

STATE OF CALIFORNIA  
CITIZENS REDISTRICTING COMMISSION (CRC)

In the matter of:

CRC BUSINESS MEETING

MONDAY, MARCH 10, 2021  
9:30 a.m.

Transcription by:

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APPEARANCESCOMMISSIONERS

Russell Yee, Chair  
Marian Johnston, Commissioner  
Sara Sadhwani, Commissioner  
Pedro Toledo, Commissioner

STAFF

Marian Johnston, CRC Staff Counsel

TECHNICAL CONTRACTORS

Kristian Manoff, AV Technical Director/Comment Moderator  
Katy Manoff, Comment Moderator

**Also Present:**PUBLIC COMMENT

Unidentified Speaker  
Renee Westa-Lusk

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P R O C E E D I N G S

1  
2 March 10, 2021 9:30 a.m.

3 CHAIR YEE: Thank you, Christian. Good morning, and  
4 welcome to a Meeting of the California Citizens  
5 Redistricting Commission Legal Affairs Committee.

6 I'm Russell Yee. I am the Chair for March. And  
7 let's see, we can start off -- so let me just give you a  
8 preview. We'll have roll call, public comment, and then  
9 we have three items to discuss. These are items from  
10 agenda item number 10, in the full commissions March 8th  
11 agenda. We'll be discussing preparations for the March  
12 22 to 24 interviews of our candidates for the RA counsel  
13 and litigation counsel.

14 The three items we'll discuss today are the  
15 evaluation worksheet that we'll use as we evaluate the  
16 written applications and the interviews, the questions  
17 for the candidates, and we want to settle on a final list  
18 of questions that we want to ask all the candidates the  
19 same questions, and then make provision for our counsel  
20 coverage for this process. And then we'll end with  
21 public comment as well, and I anticipate that we won't go  
22 past 11 a.m. This should be a fairly brief meeting.

23 So let's see. I guess I should ask Marian, perhaps,  
24 to -- our counsel to call the roll.

25 MS. JOHNSTON: Sure.



1 Commissioner Sadhwani?

2 COMMISSIONER SADHWANI: Here.

3 MS. JOHNSTON: Commissioner Toledo?

4 COMMISSIONER TOLEDO: Here.

5 MS. JOHNSTON: Commissioner Yee?

6 CHAIR YEE: Here.

7 MS. JOHNSTON: All are present.

8 CHAIR YEE: Thank you. And that is the complete  
9 Legal Affairs Committee.

10 Let's go to public comment. Katy, I'd ask you to  
11 read instructions and invite any callers.

12 PUBLIC COMMENT MODERATOR: Yes, Chair, good morning.  
13 In order to maximize transparency and public  
14 participation in our process, the Commissioners will be  
15 taking public comment by phone. To call in, dial the  
16 telephone number provided on the livestream feed. It is  
17 877-853-5247. When prompted, enter the meeting ID number  
18 provided on the livestream feed. It is 969 8065 6065 for  
19 this meeting. When prompted to enter a participant ID,  
20 simply press the pound key. Once you have dialed in, you  
21 will be placed in a queue. To indicate you wish to  
22 comment, please press star 9. This will raise your hand  
23 for the Moderator. When it's your turn to speak, you  
24 will hear a message that says, "The host would like you  
25 talk," and to press star 6 to speak. If you would like

1 to give your name, please state and spell it for the  
2 record. You are not required to provide your name to  
3 give public comment. Please make sure to mute your  
4 computer or livestream audio to prevent any feedback or  
5 distortion during your call. Once you are waiting in the  
6 queue, be alert for when it is your turn to speak, and  
7 again, please turn down the livestream volume.

8         And the Legal Affairs Committee is taking general  
9 public comment at this time. And we do have a caller  
10 with their hand up, and I will open the line for them.

11         And the floor is yours.

12         UNIDENTIFIED SPEAKER: Good morning. I read the  
13 legal counsel interview questions that were posted  
14 yesterday afternoon, and I do have a few suggestions.

15         First, I would suggest asking the Voting Rights Act,  
16 VRA applicants, what steps they recommend before the  
17 release of census data to expediate the line drawing  
18 process. And in the same way that you're consulting with  
19 your line drawers on adapting to delays, you will want to  
20 ask the attorneys for advice about what you should do  
21 before getting the data that could help to speed up the  
22 process after receiving the data.

23         Second, on question number 2, it asks about  
24 litigation -- it asks litigation counsel how they would  
25 work with VRA counsel, but you failed to ask VRA counsel

1 how they would work with litigation counsel. How  
2 applicants will work as a team, seems a critical question  
3 for both.

4 And third, I recommend that you ask them how the  
5 envision working with the line drawer and general  
6 counsel, again, to ensure that you have the best overall  
7 team.

8 Fourth, the VRA question number 2, based on the  
9 language you use elsewhere, I think you mean coalition  
10 districts, not collapsed districts.

11 And five, the VRA question number 13, you may want  
12 to strike or amend the first sentence. The public is  
13 likely to mix up the word "fairness" with the term  
14 "partisan fairness", which I learned from your prior  
15 legal trainings, and it is not a criteria in California.

16 And finally, you may want to lengthen the time of  
17 each interview, expecting VRA applicants to answer  
18 thirteen questions in fifty minutes doesn't leave much  
19 time to demonstrate the depths of their knowledge on any  
20 given question.

21 I want to thank you for serving on this Commission,  
22 and I hope this feedback helps, and thank you from -- for  
23 all the -- from all Californians that you're doing just  
24 such a great job. Thank you.

25 CHAIR YEE: Thank you, caller, for your attention to

1 these job questions and these excellent suggestions.

2 Any other callers?

3 PUBLIC COMMENT MODERATOR: Yes, we do have one more  
4 caller. I'll open the line.

5 Okay, and the floor is yours.

6 MS. WESTA-LUSK: Hello, this is Rene Westa-Lusk,  
7 R-E-N-E-E, last name is W-E-S-T-A, and then there's a  
8 hyphen, and then it's Lusk, L-U-S-K.

9 I just have a few questions. I don't think they're  
10 on today's agenda. But one of them is on the timeline  
11 for the educational presentations. Do you expect those  
12 to go beyond May, like through the summer?

13 And I have questions regarding the public input  
14 meetings. They're supposed to start in June. Are you  
15 going to be going by some of the same allowances the  
16 former CRC 2010 Commission allowed, such as they were  
17 allowing communities if they were members who wanted to  
18 give public input at a public in-person hearing, they  
19 could attend another in-person hearing in another part of  
20 the state and still give public input at that meeting. I  
21 realize you're going to have all virtual meetings, but  
22 will you allow people from other regions to give public  
23 input if they miss the virtual or virtual several  
24 meetings for their region?

25 And I also wanted to know, are you going to be

1 giving directives of what community of interest public  
2 input you want to hear from communities and also explain  
3 what you don't want to hear, and cautioning the public,  
4 but if they spend too much time on certain things that  
5 are not relevant to their public input for why they  
6 should be in a community of interest, that may be that  
7 testimony will be negated or thrown out as part of the  
8 community of interest they're trying to represent if it  
9 gets too off the main points you are looking for.

10 Those are my questions, and thank you.

11 CHAIR YEE: Thank you so much, Ms. Westa-Lusk.

12 Indeed, we are only discussing Legal Affairs Committee  
13 matters today, but those are all excellent questions, and  
14 I hope you can save them for when the full Commission  
15 meets and can respond in more detail.

16 I will say briefly, yes, we absolutely will be doing  
17 the outreach probably throughout the summer and making  
18 full use of the time -- the extra time that we have this  
19 cycle.

20 Any other callers?

21 PUBLIC COMMENT MODERATOR: Nope, that was it, Chair.

22 CHAIR YEE: Okay. We'll go ahead and close public  
23 comment then. Thank you so much, Katy.

24 I mean, neglected to say, I wanted to apologize for  
25 the Legal Affairs Committee for those who have been

1 following this process, we did have these interviews  
2 originally scheduled for February 18th. We had to  
3 reschedule them because of further business that came up  
4 for the Commission, and so this process got delayed a  
5 month, and so I apologize for that as well as for  
6 yesterday's -- there was a bit of confusion about whether  
7 we would have this discussion yesterday that we're going  
8 to have today, and ended up landing on today, so here we  
9 are.

10       So let's go ahead and take a look at the -- why  
11 don't we start with the -- let's go from easier to harder  
12 maybe. Let's start with the evaluation worksheet.  
13 There's a draft of that in the meeting handouts. It sets  
14 out eight general areas to evaluate the candidates. The  
15 same worksheet for the litigation candidates as well as  
16 the VRA candidates. And the idea would be for the three  
17 of us on the Legal Affairs Committee to use this, the  
18 structure or evaluation individually as we look at the  
19 candidates before we meet later this month together, and  
20 as well as during the interviews and, you know,  
21 subsequent discussions.

22       So the areas in each we would jot down our own, you  
23 know, observations and comments and as well for each a --  
24 rank each item as exceeds, meets, or lags with pluses and  
25 minuses if needed. So it's not as strictly -- it's not a

1 numerical evaluation and it leaves room for looking at  
2 the evaluations in various ways. There's not just a  
3 single bottom line that we're going to compare. This is  
4 not a competitive bid or other, you know, type of a  
5 situation where we would, you know, just have a number  
6 that we would rank one, two, three, but in the end to use  
7 this -- these evaluations to rank the various candidates,  
8 the three VRA candidates, the three litigation candidates  
9 in order, and eventually come to a recommendation to  
10 forward to the full Commission.

11 So discussion on the evaluation worksheet?

12 COMMISSIONER SADHWANI: I'll just jump in and get us  
13 started, if it's okay.

14 CHAIR YEE: Yes.

15 COMMISSIONER SADHWANI: This is looking great. So  
16 I'm very excited about the direction that we're moving  
17 in. A couple of thoughts that just immediately jump out  
18 at me as for other factors, that's pretty broad overall  
19 fit to CRC identity values and goals, any other factors?  
20 I wanted to raise the one comment that the -- that the  
21 person who called in for the first public comment raised,  
22 and I recognize that she was raising that in terms of the  
23 questions that we ask. But I do think it's fair to think  
24 through where on this evaluation might be some assessment  
25 of our, you know, of seeing these two different legal

1 teams as being a part of the team working with the line  
2 drawer, working with the Commission and everyone feeling  
3 confident about that. I do think that that's an  
4 important piece moving forward as -- especially as we're  
5 ramping up with a number of experts from the line -- you  
6 know, the line drawer also will have some -- a lot of  
7 knowledge, of course, in redistricting in VRA, and I do  
8 want to make sure that we're able to capture somewhere  
9 this notion of being able to gel well with the team and  
10 to work collaboratively. I think that could fall under  
11 other factors, but perhaps we want to be more explicit  
12 somewhere on that.

13 CHAIR YEE: Yeah, fine. So maybe something like  
14 potential to work well with CRC staff and other counsel?

15 COMMISSIONER SADHWANI: Uh-huh.

16 CHAIR YEE: Of staff, line drawer, and other  
17 counsel.

18 COMMISSIONER SADHWANI: That -- I like that.

19 CHAIR YEE: Okay. And then to other factors. Or  
20 maybe just add that as an item on its own. It's pretty  
21 major.

22 Any other thoughts?

23 If not, we can just make that change and go ahead  
24 with this worksheet, and we'll be using that individually  
25 as we get prepared for later this month as well as during

1 the actual interview and decision process.

2           COMMISSIONER SADHWANI: Sure. You know, I don't  
3 know if we want to discuss it now, but I think one of the  
4 pieces that we're going to have to start thinking about,  
5 and it could be a part of this conversation or later,  
6 whether or not individuals are bar certified here in  
7 California, as well as for conflicts of interest declared  
8 undeclared. If there are undeclared conflicts of  
9 interests, how do we want to handle that? I don't know  
10 if we want to have this conversation here as a part of  
11 the evaluative worksheet, or if we want to have that  
12 separately. But I do think that that's something that  
13 we'll need to address.

14           CHAIR YEE: I was just thinking that myself, and for  
15 number 2, maybe we can add needy credentials as a further  
16 item. That's easy.

17           COMMISSIONER SADHWANI: Needed credentials make  
18 sense, uh-huh.

19           CHAIR YEE: Conflicts of interest. Yeah. Okay,  
20 let's talk about that. If our research uncovers  
21 undeclared conflicts of interest, do we intend to inquire  
22 about that directly during the interviews? And I imagine  
23 there's a whole range of potential such conflicts, you  
24 know, very minor to, perhaps very worrisome, so.

25           COMMISSIONER SADHWANI: Yeah, that's right. And I

1 think what I'd like to just hear, you know, from both of  
2 you and from counsel as well, if there's thoughts here of  
3 what are we thinking that we would want to do, like, how  
4 would we assess conflicts that have not been declared?

5       You know, I recall when I applied for the  
6 Commission, I forgot about a small campaign donation that  
7 I had made, and it was minor. It was under the, I think  
8 it was the \$2,000 threshold or something like that, and  
9 it was brought to my attention, and I added it to my  
10 application.

11       Is that the kind of approach that we want to take or  
12 is -- if people have failed to disclose their potential  
13 conflicts of interest, does that disqualify them from  
14 serving as our counsel? I have some thoughts with that,  
15 but I'd be curious to hear what others are thinking.

16       CHAIR YEE: Actually, I should mention that in our  
17 qualifications, conflicts of interest are not  
18 automatically disqualifying. It's a matter of discretion  
19 for us.

20       So certainly, you know, we all need to have a  
21 relationship of trust with whoever we hire. So no, any  
22 serious undeclared conflicts of interest would put that  
23 trust at risk.

24       Commissioner Toledo?

25       COMMISSIONER TOLEDO: In terms of conflict of

1 interest, I think we clearly ask for the applicants to  
2 make known any conflicts of interest that they have, and  
3 I think if for some reason some conflicts of interest  
4 were left out because they were not perceived as being  
5 substantial or for whatever reason, I think the  
6 applicants would have an opportunity if we raise it  
7 through the interview process to make those items public  
8 and known to both us and for us to be able to weigh that  
9 in our deliberations if there are any substantial  
10 conflicts of interest that might cause us or the public  
11 to perceive that there may be an impartiality issue.

12 CHAIR YEE: So shall we, you know, commit to  
13 following up declared and undeclared conflicts of  
14 interest and any undeclared conflicts of interest in the  
15 in the interview?

16 COMMISSIONER TOLEDO: So I guess I have a question  
17 for you and for staff and that's, have we identified any  
18 conflict of interests that are substantially -- that were  
19 not reported? I mean, we don't even know who the  
20 applicant is, but are there any conflicts of interest  
21 that are -- that have not been -- that have been  
22 identified and not -- were not included in the  
23 application process?

24 CHAIR YEE: We've only -- yeah. We are in process  
25 of doing research on all the candidates. I'm a little

1 hesitant to --

2 COMMISSIONER TOLEDO: Sure.

3 CHAIR YEE: -- to report on any details. I would  
4 say the potential is definitely there and items will be  
5 discovered. It's not a remote possibility.

6 COMMISSIONER TOLEDO: Okay. So there's a  
7 possibility that there might be some undisclosed  
8 conflicts of interest at this point?

9 CHAIR YEE: Okay. I mean, there may be some points  
10 of interpretation, you know, what constitutes the  
11 conflict of interest then. Nevertheless, you know, I  
12 think there will be items to raise.

13 COMMISSIONER TOLEDO: I'm sorry, I'd like Marian to  
14 maybe weigh in on definition for conflict of interest as  
15 per our provisions of constitutional and statutory  
16 provisions as well as just our -- any relevant provisions  
17 that we should be taking into consideration in --

18 MS. JOHNSTON: Yes, 8253 of the Government Code,  
19 Subdivision A(5) says that the Commission shall  
20 consider -- shall apply the conflict of interest listed  
21 in paragraph 2 of Subdivision A of Section 8252 to the  
22 hiring of staff to the extent applicable.

23 So it's really to the extent applicable is the  
24 critical language it gives the Commission -- it's not an  
25 absolute disqualification like it was for the

1 Commissioners, but it is certainly something to be  
2 considered.

3 CHAIR YEE: Thank you.

4 COMMISSIONER SADHWANI: And thank you, Marian, for  
5 clarifying that. And to that end, they feel like, as we  
6 have said with some of the staff hires that we've made  
7 with also our line drawer, this did come up, right, there  
8 was a member of their team that was very much associated  
9 with the democratic party. I don't anticipate that we  
10 would be hiring counsel that's entirely partisan neutral  
11 in a very partisan process like redistricting or  
12 certainly it's a very partisan process in other states.  
13 So to the extent they're involved in other states, of  
14 course, that will be the case.

15 I think for me the real issue is disclosure, that we  
16 are aware of their partisan ties, of their personal ties  
17 with various political parties or interests that are  
18 associated with those parties. You know, certainly, I  
19 think it's perfectly fair if any of those applicants have  
20 additional pieces that they want to disclose, that they  
21 could contact the Commission between now and -- and the  
22 time of their interview and provide additional  
23 disclosures. I would feel very comfortable with that.  
24 And certainly, you know, we will continue in our research  
25 of all of the individuals involved, because I do think

1 it's a serious matter. I don't think having hidden  
2 interests is something that we should take lightly.

3 CHAIR YEE: Indeed, for the 2010 Commission, such a  
4 political interest for the primary point of contention in  
5 deliberating between the different candidates. By the  
6 way, this is a small meeting. Just jump right in. You  
7 don't need to recognize --

8 COMMISSIONER TOLEDO: So for me, it's an issue of  
9 impartiality and perception to the public. And so it's  
10 really important. As Commissioner Sadhwani has pointed  
11 out that we have public disclosure so that the -- because  
12 of its transparency that ultimately is what the  
13 Commission is -- which is paramount to the Commission and  
14 what we would want to ensure that the public has the full  
15 information and that we have full information before  
16 moving forward with any candidate when it comes to  
17 conflict of interest.

18 CHAIR YEE: That's right. So we're comfortable with  
19 simply the intention to follow up on declared and any  
20 undeclared conflicts of interest in the interview.

21 COMMISSIONER TOLEDO: Have we reached out to -- just  
22 in terms of process, are we reaching out to -- I just  
23 want to make sure that the process is standardized for  
24 all the candidates, and I'm -- as I'm sure it is. But I  
25 just want to make sure that if we are reaching out to one

1 applicant or reaching out to all of them and giving them  
2 an opportunity, if we haven't already done so, to provide  
3 additional information on conflict of interest, if for  
4 some reason they didn't do so in the application process.

5 CHAIR YEE: Yeah, that wasn't really our intention  
6 to, you know, to go back to individual applicants and  
7 say, oh, by the way, can you tell us more about this, you  
8 know.

9 COMMISSIONER TOLEDO: Sure.

10 CHAIR YEE: So in that sense, they're all being  
11 treated equally. At this point, I don't -- yeah.

12 COMMISSIONER TOLEDO: In terms of process, are we --  
13 and I just want to make sure. At this point, I am aware  
14 that the staff is doing our due diligence in terms of  
15 just identifying any potential conflicts of interest that  
16 may not have been disclosed.

17 Has there -- is there any thought to contacting the  
18 applicants themselves, or is it just something that will  
19 lead to the interview process?

20 CHAIR YEE: At this point, it would just lead to the  
21 interview process. Now, there is still some time, I  
22 don't know. If our research under -- it just seems like  
23 it would really materially affect our interview process,  
24 you know, it may be the case that will have reason to  
25 follow up between now and then, but that's not the point

1 at this time.

2 COMMISSIONER TOLEDO: I would ask, maybe ask Marian  
3 in terms of process and procedure if it -- what her  
4 thoughts are in terms or any recommendations she might  
5 have in terms of giving what -- in terms of the process  
6 that we're currently undertaking, which is to do our due  
7 diligence, is -- would it make sense to contact or would  
8 you recommend that we contact or not contact the  
9 candidates? They did have an opportunity to divulge  
10 these issues in the application process, but would it  
11 make sense from a standardized pro -- I'm just thinking  
12 about treating every candidate fairly from that angle.  
13 I'm making sure that they all have an opportunity to  
14 share any conflicts of interest they might have if they  
15 didn't do so already because of for whatever reason that  
16 may be.

17 MS. JOHNSTON: First of all, I'm not the person  
18 doing the conflict of interest checks at all. But I  
19 think that you're correct that you ought to be treating  
20 them all the same, and from Commissioner Sadhwani's point  
21 of something might have been inadvertently overlooked  
22 rather than play a gotcha game during the interview, if  
23 you find something and want to ask about it further, I  
24 think that should be a standard question that gives  
25 everyone the chance to correct the application

1 beforehand.

2 CHAIR YEE: I mean, the way to do that, I suppose,  
3 would be to provide each applicant with the research  
4 product from our background checks before the interview,  
5 but that would commit us to doing so for all six -- all  
6 five here.

7 COMMISSIONER SADHWANI: Yeah, I agree with that. My  
8 only concern is making sure we give every applicant the  
9 same amount of time to respond.

10 CHAIR YEE: Yeah.

11 COMMISSIONER SADHWANI: I don't have a sense of when  
12 that -- I'm just trying to pull up a calendar. My  
13 apologies. I don't have a sense of when the full due  
14 diligence examination will be done. So I just want to  
15 make sure that we can complete the review of all five  
16 applicants and then enter into a phase of, you know,  
17 alerting them to anything that we found that they perhaps  
18 want to make a statement about just so that they all have  
19 the same amount of time.

20 CHAIR YEE: We have twelve days between now and the  
21 beginning of interviews. I don't think the checks will  
22 be done till at least a week, I'm guessing. It's quite a  
23 bit of work to do.

24 COMMISSIONER SADHWANI: Uh-huh. That's --

25 CHAIR YEE: So that would give maybe just a couple

1 of days and a weekend to applicants.

2 COMMISSIONER TOLEDO: I'm just thinking maybe even a  
3 standardized -- a note to -- maybe note is the wrong  
4 word, but just a communication to all of the -- a written  
5 communication to all of the applicants just informing  
6 them that we are doing our due diligence. And if they  
7 have -- and if they for some -- you know, I'm giving them  
8 the opportunity to elaborate on their conflict of  
9 interest or -- and I believe we are looking at conflict  
10 of interest for all the key app -- not just for the  
11 firms, but also for the key individuals that are  
12 participating in and in their proposal. So just giving  
13 them the opportunity to provide additional information.  
14 If we're doing it for one, I just think we should do it  
15 for all of them. And I note at this point, I don't think  
16 we've done it for anybody. But if we do decide to move  
17 forward, we just want to be consistent and have a  
18 standardized communication --

19 CHAIR YEE: Sure.

20 COMMISSIONER TOLEDO: -- the same language for every  
21 one of the same time frame. As to Commissioner Sadhwani  
22 said for response, just so that we have all of the  
23 infor -- given that this is such an important issue in  
24 terms of impartiality and the perception of impartiality,  
25 especially when it comes to the VRA counsel and

1 litigation counsel that'll be assisting us and our  
2 central role in our process. I would welcome the opp --  
3 I think more information is better than less. And the  
4 more information we have and the public has, the more  
5 transparent the process and the more comfortable we can  
6 be in our decisions.

7 CHAIR YEE: Sure. More information is definitely  
8 better. At the same time, you know, the applications  
9 themselves ask for a very full and detailed set of, you  
10 know, conflicts of interest and so forth so, and  
11 qualifications, so I'm not sure what a general ask would  
12 accomplish beyond that.

13 MS. JOHNSTON: I tend to agree with you,  
14 Commissioner Chair Yee. You know, I think that we've  
15 asked for those disclosures. That was a part of the RFI.  
16 If it was an inadvertent thing, then that's, you know,  
17 that's fine. I don't necessarily see the need of sending  
18 a communication. I'm also not against it. That's fine.  
19 If we want to send a notice and say, you know, we are  
20 conducting our due diligence at this point in time. If  
21 you have any additional disclosures that you wish to  
22 make, please do so prior to your interview. And we can  
23 set a date for that, perhaps even if Sunday the 21st, so  
24 that we can have them ready to go Monday morning prior to  
25 the start of those interviews or even the Friday the

1 19th, perhaps.

2 My other thought here is that if we could ask Tina  
3 our paralegal, to try and complete the review of all our  
4 candidates by Wednesday, March 17th. That's one week  
5 from today. And if need be, perhaps, we can assist her  
6 with that as needed. Then, on Thursday, March 18thm,  
7 anything that pops up, anything that we have found for  
8 any of the five candidates, any member of their teams, we  
9 would contact all of the candidates on Thursday, March  
10 18th, and they would have a day, or the weekend ,to  
11 respond.

12 Something along those lines that are -- you know --  
13 how do you all think about that calendar as such? That  
14 way, it's equal, everyone's being treated the same. They  
15 do have a opportunity to know what we found so we're not  
16 entering into a gotcha moment. But something along those  
17 lines.

18 COMMISSIONER TOLEDO: For me the most important  
19 thing is the standardization and consistency, so the  
20 language should be the same language --

21 COMMISSIONER SADHWANI: Of course.

22 COMMISSIONER TOLEDO: -- language that is used,  
23 should be the same. And so whether it's after we've  
24 identified any potential conflicts of interest that have  
25 not been divulged, or expressed, or if we're doing more

1 general communication, whatever it may be. As long as  
2 it's standardized, I think I'd be comfortable with that  
3 process.

4 COMMISSIONER SADHWANI: Yeah. I think that's fine  
5 because the email communication can be standardized, and  
6 if there were no conflicts that we found, then the -- in  
7 that section, it can be no conflicts found. Right? I  
8 certainly support that.

9 CHAIR YEE: Okay. How about if I I'll work with  
10 Tina to send out an email to all the applicants  
11 immediately. Just a general request for any further  
12 information they'd like to add to their application.  
13 I'll check with her to see if the -- if one week to get  
14 the research done seems reasonable. And if does, we'll  
15 also include some language about our intention to provide  
16 them with the results of our research and invite them to,  
17 probably, respond, I don't know, in the interview. They  
18 don't have to respond in writing, in one or two days, to  
19 anything we found.

20 Does that sound good?

21 COMMISSIONER SADHWANI: Yeah. My sense is --

22 CHAIR YEE: So that --

23 COMMISSIONER SADHWANI: -- they're excellent law  
24 firms. If they want the job, they'll respond in a few  
25 days.

1 CHAIR YEE: They work weekends.

2 Okay. So we'll make that our intention and proceed  
3 with that. Very good.

4 COMMISSIONER TOLEDO: I would prefer the  
5 communications come in writing just so that --

6 COMMISSIONER SADHWANI: I agree.

7 COMMISSIONER TOLEDO: -- you know, just so there's  
8 documentation of it. Yes --

9 CHAIR YEE: Sure, sure.

10 COMMISSIONER TOLEDO: -- it'll be documented in the  
11 interview process, but in terms of transparency, if it  
12 comes in writing, then we can also post it to the public  
13 so that they can see it as well.

14 COMMISSIONER SADHWANI: That's right.

15 CHAIR YEE: Okay. So the -- but there would have to  
16 be a deadline for that. Then, maybe midnight Sunday, I  
17 guess.

18 COMMISSIONER SADHWANI: Freddy's going to love that,  
19 putting it at midnight.

20 Marian, I saw earlier that you had had your hand up.  
21 Does this process all sound reasonable and equitable?

22 MS. JOHNSTON: Yes. I was going to make the same  
23 point about how anything that is given out and discussed  
24 at the meeting would have to be made public.

25 COMMISSIONER SADHWANI: Would that included the

1 emails that we send out to the applicants, especially if  
2 we have -- are finding things on multiple applicants,  
3 should those emails all be made public?

4 MS. JOHNSTON: Yes.

5 COMMISSIONER SADHWANI: Or just their responses?

6 MS. JOHNSTON: I think the -- you're providing  
7 additional direction of how you want people to supplement  
8 their application. So that should be made public.

9 COMMISSIONER SADHWANI: Okay.

10 CHAIR YEE: How about the -- our work project  
11 research details, is that something that should be  
12 publicly posted?

13 MS. JOHNSTON: The question is whether Tina is  
14 working under the direction of an attorney for it to be  
15 attorney work product, and I'm not aware that she is.

16 CHAIR YEE: Okay.

17 COMMISSIONER SADHWANI: So therefore, it will be  
18 made public. That's fine.

19 CHAIR YEE: Glad we asked that question. Very good.  
20 Shall we move on to the interview questions? Why don't  
21 we go ahead and start with the VRA interviews --  
22 questions. We have thirteen in the draft. I'm thinking  
23 we should, maybe, make a goal of getting it down to about  
24 ten as a guesstimate of what we can actually cover.

25 The caller's suggestion this morning, I think those

1 were all actually excellent suggestions. I actually did  
2 look up collapsed districts and there is actually such a  
3 thing.

4 COMMISSIONER SADHWANI: Which question was it where  
5 the collapsed --

6 CHAIR YEE: Number 2 in the third line. Majority-  
7 minority districts, influence districts.

8 COMMISSIONER SADHWANI: Oh yeah.

9 CHAIR YEE: -- collapsed districts.

10 COMMISSIONER SADHWANI: I wrote this question. I  
11 think it should be -- it is coalition districts.

12 CHAIR YEE: Yeah, apparently a collapsed district is  
13 a district that used to be two districts. So you know.

14 COMMISSIONER SADHWANI: This is meant to be  
15 coalition.

16 CHAIR YEE: Okay. Excellent.

17 Given that we're asking about coalition districts  
18 there, I think we can strike question 8, which is  
19 actually a question I submitted, because it says the same  
20 thing, basically about coalition districts, where they  
21 qualify --

22 COMMISSIONER SADHWANI: Which question?

23 CHAIR YEE: Question 8.

24 COMMISSIONER SADHWANI: Question 8, okay.

25 CHAIR YEE: You know, whether a coalition district

1 could qualify under the Gingles provision as a potential  
2 VRA district.

3 I'm going to go ahead and strike number 8.

4 COMMISSIONER SADHWANI: Okay.

5 COMMISSIONER TOLEDO: I wouldn't be opposed to  
6 asking about the Gingles preconditions but if it was  
7 broader -- if the question was broader, and how it  
8 might -- but I'm comfortable striking it, as well, Chair  
9 Yee.

10 CHAIR YEE: Okay, thanks.

11 Question number 5 in the second sentence, it's the  
12 part about preclearance. Do we want to ask about that  
13 since preclearance is off the table at the moment?

14 COMMISSIONER SADHWANI: Well, yeah, this -- at least  
15 the second half of it --

16 CHAIR YEE: Yeah.

17 COMMISSIONER SADHWANI: -- is a moot point for sure.  
18 What should be included in the reports, I don't know if  
19 we necessarily need to ask this. I think this was one of  
20 those questions that was left over from 2010. You know,  
21 I think we had a 2010 example to go on. It was quite  
22 succinct, shall we say, and it's -- and what was reported  
23 on the --

24 MS. JOHNSTON: Maybe just to clarify that the  
25 preclearance requirement no longer exists under current

1 law.

2 COMMISSIONER SADHWANI: Correct. Exactly.

3 CHAIR YEE: So should we just strike number 5  
4 entirely?

5 COMMISSIONER SADHWANI: I would feel comfortable  
6 with that. Yeah.

7 CHAIR YEE: That's fine.

8 Let's see. The other one I was wondering about was  
9 number 11, about racially polarized voting and the CVRA.

10 COMMISSIONER SADHWANI: I'm in favor of keeping this  
11 question. I think California is such unique state  
12 because we are a very multi-racial state. The CVRA has  
13 been used extensively throughout the state, particularly  
14 in local jurisdictions such as city councils and school  
15 boards and counties. While we, as a Commission, are not  
16 held to the CVRA because it's -- those localities are  
17 simply not within our jurisdiction, I do think that there  
18 are very similar kinds of tests that are being used in  
19 the CVRS cases. That may be something that can inform  
20 our process. So to me, you know, I'm in favor of this  
21 question.

22 California is not -- you know, when the voting  
23 rights act was first developed, you know, we were  
24 thinking predominantly about southern states. We were  
25 thinking about -- in the 1960s, in particular -- about

1 communities. That is not California, right. We --  
2 California is a much more diverse state than that and  
3 therefore, our VRA considerations are much more distinct.  
4 And I think this CVRA could help in some regards, or  
5 knowledge of the CVRA, or understanding of how the CVRA  
6 works in those local governments could be helpful  
7 understanding vote dilution at the local level, could  
8 only be informative in general to our process.

9 CHAIR YEE: Okay --

10 COMMISSIONER SADHWANI: So I would be curious to  
11 hear what --

12 CHAIR YEE: Okay. All good. Thank you.

13 COMMISSIONER SADHWANI: -- counsel is going to say  
14 about that.

15 CHAIR YEE: Okay. All good. We can keep that then.  
16 How about number 12, one -- the next one? Do you  
17 think that's worth asking?

18 COMMISSIONER SADHWANI: This is an interesting one  
19 because it -- to me, this is asking the -- you know, what  
20 kinds of attacks might California come under, or what  
21 kind of attacks to restricting generally might occur  
22 nationally and that will be the position of California. So  
23 while this question doesn't necessarily inform our  
24 process of redistricting, I think it can help us hear  
25 for -- I mean, we're ultimately we're going to be hearing

1 from a lot of experts on this interview process. And  
2 what I think it can do is, allow us to hear a little bit  
3 more about our general positioning in a nationwide debate  
4 over redistricting.

5 CHAIR YEE: Okay. That's fine. We can keep that  
6 one.

7 Let me take a look at the callers' suggestions.

8 COMMISSIONER TOLEDO: Just on that question, I don't  
9 like the wording. And I don't want to get stuck on  
10 wording, but the equal standard protection was attacked  
11 nationally -- I mean, maybe something like, challenging  
12 nationally or --

13 CHAIR YEE: Questioned.

14 COMMISSIONER TOLEDO: -- might be less -- it almost  
15 implies a -- I just would feel more comfortable with  
16 something less -- maybe challenged nationally -- or  
17 challenged -- the equal protection standard was  
18 challenged --

19 COMMISSIONER SADHWANI: I think that makes sense.

20 CHAIR YEE: Okay.

21 COMMISSIONER SADHWANI: Just to tone down that  
22 language.

23 COMMISSIONER TOLEDO: Just to say what -- if they  
24 even know what -- because I'd be concerned if they didn't  
25 know what the case was and the implications of that case

1 on the equal protection standard. Right? And the rest  
2 of it, I am fine with in terms of --

3 COMMISSIONER SADHWANI: So we can just -- yeah --

4 COMMISSIONER TOLEDO: -- anticipating issues that  
5 might come before the Supreme Court and -- that seems  
6 fine.

7 COMMISSIONER SADHWANI: Okay. So we'll -- we can  
8 strike out -- I guess the --

9 COMMISSIONER TOLEDO: I don't want to wordsmith,  
10 that one particularly --

11 COMMISSIONER SADHWANI: No, that's helpful. I  
12 wasn't taking notes on this one. Do we have anyone  
13 taking notes? I realize Alvaro's also not here. Okay.

14 CHAIR YEE: I'm taking notes.

15 COMMISSIONER SADHWANI: So yeah -- so then in 12,  
16 yeah, striking, attacks nationally to was challenged. I  
17 think that makes perfect sense.

18 CHAIR YEE: Okay. We can keep that with a word  
19 change.

20 While we're at the bottom of the page, why don't we  
21 take a look at 13? The caller suggested that we change  
22 the wording there, as well, so that fairness is not  
23 misconstrued as partisan competitive or partisan  
24 fairness.

25 COMMISSIONER SADHWANI: I think this is a -- I'm

1 okay with partisan fairness if we want to go that route.  
2 But I don't actually think this question's asking about  
3 partisan fairness.

4 CHAIR YEE: Right. The caller was suggesting we  
5 want to make it clear that we're not asking about  
6 partisan fairness because that's what might come to mind.

7 COMMISSIONER SADHWANI: Okay.

8 CHAIR YEE: I mean, for instance, in Arizona,  
9 competitiveness is a redistricting criteria. For us,  
10 it's not. So.

11 COMMISSIONER SADHWANI: Yeah, I agree. I actually  
12 think we could remove that first sentence and -- as well  
13 as fairness from the second sentence and just start the  
14 question, how would you advise the Commission to  
15 negotiate across multiple criteria -- which we have --

16 CHAIR YEE: Okay.

17 COMMISSIONER SADHWANI: -- for example, in the  
18 continuing -- and I think the rest of it sounds fine.

19 CHAIR YEE: Okay. That's easy.

20 COMMISSIONER SADHWANI: Yeah.

21 CHAIR YEE: So we'll strike that.

22 COMMISSIONER TOLEDO: It does -- how would you  
23 advise the Commission negotiate fairness? I -- that  
24 still -- the fairness is still in there --

25 COMMISSIONER SADHWANI: No, we removed that.

1 COMMISSIONER TOLEDO: Oh you're removing that.

2 Sorry, I think I missed that.

3 COMMISSIONER SADHWANI: Just --

4 COMMISSIONER TOLEDO: So can you just read out what  
5 the question is now, Commissioner Yee -- or Chair Yee?

6 CHAIR YEE: Sure. How would you advise the  
7 Commission to negotiate across multiple criteria? For  
8 example, how would you advise the Commission to negotiate  
9 the demands of racial equity, established within the VRA,  
10 while voting, making race the predominant criteria or  
11 motive?

12 COMMISSIONER SADHWANI: And that comes out of  
13 Supreme Court. I think it it's Miller, in which the  
14 Supreme Court has said that race cannot be the  
15 predominant criteria nor motive but we still also have to  
16 be compliant to the VRA.

17 CHAIR YEE: Right.

18 COMMISSIONER SADHWANI: It creates this challenging  
19 dichotomy, so then the question is how do you meet the  
20 standards of the VRA without making race the predominant  
21 criteria of our redistricting process. Right? And of  
22 course, as California State law outlines, we have other  
23 criterion that we have to uphold. Equal population.

24 COMMISSIONER TOLEDO: We may want to make this a  
25 little bit clearer, I think, in terms of what criteria.

1 So maybe it's exactly what you just said, standard VRA  
2 cri -- multiple standard VRA criteria or -- just to make  
3 it a little bit clearer, I --

4 CHAIR YEE: Maybe just ask that specific example  
5 then.

6 COMMISSIONER TOLEDO: Or maybe ask the specific  
7 example.

8 CHAIR YEE: Yeah. So just -- how would you advise  
9 the Commission negotiate the -- basically -- the demands  
10 of racial equality and so forth? So -- instead of making  
11 that a for example, make that the question. How would  
12 you advise the Commission negotiate the demands of racial  
13 equality, established within the VRA, and so forth.

14 COMMISSIONER SADHWANI: I'm okay with that.  
15 Perhaps, just not an opening statement. And I'm sorry to  
16 be wordsmithing here. Just a simple opening statement.  
17 For me, I'd like to see counsels demonstrate their  
18 understanding of the multiple criteria that we are held  
19 to here in California, particularly recognizing that some  
20 will have experience outside of California where there  
21 are different criteria.

22 So perhaps an opening statement such as, you know,  
23 the Commission is held to multiple criteria when it comes  
24 to redistricting. And then as you both suggested, get  
25 rid of the for example. How would you advise the

1 Commission to negotiate the demands of racial equity, et  
2 cetera.

3 CHAIR YEE: That's good.

4 COMMISSIONER TOLEDO: Yeah, I like that.

5 CHAIR YEE: Okay. I'll make that change.

6 Okay. I'm thinking, with the callers' suggestions,  
7 adding a question. We're supposed to be striking  
8 questions. Adding a question about how a candidate  
9 envisions working with everyone else, including  
10 litigation counsel and the line drawer, and the staff and  
11 Commission. So just a catch-all question about that.  
12 And I'll figure out a way to word that.

13 The last item the caller suggested was an item  
14 about -- to the VRA council -- specifically about how to  
15 use the time before Census is released -- Census data is  
16 released -- are released. Let's see. Can we add that to  
17 any of the existing --

18 COMMISSIONER SADHWANI: I think question 1,  
19 actually.

20 CHAIR YEE: Okay.

21 COMMISSIONER SADHWANI: It doesn't need to be  
22 question 1, but it's such a broad question. What would  
23 be the most significant and challenging issues arising  
24 from the Census data. Well, it's going to be months  
25 late. I think that's pretty obvious.

1 CHAIR YEE: Yeah.

2 COMMISSIONER SADHWANI: So I appreciate the caller's  
3 suggestion there --

4 CHAIR YEE: Yeah.

5 COMMISSIONER SADHWANI: -- of how will they use that  
6 time.

7 CHAIR YEE: Okay. We can just add that in, a second  
8 sentence. How to use the delay.

9 COMMISSIONER TOLEDO: The other suggestion from the  
10 caller was to -- that I found helpful -- was also, in  
11 terms of number of questions, that 13 questions is a lot  
12 of questions for an hour interview. And maybe that's  
13 okay, given that we're going to be giving the -- given  
14 that the questions are public. But it doesn't really  
15 provide any applicant to go into depth on -- in too much  
16 depth on any of these issues.

17 CHAIR YEE: Sure.

18 Okay. So we have --

19 COMMISSIONER SADHWANI: I agree.

20 CHAIR YEE: Yeah. We struck two, number 5 and  
21 number 8. And then, we're adding one about how to work  
22 with others. So that -- we're at 12.

23 COMMISSIONER TOLEDO: And to me, it sounds like  
24 we're almost adding a -- or -- maybe we're constraining  
25 question number 1 -- but almost is like another question

1 that was added to number 1, as well. But I can see it  
2 being a constraining, right, and limiting that question,  
3 as well. So --

4 CHAIR YEE: Were there any other questions either of  
5 you thought might be struck?

6 COMMISSIONER SADHWANI: I think number could be  
7 struck. I don't think there's enough examples -- well, I  
8 don't know, I guess it could work. Especially for VRA  
9 counsel, I don't know that VRA needs to be asked this  
10 question about boards and commissions.

11 COMMISSIONER TOLEDO: So --

12 CHAIR YEE: Yeah. It's kind of vague. I'm  
13 comfortable striking it.

14 Okay. That will take us to 11. So we want to find  
15 one more?

16 COMMISSIONER TOLEDO: And I think they're all  
17 important. I'm fine with us keeping them, it just -- you  
18 know, we just have to understand that the applicants will  
19 have limited amount of time to respond.

20 COMMISSIONER SADHWANI: To actually respond, yeah.

21 CHAIR YEE: Well, lawyers talk fast, right?

22 COMMISSIONER SADHWANI: I could see also removing  
23 question 7. It's highly speculative. I think it's an  
24 important question in general, but I think that we'll  
25 have to figure that out regardless.

1 CHAIR YEE: Yeah, it did get mentioned in the full  
2 commission yesterday, but I can see that it's speculative  
3 and we don't -- yeah. We have no idea if it'll pass or  
4 which parts will pass.

5 COMMISSIONER SADHWANI: Right. Exactly

6 CHAIR YEE: And what will apply to us if it does  
7 pass.

8 COMMISSIONER SADHWANI: That's right.

9 And -- yeah. And the response to this could go on  
10 and on quite frankly. There's the Arizona case before  
11 the Supreme Court. There's a John Lewis Voting Rights  
12 Act and Advancement Act, so yeah.

13 CHAIR YEE: Okay.

14 COMMISSIONER SADHWANI: And it's all speculative.  
15 We don't know what will or will not pass.

16 CHAIR YEE: Yeah. I mean, it is interesting but --

17 COMMISSIONER SADHWANI: It is.

18 CHAIR YEE: -- I don't -- we are trying to whittle  
19 down. So okay, we'll strike number 7. And that takes us  
20 to ten.

21 COMMISSIONER SADHWANI: Did you want to get in  
22 there, Commissioner Toledo? I saw you raise your hand.

23 COMMISSIONER TOLEDO: Maybe we can go over the  
24 questions that we have left after our striking, just to  
25 make sure that we're covering all the substant --

1 substantive areas that we want to cover and make sure  
2 that we're not neglecting any area.

3 CHAIR YEE: That's fine.

4 COMMISSIONER TOLEDO: (Indiscernible) --

5 CHAIR YEE: Yeah. My intention -- we can go over it  
6 quickly and then I'll send out a draft --

7 COMMISSIONER TOLEDO: Okay.

8 CHAIR YEE: -- that you can look at before we post  
9 it. So shall I go over it now?

10 COMMISSIONER TOLEDO: Yeah, that'd be great. Just  
11 so we can --

12 CHAIR YEE: Okay. So keeping number 1, with an  
13 addition to ask about how to use the delay in the Census  
14 I released. Keeping number 2, changing collapse into  
15 coalition. Striking number 3. Keeping number 4 as is.  
16 Striking number 5. Keeping number 6 as is. Striking 7  
17 and 8. Keeping number 9 as is. Keeping number 10 as is.  
18 Keeping number 11 as is. 12, keeping, changing attacked  
19 to challenged. And then, 13, keeping, with the various  
20 changes we mentioned. And then adding a 14th, which will  
21 be 10th, about just how do you intend to work with these  
22 various other parts of our effort.

23 COMMISSIONER SADHWANI: Do we want to keep 9 in  
24 there? I mean, is that a part of our decision-making  
25 process, is whether or not they will keep the RPV

1 analysis confidential or made public? I mean, that kind  
2 of comes down to whether or not we anticipate it being a  
3 piece of potential litigation. I don't know if it -- I  
4 don't know if, for me, it's that issue -- it's an  
5 important issue, but I don't know if it determines who I  
6 would select for VRA counsel, necessarily.

7 CHAIR YEE: Yeah.

8 COMMISSIONER TOLEDO: I would agree with  
9 Commissioner Sadhwani on that. I don't think this adds  
10 anything.

11 CHAIR YEE: Okay. Yeah. I suggested that question  
12 because it keeps coming up. Right?

13 COMMISSIONER SADHWANI: Yeah.

14 CHAIR YEE: But you're right, it doesn't -- it  
15 wouldn't make a difference in deciding one or the other.

16 COMMISSIONER SADHWANI: Yeah.

17 CHAIR YEE: So that's fine.

18 COMMISSIONER SADHWANI: And it is an important one  
19 that we'll have to figure out.

20 COMMISSIONER TOLEDO: Yeah.

21 CHAIR YEE: Doesn't help us decide on whom to hire.  
22 Okay, I'll strike number 9.

23 Okay. I will send out a draft of those.

24 Let's go ahead and take a look at the litigation  
25 counsel question.

1           COMMISSIONER SADHWANI: So then, in total, are we  
2 down to -- how many questions -- nine?

3           CHAIR YEE: I think we're down to nine.

4           COMMISSIONER SADHWANI: In one hour?

5           CHAIR YEE: Yeah.

6           COMMISSIONER SADHWANI: Do we feel good about that,  
7 or should be pare down more?

8           COMMISSIONER TOLEDO: I mean, ultimately, they'll  
9 have these questions ahead of time and will be able to  
10 answer those questions they feel that are strongest. So  
11 by having the nine, it'll also give the opportunity to  
12 really focus on the questions that they are strongest on,  
13 and/or -- or to determine how they answer them within an  
14 hour time frame.

15          COMMISSIONER SADHWANI: Yeah.

16          COMMISSIONER TOLEDO: I mean, I would be fine with  
17 paring it down a little bit more if the questions that we  
18 leave are such that they'll be substantive enough to help  
19 us in our deliberation process. These are all important  
20 questions.

21          COMMISSIONER SADHWANI: They are.

22          COMMISSIONER TOLEDO: But if we can -- so I'm  
23 comfortable either way is all I'm saying.

24          CHAIR YEE: Yeah. When we were hiring for staff,  
25 certainly, the response time varied very widely. So --

1 which was a --

2 COMMISSIONER TOLEDO: What --

3 COMMISSIONER SADHWANI: That's true.

4 COMMISSIONER TOLEDO: -- we can do is, for us, for  
5 our purposes, right. If the ordering is important, maybe  
6 putting the important questions, that we absolutely want  
7 answered, on the top, in case -- in case we can't get to  
8 questions on the bottom for some reason. So we could  
9 reorder so that -- these all seem import -- like  
10 important questions to me, so that may be a little bit  
11 tough. Maybe not equally important, but important,  
12 nonetheless.

13 CHAIR YEE: I'm pretty confident we can get through  
14 them. I mean, we're not asking for exhaustive answers.  
15 We're judging, you know, what can you say in four minutes  
16 about this topic. Right?

17 COMMISSIONER SADHWANI: Correct. And I think in my  
18 review of the VRA applicants that we have received, I'm  
19 not concerned that any of them don't have expertise in  
20 the VRA. Like, these are actually softball questions --

21 CHAIR YEE: Yeah.

22 COMMISSIONER SADHWANI: -- in some regards, to VRA  
23 experts. So yeah, I'm comfortable with that. And I  
24 think it will be interesting to see the different  
25 approaches the teams will take in their responsiveness.

1 CHAIR YEE: When I send off the draft, you can  
2 suggest any reordering. Maybe I'll even try to take a  
3 stab at reordering. But that would be fine.

4 COMMISSIONER SADHWANI: Yeah. The one that just  
5 sticks out to me is the question about the budget, as  
6 it's, kind of, like, smack dab in the middle of, like,  
7 VRA questions.

8 CHAIR YEE: Yeah.

9 COMMISSIONER SADHWANI: So I think maybe first or  
10 last on that one --

11 CHAIR YEE: Okay.

12 COMMISSIONER SADHWANI: -- might make sense. And  
13 then similarly with the -- what is currently question 6,  
14 around being nonpartisan and objectivity. I think if  
15 there were any -- particularly for -- of course, we're  
16 doing our due diligence for all applicants -- if there  
17 are issues that arise for any of them, to me, that's  
18 where this kind of come up.

19 CHAIR YEE: Okay.

20 COMMISSIONER SADHWANI: And so again, right now,  
21 that's kind of in the midst of all these VRA questions.  
22 So maybe first or last, or a section that is more  
23 specific to --

24 CHAIR YEE: Okay.

25 COMMISSIONER SADHWANI: -- those criteria.

1 CHAIR YEE: Okay.

2 Let's take a look at the litigation counsel  
3 questions. There are nine in the draft. Number 3, the  
4 budget question, we can similarly move down, perhaps to  
5 last.

6 I don't think the caller referred to any of these  
7 so. And I thought they were all worth keeping.

8 COMMISSIONER TOLEDO: I mean, on question number 9,  
9 and particular the last portion of it, we may want to  
10 consider rewording. How might the experience of the VRA  
11 impact our ability to -- the CVRA impact our ability to  
12 defend racial consciousness? How would you defend the  
13 constitutionality of majority-minority influence or  
14 coalition districts that the commission may have to draw?

15 COMMISSIONER SADHWANI: Um-hum.

16 COMMISSIONER TOLEDO: How might the experience of --

17 COMMISSIONER SADHWANI: Well, there is currently a  
18 case before the California Supreme Court --

19 COMMISSIONER TOLEDO: Um-hum.

20 COMMISSIONER SADHWANI: -- that asks this kind of  
21 question around vote dilution under the CVRA. If it is  
22 found, right, that influence districts should not be  
23 protected under the CVRA, how do we then protect -- if we  
24 end up drawing influence districts in these other  
25 jurisdictions, how do we defend that? Is it a problem?

1 Right. Will there then be conflicts, right, between  
2 state law and the federal VRA? And if so, how might that  
3 play out for us?

4 MS. JOHNSTON: If I could add, your first  
5 criteria --

6 COMMISSIONER TOLEDO: Thank you.

7 MS. JOHNSTON: -- is to follow federal law, so if  
8 there were a conflict between the two, you would have to  
9 apply federal law.

10 COMMISSIONER TOLEDO: Federal law.

11 COMMISSIONER SADHWANI: Yeah. Would that leave us  
12 open to potential litigation, knowing that there is a  
13 standard in California for the CVRA, which again, I  
14 recognize we are not held to, but on a very similar issue  
15 around vote dilution. This would be the team that would  
16 have to --

17 MS. JOHNSTON: It depends on how the California  
18 Supreme Court words its decision. I could see that as a  
19 possibility --

20 COMMISSIONER SADHWANI: Right.

21 MS. JOHNSTON: -- but not necessarily.

22 COMMISSIONER SADHWANI: Sure. Right.

23 CHAIR YEE: I mean, it all suddenly seems more  
24 possible than it did not that long ago, for sure.

25 COMMISSIONER TOLEDO: I mean, maybe -- perhaps, I'm

1 just -- maybe if the question were focused more on vote  
2 dilution, rather than -- and that might make it a little  
3 bit -- as opposed to just the California Voting Rights  
4 Act, but rather vote dilution in general from -- but  
5 there are challenges to the Voting Rights Act --

6 COMMISSIONER SADHWANI: Um-hum.

7 CHAIR YEE: -- and the California Voting Rights Act.  
8 And it all comes down to, essentially, vote dilution.

9 COMMISSIONER SADHWANI: Yeah.

10 COMMISSIONER TOLEDO: So.

11 CHAIR YEE: Okay. So how might we reword this,  
12 then?

13 COMMISSIONER TOLEDO: What is defend racial  
14 consciousness --

15 COMMISSIONER SADHWANI: Are you suggesting just  
16 remove the sentence, "How might the experience of the  
17 CVRA impact our ability to defend racial consciousness?"

18 CHAIR YEE: Yeah, that was my suggestion, but then  
19 perhaps adding something about how would you defend the  
20 constitutionality of majority-minority influence or  
21 coalition for -- I think we changed that to "for  
22 coalition districts that the commission may have to  
23 draw" -- adding something about vote dilution in there.

24 How would you -- and I don't know the exact wording  
25 right now. I haven't really come up with it. But

1 something specifically around protecting the rights of --  
2 or I'm actually not sure what the word would be at this  
3 point. I see the spirit in this question. I understand  
4 what it is. I just haven't been able to --

5 COMMISSIONER SADHWANI: Um-hum.

6 COMMISSIONER TOLEDO: -- figure out how to reword it  
7 to get something that might be useful in determining the  
8 qualifications of the litigation firm in deliberation.

9 COMMISSIONER SADHWANI: I'm not great at thinking  
10 out loud, but --

11 COMMISSIONER TOLEDO: Me, either.

12 COMMISSIONER SADHWANI: -- I am happy to try to  
13 wordsmith this and send through staff to get to you all  
14 to see some alternative versions. I'd be happy to take a  
15 closer look at that.

16 COMMISSIONER TOLEDO: I'm in the same boat. I  
17 prefer to not think out loud.

18 COMMISSIONER SADHWANI: Yes, I don't do my best work  
19 that way, but happy to take a closer look at it.

20 Question 9.

21 CHAIR YEE: Okay. So we'll keep question 9, but our  
22 intention is to reword it --

23 COMMISSIONER SADHWANI: Okay.

24 CHAIR YEE: -- in some fashion.

25 COMMISSIONER TOLEDO: Or to at least consider

1 rewording it.

2 COMMISSIONER SADHWANI: Yeah.

3 COMMISSIONER TOLEDO: We might end up keeping it but  
4 at least look at different options for it.

5 CHAIR YEE: Should we still have a -- so striking  
6 that one, the next to the last sentence, at least we'll  
7 intend to do that but perhaps some further rewording as  
8 well.

9 Okay. Any other edits?

10 COMMISSIONER SADHWANI: I might just -- for question  
11 5, it's asked as a yes-no question, and --

12 COMMISSIONER TOLEDO: Yeah.

13 COMMISSIONER SADHWANI: -- perhaps we want to reword  
14 that also just so that we're getting a little bit more of  
15 a response.

16 CHAIR YEE: Sure. Okay.

17 COMMISSIONER SADHWANI: I believe that it's still  
18 the case. No.

19 CHAIR YEE: Yeah.

20 COMMISSIONER SADHWANI: So.

21 CHAIR YEE: Yeah.

22 COMMISSIONER TOLEDO: In addition to that, maybe we  
23 can just change that to "with recent changes on the U.S.  
24 Supreme Court", as opposed to "recent conservative  
25 shift".

1 COMMISSIONER SADHWANI: Yeah.

2 CHAIR YEE: Yeah, yeah.

3 COMMISSIONER SADHWANI: That would be good.

4 COMMISSIONER TOLEDO: Just so it's -- because it  
5 sounds --

6 CHAIR YEE: Yeah.

7 COMMISSIONER TOLEDO: -- a little judgmental.

8 CHAIR YEE: Yeah, yeah. How do you believe recent  
9 changes in the U.S. Supreme Court may affect this --

10 COMMISSIONER SADHWANI: Perhaps, to what extent --  
11 to what extent do you believe recent changes on the  
12 Supreme Court --

13 CHAIR YEE: Okay.

14 COMMISSIONER SADHWANI: -- would impact this --  
15 could impact the existence --

16 COMMISSIONER TOLEDO: Could impact this case or  
17 could impact the precedence in this case?

18 COMMISSIONER SADHWANI: Yeah.

19 CHAIR YEE: Well, the case stands would impact --

20 COMMISSIONER SADHWANI: Future examinations of  
21 independent redistricting commissions, something like  
22 that.

23 CHAIR YEE: Yeah.

24 COMMISSIONER TOLEDO: That works.

25 COMMISSIONER SADHWANI: Certainly, you can envision

1 Michigan, for example, might get a challenge to the  
2 existence of the commission. I could envision that.

3 CHAIR YEE: Okay. Okay. I'll revise that.

4 Anything else?

5 I guess number 2 is actually a little bit too  
6 restrictive because I just asked about working with the  
7 VRA counsel. So maybe adding a whole additional question  
8 about working with line drawer and other staff.

9 COMMISSIONER TOLEDO: Other members of the --

10 COMMISSIONER SADHWANI: I could see that just being  
11 added to question 2, as opposed to a secondary question.

12 COMMISSIONER TOLEDO: Um-hum.

13 COMMISSIONER SADHWANI: And then people will --

14 CHAIR YEE: Okay.

15 COMMISSIONER SADHWANI: -- answer perhaps a  
16 different way.

17 CHAIR YEE: Okay. That's fine.

18 Okay. Anything else?

19 COMMISSIONER SADHWANI: This looks good.

20 CHAIR YEE: Okay. I will send out a draft of these,  
21 and we will have these -- the final set of questions will  
22 be posted before the interviews on the 22nd.

23 Last item we have to consider is provisions for  
24 counsel during this process. Our chief counsel position  
25 right now is open, and we are in the process of hiring

1 for that, but we don't anticipate that position will be  
2 filled before these interviews. We do have -- we're  
3 grateful to have Marian Johnson currently as our counsel.

4 The question is whether to supplement Marian's  
5 presence with perhaps somebody from the AG's office to  
6 have both present during the interviews and  
7 deliberations, and since we won't have a chief counsel in  
8 place.

9 So thoughts about that?

10 COMMISSIONER TOLEDO: I mean, I would be supportive  
11 of having additional support. Additional support is  
12 always a welcome, especially in a process that's so  
13 important, such as this one, in terms of providing  
14 guidance on the procedural elements, although I'm very  
15 comfortable with Marian's advice in this process. But  
16 it's always good to have more advice rather than less.

17 COMMISSIONER SADHWANI: I would tend to agree. I  
18 could really go either way on this. I certainly  
19 appreciate Marian's willingness to step in and continue  
20 to provide procedural support to the commission and to  
21 this committee. I wouldn't also be opposed if we had  
22 additional support from the attorney general's office  
23 throughout this process so.

24 CHAIR YEE: Both the interview process, but also the  
25 deliberations, especially, in the actual ranking and

1 evaluation of candidates and eventual decision on whom to  
2 recommend, and so trying to ensure there is full counsel  
3 coverage for all those stages.

4 COMMISSIONER SADHWANI: Um-hum.

5 COMMISSIONER TOLEDO: Yes. I think it wouldn't -- I  
6 think it only can only help support us to have more  
7 advice and more guidance than less and.

8 COMMISSIONER SADHWANI: Yeah, I would tend to agree.  
9 I mean, we're talking about hiring some of the largest  
10 contracts in our budget, period, right. I mean, we had,  
11 what, like, four millions dollars --

12 CHAIR YEE: Yeah.

13 COMMISSIONER SADHWANI: -- line itemed for  
14 litigation counsel. That's no small amount of the  
15 taxpayer dollars. So to make sure that we have all of  
16 the legal support that we possibly need to make the very  
17 best decision possible, I'm not opposed to that, to  
18 provide that additional support.

19 CHAIR YEE: Get fully --

20 COMMISSIONER TOLEDO: I --

21 CHAIR YEE: -- lawyered up.

22 COMMISSIONER SADHWANI: Get lawyered up to hire  
23 some --

24 COMMISSIONER TOLEDO: Well --

25 COMMISSIONER SADHWANI: -- more lawyers.

1           COMMISSIONER TOLEDO: And I also want to ensure that  
2 our paralegal has sufficient guidance and advice, as  
3 well, so that all of our --

4           CHAIR YEE: Um-hum.

5           COMMISSIONER TOLEDO: -- documentation is covered  
6 under attorney-client privilege.

7           CHAIR YEE: Um-hum. Right. And there may be items  
8 that come up in this whole process that we're not  
9 anticipating yet but may surprise us so.

10          Okay. I can follow up with our executive director  
11 on that and hopefully have someone in place for the  
12 interviews.

13          COMMISSIONER SADHWANI: Very good.

14          CHAIR YEE: Okay. The only remaining item, that is  
15 to anticipate our future, any meetings for the Legal  
16 Affairs Committee? I believe there is nothing planned at  
17 this moment beyond the interviews. We intend to have a  
18 recommendation at full commission by the end of those  
19 interviews and deliberations, so by the end of the 24th.

20          COMMISSIONER SADHWANI: Um-hum.

21          CHAIR YEE: Do we want to try to plan anything after  
22 that or just wait till then?

23          Yeah, Marian.

24          MS. JOHNSTON: I would suggest that -- to finalize  
25 your question, since you've left a few up in the air,

1 that you bring that up under the commission meeting next  
2 week and do that in public session for the discussion of  
3 finalizing the questions.

4 CHAIR YEE: Very good.

5 COMMISSIONER SADHWANI: Okay.

6 CHAIR YEE: Good idea. We'll do that.

7 COMMISSIONER SADHWANI: And just to clarify, Marian,  
8 can we do that during the full commission meeting? And  
9 if we were to do so, other commissioners cannot weigh in  
10 during that time; is that correct?

11 COMMISSIONER TOLEDO: Oh --

12 COMMISSIONER SADHWANI: Or should we plan to have a  
13 time after the commission has recessed in which just the  
14 three of us meet again, just in terms of Bagley-Keene,  
15 since we are committee still.

16 MS. JOHNSTON: If you do it as an item during the  
17 full commission meeting, then all the commissioners can  
18 weigh in.

19 CHAIR YEE: Um-hum.

20 COMMISSIONER SADHWANI: Okay.

21 MS. JOHNSTON: But you can limit it to the questions  
22 that you still have remaining on the ones you need to  
23 reword.

24 COMMISSIONER TOLEDO: And that also would allow us  
25 to get feedback and guidance from the full commission, as

1 well, in this process --

2 CHAIR YEE: Right.

3 COMMISSIONER TOLEDO: -- even if it's just the three  
4 remaining questions we have left, or couple of questions  
5 we have left.

6 CHAIR YEE: Okay. I will make sure that happens.

7 Do we want to plan or anticipating any further  
8 meetings beyond that, beyond the interviews, basically?  
9 We'll have to -- there has to be a hiring process, which  
10 I guess we'll have to be involved with, right, so.

11 COMMISSIONER SADHWANI: Yeah. And we should start  
12 asking Raul about what the contracting process will look  
13 like and -- or Marian, if you have that information, of  
14 what that process would actually look like. I believe we  
15 had entered into an RFI with the understanding that it  
16 was an attorney-to-attorney relationship. So I think  
17 then, Marian, you would probably need to be a part of  
18 that contracting process if you feel comfortable doing  
19 so, in absence of chief counsel.

20 MS. JOHNSTON: Sure.

21 COMMISSIONER SADHWANI: So to your question,  
22 Russell, yes, I think we should just continue to agendize  
23 (sic). If we don't need the meetings, then we don't have  
24 to use them, but given the fact that there is a two-week  
25 notice time for our meetings, it makes sense just to have

1 them on the agenda and then cancel them so that if --

2 CHAIR YEE: Right.

3 COMMISSIONER SADHWANI: -- things come up, then  
4 it's something that we can discuss.

5 CHAIR YEE: Okay. Should we actually look at a date  
6 right now?

7 COMMISSIONER SADHWANI: Well, my sense is we could  
8 just add them onto the committee meetings, no? Excuse  
9 me, to the commission meetings, that whole list of days  
10 that we added.

11 CHAIR YEE: Right, including some days which are for  
12 committee meetings only, although I had a question about  
13 those, because you are not available Wednesday night,  
14 Sara, so.

15 COMMISSIONER SADHWANI: Well, that only lasts  
16 through April and the first week of May, but yeah, I  
17 mean, I think if we can just tag onto -- as Alvaro is  
18 working on the agendas and posting all of these dates, if  
19 we can add -- I think what tends to happen is unless  
20 there is something really long, we don't tend to go more  
21 than a couple of hours for the Legal Affairs Committee.  
22 If we can just tag it on as a standard meeting somehow.

23 CHAIR YEE: Okay. So let's think. Why don't I just  
24 take a look at the upcoming meetings, then, and pick one  
25 that makes sense and anticipate adding --

1 COMMISSIONER SADHWANI: Um-hum. Okay. Yeah, that  
2 makes sense.

3 COMMISSIONER TOLEDO: It may make sense to just add  
4 them to all -- maybe not the single-day meetings, but the  
5 meetings where we have multiple days, to just add a  
6 couple of days, or maybe even to the single days because  
7 they're just one day. And just add them in case we --  
8 add meetings in case we need it, given that the  
9 contracting process will be happening, likely, in the  
10 month of April.

11 COMMISSIONER SADHWANI: Correct.

12 COMMISSIONER TOLEDO: And we may need to meet to go  
13 through that process.

14 COMMISSIONER SADHWANI: That's right, and especially  
15 because we're asking questions about what can we do on  
16 VRA to prepare ourselves for VRA prior to census data.  
17 You can imagine in May or June we might want to figure  
18 that out. I don't know if we want to continue to do that  
19 through the Legal Affairs Committee or through the VRA  
20 committee. And we can also determine those kinds of  
21 components as well.

22 CHAIR YEE: Yeah. You'll be sharing in April,  
23 Pedro.

24 COMMISSIONER SADHWANI: Good luck with that  
25 contract.

1 CHAIR YEE: Right now, we actually have a proposed  
2 agenda item for the March 29/April 1 meeting to hire.  
3 Would we need --

4 COMMISSIONER SADHWANI: Correct.

5 CHAIR YEE: -- a separate meeting LAC meeting to  
6 prepare for that, or is the full commission agenda item  
7 sufficient?

8 COMMISSIONER SADHWANI: I think we need to learn  
9 more about the contracting process in order to --

10 CHAIR YEE: Yeah.

11 COMMISSIONER SADHWANI: -- answer. I would need to  
12 learn more about the contracting process in order to  
13 answer that question.

14 COMMISSIONER TOLEDO: So perhaps we can ask Raul to  
15 provide, A, Marian, to help us do more of a calendaring.  
16 What are the -- what are the steps? More of a project  
17 management type of document or memo that just explains  
18 the next steps for the next month, month and a half --

19 COMMISSIONER SADHWANI: Um-hum.

20 COMMISSIONER TOLEDO: -- as we go through the  
21 contracting process.

22 CHAIR YEE: That sounds good. I'll request that.  
23 Okay. With that, anything else?

24 COMMISSIONER TOLEDO: I think your question was, do  
25 we need a meeting prior to the next -- to the 29th to do

1 any prep work? I think, or maybe I misinterpreted.

2 CHAIR YEE: I'm just wondering, in general, after we  
3 make our decision, let's assume the full commission does  
4 approve this recommendation, and then we need to go  
5 forward with the hiring process. So the question is  
6 whether we to now agendize (sic) any meetings to do that.

7 So since we don't since -- we're going to have to  
8 see this memo, a timeline memo, to really have a better  
9 sense of it, even taking action on the 29th/1st, we're  
10 not sure about that, yet. It may happen that quickly or  
11 we may need to do more work before we're ready for that.

12 COMMISSIONER TOLEDO: Okay. I know we're almost at  
13 11 o'clock, and I don't know if this is the right place  
14 to ask this question, or maybe it's at a future meeting  
15 or maybe even next at the next commission meeting. But  
16 in terms of our recommendation, because whatever we  
17 decide should be standardized, are we planning to  
18 recommend one candidate from each of this pool for the  
19 VRA litigation? Could it be two candidates?

20 I mean, I'm sure it could be two, but what is our  
21 intention as a committee? Do we plan to recommend one  
22 candidate, two candidates per each one of these RFIs, or  
23 is our intention to just elect -- to narrow it down to  
24 one? Or do we want to leave it a little bit more open?  
25 And I guess the question becomes, can we leave it open?

1 CHAIR YEE: Sure.

2 COMMISSIONER TOLEDO: And I'm not sure if this is  
3 the right question to have now. I know it's the right  
4 question to have in the open --

5 CHAIR YEE: Yeah.

6 COMMISSIONER TOLEDO: -- in an open meeting such as  
7 this. I just don't know if right now is the right time  
8 or if we want to --

9 MS. JOHNSTON: I would suggest you wait until after  
10 you see your candidates and think if -- if they are two  
11 that you want to recommend or only one, you'll know more  
12 after you do the interviews.

13 CHAIR YEE: Um-hum.

14 COMMISSIONER TOLEDO: Okay. So wait until after the  
15 interviews is the recommendation.

16 CHAIR YEE: I mean, I think it would make it easier  
17 on the full commission if we have one clear  
18 recommendation for each position, and we recommend that  
19 they go forward. If we are just stuck trying to decide  
20 between two, then maybe we end up bringing that before  
21 them. But I don't think anybody prefers that, so yeah.

22 But yeah, I think Marian is right. I think when we  
23 actually see and actually start ranking, we'll know where  
24 we stand with that. But a good question. I don't  
25 think -- so we have not decided that. And yeah.

1           COMMISSIONER TOLEDO: And I think that is an  
2 appropriate -- this may be the appropriate path forward,  
3 is to just wait until we see the candidates, and we do  
4 the interview process to determine how many or  
5 individuals will move forward in the recommendation  
6 process.

7           CHAIR YEE: Right. We have said we are -- we do  
8 intend to rank candidates, so the question is whether any  
9 of those will be a tie, I suppose.

10          Okay. Anything else?

11          We need to take public comment before we close, so  
12 let's go ahead and bring back Katy for our closing public  
13 comments.

14          PUBLIC COMMENT MODERATOR: Yes, Chair. Oops. My  
15 instructions were stuck. Okay.

16          In order to maximize transparency and public  
17 participation in our process, the commissioners will be  
18 taking public comment by phone. The Legal Affairs  
19 Committee will be taking public comment by phone.

20          To call in, dial the telephone number provided on  
21 the livestream feed. It is 877-853-5247. When prompted,  
22 enter the meeting ID number provided on the livestream  
23 feed. It is 969-8965-6065 for this meeting. When  
24 prompted to enter a participant ID, simply press the  
25 pound key.

1           Once you have dialed in, you will be placed in a  
2 queue. To indicate you wish to comment, please press  
3 star nine. This will raise your hand for the moderator.  
4 When it is your turn to speak, you will hear a message  
5 that says the host would like you to talk. Please press  
6 star six to speak.

7           If you would like to give your name, please state  
8 and spell it for the record. You are not required to  
9 provide your name to give public comment. Please make  
10 sure to mute your computer or live stream audio to  
11 prevent 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  
14 the livestream volume. And the Legal Affairs Committee  
15 is taking their closing public comment at this time, and  
16 there is no one in the queue.

17           CHAIR YEE: Thank you, Katy. We'll a minute.

18           I should mention, I am glad to see that we do have  
19 all five applicants, six applications, lined up for  
20 interviews, including -- yeah, including all of them.

21           COMMISSIONER SADHWANI: Um-hum.

22           CHAIR YEE: Glad to see that.

23           COMMISSIONER SADHWANI: Do we know, Chair, if that  
24 got posted to the website or not yet? Or it will --

25           CHAIR YEE: Yes.

1 COMMISSIONER SADHWANI: -- be posted?

2 CHAIR YEE: It's part of the agenda for that  
3 meeting. The full interview schedule is included.

4 COMMISSIONER SADHWANI: For the 22nd -- oh, I see.  
5 Okay.

6 CHAIR YEE: Yeah. So each of those days, we intend  
7 to have interviews. Those last till 2 p.m. each day,  
8 Monday and Tuesday. That'll give us a couple hours after  
9 the interviews for our preliminary discussions and  
10 perhaps even --

11 COMMISSIONER SADHWANI: Okay.

12 CHAIR YEE: -- preliminary rankings. Wednesday, the  
13 24th, the entire day as needed will be for further and  
14 final discussions and rankings.

15 PUBLIC COMMENT MODERATOR: The instructions are  
16 complete. It's been two minutes.

17 CHAIR YEE: We'll just wait just a moment.

18 Okay. Well, seeing no callers, there is no other  
19 business. This meeting of the Legal Affairs Committee,  
20 as well as the March 8th full commission meeting, is now  
21 adjourned.

22 (Whereupon, the CRC Business Meeting  
23 adjourned.)

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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 proceedings provided by the California Citizens Redistricting Commission.



LORI RAHTES, CDLT-108

June 29, 2022

DATE