

STATE OF CALIFORNIA
CITIZENS REDISTRICTING COMMISSION (CRC)

In the matter of:
CRC BUSINESS MEETING

FRIDAY, AUGUST 28, 2020
9:30 a.m.

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P R O C E E D I N G S

1
2 August 28, 2020

9:30 a.m.

3 CHAIR TURNER: Good morning. Happy Friday to
4 everyone. We are ready to resume our meeting on today,
5 Friday, August 28th. Good morning to everyone.

6 And today what we'll do is we're going to start with
7 public comment. I have a question for counsel before we
8 do that.

9 Are we able to, I want to have the discussion with
10 the full Commission in regards to the guidelines for
11 public comment.

12 MS. JOHNSTON: Yes.

13 CHAIR TURNER: Since -- okay, it's not agendized or
14 anything; I just want to make sure.

15 MS. JOHNSTON: Well, public comment is agendized, so
16 you can talk about that.

17 CHAIR TURNER: Beautiful, beautiful.

18 Okay, Commissioners, there are two thoughts that we
19 had; we previously operated with public comments being
20 allowed two minutes and at the end of -- at the
21 discretion of the Chair, we end them at two minutes and
22 then allow them to dial back in if they have continuing
23 comments. It was also suggested yesterday that we allow
24 three minutes, and then kind of fluctuate, based on if
25 indeed we have lots of comments or not.

1 I wanted to just open it up for a brief discussion
2 for Commissioners because I would like to set our ground
3 rules for public comment before we go into public comment
4 today. That will kind of dictate our path forward.
5 Anyone with strong thoughts?

6 Okay, Commissioner Fernandez.

7 COMMISSIONER FERNANDEZ: I think the two minutes is
8 good. I would like to just be consistent. I think
9 yesterday, but I'm not sure who recommended it, if there
10 aren't a lot of comments, we can let them go more than
11 two minutes, but I would caution against that. I would
12 just caution whatever time limit you set, it should be
13 the same, regardless of if there's a lot of people that
14 are going to comment, or not as many people are going to
15 comment.

16 But again, if it is something -- like, what we do on
17 the school board, or what we used to do is it was two
18 minutes, and a maximum of twenty minutes for the comment
19 phase. So that's another -- you can also set maximums as
20 to how long we will take public comments. But I'm
21 thinking two minutes should be good enough. That's my
22 opinion. Thank you.

23 CHAIR TURNER: Thank you.

24 Commissioner Sinay.

25 COMMISSIONER SINAY: I feel strongly against not

1 having a maximum on the public comments because what
2 happens is those that get there earlier get their name in
3 first or whatnot; it just doesn't quite work, and we
4 won't get to hear the full public comment. So I think
5 public comments should be left, but best way to limit it
6 is make them shorter, and really, two minutes seems long
7 sometimes, but other times, when you have a lot to say,
8 it is pretty short.

9 What I would say is that maybe we say you can heed
10 your time to others, but that doesn't work in public
11 comments virtually, because we don't know who's there,
12 and we don't have their slips. And so that would be a
13 conversation where we decide how to design public
14 meetings in the public -- I mean, out. But I -- yeah,
15 I'm strongly against putting a maximum.

16 CHAIR TURNER: Thank you.

17 Any other Commissioners have feelings, thoughts?

18 Commissioner Fornaciari.

19 COMMISSIONER FORNACIARI: Yeah, I think two minutes
20 worked pretty well last time. One of the challenges we
21 have virtually is, you know, we don't know how many
22 people are in the queue, right? And sometimes there were
23 a few, sometimes we went for an hour, you know, with
24 public comments. So I think just for now, a set time, I
25 thought two minutes worked pretty well, and just take all

1 the public comments we get. We want to make sure
2 everybody has a chance.

3 CHAIR TURNER: Thank you.

4 Commissioner Andersen.

5 COMMISSIONER ANDERSEN: I just -- we did the two
6 minutes last time; I thought that worked very well. The
7 other thing that I liked is we said, you know, we have
8 them a fifteen-minute -- a fifteen-second warning so they
9 could kind of wrap up. And also, AT&T did not shut it
10 off at two minutes. I thought that was very important,
11 because a couple times that did happen, and we didn't --
12 we like to be able to control, let them say their last
13 two words or something, and say your time is up, and then
14 the Chair can shut them off.

15 I thought that worked rather well, because there
16 were a couple times when, you know, they're right in the
17 middle of something and then where -- have a couple more
18 seconds to finish it. Not that we extended it, but I
19 thought that flexibility gave us just a little bit more,
20 but I really like the two-minute time frame because then
21 everyone has an idea of what's coming, and they can plan
22 for that. So I would recommend two minutes.

23 CHAIR TURNER: Thank you. Next we have Commissioner
24 Yee, followed by Akutagawa, Sinay, and Ahmad.

25 COMMISSIONER YEE: Yeah, two minutes is fine, just

1 need to be sure to communicate that to callers, you know,
2 kind of before, whenever we make the announcement, and
3 right before they comment and so forth, so they know that
4 that's -- what to anticipate.

5 CHAIR TURNER: Commissioner Akutagawa? You're on
6 mute, Commissioner.

7 COMMISSIONER AKUTAGAWA: Sorry about that. I
8 unmuted my phone.

9 I would actually, you know, just throw out for
10 consideration three minutes, because something I heard
11 before, it -- depending on the topic that we're going to
12 be talking about, it could just take somebody a minute
13 alone just to just talk about, like, what their kind of
14 position, in terms of who they are, what they do, to give
15 themselves some credibility in terms of the comment that
16 they're going to make. That alone could take a minute,
17 and then will leave them a minute for the substance of
18 their comment.

19 And so I just want to just throw out for
20 consideration. I know that it may seem like it's a long
21 time, but three minutes might be, you know, that happy
22 balance where you allow them to introduce themselves
23 properly, so that there's some context for why they're
24 making the comment.

25 CHAIR TURNER: Thank you.

1 Commissioner Sinay.

2 COMMISSIONER SINAY: Is there someone before me or
3 not?

4 CHAIR TURNER: Excuse me?

5 COMMISSIONER SINAY: No, I thought someone might've
6 been before me.

7 Just quickly, is it possible, instead of having the
8 Chair having to control the time, for staff to take on
9 that piece? I know that when I was on the school board,
10 staff was doing two minutes, and same with our city
11 council. The staff does it, and that allows the Chair to
12 actually be able to participate and listen well to what
13 the public comment is.

14 Again, I do like three minutes, and go to two if we
15 have too many people. And I also would like some input
16 from counsel on which public comments we are allowed to
17 ask more questions or clarification; when we are allowed
18 to engage with public comments, and when we're not
19 allowed to engage in public comments, because we can even
20 just say thank you.

21 A lot of people don't understand those rules about
22 public comment, and what we found at the school board
23 that it was really critical to explain every day when we
24 can engage and when we can't so people don't feel like we
25 didn't hear them, but they know that legally because it's

1 not agendized, we cannot engage.

2 So just some things -- that's broader than I think
3 the issue that's here, and I apologize, but I do want to
4 put that out there.

5 MS. JOHNSTON: If you'd like me to respond, Madam
6 Chair?

7 CHAIR TURNER: Please.

8 MS. JOHNSTON: All right. If it is an item that's
9 on the agenda, and they were making a comment about that,
10 then you can engage with the caller, have feedback, have
11 questions, whatever you'd like to do.

12 If it's a matter that's not on the agenda, and it's
13 in the general comments section, then all you can do is
14 say, thank you very much and we'll take that into
15 consideration. If you wish, you can put it on the agenda
16 for the next meeting to discuss, but you cannot actively
17 discuss the content of it if it's not on the agenda.

18 One of the problems yesterday is that someone was
19 talking about an item as a general comment during the
20 comment on a particular item, and so at some point, you
21 might want to caution people that we're addressing item
22 such-and-such; we are only inviting comments on that item
23 at this time.

24 CHAIR TURNER: Thank you.

25 Commissioner Ahmad?

1 VICE CHAIR AHMAD: I don't have a specific
2 recommendation in terms of time limits, but I do think we
3 can change those, depending on the meeting, and just set
4 a minimum standard for the meeting, depending on what an
5 agenda looks like.

6 Since our agenda this time around is primarily
7 trainings, I suspect the types of public comments we'll
8 get will be very different when compared to actual
9 community meetings related to line drawing itself. So
10 for comparison, we may just need to set something for
11 this particular meeting, and then we can see what happens
12 in the future.

13 CHAIR TURNER: Thank you.

14 Commissioner Fernandez.

15 COMMISSIONER FERNANDEZ: Yes. I just want to kind
16 of piggyback on what Commissioner Sinay said.

17 On the school board, what we did is we actually,
18 prior to agendized item, we put a blurb in there on
19 public comment. We actually put in the specifics as to,
20 there's a two-minute limit, and also we cannot -- we will
21 not discuss items that aren't agendized, but they can
22 bring comments. That way it does, like Commissioner
23 Sinay said, the public's aware that they can bring their
24 comments, but if it's not an agendized item, we can't
25 comment on it.

1 And then it also alerts them to if they want to talk
2 about a specific item on the agenda -- so I'm just, you
3 know, thinking out loud, when we get to the last agenda
4 item, in terms of our future agendas, we might want to
5 think about having that type of blurb.

6 Anyways, so that was just a FYI. Thank you.

7 CHAIR TURNER: Commissioner Sadhwani.

8 COMMISSIONER SADHWANI: Yeah, I -- I don't have a
9 strong preference in terms of two minutes or three
10 minutes, but I appreciate Commissioner Fernandez's
11 perspective of having a blurb, and just noticing on our
12 website for public comments, under instructions, all it
13 does is give the phone number and code.

14 If it's two minutes, if it's three minutes, we
15 should let people know that there -- they are probably
16 getting the phone number from the website is my guess, as
17 well as, and I know I always bring up this issue, if
18 we're going to hold general public comments first thing
19 in the morning, or after lunch, or whatever makes sense
20 for us, whatever everyone agrees to, I think we should
21 just put it there, right, so that people know, hey, I can
22 call in at 9:30-ish and plan to actually be heard and not
23 have to wait around probably.

24 So I agree with just making that -- whatever we come
25 up with should be more clear, and probably posted on our

1 website.

2 CHAIR TURNER: Thank you.

3 Commissioners, I don't see any others waiting. Oh,
4 I'm sorry. Commissioner Kennedy.

5 COMMISSIONER KENNEDY: Thank you, Madam Chair.

6 I had intended to address this under item 16, and I
7 still can, when we're talking about interpretation
8 services. I personally believe it's important for us to
9 be able to take comment in other languages, particularly
10 languages that are covered under VRA. To me, this is an
11 integral part of the electoral process, and I believe
12 that our people of California who are interested in
13 redistricting should not be limited in their ability to
14 input into this process, if they are of limited English
15 proficiency.

16 So I can go into further detail now, or I can go
17 into further detail when we take up the interpretation
18 contract under item 16.

19 CHAIR TURNER: I'd like for you to continue,
20 Commissioner.

21 COMMISSIONER KENNEDY: Thank you. And I have some
22 notes, just so I don't miss anything. And I've been in
23 contact with counsel, and counsel, I believe, is right
24 that we may learn more about this during Voting Rights
25 Act briefing, but I'll give my two cents to colleagues,

1 and then we can decide at some point how we deal with
2 this.

3 VRA requires that political processes leading to
4 nomination or election in the state or political
5 subdivision be equally open to participation by members
6 of the class of citizens protected by subsection A.

7 My belief is that our work constitutes such a
8 process leading to nomination or election, and should
9 thus be equally open to citizens protected by subsection
10 A.

11 California is currently covered under VRA Section
12 203 -- used to be called 203, it's now codified at 52 USC
13 10503(b)(2), and the director of the census has published
14 in the Federal Register in December of 2016 the
15 determination that statewide, California is required to
16 provide election-related information, including other
17 materials or information relating to the electoral
18 process statewide in Spanish, as well as English.

19 Further, various counties in the state are required
20 to provide election-related information in Chinese,
21 Filipino, Vietnamese, Cambodian, Korean, and various
22 Native American languages.

23 When we look at CFR, the Code of Federal
24 Regulations, 28 CFR Chapter 1, part 55, entitled
25 "Implementation of the Provisions of the Voting Rights

1 Act Regarding Language Minority Groups", it says in part,
2 "in the Attorney General's view, the objective of the
3 Act's provision is to enable members of applicable
4 language minority groups to participate effectively in
5 the electoral process." And again, I believe that what
6 we're doing is an integral part of the electoral process.

7 Further, "that materials and a system should be
8 provided in a way designed to allow members of applicable
9 language minority groups to be effectively informed of,
10 and participate effectively in voting-connected
11 activities", and that "affected jurisdictions should take
12 all reasonable steps to achieve that goal".

13 It also states in part, "the quoted language should
14 be broadly construed to apply to all stages of the
15 electoral process". And again, you know, this is where I
16 come down to, I believe what we are doing is a stage in
17 the electoral process.

18 Once we go to California Government Code, beyond the
19 federal provisions, California Government Code Section
20 7291 reads in part, "the legislature hereby finds and
21 declares that the effective maintenance and development
22 of a free and democratic society depends on the right and
23 ability of its citizens and residents to communicate with
24 their government, and the right and ability of the
25 government to communicate with them. The Legislature

1 further finds and declares that substantial numbers of
2 persons who live, work, and pay taxes in this state are
3 unable, either because they do not speak or write English
4 at all, or because their primary language is other than
5 English, effectively to communicate with their
6 government."

7 7292(b) says, "for the purposes of this chapter, the
8 furnishing of information or rendering of services
9 includes, but is not limited to", among other things,
10 holding public hearings. And 7296.2 says "a substantial
11 number of non-English speaking people or members of a
12 group who either do not speak English, or who are unable
13 to effectively communicate in English because it's not
14 their native language, and who comprise five percent or
15 more of the people served by the statewide or any local
16 office or facility of a state agency."

17 So my sense is that, you know, some may argue that
18 we're not absolutely required to do this, but again, I
19 would rather err on the side of empowering our citizens,
20 our people, and if the government of California in the
21 Government Code has said that, you know, it is the duty
22 of public bodies to enable people of this state,
23 including those who are of limited English proficiency,
24 to participate in their government through public
25 hearings, I think we need to make our question -- our

1 public comment periods equally accessible to those
2 people.

3 So I'll leave it there. I think you get a sense of
4 where I am on this, and hope that we can discuss further,
5 as you see appropriate. Thank you.

6 CHAIR TURNER: Thank you, Commissioner. Well, I'm
7 for sure in total agreement with that, and I would ask
8 for support through staff and counsel to determine how
9 can we bring that about on a Zoom call, particularly for,
10 you know, the different groups that you mentioned, so
11 that we can move towards that. I think that's -- I think
12 your points are well-taken.

13 MS. JOHNSTON: One question, if I may, Madam Chair.
14 Are you asking for an interpreter in Spanish, or that
15 interpretations in all those languages be available?

16 CHAIR TURNER: What I'm asking -- I am asking that
17 they -- yes, that we have access to them, perhaps might
18 have to be -- if we're notified, because I'm imagining a
19 couple of things. Number one, if someone calls in in
20 Spanish, or any of the languages online, they typically
21 will either call with an interpreter; they'll call and in
22 some kind of way they need to ask for an interpreter.
23 And I want us to at least have a plan of how we will be
24 able to interpret, same thing for sign language.

25 MS. JOHNSTON: The sign language is something

1 different, in that the Bagley-Keene requires that you
2 comply with the Americans with Disabilities Act, which is
3 why you have the sign language and the captioning. So it
4 doesn't apply to different language groups.

5 CHAIR TURNER: Captioning.

6 MS. JOHNSTON: We -- the last Commission did have a
7 policy that if someone called in ahead of time and said
8 they needed an interpreter in a particular language,
9 there is a service that we can provide that for.

10 If you're asking to have one available just when
11 someone calls in, that's a much more expensive
12 proposition, and we can look into that for you, but it
13 would be substantially more expensive.

14 CHAIR TURNER: Okay. Commissioner Kennedy.

15 COMMISSIONER KENNEDY: Thank you, Madam Chair. Two
16 things: one, once we reach a conclusion on where we want
17 to go with this, I think that conclusion needs to be
18 reflected in the instructions for public call-in, both on
19 the website, and eventually when the verbal instructions
20 are given. And that can be done simply through a
21 recording that is prerecorded and played; it doesn't mean
22 that someone has to read the instructions for public
23 comment live in Spanish and any other languages. We can
24 have that prerecorded.

25 As far as interpretation on stand-by, I know that at

1 one point, AT&T used to have something called -- I think
2 it was AT&T Language Services, and if you wanted to call
3 somebody overseas and you needed an interpreter, you
4 could actually just contact AT&T in the process of
5 placing the call and say, I need an interpreter in order
6 to have this conversation.

7 So I'm wondering if we can look into whether AT&T
8 still has such a service, since we're already using them
9 in the public comment period.

10 MS. JOHNSTON: We will certainly look into that.

11 COMMISSIONER KENNEDY: So that would not require us
12 to be paying someone, you know, full-time to be on stand-
13 by; it would be a service available for us, and if
14 there's any charge on a per-use basis, then you know,
15 that's something that we can consider.

16 CHAIR TURNER: Um-hum, um-hum. Thank you.

17 Commissioner Sinay.

18 COMMISSIONER SINAY: Mr. Kennedy -- sorry, not Mr.,
19 Commissioner Kennedy, I agree with everything that you've
20 said, and I actually had it written down in different
21 places that we need to be, you know, one of the agenda
22 items for the future that I'd like to place is how do we
23 create a sense of belonging for the people of California
24 in all our practices. And there's a lot we're doing
25 right now that's really a barrier to a lot of people.

1 So I agree with what you're saying. I was
2 wondering, is -- who speaks what language among the
3 Commissioners, and if counsel can advise us if someone
4 were to call in today that may spoke Spanish, I could,
5 you know, I can translate; is that legal or is that
6 not -- you know, does it need to be a third party who
7 translates for the Commission, because I have a feeling
8 that we may have robust resources among ourselves, and
9 that would also allow the community to know that side of
10 us, but I think it makes more for that sense of
11 belonging.

12 And the second thing is, I completely agree with
13 what Commissioner Kennedy was saying, and for that
14 reason, I would say that our agenda at least should be
15 translated into Spanish, since that's the number one
16 language, and we may want to talk about other languages,
17 but we -- again, I have it as an agenda item for the
18 future, this whole, how do we become more, and I don't
19 like the word inclusive, so I am saying belonging.

20 CHAIR TURNER: Commissioner Taylor.

21 COMMISSIONER TAYLOR: Yeah, are we moving past our
22 intention to have public comment prior to our training as
23 this discussion continues?

24 CHAIR TURNER: It is going longer than intended, but
25 I saw importance in it only from the standpoint of trying

1 to set ground rules, because we'll have to do that at
2 some point moving forward. So we did creep a little bit
3 from the time period that we wanted to allow today, but
4 then again, because the topic was public comment and how
5 we're going to allow, I didn't want to keep kicking the
6 can down the road, as far as how we're allowing people
7 that may not have the same access for public comment as
8 well.

9 So it did go on a little bit longer, but that's kind
10 of my thought process of why we're having the whole
11 public comment conversation now to kind of complete it,
12 put it to bed, and know the direction we're going in.

13 Commissioner Toledo.

14 COMMISSIONER TOLEDO: Just going back to the time
15 limits. Given that the public -- the members of the
16 public have the opportunity to provide written comments,
17 I'd be comfortable with two or three-minute limit.

18 CHAIR TURNER: Okay. And there was a question,
19 counsel, about public comment, as far as Commissioners
20 being able to translate, and the legality of it.

21 MS. JOHNSTON: Well, I disagree with --
22 respectfully, with Commissioner Kennedy about the
23 requirement under Voting Rights Act, which applies to the
24 state and political subdivision, so jurisdiction over
25 elections, which doesn't include you. But apart from any

1 legal requirement, you certainly can provide whatever you
2 decide to provide, and since there's no legal
3 requirement, if there were a Commissioner that were
4 fluent in a language, there would be no problem, in my
5 opinion, in having them do that interpretation.

6 MR. VILLANUEVA: Marian, this is Raul. Could it
7 pose -- I know there's no legal or illegality to it, but
8 could it pose a potential conflict, as someone's
9 providing testimony to the individuals who are
10 translating their testimony.

11 MS. JOHNSTON: Well, there is a duty as an
12 interpreter to repeat exactly what the person says and
13 not improvise in any way or change it in any way. So the
14 Commissioner would have to be bound to those same
15 restrictions that are on an official translator.

16 MR. VILLANUEVA: But then what if someone says they
17 didn't translate it accurately; what position does that
18 put the Commission in?

19 MS. JOHNSTON: That would be a problem; you'd have
20 to go back then and review the video and get an official
21 interpreter to decide whether or not it was adequately
22 translated. So I -- personally, I think I would trust if
23 a Commissioner says they're fluent in a language, that
24 they would be able to do that, but that's again, up to
25 the Commission.

1 CHAIR TURNER: Thank you.

2 Commissioner Akutagawa.

3 COMMISSIONER AKUTAGAWA: Just a couple things. One,
4 I looked on the website. There is translation of all of
5 the documents, so I think that that is all of the meeting
6 documents that are available in various languages.

7 Also, I think on the point about interpretation, one
8 of the thoughts that I would have is, to the point of
9 what counsel and Raul, you were just talking about, I
10 think my experience is that when it comes to translation,
11 there has to be an, I guess an official translator,
12 because while I could say I could translate in Japanese,
13 I wouldn't purport to say that I would want to do it in
14 any kind of official capacity.

15 With that said, I also believe that, like the Chair,
16 if you're trying to listen for translation versus listen
17 for content, it may prevent a Commissioner from being
18 able to fully participate. I think what would be
19 appropriate though, is because they do have the language
20 capability, after the interpreter translates, then they
21 could provide their nuanced view on what they heard as a
22 Commissioner, and then that may then enable them to then
23 be able to both participate, but also provide, you know,
24 a kind of perspective, you know, having been fluent in
25 the language that is being spoken.

1 MS. JOHNSTON: Madam Chair, on the comment about the
2 languages -- about the documents being available in other
3 languages, that's through a Google automated translation
4 system, which is not perfect, but it's available. So if
5 you wanted something more than that, that would be
6 something we'd have to explore and get the costs for.

7 CHAIR TURNER: Okay, thank you.

8 MR. VILLANUEVA: If I may?

9 CHAIR TURNER: Commissioner Le Mons, followed by
10 Commissioner Kennedy.

11 MR. VILLANUEVA: Okay.

12 CHAIR TURNER: Yes, Raul, but then we'll go
13 Commissioner Le Mons and Commissioner Kennedy.

14 MR. VILLANUEVA: I was just going to just remind the
15 Commission that this is an item on -- this is part of
16 item number 16. The reason it's listed there as language
17 interpreter solicitation versus contract was to initiate
18 this entire conversation. I understood from your prior
19 meetings it was important; I'm hearing it's still
20 important, and maybe we ought to go ahead and devote that
21 time to it.

22 If I may also, it's 10 o'clock and you have a
23 speaker waiting.

24 CHAIR TURNER: Thank you.

25 Commissioner Le Mons and Kennedy.

1 COMMISSIONER LE MONS: I'll reserve my comments for
2 later.

3 CHAIR TURNER: Okay. Commissioner Kennedy.

4 COMMISSIONER KENNEDY: I'll wait until we're on 16.

5 CHAIR TURNER: Thank you, okay.

6 So to conclude this and then get to our speaker,
7 Commissioners, are we comfortable with two minutes at
8 this time going forward, or is there a strong preference
9 for three? Two minutes, two, two, two, okay, okay. Two
10 minutes is what I see.

11 Okay, so moving forward, our public comments will be
12 for two minutes. Thank you.

13 MS. JOHNSTON: I know there's a speaker waiting, but
14 since you announced public comment, do you want to
15 request any public comment that's in line now?

16 CHAIR TURNER: I want to check. Yes, I'd like to
17 check to see if there is public comment waiting. Justin?

18 PUBLIC COMMENT MODERATOR: There are no members of
19 the public connected for comment at this time.

20 CHAIR TURNER: Okay, thank you.

21 And so our 10 o'clock speaker is here in regards to
22 the ACS five-year estimate on CVAP. And so at this
23 point, thank you for waiting. We appreciate you and
24 welcome.

25 MS. MAC DONALD: Good morning, Commissioners. My

1 name's Karin Mac Donald, and I am thrilled to be here and
2 really happy to meet all of you. And hello to staff.
3 Also, hello Marian and Raul; nice to see you.

4 MS. JOHNSTON: How are you? You, too.

5 MR. VILLANUEVA: Hi, Karin.

6 MS. MAC DONALD: And hello, Kristian.

7 I am wondering if Mr. Ancheta is on already?

8 CHAIR TURNER: Yes, we see him.

9 MR. ANCHETA: I am, yes.

10 MS. MAC DONALD: Oh, there you are, hi. Okay,
11 wonderful.

12 So I'm going to share the screen and hand it over to
13 Mr. Ancheta, and then we'll go from there.

14 CHAIR TURNER: And Commissioners, real quick, this
15 is our agenda item number 10.

16 MS. MAC DONALD: One second, please. Okay.

17 MR. ANCHETA: Okay, great, thank you. Well, good
18 morning.

19 So there are two handouts you can consult. One is
20 this PowerPoint presentation. That's under the training
21 materials on the website. And then the second one
22 is some correspondence between Ms. Mac Donald and myself
23 and the Census Bureau, which is under your meeting
24 handout, viewing special tabulations. And we'll discuss
25 that as we go through the presentation.

1 So I'm going to give a little bit of a -- next
2 slide, Karin, sorry.

3 So just as an overview, I'm going to be covering a
4 couple of the legal requirements and why you actually
5 need to pay attention to the Citizen Voting Age
6 Population, or CVAP data. And we'll just talk a little
7 bit about some of the different requirements that are in
8 place under the Voters FIRST Act, as well as why you need
9 to be attentive to when data sets are coming out because
10 as you know, and you've had some discussion already about
11 the timing of the census and the, you know, potential
12 involvement and advocacy regarding the census. There are
13 different data sets that are coming out and it's not
14 entirely clear when they're coming out. We have a
15 general sense of the timing, but the CVAP data in
16 particular is important because it is key to doing VRA
17 analysis.

18 So I'll talk about some of the requirements. Ms.
19 Mac Donald will be covering the ACS, the American
20 Community Survey, and different types of data and how
21 that data set is put together. We'll talk about the
22 letter we sent back in June, and then we'll make some
23 suggestions about potential actions. I don't think you
24 need to take any action today, but as you're developing
25 your calendars and plans and time lines for the next

1 several months, you definitely want to try to fit in some
2 of these time lines into that overall structure.

3 Okay, next slide.

4 Okay. So as you know, the Voters FIRST Act has a
5 set of ranked criteria. The first two are federal
6 requirements that are in place regardless of how the
7 state sets up its additional criteria. So -- and again,
8 this is review, and this is not a substitution for your
9 training that you're going to be covering for the next
10 couple days, but we did want to make sure you had some
11 background. And I know your trainings are a little bit
12 elliptical because of the availability of speakers, and
13 the order you're taking it in. Ms. Mac Donald will be
14 providing some additional specifics on data sets next
15 week, and Professors Levitt and Barreto will be covering
16 the VRA and some of the data analyses in greater depth.

17 So again, the first requirement under the Voters
18 FIRST Act is the constitutional requirements. The major
19 one you're dealing is the one person, one vote
20 requirement. That requires population equality between
21 the districts. The figures that you're going to be
22 looking at are the ones that are coming out of the 2020
23 census. The P.L. 94-171, which is what Karin will talk
24 about in more depth, in essence, you're looking at equal
25 population between the districts, and there's, you know,

1 some variations which you'll cover in terms of
2 congressional versus state-level districts.

3 Important things to note, you know, there was a
4 controversy in terms of the citizenship question
5 appearing on the census 2020. That was litigated.
6 Ultimately, the census did not include a citizenship
7 question. There are some ongoing problems in terms of,
8 as you know, the acceleration of the collection of data
9 this year, potential undercounts, the President's
10 executive order that would adjust the data once it comes
11 in to exclude undocumented immigrants. You had some
12 discussion about the National Urban League lawsuit.
13 There's some initial lawsuits challenging the executive
14 order. Obviously, you need to pay attention to what's
15 going on there. But ultimately, you'll be dealing with
16 the data set that comes out at some point in the late
17 spring or early summer of next year. Next slide.

18 Okay. So the second requirement under the Voters
19 FIRST Act is the Federal Voting Rights Act. You're going
20 to be primarily concerned with Section 2 compliance, and
21 as I'm sure you're aware, Section 5, the preclearance
22 requirement, that was bound -- or that bound the 2010
23 Commission is no longer operative because of the lack of
24 a triggering mechanism in Section 4. That probably is
25 not going to be an issue for you. If there is, you know,

1 depending on how the November election comes out, if you
2 see, you know, perhaps Democratic control of Congress and
3 the White House, that could change. But again, you
4 should be attentive to developments, and if we don't see
5 that much change in, say, the Senate, it's not likely
6 you're going to be dealing with Section 5.

7 Section 2 is the permanent provision, permanent
8 antidiscrimination provision of the VRA. That continues
9 to be operative.

10 The major case that you have to be aware of -- and
11 again, you'll cover this in more detail in additional
12 trainings, is the Thornburg v. Gingles case, that you'll
13 often refer to these as the Gingles factors. And these
14 are stemming out of a 1986 case that the Supreme Court
15 decided of giving a little bit more detail in terms of
16 what's necessary to know if you have violations.

17 You're not litigating a case; what you're trying to
18 do is to make sure you don't get litigated against. So
19 you're essentially looking at an advanced posture where
20 you're saying, well, if there could be a particular set
21 of districts that fulfill these requirements, we should
22 try to comply with it. The Gingles requirements
23 therefore to try to create what are called majority-
24 minority districts. There are again, three requirements:
25 one is simply the size and compactness, the minority

1 group basically fifty percent plus. And I'll talk in a
2 few minutes of what the actual data set and population
3 are going to be (indiscernible). CVAP is the core data
4 set, but that -- there is some variation depending on
5 where you go. The graphic will be nice and California's
6 (indiscernible) CVAP.

7 And then the second and third factors proposed look
8 at the cohesiveness of the minority group, and then the
9 cohesiveness of public (audio interference) voting or
10 cohesiveness of -- essentially, anti-minority voter --
11 it's typically called white bloc voting but can include
12 other minority groups that would be in the jurisdiction.
13 Two and three are often collapsed together and simply
14 referred to as polarized voting. And that's the kind of
15 analysis that's you're going to have to have an expert go
16 through.

17 But you're primarily concerned, at least these early
18 analyses of VRA compliance, you want to look at the size
19 of the populations and where do you think you need to at
20 least look into polarized voting analyses. That's very
21 labor-intensive, in terms of looking at electoral data
22 and additional factors that might come into play in a
23 Section 2 lawsuit.

24 So you want to sort of start with the population to
25 give you a sense of where you need to really dig further,

1 and then your expert, presuming you'll hire an expert or
2 maybe a staff member, depending on your preference,
3 they'll have to do more detailed analysis and look at
4 various types of statistical regressions to kind of
5 figure out if there's polarized voting going on.

6 Okay, next slide.

7 Again, just as a quick review and a differentiation
8 between the total population, the one person, one vote
9 data sets, and then the VRA data sets, for total
10 population, there are what are called unadjusted numbers.
11 That's basically the P.L. 94-171. Again that, depending
12 on what happens with the President's executive order,
13 that could be adjusted to exclude undocumented
14 immigrants. I suspect that's unlikely, given current
15 law, but it's probably not going to be adjusted, at least
16 at that level. There are other adjustments that can
17 occur. I think Dr. Johnson yesterday said that it's not
18 necessarily a good idea, and I think most folks would
19 tend to agree with that.

20 There is one statutory adjustment which is in play,
21 which you're not obligated to follow, but the Statewide
22 Database is working with the Department of Corrections to
23 create a special data set where they are looking at the
24 last known address of prisoners to try to move the
25 numbers around so that those numbers are adjusted to

1 reflect not where they are in prison, but their last
2 known address. That's an optional adjustment, but the
3 data analysis is going forward in any case.

4 For VRA compliance, you have a number of different
5 data sets you could look at. You could look at the total
6 group population, so you look at, let's say the Latino
7 population in a potential district; you look at the
8 entire population, including minors. You could also look
9 at just the voting age population, so that's the adult
10 population, citizen or older. Then you can narrow that
11 further and have a citizen voting age population, the
12 CVAP.

13 And then another figure which is not -- really not
14 used at all, but it's something that can be looked at, is
15 the registered voter population. It's not considered
16 particularly useful for VRA compliance because it's a
17 very fluid number and doesn't necessarily reflect who's
18 actually going to vote on a particular election day. And
19 there are also some issues around this minority
20 registration levels and things like that.

21 So in other parts of the country, you may see voting
22 age population and not citizen voting age population, but
23 the U.S. Court of Appeals for the Ninth Circuit, which
24 covers California, among several states, has ruled that
25 CVAP is the appropriate number, and that's, you know, a

1 reflection of you know, the larger Latino, Asian American
2 populations, where there are significant noncitizens. So
3 that's a good measure of how you can measure potential
4 voting strength of a particular minority group. Okay.

5 And I think that's all I'm going to cover at this
6 point. I'm going to come back at the end to talk about
7 what your decision points might be in terms of how you're
8 looking at the data. So I'll turn it over to Ms. Mac
9 Donald right now.

10 MS. MAC DONALD: Thank you so much.

11 I thought it might make sense to walk through a
12 little history of CVAP or citizen voting age populations,
13 since you'll be working with this data set, no doubt
14 pretty extensively.

15 So in 2000, the decennial census still collected
16 citizen voting age population on what was called the long
17 form. And many of us are dating ourselves, because we'll
18 still remember the long form, of course. I was one of
19 the lucky recipients once of the long form. I'm very
20 proud of it. And it was mailed to one in six households.

21 So in 2004, the Census Bureau was looking at some
22 modifications and some operational changes that were
23 partially prompted by, you know, cost-cutting measures,
24 and they also had some pretty good statisticians on board
25 as they usually do, and they came up with this idea of

1 taking the long form and moving it to an ongoing survey
2 called the American Community Survey. And that whole
3 process of launching the survey started in 2004, and it
4 replaced the long form.

5 So in 2010, we did not get -- nobody got a long form
6 anymore. That was the first short form only census in
7 the United States. And the short form, of course, is
8 still exactly the same short form that we all answered
9 this time around.

10 The ACS or American Community Survey samples
11 nationwide 250,000 households each month. So they're
12 trying to get to a three million sample size each year
13 and they're asking a lot of questions, just like the long
14 form did. And in 2008, they were able to release the
15 first multiyear estimates.

16 As you know, you have to have a specific sample size
17 to get some sort of a confidence into your results, so it
18 took them a while to get enough responses into their
19 sample to be able to have confidence levels that they
20 could actually release. And the first release was a
21 three-year estimate.

22 Now, please note that we're talking about estimates
23 when we're talking about the American Community Survey.
24 We're not talking about counts, which is what we do when
25 we talk about the -- the decennial census, the P.L. 94-

1 171 data set.

2 So these estimates, they are -- we call it a range
3 data set. So when it says there is a three-year estimate
4 available, those are all of the responses that were
5 collected in those three years. And those are then
6 collected essentially the year after that data set is cut
7 off. So it's a rolling data set that keeps on
8 collecting, and they keep on releasing essentially fresh
9 data. And this is a pretty remarkable change from what
10 we had back in the 2000s, when we received the results
11 from the long form once. So it was released, and then we
12 had it for the entire ten years, but there was nothing
13 updated. Now, we get updated data pretty much every year
14 with ACS releases.

15 So the first release was in 2008, as I said, and was
16 a three-year estimate, and it was available for
17 jurisdictions that had 20,000 people or more. And that,
18 of course, is not particularly usable or useful for
19 redistricting purposes, because you're usually working on
20 a much smaller population base; however, with the three-
21 year estimates, they could not go onto a smaller unit of
22 analysis because there were just not enough data points
23 available.

24 Then in 2010, however, they had five-year estimates
25 available. Those were collected 2005 through 2009, and

1 then of course, you know, that year, as soon as they were
2 done with that, there's a lot of very extensive data
3 processing that happens, and then a year later, they
4 release it.

5 So they had a first five-year ACS estimate release
6 on the block group level. So the block group is of
7 course much smaller than what we had with these
8 jurisdictions of 20,000 and larger. Census block groups
9 contain roughly between 600 and 3,000 people. Of course,
10 that's a pretty big range still; that's still a pretty
11 large unit of analysis, but it's a lot better than
12 20,000. And they actually, back in the day, as we say,
13 they also had a one-year release, and that was for
14 populations of, I believe it was 70,000 and above, but
15 they don't release that anymore; that was discontinued.

16 So let's talk about the special tabulation by race
17 and ethnicity. So again, five-year versus three-year
18 tabulation, we need a small unit of analysis for
19 redistricting and voting rights assessment and
20 compliance. And the three-year tabulation is created
21 from the Census Bureau's internal microdata files.

22 Citizen age voting age population by race and
23 ethnicity, this special tabulation has been released
24 annually by the request of the Federal Department of
25 Justice since 2011 because, of course, they understood

1 that they needed these data for voting rights compliance
2 and enforcement.

3 So when they put this request in -- and this is
4 something that you can do it with the Census Bureau when
5 they're not tabulating data in a way that you need them.
6 So for example, they release a data set in a way that is
7 almost what you need, and you just cannot get to what you
8 really need, then you can ask them to recompute things
9 for you, for a specific purpose, and that is called a
10 special tabulation.

11 So with the DOJ, of course, going in and saying we
12 need this, I am pretty sure that that was a very short
13 request. You know, they said we need it, and then the
14 Census Bureau provided it, and they have been providing
15 it every year. Again, it is released every year, every
16 February traditionally, from each year's most recent
17 five-year American Community Survey data release.

18 So to put this in context one more time, when we
19 talk about CVAP of 2020, so citizen voting age population
20 for -- that was released in 2020, it actually comes from
21 the American Community Survey data that were collected
22 between the years of 2014 through 2018. And CVAP 2019,
23 so data release in 2019 comes from the American Community
24 Survey from 2013 through 2017, et cetera.

25 So essentially what we have now is a data set over

1 time. A longitudinal data set that has really been
2 pretty widely used because, you know, we've had it since
3 2011. And it's been analyzed, and you know, we kind of
4 know this data set. We -- there are, you know, a lot of
5 people that have worked with it and they have pointed out
6 some of the shortcomings, but it is kind of a known data
7 set to us.

8 So flash forward to the last couple of years when
9 things all of a sudden became very interesting at the
10 Census Bureau, and we had multiple changes that are going
11 to affect, or that are affecting right now, Census 2020
12 and the redistricting data set.

13 Some changes were announced and will of course not
14 be implemented, as Mr. Ancheta just pointed out. For
15 example, the collection of the citizenship data on the
16 short form, that did not get implemented. Some changes
17 were announced, and they will be implemented, and one of
18 the most significant ones are the new disclosure
19 avoidance methodologies, also known as differential
20 privacy. And then there are other changes that were
21 announced, and I put three dots there because we just
22 don't know what's going to happen.

23 So one of the things that they did announce was that
24 they would not be releasing this special tabulation of
25 citizen voting age population anymore after this year,

1 and that they would replace this data set with what they
2 call the post-2020 citizen voting age population file.

3 So this is a completely different data set, and you
4 know, some of us were looking at this and thought, gosh,
5 there are a lot of changes that are happening right now;
6 it would be good to have something that is constant and
7 that we actually know, so this -- you know, it definitely
8 gave us some pause and we thought, huh, maybe we can do
9 something about this.

10 And then, of course, COVID-19 happened, and it
11 prompted significant changes in census operations. The
12 time line for the data collection was extended by four
13 months, and now it's shortened. And the data release
14 date for the P.L. 97-171, that's the redistricting data
15 set, was extended by four months also, but it's currently
16 not clear when that data set will actually be released;
17 we just know that at this point, they're trying to get
18 the reapportionment counts out by the end of December,
19 and it is just really not clear what's going to happen.

20 So let's talk about this post-2020 CVAP data set and
21 what we know about it. What we know is that the
22 scheduled release will be concurrent with the P.L. 94-171
23 data set. So they're not releasing it on the same file.
24 They will most likely just provide a download link at the
25 same time as the state data are released. And it will be

1 based on the Census 2020 and on administrative records
2 and perhaps other census data.

3 So please note that this is very different from the
4 American Community Survey, which is a survey that
5 actually asked people to respond to specific questions.
6 When we're talking about administrative data,
7 administrative records, there are many different data
8 sources that could be used. We're not sure which ones
9 are going to be used at this point. It was announced --
10 this data set was announced to replace the CVAP special
11 tabulation from the ACS 2020. And the final
12 specifications and the analysis for the post 2020 CVAP
13 data sources are still under development.

14 And they had planned a release of documentation for
15 March 31 of 2020. And they still have not released very
16 much, really. They have not released any of the final
17 specifications or analysis, which means that nobody has
18 been able to really look at this and figure out
19 whether -- what is in this data set, what are they doing.

20 And you know, for some of us who have worked with
21 census data or have looked at census data for long
22 periods of time, this is almost horrifying, I have to
23 say, because the census is so methodical and so
24 organized. They plan things ahead by many, many years,
25 especially as they are preparing for the decennial

1 census. And to have a data set that they are releasing
2 or they're planning on releasing that is supposed to be
3 used for voting rights assessments and enforcement that
4 we still, you know, just a few months before it's
5 released don't know anything about. I mean, a data set
6 where we don't even know which administrative records
7 they're going to use and they're going to look at. That
8 is very troubling, to say the least.

9 The census says in its documentation, as thin as it
10 is, that the statistical methods are still under
11 development. And the current documentation available
12 really just outlines what the census hopes to provide,
13 but really no detail at all.

14 So with that said, we decided, well, maybe we could
15 try to just ask the census to give us the CVAP special
16 tabulation one more time. And we looked at the
17 assessment of our redistricting time lines and the
18 available data, and of course, the release date for the
19 P.L. 94-171 data set at the time of our request was still
20 July 31, 2021, and it's currently, though, not sure when
21 the P.L. 94-171 data set will be released. We compared
22 the CVAP special tabulation versus the post-2020 CVAP and
23 asked ourselves, what do we know. And just kind of
24 compared, you know, research that's available about the
25 ACS CVAP and the fact that we really don't know much.

1 And we had additional concern that the CRC would just not
2 have any current data available for planning purposes
3 until July or August of 2021.

4 We thought that to get a release of a known data
5 source so that the CRC could start preliminary Voting
6 Rights Act analysis, if you so desire, prior to the
7 release of the P.L. 94-171 data release might be a really
8 good thing. It's always good to have options. And as
9 Mr. Ancheta will tell you, it was definitely -- it was a
10 bit of a sticking point last time because there was so
11 little time to do these analyses. To be able to have any
12 data set that can be used to do some preliminary work and
13 just get started, seemed to us to be a really good thing
14 to have available. And you know, it's good to have
15 options, again.

16 And we also wanted to provide a plan B if the
17 constitutional change of the redistricting time line was
18 not approved by the Supreme Court. Because, again, at
19 the time when we wrote the letter, that was not clear.
20 So we just wanted to be sure that perhaps something was
21 available. And to our surprise -- and I should actually
22 say that we had some collaborators on this, including I
23 asked the National Conference of State Legislatures if
24 they would weigh in with us, and they very kindly
25 provided a support letter to us also. That went a long

1 way.

2 And I also reached out to a couple of colleagues
3 that I work with, a Republican and a Democratic colleague
4 that I work with at the National Conference of State
5 Legislatures Redistricting and Election Standing
6 Committee. And they also provided support letters to the
7 census.

8 So thank you to everybody.

9 And on July 16, the Census Bureau's Data Stewardship
10 Executive Policy Committee voted to reauthorize the data
11 sets production. So that is the long saga of this data
12 set.

13 And I'm going to move things back over to Mr.
14 Ancheta. Thank you so much.

15 MR. ANCHETA: Sorry, I had to unmute myself there.
16 So this table, which I hope you can all read, sort of
17 summarizes some of the various sources and what the
18 availability of the data will be next year. Again, it's
19 not clear -- and this is why may be rather problematic in
20 terms of the what's called the post-2020 census
21 tabulation -- you definitely have the ACS 2014 to 2018
22 data set. That was released back in February of this
23 year. So if you wanted to get started or have someone
24 get started looking at some of the potential districts or
25 at least the demographics in various parts of the State,

1 you could get started on that right now.

2 The letter and response that was sent out gave us a
3 likely date of February in the same way that has been
4 February for the last several years. That is probably
5 the best data set you're going to be looking at, in our
6 opinion, because it is predictable. The format and the
7 various types of data are ones that are -- that Statewide
8 Database has gotten used to, and other analysts have
9 gotten used to.

10 Again, a 2021, it has a bit more precision, perhaps,
11 because of census block versus census block groups,
12 blocks are smaller units. You'd have more up-to-date
13 geographies in terms of -- but that may not be that
14 important. So that's why there's a question mark there.
15 So the methodology still hasn't been articulated very
16 clearly. The release date is not perfectly clear. And
17 there are just a lot of different factors that might come
18 into play.

19 Okay. And I apologize, I have a four-year-old who's
20 wandered in right next to me. And this is the challenge
21 of working at home. But I will leave it open for
22 questions at this point. Or Ms. Mac Donald can pick it
23 up if necessary.

24 CHAIR TURNER: Okay. Thank you. Yes, we do have
25 questions.

1 Commissioner Sinay.

2 COMMISSIONER SINAY: The first one -- I have three
3 questions. I think the first one is the easiest, which
4 was, which data set did you say was the best one for
5 us -- if -- the best data set? You had said that for the
6 last slide and I kind of got lost.

7 MR. ANCHETA: So --

8 COMMISSIONER SINAY: It's okay. Don't worry about
9 him. We're all in that same boat now.

10 MR. ANCHETA: I know. And I also have a -- we also
11 have a seven-week-old baby so that another factor --

12 COMMISSIONER SINAY: Congratulations.

13 MR. ANCHETA: Thank you. That's my wife's
14 responsibility right now. So yeah, again, the 2014 to
15 2018 is out. So if you wanted to get started right now,
16 you could work with that.

17 The 2015 to 2019, which won't be available until
18 February of next year, will be more up to date. It'll be
19 the more recent set of data in terms of the survey.

20 The post-2021, just a lot of question marks at this
21 point. It would probably be more precise in terms of the
22 geography and will reflect the actual census. But again,
23 as Mr. Mac Donald mentioned, the survey actually looks
24 into things like specifically race and ethnicity and
25 various other factors, which could also be used in your

1 electoral analysis.

2 So and again, the timing is not clear. So one thing
3 I would definitely recommend to you -- and this, having
4 been a commissioner last time around, is get an early
5 start on this, don't wait.

6 We released draft maps without having done the
7 empirical analysis in terms of polarized voting. That
8 was a mistake. And we were so crunched for time in that
9 four-month period that we just had to release it without
10 a thorough analysis.

11 You have a lot more time to do that kind of
12 analysis.

13 COMMISSIONER SINAY: And I apologize. I didn't
14 start off by thanking you for your service, as well as
15 all the breadcrumbs you left for us that are all very,
16 very helpful. So thank you so much for thinking about us
17 in the future. It's very evident that you're very
18 committed to the work that you did and the work that
19 we're doing. So thank you.

20 My next question is -- and this might not be as
21 important because it sounds like the administrative data
22 sets may not be as critical anymore, but as you were
23 talking about the administrative data sets, you kind of
24 buried the lead so -- that we were going back the other
25 way. But I wanted to know, are there -- what data sets

1 should we be looking at in addition to the census? Are
2 there other administrative data sets that we should be
3 looking at? And if they end up using administrative data
4 sets, are there some that are better than -- I guess I'm
5 asking the same question in two different ways. So what
6 are good administrative data sets or other data sets we
7 should also be looking at?

8 MS. MAC DONALD: Yeah, thank you for this question.
9 So the census is the organization that will be looking at
10 the administrative records to build the citizen voting
11 age population data set. I'm going to guess that you
12 wouldn't be able to get your hands onto the level of
13 detail that they would have access to to build a, you
14 know, block-level data set. And I think it remains to be
15 seen whether the census is going to be able to gain
16 access to some of these data.

17 As you may know, the State of California, for
18 example, is not sharing administrative data necessarily
19 with the current administration. So that is probably
20 going to factor into this data set also. There is a
21 whole list of data sources that they are thinking about
22 using, but they have not evaluated them. So they haven't
23 evaluated them for completeness, for accuracy. There is
24 just very -- there's just nothing there at this point.

25 And if you are interested in seeing some of these

1 data sets, I can bring a list on Tuesday and add it to my
2 presentation so we can go through it really quickly and
3 just see what they're thinking about doing.

4 With respect to what the Commission can do, I don't
5 think there is much you can do yourself about citizen
6 voting age population. But if Mr. Ancheta has a
7 different opinion on that, I'll have --

8 MR. ANCHETA: Yeah, no, I think that's right. I
9 think as you're getting -- going through your -- and
10 again, Ms. Mac Donald will come through, you know, or Dr.
11 McGhee, Eric McGhee coming in as well. I've raised those
12 questions with him as well, (audio interference) with Dr.
13 McGee in terms of (audio interference) thinking about the
14 other data sets. And Dr. Barreto as well, in terms of --
15 in the context of the VRA focus (audio interference).

16 As you know, there's just a lot of uncertainty here.
17 And unfortunately, the citizenship and undocumented
18 status question has become quite politicized -- not that
19 it hasn't been political in the past, but it's led to a
20 lot of uncertainty to what (audio interference) might be
21 (audio interference) around compared to previous.

22 CHAIR TURNER: Commissioner Sadhwani and then
23 Commissioner Yee.

24 COMMISSIONER SADHWANI: First, thank you both so
25 much for this presentation. This was so incredibly

1 helpful. And you know, I echo Commissioner Sinay's
2 thanks to you both.

3 And for your service, Mr. Ancheta, in the past. And
4 I used the Statewide Database for a few years now on some
5 of my own research. So I really appreciate the work that
6 you do there as well.

7 A couple clarifying questions, actually, only this
8 was extraordinarily helpful just to kind of get this
9 update and to learn about what seems to be
10 extraordinarily troubling movements in terms of the
11 collection of data.

12 First, Mr. Ancheta, you had mentioned the Ninth
13 Circuit ruling using CVAP as the appropriate number. Do
14 you know which case that was? Was that the City of Los
15 Angeles case or another one that you were referring?

16 MR. ANCHETA: Yeah, I would refer to Romero v. City
17 of Pomona --

18 COMMISSIONER SADHWANI: Okay.

19 MR. ANCHETA: -- 1989.

20 COMMISSIONER SADHWANI: Okay.

21 MR. ANCHETA: R-O-M-E-R-O v. the -- for the court of
22 reporter -- City of Pomona. That was overturned --
23 partially overturned on some additional procedural
24 grounds. But the basic ruling around using CVAP has been
25 used in lower court cases. But that's sort of where the

1 guidance comes from.

2 COMMISSIONER SADHWANI: Got it. Thank you. And
3 then my other question for you regarding CVAP was that my
4 understanding, and please correct me if I'm wrong, was
5 that CVAP was actually not available through the ACS for
6 Asian Americans based on national origin, that we'd get
7 the Asian aggregated numbers but not based on national
8 origin. So first, if you could clarify that.

9 And then secondly, you know, to the idea that we're
10 going to start moving using that data potentially in
11 advance of the census release, from reflections from
12 2010, is that problematic? What kinds of shortcomings
13 might that have had and might you have faced -- might the
14 2010 Commission have faced because of it?

15 MR. ANCHETA: Yeah. Well, all I'll also defer to
16 Ms. Mac Donald on the specifics of the ACS. But I think
17 that's correct. The State of California does not collect
18 racial or ethnic data. So in terms of more granular
19 information, it's pretty much the census data. The
20 Statewide Database does do, as you know from some of your
21 work, they do surname matching for specifically for six
22 groups, not every single Asian language group. So you
23 can do some more granular analysis in terms of at least
24 with Asian subgroups.

25 But if you're just relying on the ACS data itself,

1 you've got basically aggregated Asian and Pacific
2 Islander data as well as other racial groups and then
3 ethnicity data covering Latinos.

4 MS. MAC DONALD: Yeah, and if I could weigh in. And
5 thank you for this question. And I think that's where
6 your communities of interest sometimes come in, because
7 you have these aggregated data sets and you just don't
8 get the level of detail sometimes that you need.

9 So when you're out talking to communities, you will
10 find out exactly, you know, not only what the interests
11 are on the ground, but also who is actually there,
12 because the census most definitely has some limitations.
13 And as you well know, as soon as you're starting to go
14 into smaller groups, so you're going into citizenship,
15 for example, you know, the smaller the group, the lesser
16 the granularity of the data. So we do what we can with
17 what we have available.

18 MR. ANCHETA: And if I could add one other point.
19 Again, if you're looking at VRA compliance, as you
20 disaggregate, as you look at smaller groups, you're
21 simply not going to hit that first Gingles benchmark,
22 which is basically half of a district is of a group. And
23 there's a lot of stuff we didn't look at, which, again,
24 because of the shortness of time, we didn't look at
25 coalitions between various minority groups. We certainly

1 didn't disaggregate Asian groups. We looked at the
2 aggregated data. And there are a couple of majority
3 Asian districts that were put in place.

4 You probably have larger numbers this time around,
5 but you also have to balance how much do you want to have
6 your specialist look into a lot of the details, because
7 once you start looking at that level of population size,
8 it's a lot of extra work for them to do. Not that there
9 aren't important patterns to get at it. I mean, I know
10 you've done a lot of research on this topic in
11 particular.

12 And thanks for citing my book in your dissertation,
13 by the way.

14 COMMISSIONER SADHWANI: Yes, of course.

15 MR. ANCHETA: Yeah, and I think you in particular
16 know a lot about this area. But you also know the
17 complications of Asian American populations.

18 COMMISSIONER AKUTAGAWA: Just for clarification,
19 when you're talking about the aggregation of the Asian
20 American groups, are you also -- I just want to -- I
21 heard it said "Pacific Islanders" -- are native Hawaiians
22 and Pacific Islanders also included as this Asian group
23 or are they a separate category? Because I know they're
24 separate in the census, but for California, are they
25 aggregating both?

1 MR. ANCHETA: Maybe Karin can address that. I think
2 for the ACS data as well they're broken out separately.
3 For purposes of getting specific electoral data, that's
4 not going to be available simply because, again, as a
5 matter of simply larger population size and just
6 priorities, you don't get that kind of granularity
7 language and registration data. So you can't get that
8 deep in.

9 And again, our Commission, we just didn't do that
10 kind of analysis or didn't ask our expert to do that.
11 And we pretty much looked at aggregate numbers. Pacific
12 Islanders, again, typically not -- as a separate group --
13 again, again, how you want to link Asians and Pacific
14 Islanders together versus separately and then subgrouping
15 within each major category is, you know, a lot to look
16 at. You will certainly get communities of interest and
17 neighborhoods information along those lines. And I think
18 that's worth paying attention to. VRA, the numbers are
19 considerably larger in terms of the legal requirements.

20 MS. MAC DONALD: And let me weigh in. I just pulled
21 up the documentation for the ACS special tab. I'll just
22 read off what they call the lines, which is basically the
23 variable that they are providing. So the first one is
24 total population. And then in the non-Hispanic or non-
25 Latino category, we have American Indian or Alaska

1 Native. We have Asian. We have black or African-
2 American. We have native Hawaiian or other Pacific
3 Islander. We have white, American Indian, or Alaska
4 Native and white, Asian and white, black or African-
5 American and white. And then the remainder of two or
6 more race responses. And then the final line number is
7 Latinos, Hispanic or Latino.

8 CHAIR TURNER: Thank you.

9 Commissioners Yee and Fernandez.

10 COMMISSIONER YEE: Yes, thank you. Thank you so
11 much for this super helpful presentation. Certainly look
12 forward to hearing further from you as we continue our
13 training.

14 Question about -- Ms. Mac Donald, the 716 favorable
15 response. Could you say more about that and how far that
16 gets us from a situation that's really super troubling to
17 a better place? What was reauthorized and what exactly
18 does that get us?

19 MS. MAC DONALD: Yeah, so thank you very much for
20 that question. What was reauthorized was basically just
21 the same release of the data set that we have received
22 for the last, what is it, ten years now? And what we're
23 getting is citizen voting age population for the groups
24 that I just listed. What it gets us is one more data set
25 in this range of data. So we're getting data that are

1 more current and probably more accurate. And I'm hoping
2 that Eric McGhee, who I think comes next today in your
3 lineup, has a slide on this.

4 And Eric, if you don't have it, maybe you can make
5 one really quickly. There is a -- if you plot ACS data
6 over time, what you're seeing is that certain population
7 groups are definitely growing with each release. And
8 when you are looking at a requirement where -- to have a
9 majority-minority district or a Section 2 district, you
10 are looking for fifty percent or larger citizen voting
11 age population. This really matters. This really
12 matters, even if it's just a little bit of a percent.

13 And Mr. Ancheta can probably weigh in on this
14 because we were seriously struggling with a couple of
15 districts where we -- the Commission last time was
16 seriously struggling with some districts that were almost
17 fifty percent citizen voting age population and what to
18 do. So you know, having these fresher data and being
19 able to look at it over time, looking at the trends, you
20 know, which populations are increasing, where is this
21 really going?

22 And then also looking at the research that we have
23 about these data sets. For example, we know from a study
24 that was done at Berkeley Law when this data set first
25 came out that Latinos, for example, are undercounted

1 in -- or underrepresented in the ACS Latino tab. And why
2 is that? It's because Latinos are a younger population.
3 So imagine if you were, sixteen in 2015, well, I always
4 say in the ACS that's the only place where you don't age
5 because you're going to be sixteen for a really long
6 time. So it kind of under -- it understates or
7 underreports younger population groups.

8 I think it's very important to just look at the
9 research, at the data, at the trends, and then just
10 contextualize all of that when you're looking into
11 drawing your districts. So I think that, in a nutshell,
12 would be what I think you're going to get.

13 COMMISSIONER YEE: So we can be reassured of having
14 that special tabulation rather than trying to pin hopes
15 on this post-2020 animal that we don't even know quite
16 what it's going to be?

17 MS. MAC DONALD: Yeah. And we don't know if it's
18 going to be released. I --

19 COMMISSIONER YEE:: Yeah.

20 MS. MAC DONALD: -- I mean, I -- it worries me. The
21 post-2020 CVAP data set -- like seriously, I mean, that
22 makes me a data geek, I know, but I have actually woken
23 up one night worried about this data set because we just
24 don't know anything about it. And data people, they like
25 to know their data. So you know, it's just troubling.

1 COMMISSIONER YEE: We will wonder with you. Just --
2 yeah.

3 CHAIR TURNER: Commissioner Fernandez. Did we lose
4 her? Commissioner Fernandez? Are you on, you were next.
5 Okay.

6 Commissioner Andersen.

7 COMMISSIONER ANDERSEN: Thank you very much,
8 everybody. And I'm echoing everyone to say I can't wait
9 to hear more. And I really appreciate all you've done.
10 I just have a really quick question. The American
11 Community Survey, is that census block groups or census
12 blocks?

13 MS. MAC DONALD: It's released -- the smallest unit
14 of analysis that the ACS is released on is on census
15 block groups. Thank you for that question.

16 CHAIR TURNER: Commissioner Sinay.

17 COMMISSIONER SINAY: Two quick questions. One is,
18 we keep talking about majority as majority in California
19 being white. My understanding is that we no longer have
20 any majority, that we are -- that as a state, we are
21 really made up of a lot of minority. Yeah, I just don't
22 like the word minority and majority. But how does --
23 does that change any of the Gingle, the items that we
24 need to look at, because we don't have a majority? We do
25 if you go in a smaller.

1 And then the second question, you had heard that we
2 had discussed the census and that CRC would like to
3 support the efforts to not cut the time line. But what
4 can we do as a group, the CRC, what would you recommend
5 how we can help create the best census possible for 2020?
6 Thank you.

7 MR. ANCHETA: I'll take the first one. So again,
8 the -- what you're trying to do -- and you'll have Voting
9 Rights Act counsel advise you more specifically -- is in
10 essence, you're trying to say, well, let's be careful
11 here, because the core inquiry is where might we get
12 sued. Okay? That's literally how you're trying to think
13 about that. Because the Gingles test is a litigation
14 test. And as a policymaker, you're trying to say, well,
15 we want to comply, we want to make sure that minority
16 vote dilution, which is what happens when you have
17 districts where minorities are either -- again, this will
18 be covered in your training more -- but are they being
19 divided, are they packed in too tightly, packing and
20 cracking, all the other kinds of terms you're talking
21 about. But it's specific to a particular area.

22 And in a lot of parts of the State it may be just
23 one group that you say, well, is this fifty percent, are
24 they going to make it to that level, or is it forty-nine
25 percent, what's the threshold that needs to be met? In

1 other parts you're going to say, wow, this is a really
2 concentrated, let's say, Latino population. And okay,
3 should we do three districts here or is it four
4 districts? Are we packing too many in if we put the
5 number too high above fifty percent? Again, you can do
6 that. And that was that was a concern the last time
7 around, because in some areas of Los Angeles County you
8 have that pattern.

9 There are areas where there are Latino that have
10 been historically African-Americans and now they're
11 growing Latino. And I think that's been discussed in
12 previous trainings as well, how do you look at that.
13 Again, you're looking at representational interest of the
14 people who live in a district, not incumbency and who's
15 going to best represent them. But that's where it gets
16 tricky.

17 And that's why, again, you have to try to get some
18 of that analysis done quickly, or soon, sooner rather
19 than later, because the more you need to dig in and
20 actually say, well, is there polarized voting here,
21 because that's the next set of inquiries. That takes a
22 lot of analysis to look at prior elections, to look at
23 the appropriate level of election, that kind of stuff.
24 So it's a lot to do. It's a lot to do.

25 And I think maybe Karin might be in better position

1 to sort of suggest advocacy. I mean, I should disclose
2 that I and a couple of the other former Commissioners are
3 among the named plaintiffs in the Common Cause -- there's
4 this Trump lawsuit which is challenging the exclusion of
5 undocumented immigrants.

6 I think yesterday, and I think you're going to
7 continue this discussion you're talking about whether
8 should you get involved in litigation, should you just
9 send a letter. Be careful about getting involved in
10 litigation. You do want to maintain the (audio
11 interference) safer to say through a letter or through an
12 amicus brief you want to go to that level. It's just
13 outward position (audio interference) our interests
14 rather than sort of teaming up with other groups. I
15 would certainly advise that.

16 But you're not limited, you know, in terms of how --
17 if you want to really push for something and you say, we
18 really need this, or the People of California would be
19 best served by this kind of process in terms of gathering
20 data for the census. Go ahead and do that. That's what
21 we did when Karin drafted that letter I signed onto it.
22 Let's go for it, and we were able to get the change
23 pretty quickly.

24 MS. MAC DONALD: Yeah. And about what to do, and
25 I'm glad that you are all considering this, because I

1 think there needs to be advocacy on this issue. Yes,
2 first and foremost, they just need to keep counting
3 because we know that the count is not looking good. The
4 quality of the count is being affected. There are
5 reports that the enumerators at this point are only doing
6 whole person counts. The proxies are going up
7 dramatically. That is, you know, somebody's asking your
8 neighbor. And so we're just very concerned, I think,
9 with good cause about the general quality of the data
10 that we're going to get and the completeness of the data.

11 And considering that this data set will last for ten
12 years, census usually tries to do the best job that they
13 can. But even the census, it's not the super census. I
14 mean, they need the time to do it right. They said they
15 needed an extra month and hopefully they'll get it. So
16 that's the best thing to do, I think.

17 CHAIR TURNER: Commissioner Anderson.

18 COMMISSIONER ANDERSEN: Thank you. Just a quick
19 question on that. Do you have, like, ballpark numbers on
20 the State of California percentage of people who are
21 doing this, who have filled out the census, where we are
22 as a state?

23 MS. MAC DONALD: I can provide the most accurate
24 numbers on Tuesday, if that's okay. I actually just
25 received a slide from Ditas Katague, who is heading up

1 Census CA in California. They have an interface that
2 tracks this very closely. And of course, there are
3 multiple other resources also out there, like CUNY New
4 York has a has a really good website that shows all of
5 this. But I'm happy to provide some slides, if you would
6 like to on Tuesday.

7 COMMISSIONER ANDERSEN: I think that would be really
8 helpful just for our perspective. Thank you.

9 MS. MAC DONALD: Okay.

10 CHAIR TURNER: Commissioner -- I see you,
11 Commissioner Ahmad. I wasn't sure if Fernandez or
12 someone else had their hand up. Okay. Commissioner
13 Ahmad.

14 VICE CHAIR AHMAD: Oh, I just wanted to piggyback
15 off of Commissioner Andersen's question. I actually work
16 with census locally. The Census Bureau does release
17 numbers of completed self-response rates. And you can
18 look it up by state, by county, by city. And the site is
19 publicly available 2020Census.gov. And right now I'm
20 hovering over it and says for California, total self-
21 response rate is 66.8 percent.

22 And I don't know, Karin, you can advise if that is
23 the true most up-to-date numbers or if there is another
24 source.

25 MS. MAC DONALD: I'm guessing it's true if that's

1 what they're saying. What we're, of course, worried
2 about is that this is the self-response rate right now.
3 And as you probably know, because you're probably on
4 those sites as much as I am, they go up very slowly. You
5 know, at first, we had this big self-response rate and it
6 was great and then it started to trickle, it just kind of
7 started to get slower. And that's just what happens
8 because people that are excited and that are okay with
9 responding, they're going to respond very easily. And
10 people that are more hesitant and that perhaps need to be
11 prompted, that takes a little bit longer. So what we're
12 really concerned about, I think, at this point is that
13 the rest there, those thirty-something percent that
14 haven't responded yet, and what happens.

15 And that is exactly what the Census Bureau is doing
16 right now. It's called the NRFU, the nonresponse follow-
17 ups, right, as you know. And door-knockers are out
18 there. People aren't answering the door. And then what
19 are they doing? And who are these door-knockers? There
20 are some reports that, you know -- census just stopped
21 hiring I just found out last week, of course, because
22 they're trying to cut off. They are bringing in people
23 from other communities to try to enumerate communities
24 that they're not necessarily familiar with. This is
25 difficult to do when you're already dealing with a

1 population that is perhaps hesitant to participate.

2 So --

3 MR. VILLANUEVA: Excuse me, I hate --

4 MS. MAC DONALD: -- I'm happy to take another look
5 and see if there's something else out there. But thank
6 you very much for sharing that resource. I appreciate
7 it.

8 MR. VILLANUEVA: No, I just hate to interrupt. We
9 have a mandatory break for the captioners scheduled, and
10 we're going a little bit over time.

11 CHAIR TURNER: Thank you.

12 Mr. Ancheta, Ms. Mac Donald, not certainly, if you
13 can hold on, but we do have to take a required fifteen-
14 minute break. And we'll come back with any further
15 questions before we go to public comment on this
16 particular agenda item. Thank you. We'll break now for
17 fifteen minutes.

18 (Whereupon, a recess was held)

19 CHAIR TURNER: Thank you and welcome back to our
20 speakers today. We thank you again for being on and the
21 very detailed information that you shared.

22 I'd like to find out if there are any other
23 public -- excuse me, if there are any other comments or
24 questions from our commissioners before we open for
25 public comment.

1 Justin, would you please check to see if we have any
2 on for public comment?

3 PUBLIC COMMENT MODERATOR: Madam Chair, at this
4 time, we have no lines connected for comment.

5 CHAIR TURNER: Okay.
6 Commissioner Fernandez.

7 COMMISSIONER FERNANDEZ: Sorry, I just looked at my
8 notes real quick. I think this might have been when -- I
9 can't remember what part of the presentation, but there
10 was something about new disclosure avoidance
11 methodologies, and I wasn't completely sure what that
12 was. So I just -- it might have been during Karin's
13 presentation?

14 MS. MAC DONALD: Yes. Thank you so much for that
15 question. I will address some of this in my presentation
16 on Tuesday --

17 COMMISSIONER FERNANDEZ: Okay.

18 MS. MAC DONALD: -- in more depth. But essentially,
19 the census is always concerned about maintaining people's
20 privacy. And so over time they have used different ways
21 to ensure that privacy. Of course, in the age of big
22 data and people being able to harness multiple data sets
23 to pull them together and then kind of reverse engineer
24 to perhaps individuals, the census became very, very
25 worried and they implemented a new privacy methodology

1 that is called disclosure avoidance.

2 But again, this is something that's new to us now.
3 We haven't really seen it. Well, we have seen some test
4 data sets, but they're still working on it. So it's,
5 again, just introducing some more uncertainty in the data
6 that we're going to get from the census. So I'll talk
7 about it a little bit more, if you'd like, on Tuesday.

8 COMMISSIONER FERNANDEZ: Oh, that would be great.
9 Thank you so much. I appreciate that.

10 MS. MAC DONALD: Yes.

11 CHAIR TURNER: Thank you.

12 Commissioner Fornaciari.

13 COMMISSIONER FORNACIARI: Yeah, I believe Mr.
14 Ancheta said that the adjusting for the last known
15 address for prisoners is optional. And I'm just
16 wondering -- I mean, I kind of felt like it was a really
17 super strong suggestion that we do it. And so why would
18 we not want to do it?

19 MR. ANCHETA: Oh, I just wanted to give you a clear
20 statement of the law. So as you know, legislation was
21 passed back in 2011 and more recently there's been some
22 amendments that sort of fine tune that adjustment. Ms.
23 Mac Donald is doing that right now. She's working with
24 the Department (audio interference), so.

25 You don't have to do it. It's not -- there's no law

1 that you have to do it, but -- and you may want to
2 certainly talk to Ms. Mac Donald about the quality and
3 how -- whether it's really working, because there are
4 problems. She can detail this even more, you know. And
5 she talks to you about some of that address data is not
6 the cleanest data set. So something to talk about. But
7 I didn't want to give you the impression that you
8 couldn't -- it's something you don't have to do legally,
9 but my assumption is that you would go ahead and (audio
10 interference).

11 MS. MAC DONALD: Yeah, if I may weigh in on this.
12 Thank you for that question. We are adjusting. We are
13 preparing for that adjustment. And then you can decide
14 whether or not you want to use the adjusted data or the
15 unadjusted data. So we'll be ready for you no matter
16 what you decide.

17 And definitely, as Mr. Ancheta just pointed out, we
18 are working with an administrative data set. And this
19 kind of factored partially into our thinking about this
20 post-2020 CVAP data set. Anybody who has ever looked at
21 administrative data usually rolls their eyes a little bit
22 because these data sets are never as clean as you would
23 like them to be, you know. There's usually a lot of work
24 that has to go into cleaning them up, figuring out what
25 you're looking at.

1 And in particular, something that we got from the
2 California Department of Corrections and Rehabilitation
3 and it covers the populations that are in the facilities
4 that are controlled by CDCR. And some people have been
5 in there for quite some time. And some people have been
6 in there multiple times. So there are records that have
7 multiple addresses, and some addresses just don't exist
8 anymore, you know. Some addresses are -- we have streets
9 that are misspelled. We have house numbers that are
10 perhaps inverted and things like that. So it becomes
11 interesting very quickly, if that is your definition of
12 interesting. So I'm again, I'm happy to tell you more
13 about it.

14 COMMISSIONER FORNACIARI: Thank you. I appreciate
15 that. And thanks for the presentation. Really, really
16 well done.

17 CHAIR TURNER: Yeah. Okay. I think this will,
18 then, conclude this section.

19 And we'll see you, Ms. Mac Donald, a little bit
20 later on.

21 If there are no other questions or comments, I think
22 we'll conclude with this particular agenda item. Thank
23 you.

24 Thank you, Mr. Ancheta. Thank you.

25 MR. ANCHETA: Thank you.

1 CHAIR TURNER: Okay. When we recessed on yesterday
2 evening, we were also having conversation in regards to
3 agenda item number 14. Yeah, I believe that's where we
4 were.

5 Raul?

6 MR. VILLANUEVA: Thank you. So I thought where we
7 would start is kind of an introduction into the documents
8 that were actually put out, what they consist of, and not
9 so much from the respondent's perspective, but from the
10 organization's perspective about what it is they give to
11 you in terms of utility.

12 CHAIR TURNER: Raul, excuse us one moment.

13 Commissioner Fornaciari.

14 COMMISSIONER FORNACIARI: Yeah. If it's okay, I've
15 got a couple of questions that I'd like to start with
16 that will help me put this all in context, if that's
17 okay.

18 CHAIR TURNER: Certainly.

19 MR. VILLANUEVA: I'm --

20 COMMISSIONER FORNACIARI: Okay.

21 MR. VILLANUEVA: -- open to that, yes.

22 COMMISSIONER FORNACIARI: Okay.

23 MR. VILLANUEVA: Of course.

24 COMMISSIONER FORNACIARI: So I'd like to start by
25 looking at the organizational chart picture that you sent

1 out and just kind of get some clarity there. And so the
2 org chart shows the fourteen Commissioners with a solid
3 line to the executive director, and then solid line from
4 the executive director to the communications director,
5 budget director, business manager, and chief counsel.
6 And then it looks like the business manager manages all
7 the folks below in the picture.

8 And so just nominally, the way it works, it's my
9 understanding is we as the Commissioners direct the
10 executive director, who manages the four people on the
11 next line, and it rolls down. And so that's the kind of
12 structure. And so I guess my first question is, we have
13 job postings out there for the chief counsel, the
14 executive director, and the communications director. So
15 does the Commission hire all three of those people? Or
16 do we hire an executive director and then the executive
17 director hires the people below based on our approval?
18 Or how did that work in the past?

19 MR. VILLANUEVA: That's a really good question. So
20 in the last go-around, it was the Secretary of State who
21 issued those three recruitments prior to the Commission
22 of having the final fourteen. So that again, when the
23 final fourteen were in place during their first meetings,
24 they could go ahead and do those selections. Now, the
25 fourteen do pretty much the screening and the interviews

1 for those three positions.

2 Following that, the executive director's empowered
3 to go ahead and select their staff, given that all hires
4 are required to come before the Commission and the
5 Commission vote and either accept or reject, acceptance
6 being by --

7 MS. JOHNSTON: Commissioner vote.

8 MR. VILLANUEVA: -- vote. Yeah, by the special
9 vote.

10 Thank you, Marian.

11 COMMISSIONER FORNACIARI: Okay.

12 MR. VILLANUEVA: In other words, a supermajority.

13 COMMISSIONER FORNACIARI: Okay. You know what? I
14 got ahead of myself. So let me step back at a little bit
15 higher level. This org chart is the org chart that the
16 2010 Commission settled on, right? I mean, this isn't in
17 the legislation or anything of how the structure of this
18 organization is supposed to be, right? This is just what
19 they settled on?

20 MR. VILLANUEVA: Correct. And this is the org chart
21 as of July 2011.

22 COMMISSIONER FORNACIARI: Okay.

23 MR. VILLANUEVA: Right?

24 COMMISSIONER FORNACIARI: Okay. So I'm just -- I
25 kind of agree with Commissioner Kennedy, I don't think we

1 need to reinvent the plane at this point. But we do have
2 options of tweaking this as we need to see -- as we see
3 fit. I mean, we're going to need those three positions
4 anyway. And then when we get an executive director in
5 place, we can kind of play --

6 MR. VILLANUEVA: Um-hum.

7 COMMISSIONER FORNACIARI: -- tweak this around if we
8 think that there is a better practice for how we want to
9 run the office.

10 MR. VILLANUEVA: Right.

11 COMMISSIONER FORNACIARI: But for now, it's those
12 three positions that we're looking at. And then the
13 executive director would take it from there to fill out
14 the rest of the org chart.

15 MR. VILLANUEVA: Correct. And I don't know --

16 COMMISSIONER FORNACIARI: Okay.

17 MR. VILLANUEVA: -- if it communicated well
18 yesterday, Commissioner, but when I was showing you these
19 positions and saying that these are the classes from
20 which the positions can come from, it was essentially to
21 say at what levels of the organization and relative
22 ranges of duties and responsibilities and then
23 commensurate pay are available to you in terms of
24 classes.

25 One of the things that we found, if I may, is here

1 with the senior operations analyst, really what you're
2 going to need this time is an IT director. It just so
3 happened that Christina (ph.) had excellent IT skills and
4 so very naturally moved into an IT director type of
5 position. As far as recruitment and the salary structure
6 for that position, I've been working with the State
7 Controller's Office to get that established for you so
8 you have that option.

9 COMMISSIONER FORNACIARI: Okay.

10 MR. VILLANUEVA: But I'll -- go ahead.

11 COMMISSIONER FORNACIARI: Okay. And then let's see,
12 so then these job postings that were put together, they
13 were put together by the auditor's office. But help me
14 understand, if you understand the context of that, did
15 they just make them up or did they get feedback or input
16 from anybody from the previous Commission? Or where -- I
17 mean, where did it come from to cook these up in the way
18 that they did?

19 MR. VILLANUEVA: Another excellent question. The
20 large picture context is that the State Auditor's Office
21 is required under Government Code to establish,
22 basically, the operations for the Commission until it's
23 "fully functional", okay? Last time in 2010, 2011, the
24 Secretary of State did that. And this time under
25 Government Code, it's the State Auditor.

1 So I was tasked with developing those. I took the
2 materials we had last time, looked at the different
3 things that had occurred, the different reviews that were
4 available -- you've mentioned some of them in your
5 proceedings -- as well as lessons learned, and as well as
6 my background in HR. And basically I put those together
7 for you.

8 COMMISSIONER FORNACIARI: Oh, okay.

9 MR. VILLANUEVA: So if --

10 COMMISSIONER FORNACIARI: All right. So --

11 MR. VILLANUEVA: -- so if there's any blame or
12 praise, here's where it goes.

13 COMMISSIONER FORNACIARI: Okay. Okay. But I mean,
14 that really helps a lot, I think, to know that because
15 you were there, you're full of lessons learned and
16 observations about what happened and what is needed. I
17 kind of -- I had a mental model of somebody in a dark
18 room in the auditor's office --

19 MR. VILLANUEVA: Right.

20 COMMISSIONER FORNACIARI: -- just making this stuff
21 up without any context.

22 MR. VILLANUEVA: Right.

23 COMMISSIONER FORNACIARI: Although I thought the job
24 postings were well done. And I didn't have anything to
25 add to the job postings. I thought they were seen as

1 fine. I just wanted to understand where they came from.

2 MR. VILLANUEVA: No, these are excellent questions.

3 And I have to say, from my perspective, thank you for
4 asking them, because I think these are helping to fill
5 some of those blank spaces that were creating questions
6 amongst different organizations in the public.

7 COMMISSIONER FORNACIARI: Right.

8 MR. VILLANUEVA: So I appreciate it.

9 COMMISSIONER FORNACIARI: And amongst --

10 MR. VILLANUEVA: Thank you.

11 COMMISSIONER FORNACIARI: -- us, obviously, I mean,
12 we had a lot of questions. There's just a lot of
13 uncertainty about what was going on in the context of
14 what --

15 MR. VILLANUEVA: Um-hum.

16 COMMISSIONER FORNACIARI: -- what we were doing here
17 yesterday. And I mean, for me, there was a lot of
18 uncertainty. And --

19 MR. VILLANUEVA: Right.

20 COMMISSIONER FORNACIARI: -- I hope it clears it up
21 for -- my questions are clearing it up for some of the
22 other Commissioners. And then finally, my third point or
23 question, process. What's the process we're going
24 through here? I mean, if we decide, hey, yeah, these job
25 postings are great, we want to move forward with them as

1 they are, then where do we go from there?

2 MR. VILLANUEVA: Well, so for example -- and I'm not
3 going to try and speak for Marian, but one of the
4 conversations she and I have been having would be one of
5 the things that we might suggest to the Commission,
6 should the Commission decide to take the recruitments as-
7 is, would be for the Commission to identify a
8 subcommittee. Marian and I would then work with them in
9 terms of the preliminary screening, which is where I was
10 going to start today in terms of that process and how the
11 recruitments function to facilitate that. And then be
12 able to make recommendations to the full Commission on
13 the number and individuals to be interviewed, at which
14 case, then, we would have to set up, really, a closed
15 session to do those -- well, basically to schedule those
16 interviews.

17 You would then interview those individuals, score
18 them so there's an equitable comparison between
19 candidates, and come to a place where you'd see if you
20 could make a decision.

21 MS. JOHNSTON: And just to add to that --

22 COMMISSIONER FORNACIARI: So this interview --

23 MS. JOHNSTON: -- it would your option --

24 COMMISSIONER FORNACIARI: -- does the --

25 MS. JOHNSTON: -- to reject everyone. If you're not

1 satisfied with whoever is there, you could reject
2 everyone and then start the process again.

3 COMMISSIONER FORNACIARI: Okay. So the interviews
4 take place in closed session of the entire Commission,
5 then?

6 MS. JOHNSTON: Correct.

7 COMMISSIONER FORNACIARI: And then we -- yeah, we
8 have some set of objective criteria we use to score
9 folks. And then and then we decide, you know, who we're
10 going to hire. And then in some way, we kind of
11 summarize what we did in a closed session. Report that
12 out in an open session.

13 MR. VILLANUEVA: Right.

14 MS. JOHNSTON: Exactly.

15 COMMISSIONER FORNACIARI: Okay. I will stop there.
16 Thank you for your time.

17 CHAIR TURNER: Commissioners Kennedy and then
18 Fernandez.

19 COMMISSIONER KENNEDY: Thank you, Madam Chair. I
20 think one really important question for me at this point
21 before determining whether to move forward with these or
22 to repost, is to find out beyond the Commission's
23 website, how were these positions advertised? Did it go
24 out to recruiters? Did it go out to California
25 Association of Counties? Did it go to California

1 Association of Courts and Election Officials? You know,
2 I remember this being one of the -- one of the questions
3 in my interview was, you know, how would you get these
4 out to get the biggest pool of candidates possible?

5 Thank you.

6 MR. VILLANUEVA: Excellent question. So the jobs
7 were posted on the internet at the Shape California and
8 the Commission's website. At the same time, they were
9 sent out to 800-plus individuals and organizations
10 throughout the State who have registered with the
11 Commission in terms of getting blasts and communications
12 from the Commission.

13 That's a list that has been collected since 2011 and
14 is still being collected. So I think it's around 880
15 different individuals and organizations throughout the
16 State. So some of the -- some of the organizations that
17 that chimed in and provided comment, they were part of
18 the groups that were that received these.

19 COMMISSIONER KENNEDY: Right. But for example,
20 there are at least a handful of recruiters based in
21 California that specialize in public sector recruiting.
22 Did these job postings go to those recruiters?

23 MR. VILLANUEVA: No.

24 CHAIR TURNER: Commissioner Fernandez.

25 COMMISSIONER FERNANDEZ: Just a couple questions.

1 First of all thank you for sending those -- at least
2 trying to be ahead of the cart, I guess I would probably
3 say, if I didn't (audio interference) when I just take a
4 wild guess. When you mentioned a closed session, does
5 that also require the fourteen-day advanced notice?

6 MS. JOHNSTON: Yes, it does.

7 COMMISSIONER FERNANDEZ: Okay. And then just for us
8 to think in the future, I mean, it would be good to have
9 a subcommittee that's going to screen the applications.
10 But also we need to think about not only the screening,
11 but what criteria we're going to use, and then also what
12 questions we want to ask.

13 So that's my, I guess, it's probably for the
14 counsel. But the questions that we want to use obviously
15 we don't want to discuss that in open forum, right.
16 Because if we're going to have candidates that come in,
17 so I'm just trying to figure out how that's going to
18 happen in terms of, do we have another closed session to
19 discuss that piece of it? So that's just thinking in the
20 future how that -- particularly what we do with that.

21 MS. JOHNSTON: Well, actually, the criteria that you
22 use to hire someone should be discussed in open session,
23 just like you're discussing these job announcements. And
24 if you are going to change the job announcements, that
25 would need to be discussed in open session.

1 MR. VILLANUEVA: Right. That's the criteria, but
2 not the interview questions.

3 MS. JOHNSTON: The interview questions --

4 MR. VILLANUEVA: You're absolutely right about that.
5 And that's why the suggestion about the subcommittee --

6 MS. JOHNSTON: Right.

7 MR. VILLANUEVA: -- the Commission could provide the
8 subcommittee their ideas for questions, and then it would
9 be up to the subcommittee working with Marian and I to
10 put -- basically to put that together.

11 CHAIR TURNER: I guess I'd like to ask of the
12 counsel too -- or of the Commission at this time, did
13 everyone have an opportunity to review -- have an
14 opportunity to review the descriptions that went out?
15 Great. I think, personally, I thought they were very
16 thorough and appreciated the wording and variance for
17 each of them based on what the job request is.

18 I had -- I didn't have anything particularly that
19 was different. I think the questions that I would have
20 would come through questions, follow up, and in the
21 actual interview process. I thought in general they were
22 well written. And I appreciate you, Raul, and everyone
23 else that had input into it.

24 I think Commissioner Vazquez and then Akutagawa.
25 I'm not sure which order but I see your hands now.

1 COMMISSIONER VAZQUEZ: Great. Thank you, Madam
2 Chair. I had several points of feedback for the
3 communications director, especially after our
4 conversation yesterday. And I also -- I had a couple
5 amendments to the executive director that I'd like to
6 discuss with the rest of the Commission. I think those
7 are my two -- I had several points of feedback for the
8 communications director posting. But I think in a broad
9 sense, I had a couple for the executive director.

10 I think that for the executive director, one, there
11 were two pieces that I would like to discuss. I didn't
12 see experience working with or staffing at an executive
13 leadership level, a public entity on the job description.
14 I think you can -- I think you can insert that in a
15 couple of explicit -- or implicit places. But I
16 personally would have liked to see that particular
17 experience level delineated in the executive director
18 position.

19 And then the other piece, I think, you know, we as
20 Commissioners were all screened in terms of our
21 appreciation for California's diversity. And I did not
22 see that in an executive director -- in the executive
23 director, either implicitly or explicitly, posting. And
24 I think there are several ways we can word that. But I
25 also -- I think we as a Commission should be screening

1 for that in the executive leadership level of our
2 business. And I don't think we can do that in the
3 interview process if it's not explicitly put in the
4 posting. So those are my two points.

5 MR. VILLANUEVA: If I may, before we get to too many
6 questions, could I give my presentation? Because I'll
7 address some of those, some of those questions and
8 issues, Madam Chair?

9 CHAIR TURNER: Yes. Before you do, Commissioner
10 Akutagawa, was your question or comment, you had one kind
11 of in queue. So do you want to go ahead and make it now
12 or afterwards?

13 COMMISSIONER AKUTAGAWA: Yeah. I'd like to make it
14 now because I'm going to need to drop out (audio
15 interference) the communications director role, on
16 that -- that particular role, the communications
17 director, I do have some specific comments around social
18 media and in something much more explicit than just web
19 campaigns. I think that's not reflecting what we talked
20 about yesterday. I do appreciate what Commissioner
21 Vazquez says. And I actually think that that
22 appreciation for diversity should be either explicitly
23 said or it should be part of the explicit screening
24 criteria across all of the roles.

25 I have another comment -- question, which is, why

1 are we not hiring directly for the budget director since
2 that is one of the direct reports to the executive
3 director and therefore to us as part of the executive
4 team?

5 And then lastly, I think I just want to make a
6 comment on what Commissioner Fornaciari said about asking
7 the question of do we have to follow this org chart. And
8 while we don't have to follow the org chart, I would say
9 that -- I would caution all of us to really think about
10 how many people we want reporting into the Commission and
11 from a organizational structure, especially if you look
12 at in the form of, as a Commission, what makes most sense
13 is to have one person, in other words, the executive
14 director reporting to us and then the other positions
15 reporting into the executive director. Although in this
16 particular case, because of the leadership roles that the
17 other directors will take, I understand that we will be,
18 you know, having a hand in their hiring.

19 Normally it would be the executive director that
20 would be able to hire, but I think it's appropriate that
21 we would have a hand in the hiring. But I don't
22 necessarily want to be trying to manage five different
23 people, to be honest.

24 CHAIR TURNER: Thank you. Raul, you want to address
25 and then go ahead with your presentation and then allow

1 those questions or comments to kind of direct part of
2 what you share as well.

3 MR. VILLANUEVA: Thank you. So let's take --

4 COMMISSIONER KENNEDY: Pardon me. Commissioner
5 Le Mons had also raised his hand.

6 CHAIR TURNER: Oh, okay. Thank you. I didn't see
7 Commissioner Le Mons's -- I'm sorry.

8 COMMISSIONER LE MONS: I'll wait. I'll wait. I'm
9 waiting with bated breath to hear from Raul, to be
10 honest.

11 MR. VILLANUEVA: I would hate to have that be a
12 point of discomfort, though. If you want to go ahead.
13 If you want to go ahead and ask your question,
14 Commissioner? Very good. Thank you.

15 So when you look at this org chart, this is the
16 number of staff that the last Commission had, eight. It
17 was eight staff that ran it all. A couple of retired
18 annuitants and student interns. Otherwise that was it,
19 it was eight people. I don't -- could you do it with
20 less? Well, once the maps were drawn, we went down -- so
21 that the staff services analyst and the Commission
22 assistant left. The Commission liaison went part time.
23 And so then it was basically budgets, business, our chief
24 counsel, communications director, the IT.

25 MS. JOHNSTON: The chief counsel left, too.

1 MR. VILLANUEVA: Well, the chief counsel, we -- and
2 the RA.

3 MS. JOHNSTON: I stayed.

4 MR. VILLANUEVA: Yes. And Marian stayed. And she's
5 still with us And we're thankful for that, very. So
6 except for the RAs, that was it for the staff. Could you
7 do it with less? Maybe. I don't -- I'm I don't think --
8 I think it'd be challenging, let me put it that way. If
9 you did it with less than that eight staff. But you
10 know -- okay, so as far as -- so this is the job posting.
11 It's not a job description. The two are very different.

12 The job description contains the full amount of
13 information about, the task duties. It contains the ADA
14 requirements in terms of essential duties and physical
15 characteristics of the job. So this is not a job
16 description, and it shouldn't be confused with that.
17 What we tell the folks up front is, is this this is the
18 general thing that you're applying for, this Commission.

19 The next part talks about overall duties, then we
20 get to the minimum qualifications, desirable
21 qualifications. Let me stop right there. I wanted to
22 bring this out a little bit better for you. Here's the
23 minimum qualifications in nonparagraph form, in the
24 bulleted forms, so you can see them better.

25 What the minimum qualifications do is they say if

1 the individual doesn't have at least this, they're
2 rejected. And that's really the basis and the function
3 of minimum qualifications.

4 When you start looking at desirable qualifications,
5 a good layman's way of looking at that is small, medium
6 and large. Do they have the desirable qualifications in
7 a small amount, a medium amount, or a large amount? The
8 reason for that is, then it allows you on an equitable
9 basis to start ranking the folks beyond minimum
10 qualifications. It's up to you, then, if you're only
11 going to for further consideration, look at those just in
12 the top tier, the large, or maybe some that are in the
13 medium tier.

14 Part of the strategy there is, if the job has
15 noncritical elements that someone could, quote unquote,
16 grow into, you might consider someone who's got a lot
17 of -- large amount of desirable, maybe a little bit of
18 the medium, but he can grow into it, you know, it would
19 have you consider, with these three positions, there's
20 not a whole lot that they can grow into. You're really
21 looking at a high level of experience and expertise for
22 these three positions. But there is that possibility.

23 At this point in time now, you have an equitable
24 basis across candidates to identify what groupings you
25 might want to consider. And now you can start doing the

1 selection process. Your selection process can go into
2 finding out more about these particular areas. Finding
3 about why they wrote certain things in terms of the
4 document they provided to you. And also some of those
5 organizational types of issues.

6 So could you ask them questions that talk about
7 appreciation for diversity? Absolutely. It's part of
8 Government Code that defines what you do as a Commission.
9 Okay.

10 If you look at State and federal law requiring
11 hiring, one of the primary elements is that anything and
12 everything that you ask has to be job related. Okay.
13 That's pretty wide open gate. There are, of course,
14 things you can't ask. But then one of the reasons you
15 can't is, it's not job related. What's the size of their
16 family, for example? Do they have young kids at home?
17 And again, structurally -- so you have the statement of
18 qualifications. That's a really good area to start
19 looking at, not just what they do, but what they put
20 forward, how -- their sense of what they do. Priority,
21 some of those elements which I won't go too much beyond
22 that.

23 Government Code says that you as a Commission have
24 to make a determination for your executive director and
25 your chief counsel, and you can also extend it to your

1 communications director, to what extent they have to be
2 able to demonstrate that they don't have a conflict, same
3 as you did as Commissioners. Especially with those three
4 positions, it's a good idea to have them go ahead and
5 provide you some information that they meet these
6 qualifications and don't have those conflicts of
7 interest.

8 So as far as structurally, that is what your job
9 recruitment has done for you. And that's what creates
10 the gate, then, for you to be able to do the initial
11 screening on an equitable basis. And now from there, you
12 can start designing a job related interview process to do
13 your final selection or to prepare for selection. So for
14 some of these things that you would want to do, that's
15 organizational, that to me is where you put it, is in
16 that part of the selection process.

17 And there's no requirement that your job recruitment
18 reflect a hundred percent of your job description. And
19 quite often, in fact, in my experience, I've never seen
20 that. So take comfort that this does function as a
21 proper job recruitment and does allow those open doors
22 for you as a Commission. I didn't know if you want to go
23 into each one of them in detail like this and look at --
24 or go on to your questions. Whatever -- whatever will
25 work best for you as a Commission.

1 COMMISSIONER SINAY: Raul, this is Patricia -- I
2 mean, this is Commissioner Sinay. On the executive
3 director, you said minimum qualifications and then
4 desirable qualifications.

5 MR. VILLANUEVA: Yes.

6 COMMISSIONER SINAY: I'm only seeing desirable
7 qualifications.

8 CHAIR TURNER: Right.

9 MR. VILLANUEVA: So I'm pointing out to you how that
10 part of the recruitment flier functions.

11 MS. JOHNSTON: I think what she's saying is we
12 didn't, at least I didn't either, get the minimum
13 qualification portion.

14 MR. VILLANUEVA: Correct.

15 CHAIR TURNER: Okay.

16 MR. VILLANUEVA: And so when you read it, it says
17 "applicants must demonstrate the ability for high level
18 administrative and policy influencing functions
19 effectively. Such overall ability requires possession of
20 most of the following". And so that functions then like
21 a minimum qualification. That's why the words must and
22 most -- well, not most, but the "requires" and "must
23 demonstrate".

24 CHAIR TURNER: Raul, are you reading -- are you
25 reading what you believe you sent us? We have a

1 different document than what you are displaying.

2 MR. VILLANUEVA: No, what I -- okay. So what I'm
3 displaying is just pulling it out so it's not in
4 paragraph form, it's in bullet form. Let me show you
5 where it is on the actual recruitment flier. So this is
6 the recruitment flier right here. Yes?

7 COMMISSIONER FORNACIARI: It's under "Knowledge and
8 Abilities" in the recruitment flier.

9 MR. VILLANUEVA: Yes. And so that's that portion
10 that I just read for you. Knowledge and abilities, what
11 they need to know and be able to do. And again, so those
12 function like minimum qualifications. And they do come
13 from the job description as minimum qualifications.

14 COMMISSIONER FERNANDEZ: I'm sorry, this is
15 Commissioner Fernandez, I'm just going to go for it since
16 I've been waiting, but -- just a couple of quick
17 questions for you, Raul. You mentioned the eight
18 positions on the org chart. I -- you know, there
19 obviously seems to be more than eight positions on the
20 org chart. Could you just walk through those once again?
21 And then, also, I just wanted -- I think it would be
22 helpful if you share with us the time line in terms of,
23 if we do decide to readvertise what that means in terms
24 of the advertisement? How long it needs to be out there?
25 And how long we have to wait until you receive the

1 applications?

2 I think it's -- and I don't know, are we -- I'm
3 used to how to do it with the State where it has to be
4 posted for fourteen days and then it goes through the
5 public screening process. But it sounds like we're
6 exempt from that, which is great. So I think it would be
7 helpful, just, like, a time line -- what the recruitment
8 process looks like.

9 MR. VILLANUEVA: For these three positions or for
10 the staff?

11 COMMISSIONER SINAY: Well, I mean, for these three
12 positions, because if we get to the point where we decide
13 that we want to change this and readvertise, then I'm
14 interested in how long that's going to take. But then
15 also if you can tell me which eight positions you are
16 referring to on the --

17 MR. VILLANUEVA: Okay. Let's do the easy one --

18 COMMISSIONER SINAY: Thank you.

19 MR. VILLANUEVA: -- first. Let's count them. So
20 one, executive director. Two, communications director.
21 Three, budget director. Four, budget manager. Five,
22 chief counsel. Six, senior operation analyst. Seven,
23 Commission liaison. Eight, Commission assistant. Well,
24 nine, that's true, staff services analyst. So it was
25 nine.

1 The webmaster was a contractor, student intern,
2 retired annuitant, and our staff counsels were also
3 retired annuitants.

4 COMMISSIONER SINAY: All right, got it. Thank you.

5 MR. VILLANUEVA: Okay. As far as the time line,
6 with the three recruitments, I think we had them out for
7 four to six weeks. I mean, I'd have to look to make
8 sure.

9 MS. JOHNSTON: But there's no required time.

10 MR. VILLANUEVA: No. No, but I think if -- from
11 what I understood, the question is, is what would be good
12 if you have to do it again? And so they went out --
13 okay, so August 17 -- yeah, I think we got them out in --
14 sometime in late June. Late June or early July. I'd
15 have to look. I'm sorry; I'd have to look to make sure
16 that's how long those were out. I think you'd want to
17 put them out for at least three weeks. If you feel
18 that -- okay, so let's say you put them out and you don't
19 want to use any of the folks, any of the folks who
20 applied, then you you'd want a longer period of time.

21 If you want to put them out and give the individuals
22 who applied, either they can stay in the pool for a
23 chance to reapply. You might not need to put those
24 recruitments out as long. But I think you'd still be
25 looking at minimum two, three weeks for this level of

1 position. You know, it's different with this level of
2 position versus some of the staff functions where with
3 the Commission liaisons, the staff services analysts,
4 that probably within a week you can bring those on board.
5 Your IT director, not as easy. You're web person -- in
6 fact, I'm already starting to look for some of those for
7 you because it's not been as easy.

8 CHAIR TURNER: Commissioners Le Mons and Vazquez and
9 then Yee, please.

10 COMMISSIONER LE MONS: I feel like some of the
11 hesitation may be motivated by some of the public comment
12 that we've heard and some of the recommendations that
13 we've been given. I have confidence in what's been done
14 so far. I understand fully the feedback that's been
15 given through public comment and in writing. I feel like
16 if Commissioners have very specific concerns and if
17 that's where it's coming from, if we could be kind of
18 explicit about that part, because I feel like some of
19 these questions are in service of some of that, but it's
20 not explicit. One of the things that stands out for me
21 is our need to get certain foundational stuff in place.

22 And what also stands out for me is that we have a
23 considerable amount of power and latitude to do things,
24 and I think in some ways we're getting kind of caught up
25 in that. Like, because we can do everything and we don't

1 have to listen to anybody and okay, but do we really need
2 to do those things. And I'm not saying we do or don't
3 but I would just invite my fellow Commissioners to ask
4 themselves that question. Because with that kind of, you
5 know, free reign and all of that, sometimes we don't get
6 things done because we're trying to come up with the
7 perfect process or a model to get it done.

8 So I think that what we have as a framework as it
9 relates to the job notices, unless there's something
10 egregious about them, I think that all of our more
11 nuanced concerns can certainly be taken into
12 consideration by the subcommittee and implemented in the
13 interview questions. And we'll be able to get to all
14 those things that are very important to us.

15 But to scrap this whole process and start all over
16 for -- I'd need to hear a really compelling reason from
17 my fellow Commissioners if that's where we're leaning.
18 So I know I'm making an assumption that that's what this
19 is all about. And please correct that if I'm wrong. But
20 unless I'm hearing something just very substantive in
21 that direction, I think we should move forward.

22 CHAIR TURNER: Thank you, we'll continue in the
23 order. And it will be Vazquez, Yee, Sinay, Sadhwani, and
24 Taylor.

25 COMMISSIONER VAZQUEZ: Great. Thank you. So I

1 appreciate your comment, Commissioner Le Mons. I am
2 pretty explicit about what I would have liked to see
3 around, particularly -- you know, I'm sort of agnostic
4 about the executive leadership of a public entity, but I,
5 I feel pretty strongly about, that at least for our
6 executive director, that I would have liked to see
7 something explicit around appreciation for California's
8 diversity in some shape or form. Particularly because my
9 concern is that we will, with the pool that we have now
10 for the executive director, they have shaped their
11 application materials to fit a particular posting. And
12 my concern is that we will then screen out candidates who
13 have a compelling case to make about their appreciation
14 for California's diversity but did not sufficiently
15 highlight that in their initial materials for them to be
16 adequately considered as a strong candidate.

17 So that's my concern, is that we are -- there's
18 potential for screening out candidates who fit that.

19 COMMISSIONER LE MONS: Can I respond or no? Do I --
20 how did that -- how does that work? I guess I'll get in
21 the queue.

22 CHAIR TURNER: Commissioner Yee.

23 COMMISSIONER YEE: Yes. Well, I wanted to agree
24 with Commissioner Le Mons about moving forward. I think
25 it would actually reflect poorly on the reputation of the

1 Commission to scrape all the effort people may have put
2 in to apply and then ask them to, you know, reconsider
3 all new posting and apply again.

4 At the same time, I want to take seriously the
5 feedback we did get cautioning us against, you know, was
6 the auditor's office jumping the gun in releasing these
7 postings as well as the RFP for the line drawing. And
8 should the Commission take more time to take ownership of
9 that process? I'm not quite sure at what point I feel
10 entirely comfortable that we've remedied, you know, those
11 concerns or addressed them. I haven't heard any -- I
12 didn't see anything in the concerns that made me feel
13 like, oh, we should really take care of that first. It
14 was more just a procedural caution. But if any of the
15 Commissioners know of or saw something more than that
16 that we do need to address, I'd love to hear that.

17 Okay. So with them, then, two questions for Raul, I
18 think. One is the salary ranges on these three postings.
19 Where did those numbers come from? I couldn't match them
20 up with the schedule that we actually approved yesterday.
21 So just curious where those numbers came from.

22 And then just why these three positions and not
23 others? I mean, they make sense that they're very
24 strategic and we need timely action on them. But why
25 these three and not others?

1 MR. VILLANUEVA: The salary ranges do come from that
2 salary structure. Not all of your positions are exact to
3 the exempt -- the civil service exempt positions. And so
4 there is a modification there -- or really not a
5 modification, an accommodation. There's also an
6 accommodation for the fact that these positions only live
7 for about a year and a half, maximum two years. And so
8 that is there. The broadness of the range is to give you
9 as a Commission, more opportunity and choice in terms of
10 the actual hiring point within the range, especially with
11 some of the lower positions -- "lower positions",
12 relatively speaking, within the organizational structure.
13 It then gives the -- your executive director the
14 opportunity within that big range to look at people with
15 varying amounts of skill, depending on what it is that he
16 or she is going to want them to do, which may be more
17 restrictive, that opportunity, with a narrower hiring
18 range.

19 COMMISSIONER YEE: Sure. I'm wondering if you could
20 develop maybe a short memo that explicitly references,
21 you know, which lines, which considerations, you know,
22 you adjusted for the fact that these are temporary
23 positions, you know, how you actually came up with the
24 numbers.

25 MR. VILLANUEVA: Well, actually, what I what I can

1 do for you, if you would like, is I actually did a
2 comparison of comparable executive branch positions for
3 executive director, communication director, and for the
4 chief attorney. Took the average within those. And then
5 had a discussion with different salary folks,
6 compensation folks, CSA, CAL-HR, a few others -- because
7 again, comparability within state -- state structure is
8 important.

9 COMMISSIONER YEE: Absolutely.

10 MR. VILLANUEVA: For all the reasons, I think you
11 said a very eloquently yesterday, for all those reasons.

12 COMMISSIONER YEE: I love that you did that work.
13 It just seems like it would be worth having it, you know,
14 documented so that we can all see it. Not in, you know,
15 not in super detail but just something that, this is how
16 these numbers were developed.

17 MR. VILLANUEVA: I'll get you a spreadsheet.

18 COMMISSIONER YEE: Yeah, excellent.

19 CHAIR TURNER: Commissioner Sinay.

20 COMMISSIONER YEE: I'm sorry. The question about
21 why these three positions and not others?

22 MR. VILLANUEVA: Oh, sorry.

23 CHAIR TURNER: Um-hum.

24 MR. VILLANUEVA: Well, this is your queso grande
25 right here. Your executive director. That that's that

1 is such a must, that the organizational fit between the
2 individual who is in that position and the Commission be
3 exact as much as possible. And there really is no if and
4 or buts with that. That is just so imperative. So
5 that's why that one.

6 With your communication director. Your discussion
7 yesterday, I would just point to that, that how important
8 that position is for so much of what it is that you're
9 doing. Not just in terms of the design but the
10 leadership and the ability to implement. Again,
11 critical. It's a must.

12 With your chief counsel. All the above. All the
13 above. You see the value that Marian brings to the
14 table. And this is going to be your primary. You know,
15 I think as a Commission, you're just starting to see the
16 value that excellent counsel has for anything and
17 everything that you're going to do. And again, the fit
18 there, as well as the knowledge base is a must.

19 With your budget director, with the position, I had
20 business director, business manager, those are skilled
21 problem-solving positions where being able to do the job
22 is critical. The amount of interaction that I personally
23 had with the Commission or Deborah (ph.), who was the
24 budget director, we showed up at meetings when we were
25 called to be there. Otherwise we were behind the scenes

1 getting the work done. That was our job. That was the
2 must. That's what we had to do. We weren't
3 spokespersons for the Commission. I answered -- I did
4 answer. I was the primary person for answering the 800-
5 line, did that every day for hours. But again, I knew
6 what my parameters were. I didn't create them. The
7 communication director in communication with the
8 Commission is the one who created those parameters. I
9 only exercised them and put them into play.

10 That's why some of these other positions, even
11 though they're higher levels of responsibility, your
12 executive director can select those for you. What their
13 job then is to go through the entire selection process,
14 come to you and say, Commission here -- here's who is my
15 top candidate for budget director. Let me introduce
16 them. Let me tell you about their background. You can
17 talk to them. Then you can make a decision up or down,
18 supermajority, yay or nay.

19 And then as we get into some of these other
20 specialized positions, even more so that the fit there is
21 more in terms of the duties, the structure that your
22 executive director wants to run day by day and the fit
23 within that part of the organization. I hope that
24 that -- I could go on and on. And I'd rather, you know,
25 there's a lot of little pieces but I hope that that is

1 satisfactory.

2 COMMISSIONER YEE: So it sounds, you know, kind of
3 like a leadership judgment call, just prioritizing, based
4 on timing, and you know, the flow of effort that we're
5 involved in right now.

6 MR. VILLANUEVA: Well, it's functionality.

7 COMMISSIONER YEE: Yeah.

8 MR. VILLANUEVA: You know. At what point is the
9 interface between the Commission and this staff person,
10 one of the primary determinants of being able to do their
11 work. And I'd have to say, with your executive director,
12 your communication director, your chief counsel, it's a
13 must.

14 COMMISSIONER YEE: Sure. It all makes sense to me.
15 I just want to --

16 MR. VILLANUEVA: Oh, I'm sorry.

17 COMMISSIONER YEE: -- understand why, you know, why
18 these three and why -- if we're going forward with these
19 three, then why not others as well?

20 MR. VILLANUEVA: Right. I mean, you could, you
21 could go and select them all, but that's probably not the
22 best use of your time.

23 COMMISSIONER YEE: Sure.

24 MR. VILLANUEVA: And that's probably not the best
25 use of, or nonuse, of your executive director.

1 COMMISSIONER YEE: Sure.

2 MR. VILLANUEVA: My opinion.

3 COMMISSIONER YEE: Very good.

4 CHAIR TURNER: Okay. Thank you.

5 Commissioner Sinay.

6 COMMISSIONER SINAY: Just for clarification, I
7 actually read these before reading any public comments.
8 So anything I say is actually based upon my experience,
9 having applied to be on the Commission, the questions
10 that were asked of me and my vision of the Commission,
11 and the work that the Commission does.

12 Having said that, public comment, we've said from
13 the beginning, is critical to the work we do and is
14 important and does serve as the fifteenth seat here. And
15 I don't want us to discount something that the public has
16 said just because it's quicker to move forward.

17 I thought these were pretty good, except -- I have
18 no question on the chief counsel one. I thought that one
19 was written well. And I keep going, trying to figure out
20 why I'm having so many -- challenges I'm having with the
21 communication director and the executive director. And I
22 really think it goes back to a comment -- it goes back to
23 they're very -- written very bureaucratic and very
24 Sacramento-ish and very -- I mean, I'm shocked on the
25 executive director that the last bullet on desirable

1 qualifications is knowledge of redistricting concepts.

2 To me, that should have been closer to the top. And
3 so I feel like the executive director and the
4 communication director is a forward-facing team, even
5 though we are the face of the Commission, these are our
6 forward-facing team. And this is the team that needs to
7 be creative, needs to be -- understand the larger
8 community. I will push back on what you said yesterday,
9 Raul, that you can't have a team that is outside of
10 Sacramento. I understand the executive director probably
11 should be there. I don't think that the communications
12 person needs to. I managed a team of fourteen
13 individuals throughout the United States and then some
14 ended up going to other places. And we had processes and
15 procedures and it was there was a lot of benefit from
16 being different parts of the country for the work that we
17 were doing.

18 I didn't see -- I saw a lot in here about, do you
19 understand Sacramento and how Sacramento works? I didn't
20 see a lot about, do you understand the community and how
21 the community works and diverse communities. And that
22 was really where I was struck, was how bureaucratic this
23 was written. And honestly, I think the executive
24 director position would be a perfect -- because I would
25 be a perfect person for the executive director position.

1 From everything everyone told me when I was applying, if
2 I don't get on the Commission to apply for the executive
3 director position, but I wouldn't never have gotten this.
4 This description is -- I -- so there was nothing in -- I
5 think the -- that was my main concern is that it's
6 written -- I know that that's a public comment that was
7 written too, that it's very Sacramento. That was not
8 only a public comment, but that's also in the report that
9 was written to us by former staff.

10 And so the other piece that I was shocked, and I
11 mentioned yesterday on the executive director one is, if
12 you read this, it looks like they are the ones that they
13 run the show. And we're just their board members, versus
14 we're the face of the Citizen Redistricting Commission.
15 If the Legislature wants us at a hearing, one of us goes
16 or two of us goes. Not necessarily the executive
17 director. If there's media opportunity, I mean, the way
18 it's written, it's written very -- they're on the top and
19 we're supporting them.

20 And I like, somewhere I read, they're our safety
21 net -- and these three positions are definitely our
22 safety net. So I think that these are the critical ones
23 we need. And maybe everything I'm saying will be
24 addressed. But I was -- I just think that these are our
25 forward-facing people. I didn't read much of anything

1 about community engagement and creativity. And I was
2 surprised the way that it was written. It sounded like
3 they were running the show versus we were running it.

4 And I was shocked, too, that it didn't say you need
5 experience working with commissions at any level. So
6 that's just -- I would move forward if we think that the
7 rest of the -- obviously, I'm going to move forward if
8 the rest of my colleagues think that this is good enough
9 to get what we want. But I still believe and I was
10 shocked, and I know -- I asked for this yesterday and the
11 day before -- I don't know what our vision is of success
12 for these positions. But the way these descriptions are
13 written, do not meet my vision of success for what we
14 need.

15 CHAIR TURNER: Thank you. Just so that everyone
16 knows, in the queue there is Commissioners Sadhwani,
17 Taylor, Le Mons, Turner, and then Vazquez.

18 Commissioner Sadhwani.

19 COMMISSIONER SADHWANI: Madam Chair, I have a number
20 of thoughts here. First of all, I wanted to say thank
21 you to Mr. Villanueva and I also -- for all of the work
22 that you have done. And I also just wanted to recognize
23 that we've kind of taken on the practice of calling you
24 by your first name while we all refer to one another as
25 Commissioners. So I wanted to just know how you feel

1 about that, how you would prefer to be addressed. I'm
2 happy to address you however you would prefer. But I
3 want to show you, your -- you know, due respect. So if
4 you have thoughts on that, you can let us know.

5 A couple of pieces. So I hear all of these pieces.
6 I hope I hear it all, right, like, I get it. I do think
7 it would be helpful, broadly speaking, to have some
8 conversations. And yet at the same time, I don't think
9 it would be helpful to go launching into a full-on
10 strategic planning process or anything like that of how
11 we envision this Commission working.

12 I feel, actually, you know, to Commissioner Sinay, I
13 really support and hear you, what you're saying.
14 However, I also feel a little a little torn, right.
15 Like, are we -- is the executive director someone who's
16 forward-facing or someone who supports us and we're the
17 forward face, right. I hear almost both happening there.
18 And to some extent I feel like we're the Commission, we
19 are not a board of directors for an organization in which
20 an executive director is truly the face of that
21 organization. We're the face. And so therefore, an
22 executive director is someone who's more bureaucratic, is
23 someone who's more in touch with how Sacramento works and
24 how the State government is going to have to work so that
25 we can ensure that we are, you know, abiding by the legal

1 provisions set out for us.

2 And to that end, I actually wanted to pick up on
3 something Commissioner Kennedy had mentioned a while ago.
4 I do have some concerns about the recruitment,
5 specifically for the communications position. The
6 executive director and the chief counsel, in my
7 opinion, -- again, I think this is to Commissioner
8 Sinay's perspective, this is where a conversation about
9 our vision but this would be really helpful.

10 Those first two positions, executive director and
11 counsel, those are people who are going to need to know
12 the process. The 800 people on that list that, you know,
13 have signed up and said they're interested in knowing
14 more about the Commission, I'm assuming, are generally
15 folks who are interested in the democracy and
16 redistricting where gerrymandering is involved. And
17 policy wonk kind of folks, right. Like, there's, I know,
18 for example, there are a lot of professors, folks from
19 community organizations, right. I don't necessarily have
20 a problem with an executive director and counsel kind of
21 coming based off of that list or the posting only on our
22 website, I suppose. I could perhaps be swayed. But I
23 think in general that feels about right to me because
24 these are people that need to know this process. They
25 need to know the law specifically as it pertains to the

1 Voters FIRST Act.

2 The communications director, however, I do feel
3 like, based on our conversation yesterday, do we want
4 that person coming from a list of 800 policy wonks? I
5 don't know. You know, right. Like, when I think
6 California, I think, wow, we have some cutting-edge
7 industries around the State. And maybe we want someone
8 who is a cutting-edge communications person who has
9 handled amazing kind of work, maybe at a political
10 campaign or maybe in a business perspective, too, right?
11 Maybe there's someone who has that has experience working
12 with multiple communities. Maybe there's someone, you
13 know, who does specifically targeted media outreach to
14 Spanish language media. I don't know, right. Also, what
15 I noticed wasn't on there was any -- would we want
16 someone who is bilingual perhaps, right. Or are we going
17 to hire someone who is bilingual?

18 So I feel like the communications position in
19 particular, I can certainly see the need, or at least the
20 discussion, of perhaps a broader recruitment. I don't
21 have a strong feeling that the -- the job notices need to
22 be rewritten. I think that they're fine, generally
23 speaking. Are they completely inclusive of every last
24 component? Maybe not. But that's what we will do in an
25 interview, as Mr. Villanueva has said, has pointed out.

1 So I would just put that out there. You know, I
2 think that we're in a place to continue moving forward.
3 But I agree that having some broader conversations about,
4 well, what is this organization really going to look like
5 and what are the broader functions of it? Not only based
6 on 2010, but also based on what we see as our path
7 forward, would be extraordinarily helpful. Thank you.

8 MR. VILLANUEVA: If I could just -- Commissioner
9 Sadhwani asked a pertinent question. Who are these 800?
10 Right. Well, it's not just, as you mentioned. So among
11 them is Common Cause, NALEO, NAACP, MALDEF, Asian Pacific
12 Islander Association. No, it's a lot, if not most of the
13 major community groups here in California that have been
14 interested in redistricting and what it means to
15 California throughout these ten years. It's not just
16 professors and citizens, although professors and citizens
17 do belong on the list.

18 COMMISSIONER SADHWANI: Absolutely. And I certainly
19 didn't mean to overwrite that. And I worked at many of
20 those organizations back in the day, so that --

21 MR. VILLANUEVA: Yeah, they're there. They're all
22 right there. And you know, that was one of the things,
23 if I may, when we were looking at it that the
24 recruitment, is traditionally the Redistricting
25 Commission looked at these groups as partners. And so

1 how do you get the word out to partners in an equitable
2 manner? And so it was like, well, the most equitable
3 manner is to send it out as that blast, letting them
4 know, here it is, here they are, here's how you access
5 them. And wait to hear back.

6 And so that's why that's -- that's a what and why
7 then. I'm sorry if I didn't explain that or give enough
8 detail to create that. So thank you. Oh, you can just
9 call me Raul. Mr. Villanueva gets a little long so yeah,
10 Raul works great for me.

11 CHAIR TURNER: Commissioner Taylor.

12 COMMISSIONER TAYLOR: Yes. I also consider the
13 timing of this whole issue. And when I look at the
14 bulletin, I think, this so egregious that I want to give
15 away the four-month advantage that we have. If we reject
16 the posting, we almost cut that in half. And the
17 previous Commission talked about how that they were at a
18 disadvantage of time. We almost put ourselves in the
19 same position that they were. They tried to leave a
20 framework for us so that we don't deal with some of their
21 pitfalls. So I would like to take as full advantage of
22 that time that they tried to leave for us to better do
23 the job that we set forth.

24 I think in listening to the public comment,
25 ownership is taken either in the subcommittee or in the

1 interview process. We can suss out what we want and what
2 we need and where we feel the qualities are in that
3 process.

4 Again, as I was speaking to the framework, in
5 looking to the 2030 Commission, I don't want them to
6 think that everything that's left for them, they have to
7 tear down. And that ownership means that they have to
8 start flying this plane and building as it goes. I think
9 there's a certain amount of framework that can be left
10 for each commission, from commission to commission to
11 commission, that that they can use.

12 And lastly, in looking at the bulletin, I didn't
13 interpret that the positions were in front. I wholly
14 feel that we're the face of this and that they're at our
15 discretion. Thank you.

16 CHAIR TURNER: Commissioner Le Mons.

17 COMMISSIONER LE MONS: Public comment is very
18 important to me and I take it very seriously and I never
19 compromise in the spirit of moving forward. I'm going to
20 say that very explicitly, Commissioner Sinay.

21 What I also want to say is, we have a frame here,
22 and I think Commissioner Taylor just summed it up,
23 actually. And I think within the frame we can get to --
24 because not only do I listen to public comment, I listen
25 to all of you. And I don't discount anyone's

1 contribution at all. So I think that everything that has
2 been mentioned from Commissioner Vazquez to Commissioner
3 Sinay to Commissioner Akutagawa, et cetera. It's all
4 achievable within the current frame that we have.

5 So it isn't the trade off in my mind that we're
6 giving up anything. That we're able to accomplish all of
7 that. And I just hope that we can spend a little less
8 time getting in the weeds. We are a Commission. And
9 maybe it's because I'm a chief operating officer and I
10 look at it at a very high level -- and not that the weeds
11 aren't important; that is important to me. But then, I'm
12 used to having staff provide me -- people I trust provide
13 information and data to me to assess. And I feel like
14 that is more where our role is going to have to be.
15 Because we have a lot of information we're going to have
16 to parse. Analysis was pushed through our interview
17 process repeatedly.

18 So to the degree that we feel that we're getting
19 competent input, I'd like to be able to trust the input
20 that I'm given until shown otherwise. I'm not saying
21 that we won't have situations where we get input and
22 information and we find we shouldn't have trusted or we
23 need to pivot. But I think that, again, with our broad
24 powers, we have the ability to pivot and make decisions.

25 So I'm not wanting to sacrifice quality or

1 commitment to organization. Personally, if I look at a
2 job requisition or an announcement, that is a frame. And
3 what I would be bringing to that experience if I wanted
4 the position is everything I bring that they wouldn't
5 even know to put it in a job requisition in the first
6 place. And I think that's what makes you bring your
7 unique proposition to the table. And I think
8 Commissioner Sinay, if you were applying for that
9 position, you bring that, whether they said explicitly,
10 you have to bring this thing, you're going to bring that
11 plus much more. Like all of us did with this process.

12 So I just feel very strongly that we have a
13 sufficient enough frame to -- because we have a decision
14 to make here. And depending upon the decision that we
15 make, whether we throw this out or move forward, I'd just
16 like us to be intentional about that information in
17 service of that decision, so we know how we're going to
18 move forward. That's the long and short of what I'm
19 trying to encourage, in terms of forward movement.

20 CHAIR TURNER: Thank you.

21 I see -- I'll speak next. Then it'll be Vazquez,
22 Sinay, and then Fornaciari.

23 And the piece that I wanted to add in -- and then I
24 see Commissioner Kennedy. Thank you.

25 The piece that I wanted to add in was to say that I

1 am in agreement with so much that's been shared. I see
2 these documents as a framework. I have been hiring and
3 put out the similar paperwork for over thirty years. And
4 I don't see anything that is exclusive or limiting or
5 preventative in what has been put out. I think that I am
6 sensitive to the diversity and for that, I'm looking at
7 the actual jobs in context of what people are applying
8 for.

9 I think that there could be some drawn inference
10 there that says that if you're applying for this job, it
11 should also give a nod to a desire to ensure diversity
12 and what have you. And I think that can come out again
13 in interview questions. And I think that can be screened
14 for and asked concerning at that time.

15 Also, as we're looking at these, I think that I
16 would be in agreement that communications could, perhaps,
17 come from anywhere. And that would be the only
18 particular area that I'm hoping -- hopeful that we're not
19 limiting or missing out on the best candidates if,
20 indeed, people did not feel that they should or could
21 apply because of a geography. But with that being said,
22 I do -- I trust the process. I am listening to the
23 public comment.

24 Public comment made me want to read them carefully
25 and pay attention to the process that was followed. But

1 it did not make me say that I want to throw it out
2 because of the public. It was a caution for us to be,
3 you know, aware. And I have been made aware and we've
4 looked at them.

5 So that's what I -- the piece that I want to add
6 into this and to be able to say that I am comfortable
7 moving forward and I am open to, perhaps, ensuring that
8 that communication piece is -- if we look through all of
9 the particular candidates, whoever's going to do that on
10 the subcommittee to ensure that we have the best
11 candidates, people that are nimble enough to move through
12 all of the different social media and all of the
13 different platforms. And if not, then we should be
14 comfortable in opening it up again to ensure that we get
15 exactly what we need.

16 The other piece, counsel on -- and Raul on
17 yesterday, we asked this question, and now, after so much
18 conversation, I'm not certain where we landed. But it
19 seemed to me that there was also a statement made that
20 said that there are -- there is some latitude of things
21 being added in without having to pull the particular
22 postings. And so I wanted, at some point, to respond to
23 that again, as well.

24 MR. VILLANUEVA: If I might suggest, because we're
25 getting close to the required break, the answer's yes.

1 State and federal law require -- regarding hiring, really
2 the primary thing is that it be job-related.

3 CHAIR TURNER: Um-hum. Agree.

4 MR. VILLANUEVA: Those things that define the
5 organization, its structure, its mores, its values.

6 Depending on the level of the -- of the hire, absolutely,

7 CHAIR TURNER: Okay. I have we need to take a break
8 by 12:45.

9 MR. VILLANUEVA: 12:30.

10 CHAIR TURNER: Is that correct?

11 MR. VILLANUEVA: 12:30, Commissioner.

12 CHAIR TURNER: No --

13 VICE CHAIR AHMAD: We got back at 11:15.

14 MR. VILLANUEVA: Oh, 11:15. There you go then.

15 VICE CHAIR AHMAD: Um-hum.

16 CHAIR TURNER: Okay. Yeah.

17 VICE CHAIR AHMAD: So 12:45 is correct.

18 CHAIR TURNER: I appreciate all of those prompts
19 because I can get lost. So thank you.

20 We'll go Vazquez, Sinay, Fornaciari, and Kennedy.

21 COMMISSIONER FERNANDEZ: Just a quick -- I think we
22 have a presentation at 1:30.

23 MR. VILLANUEVA: Yes.

24 COMMISSIONER FERNANDEZ: Correct?

25 MR. VILLANUEVA: Correct.

1 COMMISSIONER FERNANDEZ: We have number 19. So I
2 just wanted to make everybody aware of that.

3 CHAIR TURNER: Okay. Thank you.

4 Vazquez?

5 COMMISSIONER VAZQUEZ: Yes. I appreciate all that's
6 being said. I am -- in reviewing the recruitment
7 posting, I was not -- I was not so wedded to what I
8 wanted to see that I would like to throw them out,
9 especially at this point after this discussion. That
10 said, I think this goes back to a point Commissioner
11 Sinay was making earlier about what we're having right
12 now very much is a discussion. It seems like maybe not
13 as explicitly, but about, like, our values and what we
14 would want to see in a candidate as we're screening.

15 And so again, for me, I feel like we need a thorough
16 robust discussion about, like, what we as a Commission
17 view as success and how we are viewing the organization
18 that is doing redistricting. Because, again, for me, the
19 way I'm viewing the executive director position, the way
20 I am viewing the communications director position,
21 they're leading -- they're helping us lead, really, a
22 grassroots organization, a grassroots movement.

23 And I -- they are the implementers, the
24 administrators, so I get there needs to be a balance
25 between, like, really strong administrative bureaucratic

1 skills and knowledge. And at the same time, like, I'd
2 like to see their experience and/or commitment to leading
3 grassroots movements.

4 So again, I do think we have an advantage of having
5 an applicant pool that we can then further cultivate
6 through a discussion around interview questions, and you
7 know, desirable qualifications versus minimal. But it
8 sounds -- it seems to me like we really do need to have
9 that thorough discussion whether or not it's anchored to
10 the actual job descriptions. And we need to budget for a
11 good amount of time to have that conversation.

12 CHAIR TURNER: Thank you.

13 Commissioner Sinay?

14 COMMISSIONER SINAY: Thanks. Thanks, everyone for
15 really bringing your A-game to this conversation because
16 these are our votes. I didn't bring my A-game in that I
17 used the wrong -- it -- face forward -- forward-facing is
18 the wrong word, so I -- I thank you, Commissioner
19 Sadhwani, for saying I was saying two things at once
20 because I was. What -- in the military, I work a lot
21 with military communities and they use a lot of peer
22 navigators, and -- which are similar to promotoras in the
23 health community -- and what I see our staff being is,
24 kind of, our navigators. Either navigators of the
25 State and bureaucracy of -- at the State -- and our

1 navigators within the community.

2 And so I do appreciate what was said that executive
3 director needs to be both. Needs to understand how to
4 navigate the State bureaucracy, as well as the community.
5 From everything I'm hearing, it seems that the one that
6 we have the most issues with is really the communications
7 director description. And if I -- Raul, you had said
8 yesterday, hey, you know what, we've got some positions,
9 you can look at and if nobody fits what you want, then we
10 can repost it.

11 My only concern with doing it that way is that I
12 don't think it -- it's going to take us a while to review
13 it and then we would be told -- then we would say, hey,
14 we didn't find the right person. And then we would
15 repost it. So maybe -- and this probably needs a motion
16 or something -- it's -- it -- we need to create a
17 committee that -- you know, to -- that, kind of, reviews
18 these -- a personnel committee that reviews these and if
19 something is missing from the communications, because
20 there's some really critical pieces, you know.

21 It's not just social media but it's also ethnic
22 press and ethnic, you know, outreach to underserving
23 communities of interest. Social media is not going to
24 get us the communities of interest. So I thank you all.
25 And I think communications is the only one that I'm

1 really, really hesitant on. I think we could -- the
2 executive director does report directly to us and we
3 can -- we had that conversation about how we work
4 together. So that's -- I think that's all I really
5 wanted to say.

6 CHAIR TURNER: Thank you.

7 Commissioner Fornaciari?

8 COMMISIONER FORNACIARI: Let's see. A lot of what I
9 wanted to say has already been said. So I just concur
10 and I won't repeat it.

11 Just a couple things. You know, I think to
12 Commissioner Vazquez's point about appreciation for
13 diversity, the thing that came up for me was impartiality
14 was missing too. Right? That was a big thing for all of
15 us. But I think -- I think all of these missing pieces
16 can be managed effectively through the filtering process
17 and the interview process. And I think, specifically,
18 Commissioner Vazquez's concern about, you know, somebody
19 not including their appreciation for diversity in their
20 application. I mean, I think we can handle that by not
21 filtering for that up front, and then filtering for it
22 when we talk to people.

23 And in -- with Commissioner Sinay's specific
24 comments, and other comments about the communications
25 person, yes, I agree. I mean, we have to meet people

1 where they are. And wherever that is and however we're
2 going to find them, we have to reach out to them. We
3 have to have somebody who's going to be super effective
4 at doing that. And just, where I'm leaning is -- I would
5 lean to, let's take a look at what we got.

6 Let's put together a framework for a set of
7 expectations that we have around that role. Let's
8 look -- let's take a little time to look at what we got.
9 And then, you know, if we don't think we're going to --
10 the people in the pool are going to meet with what we
11 want, then we'll go back. That would be the way I would
12 propose handling it. But thank you all for your really
13 thoughtful and insightful comments.

14 CHAIR TURNER: Commissioner Kennedy and then
15 Fernandez.

16 COMMISSIONER KENNEDY: Thank you, Madam Chair.

17 You know, I started out fairly skeptical on this for
18 a number of reasons. I've come around. And I think like
19 most everyone, the chief counsel posting poses few if any
20 issues to the -- you know, any shortcomings in it can be
21 addressed through the screening and interview process.

22 Executive director, yeah, not how I would have
23 written it. I mean, I think one of the things in my
24 experience, you know, one thing is dealing with the
25 bureaucracy. It's an entirely different thing when

1 you're trying to make a bureaucracy move at the speed of
2 light because you have an immutable deadline. You know,
3 that's the kind of background I come from, trying to get
4 a huge bureaucracy to move when it's not used to moving
5 because I have an immutable deadline to hold an election
6 where people are going to start dying.

7 So to me, there wasn't enough emphasis on the need
8 for speed and the need for experience in dealing with
9 what can be difficult roadblocks when you have an
10 immutable deadline.

11 And the communications director, yeah, you know, I
12 think we might be able to get what we need on the basis
13 of what's here. I would have raised some of the
14 requirements, but at this point, I'm happy to take a look
15 at who we have. We might be lucky and we have exactly
16 who we need who's already applied. And if we find that
17 we don't, then yeah, we can reopen.

18 Thank you.

19 CHAIR TURNER: Thank you.

20 Commissioner Fernandez, Andersen, and Ahmad.

21 COMMISSIONER FERNANDEZ: Okay. Just quickly, very
22 good conversation. I appreciate everyone's feedback.
23 Just for Raul, I'd be curious to see how many
24 applications we received for each of the classifications
25 and then, maybe, make a recommendation if we do decide to

1 move forward with this. Maybe have a subcommittee for --
2 separately. Like, one for chief counsel. One for the
3 communications director. And one for the executive
4 director.

5 That way, there's more of us that are involved in
6 that process and that -- like, if maybe you're more
7 passionate about one of the positions, that way -- I just
8 feel like we could participate more if we split that up.
9 And if there's a hundred per position, then that would
10 actually be overwhelming for a group of two to do all
11 three. So it's just a couple things to think about.

12 CHAIR TURNER: Thank you.

13 Commissioner Andersen?

14 COMMISSIONER ANDERSEN: Commissioner Ahmad actually
15 had her hand up first, so I'll defer to her.

16 VICE CHAIR AHMAD: Thank you.

17 I really like this practice, we're all watching out
18 for each other.

19 I -- thank you for the discussion, very fruitful
20 discussion. I'm comfortable with the job postings. They
21 are not job descriptions. I also think that we're
22 bringing our own perspectives of what ownership means.
23 And sometimes, that means building something yourself.
24 And sometimes that means exercising your power to what --
25 accept something or reject something.

1 And in this case, I see the job postings as broad
2 enough to capture all of the points that have been
3 brought up. With the communications director, which
4 seems to be the, you know, the deciding point here, it
5 closed on August 17th, 2020. Between August 17th, 2020
6 and the time we actually interview, there's probably
7 going to be ten new social media apps out there that are
8 not going to be covered on the application itself.

9 And to me, I think what I would be looking for in
10 terms of, just, workforce, is the ability to actually
11 jump on the changing climate and the changing landscape
12 related to communications. And I think the job posting
13 will do a good job of recruiting folks for that field.
14 And then we would have to carry it the rest of the way.

15 And that goes along with what other folks have
16 pointed out, that if we don't find the candidate that we
17 are looking for, we can always go back and re-recruit.
18 We can always go back and write up our posting, recruit
19 in our own way. I hear Commissioner Kennedy's points and
20 questions about, how was this recruited. I mean, I would
21 have like to see the communications director posting on
22 social media itself, or on LinkedIn, or any of these
23 other avenues. But I don't know if I saw that. I don't
24 know if they were posted there or not.

25 So there's always going to be hole in how we were

1 able to recruit for certain positions, versus did we not.
2 How it's written. What points are missing. What points
3 are included. But I think this is just one piece. The
4 interview would be another piece. And then we have a
5 whole bunch of people here who are very well qualified to
6 parse out all of the details that we are looking for for
7 these positions. So I just want to make sure that I
8 was -- to Commissioner Le Mons's point -- being
9 explicitly clear of where I stand on this. I'm
10 comfortable moving forward with these positions and this
11 discussion as stated.

12 CHAIR TURNER: Thank you.

13 Commissioners, now, we are pushing up against time.
14 I'd like to find out if it's okay with everyone if we
15 take a forty-five-minute lunch so that we can be back at
16 1:30? And if there's anyone that absolutely cannot do
17 that -- okay, great. And so what we'll do is, we
18 won't -- we will pause this discussion so that we're able
19 to go and take our forty-five-minute lunch. When we
20 return, we'll go straight into our agenda item for
21 California diverse demographics. I believe that's item
22 number -- topic number 19 on the agenda.

23 And after that discussion, we'll come back to
24 complete discussion and then open public comment on this
25 one.

1 Yes?

2 COMMISSIONER SADHWANI: I think Commissioner
3 Andersen just had a point -- I don't know if she can make
4 it one minute before we break, but just to acknowledge
5 that she had one.

6 COMMISSIONER ANDERSEN: I just want to say I think I
7 have solution that works for everybody because I -- right
8 now, it's like, either we go with this or start all over.
9 And I don't think that we have to do that. I think we
10 can move ahead with this quick addendum. That's what I
11 heard -- that's what I thought I heard Mr. Villanueva
12 say, that we can make our modifications really quickly
13 and put it out because we still have -- even if we go
14 ahead -- we can't do anything until we have our fourteen-
15 day notice anyway. So -- and anyone who's already
16 looking, when you've got an addendum from a job posting
17 you've already applied to, you reply right away. So I
18 think that would cover everything. We can get into a
19 little bit more of that later, but I think we can go
20 ahead and put out three subcommittees together, have them
21 write this, like, now and move on this. I think we can
22 do both. And then, additionally post, we can cover all
23 the -- because we all liked what we were with, we just
24 want small tweaks.

25 CHAIR TURNER: Commissioner Andersen, let's start

1 with you. But we do have to go to break.

2 COMMISSIONER ANDERSEN: Just think about that.

3 CHAIR TURNER: Okay. All right, thank you all.

4 We'll recess for lunch.

5 (Whereupon, a recess was held)

6 CHAIR TURNER: Welcome back from break. Thank you
7 so much. And at this time, we're going to move to our
8 agenda item, I believe it's 19. We have a guest speaker
9 on, Mr. McGhee. And Raul, unless you need to set it up,
10 Mr. McGhee, we'll go into your training on California's
11 diverse demographics and geography.

12 Yes. All right.

13 MR. MCGHEE: Thank you. One quick question, or
14 clarification, about the technical setup. Is the -- is
15 my -- are my slides going to start on your end or do I
16 need to share my screen on my end?

17 MR. VILLANUEVA: You're welcome to share your
18 screen, Mr. McGhee. Thank you.

19 MR. MCGHEE: Okay. I think that's probably the
20 easiest way to do it.

21 So thank you to the Commission for having me here
22 today. I just wanted to say, as a -- I mean, we're
23 obviously in a crazy time here. And I appreciate your
24 patience with whatever weirdness there is in giving this
25 presentation and through this format. I gave this to the

1 auditors a year ago and it was much more traditional
2 there with me there physically present. But hopefully,
3 we'll figure this all out.

4 I will also say I want to just note I really
5 appreciate that you have volunteered to take on this
6 work. It's a big task and a real serious undertaking.
7 And you know, democracy doesn't work if people don't step
8 forward and volunteer to do that work that needs to be
9 done. So I really appreciate all of you being willing to
10 take on this challenge.

11 So let me see if I can setup my shared screen here.
12 Can you all see that?

13 CHAIR TURNER: Yes, you're good.

14 MR. MCGHEE: Great. Okay. Terrific.

15 So the things that I want to talk about today are
16 three broad topics. First is the sources of data that
17 you, as Commissioners, are likely to be relying on as you
18 go through your task of drawing the lines. Then I want
19 to talk about some broad demographic trends and patterns
20 throughout the history of California and kind of, where
21 California is heading next in that respect. And then I
22 want to give a little bit of the flavor of what came out
23 of the last Commission. So I did some analysis the maps
24 that the Commission drew at the time that they drew them.
25 And then I've done some subsequent analysis since then.

1 And I wanted to give you a flavor of that so you had some
2 sense of, kind of, how your predecessors did.

3 So first of all -- I want to also say, if anyone has
4 any questions that they want to ask, please feel free.
5 I'm okay with people interrupting and asking clarifying
6 questions, what have you. So first, the sources of data.
7 I want to talk about the decennial census, which is going
8 on as we speak. Then I want to talk about the
9 distinction between population estimates and population
10 projections. Then get into some of the survey data that
11 census makes available as distinct from decennial census.

12 Then talk about some of the administrative data that
13 will available to you as Commissioners but also some of
14 the administrative data that the census is using for its
15 job this time around. And then discuss a little bit
16 about the errors that we might find in some of these data
17 sources, especially in census itself.

18 So every ten years we do a census. Why do we do
19 that? Well, the primary, original purpose was to
20 apportion the House of Representatives. That's what's
21 hardwired into the Constitution. That's the process of
22 reallocating the number of congressional districts that
23 each state receives based on the population that it has
24 in the census. However, and throughout history,
25 especially since some really key U.S. Supreme Court

1 decisions in the 1960s, we used the census to draw our
2 political districts, and it's the -- primarily the only
3 significant source of information for that purpose
4 because it is -- it has the level of detail necessary to
5 draw the lines.

6 Now, in addition to those representational concerns,
7 the census also is the basis for many spending decisions
8 by the federal government and by other governments in
9 many cases. So there's a lot of money at stake based on
10 the census count. And more generally, I think for
11 somebody like me, a researcher, it's really key as a
12 portrait of our nation. So it is the go-to source for
13 understanding who lives where and what they look like in
14 some very basic way. And the census is the basis for a
15 lot of analysis that's done. Anytime you have a public
16 opinion survey, it is almost invariably weighted to the
17 census, so they try to make their responses match the
18 census to varying degrees. So it's really important for
19 that kind of information purpose, as well.

20 The simple -- elusively simple goal of the census is
21 to count everyone once and only once, and to count them
22 in the right place. So that sounds very easy. It turns
23 out that it can be extremely complicated. But that's the
24 main goal. And it's counting them in the right place as
25 of April 1st. So even if they move after April 1st, the

1 goal is to try to understand where they were when April
2 1st came around.

3 So the way that census is structured -- the way --
4 it's a survey and each household gets the survey. And
5 some person in the household responds for everyone else
6 in that household. The questionnaire itself is very
7 short. It just a few -- includes a few questions. Name,
8 age, race, ethnicity, gender, whether you're an owner or
9 a renter, and some of the relationships of people within
10 the household. Very basic information.

11 There was some controversy for a while about whether
12 to add a citizenship question to this basic
13 questionnaire. It had not typically been there. There
14 was a controversy -- you may have been aware of that
15 controversy and following it -- the ultimate decision was
16 not to a put a citizenship question on the census itself.
17 Though the census, as I'll mention in a minute, is
18 working to try to provide some citizenship information
19 anyway, even without that citizenship question. So
20 that's the basics of the decennial census.

21 What do we use that census to do? Well, two main
22 things are estimates and projections. And in term of
23 art, there's a distinction between those two things.
24 Estimates are historical population figures. Estimates
25 of the population as it existed some point in time in the

1 past. Projections, on the other hand, are predictions of
2 the future, what demographers are thinking, where they
3 think the population is going to be going next.

4 The Census Bureau produces both estimates and
5 projections. We are fortunate in California to also have
6 a very excellent demographic unit in the Department of
7 Finance. Not every state has that, but in California we
8 do. There are very -- some expert demographers there,
9 and they also produce their own estimates that are often
10 at a lower level of geographic detail than the census
11 will provide.

12 Those -- the estimates are based on the decennial
13 census counts themselves. And those counts are, then,
14 basically updated with recent administrative data. So
15 you will take that original population count and you will
16 say, okay, how many births, deaths have there been and
17 how much have people moved around. And then we try to
18 estimate from that what the new population in each place
19 in the country is.

20 Projections are, then, based on similar kinds of
21 assumptions and information. They're based on future
22 fertility, how many births there will likely be. Future
23 deaths, mortality. And how much people are going to move
24 around. It's kind of the three basic building blocks of
25 demographics.

1 The Census Bureau and the Department of Finance
2 provide very similar kinds of information. The main
3 significant difference between the two is that the
4 Department of Finance provides some estimates of the
5 number and type of housing units. But otherwise, they do
6 provide some similar estimates, both of them kind of
7 working off a -- off of very similar data sources. That
8 does not mean that they are going to be exactly the same
9 estimates, though. In fact, recently, the Department of
10 Finance and the Census Bureau have diverged a little bit
11 on where their estimate of California's population is
12 right -- you know, as of 2019.

13 There wasn't always this divergence, but there is a
14 divergence now. That divergence is almost entirely a
15 function of different estimates about migration. So the
16 really hard, the really tricky part of estimates is
17 figuring out how many -- how much people have moved
18 around. The births and deaths tend to be recorded with a
19 greater degree of accuracy from administrative records.
20 So the divergence that we're seeing here, the births and
21 deaths, they -- the Department of Finance and the census
22 is in broad agreement about the births and deaths, but
23 they do disagree -- the Department of Finance thinks that
24 fewer people have moved out of the state, relative to who
25 have moved in. And the census thinks a few more have.

1 So we'll see who's right, or at least, who matches the
2 decennial census shortly.

3 Projections, however, can diverge quite a bit. That
4 makes sense. We're talking about the future.

5 Projections are always difficult, especially about the
6 future as some famous wag said. So these are just three
7 different projections that I grabbed from the web. One
8 is from USC in 2012. Another is from own Department of
9 Finance made in 2020. And then University of Virginia
10 has an estimate for -- projection, excuse me, for
11 California for -- that they made in 2018.

12 So these are all projections at different points in
13 time. And the USC one probably diverges -- well, I --
14 they all diverge quite a bit. But the USC one is the
15 highest because it was made back at a time when
16 California was growing faster. So we've actually -- our
17 growth rate has slowed down in recent years, and so you
18 can see that. And the one that has the lowest projection
19 is the Department of Finance because it incorporates that
20 recent slowdown in its projection.

21 But what this tells you is that as you get further
22 out, the numbers become more and more uncertain. They
23 necessarily involve some amount of error and some amount
24 of guess work. Okay.

25 So in addition to the decennial census, and doing

1 these estimates and projections, the Census Bureau also
2 runs some very large-scale surveys on an ongoing basis.
3 The two primary surveys that they do are the Current
4 Population Survey and the American Community Survey. The
5 Current Population Survey is a monthly survey, and its
6 primary focus is on the labor market. It's where the
7 numbers about unemployment come from.

8 So there's also actually, for someone like me who's
9 a political scientist, the Current Population Survey is
10 also famous for having a post-election survey every two
11 years. After the November election, they survey people
12 and ask if they're registered and if they voted, which is
13 a really useful thing to know.

14 The other survey is the American Community Survey.
15 It's a much larger survey. And it's more focused on,
16 just purely on demographics and demographic
17 characteristics of the population. I think, generally
18 speaking, though you may want to rely on, both, the
19 Current Population Survey and the American Community
20 Survey, the ACS is going to be much more your go-to than
21 the CPS would be. And I'll describe why here.

22 So the ACS is a -- also a monthly survey but they
23 only report the results of those monthly surveys
24 annually. Over the course of an entire year, they sample
25 about three million households. So that's a lot. The

1 items that they cover are similar to ones that used to be
2 on what was called the long-form questionnaire of the
3 2000 Census.

4 So by -- in 2000, and several census before, the
5 census had a -- that you would -- everybody got the short
6 version of the census. And then a smaller share of the
7 population got a longer form that had more questions.
8 And that was where a lot of the basic information about
9 the population beyond a -- beyond the really, really
10 basic stuff that I mentioned before, came from in
11 previous censuses. But starting in 2010, the Census
12 Bureau started using this monthly survey so they could
13 get more detailed information between censuses about how
14 the population had changed.

15 It covers a lot of different topics, the ACS does.
16 Demographics, income and employment, transportation,
17 education, et cetera, et cetera. Lots of different stuff
18 is in that ACS. So if you want to know the details about
19 the population, a lot of the stuff that we describe as
20 census data on our population actually comes from the ACS
21 and does not come from the decennial census, which as
22 I've said before, just includes those very basic pieces
23 of information.

24 This is also the historic source of citizenship
25 information. If you want to know how many -- for

1 instance, the citizen voting age population, you would
2 get it from the ACS, not from the decennial census, which
3 is -- historically, has not included that information.

4 So the advantage of the ACS, relative to the Current
5 Population Survey, first and foremost, it has a much
6 larger sample size. So three million people in the
7 typical data release for the ACS, or about 250,000 a
8 month, versus 60,000 a month in the Current Population
9 Survey. So 60,000 is still a lot of people, for that
10 amounts to -- usually the Current Population Survey has
11 about 8,000 people in the California sample. That's a
12 lot. That's a great number of people with a lot of
13 information about them and their current employment
14 status, and so forth, that you can use to analyze up-to-
15 date -- you get an up-to-date picture of what the
16 population looks like.

17 However, the CPS doesn't typically release any
18 information about geography below the state level. So
19 you would get that state file and you would know what the
20 whole California looked like. But you wouldn't get a
21 below-the-state file.

22 So the ACS is very timely also compared to the
23 decennial census. So it's got a lot more people in it
24 than the Current Population Survey. Obviously, it
25 doesn't have as many people as the decennial census but

1 it's more timely, right. It's been -- it's an ongoing
2 thing that's released every year. And there's lots of
3 great topics in there that give you a good, nuanced
4 portrait of the nation, and in this case, the state on a
5 lot of different dimensions.

6 The downsides of the ACS, it's not a count of the
7 population, it's a survey. So it has -- it has a margin
8 of error. It is also -- as I just mentioned -- small,
9 relative to the decennial census. So the long form of
10 the census, which did the, kind of, same sorts of things
11 as the ACS, went to one in six households, whereas the
12 ACS goes to one in forty. So it's a much, kind of,
13 coarser geographically -- a coarser picture of the
14 country. It's also a moving average, rather than a point
15 in time. So they do the monthly surveys but they don't
16 release the monthly data.

17 So when you get an ACS estimate for a given year,
18 it's an average for that whole year. Now, you can
19 imagine, they do ask questions about employment. But you
20 can imagine that's going to make questions about
21 employment more problematic in something like the ACS as
22 compared to something to, say, the CPS, which is a
23 monthly survey released on a, basically, a monthly basis.
24 Employment can change drastically over the course of a
25 year. It has changed drastically during the course of

1 this calendar year. So it's a -- you -- more valuable to
2 have that kind of variation over time.

3 And we can't really use the ACS for redistricting
4 because it -- it -- because it is a sample, even though
5 it's a very large sample, it's not a large enough sample
6 to be able to go down to the level of detail that's
7 required for the -- that's required for redistricting,
8 which really needs to go down to the level of a single
9 census block, which approximates basically a normal city
10 block kind of thing.

11 So it can't be used for redistricting but it can be
12 used in a general sense, at some reasonably low levels of
13 geographic detail. What things look like. But when you
14 start getting to those lower and lower levels -- like
15 census tracts and block groups, really, really fine grain
16 detail -- those are going to be based on five-year
17 estimates. They take five years' worth of ACS and they
18 average them. So that's, again, going to be a cruder
19 picture. It's going to -- sort of, like, taking your
20 nice, sharp picture and just making it fuzzier.

21 And the estimates, it's worth noting -- the
22 estimates from the ACS are still pegged to the decennial
23 census. So this is -- again, points to the importance of
24 that decennial census. So the ACS -- in order to know,
25 hey, did our sample get pretty close to the truth, well,

1 we're going to base that, in part, on what the decennial
2 tells us where we should be at, at this point in time.

3 In addition to that survey data, we also have the
4 census -- and other sources have various administrative
5 data that you may want to rely on, just within
6 California, you -- I believe just heard from Karin Mac
7 Donald who runs the Statewide Database at Berkely, which
8 has a lot of really great data, voter registration,
9 election outcomes, maps, and mapping resources. It's
10 a -- it's a terrific resource and specifically designed
11 for the redistricting process.

12 The California Department of Education has
13 information on school demographics, school test scores.
14 If you wanted to bring that kind of information into
15 some -- an understanding of the community of interest,
16 for instance. The Employment Development Department of
17 California has unemployment rates, and occupations,
18 industries. So if you want some sort of mix of the area
19 in terms of its -- the kinds of jobs people have, it
20 would be a -- that would be a good source for that kind
21 of information.

22 And then there's a variety of private sources that
23 you may or may not want to try and rely on, private
24 sources of data that the census, itself, relies on in
25 order to try and do some of its adjustments and

1 estimates, because there's a lot of data vendors out
2 there now. And that -- you know, since we're in the era
3 of big data, and so there's a lot of private companies
4 that has that sort of big data available to purchase.

5 There also is, underway right now, an effort by the
6 Census to identify citizenship and put it into the
7 decennial census itself. So they were not able to put a
8 citizenship question on the census form. But instead,
9 they're going to try and match the records that they get
10 on -- from the census to things like the Social Security
11 database, immigration databases trying to and divine from
12 that who's a citizen and who is not, and to attach a
13 citizenship identifier to redistricting data that's
14 handed over to every state.

15 So could this -- the Commission use this
16 information? As I understand it, it's -- that effort is
17 still very much underway. It's never been entirely clear
18 whether they would be able to do it with a -- at a level
19 of accuracy they would feel comfortable with, that others
20 would feel comfortable with. But that effort is still
21 very much underway. And we'll see what comes of it.

22 Could it be used for redistricting? Well, here I
23 want to note that in my presentation that I gave last
24 year for the auditors, in which I gather was shown again
25 for the first eight commissioners, I think I misspoke a

1 little bit because -- I want to clarify some of the
2 points that I made, because at that time is that there is
3 ambiguity from the U.S. Supreme Court about whether you
4 could use citizenship data for redistricting. And that
5 is absolutely true, that ambiguity is there. But I want
6 to clarify that, first of all, there's no mandate from
7 the Supreme Court and nobody has discussed up to this
8 point, requiring that districts be drawn with citizenship
9 data instead of total population data. So that's where
10 the ambiguity is, whether there would be a mandate -- not
11 whether there would be a mandate, but whether each state
12 would be allowed to do it if they wanted to.

13 And in terms of being allowed to, and a state
14 deciding to do it, the California Constitution, I think,
15 is much less ambiguous on this point. In the text of the
16 Constitution, the portion that outlines the
17 responsibilities of the Commission, it refers to
18 population of quality and equal population. So that
19 seems to be less ambiguous. I'm not an attorney so I
20 certainly -- I think you would want to consult with your
21 counsel on that, but I just wanted to clarify that point.

22 However, that -- there will likely be such
23 citizenship data, as far as I'm hearing right now,
24 provided in the file. But that part is also not a
25 hundred percent clear.

1 So finally, there's the question of whether there
2 any -- likely to be any errors in the data that we get.
3 And the answer is, yes, the census does make mistakes.
4 And California tends to be a victim of those mistakes,
5 historically. So these are the up -- the net undercount
6 rates. So this is whether I -- your population result
7 from the census was low or high based on estimates that
8 the census comes up with that I'm going to talk about in
9 just a second.

10 But California, as you can see, compared to the
11 country as a whole, typically is undercounted. So these
12 are -- so 2.7 percent low in 1990, which was generally
13 regarded to be, kind of, a bad census. Just a little bit
14 low in 2000, it was only one only ten states to have an
15 actual undercount that year. And you can see in that
16 year, the United States was actually overcounted. Well,
17 how do you overcount somebody? Well, you count some
18 people twice or more than twice. So again, remember that
19 the goal of the census is to count everybody once and
20 only once. Well, sometimes they make a mistake and they
21 count somebody more than once. And so there are certain
22 communities, those communities tend to be wealthier and
23 whiter, and they tend to be overcounted. So this net --
24 this net undercount incorporates that, any groups that
25 are overcounted, as well.

1 And then in 2010, U.S. was over -- as a whole was
2 pretty accurate on balance. But California, again, had
3 the slight undercount. Those undercounts also vary by
4 county. So this is the 2010 net undercount. And these
5 are raw numbers. So you can see that the places -- it --
6 the places that are worst off, had the biggest
7 undercounts, are the larger counties that have the kind
8 of demographic profiles that would make undercounting
9 more likely. They have a larger minority population,
10 poorer, less educated, these kinds of things, lots of
11 young children. These kinds of things tend to -- those
12 are the communities that tend to be missed by the census.

13 And so a place like Riverside, San Bernadino, large
14 numbers of people who live there and then a larger share
15 of those populations are likely to be undercounted. So
16 it doesn't vary geographically. And varying
17 geographically, of course, matters for redistricting. So
18 it means that a place like San Bernadino or Riverside is
19 going to be -- relative to other parts of the state, is
20 going to get less representation.

21 There are -- you know, there are also just general
22 concerns that people have had about the 2020 census, in
23 particular, the possibility of an undercount. And I'm
24 going to -- I didn't have to do this last year but I have
25 to break these concerns now into pre-pandemic and post-

1 pandemic, because there's a whole different set of
2 concerns that have come up that are arguably even more
3 serious than the ones that existed pre-pandemic.

4 Pre-pandemic, there were already some questions that
5 people had. The census had faced a lot of funding
6 challenges during the course of the last decade where a
7 lot of people argued it was being underfunded. It did --
8 the funding caught up in the -- in recent years to get
9 almost to where people, kind of, felt it should be. But
10 you know, a lot of -- the Census does a lot of prep work
11 in the course of a decade, and it was harder to do some
12 of that prep work because they didn't have the funding at
13 the time that the prep work needed to be done.

14 They also have switched, in part, to try and meet
15 those funding challenges. They've done, for the first
16 time, a census over the internet. So a huge portion of
17 the people who are responding to the census this year are
18 doing it over the internet. And there are a lot of
19 potential questions and concerns that might arise from
20 that because it's the -- you know, any time you're
21 switching to a new technology, a technology
22 implementation, your -- you may have glitches or
23 problems. And some people might not respond as well to
24 it as others.

25 There are also certain communities that are less

1 likely to have the internet access necessary to respond
2 to an internet survey. The census tried to account for
3 that by -- by identifying census tracts where the
4 population that would have trouble with an internet
5 response would be high, that share would be high. And so
6 they sent those tracts a mail questionnaire, rather than
7 asking them to respond first through the internet. But
8 still, there are potential concerns there.

9 The census also had as it's plan, partly to save
10 money, to do more aggressive administrative matching. To
11 take other data sets -- this is what I was mentioning
12 earlier -- how they can buy data from private vendors.
13 They can get -- they can get data sources from the
14 federal government that are -- other people do not have
15 access to. So that they can try to match their results
16 to -- the various data that they have with some of those
17 other sources to try to fill in missing information
18 wherever necessary. And in particular, to try and
19 identify housing units that are not likely to be
20 occupied.

21 So they could say, oh, well, based on this matching
22 between our list of all these addresses and this other
23 file that we matched to, we think that this house is not
24 likely to be occupied anyway, so we don't need to bother
25 to go and try and really get a response here. That saves

1 them money, right. But it also means that if you're
2 wrong about that, that prediction about that housing
3 unit, then I -- that's a person who might not be counted.

4 The census, itself, and a lot of other people, have
5 noted that there's a general distrust of government out
6 there among many different communities. And that
7 depresses response rates to the census compared to
8 previous decades. So that's something the census itself
9 was concerned about, and a lot of other people, also, had
10 that same concern.

11 And then just there -- specifically, within the
12 noncitizen community, there is, sort of, a heightened
13 concern and distrust about what might be done with the
14 data that's collected in the census and whether they can
15 trust that it's going to be used only for the census and
16 not for something else like immigration enforcement
17 actions. The -- it's worth noting that the current
18 federal law is very strict about the use of census data.
19 It can only be used for census.

20 It can't -- even if you think somewhere buried in
21 the census is a murderer, and you're the FBI and you want
22 to use the census data in order to find that person and
23 bring them into justice, that's -- the census will not
24 share that information. And they will not be required to
25 share that information. So the privacy protections for

1 the census are very, very strong. Just worth mentioning
2 that. But it doesn't mean that the distrust isn't there.

3 So there's also then now, post-pandemic concerns
4 about an undercount. And I think these are, rightly,
5 even more serious than the original ones. This is just
6 something that hit the census, blindsided them, that
7 nobody saw coming, of course -- none of us did -- but has
8 really affected their ability to collect the census data
9 in a timely and effective way. It -- the census went
10 into the field right at the time that when the pandemic
11 was gearing up. So it was right in mid-March is when
12 they started going, you know, sending out their postcards
13 in the mail that invited people to respond over the
14 internet. That was exactly when everything was shutting
15 down. So all the news was about the pandemic.

16 So the first thing is census news, which would
17 normally be in the background, is now pushed even further
18 into the background. Very hard for them to get their
19 message out when the new has been all about COVID all the
20 time. And when it's not COVID, it's a variety of other
21 things that are going on in the country right now.

22 So as part of the adjustment to COVID -- the census
23 normally does a -- quite a wide range of in-person events
24 and enumerations. They go around to people's houses to
25 try and get the information out of them if they don't

1 respond over the internet or through the mail, or some
2 other way. They go around to the house and they knock on
3 the door. That's more problematic now. The -- they have
4 in-person events, you now, sort of, a variety of
5 festivals or informational sessions, that kind of thing.
6 Those are all problematic now with COVID and have been
7 since cancelled.

8 There's also the basic problem of displacement due
9 to the pandemic. Do we know where -- so I said, you
10 know, they have to be counted once, only once, and in the
11 right place. What does the right place mean now?

12 Some -- many people have moved to a different place for
13 the duration of the pandemic. Generally, you want them
14 to identify where they lived on April 1st. Do they think
15 that they've permanently moved to that new place? Do
16 they -- maybe they don't remember exactly where they were
17 on April 1st, when they left, those kinds of things. So
18 it's very hard to know. You go around to a household, is
19 this household really empty or is this person just living
20 with their parents for the time being. Those kinds of
21 things have been very complicated in the midst of the
22 pandemic.

23 It's been hard to hire people to go into the field
24 and knock on those doors, to the extent that they're
25 doing any door knocking. It's hard to do that because

1 people are worried about their exposure to COVID and the
2 risks that would be involved in taking a job like that.
3 So it's been hard for the census to hire enough people to
4 do the non-response follow-up, as they call it, and get
5 those extra numbers.

6 And just the basic -- I mentioned this a second ago,
7 but just the basic problem of the distance that we have
8 from official census day. That was April 1st. We're
9 supposed to be counting people as they were on April 1st.
10 Normally, all of the -- kind of -- the follow-up in field
11 kind of operations would be done by now. And so we're
12 asking people to recall where they were a lot longer ago
13 than would normally be the case.

14 And this is -- the various delays that have occurred
15 because of all of these complications have made the
16 remaining time line very tight. So the census would
17 normally do a variety of quality checks on the data
18 they're getting in the field while they're still sort of
19 out there. They can't do those the way that they
20 normally would. They have -- just the time line for when
21 they're done with all of their counting out in the field,
22 they do a variety of fixes to the data after that to try
23 to clean it up, to fill in information where they're
24 really missing it, those kinds of things. They don't
25 have the same amount of time for that that they normally

1 would, and a good portion of the people who would do that
2 kind of work have been hived off to work on the
3 citizenship flag that's going to be added -- they're
4 trying to add to the data. So it's really compressed
5 that time line and made everything more complicated.

6 So in terms of an undercount, I just thought I'd
7 show you, this is -- that there's a wide range of -- in
8 terms of the vulnerability to undercount in this
9 particular census. So I showed you that the undercounts
10 by county from the 2010 census, this is just showing you
11 a similar kinds of information in real time, like, where
12 we are now with the 2020 census. These are response
13 rates for the self-response, for anybody who is -- not
14 the people who are being visited by someone knocking on
15 their door, but people who are sending in their responses
16 on their own.

17 And you can see that even though -- so the blue
18 areas are where the response rates are higher, and orange
19 and red are where they're lower. The rural areas tend to
20 have lower response rates right now. But it's not just
21 rural areas. Even in a place like Los Angeles -- I've
22 got a blow up of Los Angeles here -- there's a lot of
23 blue areas, but then there's pockets in -- point here
24 with my pointer -- in the center of the county, in the
25 central city, that are still very red and orange. Where

1 the response rates -- self-response rates are very low.
2 And Los Angeles is actually a real problem county this
3 time around. It's lagging quite a bit behind the
4 response rate that it got ten years ago, so L.A. is an
5 ongoing area of concern for getting an accurate and
6 complete census.

7 So is there anything that we can do about this
8 problem? Well, there are a variety of quality metrics.
9 So the Department of Finance produces it's estimates. To
10 some extent, they can be used to try and compare to
11 whatever the census produces. The census itself does
12 what's called the Post-Enumeration Survey where they take
13 a sample of census blocks and they go around to those
14 census blocks and they just re-interview people there
15 again. And then they have some ways of using that
16 information to estimate what the undercount is likely to
17 have been. So the Post-Enumeration Survey, then the
18 demographic analysis is the thing that I was talking
19 about before where you look at births, deaths, and
20 migration and the adjustments. So they will offer that
21 demographic analysis as well.

22 I think, of those two, the only one that would
23 realistically be available on the time line -- or
24 probably be available on the time line that the
25 Commission -- what would be relevant for the Commission

1 would be the demographic analysis, which is probably
2 going to be released in December. The Post-Enumeration
3 Survey typically doesn't come out until next summer. So
4 that's probably going to be too late to be able to say
5 anything about the quality of this census in real time.

6 There are also a variety of metrics that the census
7 is conducting itself now regarding the type of count that
8 they're doing -- that they've gotten from each household.
9 Did they get just the total number of people there or did
10 they get all the additional information that they were
11 looking for? Did they use what's called a proxy where
12 they had to go to a neighbor, say, and say, hey, do you
13 know who lives in that house and how many children they
14 have and some of their ages and particulars? That's
15 called a proxy enumeration and they do a fair amount of
16 that in the late stages of the census to try to get the
17 information they can't get otherwise. So how many of
18 those were proxy enumerations, which are likely to be
19 less accurate? Right now, the census is not releasing
20 that information at a level of geographic detail that
21 would tell us that much about variation within
22 California, but they could potentially do that if they
23 wanted to.

24 But and with all of this stuff, the question is
25 going to be is it detailed enough to be able to say

1 anything about the redistricting process, which is what
2 you Commissioners care about, and is it going to be
3 timely enough? Is it going to come out at a time when
4 it's actionable and you can do something with that
5 information? And I don't think we know the answers to
6 those questions. We don't really have a sense of even
7 how bad the census is going to be or if it is even going
8 to be bad.

9 There are a lot of people who are very concerned
10 about it, but we just don't know. So I think right now,
11 there's not enough to say what the course of action would
12 be if there was a bad census, or even what the metrics
13 would be that you would want to rely on. The legalities
14 of using something other than the census to inform the
15 sort of basic decisions about drawing lines is ambiguous,
16 is my understanding. Again, I'm not an attorney. What I
17 would counsel is that you would talk to counsel. So when
18 you have your counsel, and it may be an issue that will
19 come up, and it just -- I wanted to flag it to your
20 attention as something that you might have to address or
21 think about down the line. So that's the sources of data
22 that you might be called on to look at or that you might
23 want to draw on yourselves.

24 So what is some of these that tell us about the
25 demographic trends and patterns over time in California?

1 So I want to look at that in three parts, the overall
2 change that we've seen, then some of the racial and
3 ethnic change, and then the change in the distribution of
4 people around the state geographically. So California
5 has a very large and growing population. It has long
6 been a big growth states. You can see, compared to a
7 hundred years ago, we, you know, we have roughly ten
8 times as many people. So it's a -- we've been growing
9 quite a bit over the last hundred years.

10 We continue to grow, even though we're not growing
11 as fast as we used to, we are still growing and we're --
12 the only reason we don't seem like we're growing quite as
13 much is because compared to other states, our population
14 growth has slowed. Just to put this in context, this
15 just shows you California historically has had a growth
16 rate much closer to Mexico's than to the United States as
17 a whole. So we've been a really fast-growing state
18 relative to most.

19 The state is changing rapidly in terms of its race
20 and ethnicity. So this just shows you the distribution
21 of the population, what share fall into each racial and
22 ethnic group over time. Back in 1970, almost eighty
23 percent of California's population was non-Hispanic
24 White. Now, it's thirty-seven percent. So there's been
25 a really dramatic change, with the biggest growth in the

1 Latino and Asian American populations. So lots of change
2 over time in the state's complexion.

3 The -- this is just a map showing in 2010, so now
4 quite old, but in 2010, which census tracts had a
5 majority of a particular ethnic group. And the blue ones
6 are the non-Hispanic white, but you can see there's quite
7 a few tracts where a majority of the population is some
8 other group than white. And that just shows you that
9 diversity that we see in California. Just the range of
10 different types of populations that we see. And any
11 census tract in these maps that's white is one where
12 there was no majority group. So one that's even more
13 diverse in that sense, so just a really incredible range.
14 And if you looked at this map now, it would be even more
15 diverse than ten years ago.

16 The foreign born population -- that is, immigrants
17 of various kinds -- has also grown quite a bit. It
18 actually, the share of the total California population
19 that was foreign born actually peaked in the 19th
20 century, but it has grown quite a bit since the 1970s,
21 which is consistent with the stuff I was just showing you
22 earlier. Although in recent years it has leveled off, so
23 we're not really seeing nearly as much of a growth in the
24 foreign born population. That has consequences for the
25 complexion of our state.

1 The main source of immigrants in California is still
2 Latina America, but Asia has rapidly caught up. So it
3 used to be that Latina America was by far and away the
4 largest source of immigration for California, but Asian
5 Americans are a much larger share than has been true in
6 the past. So that they're kind of closing -- that gap is
7 closing over time.

8 And that was just to give you a flavor of how
9 diverse our immigrants are. I think it's common in the
10 popular perception to think of certain limited numbers of
11 groups for immigration in California, but you can see
12 that this is, I think, the threshold here was -- each of
13 these countries had to have provided at least 10,000
14 immigrants to California. And you can just see this wide
15 range or different countries that people come from. So
16 it's a very -- it's just an incredible diversity that we
17 see here within California, not typical of most other
18 states.

19 As the earlier plot that I showed you suggested, the
20 Latinos and Asian Americans are the large growth groups.
21 These are projections from the California Department of
22 Finance. So again, with all the caveats that come with
23 projections, they -- you know, we don't know that this is
24 what things are going to be like in, say, 2040, but we
25 can see that if you project out the trends that we have

1 now, so the first few lines on this graph, the first
2 maybe quarter of this plot on the left is reality, is how
3 things actually have turned out. And there was a --
4 there was a crossing point where non-Hispanic whites
5 became a smaller group than Latinos in California; and
6 then the projection is for that to just kind of keep
7 going. And the green line there is Asian Americans, and
8 that's also growing. So we're going to have a very
9 different statin in 2040 even than we have today.

10 The state is also pretty young, so there are a lot
11 of people in their twenties and thirties, not as many
12 elderly people. So the weight of the state's population
13 is shifted low. And those younger Californians are much
14 more diverse, much, much more diverse than the seniors.
15 The seniors are still a majority white, but those under
16 five are below forty percent now.

17 And then just to understand that this does have
18 consequences, that diversity is not represented among the
19 voters currently. So our statewide survey at the public
20 policy in the State of California has compared voters and
21 nonvoters, nonvoters defined here as those who are not
22 even registered to vote, and voters as who are likely to
23 vote. So there is middle category here which is people
24 who are registered to vote but not likely to turn out.
25 But nonetheless, if you compare these extremes, that the

1 demographic profile of the not-registered is much more
2 heavily Latino, in particular. And a lot of people who
3 are not registered to vote are of these -- of the people
4 in this group are not citizens.

5 Now, the thing that is important to understand about
6 the -- if we combine all of these different pieces
7 together, the fact that younger people are more diverse,
8 that the state's diversity has been changing, but also
9 that immigration has leveled off, over time we have seen
10 the share of the more -- the sort of -- the diverse
11 elements of California -- the Latinos, Asian Americans
12 who are citizens -- has been growing; the share who are
13 eligible to ultimately be voters. And in fact, the
14 eligibility rate among both Latinos and Asian Americans
15 has been increasing faster in California than in others
16 states.

17 So we are both -- we are both an incredibly diverse
18 state that has a lot of diversity projected for its
19 future. A lot of the diversity has come from
20 immigration. And in the past, that also meant that
21 the -- a lot of that diversity was not reflected in the
22 eligible population -- those who could potentially vote.
23 Increasingly, over time, it is. So over the next decade,
24 for which you're planning these districts, that
25 population is going to kind of become -- the population

1 of those who can vote is going to become even more
2 diverse over the next decade.

3 There's also been some geographic change in terms of
4 how much the districts have gotten out of whack over
5 time. So one of your main responsibilities as
6 Commissioners is to try to correct for the differences in
7 population between districts that have developed over
8 time. The goal is to try and make the districts
9 reasonably equal in population. And you can see that
10 some of them have gotten a little out of whack.

11 So if you think about the process of representation,
12 if you are in a district with more people you might
13 think, hey, more is great, we're the place that has all
14 those people. Well, you still only get one
15 representative. So if you're in a district with more
16 people, you're actually underrepresented compared to
17 somebody who is in a district with fewer people.

18 So the red districts, these are congressional
19 districts. The red districts here are districts that
20 are -- compared to the statewide average now, are
21 actually too small. They have too few people. And the
22 green districts, which are mostly in the Bay Area and in
23 the Inland Empire area down south, those districts are a
24 little bit too big. They have too many people. So
25 you're going to have to adjust the districts to try to

1 account for that, which means, on average, you're going
2 to end up drawing more districts in the Bay Area and down
3 south in the Inland Empire than was true ten years ago.

4 This is the same thing for California's Senate
5 districts. Broadly, the same pattern. The white
6 districts are ones, again, that haven't really seen much
7 change. But the Bay Area and the Inland Empire and down
8 into San Diego are the areas that have seen the greatest
9 growth over the last ten years, geographically.

10 And again, here's Assembly districts. Same basic
11 pattern. There's a few spots in the Central Valley where
12 we've seen more growth. But that's the basic pattern.

13 These all come from, by the way, five-year ACS
14 estimates. So in order to construct these districts, the
15 Census Bureau had to average results for five years. So
16 these numbers are a little outdated even. My guess is
17 when we get the census numbers, we'll see these basic
18 patterns, but in even stark more relief.

19 This also just shows you, though, that -- so the ACS
20 does release congressional district numbers for a single
21 year of the ACS for the five-year average. And so we can
22 actually compare the 2018 ACS, which is the most recent
23 one that we have, to the 2008 ACS and see where things
24 were at each point in the cycle. Kind of coming up at
25 the end of the redistrict cycle. So this is the -- the

1 2008 numbers are the ones that the Commissioners were
2 confronting the first time around, sort of, how much
3 change there had been. And you can see there -- on
4 average, there was actually a lot more change last time.
5 People are moving around less than they used to; that's
6 probably the main thing that's going on here.

7 All right. So that's the demographic trends and
8 patterns. And then the final thing I wanted to do is to
9 give you just a flavor of what came out of the Commission
10 in 2011. What do those maps look like and how did they
11 perform? And in that respect, I want to focus on both
12 the mandated goals that are the law, and what I might
13 call aspirations goals, things that were not mandated in
14 the law but a lot of people were sort of hoping would
15 happen.

16 So in terms of mandated goals, the districts had to
17 meet several objectives. They had to have equal
18 population. They had to be compliant with the Voting
19 Rights Act. They had to be geographically contiguous,
20 meaning that you couldn't have, you know, one part of the
21 district be in one part of the state and another part be
22 in another part. All the parts had to touch each other.
23 They had to be compact, meaning we're getting it as close
24 to sort of simple shapes as possible, nothing too
25 convoluted. And respectful of communities with common

1 interests, so the communities of interest requirement.
2 There was also a nesting requirement, to the extent
3 practicable, the two State Assembly districts had to be
4 embedded within one of the State Senate district. And
5 then they could not be skewed to favor a particular party
6 or an incumbent.

7 It's worth noting that these are -- and I'm sure
8 you've been over this now, and if not, you will be, I'm
9 sure -- that these are all ranked, right? So equal
10 population is the first goal. Then, you have to be
11 compliant with the Voting Rights Act. Then, these
12 geographic, contiguous, et cetera. And then nesting
13 below that.

14 So I'll show you in a second some evidence that the
15 first Commission responded to that ranking. Because it's
16 sometimes hard to meet all these criteria at once. I
17 think the Commission, as you'll see in a second as well,
18 I think the Commission did a good job of trying to meet
19 all at once, but there are some things that involve
20 tradeoffs, and when you have to make a tradeoff, then the
21 things that are higher up on the list take precedence.

22 So I'm going to skip over the equal population part
23 because that actually is not necessarily a challenge;
24 it's easy enough to make the districts be equal in
25 population. The challenge is, once they're equal in

1 population, to satisfy all these other things as well.

2 So the districts were definitely equal enough in
3 population to satisfy that criterion.

4 But how did they do in the Voting Rights Act? Well,
5 one way to look at it is just to say how many majority
6 and minority districts there were in each plan. I'm not
7 going to show you -- for the sake of economy, I'm not
8 going to show you the Board of Equalization plan, but
9 this has the -- actually, I don't break it down by this
10 one -- for this one, either, but eventually I think I'll
11 show you the individual, like, State Assembly, State
12 Senate, and congressional district.

13 But here, the 2001 plan had fewer majority Latino
14 districts than the 2011 plan. And in the -- so and I'm
15 also going to break apart the 2011 draft plan and the
16 final plan. Because they released a draft plan and then
17 they got some real feedback on that plan, and then they
18 revised it. And so you can see that in the -- the big
19 change that happened in terms of minority districts
20 between the 2011 draft and the 2011 final was a really
21 big increase in that minority representation. So the
22 first Asian American district in California history, and
23 then a much larger number of Latino districts.

24 Let's see -- whoops. Okay. One of the other goals
25 is to not split cities. There was a modest decline in

1 the number of cities that are split. So here -- we're
2 just looking here at cities that potentially could be
3 split. So some are so large that they have to be split.
4 Obviously, like, Los Angeles is too big to fit in a
5 single district, so it's going to have to be split. But
6 districts that are in cities that were small enough to
7 potentially be split, how many were split? And you know,
8 there was a modest improvement there. You know, nothing
9 huge, but again, the reality is that even in the 2001
10 plan, there really weren't that many cities that were
11 split in the first place.

12 Same thing for counties. In some cases, a modest
13 improvement. Especially in the State Senate, but also in
14 Congress. Between the draft and the final, for sure.
15 But again, not that many counties were split. And this
16 is actually just looking at all counties, not necessarily
17 just those that could be split. So it's -- clearly,
18 there's other things higher up that often can take
19 precedence.

20 This is a measure of compactness. So again,
21 compactness is where you try to make the districts -- the
22 basic idea of compactness is to make them as close to
23 simple shapes as possible. There's a more precise
24 definition in the constitution, but the basic idea is to
25 try and get them so they pass that smell test when you

1 look at them. This is just one way of getting at that;
2 there's many different ways to measure it.

3 And this was one place where the Commission clearly
4 made a big improvement over the 2001 plan. Again, not
5 perfect on this measure and not perfect, probably, on any
6 measure, but there were things that were higher up that
7 they had to pay attention to. But clearly better than
8 the compactness that we saw in the 2001 plan. The lower
9 numbers -- sorry, I didn't mention -- the lower numbers
10 are less compact, and higher numbers are more compact.

11 And then this is the one that's kind of interesting
12 to me, and really telling, was the nesting. So nesting
13 is, again, lower down in the list of priorities, but it's
14 definitely there. The 2001 plan did a really rotten job
15 of nesting. So this is the number of Assembly -- average
16 number of Assembly districts for each Senate district,
17 and it was over six. So lots of chopping up of -- you
18 know, overlapping in crazy ways of State Senate and State
19 Assembly districts, not much nesting at all. Ideally, if
20 you had perfect nesting, you would get down to a level of
21 two, right? Two Assembly districts per Senate district,
22 on average.

23 What we saw in the 2022 draft plan was something
24 very close to that, 2.95. That's really pretty good and
25 it's hard to imagine -- with all the other criteria you

1 have to meet, it's hard to imagine that you would get
2 much better than that. So really great number in the
3 draft plan. But then they got a lot of push-back on
4 other dimensions, especially on the minority
5 representation in that draft plan. And so they changed
6 gears.

7 And in the final plan, as we saw earlier, there was
8 a lot more minority representation, but the cost of that
9 was a much worse job at nesting. And so again, when
10 there were those tradeoffs, there were costs to having
11 more minority representation, but the minority
12 representation is -- with the Voting Rights Act is placed
13 higher in the list of criteria than is nesting. And so
14 in my view, they did the right thing and went with the
15 minority representation over the nesting.

16 In addition to these mandated goals, there were also
17 what you might call aspirational goals. So things that
18 people were really hoping that the Commission would
19 produce, but that there was no actual explicit
20 requirement for. And I think those two things are just
21 fairness and competition. So fairness that each major
22 party was treated roughly equally and didn't get a really
23 raw deal. And by this, I mean, basically, no large gaps
24 between the overall number of votes that a party receives
25 and the seats that it gets with those votes.

1 And then the other is competitive races in most or
2 maybe, and some people probably hope, for all districts.
3 I think that's not realistic or maybe even desirable, but
4 certainly I hope for more competition than was the case
5 for the 2001 plan which did not have much competition at
6 all. There wasn't very much turn over in the plans drawn
7 in 2001 by the State Legislature. So this would be,
8 like, competitive is roughly, you know, forty-five to
9 fifty-five percent vote share for each major party
10 candidate. So something where you're within spitting
11 distance of winning that seat, even if you didn't claim
12 it.

13 So in terms of fairness, this is a metric that I
14 developed called the efficiency gap. It's just one of a
15 few different possibilities for measuring fairness, but
16 it has gotten some attention in recent years. And this
17 is just plotting that efficiency gap over time. And
18 efficiency gap amounts to, basically, a comparison
19 between the votes that you receive and the seats that you
20 get from those votes. So if there's a big discrepancy
21 there, the efficiency gap is going to register that as an
22 advantage for one party.

23 What we can see is that on balance, the dotted
24 line -- this is for the Assembly -- the dotted line is
25 where the redistricting occurred, and there's been a lot

1 of bouncing around in terms of the fairness's according
2 to this metric, but not much sign that things are much
3 different after the redistricting than before. And you
4 know, sort of similar kind of up and down for the U.S. as
5 a whole, so no sense that the U.S. is better -- that
6 California is better or worse than U.S. as a whole.

7 The Senate numbers are even more volatile because
8 those are really dependent on the small number of seats
9 that are up each year, but the bottom line is a similar
10 kind of story. There is actually some signs here of a
11 slight advantage, but it's so noisy that it's really hard
12 to say that anything significant occurred. And in fact,
13 there was more of an advantage -- this is so -- so as you
14 go up, you're getting to a more Democratic advantage,
15 down more Republican advantage. You can see that that
16 Democratic advantage just before the redistricting
17 actually went down right after the redistricting. So
18 it's kind of been up and down, noisy.

19 A little bit more evidence of something for
20 Congress, where the congressional seats might be tilted a
21 little bit more towards Democrats than the ones before.
22 So something to keep in mind. I think, again, it's noisy
23 enough that it's not a major source of concern, but
24 something that, in the work that I've done on this, I've
25 flagged as something to kind of watch out for and be

1 careful about.

2 Were the districts more competitive? On balance,
3 yes. There was one year in 2008 where the races were
4 really competitive for the Assembly. Not many flipped,
5 but they were competitive. But on the whole, the
6 competition in the previous plan was pretty low, and it's
7 been higher since.

8 Same basic story for the Senate, though, again, a
9 little bit noisier. And you can see that even in the
10 Commission's districts, it's a little lower than the U.S.
11 as a whole. So the U.S. as a whole has, you know, other
12 states often have more competitive seats. I think a lot
13 of that is a function of California's political
14 geography, but perhaps not all.

15 And then for Congress, there was a huge improvement
16 in the competitiveness of the plan. The congressional
17 plan was particularly uncompetitive out of the three big
18 ones from 2001. And then after the redistricting, it's
19 been much more competitive. There's been a great deal of
20 turnover in the California congressional delegation. A
21 lot of it, if not most of it, directly tied to the new
22 lines that were drawn.

23 So I think that's a -- in terms of planning out what
24 you're going to do, I think it would be worth
25 considering -- given what happened with the congressional

1 plan and the slight sort of tilt in a Democratic
2 direction, it might be worth considering identifying some
3 metrics of fairness that you might want to use. But
4 doing that in advance.

5 I think the really key point is if you wanted to use
6 any kind of fairness metrics to evaluate your plans, you
7 would want to do that upfront before you started any line
8 drawing. And that way you couldn't be accused of sort of
9 tilting the process after the fact. But that might help
10 sort of insulate the Commission from criticism about any
11 particular tilt of bias it might have in terms of the
12 kinds of plans it drew.

13 I will say there were some accusations against the
14 Commission the first time around and that's one of the
15 reasons that I bring this up as a potential point to
16 think about. There were some accusations that the
17 Commission drew plans that were biased and favored
18 Democrats. Again, I don't think that the evidence bears
19 that out very strongly, but it does maybe a little bit.
20 And so I think it's just -- just for the sake of
21 defending the plans, it might be worth considering using
22 some kind of metric along those lines.

23 The Commission the last time did not look at -- made
24 a clear decision to look at any partisan data whatsoever.
25 And so that's obviously another option that you could

1 take. But my read of the law is that it doesn't forbid
2 the use of some partisan data if it's used for the goal
3 of overall fairness between the parties and not for any
4 other purpose.

5 Anyway, so that brings me to the end of the overall
6 presentation. I'll open it up, I think, now to any
7 questions that you might have about anything that I
8 presented here in this talk.

9 CHAIR TURNER: Thank you very much, Mr. McGhee. We
10 appreciate your coming back, and I certainly was able to
11 grasp more this go around in the presentation having
12 heard it a little bit from your video and now.

13 I just ask all the Commissioners, if you have any
14 questions that you'd like to lift? I see Commissioner
15 Sinay, and Commissioner Yee, and then Taylor, please.

16 COMMISSIONER SINAY: Thank you. Thank you so much.
17 And I guess taking Madam Chair's recommendation, I'll
18 look at the presentation twice. But on the undercount,
19 the counties with an undercount, how do you recommend
20 that we take this under consideration as we're looking at
21 the maps?

22 MR. MCGHEE: Well, like I said, I think the only
23 thing that I feel comfortable recommending right now is
24 that you be aware of it as an issue. I don't -- the
25 questions of census quality is a moving target. There's

1 a lot that's changing, things are changing rapidly, and
2 we still don't know exactly -- we still don't know, I
3 would say a hundred percent for sure, when the census
4 data will be made available.

5 Right now, the census is shooting to finish it's
6 field operations by September 30th, and then to provide
7 all of the data, including the apportionment data, to the
8 president, and then the redistricting data to each of the
9 several states on the normal time line. Which means that
10 they would go to the president on December 31st, and it
11 would go to all the various states by March 31st, just
12 before the one year out from census day. I don't think
13 that's a hundred percent set in stone.

14 And so you know, we could still see things change on
15 that front depending on how things go over the next month
16 with the counting process. And if we don't even know
17 that information, like, when the census count is going to
18 finish -- because the census originally wanted to finish
19 on October 31st. And the Trump administration pushed
20 back and said, no, no, you should finish on the 30th.
21 The -- you know, I don't -- like, if we got that extra
22 month, we could very easily have a higher quality census
23 than if we didn't, so I think we have to be cautious
24 about predicting, even, that the census is for sure going
25 to be -- going to have problems, right?

1 If it does have problems and we have some clear
2 metrics to show that it has problems, then of course, the
3 question becomes, you know, how do you use that to adjust
4 the redistricting? And I think that is also a -- the
5 level of detail that the census is going to provide in
6 terms of the quality metrics and the clarity of those
7 quality metrics is going to be -- is currently enough in
8 doubt that I don't think I could tell you what you should
9 or should not do at this point. But just that it's
10 something that you should be keeping in your mind, and
11 that you may have to address and think about down the
12 road.

13 COMMISSIONER SINAY: And then, we've heard that
14 California may lose up to two congressional seats. And
15 you may not be the right person to answer this, but it
16 just occurred to me. When we -- we would just -- the
17 president tells California this is how many districts you
18 have -- congressional districts you have, we draw the
19 map. How do we get rid of the two people? I mean, how
20 do they know?

21 MR. MCGHEE: So that is -- I will say, the process
22 of removing congressional districts is a lot more
23 complicated than what the last Commission faced, which
24 was no change at all. The best scenario is you get more
25 districts, right, and then you have sort of an

1 embarrassment of riches. I don't think California is
2 going to be in that situation. I will say, however, just
3 as an aside, that right now our count is actually going
4 better than in the country as a whole.

5 So even when there -- the census is starting to
6 report results of the follow-up operations that they're
7 doing, and we were already just a smidge better than the
8 nation as a whole in terms of our self-response, people
9 responding on their own. And we have actually even been
10 a little bit on the high side in terms of that follow-up
11 operation as well.

12 So we're doing -- especially given the challenging
13 demographics we have for our census count, we're doing, I
14 think, a really good job so far. And especially relative
15 to other states. Some of the states that are going to be
16 probably picking up seats, like Texas and Florida, are
17 doing kind of a bad job, actually. But we're not done
18 yet, right? And that's not going to be the final count
19 that they're going to use for the apportionment, so I
20 don't think we should at all assume that that's how
21 things are going to turn out.

22 And currently, the administration wants to only
23 count documented residents and citizens for the sake of
24 apportionment, which would mean that we would almost
25 certainly lose an extra seat as a result of that. But

1 that's -- that's also, again, everything here is a moving
2 target, and so we don't know that that's actually going
3 to happen. There's a lot of legal challenges to it.

4 But how -- so I guess getting to your point of how
5 do you get rid of that district, with difficulty. But
6 again, you are tasked to not favor any particular
7 incumbent. In that kind of situation, you will -- the
8 incumbents who are currently in office are going to care
9 deeply about how those districts get drawn in a way that
10 they wouldn't even -- they always will, but they will
11 even more when they know that one or two of them may have
12 to go home at the end of the day. So that's just
13 something to be cautious about because you have a mandate
14 not to pay attention to that information to the extent
15 that it's possible to ignore it. But it's going to be a
16 much bigger part of the picture than was true ten years
17 ago if we do lose seats.

18 CHAIR TURNER: Oh, okay. Commissioners Yee, Taylor,
19 and then Toledo.

20 COMMISSIONER YEE: Thank you. Thank you so much,
21 Mr. McGhee, that was a tremendous presentation. So much
22 relevant information presented so clearly. So a question
23 about the ongoing debate and questions about race versus
24 ethnicity, U.S. census using Latino Hispanic as
25 ethnicity, you either are or you aren't, and then -- but

1 you can be of any race. And that of course, is the
2 second question, about race. So what advice can you give
3 us as we start having to apply those categories? I
4 noticed in, I think it was slide 41, you had non-Hispanic
5 white versus Latino, and so forth, side by side. When do
6 we -- you know, and in the popular mindset I think that's
7 how people think of it. You know, white versus Latino
8 versus black, so forth. What's your advice as we begin
9 this work on how to structure our thoughts about that?
10 How the census does it versus how we'll need to do it and
11 so forth?

12 MR. MCGHEE: That's a good question. So the census
13 actually has a much more -- so I was simplifying things
14 for the sake of the presentation. The census actually
15 has much more complicated questions about race and
16 ethnicity, including the option to choose that you are
17 more than one race. There's a lot of people, and growing
18 number of people who choose that option.

19 I think that that raises probably the most questions
20 for your communities of interest analysis and for your
21 Voting Rights Act analysis. There's a lot of legalities
22 there that, you know, I'm not an attorney and so I
23 wouldn't want to get into what would be the -- and I'm
24 not -- certainly, I'm not only not an attorney, I'm not
25 your attorney, so I wouldn't want to get into what would

1 be the right or wrong approach there. I think my sense
2 over the year of Voting Rights Act litigation is that
3 there's always something a little bit new and different
4 every time around in terms of thinking about those
5 questions.

6 You are, actually, also in a different space than
7 the Commission ten years ago because one part of the
8 Voting Rights Act, Section 5, which required you to
9 preclear the results of your redistricting with the
10 Justice Department is no longer operational. It was
11 struck down by the Supreme Court. So you're in kind
12 of -- again, every time around there's something a little
13 bit different. But I think it's definitely something to
14 be thinking about and to be asking counsel.

15 CHAIR TURNER: Thank you. Commissioner Taylor?

16 COMMISSIONER TAYLOR: Good afternoon. I hope this
17 is a simpler question. As it relates to the ACS, the
18 monthly tabulation is 250,000 data points or is it a
19 sample poll subject to the survey return results? Do
20 they just wait till they get 250 data points to come with
21 that information or do they just send out 250,000 surveys
22 and whatever the rate of return is, that's what they
23 generate the numbers on?

24 MR. MCGHEE: That's a very good question. And I
25 think that's the sample size they shoot for, but you know

1 what, I'd have to double check that. There definitely is
2 a response rate to the ACS; not everybody responds to it.
3 The census tends to get much better response rates than,
4 you know, a typically public opinion survey, but there
5 are definitely people who don't respond. And you know,
6 I'd have to -- the number -- I believe that the actual
7 number of cases in the ACS is three million -- the number
8 of households. So they must be shooting for that target.
9 But that'd be something that I'd have to follow up on.
10 I'm sorry.

11 CHAIR TURNER: Thank you. Commissioner Toledo?

12 COMMISSIONER TOLEDO: In your opinion, how does the
13 growing number of nonpartisan individual -- people who
14 are not affiliated with either party factor into
15 developing some kind of measure for fairness among the
16 two major parties, given that that number of individuals
17 has grown so tremendously over the last ten years?

18 MR. MCGHEE: Yeah, that's a good question. So the
19 metrics that I just showed you are based on votes, and
20 not based on party registration. So they -- the reality
21 of people who register or identify as independent is that
22 they tend to lean toward one party or the other. And so
23 in our political system, we -- you tend to -- are -- be
24 faced with that choice between the two major parties, a
25 lot of it driven by the intense pressure toward one or

1 the other party by the presidency, honestly. And the
2 presidency and the Electoral College and the way that
3 pushes the outcome much more toward one of two major
4 parties.

5 So people typically have that as their major choice.
6 They typically -- if you press them in surveys to choose
7 a party, they will say that they lean towards one party
8 or the other, most of those people who are identified as
9 independents. And when somebody says that they lean
10 toward a party they actually are just about as reliable
11 both across all the races that they tend to -- that they
12 have an option to vote for, and over time from one
13 election to the next, they're much more loyal to that
14 party, even than some people who identify expressly with
15 that party.

16 But that's just a political science thing. And
17 there's always, of course, the potential that you could
18 offer another party that would start to, you know, cleave
19 off some support to the two major parties. Again, the
20 reality is that parties like that have a tough time
21 emerging in part because of the pressures of the
22 presidency, but also just the fact that the --
23 independents themselves are so diverse it's hard to come
24 up with a package of proposals that brings them all
25 together, if that makes sense.

1 CHAIR TURNER: Commissioner Sadhwani and then
2 Kennedy, please.

3 COMMISSIONER SADHWANI: (Audio interference),
4 Professor McGhee, for your presentation. I'm surprised
5 you didn't go on to talking about Duverger's law. No,
6 but I wanted to ask you -- thank you, again, for your
7 presentation, for coming today.

8 I wanted to ask you about how you ended the
9 presentation on efficiency gap and these aspirational
10 goals of having, you know, relatively -- having
11 competitive districts. Certainly, I can understand that
12 reason for that, right, and of course, there is this
13 provision that we should not be favoriting -- you know,
14 having any favoritism towards a party. And yet at the
15 same time, I know you also work on, you know, you have
16 worked on open primaries in the top two primary, which, I
17 think in 2010, 2011 the Commission wouldn't have had a
18 sense of exactly how that might play out.

19 Because over the last ten years we've seen that
20 competition now means something different in California
21 because unlike any other state, right, we operate in such
22 a way that districts can be competitive within a party,
23 right? That we can have two Democrats or two Republicans
24 competing in a district. I'm wondering if that's a part
25 of your measure of the -- or your application of this

1 efficiency gap measure for California, or the extent to
2 which you, you know, in your view you think that we
3 should be looking at that or considering that when we're
4 thinking about competition levels. Obviously, there's no
5 measure of strong versus weak Democrat, strong versus
6 weak Republicans from a census perspective, but it -- I'm
7 wondering to what extent it continues to be a high
8 priority?

9 MR. MCGHEE: So I think your question was -- and I
10 apologize, because my internet started to stutter a
11 little bit there. But I think your question was how does
12 the role of the same party races with the top two primary
13 play into some of this question of competitiveness and
14 partisan favoritism. Is that right?

15 So I think the answer is that these questions of
16 partisan favoritism are about the comparison between the
17 parties, and when you have a same party race you don't
18 have that kind of comparison. So for those, the way that
19 I have typically handled those races is to try to
20 essentially project what the outcome in the election
21 might have been if it had been a two-party race. Those
22 districts tend to be very uncompetitive and so the
23 outcome is likely to be a win for whatever party has the
24 same party race in the first place.

25 But it does look, definitely, like, same party

1 races, but also just more generally, uncontested races,
2 which is kind of, in a partisan sense, is a similar kind
3 of idea. That presents complications for any kind of
4 analysis of fairness between the parties. And so you
5 have to sort of try and make some educated guesses about
6 what those races would be like otherwise.

7 In terms of competition, whether you have a
8 competitive district, again, I think when we speak of
9 competition sort of aspirationally, people think of the
10 competition between the parties, but that's not
11 necessarily the case. There's certainly a lot of the
12 advocates for the top two primary argued that it's a more
13 competitive system because it allows for a competition --
14 for a choice, essentially, between two wings, perhaps, of
15 the same party in the fall. And that's a form of
16 competition of its own; it's not cross-party competition,
17 but it's a form of competition.

18 So I think whether or not -- so in terms of what you
19 have as your goals, I think competition is a lot less
20 clear in the law as a goal. It's something that, again,
21 was aspirational. But the only way it really creeps in
22 at all is through saying don't favor incumbents.
23 Otherwise, it's not really in there, that I can see.
24 Whereas, the partisan favoritism is kind of more
25 explicitly in there, don't favor a particular party.

1 And so my suggestion about using some kind of
2 partisan fairness metric was really into the spirit of
3 that part of the law that says, you know, you don't want
4 to favor a party, and so maybe you might, if you could do
5 it carefully, you could avoid favoring a party by having
6 explicit metrics. Again, the last Commission, the way
7 they approached this was to not look at partisan data at
8 all. And that would certainly be a viable option, it
9 just would raise the risk that you might accidentally
10 favor one party or the other in plan that you drew. But
11 it's certainly a defensible, I think, approach to just
12 not look at the partisan data in the first place.

13 CHAIR TURNER: Commissioner --

14 MR. MCGHEE: Does that answer your question? I'm
15 sorry, that was --

16 COMMISSIONER SADHWANI: Yeah, I think so. I mean, I
17 think for me I'm just trying to think -- I mean, as an
18 aspirational goals -- yeah. It answers, it answers my
19 question. You know, I think it's an ongoing piece that
20 we'll have to think about and consider, right, when we're
21 thinking about, well, are we going to be judged on this
22 measure of how many people voted for Democrats or
23 Republicans ten years from now when that might not
24 actually be the case given our electoral system.

25 CHAIR TURNER: Thank you. Commissioners, we have

1 next Commissioner Toledo and then Sinay, but we're also
2 right at the time required, I believe, for our break.
3 And so at this point, so that we don't cut off in the
4 middle of you, Commission Toledo, I'm going to ask that
5 you hold your comment. We'll take our break and return
6 at 3:15.

7 Commissioner Ahmad, we'll have you take over at that
8 point.

9 And we'll go Commissioner Toledo and Commissioner
10 Sinay.

11 COMMISSIONER SINAY: Thank you.

12 CHAIR TURNER: And then Commissioner Kennedy.

13 COMMISSIONER KENNEDY: No, I thought you had said
14 that I was next after Sadhwani.

15 CHAIR TURNER: Ah ha, I did say that. So Kennedy,
16 you'll jump in before Toledo and then Sinay. Thank you.

17 (Whereupon, a recess was held.)

18 VICE CHAIR AHMAD: Welcome back. Thank you, Mr.
19 McGhee, for sticking with us. We had a few more questions
20 related to your presentation. I have in the queue
21 Commissioner Kennedy, then Toledo, then Sinay.

22 Commissioner Kennedy.

23 COMMISSIONER KENNEDY: Thank you, Madam Chair. Mr.
24 McGhee, thank you very much for the presentation, very
25 helpful. When you talk about undercounts, the census

1 itself is an enumeration. So on the -- what's the
2 basis -- how do you calculate an undercount or an
3 overcount?

4 MR. MCGHEE: So there's two main ways of doing the
5 undercount or overcount. The first is there's this
6 survey that they do that -- post-enumeration survey, they
7 call it, where they do a sample of census blocks, and
8 they go around and they reinterview them, and they just
9 try and collect all the same information again. And then
10 they compare that to what they got the first time, and
11 that allows them to develop some estimates of what the
12 undercount might be.

13 The other way is demographic analysis where they --
14 they take the most recent estimates of the population
15 that they have, and then they add births, deaths,
16 migration to that, and then -- which, of course, the
17 births and deaths are pretty solid. Migration is itself
18 quite an estimate, and then they use that to try and
19 offer up what they think the number could have been.

20 Neither one of those methods is perfect. Neither
21 one of them is able to provide estimates at a highly
22 precise level of geography, especially because the
23 migration means that people move around all the time, and
24 so you don't know exactly where people are by the
25 demographic analysis, for instance. The post-enumeration

1 survey is only a sample of census blocks. It's not all
2 the census blocks. So you can't provide a super-detailed
3 level of geography for that.

4 So they can just give you a sense and at some level
5 of geographic detail for the nation, give you a sense of
6 what the quality of the count was.

7 COMMISSIONER KENNEDY: Thank you.

8 MR. MCGHEE: Also I was just going to -- I looked
9 up during the break, the answer to the question that I
10 think it was Commissioner Taylor had about the sample
11 size for the ACS, and the answer is that the three
12 million number is basically the number of households that
13 they intend to -- that they sample and that they intend
14 to interview.

15 Their final number of interviews, which is --
16 there's a lot that goes into that in terms of who
17 responds but also in terms of how many -- how many of
18 those households are actual occupied households. So in
19 2018 it was more like 2.5 million actual interviews that
20 they conducted.

21 COMMISSIONER KENNEDY: Thank you.

22 VICE CHAIR AHMAD: Commissioner Toledo.

23 COMMISSIONER TOLEDO: Thank you. You spoke earlier
24 about the shortened time line and how it's unclear
25 whether the shortened time line will lead to a good

1 census, for lack of a better word, or an undercount.

2 Do you have any concern for any particular community
3 or any geographic area, or is it just your -- just too
4 soon to know whether the census will -- the quality of
5 the census rather, or is there anything that you could --
6 any additional guidance you could provide, or
7 clarification?

8 MR. MCGHEE: That's a good question. So the best
9 that you can often do is talk about the kinds of groups
10 that tend to be underrepresented and then look at where
11 people from those groups tend to live. So the kinds of
12 communities that are undercounted include noncitizens,
13 include Latinos, African Americans, especially young
14 African Americans. Very young children are undercounted,
15 and they've actually been -- the undercount for very
16 young children was actually a little worse in 2010 than
17 it was in 2000 even though the overall -- the undercount
18 number for the nation as a whole was better.

19 And young people also, just in general, tend to be
20 undercounted, people who are in -- who are renters, who
21 are in some kind of group quarters so they don't -- also
22 who don't, you know, live in a single family home, for
23 instance, they tend to be undercounted. So it's a wide
24 range of different groups, and the actual rate of
25 undercount tends to vary across those groups.

1 So we actually -- the PPIC did a -- we did a study
2 where we used some of that information about undercounts
3 within groups to provide some estimate of where the
4 undercount was likely to be higher within California
5 geographically. We have a map for that. Maybe I can
6 find that link and put it in the chat for you guys.
7 Would that work?

8 MS. JOHNSTON: Probably not in the chat because I
9 don't think that's accessible to everybody who's not on
10 Zoom, so it would have to be posted.

11 MR. MCGHEE: Oh, okay.

12 MS. JOHNSTON: If you could send it to -- send it to
13 Raul, and he can see that it's posted.

14 MR. MCGHEE: Okay. Terrific.

15 VICE CHAIR AHMAD: Go ahead, Commissioner Sinay.

16 COMMISSIONER SINAY: Thank you, Madam Secretary --
17 Madam Chair. I guess I'm still kind of thinking along
18 the same lines as Commissioner Sadhwani on the point
19 around fairness. And I know that people, when they talk
20 about the success of the 2010, they say that it -- that
21 there was more political equity because the State
22 Legislature and State Senate had looked -- resembled more
23 the diversity of the state.

24 Is there -- have you looked into how to create a
25 measurement of political equity versus fairness?

1 MR. MCGHEE: And by equity do you mean that the --
2 the --

3 COMMISSIONER SINAY: Fair representation.

4 MR. MCGHEE: -- representatives are more
5 representative of other characteristics of the population
6 and not just partisanship, is your question?

7 COMMISSIONER SINAY: No partisan. Just leave out
8 partisan.

9 MR. MCGHEE: Yeah. Yeah. So I have not looked
10 at --

11 COMMISSIONER SINAY: So gender and race -- yeah.

12 MR. MCGHEE: Right. So I have not looked at that
13 question myself, but there actually was a report that
14 just came out of the Schwarzenegger Institute at USC by
15 Christian Grose. He's a highly respected political
16 scientist, and he looked at that question, and he
17 basically found that it was -- the representation in
18 California was more diverse after the redistricting than
19 before it, but I would encourage you to go and look at
20 that report if you're interested in more detail on that.

21 COMMISSIONER SINAY: Thanks.

22 VICE CHAIR AHMAD: Commissioner Sadhwani.

23 COMMISSIONER SADHWANI: Just to respond that the
24 report -- in full disclosure, Christian Grose was my
25 dissertation advisor, and the report produced is largely

1 based on some numbers that I had published in the Journal
2 of PS, Politics and Political Science, which I looked at
3 this specific question.

4 And yes, there is a larger number of people of
5 color, female people of color -- female women of color,
6 but generally speaking, women, white women, have reduced.

7 MR. MCGHEE: That's -- that explains why you brought
8 up Duverger's law earlier.

9 COMMISSIONER SINAY: Just for the Commission, I
10 think one of the things we might want to -- we may want
11 to put on our agenda is kind of define -- you know,
12 talking a little bit about aspirational goals, if that
13 makes sense, and the different ways that we might be able
14 to measure that because in the end, as much as they're
15 not legal goals, those are the ones that people tend to
16 remember.

17 VICE CHAIR AHMAD: Do we have any additional
18 questions for our guest speaker?

19 Commissioner Fernandez.

20 COMMISSIONER FERNANDEZ: Just quickly. Commissioner
21 Kennedy had asked about the undercount, and you had
22 mentioned that -- how they determine that is count the
23 census blocks. Is that the Census Administration that
24 does that, or who does that?

25 MR. MCGHEE: Yes, the Census Bureau themselves.

1 They do both the post-enumeration survey -- which
2 actually I think they changed -- they keep changing the
3 name of it. I think they changed the name to something
4 different, and they changed it back to post-enumeration
5 survey for this cycle. So -- but they have that survey,
6 and then they have the demographic analysis, and they do
7 both of those.

8 But our own Department of Finance also does its own
9 demographic analysis --

10 COMMISSIONER FERNANDEZ: Okay.

11 MR. MCGHEE: -- that is separate from the census,
12 and as I mentioned earlier in the presentation, doesn't
13 always come to exactly the same conclusion, so they tend
14 to be in the same ballpark of each other.

15 COMMISSIONER FERNANDEZ: Okay. Then just one other
16 quick -- I missed the specific where you talked about it
17 was the ACS versus the CPS. Which one does the post-
18 election survey?

19 MR. MCGHEE: So the one that does the survey of
20 voter registration and turnout, you're saying?

21 COMMISSIONER FERNANDEZ: (Audio interference)
22 election survey.

23 MR. MCGHEE: Sorry?

24 COMMISSIONER FERNANDEZ: Didn't you mention a post-
25 election survey?

1 MR. MCGHEE: Yeah, so they do a post-election survey
2 where they -- every two years where they ask about voter
3 registration and turnout, and they don't ask any partisan
4 questions, but they ask about turnout and voter
5 registration, and that's -- that's the Current Population
6 Survey. It's also a product of the Census Bureau, but
7 it's different from the ACS.

8 COMMISSIONER FERNANDEZ: Okay. Thank you.

9 VICE CHAIR AHMAD: Do we have any additional
10 questions?

11 Seeing none, counsel, Raul, are there any last
12 points you all would like to add on this item?

13 MS. JOHNSTON: Public comment. AT&T.

14 VICE CHAIR AHMAD: Thank you for your presentation.
15 It was very insightful.

16 MS. JOHNSTON: I'm sorry. You need to ask for
17 public comment. He may need to respond to questions.

18 VICE CHAIR AHMAD: Okay. Sure. Justin, is there
19 anyone in queue for public comment at this time?

20 PUBLIC COMMENT MODERATOR: We have no questions in
21 queue over the phone lines, Madam Chair.

22 VICE CHAIR AHMAD: Thank you so much, Mr. McGhee.

23 MR. MCGHEE: Thank you.

24 MR. VILLANUEVA: Thank you.

25 VICE CHAIR AHMAD: All right. Moving right along,

1 before lunch we were on item number 14, and we left off
2 with Commissioner Andersen, and we can pick up right
3 there.

4 Commissioner Andersen, would you still like to have
5 the floor at this time?

6 COMMISSIONER ANDERSEN: Thank you. Yeah, I was just
7 trying to sort of wrap this up, and I would need a little
8 assistance from Mr. Villanueva in terms of if we can do
9 this. I believe the group is in agreement on we don't
10 want to just throw out these wonderful -- this work we've
11 done to this point. We'd like to proceed, but we -- a
12 few of us have very valid points that they'd like to
13 maybe tweak, you know, a slight modification, and I'm
14 wondering if we can do, like, a short addendum or in
15 terms of, you know, additional information.

16 I know you can do that on -- in the private sector
17 you can certainly do things like that. So I don't know
18 if we can do that as well or not. And if we can, I think
19 our time frame such that we have to have the two-week
20 window before we can actually come back as a group and
21 discuss all of this and make it (indiscernible), would --
22 could very possibly dovetail into -- we put out an
23 agenda -- an addendum right now.

24 There are -- we put three subcommittees together,
25 two people, to quickly write up -- everyone forwards

1 their information -- modifications to those
2 subcommittees, they come back with a quick proposal, and
3 it can then go out while the -- while we're continuing
4 on. So is it possible to do that, dovetail at the same
5 time? Is that at all possible?

6 MS. JOHNSTON: You have to ask other people -- ask
7 the same people if they want to be a part of it.

8 MR. VILLANUEVA: Well, there's -- okay. So I'm
9 going to kind of bottom line it here. So right now
10 you're looking at three primary approaches. Across all
11 three of them, you can -- you can -- the Commission can
12 identify a subcommittee of two, go through the screening,
13 design, the selection part of the process, and engage it.

14 The first option is you accept the current
15 recruitment, in which case we move directly to the
16 screening process, right. You get to look at the
17 applications, go through that, and prepare for whatever
18 the next step is, if you find candidates within there to
19 interview or not, because you do have the option of
20 rejecting all applicants.

21 The second one that has just been suggested is you
22 modify what you have in the recruitment. In that case,
23 you still have a new recruitment. It doesn't change --
24 it doesn't save you much time from having a completely
25 new recruitment. You still have to go ahead through the

1 process of allowing adequate time for that recruitment to
2 occur and especially in this regard with tweaking it,
3 allowing those folks who have already applied to reapply
4 should they choose to, given the change in the
5 recruitment.

6 COMMISSIONER ANDERSEN: Sorry. Let me do a quick
7 interruption here. Yes, but we could at that same time,
8 having our subcommittees put together the questions for
9 the interviews, and we could also put a date where we
10 need these submitted by and coordinate that with our date
11 of posting, when we can actually as a group do anything
12 about them. So could those dovetail, is what I'm trying
13 to say.

14 MR. VILLANUEVA: Okay. What I'm saying is the thing
15 that's going to take the longest amount of time is the
16 extension of the recruitment period, to actually put it
17 out there long enough for people to be able to review it,
18 respond, and get the applications back. On the front end
19 of that is also the part of the process of reposting of
20 them.

21 So that part you're not going to save time on, is
22 what I'm saying, whether it's a new recruitment or a,
23 quote unquote, tweaked recruitment, it's still
24 functionally another recruitment.

25 COMMISSIONER ANDERSEN: Right.

1 MR. VILLANUEVA: Because you made changes to it.

2 MS. JOHNSTON: And people would have to reapply.
3 Those who applied this time would have to decide if they
4 wish to reapply.

5 COMMISSIONER ANDERSEN: Okay. Okay. The way, like,
6 in private bidding basically it would be an addendum, and
7 they don't have to do a full application. It's, do you
8 want to modify your application, or do you want to
9 withdraw, or just add this in addition to. So it's a
10 much shorter window. It's not a full application.

11 MS. JOHNSTON: Well, except for the new people it
12 would be. You would also be soliciting --

13 COMMISSIONER ANDERSEN: Yes, yes.

14 MR. VILLANUEVA: Yes, because remember the basis --
15 if I may, the whole basis as I understand it from wanting
16 to make adjustments to the original recruitment flyers,
17 is that there's an idea that if you adjust the
18 recruitment flyer it's going to enhance your candidate
19 pool or get you different candidates. That's why,
20 functionally speaking --

21 COMMISSIONER ANDERSEN: Right, (indiscernible)
22 recruiters.

23 MR. VILLANUEVA: That's why functionally speaking --
24 that's why functionally speaking it is a new recruitment
25 and needs to be treated as such and won't accrue any

1 difference in time savings. That's all I'm pointing out.

2 COMMISSIONER ANDERSEN: Okay. All right.

3 MR. VILLANUEVA: Personally I don't have any
4 attachment except to one thing, and that is helping you
5 as a group to understand as you maneuver through these
6 choices, what are the implications of them so that you
7 understand as you make your choices. Because all of them
8 are viable, just each one of them has different pluses
9 and minuses in terms of time and what you can do. But
10 ultimately at the end of it you'll end up with a pool of
11 applicants, you'll still get your subcommittees, you'll
12 still go through that process of developing your
13 selection process and go through the selection process.
14 It's just how soon do you want to do it.

15 MS. JOHNSTON: If I could add, if the Chair wishes,
16 the subcommittees could be established now for each of
17 the jobs to be working on the questions, but that
18 wouldn't really save much time because they could do that
19 once you get the applications and decide to have a
20 meeting.

21 VICE CHAIR AHMAD: I have Commissioner Vazquez and
22 then Sinay.

23 COMMISSIONER VAZQUEZ: Yeah, I guess I'm -- I think
24 we've -- I'm sort of in agreement or almost certainly in
25 agreement with Commissioner Andersen. I think it may, in

1 terms of reopening a new recruitment, it would, in my
2 mind, be sufficient enough for our purposes to have the
3 new recruitment run parallel to a two-week notice, so
4 we're talking about an additional maybe five days to
5 tweak the posting, repost, disseminate the way they were
6 disseminated, right, like, I guess --

7 MS. JOHNSTON: You'd also need to receive the
8 applications by the due date and then have your
9 committees review those to decide who the -- who they
10 recommend the Commission to interview.

11 COMMISSIONER VAZQUEZ: Right. So I guess -- but all
12 these things would happen still in parallel, so maybe the
13 committees would need an extra week, an extra two weeks
14 to review the additional applications that come in or any
15 amendments to the first pile that come in.

16 I mean, maybe that's too -- maybe that's wildly
17 unrealistic for how much work the committee can do in a
18 week, but I also imagine if we're still on this, like,
19 fast track time line -- which I do agree, there is a
20 sense of urgency to get people hired soon. They're going
21 to have to do it quick -- they're going to have to go
22 through the pile -- the pile we have now in two weeks --
23 two or three weeks anyway, it sounds like.

24 MR. VILLANUEVA: And I guess what I'm pointing out
25 isn't that part of the process, it's the other part which

1 is developing the recruitment advertisement, taking the
2 time to do that, to put it out, get it posted and give
3 adequate time for people to understand that it's there
4 and respond to it. Two weeks is really -- is really not
5 a lot of time.

6 VICE CHAIR AHMAD: Commissioner Sinay, then Toledo,
7 then Fernandez.

8 COMMISSIONER SINAY: I feel like we're still having
9 a conversation without having all the facts in that -- so
10 we can't review any of the applications currently -- if
11 we say, yes, we like all these propose -- we like the
12 RPs, we're going to -- or sorry the job postings, tell us
13 how many applications we have, we create committees. We
14 can't do any of that until -- we can't start that process
15 for two weeks or we can't --

16 MS. JOHNSTON: You can't have your interviews for at
17 least two weeks.

18 MR. VILLANUEVA: Or review the applications.

19 COMMISSIONER SINAY: Do we need -- so do we need to
20 agendize all interviews --

21 MS. JOHNSTON: Yes.

22 COMMISSIONER SINAY: -- for the staffing?

23 MS. JOHNSTON: Yes.

24 COMMISSIONER SINAY: Okay. So that --

25 MS. JOHNSTON: Not necessarily the names of the

1 individuals, but that you are having interviews.

2 COMMISSIONER SINAY: Okay. So -- but in the --
3 okay. So that -- that's part of it. Second of all, do
4 we still not -- is it -- why do we still not know how
5 many applicants we received to kind of have a good feel
6 for each of the three jobs if we have a good pool or not?
7 Because I feel like we're having a conversation, and if
8 we only have three applicants for all the -- yeah. We
9 may get no better --

10 MR. VILLANUEVA: The reason is because we haven't
11 gotten to that point in my presentation.

12 MS. JOHNSTON: So Raul does have that information.

13 MR. VILLANUEVA: Yeah, I do have that information.

14 COMMISSIONER SINAY: No, I realize you have it. So
15 what you need from us at this point is just to be quiet
16 so that you can continue your presentation? I think I'm
17 just -- I'm just trying to figure out where we're stuck
18 right now.

19 MR. VILLANUEVA: Where the conversation to me got --
20 got -- and I use this word respectfully -- sidetracked
21 was in terms of the group wanting to make a decision
22 about the process before finishing hearing about the
23 process. That's okay because at a certain point in time
24 you can just stop and go, this is the process I want; I
25 don't need to hear about these other things. And so --

1 but again, respectfully, that's why.

2 So why don't I just tell you how many applicants you
3 have. So for the chief counsel you currently have four
4 applicants. For the executive director you currently
5 have sixteen, and for the communications director you
6 currently have twenty-two.

7 VICE CHAIR AHMAD: Commissioner Toledo, you had your
8 hand up, and then Fernandez and then --

9 COMMISSIONER TOLEDO: I guess the only point I
10 wanted to make was that people did go through the
11 application process and have submitted their application,
12 and for us to reopen would require -- my understanding,
13 based on what I'm hearing, is that they would have to
14 reapply and go through the whole process again, which may
15 be a hardship for some individuals, and so -- and may --
16 and maybe -- may not look well on the Commission.

17 VICE CHAIR AHMAD: Fernandez.

18 COMMISSIONER FERNANDEZ: So --

19 MR. VILLANUEVA: May I make a suggestion, please?

20 COMMISSIONER FERNANDEZ: Okay. Go ahead.

21 MR. VILLANUEVA: If you do go ahead and accept the
22 recruitment, you can identify the two -- the three
23 different pools now to go ahead and do the review. That
24 means that before the end of this meeting each
25 subcommittee can have a recommendation back to the

1 Commission on whether that they have identified potential
2 applicants to interview.

3 If you have, then we can agendize in two weeks
4 interviews, and that gives us two weeks to invite people
5 to interviews. If, on the other side of it, a
6 subcommittee identifies that they have identified zero
7 candidates, then you can move forward with the new
8 recruitment knowing that you've taken advantage of what
9 is there for you. Just a suggestion.

10 COMMISSIONER FERNANDEZ: You must have been reading
11 my mind because that's where I was going because we still
12 have a few more days with our meetings, and you're
13 correct, we could actually go through those applications
14 and decide whether or not we have a candidate pool that
15 would suit our needs and then, like Raul said we could at
16 that point set up interviews for -- you know, we're
17 giving people two weeks' notice, which would be great.

18 And the second piece of it was I thought before when
19 we were talking about it there seemed to be some
20 consensus in terms of executive director and the chief
21 counsel, we seemed to be leaning towards those were okay,
22 and the one we had a bigger issue with was with the
23 communications, and so -- I'm just trying to make sure,
24 like, keeping things forward instead of trying to go back
25 and redoing all three.

1 So I'm not sure how to address this, but I agree
2 that we should probably assign the subcommittee, and I
3 would agree that we should review those applications,
4 because we don't know. What we have might be -- might
5 suit our purposes right now. So just trying to move
6 forward at this point, basically.

7 VICE CHAIR AHMAD: Commissioner Yee? You're on
8 mute.

9 COMMISSIONER YEE: There's a little bit of water
10 under the bridge. But there was a Commissioner who
11 didn't want to hear the numbers, because it might
12 influence the sense of the -- oh, that was you. Okay.
13 Well, sorry. Nobody jumped in at any time. Anyway.
14 That's water under the bridge.

15 I'm wondering if -- let's see. I'm echoing -- I
16 want -- I want to echo Commissioner Toledo's comments.
17 You know, these people have applied in good faith, and
18 speaking as one who had a family member just go through a
19 job search, you know, nothing's worse than applying
20 and -- and hearing crickets, right? So I think it would
21 behoove us to respond in a timely fashion to these folks.

22 I'm wondering if the concerns, especially about the
23 communications director, can be picked up in the
24 interviews and the job -- the actual job descriptions
25 when we get to that stage. I'm thinking, you know,

1 anyone who applies to be communications director are
2 pretty high-level today. You know, it's unlikely that
3 they're still just thinking Facebook and not quite up to
4 speed, you know, on other modalities. And I could be
5 proven wrong, but I'm, you know, I -- I think I'd be
6 willing to pretty optimistic about that.

7 So if we can pick up those concerns at a later stage
8 and not get stuck in that now and after we start that
9 whole search, I think that would be worth it. I think we
10 can be pretty optimistic about that.

11 MR. VILLANUEVA: If I might reframe the concern
12 about communication director. The concern is whether or
13 not that recruitment was adequate to get you the types of
14 people you want, not about the pool. It's about whether
15 that recruitment will get you those people you want.
16 We've got twenty-two individuals. I say stop and see.

17 COMMISSIONER YEE: Yeah, I agree.

18 VICE CHAIR AHMAD: Thank you, Commissioner Yee.
19 I -- just a quick comment on the numbers piece. I had
20 already voiced my standing on the job posting, so it's
21 okay at this point to hear the numbers. So it is what it
22 is.

23 Commissioner --

24 MR. VILLANUEVA: My apologies. I was going with the
25 group.

1 VICE CHAIR AHMAD: No, no, you're good. You're
2 good.

3 Commissioner Fornaciari, you had your hand up?
4 You're on mute.

5 COMMISSIONER YEE: Everyone's getting tired.

6 COMMISSIONER FORNACIARI: Well, that was the most
7 profound thing I've said the whole time and you didn't
8 hear it.

9 COMMISSIONER TOLEDO: That was great.

10 COMMISSIONER FORNACIARI: Okay. I feel like, you
11 know, we've had a really robust conversation on this
12 topic. I feel like before the break, we were kind of on
13 the same page to go ahead and accept the postings as they
14 were, set up three subcommittees to review and -- and go
15 forward. And I -- I really like the idea to -- to do it
16 more expeditiously so that by the time we get to the end
17 of our agendized meeting, you know, I hope that we can be
18 in a place where the subcommittees can recommend.

19 So I'm going to make a motion that we go ahead and
20 vote on accepting the three job postings as they are and
21 set up three subcommittees to review those postings.

22 COMMISSIONER YEE: I'll second the motion.

23 COMMISSIONER LE MONS: I want the pleasure of
24 seconding that.

25 COMMISSIONER YEE: It's all yours.

1 MR. VILLANUEVA: I'm -- I'm sorry, who --

2 COMMISSIONER ANDERSEN: I have --

3 MR. VILLANUEVA: Who second it?

4 COMMISSIONER FORNACIARI: I've been waiting for you,
5 Commissioner Le Mons.

6 MS. JOHNSTON: I have -- I have one -- one technical
7 problem with that is that you have not scheduled a closed
8 session. So you would have to be discussing the
9 applications in open session, which is okay, if that's
10 what you want to do.

11 MR. VILLANUEVA: No. No, they're just talking
12 about -- about setting up the subcommittees to review.

13 MS. JOHNSTON: Right.

14 MR. VILLANUEVA: They could do a second -- couldn't
15 they do a second motion to -- to have --

16 MS. JOHNSTON: You'd have -- you'd have --

17 MR. VILLANUEVA: -- to have it in the future.

18 MS. JOHNSTON: You'd have to set up the -- the
19 closed session in the future with fourteen days' notice.

20 MR. VILLANUEVA: Correct. That's what I thought.

21 MS. JOHNSTON: Okay.

22 MR. VILLANUEVA: I thought that's what you're --
23 what they were doing.

24 MS. JOHNSTON: I thought you were going to have the
25 subcommittees come back during this meeting.

1 COMMISSIONER FORNACIARI: Okay. So we -- so
2 we -- so -- okay.

3 MR. VILLANUEVA: They could --

4 COMMISSIONER FORNACIARI: Let me -- let me see if I
5 understand though.

6 MR. VILLANUEVA: All right.

7 COMMISSIONER FORNACIARI: I mean, if we have a
8 closed meeting to review the applications or to review
9 the recommendations. Is that right? We have to have a
10 closed meeting to review the recommendations from the
11 subcommittees. That was my understanding.

12 MS. JOHNSTON: Unless you get the approval of the
13 applicants to be discussed in open session, because it is
14 a personal matter.

15 COMMISSIONER FORNACIARI: Okay. But that -- if
16 we -- if we -- I mean, so the soonest we could do that
17 step is two weeks.

18 MS. JOHNSTON: Right. If you schedule something
19 today --

20 COMMISSIONER FORNACIARI: If we decided today to
21 agendize that in a meeting two weeks from today.

22 MS. JOHNSTON: True.

23 COMMISSIONER FORNACIARI: Okay.

24 VICE CHAIR AHMAD: I saw Commissioner Sinay and then
25 Fernandez.

1 COMMISSIONER SINAY: I just wanted to add a small
2 amendment, if it's -- if you will accept it, just to say
3 that because Madam Chair gets to select the subcommittee
4 members, if we can try to make it one from each party, so
5 that when candidates come forward, it's -- it's been
6 looked at -- when, you know, from two different parties,
7 I should say, because we have three different groups.
8 But just to make sure that we -- we think about that
9 since this is our -- our executive committee. I mean,
10 our executives.

11 VICE CHAIR AHMAD: Commissioner Fernandez.

12 COMMISSIONER FERNANDEZ: Actually, my -- my question
13 was, Counsel, I know you're saying we have to wait two
14 weeks, but I believe if we come back -- if the
15 subcommittees come back and they say, yes, we believe we
16 have viable candidates and don't name the candidates, I
17 think we can discuss in that general terms, correct?

18 MS. JOHNSTON: True.

19 COMMISSIONER FERNANDEZ: If -- we're not discussing
20 the application and the details and specific names.
21 We're just discussing, yes, we do believe we have enough
22 individual applicants for each of the three positions
23 that we advertised for.

24 MS. JOHNSTON: That would be appropriate -- proper.

25 MR. VILLANUEVA: Yes.

1 COMMISSIONER FERNANDEZ: Okay. So -- so we wouldn't
2 have to wait two weeks. We could potentially, if -- as
3 long as everyone agrees, and have the confidence in
4 whoever's on the separate committees, that they feel they
5 have enough applications, we can go -- we can move
6 forward and in two weeks hold interviews, and in the
7 interim the subcommittee in the -- maybe drafting up some
8 questions and at least seeking feedback in that sense.

9 MS. JOHNSTON: As long as you give -- you need to
10 give the applicants time to arrange to come to the
11 meeting -- attend the meeting, not come.

12 VICE CHAIR AHMAD: Commissioner Akutagawa?

13 COMMISSIONER AKUTAGAWA: I think, just so that I'm
14 hearing -- I think I'm just going to repeat what I'm
15 hearing. So I think given what Commissioner Fernandez
16 said, I would still -- and I don't know if this is an
17 amendment to the motion. I would still amend the motion
18 to say that we should agendaize closed interviews, so then
19 we're not losing time where we're out another, let's just
20 say a few days after the general conversation goes on.
21 So if we decide today that we want to at least agendaize
22 it. I mean, if we decide next week there isn't a viable
23 pool, then we could just say that, you know, agenda item
24 closed and -- and just move on, and then we'd have to
25 just restart everything anyway, so.

1 MS. JOHNSTON: I -- I don't know if we could get the
2 notice out today, logistically, and we're your staff.
3 We're --

4 MR. VILLANUEVA: If I mean note, I -- I think that
5 there's kind of a cross-communication occurring that the
6 original idea, if I may, and correct me if I'm wrong,
7 because, Commissioner Fornaciari, in terms of
8 understanding what you're -- let me collect my thoughts
9 here. Oh, my goodness. But that the original idea is to
10 set up the three subcommittees, they do the initial
11 review, they come back during this meeting next week, and
12 they report one thing: either, yes, I believe we have a
13 pool of applicants to interview; or B, no, I do not think
14 we have a pool of applicants to interview. Done.

15 At that point in time, on Thursday or Friday when
16 the Commission meet again, that would be the point to
17 identify if we're going to put some -- or if you are
18 going to put something on the agenda that then gives
19 direction to staff to proceed forward with creating that
20 agenda item, and under your direction, to start inviting
21 those people that you've identified to come to an
22 interview, which would be agendized for the next meeting
23 as closed session. That's how I understood the process.
24 There was the intent behind the motion.

25 MS. JOHNSTON: Well, I guess that's the question.

1 When would you like the meeting to be scheduled, two
2 weeks from today, or two weeks from Thursday or when?

3 COMMISSIONER FORNACIARI: Tomorrow. Just a joke.
4 Sorry. You know, as soon as we can. But, I mean, it's,
5 you know, I think in -- realistic, right, it -- it's
6 going to be two weeks from some time next week when, I
7 think --

8 MR. VILLANUEVA: Yes.

9 COMMISSIONER FORNACIARI: -- what Raul is saying is,
10 you know, Wednesday or Thursday, conceivably the
11 subcommittees come back, yes or no. Then -- then if it's
12 a yes, then we agendize meetings a couple of weeks out
13 from then. That's -- that seems reasonable to me and
14 kind of what I was hoping would be the outcome.

15 VICE CHAIR AHMAD: Commissioner Kennedy and then
16 Toledo.

17 COMMISSIONER KENNEDY: Thank you, Madam Chair. Two
18 things. One, could the subcommittees also come back with
19 proposed questions that we could discuss? Those wouldn't
20 have to be -- I mean, my understanding from the
21 discussion earlier was that those could be discussed in
22 open session. Second, I would propose that the first
23 interviews be agendized for two weeks from Monday. If by
24 next Friday we decide that we're not going to move
25 forward, that could be canceled. But we can't move it up

1 if we do want to go ahead.

2 So if we -- if Monday notice goes out that those
3 first interviews will be two weeks from Monday, we have
4 through the end of the week to hear back from
5 subcommittees with a yay or nay, and hopefully, with some
6 general idea of, not questions, but you know, what we're
7 going to be focused on during the interviews. Thank you.

8 MS. JOHNSTON: Yes, that would be possible. The
9 problem is, and this -- this is a limitation you can live
10 with, is that the only things you can discuss at that
11 meeting are things that are on the agenda. So you
12 couldn't decide next Thursday that you wanted -- the
13 things that we've been saying you want to have it on the
14 agenda for the future. You'd have to schedule another
15 meeting for that, because they won't be on the agenda
16 that goes out Monday.

17 VICE CHAIR AHMAD: Commissioner Toledo, and then Le
18 Mons.

19 COMMISSIONER TOLEDO: Yeah, I have a quick question.
20 In the unlikely event that we -- that we don't
21 have -- the candidate pool isn't sufficient to meet the
22 needs, so if we don't find any candidate that we are
23 looking for, would we be able, at that point, to bring
24 back edits to the post thing during this session?

25 MS. JOHNSTON: Yes. Yes, that's certainly within

1 the scope of the notice.

2 MR. VILLANUEVA: And I'm shaking my head yes. I
3 think -- I think you have to think broadly in terms of
4 the time you have and the opportunity you have. And if
5 the time an opportunity is when those -- that's each
6 subcommittee is doing its review. Plus, I'll be working
7 with you. Marian will be working with you. So if that's
8 something that the subcommittee is identifying, then
9 we'll help you in terms of -- of delivering this -- the
10 additional product. Does that makes sense?

11 VICE CHAIR AHMAD: Commissioner Le Mons?

12 COMMISSIONER LE MONS: Yeah. I just wanted to say
13 that Commissioner Fornaciari's motion -- well, let me
14 back up and say, we're just taking one step, and we don't
15 have to solve everything in one motion. And to move
16 this --

17 MR. VILLANUEVA: Right.

18 COMMISSIONER LE MONS: -- thing along, we have to go
19 step by step. So if we could just do this part, and then
20 later in the agenda, we have a whole agenda item about
21 our future agendas. So anything that we need to get
22 handled business-wise that we're accumulating over the
23 course of these days, we can agendize it then, whether
24 that's one meeting or two meetings or however much it's
25 going to require.

1 But if we could start to try to organize our
2 thoughts in a way that there's a place for certain pieces
3 of this, not that when it comes up and out it's not
4 important, but just where we place it is the part. So
5 all we're talking about is what was already laid out and
6 I think clarified already. So I'm not going to repeat
7 it.

8 And there's a scope with the subcommittee that
9 they're going to come back with information that will
10 then inform our next step. But without that information,
11 we -- we can't take that next step. So if we could have
12 the motion repeated, and everybody can kind of think
13 about, I guess, can we move to a vote on that motion
14 without amending it and expanding it and keep it very
15 narrow? That's my ask.

16 VICE CHAIR AHMAD: Commissioner Akutagawa, and then
17 Anderson.

18 COMMISSIONER AKUTAGAWA: I think just for clarity,
19 it's -- what I was speaking about is specifically the
20 interview with the candidates. And my understanding is
21 that whether it has to be agendized, whatever, that
22 that's all that will be done at that meeting, because it
23 would have to be a closed meeting --

24 MS. JOHNSTON: What --

25 COMMISSIONER AKUTAGAWA: -- and that I didn't expect

1 that there would be anything else discussed at that
2 meeting.

3 MS. JOHNSTON: That's the -- that would be fine if
4 that's all you want to do at that meeting. I was
5 expecting that you'd want to discuss some of the other
6 things that you've been bringing up. Because you can
7 easily combine an open meeting and a closed meeting.

8 COMMISSIONER AKUTAGAWA: Oh, okay. Okay. All
9 right.

10 VICE CHAIR AHMAD: Commissioner Anderson and then
11 Fernandez.

12 COMMISSIONER ANDERSEN: I just have a very quick
13 one. The motion, I am not sure if I heard this
14 correctly, but did you say we accept the -- not the
15 proposals. But I guess -- I guess the proposals.
16 If -- if we decide not to, I mean can we say we're
17 proceeding with them? And you know, I'm, you know, a
18 fine line here. If we accept them and then later say,
19 no, we didn't find anybody, are we in trouble?

20 MS. JOHNSTON: No.

21 MR. VILLANUEVA: No.

22 COMMISSIONER ANDERSEN: Okay.

23 MR. VILLANUEVA: No.

24 COMMISSIONER ANDERSEN: Then -- then I -- that's it.

25 MR. VILLANUEVA: Yeah. You've made a good faith

1 effort, and your reward is to be able to proceed with
2 knowledge, in terms of how to proceed and refine.

3 Commissioner Fornaciari, if you would repeat
4 your -- I'm going to put the challenge on you. If you
5 would -- if you would please repeat --

6 COMMISSIONER FORNACIARI: You're tell me?

7 MS. JOHNSTON: With your microphone on.

8 MR. VILLANUEVA: -- your motion?

9 COMMISSIONER FORNACIARI: Oh, my gosh.

10 MR. VILLANUEVA: Yes, with your --

11 COMMISSIONER FORNACIARI: Am I in -- okay.

12 MR. VILLANUEVA: -- with your microphone on too,
13 please.

14 COMMISSIONER FORNACIARI: Oh. Oh, man. I was
15 hoping someone else wrote it down. Okay. So --

16 MR. VILLANUEVA: I got -- I only got part.

17 COMMISSIONER FORNACIARI: So my motion is to accept
18 the job postings as they are, review the applicants that
19 we have in place, and set up three subcommittees to
20 conduct reviews. I don't think we need to add -- I mean,
21 it's my feeling I don't think we need to add anything
22 else to that motion. The makeup of the subcommittee is
23 the purview of the chair. And -- but you know, I think
24 the guidance that was suggested is good guidance, but I
25 don't think it needs to be part of the motion.

1 COMMISSIONER LE MONS: And I second it.

2 MS. JOHNSTON: I have you down.

3 VICE CHAIR AHMAD: I believe in the motion, we
4 actually don't even have to include the subcommittee
5 part. We can just appoint that. We -- if -- if we want
6 to make the motion even cleaner. But Commissioner
7 Fernandez had her hand up too, so I want to make sure
8 that we give her a chance to speak.

9 COMMISSIONER FORNACIARI: Well, do you want me to
10 undo that part of the motion then?

11 VICE CHAIR AHMAD: I don't know if it matters too
12 much, but --

13 MS. JOHNSTON: It doesn't matter. It can be done
14 either way.

15 COMMISSIONER FORNACIARI: Let's leave it.

16 MR. VILLANUEVA: It's -- so it's a --

17 COMMISSIONER FORNACIARI: The third one, I can see
18 Commissioner Le Mons. Let's leave it.

19 MR. VILLANUEVA: It's a pretty clean motion, if I
20 may. It's got two major clauses in it, basically. But
21 it's very logical. I've seen -- I've seen some crazy
22 ones. This one's good.

23 COMMISSIONER FERNANDEZ: I'll save my comment till
24 after we vote, because it doesn't really pertain to the
25 motion I commented on.

1 MS. JOHNSTON: You do need to have public comment
2 before you vote.

3 VICE CHAIR AHMAD: Yes. Yeah. So we need to open
4 for public comment and then we can take a vote on.

5 Is there anyone in queue for public comment, Justin?

6 PUBLIC COMMENT MODERATOR: Yes, we first turn to the
7 line of Peter Cannon. Please go ahead. Your line is
8 open.

9 MR. CANNON: Hi. My apologies. My name is
10 Peter Cannon, and I appreciate the opportunity to share
11 my thoughts about your discussions regarding staffing. I
12 want to thank all Commissioners and all staff for your
13 service for this difficult undertaking. My chief
14 suggestion is for you to consider separating criteria
15 from recruitment. On criteria, the key thing is that
16 during a public process, the job descriptions are yours.
17 If you choose to adopt the ones prepared by staff, that
18 is perfectly fine. But it should be your decision made
19 in the public light.

20 However, on recruitment, I'd suggest the work has
21 not been sufficient to date. The (indiscernible) voters
22 report on the last process, Commissioners -- quote,
23 "Commissioners should make hiring decisions from the
24 widest array of qualified applicants". The report
25 continues, "The job search should not prioritize

1 experience with adding citizen" commissioners -- excuse
2 me, "commissions or elected boards, retired city
3 managers, chief administrative officers, heads of
4 government departments, or executive directors of boards
5 and commissions at the state, county, or local level,
6 would have constituted a rich pool of candidates who
7 would have been familiar with how to guide a new
8 commission with a short time line".

9 Let me add that there are other routes to look for
10 qualified applicants. For example, there are literally
11 thousands of individuals and nonprofit groups who have
12 been working on the census, who have been focusing on
13 communicating with diverse committees -- excuse me,
14 communities and are about to be -- and are about to be
15 looking for work. With an email sent to these -- for the
16 job positions to those participating in the California
17 Complete Count census, was one -- my question is was one
18 sent? If not, that alone, I think, would be grounds for
19 reopening the position.

20 I'd urge that even if you keep the current -- the
21 posting, you at least reopen the application period,
22 while specifically directing your temporary staff to work
23 to ensure those postings are distributed as widely as
24 possible to ensure that the Commission has the widest
25 array of qualified applicants from which to select. And

1 I thank you for your attention and consideration of my
2 thoughts today.

3 VICE CHAIR AHMAD: Thank you.

4 Next person in the queue?

5 PUBLIC COMMENT MODERATOR: And next, we turn to the
6 line of Rosalette (sic) Gold. If you would please state
7 your -- spell your name for the record, and then give
8 your comment.

9 MS. GOLD: Great. This is Rosalind Gold,
10 R-O-S-A-L-I-N-D, and the last name, Gold. And I'm chief
11 public policy officer with the National Association of
12 Latino Elected and Appointed Officials at the NALEO
13 Educational Fund, and I ask the Commission's forbearance,
14 because I want to talk about a topic that was raised
15 earlier today. We would just like the Commission to know
16 that there have been some issues with the phone system,
17 and several of us have tried to make comments and get in
18 the queue earlier, and we have had some difficulties in
19 the fact that we're in the queue showing up.

20 The part that I wanted to comment on was
21 Eric McGhee's presentation. I have enormous respect for
22 Eric and the PPIC. We have worked with partners on them,
23 and we very much respect their research and Eric's
24 perspective. I would just like to offer a clarification
25 with regard to the discussion of using competitiveness or

1 partisan fairness as any kind of criteria, even
2 aspirationally, for judging the maps that the Commission
3 produces.

4 The law is very clear on what criteria the
5 Commission must use, and the only reference -- there
6 is -- one, there is no reference to competitiveness. And
7 the only reference to partisan issues is that it can't --
8 the map cannot discriminate against political parties or
9 candidates. But there is no requirement that they be
10 affirmatively fair. Our concern about this being turned
11 into a criteria aspirationally is that it may create
12 tension and conflict with criteria that are very, very
13 important, such as compliance with the Constitution,
14 compliance with the Federal Voting Rights Act, and
15 respecting communities of interest, as well as the other
16 criteria.

17 So we would urge the Commission to be very careful,
18 even aspirationally, for looking at issues of
19 competitiveness or fairness, because, again, they are not
20 in the law and also the Commission is required to justify
21 how it is adhering to every criteria that is in the law
22 and to write a report doing that. And so that is done
23 very transparently. And so again, you know, I just would
24 like to mention that for emphasis and urge you to adhere
25 extremely closely to those stated criteria in the State

1 Constitution. Thank you so much.

2 VICE CHAIR AHMAD: Thank you.

3 Next person in the queue?

4 PUBLIC COMMENT MODERATOR: And next, we turn to the
5 line of Julia Marks. Please spell your name for the
6 record and then give your comment.

7 MS. MARKS: Hi. Thank you. My name is Julia Marks,
8 J-U-L-I-A, M-A-R-K-S, and I'm a voting rights attorney at
9 Asian Americans Advancing Justice-Asian Law Caucus,
10 similar, to --

11 Rosalind, thank you for that comment.

12 I wanted to quickly go back to an earlier
13 conversation. I similarly have had difficulties getting
14 through on the public comment line. So I did want to
15 address the discussion of partisanship competitiveness
16 from the earlier presentation. Party preference is not
17 to be considered for your redistricting work, and the law
18 is very clear that districts may not be drawn for the
19 purpose of favoring or discriminating against an
20 incumbent political candidate or a political party.

21 There are many other important criteria that are
22 explicitly laid out for you to consider, which are
23 mandatory and could be in conflict with partisanship
24 concerns. Partisan preference can only be considered to
25 the extent it is part of the analysis for Voting Rights

1 Act compliance.

2 And then I wanted to briefly comment on the more
3 recent discussion regarding the application process for
4 various job postings. I wanted to urge you to extend
5 time for all applicants for at least two weeks, if not
6 longer, before proceeding with interviews. We do want to
7 be sure that the existing RFPs and job postings can be
8 shared with a wide range of community groups. I'm glad
9 to hear that there have been candidates so far, but we
10 don't have a sense of who is in the pool for these
11 positions. There really needs to be time for additional
12 applicants to apply and for recruitment to diverse
13 communities to continue.

14 In the last redistricting cycle, our organization
15 and others shared out key communications items about
16 redistricting, such as job postings, with our communities
17 and network. We previously urged the RP to withdraw the
18 existing posting, and we've also asked them to reconsider
19 them. Since our requests have been pending, we have not
20 been widely circulating these postings. I'm waiting for
21 these issues to settle. So if you are going to be
22 proceeding with the postings, at the least, we want to
23 make sure there's adequate time to continue the
24 recruitment process and get a more robust candidate pool
25 before interviews begin. Thank you.



1 MS. JOHNSTON: Ms. Gold, before you leave, could you
2 tell us what problems there have been with the telephone
3 system?

4 MR. VILLANUEVA: I forwarded -- I forwarded the
5 email to Kristian. I was aware of it.

6 COMMISSIONER AKUTAGAWA: Actually, it was Ms. Marks,
7 I think.

8 MS. JOHNSTON: It looks like she is no longer on the
9 line. Is there anyone else left in the queue?

10 PUBLIC COMMENT MODERATOR: Yes. Next we turn to the
11 line of Lori Shellenberger. Please spell your name for
12 the record and then give your comment.

13 MS. SHELLENBERGER: Good afternoon. This is Lori,
14 L-O-R-I, last name Shellenberger,
15 S-H-E-L-L-N-B-E-R-G-E-R. I'm a voting rights attorney
16 and redistricting consultant with California Common
17 Cause, and personally today I want to congratulate
18 everyone. I spoke to the first eight that -- but to the
19 rest of you, and it's been a pleasure to watch you all so
20 thoughtfully engage in so many interesting discussions
21 over the last few days.

22 Regarding the public comment. The issue seems to
23 have been, and this happened several times today and once
24 yesterday, that there are two separate issues; one, the
25 operator wasn't providing instructions about how to get

1 into the queue. And I know I had tried to get into the
2 queue earlier today and wasn't able to.

3 And the second was that sometimes when you move to
4 public comment, you were doing -- you were pivoting to
5 public comment a little bit quickly and unexpectedly, and
6 there needs to be a little bit of time to call in for
7 those of us who are watching. And there can be a little
8 bit of a hold period with the AT&T operator before they
9 come on. And so if you could do what, I think, the
10 Commission the first day did, is allow a couple -- have a
11 two-minute waiting period where folks have time to, you
12 know, turn off the sound of the -- the sound on their
13 computer and dial in by phone, that would be great.

14 I had one other quick -- I'm calling in, actually,
15 about another procedural issue, and that is, if you are
16 able to give us a little bit more notice about the agenda
17 items and those that where you do have a time certain,
18 the scheduled presentations, there's a lot of interest
19 from the public. And those presentations are learning
20 experiences for them too. And so to the extent you can
21 give folks a heads up about the time for those
22 presentations, it would be very helpful.

23 The second thing is regarding item 16 on your
24 agenda. And you started an initial thoughtful discussion
25 about language access this morning. And I know there are

1 lots of folks with great experience and expertise who
2 would love to weigh in on that conversation. So to the
3 extent you are able to have a time certain for that
4 agenda item next week, I think there are a lot of groups
5 that do a lot of community engagement with folks who
6 don't speak English as a first language, who would be
7 able to submit written and oral public comments that
8 could inform your decision-making about that.

9 Lastly, and this is to echo the -- what others have
10 already said, Common Cause was a coauthor of the -- of
11 the initiative under which you're working. And one of
12 the main goals of that was to remove partisanship from
13 the process. So to the extent you have questions about
14 that, I heard the discussion about competitiveness. I
15 would urge you to -- to direct those questions to
16 Justin Levitt, who will be training you on redistricting
17 criteria next week, and Matt Barreto, who will talk about
18 the Voting Rights Act and how those things intersect and
19 what you are and are not allowed to consider.

20 And that's all I have. If there are no questions,
21 thank you for your service.

22 VICE CHAIR AHMAD: Thank you for your comments.

23 Is there anyone else in the queue?

24 PUBLIC COMMENT MODERATOR: Yes, there is.

25 And as a reminder, ladies and gentlemen, if you'd

1 like to enter the queue, please press 1, then 0 on your
2 telephone keypad. Please also spell your name for the
3 record prior to giving your comment.

4 Next, we turn to the line of Jackie (ph.) Coto.
5 Please go ahead.

6 MS. COTO: Good afternoon, Commissioners. This is
7 Jacqueline Coto, the director of civic engagement policy
8 with NALEO Educational Fund. I think you guys are going
9 to get used to my voice moving forward. But I would like
10 to thank you for taking our comments into great
11 consideration into your decision making. With that said,
12 I'm calling on behalf of NALEO Educational Fund and some
13 of our partners to have -- to highlight that, given the
14 lack of public comment in the process for developing the
15 job descriptions that were discussed earlier, we do hope
16 that you will give for consideration to the public input
17 to the candidates for the current positions. Many of us
18 did not circulate the job openings or the RFPs when they
19 were posted. And now that the full Commission is seated,
20 we hope that you reconsider opening and reissuing the job
21 descriptions with a new deadline, and that'll give us the
22 opportunity to have some time to share it within our
23 networks and have some of the great candidates apply.
24 Thank you so much.

25 VICE CHAIR AHMAD: Thank you.

1 Next person in the queue.

2 PUBLIC COMMENT MODERATOR: And next return to the
3 line of Helen Hutchison. Please go ahead.

4 MS. HUTCHISON: Hi. My name is Helen Hutchison,
5 H-E-L-E-N, Hutchison, H-U-T-C-H-I-S-ON, and I'm with the
6 League of Women Voters of California. I wanted to echo
7 what has previously been said about competitiveness and
8 partisan data. And I will just say that as one of the
9 authors of this measure, we consciously left
10 competitiveness out of the list of criteria you could
11 consider and you should consider. And so you really
12 should not be considering competitiveness in your mapping
13 in any way, shape, or form. So thank you very much, and
14 I look forward to listening some more. Bye-bye.

15 VICE CHAIR AHMAD: Thank you for your comment.

16 Next person in the queue.

17 PUBLIC COMMENT MODERATOR: We have no further
18 questions or comments in queue. However, if you'd like
19 to enter the queue, please press 1, then 0.

20 And Madam Chair, we have no one entering the queue
21 at this time.

22 VICE CHAIR AHMAD: Great. Maybe we can continue the
23 conversation amongst the Commissioners and keep an ear
24 out for additional public comments that may come through.

25 Commissioner Yee?

1 COMMISSIONER YEE: Yes, thank you.

2 I'm wondering, Raul, if you could tell us how long
3 the job postings have been circulated widely.

4 And then while I have the floor, could I ask -- can
5 we instruct Raul to get back to those who have applied
6 just to tell them -- give them an update that the
7 Commission is, you know, formulating its review process,
8 and you'll hear from us shortly. Something -- just so
9 they hear something from us.

10 MR. VILLANUEVA: Okay. So as far as timewise -- I
11 mean, I can get you the exact dates. From my
12 recollection, it was at least six weeks to all those
13 groups, and actually the same thing with the RFP. One
14 thing that I did forget is -- is those postings for the
15 jobs were also made to the State website. And that was
16 of course, to let retired annuitants and current civil
17 staff and exempts be able to look at those too throughout
18 the state. I'd forgotten to mention that one, as far as
19 I said only -- they were only posted on two. It was
20 really three. Okay.

21 COMMISSIONER YEE: The folks who have applied, they
22 have not otherwise heard from us since?

23 MR. VILLANUEVA: No.

24 COMMISSIONER YEE: Okay.

25 MR. VILLANUEVA: It closed the 17th, which is what,

1 a week, eight -- eight working days ago. I mean, I -- I
2 don't -- I don't know who's applied. I haven't even
3 looked at the things. If the Commission wishes, I can
4 certainly do that and send out a notice that we're
5 proceeding and to please be patient.

6 COMMISSIONER YEE: If I were an applicant, I would
7 love to hear that. Any reason not to?

8 MR. VILLANUEVA: No, I just need to hear from the
9 group.

10 VICE CHAIR AHMAD: Before we move on to
11 Commissioner Fornaciari and Fernandez's hands raised, do
12 we have any comment about the current request from
13 anyone? Any feedback?

14 Commissioner Fernandez?

15 COMMISSIONER FERNANDEZ: I'm sorry. On what
16 preliminary questions, sending the letters out?

17 VICE CHAIR AHMAD: Yes, to send -- yeah. From my
18 understanding, Commissioner Yee is recommending that we
19 send out some type of communication to the applicants,
20 just letting them know that we are currently figuring out
21 our review process.

22 COMMISSIONER FERNANDEZ: Okay. Although that's a
23 great idea, the -- the filing date is barely finished, so
24 with -- if it had been, like, a month later, I would
25 definitely want something to be sent to them indicating

1 that we received it, were working through the process.
2 But I would recommend that, you know, we vote on whenever
3 the motion is and then depending on that and if we
4 find -- if we deem it to be appropriate, and we're moving
5 forward, then at that point it would be appropriate to
6 send them something.

7 But normally I'm just used to finding applications
8 in the State system, and you don't hear for months. And
9 I don't want that to happen. But seeing that it just
10 closed on the 17th, it really hasn't been that long. But
11 I think that we do need -- definitely need to let them
12 know at some point in time; we need to close that loop.

13 VICE CHAIR AHMAD: Commissioner Fornaciari and then
14 Le Mons.

15 COMMISSIONER FORNACIARI: Oh, I thought Le Mons
16 wanted to comment on Commissioner Yee -- Commissioner
17 Yee's comment. Is that --

18 COMMISSIONER LE MONS: Yeah, I just -- I wanted to
19 echo Commissioner Fernandez. I think because we're have
20 a motion on the floor to put a process in place, there's
21 going to be some results from that process that are
22 probably worth communicating. So I think to direct staff
23 to communicate now is a little premature. We will have
24 something, I think, a little bit more substantive to
25 communicate in the coming -- next week sometime. So

1 I -- I respect that communication as well. And I think
2 it's important not to keep people hanging. I think it's
3 also important to, especially if we're in the middle of a
4 process is to -- I'd rather get some good clarity than,
5 we are working on it, first point. But anyway, that's
6 what I wanted to say about that.

7 VICE CHAIR AHMAD: Commissioner Fornaciari? No?
8 You're good? Okay.

9 Do we have any additional public comments in the
10 queue?

11 PUBLIC COMMENT MODERATOR: If you would like to
12 enter the queue for comment, please press 1, then 0.

13 And allowing some time for folks to queue up, Madam
14 Chair, we have no one entering the queue at this time.

15 VICE CHAIR AHMAD: All right. Given the time, it's
16 4:20, we do have a motion on the floor and a second. At
17 this time, can we call roll for votes?

18 MS. JOHNSTON: Commissioner Ahmad?

19 VICE CHAIR AHMAD: Yes.

20 MS. JOHNSTON: Commissioner Akutagawa?

21 COMMISSIONER AKUTAGAWA: Yes.

22 MS. JOHNSTON: Commissioner Andersen?

23 COMMISSIONER ANDERSEN: Yes.

24 MS. JOHNSTON: Commissioner Fernandez?

25 COMMISSIONER FERNANDEZ: Yes.

1 MS. JOHNSTON: Commissioner Fornaciari?

2 COMMISSIONER FORNACIARI: Yes.

3 MS. JOHNSTON: Commissioner Kennedy?

4 COMMISSIONER KENNEDY: Present.

5 MS. JOHNSTON: I'm sorry?

6 COMMISSIONER KENNEDY: Present.

7 MS. JOHNSTON: Commissioner Le Mons?

8 COMMISSIONER LE MONS: Yes.

9 MS. JOHNSTON: Commissioner Sadhwani?

10 COMMISSIONER SADHWANI: Yes.

11 MS. JOHNSTON: Commissioners Sinay?

12 COMMISSIONER SINAY: Yes.

13 MS. JOHNSTON: Commissioner Taylor.

14 COMMISSIONER TAYLOR: Yes.

15 MS. JOHNSTON: Commissioner Toledo?

16 COMMISSIONER TOLEDO: Yes.

17 MS. JOHNSTON: Commissioner Turner is not present

18 yet.

19 Commissioner Vazquez?

20 COMMISSIONER VAZQUEZ: Yes.

21 MS. JOHNSTON: Commissioner Yee?

22 COMMISSIONER YEE: Yes.

23 MS. JOHNSTON: The motion passes.

24 VICE CHAIR AHMAD: So next step would be turning to
25 subcommittees. So I have three groups, three

1 subcommittees; one for the executive director, one for
2 counsel, and one for the communications director. Do we
3 have any volunteers?

4 Commissioner Taylor, do you have a specific
5 preference for which group?

6 COMMISSIONER TAYLOR: I do not. I'll serve on any
7 group. If we have six people that want to do it, great.
8 If not, great. But I'm willing to serve any way.

9 VICE CHAIR AHMAD: Okay.

10 Do we have anyone who has a strong preference for a
11 specific group?

12 Commissioner Kennedy?

13 COMMISSIONER KENNEDY: Executive director.

14 VICE CHAIR AHMAD: So we have Commissioner Kennedy
15 for executive director. So someone who is not a Democrat
16 for executive director pool.

17 Commissioner Fernandez? For executive director?

18 COMMISSIONER FERNANDEZ: Yes, for executive director
19 as well.

20 VICE CHAIR AHMAD: All right. How about the two
21 commissioners for the subcommittee for counsel?

22 Commissioner Andersen?

23 COMMISSIONER ANDERSEN: Yes, I would do that.

24 VICE CHAIR AHMAD: And then I saw your hand up,
25 Commissioner Toledo. Wow. That's three subcommittees.

1 All right. For the communications director?

2 Commissioner Vazquez?

3 COMMISSIONER TAYLOR: And I guess I'll tackle that
4 with Commissioner Vazquez.

5 MS. JOHNSTON: Who is that?

6 VICE CHAIR AHMAD: Is that okay, Commissioner
7 Akutagawa?

8 COMMISSIONER AKUTAGAWA: That is totally fine.

9 VICE CHAIR AHMAD: All right.

10 MS. JOHNSTON: I'm sorry. Who's the second -- who's
11 the second one?

12 MR. VILLANUEVA: Commissioner Taylor.

13 VICE CHAIR AHMAD: So I can repeat the subcommittees
14 again, just so everyone's clear. For the executive
15 director subcommittee applicant review -- initial
16 applicant review is Commissioner Kennedy and
17 Commissioner Fernandez. For the counsel -- general
18 counsel subcommittee applicant review is
19 Commissioner Anderson and Commissioner Toledo. And for
20 the communications director subcommittee applicant review
21 is Commissioner Vazquez and Commissioner Taylor.

22 Are we are all in agreement? Okay.

23 Commissioner Sadhwani, I saw your hand up.

24 COMMISSIONER SADHWANI: Yeah, this is -- I am
25 totally in agreement, support all of the -- the

1 subcommittees. I think you all did a great job. And I
2 just had one thought, like, I don't know, at one of our
3 breaks that I just wanted to throw it out there. You
4 don't have to -- no one has to respond now. You can
5 think about it later. Yeah. Commissioner Yee is ready
6 to -- ready to grab it. For communications director, I
7 know that we are thinking about this as one person, and
8 potentially one or two staff members to support that
9 person. Random thought, like, there are communication
10 firms that could be hired, who actually know, like, all
11 of the things that we've talked about, about reaching out
12 to the community that could have capacities in various
13 languages, who are totally at the cutting edge of social
14 media and all of websites, et cetera.

15 So we don't need to discuss it now, but I'm just
16 throwing that out there, that if we don't see in that
17 pool, like, really top-notch folks, that that might be
18 another option we could consider, is just kind of
19 thinking outside of the box and --

20 VICE CHAIR AHMAD: Commissioner Sinay and then
21 Vazquez. And then Fernandez.

22 COMMISSIONER SINAY: Thank you, Madam Chair.

23 I was kind of thinking about this as well. And one
24 of the things that we need to point out -- we could put
25 on our agenda for the future, is this idea that there was

1 over two million dollars last time for outreach, and that
2 was private, you know, it was -- it was for profit
3 dollars that went straight out to the nonprofit
4 community. And we really need to understand what the
5 nonprofit community did for outreach, because now that's
6 all falling on us. And so you know, yeah, so
7 that -- that's just an agenda item for later. But just
8 to keep that in mind that we're -- the whole outreach
9 piece is very different. And it's also very different
10 because of COVID. And so it needs to be someone who
11 thinks differently. Because, yes, I agree with
12 Commissioner Turner that this is going to end at some
13 point, but we don't know when it's going to end. And so
14 we need to figure out creative ways of engagement. And
15 also in-person engagement isn't viable for everybody.

16 VICE CHAIR AHMAD: Commissioner Vazquez and then
17 Fernandez.

18 COMMISSIONER VAZQUEZ: Thank you for -- everyone for
19 their input on the communications director. I do feel
20 with comments today and our discussions prior, I feel
21 like I have a good sense of what folks want to see, and
22 with that lens will be evaluating the applications along
23 with Commissioner Taylor. I did -- I'm not sure I
24 heard -- I guess I want to make sure that other
25 folks -- I know we're pushing up on time -- had their

1 wishes, or you know, priorities communicated to the other
2 subcommittees, especially since I imagine the review will
3 happen in the coming days over the weekend.

4 So I did just want to say for myself, I -- I would
5 like the executive director applications in this initial
6 review by the committee to look for community engagement,
7 grassroots experience in executive director, multiethnic
8 organization, because for me, I would really like someone
9 with experience, some level of experience leading
10 grassroots movements, ideally.

11 VICE CHAIR AHMAD: Commissioner Fernandez?

12 COMMISSIONER FERNANDEZ: Well, this is just a
13 procedural so I don't forget later when we talk about the
14 meeting. One of the Commissioners asked about the closed
15 sessions. And I believe normally whenever you have a
16 closed session, you should always have an open session
17 also, so that you can publicly report what happened.
18 Because in -- two weeks, let's say we do interview, and
19 in two weeks we do --

20 VICE CHAIR AHMAD: Is she frozen? Is she frozen for
21 everyone?

22 MS. JOHNSTON: Yeah.

23 COMMISSIONER YEE: She went to closed session.

24 MS. JOHNSTON: Technically --

25 COMMISSIONER YEE: Yeah, you're back.

1 VICE CHAIR AHMAD: You froze a little bit, but
2 you're back.

3 MS. JOHNSTON: Technically you can report it at the
4 next meeting. But I agree that in this case, it may be
5 advisable to schedule it with an open meeting, so that
6 you can report it at the same time.

7 COMMISSIONER FERNANDEZ: Right. So you can report
8 it and then also then continue on and to actually kind of
9 hire them and all that instead of having to stall for --

10 MR. VILLANUEVA: Right.

11 COMMISSIONER FERNANDEZ: So just for, like --

12 MR. VILLANUEVA: Part of the agenda.

13 COMMISSIONER FERNANDEZ: -- don't forget when we
14 talk about meetings, (audio interference) closed and go
15 ahead and do open. It's not going to hurt anything.
16 Just --

17 MS. JOHNSTON: I -- I did not cover that in my
18 section on Begley-Keane, but there are whole bunch of
19 occasions when closed sessions are possible. But for
20 this Commission, probably personnel matters and
21 litigation will be the only ones you can expect to come
22 up.

23 VICE CHAIR AHMAD: All right. We are at one minute
24 away. So Counsel, I think it would be helpful if, in
25 thirty seconds, you can review what the legal parameters

1 are in terms of communication with the subcommittees and
2 yourself and the rest of the Commission for all of the
3 subcommittees that we've created.

4 MS. JOHNSTON: The subcommittees can only discuss
5 between the two people involved. Staff can be involved
6 as you wish. There's no limitation on staff involvement,
7 but it cannot be more than two Commissioners.

8 VICE CHAIR AHMAD: Okay. Thanks.

9 MR. VILLANUEVA: Can the Commissioners provide input
10 into the group? For those who haven't had a chance to
11 give their wishes --

12 MS. JOHNSTON: Sure.

13 MR. VILLANUEVA: -- they can shoot them an email, as
14 long as there's no back and forth?

15 MS. JOHNSTON: No, because you could come up with a
16 consensus that way.

17 MR. VILLANUEVA: That's what I mean. As long as
18 there's no back and forth, they can still provide that
19 information.

20 MS. JOHNSTON: No, because if you have strong
21 wishes -- you should state them now.

22 MR. VILLANUEVA: Very good. They have twenty
23 seconds.

24 VICE CHAIR AHMAD: Commissioner Andersen has a
25 question.

1 COMMISSIONER ANDERSEN: No, I have a -- I have a
2 statement to say, a strong wish, because some of the
3 people in the public comments that called in are saying,
4 look, no, you can't consider partisanship, I think that's
5 very important. We don't want to be partisan. I would
6 like to have in all of the positions, political savvy. I
7 don't know how you would say that, all -- the executive
8 director, the counsel, and communications director, need
9 to be aware. Do not let us get pushed around. That's
10 the easiest, you know, way to say that to -- when someone
11 who is talking to us might not be genuous (sic) or by
12 doing by something -- basically, we have to have the
13 wherewithal to catch us who are just being
14 well-intentioned but could stumble blindly into doing
15 something really political. So that criteria, I think,
16 needs to be considered in all three positions. And I
17 really would like that. I don't know how --

18 MR. VILLANUEVA: That's where I think --

19 COMMISSIONER ANDERSEN: -- we put it, but --

20 MR. VILLANUEVA: Yes. Sorry. It is there. That's
21 where I think I can be helpful to you in letting you know
22 what those statements mean. But it's also there in terms
23 of them -- of you having them meet the criteria, in terms
24 of demonstrating no conflict of interest.

25 She froze.

1 COMMISSIONER ANDERSEN: Sorry. It wasn't just no
2 conflict of interest, but actually awareness --

3 MR. VILLANUEVA: Yes.

4 COMMISSIONER ANDERSEN: -- of what could be going on
5 around them to know that --

6 MR. VILLANUEVA: Yes. I was adding that as an
7 addition, yes.

8 VICE CHAIR AHMAD: Commissioner Akutagawa, you had
9 your hand up. And we'll close after you.

10 COMMISSIONER AKUTAGAWA: So just for clarification,
11 I -- did hear very clearly the folks that called in on
12 public comment and just also saying that they had
13 hesitated to share and distribute the job descriptions or
14 the job postings, the recruitment, much more widely. If
15 for whatever reason, there are possibilities that, you
16 know, there are more people that would like to apply, is
17 it too late at this point right now? Are we going to go
18 forward with the pool that we have? Are we going to take
19 into consideration, even with, let's say, some viable
20 candidates, given what was asked of us, do we want to
21 take into consideration what was said, in terms of
22 allowing more time for people to apply and for other, you
23 know, diverse groups to be able to submit or to encourage
24 more diverse candidates potentially?

25 I'm just assuming -- I making an assumption here,

1 but -- but diverse, meaning anybody who perhaps had
2 hesitated until we were all seated, and they were
3 confident would serve the jobs recruitment information as
4 it as it is going to stand.

5 MS. JOHNSTON: That would be contrary to the vote
6 that you took a few minutes ago. You could vote again if
7 you wish to extend the time limits, but then you wouldn't
8 be reviewing applicants in the meantime.

9 COMMISSIONER AKUTAGAWA: Yeah. And I think that's
10 what I wanted to ask. Even though we're going to review,
11 is the process completely closed to anybody who's going
12 to try to, let's say, submit anything in the next couple
13 of days?

14 MR. VILLANUEVA: Correct.

15 MS. JOHNSTON: Yes, unless you decide to reopen the
16 applications.

17 COMMISSIONER AKUTAGAWA: I would be okay.

18 MR. VILLANUEVA: In which -- in which case you stop
19 the subcommittee process and --

20 COMMISSIONER AKUTAGAWA: I see. Okay.

21 MR. VILLANUEVA: -- wait for that recruitment to
22 finish.

23 VICE CHAIR AHMAD: And I said she was the last one,
24 but I can't help it.

25 Commissioner Le Mons, you had your hand up and then

1 Sadhwani.

2 COMMISSIONER LE MONS: I'm going to pass.

3 VICE CHAIR AHMAD: Commissioner Sadhwani?

4 COMMISSIONER SADHWANI: Just on this point of
5 diversity, I don't know what can or cannot be released
6 about the candidates. But one thing -- one just data
7 point that I would find very helpful about the pools of
8 candidates and understanding to the extent in which we
9 did actually get a diverse -- diverse pool is if the
10 subcommittees could simply report back on, for example,
11 the number of women versus men or nonbinary folks who
12 might be in the pool, if we can -- I don't think we can
13 identify race, though, can we? Right. Because on a job
14 application, you can't do that.

15 MR. VILLANUEVA: There -- there are restrictions
16 in --

17 MS. JOHNSTON: You can't do sex either.

18 COMMISSIONER SADHWANI: Yeah, right. Right. And
19 the -- yeah.

20 MR. VILLANUEVA: Yeah. No, there's some issues with
21 that.

22 COMMISSIONER SADHWANI: Yeah, so --

23 MR. VILLANUEVA: After -- maybe after the fact.

24 COMMISSIONER SADHWANI: Yeah, so (indiscernible).

25 MR. VILLANUEVA: Maybe after the fact. And there's

1 a hiring been made --

2 COMMISSIONER SADHWANI: Yeah.

3 MR. VILLANUEVA: -- maybe in a -- in a --

4 VICE CHAIR AHMAD: I think perhaps we should stick
5 with Raul's recommendation, which is, yes, there are
6 viable candidates and no, there are no viable candidates.
7 Yeah?

8 All right. It is 4:35 --

9 MS. JOHNSTON: Public comment?

10 VICE CHAIR AHMAD: It's Friday. We live in
11 California. We have access to the beach --

12 MS. JOHNSTON: Public comment.

13 MR. VILLANUEVA: They have to take a break if
14 they're going --

15 VICE CHAIR AHMAD: -- the snow, everything, please
16 enjoy your weekend. Stay safe. And we will be in recess
17 until September 1st, Tuesday at 9:30 a.m.

18 (Whereupon, the CRC Business Meeting 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.

July 20, 2022

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