Commissioner Yee mentioned, race,
18 color, or language minority group.

19 There's a separate portion of the statute that
20 says -- that defines what language minority group means
21 for Voting Rights Act purposes. And it includes, and I'm
22 quoting here, "persons who are American Indian, Asian-
23 American, Alaska Natives, or of Spanish heritage, Latinos
24 or Hispanics. The Voting Rights Act does not, itself,
25 provide obligations for members of other language

1 minority groups. Again, you can always decide to do so,
2 if you wish, over and above what the Voting Rights Act
3 requires. But those are the obligations that the Voting
4 Rights Act imposes.

5 How do you deal with census categories?

6 So the Department of Justice has been remarkably
7 consistent in this since individuals first began to --
8 since the Census allowed people to designate their own
9 racial or ethnic identities in 2000 and, in fact, to
10 designate more than one in 2000.

11 The Department has said you essentially
12 consider -- the data that will arrive will reflect
13 this, by the way, so some of this is done for you in the
14 data that arrives -- you consider each racial or ethnic
15 group on their own. Somebody who might identify as more
16 than one racial or ethnic group will count, essentially,
17 for both because they may experience the rationale that
18 they may experience discrimination as a member of either
19 group. So somebody who checks off that they are both
20 Black and White might experience discrimination,
21 depending on the circumstances, as either. Somebody who
22 checks off both Black and Latino might experience
23 discrimination as either or as the combination of both.

24 So when the data arrives you would see those people
25 represented the way that the data comes from the Census

1 Bureau to you will probably be individuals who identify
2 as Black or Black and another race, individuals who
3 identify as Asian or another race, all in one collapsed
4 category. And then separately from that, individuals who
5 identify as Latino, because Latino is presented on the
6 census not as a racial group or as a language minority
7 group, that will, itself, mean Latino and/or another
8 race, right? That will include in it because it will
9 include everybody who checks off the Latino box. And
10 then people who identify -- the census will usually back
11 out people who identify only as non-Hispanic White and
12 not members of any other race. So those (indiscernible).

13 The way that you use those data are, you look for --
14 first, let's consider, imagine that the voting patterns
15 are all distinct. You would look to see whether there's
16 cohesion within the racial group and cohesion in other
17 members of the majority. So you'd look for political
18 cohesion among those who are Black alone or in
19 combination with others. And you'd look for political
20 cohesion among those who are Asian-American alone or in
21 combination with others.

22 It may well be that the data show that there's not
23 political cohesion within a group, in part because -- for
24 Voting Rights Act purposes in part because the census
25 categories are too big, essentially.

1 So for example, Asian-Americans, they have very
2 different political preferences in different parts of the
3 state. And so you may find that Asian-American, alone or
4 in combination, if you look, those voters don't have a
5 distinct political preference, where Chinese-Americans or
6 Vietnamese-Americans might, or other particular sub-
7 ethnicities might. That would mean, generally, I
8 believe, that you could choose to acknowledge the
9 communities of interest within the Asian-American racial
10 or ethnic or language minority group, but that the Voting
11 Rights Act would not include that group as a distinct
12 protected minority for polarization purposes if the data
13 show that there's so much difference in that group, that
14 they don't have distinct political preferences for
15 purposes of drawing distinct district.

16 I will say, I don't know that it's been tested when
17 a redistricting group has chosen to draw districts on the
18 basis of the Voting Rights Act, for example, Chinese-
19 Americans, when there is clear polarization in the
20 Chinese-American community from everybody else but not
21 within the Asian-American community at large. And
22 obviously, I'm making all of these examples up just for
23 demonstration purposes.

24 So I don't know that that assessment, that there
25 would be no Voting Rights Act obligation if there's no --

1 if there's enough diversity within Asian-Americans to
2 show a lack of polarization among Asian-Americans, even
3 if there's polarization of other groups. I don't know
4 that it's ever been tested that a group decided to draw a
5 district based on the subgroup.

6 To be safest, I would always encourage you, always,
7 always, always, if you are inclined to draw those
8 districts, to consider other factors, as well, and then
9 to rest your reliance not purely on the Voting Rights Act
10 but on other communities. But that's something that the
11 courts -- that I am not familiar with the courts having
12 tested.

13 COMMISSIONER YEE: I'd like to follow up.

14 Specifically, the census, you know, ends up with a
15 lot of Latino-Hispanic bi-ethnicity and of marking other,
16 right, for race.

17 PROFESSOR LEVITT: Yes.

18 COMMISSIONER YEE: It's been an ongoing issue. How
19 has that been handled?

20 PROFESSOR LEVITT: Yeah, that is an ongoing issue.
21 There are several different problems with the data
22 collection, I'll say, including Middle Eastern and North
23 African individuals, including Latinos who mark down race
24 of other.

25 If the community is consistent then what you'll see

1 is a local group of other that also writes down Latino or
2 Hispanic and so you'll recognize them as Latino or
3 Hispanic individuals. If they don't also check the box
4 on Latino or Hispanic but they mark themselves as other
5 without designating Latino or Hispanic as a separate
6 ethnicity, you won't necessarily have the census data to
7 support their presence in the community, but you may know
8 from the community that they're there.

9 That would be another instinct of where -- that
10 would be another instance of where the legally safest
11 course is not necessarily to rely on the Voting Rights
12 Act for which the census data is really the gold
13 standard, but to otherwise embrace the community that you
14 see located locally that isn't reflected, necessarily, in
15 the empirical data you get or in -- I shouldn't say that.
16 It isn't reflected in one type of empirical data. Data
17 from the community, hey, we're here, we just weren't
18 included in the census, is empirical data, it's just not
19 the same sort of data.

20 So I think the legally safest approach might very
21 well be to acknowledge that but not necessarily in
22 reliance on the Voting Rights Act as the source. But
23 there, too, I don't know that that's been litigated. I'm
24 not familiar with a circumstance in which that's been
25 litigated.

1 And if you decided that you were going to rely on a
2 large portion of voters categorized as other who were not
3 identified in the census as Latino, but where you know
4 from your community outreach or from other sources of
5 data as Latino, if you decided that you were going to
6 base a Voting Rights Act district on that information, I
7 think that's entirely defensible. It's just you'd want
8 to make that the -- that you were clear about what
9 information you were using to make that finding.

10 I don't know if that answered the question. It was
11 a really good question.

12 COMMISSIONER YEE: Yes. Thank you.

13 CHAIR KENNEDY: Okay. Commissioner Sinay --

14 MR. MANOFF: I'm sorry. I'm sorry to interrupt,
15 Chair. This is Kristian. We have a caller and I'm not
16 sure if it's one of the Commissioners. With your
17 permission, I'll allow them to talk and we can double-
18 check.

19 CHAIR KENNEDY: Go ahead.

20 MR. MANOFF: Oh, they're gone now. I'm sorry.
21 We'll keep an eye out for them.

22 PROFESSOR LEVITT: I scared them away.

23 CHAIR KENNEDY: Okay. Commissioner Sinay, then
24 Commissioner Andersen, then Commissioner Sadhwani.

25 COMMISSIONER SINAY: As we're thinking about the

1 VRA, and what I keep hearing is, you know, sometimes you
2 need to go deeper, especially when it comes to the Asian
3 community because there is a lot of, you know, diversity
4 within it. And the same, you know, like East County in
5 San Diego, you may get a lot of White, but the White is
6 really Middle Eastern, you know? And so there's little
7 nuances.

8 If we identify things like that, I guess I'm
9 thinking about targeting our outreach in those specific
10 areas to collect, you know, the communities of interest
11 information. If we were to do something like that is
12 that race leading it? I mean, is it okay? Is it advised
13 that --

14 PROFESSOR LEVITT: Yeah. That's a great question.

15 So the only prohibition on the improper use of race
16 is in whether you put a sizeable group of people inside
17 or outside a district, whether you're drawing the
18 district line to include or exclude based predominantly
19 on race. And again, that's okay if there's a really good
20 reason. I don't want to say that's out of bounds
21 entirely. But that only comes into play based on where
22 you put the district lines. Your decisions to do
23 outreach, your decision to do investigation, your
24 decision to collect facts, I don't think there's any
25 prohibition on your understanding that there are groups

1 of particular races or ethnicities that you want to get
2 extra input from. It's totally fine. I can't think of a
3 reason why that would be improper under the law as I
4 understand it.

5 CHAIR KENNEDY: Okay. Commissioner Andersen?

6 COMMISSIONER ANDERSEN: First of all, thank you very
7 much for the presentation. You always take sort of dense
8 topics and make them just so accessible and easy. I
9 really appreciate it.

10 I have two questions. The first one is kind of
11 a quick easy one. The second one is more involved.

12 The initial question of size of a group, what's the
13 ballpark?

14 PROFESSOR LEVITT: So the ballpark is going to be
15 your -- the average population, plus or minus. So you
16 know that the size of your district is going to be
17 roughly the average population plus or minus five percent
18 bigger/five percent smaller, right, ish in order to stay
19 within constitutional bounds.

20 COMMISSIONER ANDERSEN: Um-hmm.

21 PROFESSOR LEVITT: And so when you're considering
22 whether a group is fifty percent of the electorate in a
23 district-sized population --

24 COMMISSIONER ANDERSEN: Okay.

25 PROFESSOR LEVITT: -- that district-sized population

1 will range plus or minus about five percent-ish. That's
2 approximate because, for a good reason, you can over or
3 go under. But that's a good target to start with, that
4 you're looking for a district-sized population about --
5 in a range from about five percent over the average
6 district size to five percent under. And the average is
7 just driven by the number of people in the state and the
8 number of districts you're drawing to. It's going to be
9 a different measure for the assembly, for the senate, and
10 for congress, and for the Board of Equalization.

11 COMMISSIONER ANDERSEN: But in terms of like a
12 racial group, the racial group then needs to be about
13 fifty percent, plus or minus --

14 PROFESSOR LEVITT: The electorate --

15 COMMISSIONER ANDERSEN: -- (indiscernible)? Oh,
16 okay, I'm sorry.

17 PROFESSOR LEVITT: -- needs to be. So --

18 COMMISSIONER ANDERSEN: The electorate.

19 PROFESSOR LEVITT: -- there are two different things
20 and that is complicated.

21 COMMISSIONER ANDERSEN: Okay.

22 PROFESSOR LEVITT: You're looking for a district-
23 sized population, total population, and you want to know
24 that the racial group or groups that you're evaluating
25 are at least fifty percent of the citizen voting-age

1 population within that total district size. So you're
2 not just looking for fifty percent of the total
3 population. You're looking for --

4 COMMISSIONER ANDERSEN: Right.

5 PROFESSOR LEVITT: -- fifty percent of the
6 electorate that, and that may be different.

7 COMMISSIONER ANDERSEN: Right. Okay. Thank you.

8 The second question is, you know, obviously, we have
9 a -- California has a huge plurality of races. And
10 because of that, could you address the change, the 2013
11 change in the Voting Rights Act in that, specifically for
12 California, you know, it's changed the rigidity of you
13 don't have to do certain things. But in a lot of states
14 that's obviously really going to affect, and adversely
15 affect, minorities. In California, that actually, the
16 laws of rigidity might help us stay with the intent
17 without the rigidity.

18 And could you, one, explain sort of what actually
19 happened? Because, particularly, because when we're
20 going to go back, you know, we don't want to be looking
21 at rules we don't need to follow.

22 PROFESSOR LEVITT: Right.

23 COMMISSIONER ANDERSEN: And then, you know, the how
24 we can work with that, please?

25 PROFESSOR LEVITT: Sure. So I will try to make this

1 short. I also will try to make this not confusing
2 because now we're talking, as Commissioner Andersen
3 recognized, about something you don't have to do.

4 So before 2013, and still, technically, if congress
5 ever gets around to applying a different formula, maybe
6 in the future but not right now, in some areas, including
7 parts of California, in addition to all of the
8 responsibilities that I've talked about so far, there was
9 a separate part of the statute that, essentially, said if
10 you have racial communities with certain levels of
11 political power, no backsliding. So this was because of
12 a particularly troubling history, that once you'd reached
13 a certain level of community power, you can't take that
14 power away, you can't backslide, you can't make things
15 worse for the minority community there, period.

16 That was -- this is another portion of advice that I
17 don't know that I agree with from Counsel from ten years
18 ago -- that was always meant to be a functional
19 evaluation and not based on specific demographic
20 percentages. So that wasn't a prohibition. To put it
21 differently and in your terms, I think that was less
22 rigid than it was sometimes interpreted to be.

23 So I don't interpret that backsliding as a
24 limitation that said if a group now constitutes 57
25 percent of the district, that it could never, in the

1 future, constitute 56.8 percent of 0.7 percent or fifty-
2 five percent of a district, if that meant, functionally,
3 the same level of political power. If the group had an
4 opportunity to elect with fifty-seven percent and still
5 had an opportunity to elect that was reasonably the same
6 with fifty-four percent, that sort of change in
7 demographics was, I think, fine.

8 Some legislatures, some commissions, I think last
9 time the guidance was a little bit ambiguous from Counsel
10 on this, said whenever you've got a certain percentage
11 you have to peg at that percentage and go no lower. And
12 I think that was a misinterpretation of what the statute
13 required. The statute said no functional backsliding,
14 rather than no demographic percentage point backsliding.

15 And so I think to the extent there was rigidity in
16 the last cycle that may have been artificially imposed,
17 to the extent there are now groups with functional levels
18 of political power, there's no legal mandate to maintain
19 them in the abstract. But where those groups have the
20 opportunity to elect candidates of their choice, there
21 may still be an obligation to provide those same groups
22 with opportunities to elect the candidates of their
23 choice. The data will show whether that's still an
24 obligation or not.

25 But in many places, voting that was polarized will

1 remain polarized on the basis of race, unfortunately.
2 And in many places that means where there was a
3 functional level of ability to elect candidates, you may
4 still have to provide that opportunity to elect under the
5 section of the Voting Rights Act you do have to apply,
6 regardless of the disappearance of this other. That is,
7 I think, the biggest change for you all is a procedural
8 change and not a substantive one.

9 The part of the Voting Rights Act that no longer
10 applies required that you run stuff by the Department of
11 Justice or by a federal court before it could take
12 effect. That was a measure designed to stop
13 discrimination before it started. And so entities across
14 the country, including California, had to pre-clear maps
15 with the Department of Justice or with a federal court
16 before they could take effect. And that chunk of time
17 that it took for pre-clearance meant that you had to
18 leave room at the end of your process for the Department
19 of Justice to run stuff by before you could have
20 candidates file for primaries and the like.

21 That no longer applies in California, so you no
22 longer have to leave extra room for a Department of
23 Justice procedure at the end of the day. I suspect that
24 will be the more meaningful impact for you all on the
25 absence of this one part of the Voting Rights Act this

1 time and not necessarily the substance, if that makes
2 sense.

3 There's so much more there, there, and I want to
4 make sure that I'm answering the question without going
5 to deeply --

6 COMMISSIONER ANDERSEN: That's one of the --

7 PROFESSOR LEVITT: -- down the rabbit hole.

8 COMMISSIONER ANDERSEN: My understanding was, also,
9 it did lock in certain counties. You had no flexibility
10 in that. And that's sort of the other part I was really
11 kind of hoping you might address as well.

12 PROFESSOR LEVITT: Yes. Sorry. That's a good
13 point.

14 So this part of the Voting Rights Act applied only
15 in certain jurisdictions. And there were four counties
16 in California that had this special obligation. That
17 meant, essentially, that the Commission had to start in
18 those four counties to make sure that they lived up to
19 this part really firmly.

20 To the extent that are minority communities in those
21 counties, my hunch, to be examined by the data, but my
22 hunch is that voting is still likely to be polarized
23 there, and there are still obligations that you may have
24 in those areas, so I don't think you'll be able to ignore
25 those counties, not that I'm suggesting you were going to

1 do that. I think you will have to treat them with
2 similar care as in 2010. It just means that you won't
3 necessarily have to start there and there alone.

4 But they may still be worthy of your focus, in part
5 because the fact that they had obligations under that
6 other section of the Voting Rights Act, number 1, it
7 shows you've already got a pretty clear history of
8 discrimination. That's save you a little bit of data
9 gathering. The congress and the Justice Department
10 decided that there was already a history of
11 discrimination there. And to the extent there are
12 minority communities in those areas, if voting is still
13 polarized there, you're still going to have obligations
14 under the part of the statute that does apply.

15 So it takes a little bit of procedural rigidity out.
16 But I don't think it changes your approach much in terms
17 of the substance.

18 COMMISSIONER ANDERSEN: Great. Thank you. Also, it
19 allows the accounting for migration. We've had a lot of,
20 you know, that sort of thing. This is where I'm sort of
21 the multi-tiered thought there, so thank you very much
22 for the answer.

23 PROFESSOR LEVITT: Yeah. Yeah. And that -- I
24 should emphasize, it may be that the communities in those
25 areas still are polarized and still are sizeable and

1 still -- but all of that is subject to, what did the
2 data actual show? So California has had migration all
3 over the place, different growth rates in different
4 communities, so there may well be places in the state
5 where you have obligations now that you didn't have in
6 2010. There may well be places in the state where you no
7 longer have obligations that you had in 2010. And there
8 may be places where you have very similar obligations to
9 what you had in 2010.

10 CHAIR KENNEDY: Very good.

11 Commissioner Sadhwani, and then Commissioner Turner.

12 COMMISSIONER SADHWANI: Thank you so much, Professor
13 Levitt, because, as always, this is so helpful. And I
14 think I echo Commissioner Andersen and others, you have a
15 way of explaining things that is precise and very clear,
16 which I think is extraordinarily helpful. And I also
17 anticipate that we have an infinite number of questions
18 regarding the VRA and what compliance will look like.

19 Before you came on, Commissioner Yee and I had
20 presented a number of recommendations to the Commission.
21 And I'm wondering if we could center some of our
22 conversation around some of those recommendations and
23 specifically get your feedback on those so that we can
24 move forward, begin some of the analysis that you have,
25 you know, even suggested that we should start with, as

1 well as move forward with our process to identify VRA
2 Counsel who could answer these questions for us in the
3 future at every single meeting?

4 So to that end, I wanted to get your thoughts on two
5 pieces.

6 First, one of our recommendations -- well, one of
7 the pieces that the Commission needs to consider is
8 the -- and that we, you know, the Subcommittee has
9 discussed with you previously, are the pros and cons of
10 keeping RPV analysis either public or as attorney work
11 product or under attorney-client privilege? The answer
12 to that question will determine how we hire an RPV
13 analyst because of all of the various state procedures
14 for hiring these kinds of individuals, so I'm wondering
15 if you could walk us through that?

16 Our recommendation to the Commission has been, you
17 know, taken from our conversation with you, as well as
18 with others, has been to instruct, at this meeting,
19 instruct our Chief Counsel to move forward with hiring an
20 RPV analyst at this point in time who could begin a
21 public-facing analysis, kind of at the statewide level,
22 to craft an overview of racially-polarized voting in
23 California. And also I'm thinking, as you're showing
24 these beautiful heat maps, to also provide some of that
25 assessment using ACS data to inform our process moving

1 forward.

2 We have also advised the Commission to consider
3 whether or not to keep additional analysis, that more
4 localized analysis, under attorney-client privilege. And
5 I'm wondering if that's something that you could speak to
6 and help us understand the pros and cons?

7 We, of course, all value transparency in this
8 process. But as it relates to potential future
9 litigation, what might we need to know about the pros and
10 cons of releasing that information?

11 PROFESSOR LEVITT: Sure. And I will attempt, as
12 best I can, to lay out the pros and cons for you without
13 any role as an advocate for one end result or another.

14 So this is, essentially, a choice about the degree
15 to which you want to be transparent versus the degree to
16 which you want to incur litigation risk. And there's not
17 a wrong answer to that choice. There are different
18 answers. There may be different answers based on your
19 preference. But there's not a wrong answer to that
20 choice.

21 So when the lawsuits come, those who are planning to
22 attack the work of the Commission will use every tool at
23 their disposal to attack the work of the Commission,
24 whether the Commission's work on that particular subject
25 has anything to do with their complaint or not. So you

1 may see someone suing you on Voting Rights Act grounds or
2 other grounds, even if their complaint has absolutely
3 nothing to do with the Voting Rights Act really. They're
4 just trying to get a different map in a place that they
5 prefer for other reasons. Or you might see somebody
6 suing you because their complaint is actually based on
7 Voting Rights Act.

8 The data that you provide are one source of that
9 potential attack. So those who are unhappy with your
10 work will claim, if there is a district that you draw
11 based on the Voting Rights Act, that there was no reason
12 for you to draw that district based on the Voting Rights
13 Act, and that you drew predominantly based on race, just
14 like what happened in Virginia.

15 And so if there's a group for critiquing you for
16 drawing a particular district, ostensibly on Voting
17 Rights Act grounds, then they'll come after the choices
18 that you made about which people to put inside or outside
19 the district, the same as those sort of maps that I
20 showed highlighting where African-Americans voters were
21 in District 95 in Virginia. But they will also come
22 after the basis for your assessments of Voting Rights Act
23 need, like racially-polarized voting analysis.

24 And just as you will be hiring a VRA analyst who is
25 an expert in doing this work, somebody who would be

1 critiquing would be hiring a VRA analyst who is an expert
2 in racially-polarized voting analysis to say, no, what
3 you heard from your expert is not actually right. This
4 isn't polarized or isn't sufficiently polarized because
5 of X or Y.

6 We've mentioned before that you want to choose a
7 selection of races, of particular candidacies, of
8 particular elections, that you don't ever want to rely on
9 just one. And so the challenge will come, they chose the
10 wrong bucket of races. There was something weird about
11 this race they shouldn't have included. They should have
12 included other races in the mix.

13 So if you make that data public, not only will
14 challengers have information or data of their own,
15 they'll have yours to attack. And if you don't draw
16 districts on Voting Rights Act grounds and somebody
17 asserts that you should have, if you make your analysis
18 public, the same attack will come, they showed no
19 polarization in X or Y area. They really should have
20 found polarization because they chose the wrong races.
21 You did the wrong analysis because there was something
22 flawed in what you made. So there's risk to putting that
23 localized information out there in the world.

24 There's also a transparency boost to putting that
25 information out there in the world so that you can say,

1 look, the reason we drew this district was, in part,
2 based on the Voting Rights Act because we showed there
3 was polarization there and, look, here it is, you can
4 see. Or the reason we didn't draw this district is
5 because we found there was no polarization. Here, you
6 can look at the entity at large. Here's the analysis,
7 look, you see.

8 So that, the decision of what ultimately to do is
9 ultimately a preference for which of those values you
10 think speaks more strongly to you in a particular
11 instance, those are the basic pros and cons of either
12 releasing the information or holding it tight.

13 CHAIR KENNEDY: Commissioner Sadhwani?

14 COMMISSIONER SADHWANI: Thank you. That was much
15 more eloquently put than I ever could myself, and much
16 more informed, so thank you.

17 And I think I just want to also stress for the
18 Commissioners that what we decide today does not have to
19 necessarily be our final choice. The recommendation that
20 we are giving to the Commission is to move forward in
21 hiring someone who can start this now, the overview.
22 When we have VRA Counsel, they, too, may have someone
23 different. They might want the same analyst. We don't
24 know that yet. And so we didn't want to tie our hands,
25 necessarily, to one and only analyst for racially-

1 polarized voting assessments. And so, therefore, we do
2 have a little bit of time. But it's something that
3 definitely has to be on our radar.

4 And I would also stress that to the extent that we
5 can -- that the Subcommittee and, more importantly, that
6 our Counsel can be given that authority today to move
7 forward with hiring an RPV analyst to do that top-level
8 analysis that would be public-facing, would be really
9 important. And as we move forward we can further decide
10 whether or not we want to make the more localized
11 analysis public.

12 PROFESSOR LEVITT: I'd just like to add something
13 very quickly to that analysis, and that is a limit on
14 what I'm telling you here today, I am not a Brown Act
15 specialist and don't -- certainly don't want to suggest
16 anything other than what your General Counsel tells you
17 about the extent to which your information can or can't
18 be public more generally, or the extent to which part of
19 the information you make more public may lead to other
20 bits being more public.

21 So I just want to frame all of that very carefully
22 in the caveat, you should take your Counsel's
23 recommendation on how your decision here generally
24 affects what you may have the obligation to release or
25 not. They will guide you. And you should not - the pros

1 and cons that I weighed out may have important asterisks
2 or caveats based on what they tell you about information
3 that you have the obligation to release or not, so follow
4 their guidance over mine in that respect, in all
5 respects, but also in that respect.

6 CHAIR KENNEDY: Commissioner Sadhwani?

7 COMMISSIONER SADHWANI: Thank you.

8 And just to add, also, there's so many components
9 here, I think what we have arrived at in our many
10 conversations, if we end up going the route of putting
11 out a Request for Proposals for an RPV analysis --
12 analyst, excuse me, we might ultimately have to make that
13 work product public. And so then we are tying our hands
14 to that decision. Whereas if our General Counsel were to
15 hire that person, for example, through an interagency
16 agreement or some other form, then we would have more
17 choice in that matter.

18 And that's my understanding of the procedure, the
19 state procedures. So if I'm misspeaking, you know, Mr.
20 Claypool or Marian or Ms. Marshall, please feel free to
21 correct me, but that was my understanding and what we
22 were using to develop these recommendations, to allow us
23 the greatest amount of flexibility on this piece.

24 CHAIR KENNEDY: Commissioner Andersen?

25 COMMISSIONER ANDERSEN: Thank you. One quick, quick

1 question.

2 You know, sometimes, not to get caught up in names
3 because when we're -- for proposals and scopes of work,
4 when we're talking about Litigation Counsel, it would be
5 for, you know, obviously, once it hits litigation.

6 And a VRA Counsel -- a VRA analyst and an RPV
7 analyst, could we have our VRA analyst, maybe if it is or
8 is not completely client-attorney privilege, but if our
9 VRA Counsel and VRA analyst is the same, then we have the
10 opportunity of opening up what we'd like to the public or
11 not because it's of Counsel.

12 So is that -- and this is a bit more, one, to check
13 terminology and things with Justin Levitt.

14 Also, Marian, the state agency agreements, are those
15 also -- I mean, attorney-client privilege is an easy one,
16 but state --

17 MS. JOHNSTON: Contracts are always public.

18 COMMISSIONER ANDERSEN: State agency is always
19 public?

20 MS. JOHNSTON: Contracts are always public, yeah.

21 COMMISSIONER ANDERSEN: The contracts, yes, but the
22 work product?

23 MS. JOHNSTON: No. The work product can be, if it's
24 done on the request of an attorney, it's protected as
25 work product.

1 COMMISSIONER ANDERSEN: And what if it's on the
2 state -- oh, is the state agency agreement, if it's
3 through an attorney, then it's --

4 MS. JOHNSTON: If, yes, if the analyst reports to
5 the attorney based on what the attorney wants the analyst
6 to do, then it's attorney work product.

7 COMMISSIONER ANDERSEN: Okay. Thank you.

8 MS. JOHNSTON: It's not absolute privilege, but it's
9 protected.

10 COMMISSIONER ANDERSEN: Thank you.

11 Mr. Levitt, do you have any, you know --

12 PROFESSOR LEVITT: Oh, no. In that regard, I'll
13 actually, I'll defer entirely to Marian. The way in
14 which you structure that arrangement has far more to do
15 with the rules that govern you in your responsibilities
16 as a public Commission than they do about the Voting
17 Rights Act. So --

18 COMMISSIONER ANDERSEN: Okay. One --

19 PROFESSOR LEVITT: -- I'll leave that to her.

20 COMMISSIONER ANDERSEN: In terms of having the VRA
21 Counsel and VRA analyst as the same person, different
22 person, what are, maybe, pros and cons on that?

23 PROFESSOR LEVITT: I think you want them to be on
24 the same page, but I don't know that they have to be the
25 same person. So they want to have the same understanding

1 of what the data are actually showing of where you might
2 have an obligation or not. And so you want them to be
3 aligned and able to work together if they're not actually
4 the same individual. But I don't know that they have to
5 be the same person.

6 Commissioner Sinay, did you have your hand up?

7 COMMISSIONER SINAY: Yeah. And this might be a
8 little in the weeds, so I apologize, but the stuff that
9 we said -- you know, I'm still trying to figure out the
10 pros and cons of making it private or not, or public.

11 And when we go to draw the lines and we present our
12 maps, we're supposed to give reason for every single line
13 we draw. And so how would we give a reason if that data
14 is private?

15 PROFESSOR LEVITT: So my understanding, and here,
16 too, I'm going to defer to both Marian and Dan and
17 others, is that you can say we drew this district in
18 order to comply with the Voting Rights Act and for other
19 reasons, including the following thing, without
20 necessarily releasing all of the underlying data or
21 information that you used to make that conclusion, or you
22 can decide to release some or all of that underlying
23 data, I believe, and I think that's up to you.

24 MS. JOHNSTON: And I agree with that.

25 CHAIR KENNEDY: Director Claypool, did you have your

1 hand up?

2 EXECUTIVE DIRECTOR CLAYPOOL: I did. I just wanted
3 to say that I remember the reports that went with the
4 maps from the last one and it might be well worth it for
5 you to read them. They were very brief and they were, in
6 many cases, nonspecific about exactly why things were
7 done. So you have a lot of latitude.

8 CHAIR KENNEDY: Thank you.

9 Commissioner Fernandez?

10 COMMISSIONER FERNANDEZ: So let's say we don't
11 disclose the data when we write the reports. Is that
12 data, however, discoverable once it goes to litigation?

13 MS. JOHNSTON: It might be.

14 COMMISSIONER FERNANDEZ: That's a very maybe. Okay.

15 MS. JOHNSTON: Attorney work product may be
16 discoverable if it becomes relevant in a litigation.

17 CHAIR KENNEDY: Anyone else? Okay. Well, we
18 certainly --

19 PROFESSOR LEVITT: I think you've got Commissioner
20 Vasquez.

21 COMMISSIONER VASQUEZ: Sorry.

22 CHAIR KENNEDY: Oh, Commissioner Vasquez?

23 COMMISSIONER VASQUEZ: Yeah. Yet to find a
24 background that doesn't make my hand disappear into the
25 ether.

1 This might be a dumb/basic question that has already
2 been answered, and I apologize. I've missed some of the
3 Q&A. But if we're choosing -- if we make a choice to not
4 disclose the data, but we are discussing and drawing many
5 of these -- you know, drawing all of the lines sort of in
6 public and having discussions about, oh, you know, what
7 are the impacts of moving a line here versus here, in
8 those discussions we will be discussing the data as part
9 of our sort of thinking on why we want a line versus why
10 we want a line here.

11 So I'm a little confused about sort of how much of
12 that is already public via our conversations anyway?

13 MS. JOHNSTON: Your reason could be based on advice
14 from your VRA Consultant. If you actually discuss the
15 content of the document in public session, then under
16 Bagley-Keene it becomes public, but you don't need to
17 discuss the document itself.

18 COMMISSIONER VASQUEZ: So a follow-up question.

19 So then we could, theoretically, even have the data
20 sort of in front of us, privately viewing, but in the
21 discussion say, based on the data, I think it should be
22 here?

23 MS. JOHNSTON: I'm not sure. I think last time the
24 nuts and bolts of the analysis was not given to the
25 entire Commission. It was given the overview, the broad

1 conclusions that were reached by the analyst.

2 COMMISSIONER VASQUEZ: Oh.

3 PROFESSOR LEVITT: And there, and just to clarify,
4 so for example, if I could share my screen for another
5 thirty seconds and only that, the -- where did you go?
6 My apologies. I can't seem to get it.

7 If you remember the chart of the racially-polarized
8 voting, of all of the circles and the lines, there are
9 lots of those that combine to give you an assessment of
10 whether voting is racially polarized or not in a
11 particular community, and also the extent to which it may
12 be racially-polarized in a particular community. And all
13 of those add up to and this, therefore, is the level at
14 which we feel comfortable that a particular racial group
15 that is polarized would have a real equitable
16 opportunity. And I think you can decide how much of
17 that, back down the chain, you want to make public.

18 So it's a little bit like raw data, and then
19 analysis of the raw data, and then analysis of the
20 analysis, and then a conclusion. And I think you can
21 decide at which point you want to make any of that public
22 versus at which point you would rather retain it for
23 yourself. You can still act on the conclusion if you
24 decide to keep the underlying data private.

25 CHAIR KENNEDY: Okay. Commissioner Fernandez --

1 PROFESSOR LEVITT: Does that make sense?

2 CHAIR KENNEDY: -- and then Commissioner Sadhwani.

3 COMMISSIONER FERNANDEZ: Well, maybe I misunderstood
4 it when Commissioner Sadhwani was presenting it, but some
5 of the discussion around the data may be in closed
6 session, or was I mistaken with that, or we don't know
7 yet?

8 MS. JOHNSTON: It could be. I can't be more
9 specific than that. It depends. If you know there is a
10 real risk of litigation and you want to avoid presenting
11 that information to the world, then --

12 COMMISSIONER FERNANDEZ: Right.

13 MS. JOHNSTON: -- then it could be in closed
14 session.

15 COMMISSIONER FERNANDEZ: So then at that point, and
16 this is just addressing Commissioner Vasquez's question,
17 if it's something that we discuss in closed session, then
18 we would not necessarily -- we could choose not to put it
19 in the report; does that make sense?

20 MS. JOHNSTON: Well, what would go into the report
21 is that, based on VRA analysis --

22 COMMISSIONER FERNANDEZ: Um-hmm. Right. Right.

23 CHAIR KENNEDY: Commissioner Sadhwani?

24 COMMISSIONER SADHWANI: So just to keep us moving,
25 and not to stop discussion, but I also see that callers

1 are starting to call in, I'm wondering how we feel about
2 if I were to make a motion to instruct our Counsel to
3 move forward with an interagency agreement to hire an RPV
4 analyst at this time specifically for that outward-facing
5 initial assessment that may or may not be the same person
6 that we ultimately use for the more localized analysis?
7 But at least so that we can get started with a broader
8 outward-facing process that we would make public, that
9 would be more statewide in nature, and would create some
10 of these maps for us to identify regions where we might
11 want to focus more?

12 That would be that first motion. Well, that's a
13 very long version of it, but that would be the content of
14 that first motion.

15 Separately, we can think about the Statement of Work
16 for the VRA Counsel and Outside Litigation Counsel.
17 Whomever we hire for VRA Counsel might have their own RPV
18 analyst that they would want, right? We don't know that.
19 They might have different recommendations on whether or
20 not to keep this analysis public or private. So that's
21 why I want -- I'm putting forth a motion specifically for
22 this first stage of analysis and to empower our Counsel
23 to just move forward with an interagency agreement to
24 start that process for us.

25 And I suppose, Marian and Ms. Marshall, if I need to

1 solidify that more, I most certainly can. But I wanted
2 to explain it first.

3 MS. JOHNSTON: Two things. One, you need a second.
4 And two, it would be a special vote requiring the three,
5 three and three.

6 COMMISSIONER SINAY: I second it.

7 MS. JOHNSTON: I'm sorry. Who was that?

8 COMMISSIONER SINAY: Sinay.

9 CHAIR KENNEDY: Commissioner Sinay. Okay.
10 Commissioner Fornaciari, and then Commissioner Yee.

11 COMMISSIONER ANDERSEN: And Fernandez.

12 CHAIR KENNEDY: Commissioner Fernandez was before
13 me.

14 CHAIR KENNEDY: You have to raise it a little higher
15 because I'm just seeing your name.

16 COMMISSIONER SADHWANI: I'm just pale all overruled
17 the place. It's pale walls, pale face, it's just pale.

18 Anyway, I just wanted to confirm whether or not -- I
19 mean, we're going to make this motion. Have we brought
20 in our Chief Counsel into this conversation, if
21 Commissioner Sadhwani and Yee -- I just want to make sure
22 that we're not doing something that maybe she's also
23 looking at something else, so --

24 COMMISSIONER SADHWANI: Unfortunately, we haven't
25 had the --

1 MS. JOHNSTON: Exactly, right now, I don't know.

2 COMMISSIONER SADHWANI: Oh, sorry. Go ahead.

3 We haven't had that chance to have that conversation
4 with her. We were working on this and developed all of
5 this as of Thursday of last week. I don't know what her
6 first start date is. But I know Commissioner Yee also
7 had sent an email kind of laying out some of our
8 recommendations and that we hope to have that
9 conversation very soon. I don't know. There's not a
10 camera on Ms. Marshall, so I'm not sure if she's there,
11 but please feel free to weigh in.

12 COMMISSIONER YEE: We're going to meet together on
13 Friday.

14 MS. JOHNSTON: I'm sorry?

15 COMMISSIONER YEE: We're meeting her on Friday.

16 CHAIR KENNEDY: Okay. I have next Commissioner
17 Fornaciari, then Commissioner Yee, and Commissioner
18 Akutagawa. Did I miss anyone? Commissioner Turner.

19 PROFESSOR LEVITT: Director Claypool, I think, is
20 also a hand up.

21 CHAIR KENNEDY: Thank you.

22 COMMISSIONER FORNACIARI: Okay. So Commissioner
23 Sadhwani, maybe I just missed it, but can you kind of
24 clarify, is -- kind of be a little more specific as what
25 is the deliverable, what's the outcome from this higher-

1 level analysis?

2 COMMISSIONER SADHWANI: To better inform our process
3 and to produce one public-facing document about racially-
4 polarized voting in California. I think some of the --
5 well, there's only been a very small amount of criticism
6 about not releasing the information from 2010. I think
7 only one individual has shared that concern.

8 To me, it's about giving us information about how we
9 might want to structure our process early on, as well as
10 kind of offering a good-faith effort of transparency,
11 right? And I think the Commission has never received
12 public feedback about racially-polarized voting analysis.
13 So with such a document, what is the kind of feedback
14 that we might get, perhaps, that could help inform our
15 later decision about whether or not to release that
16 information?

17 That's kind of my thought process, in any case,
18 about why to start here. And also, it allows us to get
19 started now.

20 One of the things is, if we went forward and put an
21 RFP for this analyst, it's going to take quite a long
22 time, right? So we could have some of this analysis
23 before we even hire a VRA attorney, right, VRA Counsel,
24 so there's the time element.

25 But it also ties our hands that the analysis would,

1 most likely, have to be public, right, if it's the
2 Commission asking for that work, rather than attorney
3 asking for it. And I don't know that we're prepared to
4 make that decision today. And that's why I've made this
5 recommendation that we get started with the analysis,
6 that the initial analysis would be public-facing, and
7 that we can then move into a secondary stage in which we
8 can make decisions about the more localized analysis.

9 Does that help?

10 COMMISSIONER FORNACIARI: So the outcome is going to
11 be a report? Okay.

12 COMMISSIONER SADHWANI: Hiring, and a report, yeah.

13 COMMISSIONER FORNACIARI: Yeah. Yeah. Okay. I
14 just, I didn't know if we were going to get a map or if
15 we were going to get -- you know, I didn't know what to
16 expect out of the analysis. Okay. Thank you.

17 CHAIR KENNEDY: Very good.

18 Commissioner Yee?

19 COMMISSIONER YEE: Yes. Chair, a recommendation.

20 Respecting Professor Levitt's time, I'm wondering if we
21 could go to public comment, and then for any questions he
22 might -- that might be directed to him, and then, you
23 know, considering the motion after his time with us?

24 CHAIR KENNEDY: Okay. Marian, on that, if we take
25 public comment now, is that going to be sufficient for

1 the vote?

2 MS. JOHNSTON: If.

3 CHAIR KENNEDY: Okay. Then I would ask Commissioner
4 Akutagawa, Commissioner Turner, and Director Claypool --
5 well, Director Claypool, is yours immediate? Please.

6 EXECUTIVE DIRECTOR CLAYPOOL: It is, in short.

7 So to clarify, you are asking us to actually draft
8 the interagency agreement so that we can work with the
9 RPV expert, develop what we're going to present, and then
10 we come back with that draft for finalization; am I
11 correct? So we are going to develop the costs and
12 everything else first. Perfect. Thank you.

13 CHAIR KENNEDY: Okay. Commissioner Turner?

14 COMMISSIONER TURNER: Yeah. The clarification I
15 wanted on the proposal from Commissioner Sadhwani as to
16 the questions about Counsel being present or not, was
17 that it was just a proposal that also included
18 determining if our Counsel is in agreement that this is
19 the way that we should go, right? I think I heard you
20 say that in there. So we may -- Counsel could come back
21 and say that this is not my recommendation, I don't want
22 it.

23 So I just wanted to name that. Because when you
24 said it, I thought, well, this is great. This does free
25 her to be able to move forward in whichever manner.

1 CHAIR KENNEDY: Okay. Let's go ahead and -- okay.
2 We do have three callers in line.

3 Katy, can you go ahead and read the instructions for
4 others?

5 And I will get back to Commissioners with hands
6 raised.

7 PUBLIC COMMENT MODERATOR: Yes, Chair.

8 In order to maximize transparency and public
9 participation in our process, the Commissioners will be
10 taking public comment by phone. To call in, dial the
11 telephone number provided on the livestream feed. The
12 telephone number is (877) 853-5247. When prompted, enter
13 the meeting I.D. number provided on the livestream feed.
14 It is 91505532099 for this week's meeting. When prompted
15 to enter a participant I.D., simply press the pound key.

16 Once you have dialed in you will be placed in a
17 queue from which a moderator will begin un-muting callers
18 to submit their comment. You will also hear an automatic
19 message to press star 9. Please do this to raise your
20 hand, indicating you wish to comment. When it is your
21 turn to speak the moderator will unmute you and you will
22 hear an automatic message that says, "The host would like
23 you to talk. Press star 6 to speak." Please make sure
24 to mute your computer or livestream audio to prevent any
25 feedback or distortion during your call.

1 Once you are waiting in the queue, be alert for when
2 it is your turn to speak and, again, please turn down the
3 livestream volume.

4 These instruction are also located on the website.

5 The Commission is taking public comment on the
6 motion in regards to hiring a VRA analyst made by
7 Commissioner Sadhwani.

8 And we have three. I will start here. Please press
9 star 6 if I have -- oh, yes -- oh, no. Shoot.

10 Please state and spell your name. Caller 051 --

11 MS. SHELLENBERGER: Hi. This is --

12 PUBLIC COMMENT MODERATOR: Could you state and spell
13 your name please?

14 MS. SHELLENBERGER: Yes. This is Lori
15 Shellenberger --

16 PUBLIC COMMENT MODERATOR: Okay.

17 MS. SHELLENBERGER: -- L-O-R-I, last name
18 Shellenberger, S-H-E-L-L-E-N-B-E-R-G-E-R. I'm the
19 Redistricting Consultant for Common Cause.

20 I'm actually calling in, I just, I want to actually,
21 and perhaps Marian can answer this, is I was calling in
22 to speak regarding the RFI and Statement of Work for the
23 Voting Rights Counsel. And I wasn't sure when you would
24 get to that topic. And I wanted to present those
25 questions while Justin was still there. But I also

1 understand this is to speak on the motion at hand.

2 So is it appropriate to offer comment on the RFI for
3 the VRA Counsel at this time?

4 MS. JOHNSTON: I think, since that's part of the
5 discussion that led up to that, that would be fine.

6 MS. SHELLENBERGER: Okay. All right. Thank you.

7 And good morning to the Commissioners. I think it
8 was the last one to call in yesterday and the first one
9 to call in today. And I really appreciate, just I can't
10 say enough how much we appreciate the thought that's gone
11 into the various documents produced by the VRA
12 Subcommittee and the things that they've done and the
13 outreach they've done. And also, always enjoy hearing
14 Justin Levitt speak about the Voting Rights Act.

15 I just wanted to raise a few items related to the
16 RFI. And I'm actually submitting these comments on
17 behalf of myself and on behalf of NALEO Educational Fund,
18 Rosalind Gold. And I discussed these at length. And she
19 cannot call in right now because she's actually
20 conducting a redistricting training for her staff at this
21 time. So I have three comments on one general comment.

22 The first is regarding what is a redistricting
23 activity? And we would suggest that you define that at
24 the beginning of the RFI, and perhaps discuss how you
25 want to define that. But in most of the places that it's

1 listed, it seems to be referring to the work of the
2 Commission. If so, just make it clear it's not just a
3 line drawing but, also, accessibility to hearings,
4 evaluation of testimony, et cetera. I just think it
5 would be good to define that a little more clearly.

6 I have a comment related to section 5 and the
7 section paragraph of section 5 regarding expertise. And
8 we would recommend that you change the word "experience"
9 to "expertise" in that second sentence of that second
10 paragraph, just because it's a little unclear what the
11 experience would mean. And you do ask for more details
12 about experience later in the RFI. So just suggesting
13 you change "experience" to "expertise" in that second
14 sentence.

15 In addition, we'd recommend you strike Bagley-Keene.
16 We don't think that -- you have General Counsel, and you
17 have Marian Johnston at your disposal, and they're
18 experts on Bagley-Keene. And I think that doesn't seem
19 to be as important for the VRA Counsel.

20 I have a recommendation regarding section 5, and
21 it's number 3 in section 5. And it's really just a
22 recommendation that you get rid of the reference to two
23 specific pieces, which we were a little curious about why
24 you chose to include the Shaw and Miller cases in there,
25 in particular, and highlight them. The Voting Rights

1 Act, as you've just spent two hours discussing, has lots
2 of comment complexity. And there are lots of lines of
3 cases. And attaching special importance to some over
4 others just may inadvertently signal things you don't
5 want to do. And we don't think it's critical that you
6 highlight any particular case over another.

7 And then, finally, on page 2 in section 6, item
8 number 3 regarding experience, we would recommend that
9 you expand that a bit at the beginning of that section to
10 list all experience related to districting,
11 redistricting, and election-related litigation,
12 potentially. Because, first of all, there is a
13 difference between districting and redistricting. And
14 because there are folks who have experience, and under
15 section 2 and section 5, there's litigation that happened
16 related to at-large and conversions that require initial
17 districting.

18 And secondly, related to Election Law, generally,
19 you have asked for experience with California Election
20 Code and the Voters First Act. But it would be good to
21 know if folks have experience litigating voting rights in
22 other context besides the VRA because there are instances
23 where there can be litigation to expand or restrict those
24 rights that are specifically under the Voting Rights Act.

25 And we'd also suggest that you change "significant"

1 to "all" so that -- so you don't -- do you avoid someone
2 cherry picking what they want to share. And if you do
3 include "all," maybe you only want to go back twenty
4 years. Maybe someone has forty years of experience. You
5 don't want every case they've ever been involved with.

6 Finally, we would also suggest that on that list of
7 experience, you include publications, because there are
8 folks who have done significant amounts of writing, and
9 that's not litigation to be rated.

10 So that concludes my comments. I'm sorry I went
11 over time. And I'm happy to stay on if anyone has
12 questions.

13 CHAIR KENNEDY: Ms. Shellenberger, just to make sure
14 that we do have all of that, did you indicate that you
15 would also be submitting it in writing?

16 MS. SHELLENBERGER: I did not, but we can do that.
17 We just -- unfortunately, we didn't have a chance to
18 connect until very early this morning with our feedback
19 and didn't have time to put that in writing, but we'll
20 absolutely do that.

21 CHAIR KENNEDY: That would be helpful. Thank you so
22 much.

23 MS. SHELLENBERGER: All right. Thank you.

24 CHAIR KENNEDY: Thank you.

25 PUBLIC COMMENT MODERATOR: Our next caller, could

1 you press star 6? Thank you. Could you please state and
2 spell your name for the Court Reporter? You are live.
3 Could you state and spell your name for the Court
4 Reporter? Caller 2790, you are live or not. Okay.

5 Next person -- oh, no, they're back.

6 Can you please state and spell your name? You are
7 live. Can you talk please? Okay. I will move on.

8 Can you please -- Caller 4557, press star 6 to
9 unmute. Please state and spell your name for the Court
10 Reporter.

11 MS. MANOHAR: Megha Manohar.

12 PUBLIC COMMENT MODERATOR: Yes, you're live. Can
13 you please state and spell your name for the Court
14 Reporter?

15 MS. MANOHAR: Sure. My name is Megha Manohar. My
16 first name is M-E-G-H-A. And my last name is
17 M-A-N-O-H-A-R.

18 PUBLIC COMMENT MODERATOR: Thank you. Will you
19 please state your comment?

20 MS. MANOHAR: Sure. Good morning everyone. My
21 comment is about representation for the Asian community
22 in Silicon Valley.

23 As of 2019, there are thirteen congressional
24 representatives of Asian-American descent who are
25 currently serving. Many Silicon Valley cities have

1 switched over to the strict elections under the threat of
2 litigation, making it easier for minorities to be
3 elected.

4 Would you consider redistricting to ensure that more
5 Asian-Americans will have a chance to be elected to
6 Congress?

7 For example, Congressional District 18 has never had
8 a minority congressional representation. And Asian-
9 Americans are the largest minority community of this
10 district.

11 That's my comment. Thank you so much. I appreciate
12 giving me the opportunity. Thank you.

13 CHAIR KENNEDY: And thank you for calling in.

14 PUBLIC COMMENT MODERATOR: The other two callers
15 that we have in the queue, if you would like to make a
16 comment, can you press star 9 to signify that you would
17 like to speak. Thank you. If you'll press -- please
18 state and spell your name for the Court Reporter.

19 MR. HARNISCH: Steve Harnisch.

20 PUBLIC COMMENT MODERATOR: Thank you.

21 MR. HARNISCH: S-T-E --

22 PUBLIC COMMENT MODERATOR: The floor is yours. Oh,
23 go for it. Sorry.

24 MR. HARNISCH: Oh. Harnisch, H-A-R-N-I-S-C-H. And
25 thank you, Commissioners.

1 You know, if you do direct Counsel to enter into an
2 interagency agreement with UCLA to do this preliminary
3 analysis, I think it's important that the agreement state
4 that Mr. Barreto shall exclusively use the data provided
5 by the Statewide database. And this is important because
6 the purpose of the document is to be available to the
7 public. So it's critical that it rely on data that is
8 also available to the public. Prop 11 includes this
9 requirement for an official publicly-available
10 redistricting database in the interest of transparency so
11 any Californian can replicate and verify the Commission's
12 work.

13 When Mr. Barreto presented in September, he proposed
14 using his own racially-polarized voting methodologies and
15 BISG, and that would use individualized voter data not
16 part of the statewide database. Relying on proprietary
17 methodology, using confidential voter records, it could
18 certainly bias or at least limit your choices for future
19 vendors. And as Professor Sadhwani noted, you don't want
20 to tie your hands at this point.

21 Thank you for your consideration.

22 CHAIR KENNEDY: Thank you very much for your
23 comment.

24 PUBLIC COMMENT MODERATOR: And we have one more. If
25 you'll press star 6? Caller 3732, if you will press star

1 6 to unmute yourself? If you'll press star 6, I will
2 unmute you.

3 They do have their hand up but I can't unmute them
4 unless they hit star 6.

5 CHAIR KENNEDY: They may still be listening to the
6 livestream.

7 PUBLIC COMMENT MODERATOR: Oh. Oh, there we go. If
8 you'll state and spell your name please?

9 MS. HOWARD: Hi again. Deborah Howard, California
10 Seniors Advocates League. Deborah,

11 D-E-B-O-R-A-H H-O-W-A-R-D. I had three comments,
12 but now I have four.

13 And I want -- my first one, which was the one that I
14 just added, is, really, we have to do better on
15 technology. Being the last caller in the queue, I think
16 I tried to unmute myself, probably, fourteen times.
17 There's better technology available.

18 And that actually feeds into my other comments which
19 all follow under the category of, again, an issue that
20 I've raised in the past, which is that the default
21 position of the Commission, being transparent, I
22 understand about protecting yourselves for litigation
23 purposes, but the default position would be to share, and
24 I think in the comments, to share with the public so we
25 can contribute to the conversation meaningfully.

1 And I think just before you went to public comment
2 there was a question about only one person has requested
3 the former report for racially-polarized voting that was
4 done in 2010 by Professor Barreto. Let me -- number 2, I
5 absolutely think that that should be made public now. It
6 can no longer be relevant to litigation. And if we want
7 communities to, again, contribute meaningful, they
8 need/we need to know what it looks like, so I'll do that.

9 And I did have a third thought and that is that,
10 again, I understand that it's really hard to do this
11 while you're building relationships with each other,
12 trying to bring in the larger community of people who are
13 interested, as well as those who will simply be affected
14 by these districts that will be drawn over the next ten
15 years, but I think there is also a really good model that
16 the Biden-Harris-almost transition team is working in
17 that they're providing readouts of calls and
18 conversations that they are having at a very high level.
19 I think that's actually a really good model that
20 doesn't -- is not onerous in sharing the information but,
21 also, creates a record that tracks, you know, the pathway
22 that you're taking to make these decisions.

23 And I say all my -- I apologize for my frustration
24 at the beginning. It is really hard to listen to the
25 live feed which, in my circumstance, is delayed, I don't

1 know, I'm going to say close to a minute, and being able
2 to track, being able to call in and make these comments.
3 It's not about me being comfortable but it is about you
4 all being able to get legitimate feedback.

5 So I echo everything that has been said. These are
6 hard conversations. You're approaching them with
7 intelligence and deep consideration and, for that, I am
8 thankful. And I appreciate the opportunity to comment
9 and again emphasize default to transparency and share the
10 past work on racially-polarized voting that was presented
11 to the 2010 Commission.

12 Thank you.

13 CHAIR KENNEDY: Thank you, Ms. Howard.

14 Katy, are there any others in queue?

15 PUBLIC COMMENT MODERATOR: No, there are not.

16 CHAIR KENNEDY: Okay. So I have Commissioner
17 Andersen in queue for comment.

18 COMMISSIONER ANDERSEN: Well, this is back to the
19 getting the Counsel to, basically, essentially, RPV
20 analyst. And you're saying, okay, the outward document,
21 based on what? This is the whole state? I mean, what?
22 You know, there, what's the scope?

23 COMMISSIONER SADHWANI: And may I respond?

24 COMMISSIONER ANDERSEN: Yes.

25 CHAIR KENNEDY: You might as well.

1 COMMISSIONER ANDERSEN: Please.

2 COMMISSIONER SADHWANI: The thought is that we would
3 be -- that the analysis could be done looking at
4 statewide elections as opposed to the localized
5 elections.

6 COMMISSIONER ANDERSEN: But you're looking at the
7 entire state as one general -- looking at statewide
8 elections in each area; is that correct? It's not
9 just -- I mean, is it basically data on the entire state
10 or on certain areas?

11 COMMISSIONER SADHWANI: I could be based on certain
12 areas but how they're voting in statewide
13 elections --

14 COMMISSIONER ANDERSEN: Okay.

15 COMMISSIONER SADHWANI: -- as opposed to localized
16 elections, if that makes sense?

17 COMMISSIONER ANDERSEN: Right. But are we asking
18 for this report to cover areas of the entire state or
19 just specific areas?

20 COMMISSIONER SADHWANI: My sense is that we could
21 ask the analyst to help us determine that. My sense is
22 that we can take the ACS data, as was suggested,
23 actually, by Professor Levitt, to conduct it, to do those
24 types of mapping to identify those areas where we find
25 populations that would be covered by the VRA and begin

1 that analysis but using statewide elections, as opposed
2 to more localized elections where we get into, you know,
3 all sorts of variations in terms of the, you know, the
4 candidates that are available, et cetera.

5 COMMISSIONER ANDERSEN: Okay. So just to clarify
6 then, so you're saying we're essentially looking at the
7 entire state roughly but it's using -- and state -- but
8 based on statewide election to give us, these are the
9 areas that we'll probably have to address, and roughly
10 addressing those?

11 COMMISSIONER SADHWANI: That's right.

12 COMMISSIONER ANDERSEN: And then the next stage
13 would be actually looking at the local elections on those
14 particular areas?

15 COMMISSIONER SADHWANI: That's correct.

16 COMMISSIONER ANDERSEN: Okay. Got it. Thank you.

17 CHAIR KENNEDY: Commissioner Taylor?

18 COMMISSIONER TAYLOR: Yes. I think I would like to
19 hear from Justin and Marian as it relates to the
20 statement by Mr. Harnisch in that we should use
21 information that is accessible to everyone and not
22 specifically a private methodology to come up with the
23 analysis.

24 PROFESSOR LEVITT: So I can speak to the limits of
25 what census data may provide. I'm going to let Marian

1 speak to the obligations that you may have about the data
2 that you've drawn, if that's okay, Marian?

3 The census data may be quite accurate for some
4 purposes and less accurate for others depending on
5 problems that the Census itself has in measuring. We
6 don't yet know exactly whether -- exactly how good the
7 census data will be in every part of California.

8 Some other information can be used to supplemental
9 the information you get from the census in order to
10 confirm accuracy, in order to raise questions about
11 accuracy, or in order to more finely tune the
12 polarization analysis that you get.

13 So for example, the Department of Justice recently
14 used a method that Mr. Harnisch actually mentioned called
15 BISG analysis, Bayesian inference statistical, I don't
16 know the G stands for, I've forgotten. Commissioner
17 Sadhwani is going to illuminate. The Department of
18 Justice used this, by the way, in overlapping
19 administrations, so it's not a particularly politicized
20 method of evaluation. It's a statistical method that
21 essentially means in addition to or rather than looking
22 at information top down in a precinct to determine which
23 voters of which races or ethnicities preferred which
24 candidates. You look at the information bottom up by
25 evaluating the likely racial or ethnic identity of

1 individual voters.

2 So one way to approach -- if you recall, in any
3 polarization analysis the circles that you have represent
4 the precinct and the racial composition of the voters
5 within the precinct. One way to do that is to look at
6 the census-based breakdown of the racial or ethnic
7 identify of all of the people within that precinct and
8 assume that the voters mirror all of the people within
9 the precinct. So if the precinct is fifty-five percent
10 Black voting-age population, then you would assume that
11 the voters in the precinct are fifty-five percent Black.

12 A supplemental source of data looks bottom up and
13 says here are the actual voters. Based on what we know
14 about their likely ethnicities, does that confirm that
15 the voters in this precinct, the people who actually cast
16 ballots -- which is public information, just coming from
17 a different source -- the voters who actually cast
18 ballots, not who they voted for. That's not public. But
19 their names and the fact that they voted are public.

20 And there are reliable, again, Department of Justice
21 approved, court-approved statistical techniques to
22 evaluate, if we know the following 400 people voted, here
23 is their likely racial and ethnic composition. Rather
24 than guessing at those 400 people from the 1,000 people
25 who live within the precinct area, we can try and

1 estimate based on the identities of the actual 400 people
2 who voted.

3 Often, those two sources of information, one taken
4 from a broader assessment of the precinct demographic and
5 one taken from the actual voter roll match. And so they
6 just confirm each other, yes, we think that that shows
7 that the overall assumptions we were making from the
8 census data are correct. Sometimes they don't and one
9 may be -- it may be easier to see that one is more
10 reliable than another.

11 And in some cases, for example, in the Department of
12 Justice instance that I'm mentioning, the location was
13 small enough. It was a case in Eastpointe, Michigan.
14 There aren't that many people who live in Eastpointe.
15 The census estimates weren't that precise. And so the
16 more accurate information actually came from examining
17 the voter rolls. There was a wide margin of error in the
18 information that came from the census, a much smaller
19 margin of error that came from the actual voter rolls,
20 and that allowed for more precise analysis than you might
21 otherwise get.

22 Those are two different data sources, one coming
23 directly from the census, another informed by the census.
24 But all of them involved public data. And all of them
25 involve a methodology that is also public.

1 So I don't know that, at least the particular method
2 that Mr. Harnisch was mentioning, I don't know that
3 there's anything private or proprietary about that. The
4 individual choices that any analyst will make, which
5 races to include or how to do that evaluation
6 specifically, those may be individual choices tied to
7 your analyst or your particular choice of consultant.
8 But neither the underlying data nor the methodologies are
9 secretive, if that makes sense, if that's a good
10 clarification?

11 COMMISSIONER TAYLOR: Yeah. Thank you.

12 PROFESSOR LEVITT: Now, we have to measure the
13 extent to which the state law limits your choices in that
14 regard.

15 MS. JOHNSTON: I would agree with that and add the
16 caveat that we don't yet know the validity of the census
17 data, particularly as far as California is concerned,
18 with I don't know how the statewide database is going to
19 deal with census data if it doesn't include undocumented
20 immigrants. So I think we can specify that public
21 information be the basis for the analysis. But at this
22 point I would not want to limit what that public data
23 would be.

24 COMMISSIONER TAYLOR: Got it. Then are we tied to
25 the same methodology that is used or can we have a

1 contract where a person uses their own methodology?

2 MS. JOHNSTON: The methodology would be the
3 consultants methodology.

4 CHAIR KENNEDY: Commissioner Sadhwani?

5 COMMISSIONER SADHWANI: Sure. So if I can just
6 weigh in?

7 The BISG refers to one methodology, as Professor
8 Levitt very clearly kind of laid out, Bayesian improved
9 surname geocoding. And for all of the reason that he
10 laid out, it's very difficult to identify voters.
11 Surname matching is the method used by the statewide
12 database.

13 I would absolutely agree with the caller that he
14 should only be using statewide database data and/or ACS
15 data, the American Community Survey's data, if we choose
16 to use the BISG. It is a part of a package that he
17 developed but it is one option in that package. I've
18 used that package. I've actually used that in my
19 research. And what's nice about it, it's an R package.
20 R is a statistical language that can be used in the
21 program. What is new about is not any of the methodology
22 that's being used, with the exception of BISG, it
23 actually allows you to conduct ecological inference,
24 which is the statistical method that's used for racially-
25 polarized voting.

1 There are a couple different methods of doing that.
2 There are Goodman Regressions, King's method, the Rosen
3 method. And what eiCompare, which he had -- which
4 Professor Barreto had done his presentation on previously
5 using that package, that statistical package, the reason
6 it's called eiCompare is it actually runs the data
7 through all of those different methods and allows you to
8 compare them across to ensure that, regardless of which
9 method you're using, which statistical method you're
10 using, that all of the data is going in the same
11 direction.

12 My recommendation would be that, assuming we're
13 going forward with Professor Barreto, that we would ask
14 him to conduct both kind of the traditional analysis
15 using CVAP, citizen voting-age population, and the new
16 BISG, using publicly-available ACS, American Community
17 Survey, data so that we could see both.

18 I agree with the caller that BISG is newer. We
19 wouldn't want to tie our hands using only that. But I
20 think if we can actually get both conducted, we would
21 have a whole lot of data at our disposal.

22 PROFESSOR LEVITT: And just to add 15 seconds to
23 Commissioner Sadhwani -- thank you, by the way, for
24 reminding me about the acronym -- all of the methods, all
25 the different methods that Commissioner Sadhwani just

1 mentioned have all been approved by various courts, so
2 none of these are sort of newfangled in the way that the
3 courts aren't recognizing. Some of them have been
4 developed more recently than others but the courts have
5 actually validated each of the components that she just
6 mentioned.

7 COMMISSIONER TAYLOR: Thank you.

8 CHAIR KENNEDY: Okay. Do we feel that we have
9 exhausted our discussion to the point where we are ready
10 to point, or shall we break for lunch, take public
11 comment, as usual, after lunch and then hold our vote?

12 Commissioner Ahmad?

13 COMMISSIONER AHMAD: We actually can't vote right
14 now. We're missing three people. And it's a special
15 vote, correct? So we're missing Commissioner Akutagawa,
16 Le Mons, and Toledo.

17 CHAIR KENNEDY: Yeah.

18 MS. JOHNSTON: They're from different groups.

19 CHAIR KENNEDY: We can vote but the vote wouldn't
20 succeed. Okay.

21 Then I think we are in a position where we need to
22 hold off and break for lunch, be back at 1:50, and we
23 should be able to take our vote on the motion at that
24 point.

25 COMMISSIONER ANDERSEN: Actually, one quick thing.

1 Commissioner Sadhwani won't be here after lunch, so could
2 I ask one quick question of her before she takes off?

3 CHAIR KENNEDY: Yes.

4 COMMISSIONER ANDERSEN: In the scope here, so just,
5 I think, Commissioner -- Mr. Claypool said what we're
6 voting on here is, essentially, to get the Counsel to
7 start roughing up a scope. It then is going to come back
8 to us, the actual details of this. It's not like, okay,
9 this is generally what we're doing and then just go, and
10 we don't see it again, or what was -- what are we
11 actually, exactly, voting on?

12 COMMISSIONER SADHWANI: My sense is that we could go
13 either way, in all honesty. You know, if the Commission
14 feels like we need to see the interagency agreement and
15 approve it in advance? And I think a part of it is I
16 don't know enough about how the interagency agreement
17 works. So if Director Claypool feels that it's prudent
18 to return it to the Commission, I'm perfectly fine with
19 that.

20 My understanding previously was that RPV analysts
21 were simply hired by the VRA Counsel of 2010. I don't
22 know if that was approved by the Commission but, I mean,
23 I see Marian shaking her head. So please, you know,
24 please let us know what you would recommend.

25 MS. JOHNSTON: It was a contract with the Commission

1 last time.

2 COMMISSIONER SADHWANI: A contract that the
3 Commission approved?

4 MS. JOHNSTON: Yes.

5 COMMISSIONER SADHWANI: Got it. Okay. Okay.

6 And in the interagency agreement, is it then the
7 case that the, you know, the monetary request, et cetera,
8 is negotiated then between the attorney and the analyst?
9 So it's -- so then it sounds like then there would be a
10 negotiation between our Counsel and the analyst and then
11 be brought back to us for final approval.

12 EXECUTIVE DIRECTOR CLAYPOOL: Yes. It's going to
13 work like any contract. And we want our Chief Counsel to
14 have a lot of input in this and to make sure that we've
15 looked at the terms of the agreement and everything else.
16 So it's going to be a typical contract. And we're going
17 to need to reach out and work this out. That's why I
18 talked about it being a draft. It can be done very
19 quickly. But I think that you'll want to know -- this
20 Commission will want to know what the terms are and
21 everything else, and what they're getting, before they
22 sign onto it.

23 CHAIR KENNEDY: Very good.

24 Commissioner Fornaciari?

25 COMMISSIONER FORNACIARI: So then do we need to vote

1 now? I mean, do we need to vote at all or can we just
2 give direction to the staff to go do that and bring it
3 back, and then we vote on it?

4 CHAIR KENNEDY: That sounds like a good idea.
5 Marian, can we proceed?

6 MS. JOHNSTON: That would be fine.

7 CHAIR KENNEDY: Okay. Then we would ask staff to
8 prepare a draft for our consideration.

9 EXECUTIVE DIRECTOR CLAYPOOL: And of course --

10 CHAIR KENNEDY: Director Claypool?

11 MS. JOHNSTON: If Commissioner Sadhwani wants to
12 modify or withdraw her motion?

13 EXECUTIVE DIRECTOR CLAYPOOL: Right.

14 COMMISSIONER SADHWANI: Sure. I'm happy to do that
15 if we can move forward. Yeah.

16 EXECUTIVE DIRECTOR CLAYPOOL: And of course, this is
17 going to move through the Subcommittee. I mean, we're
18 going to draft with and they're going to approve and so
19 forth, so it's going to be a coordinated effort.

20 CHAIR KENNEDY: Very good.

21 Commissioner Fernandez? No? Okay.

22 Director Claypool, are you okay with the direction
23 given?

24 EXECUTIVE DIRECTOR CLAYPOOL: Absolutely.

25 CHAIR KENNEDY: Okay. Very good.

1 Professor Levitt, thank you so much, again, for your
2 generosity and sharing your expertise and devoting so
3 much time to us. I feel like you're our coach in the
4 background.

5 PROFESSOR LEVITT: If I'm the coach, it's a
6 spectacular team that I'm helping to coach, so thank you
7 all for being on the team.

8 CHAIR KENNEDY: And we will break for lunch and be
9 back at 1:55 please.

10 (Whereupon, a recess was held from 12:53 p.m.
11 until 1:55 p.m.)

12 CHAIR KENNEDY: Thank you everyone. Hope you had a
13 good break. Welcome back.

14 As usual, we will begin the afternoon session with
15 an opportunity for public comment.

16 So Katy, would you please read the instructions for
17 public comment?

18 PUBLIC COMMENT MODERATOR: Yes.

19 In order to maximize transparency and public
20 participation in our process, the Commissioners will be
21 taking public comment by phone. To call in, dial the
22 telephone number provided on the livestream feed. The
23 telephone number is (877) 853-5247. When prompted, enter
24 the meeting I.D. number provided on the livestream feed.
25 It is 91505532099 for this week's meeting. When prompted

1 to enter a participant I.D., simply press the pound key.

2 Once you have dialed in you will be placed in a
3 queue from which a moderator will begin unmuting callers
4 to submit their comment. You will also hear an automatic
5 message to press star 9. Please do this to raise your
6 hand, indicating you wish to comment. When it is your
7 turn to speak the moderator will unmute you and you will
8 hear an automatic message that says, "The host would like
9 you to talk and to press star 6 to speak." Please make
10 sure to mute your computer or livestream audio to prevent
11 any feedback or distortion during your call.

12 Once you are waiting in the queue, be alert for when
13 it is your turn to speak and, again, please turn down the
14 livestream volume once you are in the queue waiting to
15 share your comment.

16 These instruction are also located on the website.

17 The Commission is taking public comment on the
18 motion -- I don't know how to call that -- the motion for
19 the VRA.

20 And we do not have anyone in the queue.

21 CHAIR KENNEDY: Okay. We will stand by for two
22 minutes to let the livestream catch up.

23 PUBLIC COMMENT MODERATOR: I will tell the
24 Commission, earlier, the lady that had issues, I will
25 take responsibility for that. I believe it was my fault

1 because of the way -- because I had repeated the
2 automatic message, she was hitting star 6 when I wasn't
3 actually un-muting her, so I apologize. And if she is
4 listening, I apologize. So hopefully, we've kind of
5 hammered out some of the issues, so it shouldn't come up
6 again.

7 CHAIR KENNEDY: Fantastic. Thank you.

8 PUBLIC COMMENT MODERATOR: So Le Mons?

9 CHAIR KENNEDY: Commissioner Le Mons, welcome.

10 VICE CHAIR LE MONS: Thank you. Thank you. Good
11 afternoon everyone.

12 CHAIR KENNEDY: Hope you had a productive morning.

13 VICE CHAIR LE MONS: Oh, yes, very, very busy up
14 until this very moment.

15 CHAIR KENNEDY: I can imagine.

16 Commissioner Yee, that's not just a wave?

17 COMMISSIONER YEE: Yeah, it started as a wave. Yes,
18 Chair. Thank you.

19 So for your consideration, so Commissioner Sadhwani
20 does have to teach this afternoon. I have her permission
21 to continue work on the Statements of Work, if you
22 desire. Of course, it would be more preferable to have
23 her here. But I think the proposed statements are pretty
24 ready, some edits to suggest, but it's up to you whether
25 or not to proceed with that after public comment.

1 CHAIR KENNEDY: Okay. Let me just poll everyone. Do
2 you have questions or comments or suggestions on the
3 scopes of work?

4 Thumbs up. Commissioner Fernandez does. Okay. I
5 do want to devote most of the afternoon to outreach. But
6 Commissioner Fernandez, we've exhausted our two-minute
7 wait, so please go ahead.

8 And then, Katy, is there someone waiting? No?
9 Okay.

10 So Commissioner Fernandez, you can go ahead.

11 COMMISSIONER FERNANDEZ: Okay. And it's really
12 quick.

13 Commissioner Yee, again, thank you for putting this
14 together. I know it's a lot of work, so I appreciate
15 that.

16 And I only had a comment on the Litigation Counsel
17 one. When it goes into section 6, number 3, and it talks
18 about the experience and it says, "Describe at least ten
19 cases argued." And I was wondering if maybe we want to
20 say describe at least the last ten cases? Because you
21 know they're obviously going to want to maybe put the
22 ones that they did best on and had the best outcome. And
23 so I'm thinking, you know, we kind of want a flavor of
24 everything. And then that would be the same for -- that
25 was A. And then B -- BB.

1 And then for number 3C, I think it would be
2 important to include the dates in terms of when they
3 represented those agencies or boards of commissions, if
4 they put dates, instead of just saying, you know -- and I
5 don't know, maybe they will. And then also, maybe,
6 references for that, which I think that's what you're
7 getting to.

8 But that's all I had. Thank you so much. I
9 appreciate it.

10 COMMISSIONER YEE: Excellent suggestions. No
11 problem adding those.

12 We did have a question of whether ten is the right
13 number? And you know, I don't know. Does anyone have
14 any sense?

15 Commissioner -- or Chair, do you want me to call on
16 folks or --

17 CHAIR KENNEDY: Commissioner Fernandez?

18 COMMISSIONER FERNANDEZ: I was thinking ten might be
19 quite a bit but I don't -- I mean, but if we say up to
20 ten, I don't know, because some firms may not have that
21 many. Some firms may, obviously, have more than that.
22 So I don't want them to feel that if they don't have ten
23 they can't respond, if that makes sense?

24 MS. JOHNSTON: If I may?

25 CHAIR KENNEDY: Commissioner Turner?

1 MS. JOHNSTON: Ten cases in litigation is not very
2 much if you're looking for someone who's experienced.

3 CHAIR KENNEDY: Commissioner Turner, and then
4 Commissioner Sinay.

5 COMMISSIONER TURNER: Yeah. I was going to say, I
6 thought ten was a lot. I did understand that, perhaps,
7 beginning at experience level. But just since you left
8 it in, I thought it was a lot, and it was a lot to read
9 through.

10 CHAIR KENNEDY: Commissioner Sinay?

11 COMMISSIONER SINAY: Commissioner Akutagawa had her
12 hand up first.

13 CHAIR KENNEDY: I do have her next.

14 COMMISSIONER SINAY: Well, mine is quick.

15 Whenever I advise philanthropic organizations who
16 are creating grant-making processes, I always say don't
17 ask what you don't want if you're not going to read it.
18 So if you're going to read all ten, then that's fine.
19 But if you're not going to go through and actually -- you
20 know, don't ask for anything you're not actually going to
21 use.

22 CHAIR KENNEDY: Thank you.

23 Commissioner Akutagawa?

24 COMMISSIONER AKUTAGAWA: Hi. My -- I guess I just
25 have some general, other comments on the Litigation

1 Counsel versus the ten or not ten, so --

2 CHAIR KENNEDY: Go ahead.

3 COMMISSIONER AKUTAGAWA: Okay. On the Litigation
4 Counsel part, I would suggest removing that very first
5 portion of the section 2 where it says, "Over the last
6 forty years," up until, "cannot be certain that will be
7 the case again." I think, just to keep as neutral as
8 possible, I would suggest removing that first portion of
9 that sentence and start it with, "The Commission is
10 seeking statements of qualifications from attorneys," et
11 cetera.

12 I would also ask, in terms of the part that says,
13 "to defend the maps in the event of litigation," I don't
14 know if the maps needs to be a more formal description
15 versus the redistricting maps or something along those
16 lines. It just seems a little casual to just call it
17 "the maps."

18 And the I also have a suggestion on the Litigation
19 Counsel, number 3, Experience, subset C, so 3C under
20 Experience where it says, "Describe representative legal
21 work performed on behalf of public agencies," I would
22 also add state boards or commissions, to be clear that
23 we're looking for state-level experience.

24 And the last one is under number 4. It's the -- I
25 guess it would be the third paragraph on the third page

1 where it says, "Describe any work relating to
2 redistricting or other work," and it says, "during the
3 past ten," and then it just seems like it just drops off.
4 Is it past ten years? That's what I was assuming.

5 COMMISSIONER YEE: Yeah.

6 COMMISSIONER AKUTAGAWA: And I guess I'll just make
7 one other comment on the Voting Rights Act Counsel. You
8 know, I noticed that on the Litigation Counsel, you had
9 underneath there, there was a lot of, I guess, other --
10 not a lot but there were at least three paragraphs plus
11 the fourth one, which is B, about other conflicts. The
12 conflict of interest paragraph or paragraphs under number
13 4 is fairly short. Do you want to have similar language
14 from the Litigation Counsel also apply to the VRA
15 Counsel? Because I do like some of the things that was
16 in the Litigation Counsel language around conflicts of
17 interest.

18 And that's it.

19 CHAIR KENNEDY: Okay. Director Claypool?

20 EXECUTIVE DIRECTOR CLAYPOOL: I had a suggestion but
21 I reread and it was already in the Litigation Counsel, so
22 I have no comments.

23 CHAIR KENNEDY: Very good.

24 Commissioner Toledo?

25 COMMISSIONER TOLEDO: I would think that asking for

1 the ten cases would be fine, especially if we might want
2 to just change it to briefly describe. I believe most of
3 these firms would have that already, right? They already
4 have their portfolio of cases they've done and could
5 easily just put it in here. And if just want to know
6 what the cases were, we could -- the Committee could
7 always look into those further through the court records.
8 So if we had a brief description, we'd be able to look
9 into them further, or ask, of course, in follow-up
10 conversations, ask them about it.

11 Thank you.

12 CHAIR KENNEDY: Very good.

13 Commissioner Andersen?

14 COMMISSIONER ANDERSEN: I just want to -- also, I
15 think it was Commissioner Akutagawa said the conflicts of
16 interest, that should be under Litigation Counsel, as
17 well, so not just, yeah, not just the -- I sorry. It was
18 under Litigation. It should be under the VRA Counsel as
19 well. I think I missed it there.

20 CHAIR KENNEDY: Okay. Can we -- Commissioner
21 Vasquez?

22 COMMISSIONER VASQUEZ: Are we for our contractors
23 and others, are we going to ask them to adhere to the
24 same policy around campaign activities? It probably
25 won't be relevant for anyone but just wanted -- I don't

1 want to -- I guess I don't want to make an assumption.

2 CHAIR KENNEDY: Commissioner Andersen?

3 COMMISSIONER ANDERSEN: I know the line drawing, and
4 I believe that Commissioner Sadhwani would be probably
5 saying this about these next -- these ones if she was
6 here, the idea is, yes, you want to ask all the
7 questions. They must disclose everything. It is not an
8 automatic dismissal. It's not an automatic
9 disqualification. But the intent would be -- and you
10 know, Russell, if you would make sure that this is in
11 there, this is what I was saying was a conflict of
12 interest, yes, the same criteria needs to be disclosed.
13 And then it's up to us to decide if it's disqualifying or
14 not.

15 COMMISSIONER YEE: We had not thought of that. If
16 we did have to add it, would that apply to a whole firm?
17 I mean if they --

18 COMMISSIONER ANDERSEN: It applies. Well, it does
19 apply to the firm. And they always have those kind of
20 conflicts because they have to bring that up. Again,
21 they'll have them because, in voting rights, they're
22 going to basically work, you know, with Democrats or
23 Republicans and they'll have issues, and we just need to
24 be aware of them all. And then we decide how that -- you
25 know, if it's disqualifying or not.

1 CHAIR KENNEDY: Okay. With that, are we ready to
2 turn the afternoon over to the Outreach Subcommittee?
3 Commissioner Yee?

4 COMMISSIONER YEE: Okay. Not quite.

5 So those changes all sound good to me. I think we
6 can go forward with those. I think we'll stay with the
7 ten cases. It sounds like that's actually a reasonable
8 ask.

9 For the Voting Rights Act Counsel, I think the
10 suggestions that the caller had this morning, actually,
11 are pretty good, so I think we can also incorporate
12 those. Shall I go over them? I actually typed them
13 up --

14 CHAIR KENNEDY: Yes.

15 COMMISSIONER YEE: -- during lunch, and so let me
16 see if I can manage to share a screen. Wow, that worked.
17 Okay. Here we go.

18 CHAIR KENNEDY: Can you enlarge that as much as
19 possible please?

20 COMMISSIONER YEE: Okay. Oh, I have to do that
21 here.

22 CHAIR KENNEDY: Grab your slider down at the bottom
23 right.

24 COMMISSIONER YEE: Oh, I see. No. Okay.

25 Starting at the top, the section 2, the very end of

1 that section, "Any applicant wishing to apply," that
2 sentence, just remove that unless we actually do get that
3 posting up in time, you know, so it's there.

4 Down to section 5, first paragraph where it says,
5 "Based on the 2020 census," based on the discussion
6 before lunch, just change that to "public data," so that
7 could be the census, ACS, right, and so forth, voting
8 records, such as "public data."

9 The second paragraph, the short paragraph, change
10 "expertise," so, "In addition to expertise with the
11 California Elections Code" -- I'm sorry, "experience --
12 in addition, experience with the California Elections
13 Code, change "experience" to "expertise," the caller
14 suggested.

15 I think I would leave Bagley-Keene in there.

16 And then there's that trailing considered there,
17 which we can just strike.

18 It's amazing how many times you can read something
19 over and miss small things.

20 Okay, stop me if anyone wants to discuss any of
21 these.

22 COMMISSIONER SINAY: The Bagley-Keene one --

23 COMMISSIONER YEE: So --

24 COMMISSIONER SINAY: -- can you explain why you
25 would like to keep that in? Because every time I've

1 ready something where we have Bagley -- the public keeps
2 asking us not to include it because it becomes
3 restrictive.

4 COMMISSIONER YEE: So we're asking for experience
5 with it, that would mean experience exercising good
6 judgment about when it does or doesn't apply, I guess, so
7 it's not -- I think that's relevant.

8 COMMISSIONER SINAY: But then should we ask that
9 versus what is your experience with Bagley-Keene?
10 Because someone may have everything else but not have
11 done -- you know, we have other legal counsel for Bagley-
12 Keene.

13 COMMISSIONER YEE: True.

14 CHAIR KENNEDY: I had seen Commissioner Akutagawa's
15 hand.

16 COMMISSIONER YEE: And then --

17 COMMISSIONER AKUTAGAWA: Thank you, Chair.

18 COMMISSIONER YEE: -- Commissioner Vasquez as well.

19 COMMISSIONER AKUTAGAWA: Thank you. Thank you. It
20 was just more of a question. I wasn't sure if this got
21 discussed earlier, but during Justin Levitt's
22 presentation, I think Commissioner Sadhwani, or maybe it
23 was prior to him coming on, Commissioner Sadhwani said
24 something about the possibility of VRA Counsel also
25 having their own RPV analyst. And I was looking through

1 the Statement of Work and I'm not quite sure if it's --
2 at least for me, it wasn't clearly stated that that would
3 be an option. And is that something that would be an
4 expectation that you would want the VRA Counsel to come
5 with, and whether or not that needs to be laid out much
6 more explicitly in the Statement of Work?

7 COMMISSIONER YEE: Good question. It's actually
8 mentioned, but only briefly, and that's in item three
9 below.

10 COMMISSIONER AKUTAGAWA: That's what I thought.

11 COMMISSIONER YEE: Yeah. The advice will
12 require --

13 COMMISSIONER AKUTAGAWA: Because it wasn't really
14 clear that that -- would we want them to do that, I guess
15 is maybe more the question, given what Commissioner
16 Sadhwani had said earlier?

17 COMMISSIONER YEE: Right. So we drafted this in the
18 middle of all of those debates over what to do. And even
19 now, you know, we're not landed yet on which route to
20 take, so we wanted to leave the option open but not spell
21 it out yet.

22 COMMISSIONER AKUTAGAWA: Or it is an option to
23 include that that's something that we would be open to so
24 that it leaves that flexibility but it's also spelled out
25 that we would interested in seeing what they would come

1 forward with?

2 COMMISSIONER YEE: We could ask for that more
3 explicitly, sure, you know, that they -- we would prompt
4 them to actually provide -- or to weigh in on that
5 question and, perhaps, provide a proposal, rather than
6 just leaving it open. We could do that.

7 CHAIR KENNEDY: Yeah. In fact, on that, it might be
8 useful to put that under Personnel in the submission
9 format as a second bullet. If there is an intention to
10 bring your own consultant, then we need that information
11 in that Personnel section.

12 COMMISSIONER YEE: Right. Okay. We can add that.

13 CHAIR KENNEDY: Commissioner Akutagawa?

14 COMMISSIONER AKUTAGAWA: Sorry. One more question
15 on that. That just reminded me that I did have one other
16 question.

17 I noticed that in the Litigation Counsel there was a
18 section under Personnel that said that the Commission
19 would need to approve any additions to the team and that
20 they would need to bring it forward to -- or maybe it was
21 in this one. Sorry. Maybe it's the other way around.

22 I think in one of them it was saying that the
23 Commission needs to approve any additions to the legal
24 team, and that they would need to bring them forward so
25 that we can approve it. I think it then -- yeah, I think

1 it's not in the Litigation Counsel Statement of Work.

2 And do we want to apply the same standard to both or was
3 there a reason why one had that kind of caveat versus the
4 other one?

5 COMMISSIONER YEE: No, there was not a particular
6 reason. We just did not think of that.

7 COMMISSIONER TURNER: I'm looking for that entry.
8 Which one is it on? I don't see it.

9 COMMISSIONER AKUTAGAWA: Yeah. I'm looking for it
10 real quick.

11 (Pause)

12 COMMISSIONER YEE: I'm actually not seeing it.

13 COMMISSIONER AKUTAGAWA: Sorry. I thought I read it
14 under the Litigation Counsel.

15 COMMISSIONER YEE: In the Litigation Counsel, yeah,
16 section 2, the third paragraph talks about the Commission
17 retaining the right, at its discretion, to hire others.

18 CHAIR KENNEDY: Oh, it is in the Litigation Counsel
19 at the bottom of, I believe, the first -- no, the second
20 page where it says, it talks about, "Prior to the date of
21 additional assignment the law firm or entity must submit
22 a resume and Certification of Non-Conflict identified in
23 four below for preliminary review and approval, and then
24 the individual may be cleared to work on behalf of the
25 Commission until final approval. Final approval must be

1 obtained by a supermajority vote of the full Commission."

2 That's the paragraph you're referring to --

3 COMMISSIONER AKUTAGAWA: Yes.

4 CHAIR KENNEDY: -- Commissioner Akutagawa?

5 COMMISSIONER AKUTAGAWA: Yes. Yes. And I didn't
6 see something similar under the VRA Counsel. I think
7 that's where it was.

8 COMMISSIONER YEE: Right. Right. Yeah, we can copy
9 that over.

10 CHAIR KENNEDY: Okay. Commissioner Vasquez?

11 COMMISSIONER VASQUEZ: Yeah. I was just going to
12 offer a potential solution for Commissioner Sinay's point
13 about Bagley-Keene potentially being restrictive. Could
14 we just generalize instead of referencing Bagley-Keene,
15 since I think we're looking for folks, this is a
16 nationwide search, to say open -- familiarity or open
17 government law -- open government and sunshine laws?

18 COMMISSIONER YEE: Let's think. Even if it were an
19 outside firm, outside-California firm, they would still
20 need -- it would still be under Bagley-Keene because, I
21 mean, the work is here, I believe, right? So --

22 CHAIR KENNEDY: Right. But that's where our own
23 counsel, chief counsel and Marian, will be able to
24 provide the necessary guidance on those.

25 COMMISSIONER YEE: Oh, right. And they may not have

1 done any work in California before. Right. Right.

2 COMMISSIONER AKUTAGAWA: Right.

3 COMMISSIONER YEE: So yeah, okay. So open
4 government and sunshine laws. Okay. That's --

5 CHAIR KENNEDY: Anyone else? I'm only seeing a
6 portion of my screen.

7 COMMISSIONER YEE: Okay.

8 COMMISSIONER ANDERSEN: I just want -- on Bagley-
9 Keene, I mean, it's not like -- it isn't as though you
10 have to have it because you're asking. If they don't
11 have the experience, they don't have that experience.
12 It's just I like, though, the idea of adding like the
13 sunshine, you know, other open meeting, sunshine, and put
14 like -- you could even say, for example, Bagley-Keene.
15 And that way anyone in California is, obviously, going to
16 put that in. But that's doesn't mean it's -- you know,
17 they might have expertise in that same field. We just
18 want to know what kind of experience they have. So if
19 they don't have it, then that doesn't mean, oh well,
20 you're out.

21 COMMISSIONER TURNER: That can also be accomplished
22 in an interview question, right?

23 COMMISSIONER ANDERSEN: In looking into it further,
24 absolutely. But if we don't ask it there, then we would
25 never know.

1 CHAIR KENNEDY: Marian, could we get your thoughts
2 on this?

3 MS. JOHNSTON: I think that it is something that
4 you're Counsel can look for rather than relying on
5 outside counsel.

6 CHAIR KENNEDY: Thank you.

7 Anyone else?

8 COMMISSIONER FERNANDEZ: Chair, this is Commissioner
9 Fernandez.

10 I agree. I mean, I don't want -- this is for a
11 Voting Rights Act Counsel, so we really are looking for
12 that expertise. And I don't want to exclude anyone or
13 anyone feel that they're excluded or not apply because
14 they feel they have to have Bagley-Keene. So I would
15 recommend maybe changing the wording. But I don't think
16 it's something that we necessarily need to look for, for
17 this position.

18 COMMISSIONER YEE: So we could just strike the whole
19 thing if --

20 CHAIR KENNEDY: We could strike the whole thing or
21 we could go with Commissioner Vasquez's suggestion, which
22 I think there's -- I mean, my sense is there's some
23 support for that.

24 COMMISSIONER YEE: Okay. So open government and
25 sunshine laws?

1 CHAIR KENNEDY: Right.

2 COMMISSIONER YEE: Okay. That's fine. Okay.

3 Moving down section 5 to the bottom of the
4 page -- by the way, I didn't mention, we started
5 with the Statements of Work from the 2010 Commission,
6 that's why this -- that's why some of this is here. So
7 the two cases were from the Statement of Work from them.
8 And I, myself, wondered why these two and why not others.
9 We could just say, "and subsequent relevant cases," you
10 know, to sections 2 and sections 5, Voting Rights Act. I
11 mean, that would cover it, I think, right?

12 CHAIR KENNEDY: Commissioner Turner?

13 COMMISSIONER TURNER: Yeah. I was not clear on
14 what -- what are you asking, Commissioner Yee?

15 COMMISSIONER YEE: Okay. So this is section 5 --

16 COMMISSIONER TURNER: Uh-huh.

17 COMMISSIONER YEE: -- item three --

18 COMMISSIONER TURNER: Yeah.

19 COMMISSIONER YEE: -- at the bottom of the page, so,
20 "Experience with section 2 and section 5 of the Voting
21 Rights Act, including but not limited to issues with
22 respect to," and then it starts listing the two cases,
23 "Shaw v. Reno," and so forth. So the question is, why
24 cite only those two? So instead, why don't we say,
25 including -- so, "Experience with section 2 and section 5

1 of the Voting Rights Act and subsequent relevant cases,"
2 and just leave it at that, so not cite any specific
3 cases?

4 CHAIR KENNEDY: Right. And that was the
5 recommendation from Common Cause and NALEO, was to drop
6 the specific case references.

7 COMMISSIONER YEE: Right, because it wasn't clear
8 why those two.

9 CHAIR KENNEDY: Right.

10 COMMISSIONER ANDERSEN: Oh, one -- sorry. One
11 thing, I would just jump in, you know, section 5 is the
12 one that was -- that has been taken down in 2013. So we
13 definitely need someone know that section 5 does not
14 apply. So we'd want to kind of -- I don't know if we
15 want to leave that in so they will address, specifically,
16 what the current law is or how we want to handle that?

17 COMMISSIONER YEE: So I think Marian has a response.

18 MS. JOHNSTON: I think that it would be advisable if
19 someone did have experience with section 5, that you all
20 knew about that. There is a possibility that section 5
21 is going to be reinstated. There's legislation that was
22 introduced this last session to it. And I believe that
23 Biden has come out in support of it. So it may be that a
24 year from now you'll be having to redraw your maps so
25 that you cover section 5.

1 COMMISSIONER YEE: Okay. And Marian, so to not cite
2 any particular cases, you think that's fine? Okay.

3 Moving on to the back of the page, section 6,
4 Submission Format. So we just discussed adding a prompt
5 to ask about an RPV analyst, whether they would want to
6 provide one, and asked for their opinion on whether or
7 not they should or we should. Then that was under
8 Personnel.

9 Number 2 -- I'm sorry, number 3 -- item 3, so, "List
10 significant experience in redistricting activities." The
11 caller suggested changing it to list all experience so as
12 to not cherry pick. I don't know. I'm not -- I
13 understand the point. I'm not persuaded. And then
14 change or expand "redistricting activities" to include
15 "districting, redistricting, and election activities," to
16 cover other work.

17 The, also, per the suggestions, adding an item,
18 letter E, at, "Any experience with other than VRA-related
19 Voting Rights Litigation." And letter F, "Any relevant
20 publications."

21 Any thoughts on those?

22 CHAIR KENNEDY: I'm not seeing the full gallery, so
23 speak up.

24 EXECUTIVE DIRECTOR CLAYPOOL: Oh, okay. Thank you.
25 My hand was getting tired from waving.

1 I just wanted to go back to what we were talking
2 about as far as section 5 goes. And I think that we had
3 talked about this before, that we need to be prepared to
4 cover all the bases so that you don't have to come back
5 to redraw your lines in a year. And so it would be very
6 important, I think, that all this analysis almost be
7 predicated on those sections being put back in, and that
8 we be prepared with the -- with whatever we would need to
9 get clearance, even though they don't apply now.

10 So I know we've discussed that before but I think
11 that's a very important point that we need to keep in
12 mind.

13 That's all.

14 CHAIR KENNEDY: Thank you, Director Claypool.

15 Anyone else?

16 COMMISSIONER TOLEDO: I just had a quick question
17 for Marian specifically around licensure requirements
18 and/or years of experience, especially if they're going
19 before the Supreme Court or the California State Supreme
20 Court, and whether we should include those there? I
21 don't anticipate a problem because we'll be, likely,
22 contracting with a firm, but just to be very specific
23 about in our RFP as a minimal requirement.

24 MS. JOHNSTON: Well, some can always be admitted for
25 the purposes of a single case if they are associated with

1 a local attorney. So I don't know. If you really want
2 to do a nationwide search, I don't think you should
3 require licensure in California. I mean, especially, it
4 depends on what kind of a case it is. If it goes to the
5 California Supreme Court, it's just going to be under
6 California Law. But if it's a Voting Rights Act case, it
7 will be in federal court.

8 COMMISSIONER TOLEDO: Thank you.

9 COMMISSIONER YEE: I'll go ahead and stop share.

10 CHAIR KENNEDY: Okay. So Commissioner Yee?

11 COMMISSIONER YEE: So I tracked everything
12 suggested. I think I have it down. I can, of course,
13 incorporate all of these. I don't quite know what steps
14 to take from here though. I, you know, of course can
15 reshare the updated draft. But you know, this would be
16 incorporated in the full RFIs and then sent to the Office
17 of Legal Services and off it goes. And we should not
18 have any major changes from that point on.

19 So what's the best way to proceed?

20 CHAIR KENNEDY: Director Claypool?

21 EXECUTIVE DIRECTOR CLAYPOOL: Chair?

22 CHAIR KENNEDY: Are we best off approving it as
23 modified and trusting that the modifications will be made
24 as approved or should we have time to bring it back at
25 the next meeting? How would you advise us to proceed?

1 EXECUTIVE DIRECTOR CLAYPOOL: I would approve and
2 trust that the modifications are going to go in. That
3 allows us to push it in -- just push it forward that much
4 quicker. So I would approve it.

5 CHAIR KENNEDY: Okay. And any -- well, we need to
6 take public comment at this point, correct, Marian?

7 COMMISSIONER YEE: Somebody needs to make an actual
8 motion.

9 MS. JOHNSTON: Yes, you should have a motion.

10 COMMISSIONER YEE: So I move that we approve these
11 Statements of Work to include all changes agreed upon in
12 this discussion.

13 COMMISSIONER VASQUEZ: Second.

14 CHAIR KENNEDY: Commissioner Fernandez?

15 COMMISSIONER FERNANDEZ: I was going to second it.

16 COMMISSIONER VASQUEZ: Yeah. I think you were
17 first.

18 CHAIR KENNEDY: Okay. Any discussion?

19 Katy, would you please read the instructions for
20 public comment?

21 PUBLIC COMMENT MODERATOR: Sure thing, Chair.

22 In order to maximize transparency and public
23 participation in our process, the Commissioners will be
24 taking public comment by phone. To dial in -- to call
25 in, dial the telephone number provided on the livestream

1 feed. It is (877) 853-5247. When prompted, enter the
2 meeting I.D. number provided on the livestream feed. It
3 is 91505532099 for this week's meeting. When prompted to
4 enter a participant I.D., simply press the pound key.

5 Once you have dialed in you will be placed in a
6 queue from which a moderator will begin un-muting callers
7 to submit their comment. You will also hear an automatic
8 message to press star 9. Please do this to raise your
9 hand, indicating you wish to comment. When it is your
10 turn to speak the moderator will unmute you and you will
11 hear an automatic message that says, "The host would like
12 you to talk and to press star 6 to speak." Please make
13 sure to mute your computer or livestream audio to prevent
14 any feedback or distortion during your call.

15 Once you are waiting in the queue, be alert for when
16 it is your turn to speak and, again, please turn down the
17 livestream volume.

18 These instruction are also located on the website.

19 The Commission is taking public comment on the
20 motion -- I don't know how to call that, the motion for
21 the VRA.

22 CHAIR KENNEDY: The motion to approve the two scopes
23 of work as amended during this discussion.

24 PUBLIC COMMENT MODERATOR: That is what we are
25 taking public comment on. And we have no one in the

1 queue.

2 CHAIR KENNEDY: Okay. We'll stand by for two
3 minutes.

4 Commissioners, any further thoughts or comments at
5 this point?

6 Commissioner Ahmad?

7 COMMISSIONER AHMAD: Thank you, Chair.

8 Depending on the outcome of this vote, if the RFI is
9 approved and it goes forward, when can we expect a final
10 draft to start sharing with our networks?

11 CHAIR KENNEDY: Director Claypool?

12 EXECUTIVE DIRECTOR CLAYPOOL: So we get the
13 modification and we put it into the shell. Then it
14 will -- we will send it to the Office of Legal Services.
15 They will start their approval, the approval process.
16 That was, in my original timeline, that was where we had
17 talked about the 45 days, but we're hoping for expedited.
18 So if we get expedited, I would hope that we would have
19 it sometime in the second or third week of December. But
20 at the worst case, we get it at the end of December, and
21 then we start sharing it in January, but we're shooting
22 for that middle part. So that's the timeline off the top
23 of my head.

24 CHAIR KENNEDY: Very good.

25 Commissioner Toledo?

1 COMMISSIONER TOLEDO: I just wanted to clarify.
2 Would the scope of work still go through legal counsel,
3 so our General Counsel would still have an opportunity to
4 review the scope of work prior to finalizing it, or are
5 we finalizing it before that review? And that's just a
6 clarification question.

7 CHAIR KENNEDY: Director Claypool?

8 EXECUTIVE DIRECTOR CLAYPOOL: Yeah. The Chief
9 Counsel and your Counsel is going to see everything,
10 absolutely. It's going to run through her. We have to
11 make sure that it meets that standard, so that's the next
12 step.

13 CHAIR KENNEDY: Very good.

14 Our two minutes have lapsed, Katy. Has anyone
15 joined the queue?

16 PUBLIC COMMENT MODERATOR: Someone just came in.

17 CHAIR KENNEDY: Perfect.

18 PUBLIC COMMENT MODERATOR: And the person who just
19 dialed in, if you would like to make a comment to raise
20 your hand? If you're just here to listen, that's okay,
21 too. But if you'd like to comment, please press star 9.
22 Yeah. Okay. Please state and spell your name for the
23 Court Reporter. You're on the line. Can you please
24 state and spell your name for the Court Reporter?

25 MS. CAMACHO: Yes. Sorry about that. I was muted.

1 It's Lupe Camacho, L-U-P-E, last name, C-A-M-A-C-H-O.

2 PUBLIC COMMENT MODERATOR: And please share your
3 comment.

4 MS. CAMACHO: Yes. I wanted to, I guess, circle
5 back to the question that was asked earlier about where
6 the RFI was going to be published and made public for
7 anybody to be able to submit proposals. So I just wanted
8 to find out if that was something that was solidified
9 during the meeting today?

10 CHAIR KENNEDY: Thank you for your question. My
11 understanding, from the chair, is that the Subcommittee
12 had not yet considered that but that we anticipate that
13 things will circulate through members' networks. And out
14 Interim Counsel has advised that it would have to be
15 publicized as all other similar contracting actions from
16 the Commission.

17 Marian, am I correct?

18 PUBLIC COMMENT MODERATOR: Your microphone.

19 MS. JOHNSTON: I assume on your own website, as
20 well.

21 CHAIR KENNEDY: Well, I hope this answers your
22 question, and thanks for calling in.

23 MS. CAMACHO: Yes. Thank you very much.

24 PUBLIC COMMENT MODERATOR: And that was our only
25 caller.

1 CHAIR KENNEDY: Very good.

2 Then we can proceed to a vote. I recalled last
3 night that we had taken a decision to change our order of
4 voting to start with the person after the Chair in the
5 alphabetical list. So just wanted to remind headquarters
6 of that change in our voting procedure. So if we could
7 start the process with Commissioner Le Mons, and then I
8 will be last.

9 MS. SHEFFIELD: All right. Okay.

10 Commissioner Le Mons?

11 VICE CHAIR LE MONS: Yes.

12 MS. SHEFFIELD: Commissioner Ahmad? Oh, is it going
13 this way, straight down? Okay. Okay.

14 Commissioner Sadhwani? No.

15 Commissioner Sinay?

16 COMMISSIONER SINAY: Yes.

17 MS. SHEFFIELD: Commissioner Taylor?

18 COMMISSIONER TAYLOR: Yes.

19 MS. SHEFFIELD: Commissioner Toledo?

20 COMMISSIONER TOLEDO: Yes.

21 MS. SHEFFIELD: Commissioner Turner?

22 COMMISSIONER TURNER: Yes.

23 MS. SHEFFIELD: Commissioner Vasquez?

24 COMMISSIONER VASQUEZ: Yes.

25 MS. SHEFFIELD: Commissioner Yee?

1 COMMISSIONER YEE: Yes.

2 MS. SHEFFIELD: Commissioner Ahmad?

3 COMMISSIONER AHMAD: Yes.

4 MS. SHEFFIELD: Commissioner Akutagawa?

5 COMMISSIONER AKUTAGAWA: Yes.

6 MS. SHEFFIELD: Commissioner Andersen?

7 COMMISSIONER ANDERSEN: Yes.

8 MS. SHEFFIELD: Commissioner Fernandez?

9 COMMISSIONER FERNANDEZ: Yes.

10 MS. SHEFFIELD: And Commissioner Fornaciari?

11 COMMISSIONER FORNACIARI: Yes.

12 MS. SHEFFIELD: And Commissioner Kennedy?

13 CHAIR KENNEDY: Yes.

14 MS. SHEFFIELD: Okay. Thank you.

15 MS. JOHNSTON: The motion passes with the special
16 vote.

17 CHAIR KENNEDY: Thank you.

18 COMMISSIONER YEE: Thank you all.

19 CHAIR KENNEDY: So that concludes our segment with
20 the VRA Compliance Subcommittee.

21 And I would like to turn the afternoon over to the
22 Outreach Subcommittee with a reminder that we have a
23 break coming up at 3:25.

24 COMMISSIONER SINAY: Thank you, Chair.

25 Commissioner Vasquez, I'm going to -- is it okay if

1 I start with just kind of giving an overview of the
2 different folks we've talked to, and then you can start
3 walking through the plan?

4 COMMISSIONER VASQUEZ: Sure.

5 COMMISSIONER SINAY: It's not a plan. It's not a
6 map. We still need to figure out the right word.

7 But anyway, we've met with a lot of different
8 people. And Angela and I have actually kind of -- sorry.
9 Commissioner Vasquez and I have taken -- sometimes we
10 meet together, sometimes we divide and conquer, just
11 because. But I spoke with Jonathan, as well, Jonathan
12 from Common Cause, and James Woodson, who also presented
13 to us yesterday. And just part of it was I was reaching
14 out to them because we had an agenda item and wanted
15 to -- I constantly kind of touch base just to update
16 folks and answer any questions. And unfortunately,
17 Alejandra Ponce De Leon, who has also presented and
18 called in many times, her father passed away, so she
19 wasn't able to join us. But Jonathan had a couple of
20 things he wanted us to know.

21 First of all -- and this comes from the whole, the
22 network. And we've heard some of this already because
23 they've called in or they've shared their comments. But
24 his first comment to me was, "Wow. You guys are working
25 really, really hard." And I think that's important for

1 all of us to hear.

2 And when he says, "you," you know, he means you, all
3 of you, all of us. And he wanted to thank us for being
4 so intentional in the work that we're doing and wants
5 us -- and wanted us to understand that this is an art,
6 not a science, which I thought was -- when Commissioner
7 Le Mons said it yesterday, I was -- I smiled because it
8 was twice that it's been said this week. And I think
9 it's a great thing to keep reminding ourselves because
10 sometimes we try to turn something into a science that's
11 really an art. And it's an iterative process, which I've
12 heard a couple of times being mentioned to us as well.

13 And then, you know, the comment about please take
14 the pressure off of numbers and make sure that you're
15 reaching a diverse swath of communities. And we
16 discussed how we kind of were looking at it as the
17 numbers and then the representation and accessibility.

18 And then regarding the grant making, which will do,
19 and I'm making this -- sharing all of this with you
20 publicly, just so that it is -- that we all have it. The
21 community is really excited about this process. And as
22 we've heard several times, they prefer a third party.
23 And his summary was a little different than the summaries
24 we heard yesterday from James. But the main thing is,
25 that he was saying that really struck a chord with me,

1 was to insulate the Commission from any outside
2 perceptions that we may be biased, or that many of those
3 that we find may be left of center, or any other type of
4 perceptions from the community.

5 Also, that it's awkward to take money from
6 government and then do advocacy towards that government
7 entity. And that redistricting is much harder for
8 census. And not all groups who did the census may be
9 appropriate to do redistricting. And then he added on
10 that one, "I'm not sure I believe that," is what he said.

11 I just, during lunch, popped into a Census Legacy
12 meeting. That's what they're calling where the census
13 tables are staying on to do other work for San Diego.
14 And right when I popped in they started talking about
15 redistricting. And there was a lot of excitement around
16 that piece. I couldn't stay very long or ask any
17 questions.

18 But the -- and then they said just to be careful,
19 that the census regions, some of them were great and
20 others of them were so-so. And I think we're all
21 learning that as we're making our calls, that some of the
22 folks that we email, they respond right away, and others
23 don't. Obviously, Commissioner Turner's was the best in
24 all the work she did. But just wanted them to -- they
25 wanted us to know that if you're ever trying to reach out

1 and people aren't getting back to you, don't feel bad,
2 that that's just -- that's some.

3 I also spoke with Am at Philanthropy California, and
4 Megan Thomas from San Diego Grantmakers. Amy is a
5 consultant with Philanthropy California. And Megan
6 Thomas is on the leadership of Philanthropy California.
7 Philanthropy California is comprised of the three big
8 grant-maker associations, so Northern California
9 Grantmakers, Southern California Grantmakers, and San
10 Diego Grantmakers.

11 And the big update was that state groups that have
12 been funded include the Asian-American Advancing Justice
13 in Los Angeles, and the Black Census and Redistricting
14 Hub, MALDEF, and NALEO. And they have reached out
15 several time several times to the California Native Vote
16 but they weren't ready to submit a proposal, so that's
17 just something for us to keep in mind.

18 And the types of activities that they funded are
19 varied, are wide, and they didn't give me -- like I don't
20 know who's doing what. I wasn't able to get that
21 information. I think we can get that information. What
22 I learned was that Amy's contract has been over. And so
23 by the time I was asking her for this, she was just being
24 very kind in sharing.

25 For the sake of time, would it make -- why don't I

1 just copy and past this into an email so you call can
2 read who the organizations are and what types of
3 activities that they got funded in, instead of me just
4 listing them off; does that make sense? I'm seeing nods.
5 Okay.

6 And then for the regional grants, so they did the
7 state grants, and then they did regional grants. The
8 regional grants, they've done five and they're at \$75,000
9 each. And they were only -- it was Inland Empire, San
10 Diego, Orange County, Los Angeles, and Fresno. So again,
11 the focus is very Southern California, you know, if
12 Fresno is the furthest north. So those are the two
13 levels that they have the funding for and that they have
14 made the grants to.

15 And then, just in popping into different meetings
16 and stuff, had conversations with local groups in San
17 Diego, like MAAC Project, San Ysidro Health. And PANA
18 mentioned it last week when they met with us, as well,
19 that there's a concern that if you give money to the
20 state groups, they're great for the training and stuff
21 but the money doesn't come down to the local groups if
22 we're trying to support the local groups.

23 And they all appreciate unity mapping and efforts to
24 bring different groups together. But they also want to
25 make sure that the local individuals and local groups

1 have direct access to the Commission. And yes,
2 redistricting is harder than the census but the
3 communities are ready to do more. So I just wanted to
4 share that.

5 One of my lessons learned this session is when
6 you -- that some of these updates, I probably should have
7 shared when we talked at the beginning of the meeting
8 since -- just so that the community and we did have these
9 conversations and such. And I guess we're still learning
10 our processes.

11 Commissioner Vasquez, do you want me to share my
12 screen?

13 COMMISSIONER VASQUEZ: Sure. I mean, we're not
14 editing, at least right now in real time, so we can edit
15 in real time. I mean, I imagine we will get feedback
16 but --

17 COMMISSIONER SINAY: Yeah.

18 COMMISSIONER VASQUEZ: -- it's up to you.

19 COMMISSIONER SINAY: No, you're right. It's easier
20 to talk that way. And everyone probably has it.

21 COMMISSIONER VASQUEZ: Yes. But if you wouldn't
22 mind, as we get feedback, keeping note of it?

23 So if -- everyone, if you're not already there, on
24 the website it's attachment 10, Proposed COI Budget
25 Strategy Map. And so we have led here with three

1 proposed actions for the Commission to consider with
2 background information.

3 But you'll see, we have put quite a bit of work into
4 fields where we have information. But really everything
5 in the background session -- in the background section is
6 guideposts and not intended to be exhaustive or limiting.
7 They are foundational information from which staff will
8 use as a launching pad.

9 So you know, what is in the background section also
10 should reflect much, if not all, hopefully all of the
11 input that the Committee received from you all, was it
12 two weeks ago, through the Miro exercise. So again,
13 while we anticipate having and welcome yours and the
14 public's feedback on the background section, that is sort
15 of for informational purposes.

16 The proposed actions we have framed as, ideally,
17 intentionally building in some flexibility so that staff
18 can take, again, take this information, including the
19 background, and come back with a more detailed work plan,
20 including staffing, et cetera.

21 So in walking you through the first proposed action,
22 it is for staff to create a grant-making structure to
23 fund local groups that will assist the Commission in its
24 outreach, engagement, and activation efforts with the
25 following parameters, so grants to inform, engage and

1 activate. We're proposing the size of the grants to be
2 in the range of 5,000 to 20,000. We would like a
3 structure that prioritizes local groups, connecting the
4 Commission to hard-to-reach communities. And that the
5 process that is created be timely so that the local
6 groups are funded, you know, receive the money by March
7 2021.

8 Should I stop there or should I go through all
9 three?

10 COMMISSIONER SINAY: And can I add one thing?

11 We originally had here for staff to create a grant-
12 making structure with a third party or with a
13 philanthropic entity. We ended up taking it out because
14 we've ended up getting kind of mixed messages from
15 Philanthropy California, not that they're the only ones
16 we could partner with, but since they've been already
17 doing redistricting grants.

18 You know, since then I've had another conversation
19 with their leadership versus their consultant. And
20 they're open to having that conversation and seeing how
21 we can make it work. And so the idea here is really to
22 find an efficient and effective way to get the funding
23 to the groups and to make sure that the funding -- there
24 isn't a little bit taken here, a little taken here, and
25 by the time it gets to where we want it there's very

1 little left. So this is really getting -- asking staff
2 to just go be creative.

3 COMMISSIONER VASQUEZ: Should we -- I can
4 facilitate.

5 Commissioner Turner?

6 COMMISSIONER TURNER: Thank you. Just a quick
7 question up front.

8 Looking at the size of the grants, and Commissioner
9 Sinay was just saying, you know, by the time you, I
10 guess, allocate it at a certain level there will be
11 nothing left. This almost feels like a nothing left to
12 start out with.

13 And so I'm wondering on grant sizes of \$5,000 to
14 \$20,000, will we also have some idea of what the
15 expectation is that groups on the ground would do with
16 this amount of money?

17 COMMISSIONER VASQUEZ: Yes. Yes. So we -- that's
18 sort of, hopefully, contained within the plan that will
19 be proposed, the expectations for those grants. But
20 again, also knowing, you're right, that that's a fairly
21 small amount, if the groups receive -- we were -- again,
22 this is sort of the logic. If the groups receive money
23 by March, theoretically, you know, staff and activities
24 don't really start until April. And then we have April,
25 May, June, July, potentially. If our working deadline is

1 August, that's about four months or a quarter of -- or a
2 little more than a quarter of a year of work that we
3 would be paying for.

4 So again, we -- I think, also, we may come back --
5 we may get back a work plan that says these grant amounts
6 aren't really going to be sufficient. We'd only be able
7 to fund X number of groups. We don't think that we'll be
8 able to cover the state. So again, these -- we're trying
9 to give some parameters so that staff isn't trying to
10 create something out of thin air. But trying to build in
11 some flexibility but, also, some guardrails for staff to
12 get us a more detailed plan.

13 And also, we're now still -- we don't have a deputy
14 executive director. And I think as Commissioner Sinay,
15 over the last two months, have been developing this and
16 putting thought into this, we keep having to kick some
17 things down because we don't yet have a leader, and
18 executive leader over the whole thing for which to hand
19 this off. So we're trying to thread that needle, again,
20 of giving enough details so that things can get started
21 but not tying things too tightly that we can't undo them,
22 they're not working.

23 So -- but thank you. Yeah, thank you for that
24 question. And I acknowledge that the size of the grants
25 is, at this point, somewhat arbitrary.

1 COMMISSIONER SINAY: And that these are the
2 parameters, kind of, for the program but not the
3 parameters for the application or the guidelines.

4 There was Commissioner Le Mons and Commissioner Yee.

5 COMMISSIONER VASQUEZ: Yeah.

6 Commissioner Le Mons?

7 VICE CHAIR LE MONS: Yeah. My recommendation would
8 be whatever the grant window is, you know, the range,
9 that we stipulate that that is the direct-to-organization
10 amount. And any overhead or cost associated with the
11 distribution of those resources is budgeted separately so
12 that that end number, whatever it is, that ultimately, I
13 would imagine, once we get a plan are tied to specific
14 activities, meaning we want X done and we know the price
15 point for that. And an organization doing that
16 particular set of activities would get this type of
17 disbursement versus a different set of activities.

18 But my main point is to really segregate. We would
19 have a separate line item in terms of a budget for our
20 outreach that is the cost to handle administering this,
21 separate and apart from the in money. Hopefully, that
22 makes sense.

23 COMMISSIONER VASQUEZ: It does make sense. And I
24 think that's sort of when we even put this out we had
25 not -- we were not factoring in sort of the

1 administration of it, whether it's a philanthropic
2 organization or some other entity.

3 COMMISSIONER SINAY: We did ask that question, like
4 from Philanthropy California, what would it be? Because
5 we did want to bring that to the group. And as I said,
6 that we kept -- we kind of got some mixed messages. But
7 as staff goes out, that's a very -- that's one of the big
8 questions, right? What is it going to cost us? And then
9 separate it out and we can say which bucket.

10 CHAIR KENNEDY: Commissioner Yee?

11 COMMISSIONER YEE: Thanks for all this good work. So
12 I think you might have addressed this but I just
13 didn't -- it doesn't become entirely clear to me.

14 So the sole question of whether to administer grants
15 directly or to find trusted partners to do so, so are we
16 leaving that open to staff or is that still an open
17 question and they can make that call?

18 COMMISSIONER VASQUEZ: Make that call in that as
19 they're developing the plan they can make a proposal
20 based on the information they received. And again, as
21 always, we, as a Commission, will have to say, yes, that
22 structure makes sense or, no, that structure does not
23 make sense. So yeah.

24 COMMISSIONER SINAY: I'm going to jump over to
25 proposed action 3, which is -- which we're kind of --

1 we're trying to figure out a date. And this is where
2 staff, it will be -- you know, but we were saying by
3 December 14th we would have the different pieces that
4 we -- the work plan, as well as the kind of the outline
5 for the grant, you know, the grants program so that we
6 can approve all that. We wanted to give staff some time.
7 But we can't too much time because, especially with
8 getting the RFP, well, whatever we are going to use, the
9 guidelines, out.

10 CHAIR KENNEDY: Commissioner Fornaciari?

11 COMMISSIONER FORNACIARI: So I'm coming from a place
12 of complete ignorance in doing this kind of stuff here
13 but I mean, it occurs to me that there's a time issue,
14 potentially, here with regard to, you know, which path
15 we're going to take. And if we -- and so I'm kind of
16 feeling like, and I could be wrong here, if we don't give
17 the staff guidance on which direction the Commission is
18 more comfortable with up front, could that cause delays,
19 unwanted delays at the other, you know, at the other end?

20 CHAIR KENNEDY: Marina?

21 MS. JOHNSTON: The only way to avoid that delay
22 would be if the staff provides two alternative plans and
23 that's twice as much work. So it would be, I think, very
24 helpful if you let the staff know which route you would
25 prefer them to work on. You know, right now you don't

1 have your deputy executive director, so -- and no staff
2 to do it.

3 COMMISSIONER VASQUEZ: Perhaps -- so in anticipation
4 of this conversation going long, we have reserved time
5 next week for a conversation about these components.
6 Since it sounds like the grant-making structure is a
7 point of conversation, maybe we should have that
8 conversation next week about where -- which road should
9 the Commission pursue?

10 COMMISSIONER SINAY: And I think the main reason
11 Commissioner Vasquez and I aren't making a recommendation
12 one way or the other is we don't feel like we have enough
13 information to recommend one path or the other. But if
14 you call do feel like you have enough information, we're
15 more than, you know --

16 CHAIR KENNEDY: Commissioner Le Mons?

17 VICE CHAIR LE MONS: I concur. I don't believe we
18 have enough information to make that decision because
19 some of it is beyond our control. And I think that
20 Director Claypool is doing some research. I'm assuming
21 that other staff will research. I can say what my
22 preference would be, which the community doesn't agree
23 with, but I think that if -- well, let me back up. Let
24 me back up and say it this way.

25 I think if our intention is to get the resources in

1 the hands of the local organizations, I think this is
2 where we're going to have our issue, because it's a lot
3 more easier to facilitate working with a grant maker or a
4 statewide, those entities that have the infrastructure.

5 So I think that one of the outstanding questions for
6 me is what is the level of management of the resources
7 that's necessary to preserve integrity, to make sure that
8 the resources are used appropriately, et cetera? And
9 that can be made very complicated or that could be made
10 very streamlined.

11 And so what we've got to back into is what is that
12 complexity going to look like? And to me, that would
13 help us better understand whether or not it's something
14 that we might have to take on because of certain
15 complexity issues or lack thereof, or we'd have to third-
16 party it. And I think we then have to discuss all of the
17 implications.

18 Let's just say, hypothetically, the shortest path
19 would be for us to do it directly, if that's even an
20 option. This is all hypothetical. We may say that we
21 want to err on the side of doing that path because it
22 gets us where we want to go in terms of getting the
23 resources where we want. But we have to make sure that
24 we put the right guardrails on to manage for perception.
25 We might say that it's worth it. On the converse, we may

1 feel like it's not worth it and so we need another
2 mechanism, even though it might not get as deep at the
3 local level as we would have wanted.

4 So I think those are -- when I say we don't have
5 enough information, I don't feel like I have the answers
6 to any of those questions that would help me make an
7 informed decision.

8 COMMISSIONER VASQUEZ: You -- I was just going to
9 say, you are basically laying out the conversation
10 Commissioner Sinay at every meeting between us with those
11 very questions, Commissioner Le Mons, so, yeah.

12 COMMISSIONER SINAY: And there are creative ways
13 to -- the insulation fees -- I don't know if I'm using
14 the -- well, one of the thoughts was we -- you know,
15 public-private partnerships are very in and innovative
16 right now. And this is the Citizens Commission. And so
17 the way we can insulate ourselves is to create a grants
18 committee that includes community groups, as well as
19 Commissioners, as well as philanthropy, and then we've
20 just insulated ourselves. And so there are ways that we
21 can do the grants, you know?

22 So it's how do you create, you know, the risk
23 management, also the cost, and the level of complexity?
24 Obviously, if we're doing it, managing that committee,
25 still it's cost on staff to manage that committee.

1 But you know, so we've had fun thinking through some
2 of the creative ways we could do it.

3 CHAIR KENNEDY: Okay. Commissioner Akutagawa, and
4 then Commissioner Le Mons.

5 COMMISSIONER AKUTAGAWA: I guess thank you, Chair.

6 And thank you, Commissioner Le Mons. I think you
7 brought up some of the things that I had that I wanted to
8 say.

9 I think, with that said, I do have -- one of the
10 things that yesterday's presenter, I think it was either
11 James Woodson or Kevin Cosney, one of them from the Black
12 Redistricting -- Census and Redistricting Hub mentioned
13 that struck me, and I think maybe this is the part where
14 I began to, you know, weigh more from having us do the
15 work, which is if we give money directly to an
16 organization, I think what I heard is the relationship
17 becomes complicated because anyone that we're going to
18 give money to is, obviously, going to have the best
19 interest of the community I mind, which is what we want
20 them to do.

21 But at the same time I think they're going to be in
22 this awkward place where they're going to also be trying
23 to balance, you know, what it is that the Commission
24 needs to do because this is the public money of the
25 residents and the citizens, you know, and I guess maybe

1 the population of California. And so it's as much their
2 money as it is our money, and as much as it is the
3 communities money, too.

4 And so it does get me thinking, you know, how do we
5 find that balance if we decide to do it directly?

6 While I like the idea of a subcommittee, I am just
7 imagining the kind of other complications that I think
8 we've all been discovering in terms of Bagley-Keene and
9 the requirements about open meetings. Who is to say, how
10 do these people get elected to be on this Commission? I
11 mean, I heard that loud and clear from James and Kevin
12 particular, is like, you know, selecting people -- or I
13 think, actually, it may have come from our commenters,
14 Helen Hutchison and Lori Shellenberger, who talked about
15 the bias that could be built in when we select one group
16 over another. I mean, there's a lot of land mines that
17 I'm now becoming more concerned about.

18 And I am also concerned, also because of the amount
19 of time that we have that we need to ramp this up. And we
20 don't have a lot of time.

21 I even circled the December 14th time frame because
22 we don't have our deputy executive director onboard. We
23 just got, you know, our communications director onboard.
24 Is he going to be -- he doesn't -- he's not even fully
25 staffed up right now. This is, literally, his second

1 meeting with us or like third day with us. Is he going
2 to be expected to come up with this plan by himself with
3 no staff, without understanding what kind of resources
4 he's going to have? And then is he going to speak for
5 the deputy executive director, which we don't even know
6 when this person is coming on?

7 I think there's a lot of questions that I have right
8 now that I am just raising as concerns, not that I don't
9 like what you put out here because I was kind of excited
10 about, yeah, let's get the money directly into the
11 groups. But then, in hearing the presenter yesterday
12 speak about it, it just took me down this whole other
13 kind of path that I thought, oh, my gosh.

14 And then do we even have the time, on top of
15 everything else that we're going to be doing, you know?
16 Because we're going to be having to ramp up for public
17 input meetings and all other kinds of things. Do we now
18 need to also manage this money, which is going to take
19 up, I think, a significant amount of time because it is
20 the public's money? And I don't think we could just -- I
21 know we won't be casual about it. And I know that we're
22 going to be very careful. But that also means -- being
23 very careful means a lot more time on top of what is
24 already going to be required, or a lot of time in a short
25 period, to really get what we need ramped up, so --

1 CHAIR KENNEDY: Thank you.

2 Commissioner Le Mons?

3 VICE CHAIR LE MONS: So I hope this conversation is
4 giving staff some insight into the kinds of additional
5 things that they might need to explore, so I'm hoping
6 that that's happening as they figure out what our options
7 are.

8 I think that all of the comments that you just
9 offered up and considerations and concerns, Commissioner
10 Akutagawa, are possibilities. I really feel like until
11 we really are clear about what we can do -- I mean, we
12 could spend the next three meetings talking about all of
13 these things without the information. So I'd recommend
14 that we get the information and figure out what our paths
15 are. And then we'll know what minefields we have to
16 navigate to be able to make informed decisions based on
17 what is actual.

18 Because there are -- I think one of the big
19 distinctions that we haven't raised is that the
20 difference with us and the previous group is it's we're
21 making a decision about our outreach money, to give it to
22 someone else, so that's the fundamental difference right
23 there.

24 Last time there was an outside agency who used their
25 own money. So it doesn't matter whether we do it

1 directly or we do it through -- whoever we choose to
2 handle this money will be under the same degree of
3 scrutiny. So just passing it to a third party doesn't
4 suddenly solve that issue.

5 So I think that these are very important, intricate
6 considerations that we have. But I think rather than,
7 you know, spinning out about all the potential pitfalls
8 of it, knowing what path we're going to walk might be a
9 more focused way to look at, what are the pitfalls to
10 this path or that path, whichever ones we are
11 considering?

12 So that would be my thoughts about that.

13 CHAIR KENNEDY: Thank you.

14 Commissioner Akutagawa?

15 COMMISSIONER AKUTAGAWA: Pass.

16 CHAIR KENNEDY: Director Claypool, did you have your
17 hand up?

18 EXECUTIVE DIRECTOR CLAYPOOL: No. I had a thought,
19 but then Commissioner Le Mons stated it.

20 CHAIR KENNEDY: Okay.

21 EXECUTIVE DIRECTOR CLAYPOOL: Thank you.

22 CHAIR KENNEDY: Then Commissioner Fornaciari,
23 Commissioner Fernandez, and then I'll have a comment.

24 COMMISSIONER FORNACIARI: I'll wait. Thanks.

25 CHAIR KENNEDY: Commissioner Fernandez?

1 COMMISSIONER FERNANDEZ: I think Commissioner
2 Akutagawa was before me.

3 CHAIR KENNEDY: All right. I thought -- did you
4 have something further, Commissioner Akutagawa?

5 COMMISSIONER AKUTAGAWA: Yes. So thank you, again,
6 Commissioner Le Mons.

7 I think based on what you're saying, I do -- let me
8 just propose, I think if there is a leaning one way or
9 the other on the Commission, one thought I have is, to
10 save time, in terms of having the staff do some of the
11 research. For example, if we just decide we do want to
12 just give the money to a third party, then we could just
13 direct the staff to just look at that, instead of just
14 examining all of the potential possibilities.

15 And it will save us some time so that then, when the
16 December 1st meeting comes around, we're ready to move
17 forward much more quickly than to just have them kind of
18 figure things us, then us debate at that time, and then
19 try to then give, basically, what's going to be about a
20 week to two weeks for the staff to come up with a further
21 plan. That's just what I would just like to say in terms
22 of let's just make a decision one way or the other now if
23 anybody has any strong preferences.

24 And my thought is, I mean, I would just propose that
25 we do discuss, you know, do we want to just give to a

1 third party and just be able to have them manage that for
2 us, and we'll just manage the one person versus multiple
3 entities?

4 CHAIR KENNEDY: Thank you, Commissioner Akutagawa.
5 Commissioner Fernandez?

6 COMMISSIONER FERNANDEZ: Yes. I do want to echo
7 what Commissioner Le Mons said. We're going to be
8 scrutinized and criticized whichever route we go. My
9 concern with going with a third party, I guess my concern
10 would be to make sure it's an open process. The same
11 names keep getting thrown around in terms of coalitions
12 and all this other stuff. And you know, I'm glad and I'm
13 happy that Southern California is covered, but I also
14 have Northern California that I'm really worried about.

15 And my concern is if we go to a third party and they
16 already have the coalition organizations they're used to
17 they might miss out on other organizations that are also
18 out there. And just because they're not linked to some
19 of these, common cause or philanthropy, that they won't
20 be selected.

21 So I'm really torn between do you go with a third
22 party? But if we do I want to make sure it's a very open
23 process because I am concerned about Northern California,
24 to be honest with you.

25 So that was mainly my comment, is either way we go

1 we're going to be criticized, but I'm also looking out
2 for my part of the state.

3 COMMISSIONER SINAY: We also, just to respond to
4 Linda -- I mean, sorry, Commissioner Akutagawa and
5 Commissioner Fernandez, we had originally, when we first
6 thought of this money way back when, there was a time
7 when we thought as we're creating -- you know, it puts
8 more onus on us to think of our outreach plan and where
9 do we want to have focus -- not focus groups, but where
10 do we want to have town hall meetings, and then we pay,
11 you know, for the town hall meetings based on where we
12 are. You know, as the regional teams and we split up,
13 you know, we might identify who would be those partners.
14 And we create a quick process.

15 I mean, we kept saying quick. And we don't have to
16 create a complex. You know, it could be a two-page form
17 that, a lot of things, they just check off. And they
18 might do a little narrative. You know, which one of
19 these activities are you going to do? Which region?
20 What county? You know, none of this has to be complex.

21 And so it can be -- I mean, that's another way that,
22 yes, we would be doing it but we would be paying. Like
23 we've always said, we want to pay for those groups who
24 are going to be helping us on this effort, so it's a
25 whole different -- it's not competitive, per se, but it's

1 because we built that partnership locally. You know, so
2 it all kind of depends, I think, also, on how we want to
3 do our outreach and how much Commissioners want to be
4 involved.

5 As much as we've said there's a lot of stuff in
6 here, I do want to bring up a few pieces just so as
7 you're thinking through, you know, we are looking at the
8 outreach being about informing the public, as we've
9 talked about often, outreach and engagement. And
10 outreach and engagement is just going a little deeper.
11 So the informing the public would be launched in January.
12 It would go through mid-February.

13 That's the time when we, as the Commissioners, get
14 out there. You know, we -- I'd love to say we each have
15 five presentations a week, but let's just say one. Even
16 if we did one presentation a week, that's a lot of
17 presentations out in the community. And these could be --
18 I know all the civic organizations are actually looking
19 for presenters. People are having all these different
20 Zoom meetings. And this would just be a dog and pony
21 show that Mr. Ceja would help us, would create and train
22 us on, and could just, you know, go out and do as many of
23 those as possible.

24 And then it's about going in deeper, and then going
25 in deeper. When we talk about work -- the workshop

1 piece, like train the trainer, that's really we're
2 looking -- you know, that's -- it was a great point
3 yesterday of what are we doing and what are we seeing
4 them do, and that's not clear on this, and we do need a
5 little bit more clarity.

6 But the community has -- there's community groups
7 that have been funded to do the train and trainer. And
8 so it's how can we work with the train and trainer? You
9 know, so if we give someone, you know, if we give someone
10 \$10,000, can it -- part of that has to be that they have
11 to attend a train the trainer workshop so they're trained
12 by them, you know? And so there's just different ways of
13 looking at this.

14 Having said all that, I really, I go back and forth.
15 And so that's why I -- we -- that's why we haven't made a
16 recommendation, Commissioner Vasquez, is because
17 there's -- the three nuances that Commissioner Le Mons
18 brought up are really critical. And we've tried really
19 hard to get all the data for you all and it's been kind
20 of frustrating because we can't get it.

21 CHAIR KENNEDY: Okay.

22 Commissioner Taylor?

23 COMMISSIONER TAYLOR: Yes. Thank you. And maybe I
24 might address with Commissioner Fernandez.

25 Do we have to think of it as a singular third party?

1 If there's a third party that might specialize in
2 Northern California, what if we employed more than one
3 third party? And that sort of spreads it around. And
4 again, we're going to get scrutinized one way or another.
5 But at least it shows some diversity in who we give this
6 money to so that they can reach different sets of
7 populations.

8 COMMISSIONER VASQUEZ: I had made that
9 recommendation in some of our conversations in the
10 Subcommittee. So yes, that's also -- at least that seems
11 like a possibility for me to make sure that we got
12 regional coverage.

13 So we could also -- I mean, to that end, we could
14 think about whether we want to look at regional
15 philanthropic partners or whether we have a statewide and
16 then one that is doing hard-to-reach communities or, I
17 don't know, more than one sort of outlet for the money is
18 also, I think, an option.

19 But again, that's another road that we are asking
20 staff to explore and identify. Again, to Marian's point,
21 that's time.

22 COMMISSIONER SINAY: So having worked in kind of the
23 philanthropy world for twenty years, it used to be that
24 each Grantmakers Association was separate. And then when
25 it -- and then recently they created the Philanthropy

1 California, which was bringing the three big Grantmakers
2 Associations together. We did talk to them about
3 Northern California and our concerns. And they did come
4 back with a list of partners that they have in Northern
5 California, you know, the community foundations and
6 whatnot.

7 So when it comes to philanthropy, one of the best
8 thought may be that it gets divided between the Northern
9 California Grantmakers, the Southern California
10 Grantmakers, and -- well, San Diego Grantmakers does
11 Imperial, as well, but you know, there's different ways
12 of looking at it.

13 I just want to make sure that we're clear with
14 staff. When we're saying third party, we've been
15 thinking of a philanthropic entity that then can make the
16 grant. If we turn that into a competitive process, and
17 then there's another competitive process to actually get
18 the money, we're not getting that money out there any
19 time soon.

20 And so it's really about how do we think through how
21 we create a partnership with a philanthropic entity and
22 then they do the grantmaking.

23 CHAIR KENNEDY: Okay.

24 COMMISSIONER SINAY: So I want to just make sure
25 that we have it right.

1 And it is break time. I did put my alarm on.

2 CHAIR KENNEDY: Thank you very much. It is break
3 time. We'll see everyone back at 3:40 please.

4 (Whereupon, a recess was held from 3:25 p.m.
5 until 3:40 p.m.)

6 CHAIR KENNEDY: Thank you and welcome back to our
7 afternoon session. We are continuing our discussion with
8 the Outreach Subcommittee.

9 I have on my list to speak, Commissioner Fornaciari
10 had passed. I'm coming back to you if you'd like to
11 comment now. If not, we'll move to Commissioner
12 Andersen.

13 COMMISSIONER FORNACIARI: No. I'm just going to
14 continue to listen and try to formulate my thoughts.
15 Thanks.

16 CHAIR KENNEDY: Okay.
17 Commissioner Andersen?

18 COMMISSIONER ANDERSEN: Okay. Thank you.

19 First of all, this is a lot of work. I really
20 appreciate Commissioner Sinay and Commissioner Vasquez,
21 who have been bringing up presentations and going
22 through. This is a lot of information. This is kind of
23 what everyone was looking forward to, you know, getting
24 out and seeing everybody and meeting everybody. And
25 COVID times, it really changed what we sort of get to do

1 compared to what we were thinking of doing.

2 And you have come up with a -- basically, this is a
3 really hard thing. You're trying to establish the task
4 of outreach. Also, how to fund the outreach. And then
5 how to implement both. And this is -- you have great
6 questions. I don't necessarily have answers to them.
7 But what I do want us to have a look at is the timing of
8 it because this is a piece that, quite frankly, alarms
9 me, knowing what we have to do.

10 And also, I've always looked at this, and this is
11 where we're maybe back to our sort of overall scope, to
12 get people to properly participate, it's a three-touch
13 process. And as you have down here, it's the education,
14 then it's getting their participation, well, basically,
15 you know, and then a third time around or fourth time
16 around is when you actually get the real information.
17 And I'm alarmed, if we wait for activation of public
18 hearings until March through June, we're in trouble.

19 And I like the way you have the education parts,
20 inform the public, education, you're launching in
21 January. Like I'd like that like as soon as. Also, I
22 believe the COI tool is -- that's supposed to be ready
23 early January.

24 And so as I'm seeing, I'm kind of seeing, hopefully,
25 the education part is number 1 touch. Getting their

1 information and the outreach is actually using the COI
2 tool, using our other tools, contacting people is our
3 second touch. That actually, rather than have -- you
4 have down here starting in -- I guess education and some
5 of the outreach, that's beginning almost right away, when
6 we go out and start the presentations. And because what
7 I believe is the people who are really into this will
8 actually start presenting maps to us as soon as we start
9 doing any presentations. So I'm thinking it will be --
10 our outreach is an ongoing thing from January, virtually
11 to the end when we turn in the maps.

12 And so I think if we look it that way it might be a
13 little easier in that we have to fund certain parts of
14 it. But I'm concerned, if we wait and we don't have any
15 actual activating, you know, we're not actually even
16 starting to get COI tool going until March, I'd like that
17 to start earlier and/or mid-February, and the idea being
18 we actually have our information from everybody before
19 the census data actually hits. And then from the census
20 data hitting, then our public meetings are -- we have --
21 you know, also in early January, I'm kind of thinking
22 Gantt chart here, trying to tie the outreach into the
23 Gantt chart, and in phases.

24 And I'm thinking, in terms of our money, we have to
25 come up with multiple third parties, I guess, and

1 incorporating it as certain people are ready to go and
2 other people will follow, you know, kind of like the
3 larger, more organized groups. And then we can see, as
4 we start getting information in, where we really need to
5 get the other grants to the smaller people to help them
6 and to help them help us, I guess.

7 Because what I would like us to see is, essentially,
8 changing dates on your draft here of the first education
9 part starts in January, the next part actually starts
10 in -- let's see, on page 4, and that's actually outreach
11 and engagement. That also starts in mid-January.

12 And the next part is, basically, activation, that's
13 starts in mid-February, not until March, with the idea
14 being when the data comes in, which is more like, I'm
15 saying, April, we don't actually know, we are already to
16 the point where our meetings have communities of
17 interest, essentially, maps of that, a lot of them. We
18 have all the -- we have our, obviously, state's, you
19 know, our counties', our cities', that's all there. So
20 when we start our very first initial mapping, we already
21 have a lot of that information there. We're not then
22 getting the COI tools on it, you know, the COI, our
23 communities of interest. We have a lot of that going.

24 And then, as that puts together, because then our
25 next series of maps will be much more succinct. I'm not

1 sure if that makes an sense. But what I'd like to do is
2 move that up a little bit.

3 And so how -- I kind of wanted to talk about the
4 time frames.

5 COMMISSIONER SINAY: Commissioner Andersen, can I
6 respond to your first questions please?

7 COMMISSIONER ANDERSEN: Certainly. Yes. Thank you.

8 COMMISSIONER SINAY: So the February 15th date was
9 put into place because we had had the conversation that,
10 yes, the COI tool will be ready January 1st, but our
11 marketing material and all the other tools will not. And
12 we want to make sure that we don't just --

13 COMMISSIONER ANDERSEN: Yeah.

14 COMMISSIONER SINAY: -- release the tool without
15 having everything else in place. And the COI tool is not
16 separate from our marketing tools and our public
17 education and all that.

18 And so it was actually Commissioner Kennedy who -- I
19 was thinking along the same lines and he had said, "Hey,
20 let's do midweek," and I was thinking -- or "mid-
21 February." And I was thinking, oh, wouldn't it be fun to
22 do some theme around a heart and Valentine's, but that's
23 on a Sunday so I put it -- so I moved it to the 15th.
24 That deadline can change a little. But when you think
25 about that we're not getting out there until the 4th or

1 the 11th because we, you know, we don't have meetings,
2 we've cut out some of our meetings, and we need to be
3 trained on the dog and pony show and all that, that it
4 was really going to be most groups aren't going to start
5 meeting until the 4th or 11th of January.

6 So the idea is the groups -- the individuals that
7 are ready when we do the February 15th on convening the
8 meetings and get it out, they will be starting to submit
9 their COI tool. It will be just like the census, that
10 there's the early adapters, which probably all of us
11 filled out our census right away. And then there will be
12 those that need to learn a little more and go a little
13 deeper on what we mean by this. And so we're looking at
14 it as three touches.

15 I don't -- I mean, it's an interesting thought, and
16 I would love to hear from everybody else, if we think
17 that by the time the Census information comes out we
18 should have all the information from the public, all of
19 their COIs, or you know, we're actually going to leave
20 more time because that's such an important part of the
21 conversation.

22 COMMISSIONER ANDERSEN: Yeah. I'm just saying we'd
23 like to. You know, obviously, we don't have -- we won't
24 have everything. But the more we can get ahead of time
25 the less confusion there will be in terms of people

1 creating a group artificially to change a map. And we
2 want the real community input. And if they give us real
3 communities before we're actually drawing lines, that's
4 my idea, if we can get that moved forward. And I totally
5 understand that.

6 The reason I'm bringing this up is just to say, like
7 we did with the RFIs, to ring alarm bells. You know, we
8 need to move these things up and quickly as soon as we
9 possibly can. It's how the outreach fits into it that
10 I -- the monies involved, that is the really difficult
11 piece, which I understand we're addressing. But I just
12 wanted to put it kind of in perspective of the Gantt
13 chart and the timing.

14 COMMISSIONER SINAY: So if I'm hearing you
15 correctly, you would like to see where we put timely --
16 we want the grants to be timely so local groups are
17 funded by March 2021. You would actually like to see
18 them funded by February. But I'm not sure if we could do
19 that but we can put that in there.

20 I also want to address another point that both
21 Marian had made and others. I think --and, Commissioner
22 Vasquez, you can support me or not -- I think we don't
23 have all the data we want but we're on the cusp of
24 collecting that data that we've been wanting, and that
25 there's really two options for staff to look at. And

1 it's going to be about two or three calls to get all the
2 information they need because we have identified the
3 right people. You know, Director Claypool has the right
4 people to talk to. And we've got the right people to
5 talk to on the community side now. So I think we could
6 get some of those answers quicker than some people were
7 afraid that we might not.

8 CHAIR KENNEDY: Commissioner Toledo?

9 COMMISSIONER TOLEDO: I'm just curious about the
10 data that you're speaking of. What's the data that's
11 lacking or that you're anticipating getting?

12 COMMISSIONER SINAY: Who can do it? What's legal?
13 What's not legal? What can we do at the state? You
14 know, what does the grant mean at the state level?
15 What's the timing? What's the restriction? And then on
16 the philanthropy side, what would it cost? How can do
17 they do it? Are they willing to do it? But we've found
18 the right people who can answer those questions now.

19 COMMISSIONER TOLEDO: Thank you.

20 CHAIR KENNEDY: Have I'm missed any hands? Things
21 are moving around but I just want to make sure that I
22 haven't missed anyone.

23 Commissioner Vasquez?

24 COMMISSIONER VASQUEZ: You didn't miss me. That was
25 my first hand raise.

1 COMMISSIONER VASQUEZ: I will say, I hear you,
2 Commissioner Andersen, about wanting to get the money out
3 sooner. And ideally, even once the money hits, there's
4 going to be, you know, a two- to four-week lag time
5 before activities actually start. People don't know if
6 they're going to get the money until they get the money,
7 so there's time administration costs as well.

8 That being said, we've also heard today that there's
9 a huge concern about our deadline of getting even a plan
10 for us to approve by December 14th. So if we are
11 responsive on one end to giving more time to, you know,
12 get our -- finally get our deputy executive onboard, give
13 them a chance to look over a plan and at least greenlight
14 it, much less, you know, have some real input into it,
15 you know, we're looking at the end of the year, not
16 approving something until after January, trying to find a
17 partner by which to distribute it, if it's not us.

18 So our timelines are just not -- they're not
19 aligning. So maybe would welcome some attempts to align
20 these.

21 CHAIR KENNEDY: Thank you.

22 Commissioner Turner?

23 COMMISSIONER TURNER: Thank you, Chair. I
24 apologize. I had to step off for a quick meeting.

25 But I want to find out, did you already -- to the

1 Subcommittee, have you already reached out in an attempt
2 to have someone to ask as a fiscal sponsor that will be
3 able to do the grants portion? You've already done that?
4 Okay. And that's in progress or you're not receiving
5 feedback?

6 COMMISSIONER SINAY: We were getting mixed signals.

7 COMMISSIONER TURNER: Okay.

8 COMMISSIONER SINAY: But now we've found the right
9 person to speak -- you know, we have someone now, so.

10 COMMISSIONER TURNER: Okay.

11 CHAIR KENNEDY: Very good.

12 Commissioner Andersen?

13 COMMISSIONER ANDERSEN: I guess what I'm really
14 asking is we don't have -- do we have to wait until all
15 this money is in place? I mean, can we start, you know,
16 our education? Should we -- we should be getting all of
17 that stuff together now, I'm not sure who that's relying
18 on, who that Subcommittee is, but start our outreach, as
19 we are, like our groups are starting, although I haven't
20 been working on that? And then actually starting to get
21 out into -- you know, start making our first touches. I
22 don't quite -- that doesn't have to wait until the money
23 comes in, right? We can, essentially, start going and
24 then, you know, I mean, say -- we can start lining up.
25 If we don't start lining up, everything has to be

1 fourteen days ahead of time anyway, so things like that,
2 that I'm asking about.

3 CHAIR KENNEDY: Commissioner? Okay. Commissioner
4 Le Mons?

5 VICE CHAIR LE MONS: Yeah. I was just going to
6 respond to Commissioner Andersen.

7 There's no -- the idea here isn't about waiting, a
8 comprehensive halt until March. They're talking about
9 these things in phases. What we were talking about was
10 that very specific granting process, whatever that's
11 going to look like. There's some realities that there
12 are some outstanding information. We have to get it.
13 We're waiting to get it. But it doesn't mean that
14 everything else is waiting until we solve that or that
15 even whatever that process looks like, that that's going
16 to be the jump-off point for everything else. It isn't.

17 So I think that we just kind of drilled in on that
18 point, on what they've been presenting, and we're kind of
19 extrapolating it out across everything.

20 And I just want to also say that I'm going back to
21 sort of a fundamental idea that maybe we need to get
22 clear on because some of what we need to do is going to
23 run at cross purposes to other things. And there's going
24 to have to be some give-and-take depending upon what our
25 priorities are.

1 And you know, not to beat a dead horse, but that
2 part, I think, we've yet to really establish. We have
3 some ideas. We have places that we're leaning. But we,
4 as a Commission, have yet to weigh in on what our very
5 agreed upon specific priorities and goals are. And I
6 think if we had those, we'd be able to point some of the
7 comments and reactions back to what we've agreed to. And
8 then the first step will be either to live with that
9 agreement or adjust it.

10 So I think the fact that we're, you know, right now,
11 we're all kind of leaning different, not meaning we're
12 all leaning different ways but there are different
13 schools of thought, I think, at this point, and I think
14 that we haven't gotten there.

15 One of the things that we've been really trying to
16 do is be patient for our outreach wing of the
17 organization, which is starting to happen, so that's cost
18 us time and it is what it is at this point. And it's
19 continuing to cost us a little bit of time. But if the
20 position is that we are not going to allow that to cost
21 us time and we're just going to go and do something
22 specific, then we have to shift gears a little bit. So I
23 think this, again, is a balance.

24 And then, finally, I say not only do we have a
25 tremendous opportunity because of the pandemic to do

1 things differently, I think we, still, most of our points
2 of reference is how they got there before because it's
3 only happened once before. And what I recall is that we
4 came into this not bound to that and really wanting to be
5 much more expansive. And I know we all kind of, yeah,
6 agree with that, and Director Claypool is clear on that
7 and that's why he's talking about making projections and
8 we're going to need more money, because we have a very
9 different idea.

10 So I don't know if it will look anything like the
11 meetings that they had before where people came and drew
12 maps and all of that. I'm suspecting it's going to look
13 very different. And I think the plan that the
14 Subcommittee is putting forward, that Mr. Ceja has not
15 had a chance to really digest and come back, I think this
16 kind of digging in is premature. I think we should
17 probably hear the high level and talk about philosophical
18 concepts that we support or don't support, so that when
19 he takes the recommendations from the Subcommittee, our
20 feedback, and his expertise, the thing to do dig in on is
21 this plan, not this document.

22 That's my thoughts.

23 CHAIR KENNEDY: Commissioner Vasquez?

24 COMMISSIONER VASQUEZ: Yes. Commissioner Le Mons
25 expanded on many of my points. I was going to try to

1 redirect folks to the proposed actions. And even to the
2 extent that we need to, in my mind, and Commissioner
3 Sinay, you can push back or interrupt me if I'm going
4 offsite, but I think the actions, again, are where I'd
5 like to focus. And it sounds like, particularly this
6 grant-making structure, there are different schools of
7 thought and different considerations.

8 So while we are waiting for a more fully baked plan
9 from a communications perspective, because we still don't
10 have a deputy executive director, that we take either the
11 rest of the time we have today or -- and/or next week's
12 conversation to flush out that -- where we as a
13 Commission stand on what that grant-making structure
14 should look like so that we can give additional details
15 back to staff about the direction on that particular
16 piece.

17 And that may actually be most beneficial because
18 that gives Mr. Ceja and the Subcommittee to connect, and
19 also for us to reconnect with the philanthropy people,
20 and also give another week for Director Claypool to get
21 more information from the state about how we can grant
22 and what that timeline and process looks like.

23 CHAIR KENNEDY: Okay.

24 Commissioner Sinay?

25 COMMISSIONER SINAY: Completely agree.

1 And I would also like to add, if you look at the
2 proposed action number 2, you'll see that what we've
3 tried to do is, looking at the 2.07, I think it's \$2.07
4 million budget, this is just a recommendation, you know?
5 Commissioner Vasquez kind of came up with her numbers, I
6 came with mine, and we were excited because they were
7 about the same, so we were like, okay. But we have no
8 proof of how we came up -- you know, why we came up with
9 these numbers. It was just something to put there. And
10 we would need a fuller budget and the costs.

11 But the idea -- this is to answer the question
12 Commissioner Andersen said is, wait, we're not going to
13 get the money out there until -- no. On here we have --
14 let's put -- we put -- we're saying, hey, let's put some
15 money aside for civic technology. Let's put some money
16 aside for local grants, and the collateral, digital,
17 visual, whatever it is we need. And so all of that -- my
18 thought would be that all the collateral stuff would be
19 ready by January and it would start going, you know, the
20 sooner the better.

21 But the idea is just to kind of create a high-level
22 budget breakdown, I guess, is the right word so that then
23 staff can actually create a budget and tell us, hey, you
24 know, you've underestimated or you've overestimated or
25 whatnot.

1 CHAIR KENNEDY: Okay.

2 Commissioner Andersen?

3 COMMISSIONER ANDERSEN: Okay. With that in mind, I
4 have two questions.

5 Engagement tools, I don't know if the data group has
6 had a look to see if you have any kind of idea if
7 \$150,000 to \$200,000 is in your ballpark. Do you have
8 any clue on that?

9 And the second question would be by collateral, is
10 that the education material?

11 COMMISSIONER SINAY: Anything we need for social
12 media, outreach, education, videos. We left it very
13 broad. Fredy's liking the fact that it's broad.

14 COMMISSIONER VASQUEZ: And if I can also add? The
15 engagement tools are not necessarily -- again, as we're
16 talking about overlapping of Committees, the way we saw
17 it and the way we have tentatively proposed, you know, up
18 to \$200,000 for engagement tools, that's not necessarily
19 the data management stuff, right?

20 It is simply like if we decided -- if we found
21 something, a great new system that's not Zoom to
22 facilitate town hall-type input sessions, that is what
23 the \$200,000 could go to, as compared to like a really
24 fancy data management place where we can accept maps and
25 blah, blah, blah, blah, blah. That's not -- that is a

1 separate line item. And that, we would look to,
2 probably, Director Claypool. That's how we see the other
3 operational stuff that we may need to budget out and
4 request more money for, is how we see it.

5 So engagement tools, we did think it was wise to
6 sort of hold on to some money internally for some great
7 new public meeting software that we don't know about yet.
8 But we're not thinking that that \$200,000 is up for
9 budgeting out for other types of civic technology.

10 CHAIR KENNEDY: Thank you.

11 Commissioner Ahmad?

12 COMMISSIONER AHMAD: Thank you. Can I just ask a
13 clarifying question?

14 So you all have listed out three different proposed
15 actions. Are these actions in combination with each
16 other? Are they standalone actions in your view?

17 How -- I think I'm just confused as to what are you
18 asking us to do? Are you asking us to direct staff to
19 look into developing a work plan? Does that work plan
20 have a monetary value tied to and the staff would work
21 within those constraints?

22 I see the different proposed actions as could be,
23 potentially, standalone, but then they contradict each
24 other at some point. So I just need a little bit more
25 clarification on that.

1 COMMISSIONER VASQUEZ: We did want to break these
2 out so that, you know, we could, theoretically, approve
3 actions two and three. But maybe we still feel like we
4 do need to have that conversation about we want to get
5 more specific on the grant-making structure before we ask
6 staff to fully back that out.

7 I don't -- I guess I guess I could sort of see how
8 they're conflicting. But we're asking in proposed --
9 such as proposed action two, we're asking, basically, to
10 keep all of \$2.07 million in the arms of outreach, and
11 this is how we're tentatively, with the idea that local
12 grants are the vast majority of that money, and then that
13 we would hold back some amount for a great new engagement
14 tool and some collateral.

15 I don't see that necessarily as conflicting with
16 action three which is, okay, take that \$2.07 million,
17 take our ranges that we've somewhat arbitrarily put on
18 here, and come up with a staffing budget with the idea
19 that, yeah, maybe staff comes back and goes, okay, well,
20 we only have \$2 million and it's only going to buy you
21 half a car. So if you want the whole car, you're going to
22 need to double this, sort of a thing.

23 And again, that plan, in my mind, is also informed
24 by proposed action one, which is to say, okay, come up
25 with the grant-making structure, come up with potential

1 parameters for what the local grants will have to share
2 in order to get the money, with the idea that, again,
3 staff could come back and go, okay, even up to \$20,000,
4 you're going to get X amount of work that's not even
5 remotely sufficient. If you want full coverage the
6 recommendation is to double the grant size.

7 So again, we still don't have a lot of information
8 but we are trying to be responsive to the fact that folks
9 want an idea with some timelines. And we still, we
10 don't -- we just don't have the staff capacity. Between
11 Commissioner Sinay and I, we just -- we simply don't have
12 the capacity to go through and create a full budget and
13 plan with timelines. And that is something staff -- we
14 need staff to do.

15 CHAIR KENNEDY: Very good.

16 Director Claypool?

17 EXECUTIVE DIRECTOR CLAYPOOL: So when I looked at
18 this plan, first of all, I appreciated the fact that you
19 stayed within the \$2,065,0000, because that is what is
20 line itemed in the budget, and it has to go to outreach.
21 It was, as I understand it, and I'll know a little bit
22 more this week, it was contemplated to be that money that
23 supplanted the Irvine Foundation's grants from last time.
24 And so -- and I read this to be fairly straightforward.

25 I understand that we are going to look at a program

1 of trying to see how much we can get for funding through
2 these grants, that we're going to hold back some of the
3 engagement -- some of the money for engagement tools and
4 collateral because we have to expect that we're going to
5 have to have some additional funds for that, and that the
6 staff would go ahead, once we have the deputy executive
7 director, and now that we have Mr. Ceja, they're going to
8 go ahead and develop a plan and give you an idea of about
9 what they can buy with this type of plan. And then we
10 either have enough to do it or we have to shift gears.

11 The one thing that I think this Commission really
12 needs to do is remember that as things come up, you're
13 just going to have to be able to pivot. And if it's not
14 enough money to pay for one thing, then we might have to
15 reevaluate it and see what else it can pay for, but it
16 has to go to outreach because that's how it was scheduled
17 by the legislature.

18 So I have a pretty good idea of what I think you're
19 asking our deputy executive director and our
20 communications director to do and I think they'll do a
21 good job with it. I know that Mr. Ceja is already moving
22 forward at great strides that seem to come with youth to
23 bring people aboard. We've talked to a couple of
24 different people about -- or actually with one person who
25 had been working with the census that knows quite a bit

1 about grants, we're looking -- he's already -- Mr. Ceja
2 is already looking at the staff he would need to do
3 things, like graphic arts and so forth.

4 So we're moving forward on those basic steps,
5 Commissioner Andersen, that will put us in a position to
6 have the materials and things we need to do. And I think
7 that the timelines fit well with this, as long as we can
8 actually put a plan in place sometime in mid-December,
9 okay?

10 Any questions?

11 CHAIR KENNEDY: Commissioner Sadhwani?

12 COMMISSIONER SADHWANI: I'll defer my action. Thank
13 you to everyone who has put in so much work on this.

14 Just one thought. We have an individual that we are
15 trying to hire as the deputy executive director. Are
16 there any circumstances in which we might hire that same
17 individual, while we are in this waiting process for all
18 of the paperwork, as a contractor who could help develop
19 this plan so that we can gain the same individual's
20 expertise and help move us forward? I certainly
21 recognize he also has a full-time job and maybe he
22 doesn't want to do that.

23 But to the extent that this is going to be a major
24 part of the work that they move forward, I'm wondering if
25 there could be an interim fix to help bring him onboard

1 in some sort of partial capacity?

2 I see Commissioner Fernandez having her hand up, so
3 I'm going to assume not, but I just wanted to throw that
4 out there.

5 CHAIR KENNEDY: And Director Claypool first, and
6 then Commissioner Fernandez.

7 EXECUTIVE DIRECTOR CLAYPOOL: I'll defer to
8 Commissioner Fernandez.

9 COMMISSIONER FERNANDEZ: Yes. Interesting that you
10 should bring that up, Commissioner Sadhwani. We had a
11 meeting on Monday. And so, actually, what -- we directed
12 Director Claypool to go back to see if we can potentially
13 put the candidate in what we would call a temporary
14 blanket, so that we can bring him over right away. And
15 then once the position is established, then roll him into
16 the position. And he'll have more information on that.

17 And I have to apologize to the full Commission that
18 I'm not sure why I didn't think of that prior. I guess
19 I've been out of personnel too long. But I'm not even
20 sure if that's possible anymore, but I do know that
21 we've, in my prior jobs, we've done that in the past as
22 kind of to fill the gap.

23 So anyway, I'll defer to Director Claypool with
24 that.

25 EXECUTIVE DIRECTOR CLAYPOOL: And so we did look at

1 the blanket. And there's a -- the problem with it is
2 that he needs -- the individual who will be taking the
3 position needs a place to land. And so for that to
4 happen we have to have this position established. So
5 we're back into this circle of needing and established
6 position.

7 We did make some headway this week in finally
8 getting -- actually, Raul had to go and get the position
9 classification from CalHR to give to DGS HR because,
10 apparently, they wouldn't make the trip themselves. And
11 so we've got the classification, and so we're working,
12 but it doesn't look like the blanket is going to work

13 Also, putting him under contract is problematic,
14 mainly because he is working for another state agency.
15 So we can look at that but I would be -- I would think
16 that his own agency would be a little bit, you know,
17 suspect on that, particularly given that I'm not entirely
18 certain that his own agency knows that the transition is
19 going to be made.

20 So I will look into it, Commissioner Sadhwani, but I
21 don't believe that's going to be a viable route for us.

22 CHAIR KENNEDY: Commissioner Le Mons?

23 VICE CHAIR LE MONS: I just hope that last statement
24 didn't mean that that bought us another two weeks passed
25 all of this administrative stuff that we're doing, per

1 se. I mean, I'd like to know if that is our reality that
2 we're facing, I guess.

3 And then the second thing is if we have a position,
4 an unfilled position, on our staff, that we could just
5 hire him in and then promote him when the position is
6 finished?

7 CHAIR KENNEDY: Commissioner Fernandez?

8 COMMISSIONER FERNANDEZ: Well, how about an
9 interagency agreement with the other agency?

10 CHAIR KENNEDY: Director Claypool?

11 EXECUTIVE DIRECTOR CLAYPOOL: It will -- again, to
12 put this delicately, I don't know how much this
13 individual's current organization knows regarding the
14 possibility that he may be leaving. And if he hasn't got
15 a place to land, then this individual will probably not
16 be willing to disclose this plan, not knowing that it's a
17 done deal. That's all.

18 CHAIR KENNEDY: Commissioner Fernandez, and then
19 Commissioner Le Mons.

20 COMMISSIONER FERNANDEZ: Well, maybe we could call
21 him and ask him if his agency -- I could call and ask
22 this person, just to see like where we are. I mean,
23 I'm --

24 EXECUTIVE DIRECTOR CLAYPOOL: As long as -- so
25 you're talking about calling our individual?

1 COMMISSIONER SADHWANI: Exactly.

2 EXECUTIVE DIRECTOR CLAYPOOL: Well, by all means, if
3 he -- if this individual is willing to make that
4 disclosure and to take that leap, then I would welcome,
5 you know, welcome the suggestion. Then possibly that,
6 the interagency, is a possibility. I just know
7 personally that if I were in that position myself, that
8 might be a little bit dicey for me. That's all.

9 CHAIR KENNEDY: Thank you.

10 Commissioner Le Mons?

11 VICE CHAIR LE MONS: Thank you for that,
12 Commissioner Fernandez. I was going to say, I think we
13 are having weekly updates with this person, so we sort of
14 have a relationship, we're dating. So let's up the ante.

15 And then the second piece to that is -- I forgot the
16 second piece. Okay. I'll have to think about it. I
17 tickled myself there.

18 COMMISSIONER FERNANDEZ: (Indiscernible) --

19 CHAIR KENNEDY: Commissioner Turner?

20 COMMISSIONER TURNER: So my question is a little bit
21 off of that, so -- but, basically, on the plan, on the
22 phases, I was going to ask, under the inform, when we go
23 out to do the education, is there a pre phase that we can
24 enter in where we're actually receiving from some of the
25 groups that came and presented here that told us that

1 they would give us tips on strategy and how to present to
2 the people?

3 CHAIR KENNEDY: Commissioner Le Mons?

4 VICE CHAIR LE MONS: So I did remember the other
5 question. And then I also wanted to respond to
6 Commissioner Turner.

7 So my understanding is that this is just an
8 administrative process. And I don't know if you were
9 just being very conservative, Director Claypool, in your
10 responses but I want to make sure that I didn't hear that
11 this is risky. Like is this just a matter of something
12 going through the process or we're not sure that it
13 actual can happen? So that's important clarification.

14 And then I have a response to Commissioner Turner.

15 CHAIR KENNEDY: Director Claypool?

16 EXECUTIVE DIRECTOR CLAYPOOL: So with all things, as
17 we've spoken about so many things, in the state you hope
18 for things to go the length of time they're supposed to
19 go and you hope to have the outcome you're supposed to
20 get. But I can't tell you that this outcome will be
21 timely. I am almost positive it will be done, I just
22 don't know what timely is, particularly when you're
23 dealing with the Department of General Services.

24 I have to tell you that when we had the
25 conversation, and I actually met this individual through

1 a Zoom call and we had a discussion, so Commissioners
2 Fernandez and Ahmad said, "So tell him what's going on."
3 And I said, "Well, you know, the Department of General
4 Services," and he rolled his eyes and he smiled. So he
5 knows that it's problematic rolling through this rather
6 bureaucratic org.

7 We're pushing all the buttons we can. We have a
8 couple more to push. But do I believe that he will,
9 eventually, come aboard? Ninety-nine percent positive.

10 VICE CHAIR LE MONS: Okay.

11 EXECUTIVE DIRECTOR CLAYPOOL: Can I tell you that he
12 will come aboard in two weeks? I'm hopeful.

13 VICE CHAIR LE MONS: Yeah. I was clear on the
14 timing part.

15 EXECUTIVE DIRECTOR CLAYPOOL: Okay.

16 VICE CHAIR LE MONS: I know that there's no
17 guarantee. It was really more of whether it was in
18 jeopardy of it being able to be done, like was there some
19 question that, at some point along this process, it might
20 fall out, like not -- we can't do what we're trying to do
21 in terms of creating this role, but it doesn't sound like
22 that's an issue. So that was the part I was asking.

23 EXECUTIVE DIRECTOR CLAYPOOL: Okay.

24 VICE CHAIR LE MONS: What I was going to say is
25 actually a recommendation to Mr. Ceja based on

1 Commissioner Turner's comment. I was thinking yesterday,
2 after the -- as the presenters were presenting, and then
3 reflecting on some of our previous presentations, and I
4 think that there are multiple sources of individuals that
5 had some really clear ideas around strategy,
6 communication strategy, outreach strategy.

7 And I don't know whether or not the Subcommittee has
8 already addressed this or put together some kind of
9 informal loosely-defined advisory group or group of
10 people who are willing to lend their thoughts to it. But
11 it might be worthwhile to reach out to some of them who
12 have at least come and presented. And as you're
13 developing your plan, you could take into some of those
14 things.

15 I know some of them you've heard, but then some of
16 them, you know, have been a while back, so however you
17 want to structure that, that just might be a good way to
18 incorporate some of their thoughts in that strategy.

19 CHAIR KENNEDY: turn?

20 COMMISSIONER TURNER: Thank you. And the other
21 piece is that I just wanted to name that the groups that
22 I spoke with, as well, they are already -- they went into
23 census with the idea that they would be participating
24 with redistricting. So they're not waiting to begin to
25 create things, and so that we're not creating something

1 that might -- I can't imagine it conflicts, but make sure
2 that it works in concert with what they're already doing.
3 A lot of the groups are already reaching out. They're
4 already trying to come up with educational material and
5 what have you. So I just would want to make that we're
6 syncing up on that.

7 CHAIR KENNEDY: Very good.

8 Commissioner Toledo?

9 COMMISSIONER TOLEDO: Just given that the deputy
10 executive director is such an important role for this, I
11 was just wondering if there's any advocacy that the
12 Commission can do or anything with the legislature or
13 with others to allow us to move this forward quicker, or
14 any suggestions you might have, Director Claypool, in our
15 ability to move this forward?

16 CHAIR KENNEDY: Director Claypool?

17 EXECUTIVE DIRECTOR CLAYPOOL: So that is one of the
18 things we're going to touch on next. So right now, we're
19 still trying to do it. We're at the ends, actually, of
20 our patience with doing it where we're -- with the
21 standard people that we've been working with this
22 morning.

23 And I really have to apologize. This morning our
24 chief counsel, Ms. Marshall, was talking to two deputy
25 directors and the chief counsel of the Department of

1 General Services about this very subject. I mean, we've
2 elevated it that far. We're getting -- the next one
3 would be to go to the director. Past that, we have some
4 ability to go to the legislature ourselves, and so that
5 would be the next thing. All of these things during this
6 week and early next week. After that, then we would call
7 on people who seem to be very well connected in this
8 Commission to reach out and do the same.

9 But that's the trajectory of this. It's ramping up
10 fairly quickly. That's why I'm confident we'll get the
11 position. I'm hopeful for a more rapid termination of
12 the process. But if we need you all to get in on that,
13 then we will come back to you, but we also have some
14 other available means that we're going to try to tap
15 first.

16 CHAIR KENNEDY: Very good. Thank you.

17 Commissioner Sadhwani?

18 COMMISSIONER SADHWANI: Sure. Thank you.

19 And Director Claypool, I very much appreciate that.
20 And I just recall, like from interviews with you, with
21 Mr. Ceja and others, I think one of our questions had
22 been about utilizing your ability to utilize your
23 contacts. I know, I remember, you know, that you bring
24 with you a wealth of experience and many years of a
25 career in state service. So I would certainly implore

1 any of our staff who have contacts there that can begin
2 to move mountains to do so. We have been waiting for
3 quite some time already.

4 So I think if there are contacts that can be called
5 upon -- I don't have contacts at DGSS. You know, that's
6 not really ever been something I've done. But I would
7 certainly hope that the new folks that we've brought into
8 our staff could call on those networks to get this moving
9 for us.

10 CHAIR KENNEDY: Thank you, Commissioner Sadhwani.

11 Mr. Ceja? I'm not hearing you.

12 MR. CEJA: Can you hear me now? Okay.

13 So just to reiterate what Director Claypool was
14 saying, we're using the olive branch first. And if that
15 doesn't help, then we will move to making those phone
16 calls to the low-hanging fruit of legislators that we
17 know to get the ball rolling. But it's at the top of our
18 priority.

19 CHAIR KENNEDY: Commissioner Sinay?

20 COMMISSIONER SINAY: I was just going to go back to
21 the plan and just see if we're all okay with kind of --
22 as Commissioner Vasquez, this is really -- and as you
23 know, we keep saying, this is kind of our opportunity to
24 hand something over to, at the moment it's Mr. Ceja, but
25 to staff and just with some ideas of what we've all been

1 thinking about and saying. And then the actions, really
2 to give them parameters so that they could understand,
3 you know, have specific marching orders.

4 One thing I heard from Commissioner Turner that I've
5 been really worried about, as well, is groups are hungry
6 for the information. I mean, groups shouldn't be
7 creating their own information on this. We should be
8 creating information, you know, that collateral, for lack
9 of a better, you know, the sheets, for them. And I'm not
10 saying it in a -- I'm not saying it to put down the great
11 effort that they're doing but just they are so busy that,
12 you know -- so there's just different -- there's just so
13 many priorities right now.

14 The other piece I wanted to make sure is, you know,
15 one of the areas that's still missing, and it's not on
16 here but it did come up yesterday, and we didn't know
17 that this is what it was called, but Commissioner Vasquez
18 and I were looking at the sectors and how to do outreach
19 to the sectors. We had first focused on the communities
20 of interest. And that also worked well with the
21 access -- Global Access Subcommittee. But we are
22 looking -- we were looking at how do we do outreach to
23 the economics, you know, some of the other sectors'
24 business and such, whatnot?

25 I did want to propose, my strength is in design and

1 kind of bringing everything to a place like here and then
2 handing it off. That's the joy of being a consultant,
3 sometimes, is you get to walk away. And I do love
4 implementing. But Commissioner Le Mons has said on
5 several occasions that this is what he's been waiting
6 for. And so I'm willing to step back now from this
7 Subcommittee, so we do have the different parties on the
8 Subcommittee, as well as the expertise that's need for
9 implementation to support staff as they're looking at all
10 of this.

11 CHAIR KENNEDY: I have been deferring for, I don't
12 know, two or three columns of initials to comment on a
13 couple of things, so let me take a moment and comment on
14 two things.

15 One, Commissioner Sinay, you just made a comment
16 about partners shouldn't have to be developing their own
17 materials. We should be doing that. And that's
18 certainly one way to do it. And I certainly, you know,
19 don't want partners to feel burdened with having to
20 develop their own materials because we're not yet in a
21 place to do it.

22 But I also don't want them to feel like, you
23 know -- well, I've seen this done two ways. I've
24 seen it done where the body in our position develops the
25 materials and then everybody else is just a distribution

1 channel. And then I've seen it done where that's a
2 possibility, so the body in our position can and does
3 produce the materials, but partners are also welcome to
4 produce materials. And what I generally do in those
5 situations is invite the partners to share their
6 materials with the group for review.

7 I mean, the worst thing that can happen in a situ
8 like this is that, for any reason at all, misinformation
9 gets out. Once misinformation gets out it is enormously
10 difficult to, you know, even with retractions and
11 corrections and whatever, there are impressions left,
12 there are, you know, minute channels where the
13 misinformation has just taken root. And no matter what
14 you do it spreads and spreads and spreads.

15 So I do like to invite partners to share materials
16 so that, you know, we can all work together to make sure
17 that there are no factual errors, that it's not any --
18 it's not an issue of our trying to exercise control or
19 style or anything else, but just working together to try
20 to ensure that there is no misinformation out there, so I
21 just want to put that on the table.

22 The second, and this goes well back in the
23 conversation -- as I said, I've been deferring to
24 others -- I feel very strongly that we are or we would be
25 best off with an arms-length relationship to anyone who

1 is receiving funding out of this outreach pot. You know,
2 my experience, and perhaps not directly relevant, but
3 when the Mexican Government funded the Election
4 Commission to pass through funding to domestic observer
5 organizations, the Election Commission had the good sense
6 and said, well, you know, it's going to look really bad
7 if we fund the groups that are going to be observing our
8 work.

9 So they came to the United Nations and said, could
10 you please help us? And so the United Nations ended up
11 administering those funds, you know, and there was a
12 committee that oversaw the process and so forth.

13 I just think that the potential damage to our
14 reputation, were we to be granting funds directly to
15 groups that are going to be, you know, providing a large
16 amount of the input to us, to me, the dangers there are
17 just too great, so I'll leave it at that.

18 And anyone else, I'm happy to recognize. I see a
19 coffee mug but no hands.

20 Commissioner Fornaciari?

21 COMMISSIONER FORNACIARI: Thanks. I just want to
22 thank the Subcommittee for putting this together. And
23 it's really been helpful for me to kind of understand
24 what you had in mind or what the thoughts are and where
25 we're going.

1 I guess my question is, I'm looking at the first
2 phase, and it's public education, and so I guess Mr. Ceja
3 is getting that ball rolling kind of already because of
4 its launch on January 11th, kind of thing, but is that
5 what we're doing at this point? I mean, are we moving
6 forward with that? Or do you need -- I mean, I guess my
7 question is are you looking to the Commission to bless
8 this and then move forward or where do we go from here?

9 COMMISSIONER VASQUEZ: I mean, the hope was that
10 everyone is onboard, more or less, with, again, the
11 orientation to this work, the direction and the, I guess,
12 speed, although that is also flexible and not always in
13 our control.

14 I think as I've -- I'll bring it back to what I
15 opened up with, is that everything in the background
16 section is sort of up for -- is in flux based on things
17 we can control or our staff can control and things we
18 can't control, particularly timelines and, you know,
19 potential partners, and even potential tools.

20 So even if we don't take specific action, because it
21 seems like we don't always need to have approved actions
22 to direct staff to do something, our hope is that folks
23 are generally onboard with this strategy map going
24 forward. And we'll be looking for staff in the next few
25 weeks to have a more baked out plan based on some of the

1 priorities and strategies we've laid out here.

2 CHAIR KENNEDY: Commissioner Ahmad?

3 COMMISSIONER AHMAD: Thank you. Would it be -- it's
4 up to you, Chair, but I would be interested in hearing
5 public comment about this item, if that is something that
6 is on the agenda.

7 CHAIR KENNEDY: Yes. We do generally take public
8 comment before the end of the day. And unless there are
9 other Commissioners wanting to weigh in at this point, I
10 will ask Katy to -- Commissioner Le Mons?

11 VICE CHAIR LE MONS: I have a question for Mr. Ceja.
12 I don't know.

13 First, I guess I'd ask, have you had a chance to
14 review what the Subcommittee has presented? And based --
15 yeah?

16 MR. CEJA: Yes.

17 VICE CHAIR LE MONS: And so based upon your review
18 it might be helpful for us to hear just some high-level
19 thoughts that you have about what's been presented and
20 kind of what you need and what you're thinking in terms
21 of how you take what's been presented to you and this
22 discussion and maybe help give us some sense of your
23 strategy, what you're planning to do at this kind of
24 pass-off, quote/unquote, unofficial, not completely, has
25 happened?

1 MR. CEJA: Yeah. So I think we're having a
2 conversation with the Commission chairs over the weekend
3 to discuss just that, what the transition would look
4 like.

5 What I've gathered so far is that it's a great
6 starting point. The fear I have is if a lot of this
7 outreach is going to go viral due to COVID-19, how is
8 that going to affect our plans now and the structure that
9 we have set in place? And is this plan -- will this plan
10 be amendable to change in the future if the directives
11 from the Governor's office are that we cannot do in-
12 person meetings or do data collection in that sense.

13 Commissioner Sinay?

14 COMMISSIONER SINAY: Most of our thinking behind
15 this was that it was virtual, so it was more the other
16 way around, the other way around meaning all of a sudden
17 there's a vaccine, we've all gotten it, and we can -- you
18 know? So no, it was all -- that whole thinking behind
19 this was virtual.

20 The piece, I think, that's still missing is on the
21 final kind of the line drawing and how we're going to do
22 that. And I think part of that is we keep hoping we find
23 better tools so that we can engage folks with that.

24 CHAIR KENNEDY: And I'm a bit of a broken record on
25 this but I hope that we can have a robust element of this

1 introducing the Commission and the legal framework,
2 understanding we don't want to get into the weeds on the
3 legal framework, but we do need people to understand who
4 we are and the constraints within which we are going to
5 be getting this done.

6 Mr. Ceja, was that a hand up?

7 MR. CEJA: I was just going to say that, yes, as far
8 as outreach to the general community, that was -- our
9 priority was to let everyone know who we are, what we do,
10 and what our purpose is, and then delve into the process
11 as it rolls out.

12 CHAIR KENNEDY: Very good.

13 Katy, would you please read the instructions for
14 public comment?

15 PUBLIC COMMENT MODERATOR: In order to maximize
16 transparency and public participation in our process, the
17 Commissioners will be taking public comment by phone. To
18 call in, dial the telephone number provided on the
19 livestream feed. The telephone number is (877) 853-5247.
20 When prompted, enter the meeting I.D. number provided on
21 the livestream feed. It is 91505532099 for this week's
22 meeting. When prompted to enter a participant I.D.,
23 simply press the pound key.

24 Once you have dialed in you will be placed in a
25 queue from which a moderator will begin un-muting callers

1 to submit their comment. You will also hear an automatic
2 message to press star 9. Please do this to raise your
3 hand, indicating you wish to comment. When it is your
4 turn to speak the moderator will unmute you and you will
5 hear an automatic message that says, "The host would like
6 you to talk and to press star 6 to speak." Please make
7 sure to mute your computer or livestream audio to prevent
8 any feedback or distortion during your call.

9 Once you are waiting in the queue, be alert for when
10 it is your turn to speak and again, please turn down the
11 livestream volume while you are in the queue and on your
12 call.

13 These instruction are also located on the website.

14 The Commission is taking public comment on -- I
15 don't know how we're describing this.

16 CHAIR KENNEDY: Well, we're taking public comment on
17 both the outreach strategy document that we've been
18 discussing but, also, any general comments.

19 PUBLIC COMMENT MODERATOR: Okay. So we're doing
20 general comment and the specific? Okay.

21 We do have someone in the queue.

22 CHAIR KENNEDY: Could you invite them to join us
23 please?

24 PUBLIC COMMENT MODERATOR: I will do that.

25 Please state and spell your name for the

1 Commission -- or for the Court Reporter?

2 MS. CAMACHO: Yes. Can you hear me? Yes. Thank
3 you. It's Lupe Camacho, L-U-P-E C-A-M-A-C-H-O.

4 PUBLIC COMMENT MODERATOR: The floor is yours.

5 MS. CAMACHO: Thank you. I just had two
6 recommendations as a resident. Having gone through this
7 census decennial, and having been very active in my own
8 community as a Complete Count Committee chair, I wanted
9 to make just two recommendations.

10 One, Mr. Kennedy, I wanted to provide some support
11 for the message you had, Commissioner Kennedy, for the
12 continuity of the information being disseminated through
13 the outreach that is going to be conducted. Yeah, it was
14 seen that there were some pieces of information that
15 were -- sometimes when it is allowed for other entities
16 to modify the message to meet certain criteria to engage
17 a community, sometimes the message is either lost or some
18 misinformation is produced. And at no fault, of course,
19 of anybody. I mean, it's never done intentionally. But
20 Mr. Kennedy, Commissioner Kennedy, is very correct. Once
21 that gets out there, sometimes it is very, very difficult
22 to rein that back and to bring it back into focus to the
23 correct information.

24 So I would make that recommendation, that the
25 continuity of the information be protected and maintained

1 with the Commission, and that the Commission be directly
2 involved in that so that the continuity is maintained.
3 That is one of my recommendations.

4 The other recommendation I would make is, having
5 been in the public sector for many, many years and
6 contracting out to private entities, private nonprofits
7 and private regulation for-profit companies, I would just
8 make the recommendation, and I don't know, I didn't hear
9 it coming up at all in this meeting, when you hire
10 more -- how can I say this? If it is overseen by the
11 Commission, the distribution of this funding, there is
12 more funding available to distribute. If there is a
13 hiring of an agency to do that for the Commission, of
14 course, then that overhead has to be paid.

15 So I just wanted to bring that to the table and
16 provide that as information. I'm sure most of you
17 already know this but I didn't hear it discussed, so I
18 just wanted to outline that. But obviously, as a
19 consultant is hired to put together this plan or
20 disseminate the funding, that funding, of course, has
21 cost overhead. That process is going to cause overhead
22 and so, therefore, a lower amount of money will be
23 disseminated to the local efforts for outreach and
24 engagement. So I have seen that through my personal
25 experience. I just wanted to bring that to the table.

1 Thank you very much.

2 CHAIR KENNEDY: Thank you, Ms. Camacho.

3 Katy, do we have any other callers?

4 PUBLIC COMMENT MODERATOR: That was it.

5 CHAIR KENNEDY: Okay.

6 Any other Commissioners at this point? Commissioner
7 Turner?

8 COMMISSIONER TURNER: Thank you, Chair. And thanks.
9 I appreciate the comments from Ms. Camacho. I couple of
10 things I wanted to lift for that.

11 I still want us to balance any potential
12 administrative fee that would be charged if, indeed,
13 there was a fiscal sponsor with, perhaps, litigation that
14 we may have if, indeed, we have unfairness issues that we
15 have to deal with later based on how the grants are, you
16 know, distributed, number 1.

17 And then, also, on the input and the consistency of
18 documents, we took comment from several organizations to
19 ensure that they help us be able to reach out. I'm
20 thinking even of NALEO that talked about allowing to see
21 themselves and participate in different ways. I still am
22 a strong advocate to ensure that we hear that and allow
23 flexibility. Frequently, being in the field, if we
24 receive information that is so vanilla or so technical,
25 we will always change it anyway by the time it comes out.

1 We always hone it to make sure that it is something that
2 we believe will reach the people that we are trying to
3 reach.

4 And so I don't know that we could ever be totally in
5 control of what goes out whichever way we do it. I just
6 think that if we engage the organizations up front and
7 get their input and use their input to create the
8 material to begin with, that may give us a better
9 opportunity to have it look like we want when it's
10 disseminated.

11 CHAIR KENNEDY: Thank you. And I think that also
12 goes to the point that was made earlier today that, you
13 know, having a coordinating -- a communications
14 coordination group would be important in this situ,
15 because that could certainly help ensure that, you know,
16 groups have adequate flexibility while also ensuring the
17 quality control over the factual correctness of the
18 material that goes out.

19 CHAIR KENNEDY: Commissioner Le Mons, was that your
20 hand?

21 VICE CHAIR LE MONS: Yeah. I just wanted to concur
22 with Commissioner Turner. I think we have to balance
23 between the two and give flexibility.

24 I'm hoping that we're -- you know, our basic who we
25 are, there's no flexibility in that. We are who we are,

1 right? But in terms of how -- what we're asking from the
2 community is communicated, I'm hoping we're going to come
3 up with frameworks and templates that really give space
4 to the communities.

5 And when I say that I'm really talking about those
6 that aren't your mainstreamed organizations and groups
7 that are used to dealing with and utilizing information
8 that comes out from the state. We've been acclimated to
9 that. We're talking about the hard-to-reach communities.
10 We're talking about communities that have trust issues
11 with government. We're talking about all of those kinds
12 of groups. And we have to give them the latitude because
13 to come in heavy-handed will only reinforce all of those
14 barriers that we're trying to actually get beyond, so I
15 think we're going to have a mix.

16 And what Commissioner Kennedy just said about having
17 this group that can advise and support, I think, will
18 mitigate some of the frustration and blowback that we'll
19 get, because we are going to get it. That's just -- we
20 think the maps are going to be challenged. We've
21 accepted that. But trust me, when you begin to talk
22 about the kind of outreach enterprise we're trying to put
23 together and achieve, we're going to get blowback from
24 the community because we're going to do our very best but
25 it will be what it's going to be. So I'm glad we're

1 having this. I've been looking forward to the discussion
2 today.

3 And I still am of the belief, personally, that
4 there's some key outcomes that we want that I look
5 forward to us addressing in our next meeting from
6 community. And I'm not clear, I have ideas, but I'm not
7 clear as to the Commission on that yet, what those
8 outputs are that we're expecting from them. We know
9 about the education we want to give them but it's in
10 service of something. And I'm leaving that open
11 intentionally. I think that that's a discussion that we
12 should definitely have in our next meeting at that time,
13 so that's other outreach to discuss.

14 And I guess in my mind I kind of think of this whole
15 thing like a puzzle. And all of the communities across
16 the state have a piece. And we're wanting to understand
17 their piece of the puzzle and plug it in. And like, in
18 my head, that's sort of a very simplified idea. But I
19 think we have to come up with some kind of simplified
20 idea to communicate to the community what we are wanting
21 to get from them. Because when you think about a
22 community of interest, we all know that that could mean a
23 lot of on-the-ground, kind of, what does that mean, you
24 know?

25 And then the other thing is to be able to then

1 translate that community of interest into a map. I think
2 we've got to come up with those very simple mechanisms
3 that allows community to be able to do that. Because,
4 yes, I can tell you all about me and my community and all
5 of that, but that doesn't mean that I can then translate
6 that into something that is absolutely useable by the
7 Commission in its process. So if we could help solve
8 that, either through community groups helping us, or we
9 have ideas about how we solve that in that real simple
10 one-two-three kind of idea that makes I easy, I think it
11 will be helpful to really get useable feedback.

12 Yeah. So thank you.

13 CHAIR KENNEDY: Thank you.

14 Commissioner Sadhwani, and then Commissioner
15 Akutagawa.

16 COMMISSIONER SADHWANI: Very briefly.

17 I agree with all of the comments that have been
18 said, particularly about the caution that we should take,
19 and I agree with that.

20 And I just wanted to also put out there, this is
21 unchartered territory. This morning we spent a lot of
22 time talking about the maps being litigated under VRA
23 compliance. I would hate, however we proceed with
24 utilizing these funds, I would really hate to see the
25 maps undergo litigation for VRA compliance and have it

1 based on how we have put out these funds or who we have
2 contracted with, what kinds of communities we have
3 contracted with.

4 So I just want to offer that. I don't know that
5 that that would be the case. But because it's uncharted
6 territory, I'll leave it at that.

7 CHAIR KENNEDY: Okay. Thank you.

8 Commissioner Akutagawa?

9 COMMISSIONER AKUTAGAWA: I just want to say I
10 appreciate this conversation a lot. It's been really
11 interesting in just hearing all the various perspectives
12 that come up. And I know I may have thought about one
13 thing one way but I think, as I've heard the
14 conversations, I've really come around to, perhaps, maybe
15 going back to where I originally was, for various
16 reasons. And one of them is what Commissioner Le Mons
17 just brought up about hard-to-reach communities and
18 communities with trust issues.

19 I guess I am kind of curious. Something that
20 Commissioner Le Mons just said got me thinking about
21 something else that was on the document that the Outreach
22 and Engagement Committee put together around Commission-
23 identified goals. And he asked about -- or what I heard
24 him say is about, you know, how do we get the maps? I
25 mean, how do we reach especially communities that not

1 only are just hard to reach but, you know, how do you
2 help them explain, you know, explaining there are
3 communities of interest?

4 And again, I go back to the presenter yesterday and
5 one of the things he said about is it better to get one
6 map that includes the input of fifty people who came
7 together at a meeting or virtually that a community
8 organization organized versus fifty separate maps but
9 we're talking about a one-street difference. And I don't
10 see it reflected here. I don't know if that's something
11 that needs to be reflected in the goals that I think --
12 what I'm seeing here.

13 And Commissioner Le Mons, I'm not sure if these are
14 the goals that you were thinking about or if you're
15 thinking about something different? It's on the --

16 VICE CHAIR LE MONS: I wasn't aware -- yeah, I
17 wasn't aware of those goals when I made the goals'
18 statement yesterday. Now that we have been made aware of
19 those goals, I still don't feel like -- I think those
20 goals are a subset of -- it's not that those aren't the
21 goals, but that's not an exhaustive list of the goals. I
22 think that's an aspect.

23 COMMISSIONER AKUTAGAWA: Okay.

24 VICE CHAIR LE MONS: And I think that's the
25 conversation that we need as to what do we hope to get?

1 Like, we've talked a lot about the output in terms of the
2 education and helping people understand why this is an
3 important process and why it's important to participate.
4 There's also got to be education around how you
5 participate and it's sort of going more in that
6 direction. We won't have trouble saying how. But we've
7 got to figure out how to say how in a very easy way that
8 delivers us an output that we can actually use.

9 And I think that that part right there, for me, is a
10 still a question mark. And not that I'm confused, I just
11 don't think that we have gotten to that point yet to
12 define that. And that's going to be really, really,
13 really important because, at the end of the day, whatever
14 route we take to the fund disbursement -- and I think
15 we're going to probably have to some more discussions
16 around that, as well -- I'm hoping that what's available
17 to us will really shape and narrow that discussion so it
18 won't be as -- go in as many potential directions as it
19 can go at this point, so I won't focus on that.

20 But whatever we ultimately decide to use as a
21 mechanism to get our message out to the ground level of
22 community to get their input, we have got to be able to
23 be asking for an output from them that we want and can
24 use. And I know that the Subcommittee that's looking at
25 processing the data, like we thought about this from this

1 idea, we're going to be getting input in all these
2 different ways and we want to find a group that can take
3 this information and translate it for us, that's yet to
4 be seen. Like what are those ways? How is that going to
5 be tracked? And again, this is where we're trying to
6 figure all this stuff out.

7 But at the end of the day, in order to send an of
8 these groups out and say, okay, this is what we need you
9 to come back with and that's what you've demonstrated, by
10 coming back with that thing, you've demonstrated what we
11 wanted you to demonstrate for those resources. And I
12 think if we can make a clear line to that, and we can
13 show that that's nonpartisan, and we can show that that
14 was based on a certain amount of reaching all of that, I
15 think a lot of the concerns that people have about how we
16 can be influenced and affected can be mitigated. But
17 again, we can't begin to even have a risk conversation
18 around this until we have more information.

19 I hope that answers your question, Commissioner
20 Akutagawa.

21 CHAIR KENNEDY: Thank you, Commissioner Le Mons.

22 We have a caller. And then after the caller, I have
23 Commissioner Turner.

24 PUBLIC COMMENT MODERATOR: If you'll please state
25 and spell your name for the Court Reporter?

1 MS. GOLD: Hi. This is Rosalind Gold,
2 R-O-S-A-L-I-N-D, and the last name is Gold, G-O-L-D.
3 And I'm with the NALEO Educational Fund. And I just
4 wanted to ask for some clarification on an idea that was
5 mentioned earlier, and I may not be understanding it
6 correctly, so my sincere apologies if I'm not
7 understanding it correctly. But it has to do with what
8 is the role of the Commission and community groups vis-a-
9 vis producing outreach and education materials? There's
10 actually a role for both.

11 We feel that the thing that the Commission can do
12 best is to produce sort of templates and high-level
13 materials that emphasize why redistricting is important
14 for all Californians, some basic education about the
15 process, some basic education about what happens at a
16 meeting, some basic education about the criteria.

17 But there is a partnership role for community groups
18 to provide materials that are very specific to our
19 communities and that reach people with specifics about
20 like, okay, these are the kinds of things you should be
21 thinking about when you submit community of interest
22 testimony. Here's the kind of reasons, you know, giving
23 some real specific examples of why, for our particular
24 community, redistricting is important. Certainly, making
25 sure that there is good accessible language.

1 And so it's a difference between what I call high-
2 level and deep-dive materials. I don't think that
3 there's necessarily duplication in that sense. But I do
4 think there is a role for both, like I said, for a
5 partnership in this regard. And you know, again, I think
6 we had talked about having a Language Access Advisory
7 Committee. That is another role for that Committee in
8 looking over the materials that the Commission comes up
9 with.

10 Thank you so much.

11 CHAIR KENNEDY: Thank you, Ms. Gold. I would say
12 that, you know, that very much reflects what I'm hearing
13 from the Commission, that we want this to be a
14 partnership. And we do not want to get in the way of
15 partners putting out, developing, and disseminating
16 information that is developed to have the greatest impact
17 possible in the various communities throughout the state.

18 Commissioner Sinay?

19 COMMISSIONER SINAY: I want to apologize because I
20 didn't mean to should anybody when I made my comment. My
21 thought was exactly what you are saying, Ms. Gold, that I
22 felt like that the community needs kind of those
23 templates and some of that basic -- the basic piece from
24 us so that they could make it. I wasn't trying to say
25 anything negative about the community creating materials.

1 And I know I used the should word and I shouldn't have,
2 so I -- I used it twice. So thank you.

3 MS. GOLD: I just wanted to get the clarification.
4 No worries. Thank you all for again being so thoughtful
5 and responsive as you think about all of these issues.

6 CHAIR KENNEDY: You're welcome. And thank you for
7 calling us.

8 Commissioner Turner?

9 COMMISSIONER TURNER: Yes. Thank you.
10 The earlier conversation we were having about goals
11 and stuff reminded me, kind of prompted me to another
12 piece of the conversation when we were doing our outreach
13 to the community groups, that ties in back to the grant
14 amounts, irregardless of to whether we'll distribute them
15 directly or if we use a third-party vendor.

16 The ask was for us to be very clear on what our
17 measurables are for the community groups, what are their
18 expected deliverables? Because based on what that is
19 would kind of point to how much it would cost them to do
20 the work. And if we're not really clear on what we're
21 wanting them to do, to what degree, what the reach is,
22 how many people, et cetera, we're throwing dollar amounts
23 out that really don't mean anything or having nothing to
24 attach to.

25 And so I just want to make sure that at some point

1 we provide our community groups some clear expectation of
2 what their deliverables would be for a grant amount of --
3 well, any grant amount.

4 CHAIR KENNEDY: Thank you for that.

5 Are there others at this point? We have eight
6 minutes until we would have to take a break. But if we
7 have pretty much exhausted our discussion, then we can
8 close and continue working in our Subcommittees and see
9 everybody on the 1st of December.

10 PUBLIC COMMENT MODERATOR: And Happy Thanksgiving.

11 COMMISSIONER AKUTAGAWA: Is there a caller waiting
12 to make a comment?

13 CHAIR KENNEDY: Katy, do we have anyone in queue?

14 MS. JOHNSTON: She says, "No."

15 CHAIR KENNEDY: Okay.

16 PUBLIC COMMENT MODERATOR: If they would like to
17 make another comment, they can raise their hand. But the
18 person in the queue has already spoke.

19 CHAIR KENNEDY: Okay.

20 PUBLIC COMMENT MODERATOR: So if you would like to
21 comment again, you may raise your hand in the queue by
22 pressing star 9. No, she's just listening.

23 CHAIR KENNEDY: Okay. Very good.

24 So I want to thank the Subcommittee for all your
25 work, for leading us through what I think has been a very

1 valuable discussion. And we certainly look forward to
2 continuing it at the next meeting. It is still agenda
3 item ten for the next meeting. And we're looking forward
4 to continuing this discussion, by which time our
5 communications director will have gotten together with
6 the Outreach Subcommittee and we'll see if we're able to
7 make progress on the hiring of our deputy executive
8 director by then as well.

9 COMMISSIONER SADHWANI: And cell phones.

10 CHAIR KENNEDY: Raul has already written to confirm
11 my mailing address, so I have a feeling that the phones
12 are on their way or just about to be on their way.

13 Commissioner Akutagawa?

14 COMMISSIONER AKUTAGAWA: If there are -- if we have
15 other comments or questions on the rest of the document
16 on this communities of interest strategy map document,
17 should we just email it to either the Commissioner
18 directly or via staff?

19 CHAIR KENNEDY: I had been sending those sorts of
20 comments through staff.

21 Director Claypool, are we good with that?

22 Or, Marian, how should we handle that?

23 MS. JOHNSTON: I would suggest you continue to do it
24 through staff. Since this was a public discussion, any
25 additions to that discussion should be done in a way that

1 promotes public exposure.

2 CHAIR KENNEDY: Very good. Thank you.

3 Commissioner Sinay?

4 COMMISSIONER SINAY: I just realized that we forgot
5 the first part of this agenda item. But don't worry,
6 we're not going to do it now. I not going to keep you
7 all here. But you were supposed to give your regional
8 reports so that we could see how things are going in the
9 region, if there's any recommendations to split regions,
10 and stuff like that. So please be ready at our next
11 meeting to have that conversation.

12 CHAIR KENNEDY: I can say, I guess, as number 2 on
13 the coastal region, that the reaction that we got from
14 census folks was, well, you're going to get all you need
15 from Director Katague. And thank you very much for
16 reaching out.

17 So now that we've had Director Katague's
18 presentation, we're going to reach out again and
19 reiterate our request. And as lead on San Bernardino and
20 Riverside, we were kind of aware that that might be the
21 reaction that we got if we contacted them before Director
22 Katague came and spoke. So now that she's don't that,
23 we'll be in touch with the teams in San Bernardino and
24 Riverside.

25 COMMISSIONER SINAY: They were the ones who were

1 leading the conversation here in San Diego today at the
2 Census Legacy. And they have -- I didn't get it
3 correctly, but just to think about the way they're
4 looking at redistricting is kind of you counted, now
5 let's count, and it's something around that way. So you
6 counted as a number but now let's count politically.

7 So something to give to you, Mr. Ceja, to play with.

8 CHAIR KENNEDY: Good. Okay. Thanks everyone. Have
9 a Happy Thanksgiving and look forward to seeing you on
10 the 1st of December.

11 (Whereupon, the CRC Business Meeting adjourned
12 at 5:04 p.m.)

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CERTIFICATE OF TRANSCRIBER

I certify that the foregoing is a correct transcript, to the best of my ability, of the videoconference recording of the provided by the California Citizens Redistricting Commission.

Lori Rahtes

LORI RAHTES, CDLT-108

June 2, 2022
DATE