

STATE OF CALIFORNIA
CITIZENS REDISTRICTING COMMISSION (CRC)

In the matter of:
CRC BUSINESS MEETING

WEDNESDAY, SEPTEMBER 2, 2020

9:30 a.m.

Transcription by:
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APPEARANCES

COMMISSIONERS

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

STAFF

Marian Johnston, Interim CRC Staff Counsel
Raul Villanueva, Interim Administrator

TECHNICAL CONTRACTORS

Kristian Manoff, AV Technical Director/Comment Moderator

PRESENTERS

Karin MacDonald, Director of Statewide Database
Matt Barreto, Prof. Political Science and Chicana/o
Studies, UCLA

Also Present

PUBLIC COMMENT

Gabi Morales
Rosalind Gold, NALEO



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P R O C E E D I N G S

September 2, 2020

9:30 a.m.

CHAIR TURNER: Good morning. Thank you so much for joining the California Redistricting Committee, our public meeting. And we'll begin our day with roll call again, please.

MS. JOHNSTON: Thank you. Commissioner Ahmad.

VICE-CHAIR AHMAD: Here.

MS. JOHNSTON: Commissioner Akutagawa. Commissioner Akutagawa. I thought I saw her. She -- do you have your mute on, Commissioner?

CHAIR TURNER: She may have stepped away for a moment.

MS. JOHNSTON: I'll come back to her. Commissioner Andersen.

COMMISSIONER ANDERSEN: Here.

MS. JOHNSTON: Commissioner Fernandez. Commissioner Fornaciari.

COMMISSIONER FORNACIARI: Here.

MS. JOHNSTON: Commissioner Kennedy.

COMMISSIONER KENNEDY: Here.

MS. JOHNSTON: Commissioner Le Mons.

COMMISSIONER LE MONS: Here.

MS. JOHNSTON: Commissioner Sadhwani.

COMMISSIONER SADHWANI: Present.



1 MS. JOHNSTON: Commissioner Sinay.

2 COMMISSIONER SINAY: Here.

3 MS. JOHNSTON: Commissioner Taylor.

4 COMMISSIONER TAYLOR: Present.

5 MS. JOHNSTON: Commissioner Toledo. Commissioner
6 Turner.

7 CHAIR TURNER: Here.

8 MS. JOHNSTON: Commissioner Vazquez. Commissioner
9 Vazquez.

10 Kristian, can you help her with her communication?

11 COMMISSIONER SADHWANI: I also am having severe Zoom
12 issues today. I actually couldn't log in through the CRC
13 laptop. I don't know if anyone else is experiencing
14 difficulties.

15 COMMISSIONER VAZQUEZ: Yeah, major issues on my end.

16 MS. JOHNSTON: All right. Well, I have Commissioner
17 Vazquez now. And I see -- I saw I thought -- yes. Okay.

18 CHAIR TURNER: Commissioner Toledo seems like he's
19 on

20 MS. JOHNSTON: Toledo is on, and Commissioner
21 Fernandez is on. I think that's everyone.

22 COMMISSIONER FORNACIARI: Commissioner Akutagawa
23 just sent an email saying she's having problems with
24 Zoom.

25 MR. MANOFF: Okay. She can call the tech support

1 number. And for the other Commissioners also, please
2 keep the Zoom teleconference info close in case you get
3 disconnected.

4 MS. JOHNSTON: Kristian, can they call at our phone
5 line and just participate in the conversation with that?

6 MR. MANOFF: We actually have a separate
7 teleconference for them that's just for the Zoom. So
8 they can call in directly that way as, you know,
9 Commissioners at any time.

10 MS. JOHNSTON: Would --

11 MR. MANOFF: That's what Justin did yesterday.

12 MS. JOHNSTON: Would you send her an email and tell
13 her about that?

14 MR. MANOFF: Yeah. That's in the -- yes, we'll take
15 care of that.

16 MS. JOHNSTON: Thank you.

17 CHAIR TURNER: Okay. Thank you. Let the records
18 reflect that we do have a quorum to begin.

19 And this morning we are going to start with public
20 comment. Our counsel has a reminder for us in regards to
21 Bagley-Keene. And then we will go into our -- continue
22 with our agenda item number 20.

23 Commissioners, if that obviously works for you,
24 that'll be our plan to start the morning? Okay.

25 COMMISSIONER YEE: Okay. I'm here too by the way.

1 CHAIR TURNER: Oh, yep. Thank you.

2 COMMISSIONER YEE: Sorry, I just got here.

3 CHAIR TURNER: Thank you so much. So can we please
4 have the instructions read for dialing in please?

5 And then, Ryan, after the instructions, we'll go
6 ahead with who's on call. But we'll hear the
7 instructions first please.

8 INTERIM ADMINISTRATOR VILLANUEVA: Good morning.
9 These are the instructions for making public comments by
10 phone. In order to maximize transparency and public
11 participation in our process, the Commissioners will be
12 taking public comment during their meeting by phone.
13 There will be opportunities to address the Commissioners
14 regarding the items on the agenda and the process in
15 general.

16 In addition, for each agenda item that requires a
17 vote, the public may provide comment on that particular
18 item. Each time that the Commissioners bring up an
19 action item, the viewing audience will be informed that
20 it is time to call in if they wish to make a public
21 comment. The Commissioners will then allow at least
22 three minutes for those who wish to comment to join the
23 public comment queue.

24 To make a public comment, please dial 877-226-8163.
25 After dialing the number, you will speak to an operator.



1 You will be asked to provide either the access code for
2 the meeting, which is 5185236 -- that's 5185236 -- or the
3 name of the meeting, which is the Citizens' Redistricting
4 Commission First Commission Meeting.

5 After providing this information, the operator will
6 ask you to provide your name. Please note, you are not
7 required to provide your actual name if you do not wish
8 to. You may provide either your own name or a name other
9 than your own. When it is your turn to make a public
10 comment, the moderator will introduce you by the name you
11 provided to the operator. So providing a name helps ATT,
12 which is hosting this public comment process, to ensure
13 that everyone holding for public comment has a chance to
14 submit their comments.

15 Please be assured that the Commission is not
16 maintaining any list of callers by name and it is only
17 asking for some names so that the call moderator can
18 manage multiple calls simultaneously and can let you know
19 when it's your turn to speak.

20 So after providing a name and speaking with the
21 operator, you will be placed in a listening queue, which
22 is a virtual waiting room where you will wait until it is
23 your turn to speak. You will be able to listen to the
24 live audio of the meeting. So please remember to mute
25 your computer live stream audio because the online video



1 and audio will be approximately sixty seconds behind the
2 live audio that you are hearing on your telephone.

3 If you fail to mute your computer or live stream
4 audio, it will be extremely difficult for you to follow
5 the meeting and difficult for anyone to hear your comment
6 due to feedback that will occur. Therefore, once you are
7 waiting in the queue, be alert for when you may be called
8 upon to speak and please turn down the livestream volume.

9 For listening room -- excuse me -- listen to the
10 meeting and the call moderator. When you decide that you
11 want to make a comment about the agenda item currently
12 being discussed, press 1-0. That's 1-0. And you will be
13 placed in the queue to make a public comment.

14 When joining the queue to make a public comment, you
15 should hear an automatic recording informing you that you
16 have been placed in the queue. You will not receive any
17 further instruction until the moderator brings you in to
18 make your public comment.

19 The moderator will open your line and introduce you
20 by the name that you provided to the operator. Once
21 again, make sure that you have muted any background noise
22 from your computer. Please do not use the speakerphone,
23 but rather speak directly into your phone.

24 After the moderator introduces you, please state the
25 name you provided to the operator, and then state your



1 comment clearly and concisely. After you finish making
2 your comment, the Commissioners will move on to the next
3 caller and you may hang up the call.

4 If you would like to comment on another agenda item
5 at a later time, please call back when the Commissioners
6 open up public comment for that item and you can repeat
7 this process. If you are disconnected for any reason,
8 please call back and explain the issue to the operator.
9 Then repeat this process and rejoin the public comment
10 queue by pressing 1-0.

11 The Commissioners will take comment for every action
12 item on the agenda. As you listen to the online video
13 stream, public comments will be solicited. And now that
14 is the time to call in. The process for making a comment
15 will be the same each time. Begin by dialing 877-226-
16 8163 and following the steps that I have provided to you.
17 These steps are also included on the website and there's
18 several links there for you to access this information.
19 Thank you.

20 CHAIR TURNER: Thank you, Raul. We appreciate it.

21 Ryan, thank you, we will -- I would like for you
22 please to check to see if we have anyone waiting in queue
23 for public comment.

24 AT&T OPERATOR: And as a reminder, if you do want to
25 make a public comment, please press 1, then 0. 1-0. And



1 currently, we do not have anyone in queue for public
2 comment.

3 CHAIR TURNER: Okay. And since it was announced and
4 we waited through the reading, we'll go ahead and move
5 forward with our meeting at this time.

6 Marian, we're in your hands.

7 MS. JOHNSTON: Thank you. Just some questions have
8 come up about open meeting requirements, and I wanted to
9 just go over the basic rules again to make sure everyone
10 had them in mind.

11 The first is just you have your own special statute
12 about not receiving redistricting information outside of
13 a public meeting. And as we discussed earlier, that does
14 not include information generally available to the
15 public: newspaper articles, telephone -- television,
16 radio announcements, podcasts. But it would include
17 anything that's not generally available to the public,
18 should be coming in through the public meeting.

19 Secondly, you need to be wary of serial meetings,
20 which is when one person either contacts all the
21 Commissioners or contacts at least a quorum of the
22 Commissioners, because that presents a problem under
23 Bagley-Keene.

24 And finally, just a word about advisory committees,
25 Bagley-Keene does exempt from the open meeting

1 requirement an advisory committee, so long as it does not
2 consist of more than two Commissioners. You can meet
3 with each other, you can meet with staff. Staff don't
4 count as people for purposes of Bagley-Keene. And I
5 encourage you to contact your -- if you're on a
6 committee, contact your COAT committee person and set up
7 whatever arrangements you'd like and let Raul or me know
8 if you'd like to include us in your conversations.

9 Any questions? Yes. Commissioner Sinay.

10 COMMISSIONER SINAY: Sorry. I was trying to find
11 the unmute button.

12 I know that we're going to go over the 700 and that
13 there's a lot of our conflict of interest regarding
14 financial. But at what point are we -- do we share any
15 conflict of interest we may have personally. I guess my
16 main concern is, for instance, my State Legislature, her
17 kids and my kids have been going to the same school since
18 kindergarten. You know, I mean, San Diego is a big city
19 with a small town feel. So how do we -- you know, a lot
20 of our state legislators came from community, and so I've
21 worked with them my whole time in San Diego.

22 Do we just say it to you, or even people who call
23 in, you know, in the application process, I would -- I
24 did get coaching and stuff from some of them. Do I share
25 it with you? That's -- I just -- that personal piece,



1 I've been wondering.

2 MS. JOHNSTON: Well, we can -- we can discuss --

3 CHAIR TURNER: Commissioner --

4 MS. JOHNSTON: I'm sorry, go ahead.

5 CHAIR TURNER: I was just going to say, can we
6 please hold that until we have the discussion for
7 conflict of interest?

8 MS. JOHNSTON: Or you can call me outside of the
9 public meeting.

10 COMMISSIONER SINAY: Thank you.

11 CHAIR TURNER: Counsel, were you complete?

12 MS. JOHNSTON: Yes. Thank you. If there are no
13 other questions.

14 CHAIR TURNER: Okay. Thank you. At this time --
15 let's see. Is Ms. Mac Donald on? Nope, I don't see Ms.
16 Mac Donald on just yet.

17 INTERIM ADMINISTRATOR VILLANUEVA: That would assist
18 there.

19 CHAIR TURNER: Okay. So then what we can do is to
20 move please to item number 9.

21 Commissioners Toledo and Sadhwani, there was
22 feedback that you had for us, or an update, on something
23 that you're working on in regards to the census delay.

24 COMMISSIONER SADHWANI: Sure. Yes. We actually
25 just met this morning. We are putting some final

1 touches. We have a draft letter that we'd like to share
2 with you. But we want to make a couple of final changes
3 to it.

4 Also if the Commissioners have any -- want to give
5 any input, one of the things that we're thinking about at
6 present, we are -- we have a letter drafted to the
7 directors of both the Secretary of State and the director
8 of the U.S. Census Bureau regarding specifically given
9 their role in managing the census.

10 However, there's also Legislation going through both
11 the House and the Senate. So we -- our next step is
12 actually to finalize letters to supporting legislation in
13 the House, in the Senate, as well as potentially a letter
14 to the Senate Majority Leader Mitch McConnell calling for
15 the Senate bill to actually be brought to the floor,
16 where I think one of the concerns that we have is while
17 California's Senator Kamala Harris is the one sponsoring
18 that bill and we certainly will send a letter of support
19 to her, it doesn't necessarily do a lot of good unless
20 that bill actually comes to the floor.

21 So you know, if Commissioners have any feedback for
22 us, that will kind of inform, you know, the final draft
23 that we can put together for you. And we will have that
24 for you tomorrow. And I don't know if Commissioner
25 Toledo has anything he'd like to say.



1 COMMISSIONER TOLEDO: No, sorry, I -- so we started
2 off with -- so and we do have a memo that just kind of
3 outlines all of this. And really for the Commission, we
4 want to bring forward the letter to the Census Bureau and
5 to the Department of Commerce and -- as well as draft
6 letters for advocacy that could be used, whether sending
7 it to Legislative leaders or to the press or others. So
8 depending on how -- what we want to do, right. So
9 depending on what the Commission -- we want to be able to
10 give options to the full Commission on where and how to
11 move forward and how much advocacy we want to do.

12 CHAIR TURNER: Okay. Commissioner Sinay.

13 COMMISSIONER SINAY: Thank you. I just read in our
14 local paper today that in San Diego, they're actually
15 stopping knocking on doors and stuff on September 18th.
16 So it's kind of like the post office where you start
17 dismantling things ahead of time. So it just added a
18 sense of urgency for me this morning when I read that and
19 they don't know what other cities they have also given
20 that -- or what other counties that have given that order
21 to.

22 CHAIR TURNER: I saw Commissioner Kennedy light up.
23 I thought you're getting ready. I was waiting on you.

24 Okay. So with that, Commissioners Toledo and
25 Sadhwani, if you have --

1 COMMISSIONER VAZQUEZ: Madam Chair?

2 CHAIR TURNER: Yes.

3 COMMISSIONER VAZQUEZ: Sorry. Commissioner Vazquez.

4 CHAIR TURNER: Yes, please.

5 COMMISSIONER VAZQUEZ: This is definitely a
6 discussion for later, and I'll bring it up again when
7 we're talking about future agenda items. But on this
8 topic, I would -- I personally would like to have a
9 revisiting of the conversation about potentially joining
10 litigation, especially once we bring on our counsel.

11 Yesterday's conversations particularly around the
12 data and the fundamental need we have as a Commission to
13 have really good census data, given we do not have -- we
14 really don't have another option for data. And that
15 using other data as a foundation outside of the census
16 invites our -- the advice was, maybe not official legal
17 advice, was that we would really be opening ourselves up
18 to litigation almost certainly for not using census data.

19 So for me, also the conversation yesterday I think
20 put a finer point on, you know, politics versus
21 partisanship. And I don't know, I just would like to
22 have a fuller discussion because I think when we had sort
23 of moved past that under the idea that -- under the
24 assumption I think which -- I think requires
25 interrogation that those who have already initiated

1 litigation would control the message that they -- they
2 control the message. I would push back on that
3 assumption.

4 But we -- if we joined litigation, we become the
5 "they". And in fact, they might not want us to join
6 considering we may be more conservative and safe. But
7 you know, they might not want our partnership. But I
8 just -- I would like to push back on some of the
9 assumptions that were floated as a reason to not discuss
10 joining further.

11 And especially with the information we got
12 yesterday, so.

13 CHAIR TURNER: Thank you. And I think we'll have a
14 chance too to discuss it when Commissioner Sadhwani and
15 Toledo come back with their letter, and I think they're
16 inviting all of the Commissioners to send any other
17 thoughts, comments, et cetera that you have at this time.
18 And then they'll present -- they said it's still in draft
19 form -- kind of a letter. And then we'll kind of decide
20 where we're going to go with it from there and make an
21 amicus brief or litigation. So I think we'll have a full
22 discussion at that time too.

23 MS. JOHNSTON: Just one comment. The other
24 suggestions from other Commissioners should come up
25 during the public meeting when it's discussed.

1 CHAIR TURNER: Thank you. Commissioner Toledo.

2 COMMISSIONER TOLEDO: So once we're done with our
3 letters, should we send them to Raul for public posting
4 or --

5 MS. JOHNSTON: Right. And any item that you discuss
6 at a meeting becomes a public record, so it will be
7 public once you discuss it.

8 COMMISSIONER TOLEDO: All right. Thank you.

9 CHAIR TURNER: Okay. Commissioner Sadhwani.

10 COMMISSIONER SADHWANI: Chair, just -- you know,
11 just to be responsive to Commissioner Vazquez, I hear you
12 on that. And I think that in order to fully have that
13 discussion, we might need a little more information
14 from -- I believe that the litigation is headed by the
15 National Urban League as well as others -- other
16 defendants. And then there's another one I believe that
17 MALDEF has begun.

18 I feel like we need additional information from
19 them. But at the same time, given our, like, Bagley-
20 Keene rules and such, I don't know what the best way is
21 to get that information. So I am happy to call on folks
22 and get that information, but I think that that might be
23 in violation of Bagley-Keene. I think if we even tried
24 to invite them to speak to us, then we need a fourteen-
25 day turnaround time for our agenda.

1 So I kind of feel a little handcuffed here to even
2 be responsive to the request, because I hear you and I
3 think it's something that, you know, we could discuss
4 whether or not we want to explore it in general. But how
5 we go about exploring it given sort of the rules that
6 we're under is not entirely clear to me.

7 It's one thing if they choose to call in during
8 public comment, but I don't -- it doesn't seem like we
9 can request them to be added to the agenda in any way.
10 So I'm just not sure, you know, and I don't know if
11 counsel has thoughts on this.

12 How can we even do exploratory -- get exploratory
13 sort of information on something like this in a -- with a
14 quick turnaround?

15 MS. JOHNSTON: You could certainly call them and ask
16 for information that you would then present to the
17 Commission. It could be fairly fast turnaround depending
18 on what you all decide about interviewing applicants. A
19 meeting to interview applicants could be combined with
20 meeting with people who are already in litigation or if
21 you wanted to consider your own litigation.

22 So it could be done by the middle of September.

23 CHAIR TURNER: Did that help with direction,
24 Commissioner Sadhwani?

25 COMMISSIONER SADHWANI: Yes, in terms of process,

1 and then I think then the question is does the Commission
2 want Commissioner Toledo and I to reach out and actually
3 gather some information from these organizations.

4 CHAIR TURNER: Commissioner Le Mons.

5 COMMISSIONER LE MONS: Can we table this discussion
6 till we get to it?

7 CHAIR TURNER: So on the agenda item, they were to
8 bring us information, but the question is what do they
9 need to bring it to us, so.

10 COMMISSIONER LE MONS: I mean, you just said a few
11 moments ago that they were going to -- they were putting
12 some final touches. They weren't prepared to --

13 CHAIR TURNER: Oh, I see what you're saying.

14 COMMISSIONER LE MONS: And I don't mean it like,
15 not -- just meaning they weren't ready yet. They were
16 coming back to bring it and so when they come back and
17 bring it, we can have a discussion about all of this.

18 CHAIR TURNER: I hear you.

19 COMMISSIONER LE MONS: I'm just asking can we
20 reserve this discussion for that point?

21 CHAIR TURNER: I hear you.

22 COMMISSIONER LE MONS: That's all.

23 CHAIR TURNER: I got it now. Thank you.

24 Commissioner Ahmad.

25 VICE-CHAIR AHMAD: Just quickly before our guest

1 speaker comes on. I would find it helpful if we can just
2 briefly go through the agenda for today and tomorrow,
3 which items we expect to cover -- or hope to cover today,
4 and which items will carry over to tomorrow.

5 I just looked at the whole thing, and we are only --
6 agenda's until Friday. So we have to complete all of the
7 items by Friday.

8 CHAIR TURNER: Thank you. Today we will go through
9 the complete the presentation from Ms. Mac Donald. The
10 hope was to be able to cover also agenda items -- like I
11 said, agenda items 17, which is Commissioner Yee's
12 bringing back, agenda items 13 --

13 COMMISSIONER YEE: That's item 7. Not 17.

14 CHAIR TURNER: Item 7. Item 7. Agenda item 13
15 which is conflict of interest from our counsel Marian,
16 agenda item 14 which would be the subcommittee reports.
17 If we can get through that today, that would be pretty
18 aggressive and wonderful. And we have our guest speaker
19 also at 1:30, Prof. Barreto, on the Voting Right Acts,
20 which I'm sure will take all of the afternoon.

21 The hope for tomorrow, Thursday, is that we will be
22 able to do the state contract training with Raul, which
23 is item 15. Item 16, a report on the RFPs, all of that
24 piece part. One of the public comment requested to know
25 that in advance. We're hoping to cover that on Thursday,

1 to give it a sure shot of actually happening on the day
2 that we announce. And item 23 is at which time we can
3 talk about our future agenda items and the future meeting
4 dates.

5 Commissioner Fernandez. Commissioner Fernandez, we
6 still don't hear you. I see you took it off mute, but we
7 still don't hear you.

8 MS. JOHNSTON: Kristian's looking into it.

9 CHAIR TURNER: Okay. And I think that would
10 complete --

11 COMMISSIONER KENNEDY: Chair.

12 CHAIR TURNER: Yes. Commissioner Kennedy.

13 COMMISSIONER KENNEDY: Commissioner Sinay had her
14 hand up a moment ago. I don't know whether she still has
15 something.

16 CHAIR TURNER: Thank you. Commissioner Sinay. Oh,
17 you're good now. She's good, she's good.

18 Thank you, Commissioner Kennedy.

19 Commissioner Fernandez. Still no -- yeah, okay.

20 Commissioner Akutagawa.

21 COMMISSIONER AKUTAGAWA: I apologize if I missed
22 this part. Did we cover agenda item number 18?

23 MS. JOHNSTON: Let's see. We haven't, but much of
24 that has already been discussed. You've had quite a
25 thorough discussion of the election code. The only

1 one -- other one I wanted to bring up was about the
2 amendment process, but that can wait.

3 COMMISSIONER AKUTAGAWA: Okay. Thank you.

4 CHAIR TURNER: Okay. So at this point -- I'm sorry,
5 Commissioner Fernandez, we can't hear you.

6 We're going to move -- I don't see still the speaker
7 on. So we're going to move to agenda item number 7.
8 Commissioner Yee.

9 COMMISSIONER ANDERSEN: Commissioner Ahmad had her
10 hand up.

11 VICE-CHAIR AHMAD: I was just going to ask that can
12 wait till another meeting or still within this particular
13 meeting? In regards to the amendment process for item
14 number 18.

15 MS. JOHNSTON: We can do it -- if there's time we
16 can do it this meeting, but it could wait to another
17 meeting. You can propose any amendments till another two
18 years anyway.

19 VICE-CHAIR AHMAD: Okay. Okay. Thank you.

20 CHAIR TURNER: Commissioner Fernandez. No.
21 Commissioner Sinay.

22 COMMISSIONER SINAY: Just in case -- it seems like
23 today we have a quirky day, so everyone might just want
24 to write down the call-in number and the password and
25 stuff so that we can quickly just pick up our phones and

1 call in if we need to. That information is in the Zoom
2 invitation. And so just to have that quick and easy
3 access.

4 CHAIR TURNER: Thank you. Commissioner Yee, please
5 go ahead.

6 COMMISSIONER YEE: Thank you. I would like to visit
7 item number 7, which is the per diem policy. And I think
8 we left it basically up to Commissioner discretion when
9 to claim their per diem -- the statutory language is that
10 we can claim it for each day a member is engaged in
11 Commission business, which is fairly vague.

12 So last week we had the ammunition from Commissioner
13 Kennedy that our reputation is our most valuable asset,
14 and I really took that to heart and thought about way
15 that those who might wish us ill could bring some
16 discredit to us by saying things like, oh, Commissioners
17 get paid for every day they do any business, even opening
18 one email, you know, which, you know, is close enough to
19 the truth, even though it's not true. You know, it could
20 stick and cost us some reputation.

21 So I thought I would draw up a more complete policy
22 to propose to you. And this by the way was also
23 recommended by the 2010 Commission. They recommended
24 that we actually adopt a clear policy around this.

25 So my proposal I have sent to Raul and I think was

1 the best way to get it before the Commission.

2 MS. JOHNSTON: Raul, do you have it?

3 INTERIM ADMINISTRATOR VILLANUEVA: Yes.

4 MS. JOHNSTON: I think Raul can pull it up.

5 INTERIM ADMINISTRATOR VILLANUEVA: Yes.

6 CHAIR TURNER: Was it sent out already?

7 INTERIM ADMINISTRATOR VILLANUEVA: Yeah, but it's
8 not sent out to the whole Commission yet, no.

9 COMMISSIONER YEE: I wasn't quite sure what the
10 procedure was for that.

11 MS. JOHNSTON: It's better to send it to staff
12 always and then have staff distribute it.

13 COMMISSIONER YEE: Right. Right. That was the
14 plan.

15 MS. JOHNSTON: So let's --

16 INTERIM ADMINISTRATOR VILLANUEVA: He did.

17 MS. JOHNSTON: He did send it I think to staff,
18 right?

19 INTERIM ADMINISTRATOR VILLANUEVA: Yes.

20 COMMISSIONER YEE: Yes.

21 MS. JOHNSTON: Okay.

22 INTERIM ADMINISTRATOR VILLANUEVA: Hold on and I
23 will share my desktop.

24 COMMISSIONER YEE: Okay.

25 INTERIM ADMINISTRATOR VILLANUEVA: Can everybody see

1 it?

2 COMMISSIONER YEE: Not super great, but yeah. So I
3 guess I should just read it out. So my proposal --
4 should I make a motion? Would that -- before we discuss
5 it? Is that --

6 MS. JOHNSTON: Either way.

7 INTERIM ADMINISTRATOR VILLANUEVA: Chair.

8 CHAIR TURNER: Yes.

9 INTERIM ADMINISTRATOR VILLANUEVA: I was just going
10 to say if you pin in it.

11 Commissioners, if you pin it, it will make it larger
12 so you can see it.

13 COMMISSIONER YEE: Excellent.

14 MS. JOHNSTON: Raul, are you doing a share screen?

15 INTERIM ADMINISTRATOR VILLANUEVA: No. I'm --
16 they're -- please pin the video.

17 MS. JOHNSTON: Sorry. Basically for those who click
18 on the screen, it'll give you an option and one of those
19 pin it.

20 COMMISSIONER YEE: The three little dots, yeah.

21 UNIDENTIFIED SPEAKER: The reason he can't do a
22 shared screen is he's not on the same way we are on the
23 Zoom call.

24 COMMISSIONER YEE: Okay. Well, why don't I go ahead
25 and read it out. So my proposed Commissioner per diem

1 policy. Commissioners may claim the statutory per diem
2 compensation for the following: One, calendar days when
3 the whole Commission meets; two, nonmeeting calendar days
4 when a Commissioner works on documented Commission
5 business at least six hours either that day or
6 cumulatively with one or more prior nonmeeting days.

7 In no case will per diem payments reflect time spent
8 on nonbusiness matters, including, one, Commissioner
9 socializing, even if involving the whole Commission; two,
10 general reading and research not directly related to
11 specific business items unless assigned by the
12 Commission; and three, communicating about the Commission
13 in other than an official capacity as a Commissioner
14 engaged in Commission business. In all cases days
15 claimed for per diem payments must be fully documented as
16 the day, hours, and work activity.

17 So third exclusion communicating about the
18 Commission in other than an official capacity. So that
19 would be like me giving a talk at my friend's
20 gerrymandering class or any of us giving an interview,
21 you know, to a local paper or something, you know, but
22 not actually engaged in Commission business in doing so.

23 So those are my thoughts. Why don't I go ahead and
24 make a motion to adopt this policy.

25 CHAIR TURNER: Before you do that, I'd like to know

1 if there are comments from any of the Commissioners.

2 Comments or questions? Okay.

3 COMMISSIONER SINAY: I don't know if you can see me
4 or not.

5 CHAIR TURNER: Thank you, Commissioner Sinay.

6 COMMISSIONER SINAY: I think this is great. I have
7 a little -- I need a little bit of clarification on the
8 it will not include for number 2, as well as number 3, I
9 think we're all going to be asked to speak at different
10 times and that could end up taking a lot of our time and
11 I wouldn't want someone financially, you know, to be hurt
12 or choose not to something because they can't afford to
13 do it.

14 And so I would like to consider changing number 3.

15 CHAIR TURNER: Thank you. And Commissioner Kennedy.

16 COMMISSIONER KENNEDY: Thank you, Madam Chair. I
17 too am -- have some qualms I guess about general reading
18 and research. I mean, I think there's a certain amount
19 of self-education that is important and that will be a
20 valuable input into the work of the Commission, and I
21 think maybe we need to soften that a little bit. And we
22 don't want to go overboard and just tossing in hours or
23 days of general reading research but if it's related to
24 our work, even if it's not related to a specific agenda
25 item at a specific point in time, I think there's value

1 to it. Thank you.

2 CHAIR TURNER: Thank you. Okay. I see no other
3 hands. I would agree on both points. On number 2, I
4 also believe -- I know we all came to the Commission from
5 different backgrounds, and I would imagine someone that
6 is a doctor and has studied would not need and maybe
7 perhaps require the same amount of research background
8 that I might. and I do believe that this research that
9 is directly related to business items or just trying to
10 ensure that I'm able to absorb conversations as they
11 ensue would be something that I would expect that I would
12 not normally need to do. So then technically it would be
13 done only as a result of sitting on this Commission.

14 And then likewise, communicating about the
15 Commission in other than an official capacity, but the
16 example that you gave is speaking about the Commission,
17 and I imagine if I was going to be invited to something
18 anyway, not as a Commissioner but just normally based on
19 my profession, that would be one piece, but if I'm being
20 invited in as a face of the Commission that we've said we
21 wanted to be, I'd also question why that would not be
22 something that would be counted.

23 Commissioner Akutagawa.

24 COMMISSIONER AKUTAGAWA: I also wanted to I guess
25 maybe ask for clarification on the last part, which is

1 the documentation part. How -- I mean, I'll be honest, I
2 mean, that alone could just become, you know, really up
3 to interpretation. You know, trying to -- how do you --
4 yeah, I'll just stop there.

5 CHAIR TURNER: Commissioner Andersen, are you saying
6 something?

7 COMMISSIONER ANDERSEN: Well, and -- yes, I am. I
8 like the idea of would you put a policy together. I
9 think this is just way too specific. It's sort of --
10 it's enough to hang us with. But it's not enough to
11 facilitate work. There's a fine line in doing standards,
12 you know, of the profession, whatever the profession is.
13 I would advise it's too specific.

14 And you know, I'm thinking particularly even just
15 with COVID situations, it could -- they're too -- it's
16 too limiting by saying this is the -- this is it. This
17 is, period. It's just too limiting. I would actually
18 even, like -- I would -- up on the first item, 1 and 2, I
19 would actually say at least four to six hours, giving
20 flexibility there, because as we've discussed there are
21 people financially in just where four hours a day and
22 basically that blows anything for anybody else.

23 And then on the -- I would including -- I would just
24 have basically number 1. I would essentially almost
25 ditch number 2 and 3. And then I don't know if we even

1 need how we document it. Again, I think it's just a
2 little too much, because we're already being given how
3 we're supposed to document things, according to state
4 regulations. So you know, I don't think we need to be
5 that specific.

6 I think we should be a more general policy as a
7 very, very specifically-written policy. But those are
8 just my thoughts.

9 CHAIR TURNER: Thank you. Commissioners Vazquez and
10 Kennedy.

11 COMMISSIONER VAZQUEZ: Yes. I agree with everything
12 that's been said. I would recommend getting rid of
13 everything after the first 1 and 2. And I'm open to
14 Commissioner Andersen's suggestion to put in four to six
15 hours.

16 CHAIR TURNER: Commissioner Kennedy --

17 COMMISSIONER VAZQUEZ: With no restrictions.

18 CHAIR TURNER: -- Kennedy and Le Mons.

19 COMMISSIONER KENNEDY: Thank you, Madam Chair. I
20 don't have a problem. Let me put it this way. The only
21 problem I have with number 2 is the at least. If we
22 knocked out the at least, it makes it clear and it's the
23 word cumulatively with one or more prior nonmeeting
24 dates.

25 So you can be tracking your time in increments of a

1 quarter hour or a half hour or one hour or whatever; once
2 you get to six, you know, you're compensated for that --
3 I mean, otherwise we could just say track it on an hourly
4 basis and as long as you're not claiming more than six
5 hours in any given day you can be compensated for -- you
6 know, at an hourly rate for one hour or two hours.

7 I don't have a problem with excluding socializing.
8 And I've already expressed myself on number 2.

9 Number 3, you know, I think representing the
10 Commission definitely should be compensated and that is
11 something that should be determined by the Commission.
12 You know, if that means that we bring all of our
13 invitations to the Commission and let the Commission
14 decide whether we should be representing the Commission
15 formally or not, you know, maybe that's where we need to
16 go.

17 So Thank you, Madam Chair.

18 CHAIR TURNER: You're welcome. Commissioner Le
19 Mons.

20 COMMISSIONER LE MONS: My position is the same as it
21 was before, is that we already have a framework for what
22 it is that we're supposed to do and what we are -- what
23 the statute allows us to do and I think that we should
24 move forward without adding any additional problems.

25 CHAIR TURNER: Thank you. Okay. Commissioner Yee.

1 COMMISSIONER YEE: Speaking to the six-hour
2 criterion. So I mean, not to put a really too fine point
3 on it, but we had decided that on meeting days of the
4 whole Commission, even if a meeting day involved six
5 hours of Zooming and then some after-hours, you know,
6 additional work, that would still only count as one day
7 since it all occurred on a calendar day. Well, that
8 could occur on nonmeeting days as well.

9 You know, you might have -- you might just do more
10 than six hours of work on one calendar day or there may
11 be, you know, a hearing that involves less than the whole
12 Commission and then additional work that adds up to more
13 than one calendar day. And the thought is that that
14 would also only count for one calendar day and not, you
15 know, be chunks of six hours that we could split up onto
16 different calendar days to claim different day.

17 So that was the thought on that.

18 CHAIR TURNER: Thank you. I appreciate the dialogue
19 concerning this. I think I am heavily still leaning
20 towards Commissioner Le Mons last statement after looking
21 at the document and thinking it through. Certainly will
22 abide by whatever we determine, but I think for me, is
23 every time we think through and have a discussion
24 concerning the amount of days and time that we will spend
25 away from home and the hours and the length of days that

1 we will still not capture additional time for. For me it
2 makes me very comfortable still being able to stand and
3 represent that we have served the Commission well without
4 having the specific limits of over six, under six, or any
5 of those other piece parts.

6 We certainly would want to ensure that we all
7 operate in integrity and felt that the -- whatever we
8 were claiming was worthy of being claimed. But on the
9 one hand, if we're going to -- and we know that we agreed
10 to; it's what we signed up for -- to work the hours that
11 is required that will be well beyond the six hours, to me
12 I feel like we're taking one side of it saying absolutely
13 we're willing to do.

14 But on the other side we're saying, but in the
15 meantime, if you spend -- I don't know, for me I just --
16 I think the law as it's written is good, and perhaps with
17 just some understanding of, you know, the days that we
18 work is a day and not counting the day that the hearing
19 time plus adding additional, I'm in agreement with all of
20 that. I'll stop there.

21 COMMISSIONER YEE: You know, I trust everyone. It's
22 not a matter of trust on the condition. It's thinking of
23 those who would wish to discredit us, you know, what
24 opening might we give them if things are not documented
25 and clear.

1 CHAIR TURNER: Thank you. Commissioner Le Mons.

2 COMMISSIONER LE MONS: I would liken this to our
3 presentation yesterday. We're going to be under a
4 tremendous amount of scrutiny. No question about it.
5 And anyone can question anything. So I don't think the
6 question is the issue. I think the issue is our
7 operating in integrity. And if we're comfortable that
8 the fourteen of us will operate in integrity, we don't
9 have anything to concern ourselves with. Right, in a
10 policy, doesn't say whether we'll work in integrity or
11 not, with or without the policy.

12 So my thing is, it's already been established.
13 Counsel made it clear to us what a day was. Like, this
14 was all laid out. So I think that we can do that. And
15 if we need to defend it, I would imagine that -- I'll put
16 it like this. Anything that I claim, I'll be prepared to
17 stand up and defend. And I think anyone else here can do
18 the same. So that's my reason for thinking that we don't
19 really need the parts.

20 And I'm kind of leaning -- I feel like Commissioner
21 Andersen as well, is we also don't want to create a
22 framework that's then being witnessed to beyond the frame
23 we already have, if we're talking about somebody wanting
24 to find something to make a case about.

25 So I'd lean to open and move forward.

1 CHAIR TURNER: Commissioner Toledo.

2 COMMISSIONER TOLEDO: I would agree with
3 Commissioner Le Mons. I think it's been pretty -- I
4 think the rules are pretty well laid out. Certainly a
5 little bit nebulous and that was the intent of the
6 Legislature. And I think we can do more of a practice
7 amongst us. I think we have -- if we come up with a
8 consensus of what -- I don't think it has to be a policy.
9 I think it can be just a consensus we came up with prior
10 or if we want to document that consensus.

11 But I don't think it needs to be a policy. It's
12 more of a practice on making sure that we document our
13 time so that it -- you know, so that it meets the
14 threshold and will stand up to the scrutiny, making sure
15 that -- you know, that we're all comfortable with the
16 work that's being done in terms of time, et cetera, but I
17 don't think it needs to be a written policy.

18 And if it is, we should cite the statute and
19 essentially that plus the documentation requirements. If
20 we want to talk about what would be required to -- but I
21 believe that's already -- I saw that already written
22 someplace else.

23 CHAIR TURNER: I'm not seeing any other hands. At
24 this point, I imagine there could be a motion still
25 and/or determination not to do -- determine not to do a

1 policy change or a motion and we can vote on it at this
2 point. We've all spoke on it. Commissioners, how do --
3 Commissioner Yee, you brought it back, so it would be --
4 how do you want to move, sir?

5 COMMISSIONER YEE: I'm not really hearing support.
6 So I don't really see the point of making a motion. But
7 I'll go on record and say I really -- it does make me
8 nervous that we leave the question open. And you know,
9 even in my own mind, you know, I'm thinking, okay, how am
10 I going to keep track of time. An hour there, two hours
11 here, you know, what is a day.

12 CHAIR TURNER: Okay. Commissioner -- I see you
13 Commissioner Andersen. I was trying to make sure
14 Commissioner Yee finishes.

15 COMMISSIONER YEE: I'm done.

16 CHAIR TURNER: Okay. Commissioner Andersen.

17 COMMISSIONER ANDERSEN: I just want to say I
18 appreciate Commissioner Yee's points if he is concerned
19 about that, but I think that Commissioner Toledo actually
20 summed it up perfectly. We do have a consent idea that
21 we really talked about and discussed and we don't need to
22 through a formal point of making a policy. That doesn't
23 mean we don't have -- like, what you're considering,
24 well, what are we supposed to do. We have done that.

25 And I think that's what also Commissioner Le Mons

1 was indicating. It's sort of a -- we're already -- we've
2 already taken care of it. We don't need that official,
3 down really, really refine it, because we basically have
4 a practice. And I think that's exactly the right -- if
5 we have practice which we did agree to, we are
6 documenting everything. It's basically (indiscernible)
7 six hours. And if that's the day, you accrue it. And we
8 actually are following -- we went through this
9 specifically so we don't need that additional policy.

10 If we do make it a policy, as Commissioner Toledo
11 said, then you could actually, you know -- it includes in
12 the statute, that's there. And I think that's going way
13 above and beyond. And I think -- I feel very comfortable
14 with that, in that we have a practice. And I'm imparting
15 that I think it's okay for you also to feel comfortable.
16 Just because we don't have -- we don't call it a policy
17 doesn't mean we don't have a practice that we can
18 actually refer back to.

19 If someone said, oh, well, you're just doing
20 whatever, then, you know, they clearly weren't listening
21 to our whole conversation and the consensus that we came
22 up to, in which case as Commissioner Le Mons said, we
23 can, you know -- I'm sure every single one of us if it
24 comes down to what did you do on this particular do and
25 go back and go, well, let's see, my sheet said I did X,

1 Y, Z. So I think we can all feel more comfortable, if
2 that helps at all.

3 COMMISSIONER YEE: All good, but I don't -- you
4 know, we tossed out the six-hour number but it was never
5 adopted in any way, you know. And so that would leave us
6 with less than the 2010 Commission used and also not heed
7 the advice they gave us, you know, so.

8 CHAIR TURNER: Commissioner Le Mons.

9 COMMISSIONER LE MONS: I wanted to agree with
10 Commissioner Yee. I think Commissioner Andersen, I don't
11 know that I agree with the language that we have quote,
12 unquote, a practice. I feel like we -- it was explained
13 to us what the statute was. This topic of whether or not
14 we should put limits on hours, et cetera. We discussed
15 in the previous conversation. And what I recall is that
16 we understood that different Commissioners have different
17 considerations.

18 But above all, we felt like that all of the
19 Commissioner could operate within the bounds of the
20 statute in terms of recording and requesting compensation
21 for the time commitment within that frame. And that is
22 the basis in which I am saying that I don't feel we need
23 to establish any additional policy.

24 That we have different circumstances and that we
25 understand that opening an email did not -- I mean, sort

1 of generally speaking we talked about opening an email
2 did not constitute a day's work and there was no one on
3 the Commission who went, are you kidding me, if I opened
4 an email, I need to be compensated. So it was a sense
5 of -- we talked generally about what we saw as what we
6 thought was reasonable but the discretion is what I'm
7 speaking to. And the discretion was left to each
8 Commissioner to operate with integrity and to do it
9 within the bounds of the statute. That's the frame in
10 which I am proposing we move forward with that
11 understanding.

12 CHAIR TURNER: Agreed. Thank you. Okay

13 So with that, we are going to close agenda item
14 number 7.

15 MS. JOHNSTON: You want to --

16 CHAIR TURNER: And since it's --

17 MS. JOHNSTON: -- ask for public comment, Madam
18 Chair?

19 CHAIR TURNER: Thank you. And so at this point, we
20 will call for public comment for agenda item number 7.

21 So Ryan, would you please see if we have any public
22 comment waiting for agenda item number 7.

23 AT&T OPERATOR: And as -- pardon me. And as a
24 reminder, if you would wish to make a public comment,
25 please press 1, then 0 at this time. 1-0. And we do not

1 have anyone in queue for public comment.

2 CHAIR TURNER: Okay. Thank you so much.

3 At this point then, I do see that Ms. Mac Donald has
4 joined us for item number 20.

5 Ms. Mac Donald, thank you so much. We appreciate
6 your flexibility in working with this Commission. And we
7 are excited to be able to hear from your portion of the
8 training. Thank you for allowing Jamie to go yesterday.

9 I'd just like to say at the onset, that we do have a
10 required break that we will need to take at least by 11
11 a.m. So at whatever point you feel between now and 11
12 a.m. -- we just started at 9:30, so probably closer to
13 the 11 a.m., but 11 a.m. is our cut-off.

14 And at this point, we welcome you and we look
15 forward to hearing your presentation. Thank you.

16 MS. MAC DONALD: Thank you so much, Madam Chair.

17 Good morning, Commissioners. Thank you again for
18 inviting me and thank you also for giving us the
19 flexibility to change the presentation a little bit. I
20 know that this was probably not all that easy because my
21 colleague Jamie in her taped video presentation referred
22 to some items that I am actually going to talk about
23 today. So it's all a little bit backwards here, but I am
24 hoping that considering Justin Levitt's fantastic
25 presentation yesterday.

1 And then also, you know, some of the Q&A that
2 happened with Jamie, it wasn't all out of the blue what
3 you heard there. I also would like to mention that Jamie
4 is on standby. She does have a map loaded and is ready
5 to go. So should there be any questions, should you want
6 to see something, she's ready to show that to you live.
7 And if so, if you'd like to just mention perhaps in
8 advance what you'd like to see so that she can have it
9 ready to go and we can do this really quickly.

10 So with that, I'm going to try to share my screen
11 and I would also just like to remind you that I'm very
12 happy to entertain questions at any point during this
13 presentation. I'm happy to stop wherever you need me to
14 stop. Please feel free to interject. If anything is not
15 clear, I'm happy to go back. This is a presentation for
16 you. This is not about me clearly. So please, please
17 speak up. And if I don't see you raising your hand
18 because -- I see you, Commissioner Sinay, yes, please go
19 ahead.

20 COMMISSIONER SINAY: I'm sorry, but I'm going to ask
21 a really basic 101 question. Can you tell us a little
22 bit about your organization and is that the one that's
23 located at UC Berkeley? And is that the one that's
24 already been funded that was part of our budget? And I
25 apologize to everybody else if you already get this, but

1 I was feeling a little lost yesterday on just step one.

2 MS. MAC DONALD: Yes. Thank you. Thank you for
3 that question. And actually I can talk about that as
4 part of my slide one. So perhaps we'll start going. But
5 again, once -- once I share the screen, I will only see
6 you on the side as, you know, very small little photos
7 and you'll see me putting my reading glasses on and off
8 here. So there's a reason for that. My eyesight's
9 probably not as good as Justin's was yesterday.

10 So let me try to share my screen and we'll go from
11 there. Okay. Let me share and then from the beginning.

12 Okay. Can you -- can you see the slide? Wonderful.
13 Thank you.

14 CHAIR TURNER: Yes.

15 MS. MAC DONALD: And I assume you can hear me. So
16 just let me start with this then. My name is Karin Mac
17 Donald, as you know. And Jamie and I, we work for the
18 Statewide Database, which is at Berkeley Law.

19 So the Statewide Database is the redistricting
20 database for the State of California. We receive ongoing
21 funding from the Legislature to build a redistricting
22 database. So a redistricting database is -- and I'll go
23 into more detail about what's part of a redistricting
24 database as part of this presentation.

25 But redistricting databases are best built over



1 time. And in particular in California they're best built
2 over time because we have a lot of election changes,
3 election geography changes in particular in California
4 and when you're trying to collect data, those data tend
5 to disappear if you don't collect them right away. So
6 what we do is we have an ongoing operation that collects
7 data and builds a redistricting database, and our data
8 are available to anyone who wants to use them. They're
9 free, they're public, and we really encourage people to
10 use these data because that helps us find out whether or
11 not these data work for people, whether there are issues
12 with these data. You know, we entertain conversations
13 about formatting. You know, I have a conversation with
14 somebody lined up on Friday, for example, who wants to
15 talk about whether we can format the data a little bit
16 differently to make it easier for people to import them
17 and so forth.

18 So this is our way to ensure that there is
19 transparency and that there is accuracy and that there is
20 an ongoing dataset available. So there is nothing new
21 when we go into redistricting.

22 During the nonredistricting years, which are roughly
23 the years ending with, you know, three through eight, we
24 generally have reduced funding because we don't need that
25 much in terms of funds to do our regular operations. And

1 then once we go into redistricting, we receive more
2 funding to accomplish more goals. And those goals and
3 projects that we complete and that we engage with are
4 mostly census related. We had a question yesterday -- or
5 Jamie received a question about block geography and
6 census block geography. That is one of the things that
7 we accomplish during redistricting years.

8 We work with the Census Bureau to ensure that the
9 block boundaries for California are accurate and updated.
10 And that is a project that spans the period of a year.
11 And we get all the counties involved. We collect data
12 from them. We have them look at geography. We provide
13 technical assistance and so forth. So -- so that is one
14 of the things that we do.

15 We did receive some funding for public access, which
16 is part of, of course, the Legislature's responsibility
17 to coordinate with you on some levels. And that funding
18 is available to us. It's sitting at UC Berkeley. And I
19 think that answers your question. And please, if I did
20 not fully answer it, please prompt me. And I'm happy to
21 tell you more.

22 I also know that there is that the Legislature or
23 Legislative staff has been in communication with, I
24 believe, CRC staff to perhaps set up a time where they
25 can talk about these things in a little bit more detail.

1 So again, I am here as part of the Statewide Database.
2 And also I should mention that I think Commissioner
3 Sinay, I this was something you asked Jamie about
4 yesterday about, you know, line drawing and what hat, you
5 know, she has on or I have on.

6 And you know, just to tell you straight up, I am
7 here as the director of the Statewide Database. I do
8 some consulting on the side at times. Not much of it,
9 but I do just like many of the other experts that you've
10 heard from, probably all of the experts that you've heard
11 from. And you know, but that's not the hat I have on.

12 And if you are interested, we, you know, with the
13 other hat on, we did not bid on the RFP that was released
14 recently. And again, happy to talk about that.

15 So as an overview of the session to, you know, go
16 into the formal presentation here. I'm going to
17 introduce data used in redistricting. And again, Justin
18 has done a fantastic job yesterday of really setting the
19 stage for this presentation. And hopefully, this all
20 will make sense in the context of the things that he has
21 talked about.

22 I'm going to provide some more context for the data
23 decisions at the CRC that you will need to confront and
24 make, and I hope to provide some realistic examples of
25 how these may be applied, and then the demo on moving

1 lines and how districts are constructed, of course, that
2 is what we did yesterday.

3 But again, if you would like to see more, we are
4 happy to show you more either after this presentation at
5 some other time, or if you feel like that was sufficient.
6 Then we're fine with that, of course, also, whatever
7 works for you.

8 So where to start? This is kind of a recap of
9 Justin's presentation, of course. So I'm going to really
10 fly through these first few slides. I always think it's
11 really useful to keep going back to the Constitution,
12 because that is really where you have your marching
13 orders and all of your detail. It says the Commission
14 shall establish single-member districts.

15 It tells you for which districts you are
16 responsible. It's for Senate, Assembly, Congress, and
17 the State Board of Equalization. And you have to use for
18 the following criteria set forth in the following order
19 of priorities. So that is the first, like, note to self
20 these are ranked criteria. So they come in order and
21 here they are.

22 You know, I tell people it's a good thing to also
23 kind of underline sometimes what you really need to know,
24 because that way you know where to look. So your first
25 criterion is population equality, equal population.

1 Justin has talked about the differences between
2 Congressional districts and the other set of districts.

3 He's talked about deviations and so forth, about
4 giving yourself a little bit more flexibility perhaps
5 than the last Commission gave themselves to draw these.
6 Those are all really good suggestions.

7 So which data does one use for the equal population
8 criterion? Well, here we go to the decennial census and
9 to what we call the P.L. 94-171 file we actually have at
10 the Statewide Database a redistricting term glossary. If
11 you are interested, we're happy to send that over. It
12 kind of helps when you're looking at all of these
13 abbreviations and all of this jargon.

14 There is definitely a lot of it. And sometimes it
15 might sound strange to you, but you're all going to be
16 talking like that pretty soon. Also, it just happens.
17 Oh, yeah. Well, we're wondering when the P.L. is going
18 to come out. We are all wondering that collectively.

19 So the P.L. 94-171 data file, it's a census block
20 level dataset. It's actually the only dataset that's
21 released by the census on the census block level. And
22 when Jamie was talking about the teeny, tiny little
23 units, she was thinking about the entire State of
24 California, where we have 720,000 of these units. So
25 that is a lot of units or units of analysis, as we call

1 them, in research. And that is where we get from the
2 census. And the way to think about this is that each
3 little census block has some data associated with it. So
4 you don't have details on the people that live in the
5 census block, but you have the aggregated numbers for
6 that particular census block.

7 What we get reported on the census block level is
8 total population and some other variables, equal
9 population, just to remind you, and this is something
10 that Justin, of course, talked about at length, means
11 assigning everyone to a district. In California, it
12 means everybody, not only citizens or voters or eligible
13 voters or registered voters, but rather everyone.

14 So there is a small caveat, and I put this in
15 parentheses here, because that refers to the Prisoner
16 Reallocation Project, and I have some slides on that
17 later. And -- but this this item about not only
18 citizens, voters, et cetera, this is something that's
19 going to come up. This is something that people have a
20 hard time wrapping their heads around. And since you
21 will be communicating with the public, this is really
22 something to just keep in mind and you know, just kind of
23 be ready to explain.

24 I put in a tiny little footnote here about
25 reapportionment versus redistricting, because that's also

1 something that people get confused about. And those
2 terms are pretty frequently misused. And in even in our
3 official channels, I mean, I've seen, you know,
4 reapportionment committees that really are redistricting
5 committees. And so reapportionment is, of course, the
6 process by which the Congressional districts get assigned
7 to all of the states, and that that's not something that
8 you really have anything to do with.

9 You know, you will be handed the districts, a number
10 of districts and then there you go, you are
11 redistricting. So those are -- those are the
12 differences. Redistricting is the process in which
13 you're about to engage. This is the process of drawing
14 lines for the districts that we just talked about.

15 And you know, for other bodies, it includes water
16 districts and school districts and city council districts
17 and lots of other districts. So this, again, is another
18 point of potential confusion where people may think you
19 are responsible for absolutely everything. And it's
20 another item to just, you know, be aware of.

21 So criterion number 2, again, ranked in order,
22 districts shall comply with the Federal Voting Rights
23 Act. And this is also something that Justin mentioned.
24 There may be some confusion about the California Voting
25 Rights Act. So a lot of us have started to refer to the

1 Federal Voting Rights Act as the SVRA, just to
2 distinguish it from the CVRA, which is the California
3 Voting Rights Act.

4 And you know, it is it is understandable that there
5 is some confusion, because over the last, you know,
6 decade, really, since the last Citizens Redistricting
7 Commission has completed its work, usually mid-decade we
8 don't talk about districts much, because everybody's
9 happy. You know, we're all done with this process.
10 Everybody gets some sleep, and you know, and then maybe
11 in the year ending with eight, people start thinking
12 about it again.

13 But this last decade has been very, very busy,
14 because at-large elections have gone to district
15 elections under the California Voting Rights Act. And so
16 people have been involved in redistricting or in
17 districting, rather, not in redistricting. But there may
18 be some confusion about this. And the California Voting
19 Rights Act, of course, does not apply to statewide to
20 redistricting.

21 So there are two parts to complying with the Federal
22 Voting Rights Act. And again, I'll go through this very
23 quickly, because Justin has done a fantastic job of
24 outlining what goes into this measuring and analyzing so
25 you get an expert who conducts a racially polarized

1 voting analysis. You work with your expert or multiple
2 experts and Counsel to make decisions about
3 majority/minority districts.

4 And it's important to remember that this work really
5 can begin before the release of the block level data.

6 And I will talk about the timeline later. I have a slide
7 on that, as you may have seen, if you've looked at the
8 presentation. And then, of course, the second part is
9 you draw a district. And then in that case, you -- you
10 take the work from the Counsel in from the expert, and
11 you give that to your redistricting consultant, and
12 collaboratively, they work together to construct
13 districts that comply with the Federal Voting Rights Act.

14 Data necessary for this. There are census data,
15 American Community Survey data, you use voter
16 registration data, and those are data that are in the
17 Statewide Database statement of vote data. And here --
18 here is, again, a little -- a little side note. And it
19 was interesting that this came up yesterday with -- with
20 Justin also.

21 Having political data available does not mean that
22 they should or will be used for political purposes. You
23 know, we need these data for Federal Voting Rights Act
24 compliance, and that's why they are part of the Statewide
25 Database. And again, I'll go through this in a little

1 bit more detail in a minute or so.

2 So and then you need geography. Of course,
3 geography underlies this entire process. This is, in
4 essence, a geographic process if you think about it
5 right? You are assigning data to certain geographies,
6 and you build these geographies into districts.

7 So criterion number 3, contiguity. Which data do
8 you use? Here we go again. This is geography all
9 around. It's a pure geography criterion. I know that
10 Justin has gone into some of the some of the detail here
11 on contiguity.

12 In other states, it can get very interesting. In
13 California, it's not that interesting, really. But I do
14 have some slides on it. And this data, you use the
15 census geography.

16 And then criterion number 4, I always say it's my
17 favorite criterion. It's the one that's really
18 incredibly difficult, I think, but also very exciting, in
19 my opinion. And that is the geographic integrity of any
20 city, county, city and county, local neighborhood, or
21 local community of interest shall be respected in a
22 manner that minimizes their division.

23 So you know, not maximizes their division. So you
24 don't just look at it and then you try to, you know,
25 split them up into as many districts as you can. You

1 actually try to minimize the division to the extent
2 possible without violating the requirements of any of
3 their preceding subdivisions.

4 So again, note to self, while the criteria 1, 2, 3,
5 4, 5, et cetera, are ranked, within this criterion,
6 criterion number 4, these subcriteria, city, county, city
7 and county, local, neighborhood and community of
8 interest, are not ranked. So that means that you will be
9 juggling all of these at the same time.

10 You know, sometimes ranking is a really nice thing.
11 It can really help you. You can, you know, draw your
12 lines, and you can say, well, you know, clearly, you
13 know, criterion number 2 outranks criterion number 1. Or
14 I should have said criterion number 5 outranks criterion
15 number 2, and the other way around. I -- criterion
16 number 2 outranks criterion number 5. My goodness, I
17 can't count today.

18 So you know, you basically go just in order, and it
19 makes it easier just to draw your lines. But on this
20 particular criterion, you have to just be very mindful to
21 not prioritize one of these criteria over the other. So
22 what are the data to meet criterion number 4?

23 For counties, cities and counties, well, your best
24 source is really census geography, because the census has
25 this geography integrated. They call them places instead

1 of cities. You know, there's some detail that you need
2 to be aware of that's kind of a little bit in the weeds.

3 But then neighborhoods, it starts to get
4 interesting. They're not really readily available. And
5 I know we've heard that you can collect neighborhoods
6 from cities, and from some cities you probably can. And
7 there may be some other data sources that will give you
8 neighborhoods. But you know, the -- the question is just
9 are those really neighborhoods that people agree with?
10 And again, I'll talk about this in a little bit more
11 detail later.

12 And then there is public testimony. That's a pretty
13 big one. People usually, you know, have a pretty firm
14 opinion about where their neighborhood is. And if they
15 have an opportunity to talk to you, and they take that
16 opportunity, they might tell you about it. And then
17 again, you know, there's data and geography that's
18 submitted, and that's up to you to make that available,
19 that opportunity available for people to submit that.

20 Let me do a time check here. Okay. So communities
21 of interest. Those are also not readily available. And
22 when I say "readily available", what I mean is nobody's
23 going to send you a data file that has all the
24 communities of interest. It's just not going to happen.
25 So again, you're going to rely on public testimony,

1 probably on this item more than on anything else.

2 On data and geography submitted by the public,
3 perhaps by local officials. And sometimes you will see
4 these communities of interest supplemented with other
5 data. And you know, reasonable people can disagree on
6 how to do this. And again, I'd like to talk about this a
7 little bit more later.

8 You know, the question of do you just go with, you
9 know, big data and large data sources and perhaps data
10 from, you know, certain administrative datasets and so
11 forth, or do you perhaps pay more attention to what the
12 public tells you about those areas, or will it be a
13 combination of the two?

14 Again, these categories are not ranked within this
15 criterion. And that, I have a little, like, side note on
16 this which says, "Decide how to use new tools that were
17 not available to the last Commission."

18 So one of the challenges last time was not only
19 gathering the information of which you heard, there were
20 thousands and thousands of comments on where the
21 communities of interest exist, but then also organizing
22 those data so that they could be readily used during the
23 line drawing process.

24 This was definitely within the time frame that the
25 Commission had available and the fact that this was done

1 the first time, this was definitely a challenge. So as
2 part of the mandate to provide public access to
3 redistricting software, we at Statewide Database are in
4 development of a very simplified online tool that lets
5 people describe and draw their communities and then
6 submit them directly to the Commission.

7 So because those boundaries will then be already
8 digitized, it means that the Commission, if the
9 Commission determines that it's important for a
10 particular community to be kept whole, you can just
11 import these boundaries directly into your redistricting
12 software, which is going to make your life a lot easier
13 and definitely will make it easier for your line drawers
14 that don't have to sit there and you know, manually
15 digitize these.

16 I noted earlier that ledge staff has already been in
17 contact with the Commission staff to discuss timing and
18 options for demonstrating this software. So perhaps at a
19 later date, we could talk about this in a little bit more
20 detail.

21 I just would like to say that this is a one-trick
22 pony, so to speak. This is very, very simple, and we
23 are, you know, user testing currently with some groups
24 that are working with, you know, perhaps harder to reach
25 populations to make sure that it's that it's easy, that

1 it's very, very easy, because this stuff can be very
2 overwhelming. Like, for redistricting software packages,
3 they do a lot of things, and they don't necessarily do
4 this, or they don't do this at all.

5 So then criterion number 5, compactness and the data
6 used. So to the extent practicable, again, you know,
7 there's a little caveat in here. So if it's practicable
8 and where this does not conflict with the criteria above,
9 again, ranking this law really -- or the Constitution
10 really makes it clear what is most important -- district
11 shall be drawn to encourage geographical compactness. It
12 is again like contiguity, geographic criterion, and we
13 use census geography for this.

14 And then 6, nesting. This is the last criterion.
15 And again, it says to the extent practicable. So it
16 tells you how to do it. And what do you use? You use
17 newly-created districts. And this is an interesting one,
18 because I have heard one of the previous speakers talk
19 about how, you know, you could potentially just kind of
20 keep this in mind.

21 I would like to just point out that this is the last
22 criterion. So you know, keeping something in mind can
23 sometimes, you know, bias you towards perhaps
24 prioritizing things. I know that it's hard enough to
25 follow all of these criteria, as the Constitution is

1 asking you to do it, and come up with some good lines.

2 So you know, not kind of keeping something in mind
3 that perhaps you do last as a goal when you're first
4 starting might be something you want to consider and
5 perhaps give some more thought to.

6 So here's my summary slide. And after this, it
7 might be good to take a brief break, because then I'll go
8 into more detail, Madam Chair, if that works for you.

9 So let me just go through this slide very quickly.
10 It's just a recap of what you heard. And then perhaps
11 after the break, we can go through in more detail about
12 some of these items. And I should tell you that I added
13 some slides over the weekend that you had mentioned
14 interest in on Friday or wanted to see a little bit more
15 on, in particular on this first item, equal population,
16 where you will get your data from the decennial census.

17 I note that Justin has talked about the problems,
18 and you know, I echo those problems what I know about
19 what's happening at census. They are definitely
20 struggling. So you know, that is something that we could
21 also talk about a little bit more, if you wish.

22 The file that we will most likely be using is the
23 P.L. 94-171 file. And this presentation is built on that
24 assumption that that's what we're going to be using. The
25 second criterion is compliance with the Federal Voting

1 Rights Act. You use the P.L. 94-171 data file. You use
2 Statement of Registration and Statement of Vote.

3 You use citizen voting age population from the
4 American Community Survey. And those data are all
5 available as part of the Statewide Database. And again,
6 we'll talk in a little bit more detail about that later.

7 Then there's contiguity. You use census, geography,
8 respect for city and county boundaries, census geography.
9 Again, respect for neighborhoods, public testimony, data
10 geography submitted by the public, by cities and
11 counties, et cetera, respect for communities of interest,
12 public testimony, data, geography submitted by the
13 public. You know, again, there may be some other data
14 sources in there. Compactness, census geography and then
15 nesting you use in newly created districts.

16 And you see how heavy this is on relying on census
17 data. So we can really on some level, not talk enough
18 about census data and the census data quality and what we
19 know about the census data and what we don't know about
20 the census data, because it is really, and it will really
21 be, no matter what you end up using, it will be all over
22 this process.

23 Because even other data sources, they benchmark
24 themselves on the census. The census is an incredibly
25 difficult to compile dataset. It is intricate, and it's

1 very powerful and just important to every single survey
2 you have ever seen launched in the U.S. pretty much. So
3 with that, I would suggest we perhaps go to a break.

4 Would that -- does that sound okay, Madam Chair?

5 CHAIR TURNER: Yep. It's a perfect breaking point.
6 So thank you so much. We will go to break, and we'll be
7 back at -- let's come back -- can we come back at 11:10?
8 Let's give ourselves a little bit -- a couple extra
9 minutes? 11:10, please.

10 (Whereupon, a recess was held)

11 CHAIR TURNER: I mean, I'm sorry. Who was that?
12 Commissioner Kennedy?

13 COMMISSIONER KENNEDY: Thank you, Madam Chair.

14 Just wondering, Ms. Mac Donald, if anyone has found
15 information produced by the Metropolitan Planning
16 Organizations as helpful. I know, for example, that
17 SCAG, the Southern California Association of Government,
18 puts out local profiles every other year. And those
19 profiles cover all six counties of the SCAG region,
20 unincorporated areas within the -- those counties, as
21 well as each one of the, I think, almost 200 cities
22 within the SCAG region.

23 So we have approximately 200 local profiles produced
24 every other year by the research unit at SCAG. I don't
25 know about the other MPOs in the state, but I suspect

1 that they may have something similar. I'm just wondering
2 if -- if any of that data has been found to be useful.
3 Thank you.

4 MS. MAC DONALD: Yeah. Thank you,
5 Commissioner Kennedy. SCAG, SOCAG, ABAG, and so forth,
6 they do an incredible amount of work. That is absolutely
7 correct. And they put a lot of information out. We
8 worked very closely with those organizations in block
9 boundary suggestion, so I'm quite familiar with some of
10 the work that they're doing, and they have some really
11 good people there.

12 I know that there are some data datasets that they
13 produce that might be helpful to you that you may want to
14 take a look at. You know, again, you have to just take
15 this all in the context of the many, many, many datasets
16 that are available. And you know, it is really all about
17 context with communities of interest. And I'm assuming
18 that was the context in which you wanted to discuss this.

19 And we could talk about it in a little bit some
20 more. It's just the -- challenge with this is always to
21 how to reconcile all these datasets, right? They're all
22 on different units of analysis. You know, they're
23 created for different purposes and not necessarily for
24 the purpose of, you know, achieving representational
25 goals, perhaps so.

1 But I do think that some of these datasets might be
2 very helpful in areas where you perhaps don't have any --
3 any public testimony and no comments. And there were
4 certainly quite a few of those areas the last time a
5 Commission tried to do this. So you know, keeping them
6 in mind and being aware that they were there is a great
7 idea.

8 COMMISSIONER KENNEDY: Right. I mean, if one of our
9 elements in looking at communities of interest is, for
10 example, transportation systems and how those help move
11 people, you know, that's certainly something that the
12 MPOs are looking at as well as the county or regional
13 transport Commissions.

14 MS. MAC DONALD: Definitely. Certainly. You know,
15 again, there are always some challenges with every
16 dataset. For example, transportation. That's actually a
17 really interesting one that you're mentioning, because
18 transportation goes from, you know, a particular point to
19 another point. For example, you know, I could think
20 about some of the transportation systems around here,
21 like BART, for example, in the Bay Area.

22 And you know, some of your communities may organize
23 around that, and they will tell you that's community of
24 interest, so then that's really great dataset to have
25 available. And other communities may be a lot smaller

1 and other communities, maybe a lot larger. So again,
2 it's another data point, and it's great to consider.
3 Thank you.

4 CHAIR TURNER: Thank you, Commissioner Mac Donald
5 (sic).

6 I'm now -- I can't see all the Commissioners. I did
7 see Commissioner Yee, and I'm not certain that there's
8 anyone else that has -- have a hand up.

9 But Commissioner Yee, please go ahead.

10 COMMISSIONER YEE: Thank you.

11 Thank you, Ms. Mac Donald. I'm really enjoying your
12 presentation. Quick question. Can you remind us where
13 the statement of vote data comes from?

14 MS. MAC DONALD: Yes, the statement of vote we're
15 collecting directly from the counties and also from the
16 Secretary of State. And I will go through that in the
17 second.

18 COMMISSIONER ANDERSEN: Commissioner Andersen here.
19 I don't know if you can see.

20 MS. MAC DONALD: What is the question?

21 COMMISSIONER ANDERSEN: Just for general clarity,
22 Ms. Mac Donald, you know, on the -- the slide that we're
23 looking at right now, and you're -- you're sharing with
24 us, and you're seeing a lot of these items. They come
25 from the census data. But now that is -- when you say

1 census data, that does not necessarily mean only the P.L.
2 94. Is that correct?

3 You know, the census data is also, you know, the
4 American Community Survey. That's census data, like, the
5 geographies on states. Specifically, that comes
6 from -- you know, that's the census data, but not
7 necessarily, the -- i.e., we don't have to wait for P.L.
8 94 to do a lot of these items. Is -- is that -- is that
9 correct, or could you clarify that?

10 MS. MAC DONALD: That is correct. And -- thank you
11 for clarifying that. Yes, when I say census data, on
12 this particular slide, not all of these items come from
13 the P.L. 94 or from the decennial census. Some of these
14 items are collected as part of the decennial census. For
15 example, the census geography that we'll be working with.
16 And that census geography will most likely be released in
17 February or so of next year.

18 So that's going to be the new census geography,
19 because that gets updated also. But yes, you're
20 absolutely correct. And thank you for that question.
21 And if there are no other questions, if you'd like me to
22 just move on with my presentation, then we can go through
23 some of these items in more detail.

24 CHAIR TURNER: Yes. Thank you.

25 MS. MAC DONALD: Thank you so much. Let me see if I

1 can resume. Okay. Let me see if I can resume here.

2 Oh, this one. Okay.

3 So can you see this slide that says, "Criterion 1
4 and the decennial census?"

5 CHAIR TURNER: Yes.

6 MS. MAC DONALD: Wonderful. Thank you. Thanks for
7 verifying.

8 Thank you for the thumbs up, Commissioner Yee.

9 So the census, again, this is part of a recap. And
10 let me just say really quickly, the first part of this
11 presentation was more of a summary, so I was trying to
12 rush through it. Please do interrupt me with questions.
13 I can sometimes get a little too much into these
14 presentations and I also may not be able to see you. I
15 will try to pause, though, every once in a while, but
16 please, please do let me know if you have a question.

17 So a little history of the decennial census. It's
18 conducted every ten years since 1790. It determines the
19 number of people living in the U.S. And again, the
20 number of people. Everybody. Their motto is, "Count
21 people once, only once and in the right place."

22 That is turning into a bit of a challenge this time
23 around. And it really is the only count of the
24 population. That's one of those works that you want to
25 keep in mind, because that is different from the American

1 Community Survey, which is really not counting people.
2 That is a survey that is being conducted, and it's not
3 counting people. It is just giving us more information
4 about a group of people.

5 It provides a snapshot of the U.S. population. And
6 the reason for why they're talking about a snapshot is
7 that it basically takes a picture as of April 1, 2020,
8 because April 1 of the year ending with zero is always
9 census day. So if you look at the form, they're always
10 going to ask, where were you as of this day? Who lived
11 here as of this day?

12 And it collects data from every household and more.
13 And I say more, because it also collects data from group
14 quarters. Like, for example, as we've heard, a group
15 quarters is where people are institutionalized. It
16 collects data from college dorms and so forth. So those
17 are not necessarily considered households. And
18 previously, this particular data form was known as the
19 short form.

20 So this goes to some of the questions that you asked
21 on Friday. And I think it was Commissioner Ahmad, who I
22 talked to, who pointed out that there are some good data
23 sources and websites out there where you can look at the
24 self-response rates for the State of California or also
25 for other -- for other states, if you're interested. Of

1 course, we're at this point a little bit more interesting
2 in California.

3 So this is the California census data portal, and
4 this is a screenshot that I saved for you. The website
5 is up on the slide. And what you're seeing there is in
6 dark purple, the cumulative self-response rates that are
7 ranging between eighty-five and a hundred percent. So it
8 looks like some areas in California are doing pretty
9 well, in terms of responding to the census.

10 But other areas are not doing all that well, and in
11 particular, areas that are dark brown. In those areas,
12 you're only seeing a self-response rate ranging from one
13 to fifteen percent. And the way to think about this map
14 is that when you're not responding, somebody is going to
15 have to ask you to respond. Right?

16 So let's take a closer look at this. So the last
17 slide, you saw some really nice, you know, dark purple on
18 there and some shades of purple. So we're thinking, you
19 know, we're doing pretty well. The slightly less intense
20 purple is seventy-four to eighty-five percent response
21 rate. And then it goes down to sixty-eight to seventy-
22 four percent response rate and so forth.

23 And once you zoom in, however, you're seeing that
24 there are some significant differences, even within the
25 counties that look very dark purple. And this is

1 actually also a -- an interesting geography slide,
2 because what it's showing you is the various census
3 tracts. So this is a census geography unit and how
4 people have self-responded in those census tracts.

5 The previous slide was counties, which is also, of
6 course, a census geography and administrative geography.
7 So what you're seeing here is the various tracts in the
8 Bay Area. And you see some of them are doing pretty
9 well, and others are not so good. So there is more of an
10 effort that needs to be placed on some of these areas.

11 And then finally, zooming in more on, you know, San
12 Francisco in Oakland, if you're looking at Chinatown, for
13 example, I don't know if you can see this and how large
14 this shows up on your screen. But the Chinatown area
15 looks to me like the response rate is between thirty and
16 forty percent. And that is clearly not very good.

17 And then also in the Bayview, there are some areas
18 that are between fifteen and thirty percent response
19 rate. So when there is no self-response, then that means
20 somebody needs to follow up. And following up in this
21 census season has been very difficult, because we
22 suspended the what's called nonresponse follow up
23 operations, because of COVID concerns.

24 And you know, we had an extension of the timeline
25 and thought people could do their work through the end of

1 October. And that has now been changed. So we're
2 actually starting -- we're stopping the count at the end
3 of this month already. So this slide I pulled on Sunday,
4 and they get updated very frequently. So this is not
5 looking very good for us.

6 This is another way of looking at the same thing.
7 And this is from The City University of New York. And
8 they have a website called the Census Hard to Count
9 Mouse. So they're looking at it from another
10 perspective. And they're looking at -- also at -- at
11 self-response rates, but they're looking at areas that
12 were hard to count.

13 So California self-response rates, again, as of
14 Sunday were 64.5 percent. But that only tells you a
15 partial story. The self-response rate during the
16 nonresponse follow up operation -- so this is basically
17 somebody came knocking and said, "Hey, have you filled
18 out the census?" Or you know, somebody basically just
19 reminded you to follow up? So that pushed it up by 2.7
20 percent. But again, that's not really all that much.

21 During the nonresponse follow up operation -- and
22 you see this in the data on the left side, it says 19.4
23 percent. That is when somebody else has basically
24 "resolved" this particular census case. So that could be
25 all kinds of things. This could be somebody used a

1 proxy. Somebody talked to your neighbor. Somebody
2 perhaps just asked how many people are in your household
3 and perhaps did not have time to fill out the entire
4 census form for you. Perhaps a neighbor didn't really
5 know.

6 You know, there are all kinds of different ways that
7 go into this nonresponse follow up. And the more we see
8 that these things are resolved very quickly, I would say
9 the more we need to ask questions about how they were
10 resolved. There's definitely a time crunch. We know
11 that it was very difficult to -- to hire people to go
12 into these neighborhoods.

13 There are some, you know, Facebook groups that are
14 talking about, you know, where these census follow up
15 survey takers are talking about the problems that they're
16 encountering. Oftentimes, people are going into
17 neighborhoods that they don't know. They're having a
18 really hard time getting people to open their doors. And
19 you know, it's a difficult time right now. So there's
20 definitely a concern about where this is all going.

21 And here's another map that I pulled for you, and --
22 and I'll break after these maps very quickly to see if
23 there are some questions. These were the hard-to-count
24 tracks from 2010, so I switched over to go to Southern
25 California. I pulled this off the hard-to-count site.

1 And you, of course, can go to that site yourself. And
2 you see that there are some areas that were really
3 difficult to enumerate last time.

4 And this was a really good tool to have for people
5 that were working on census this time to get ready and
6 make sure that there were boots on the ground. Because,
7 you know, chances are if it was really difficult to count
8 people last time, there may be some issues this time
9 also.

10 And this is the self -- these are the self-response
11 rates for these areas. And you'll see that there are
12 still -- there are some overlays. Now, I did not overlay
13 these maps because, that -- I -- I wasn't able to do that
14 without pulling it into a GIS myself. But if you're
15 comparing these maps back and forth, you will see that
16 there are still, you know, some of the areas that were
17 hard to count last time are also suffering from a rather
18 low self-response this time.

19 So let me make sure that there are no questions at
20 this point. I'm happy to answer them on those maps. And
21 I gave you the -- the URLs for these maps. And I hope
22 that was responsive to the questions that you posed last
23 Friday. And if not, then I will move on. Okay. Thank
24 you.

25 So let me go to this next one. Next slide. Again,

1 we're still on census. And again, this is about, you
2 know, the census is just underlying this entire process.
3 So just to remind ourselves, what is the census supposed
4 to ask everyone? And I'm saying supposed to just because
5 I mentioned that during nonresponse follow up one -- one
6 of the nonresponse options really are to just get what
7 they call whole-person imputation.

8 So a whole person imputation is, for example, if
9 you're only collecting data on how many people are in the
10 household and then you just don't know anything in terms
11 of the detail. And that can factor into your dataset.
12 So the basic questions, though, in a perfect world that
13 will be answered by everybody are name, age, race,
14 Hispanic, Latino, Spanish origin, sex relationship, and
15 then owner/renter. And the census did not ask a
16 citizenship question. So on the short form, there is no
17 citizenship question.

18 The mission of the P.L. 94-171 Data Project is to
19 provide the officers of public bodies having initial
20 responsibility for the Legislative reapportionment
21 redistricting of each state, an opportunity to identify
22 the geographic areas for which specific tabulations of
23 population are desired, and to deliver those tabulations
24 in a timely manner.

25 So when we're talking about the P.L. 94-171 dataset

1 that -- that is the mission of what we know as the
2 redistricting data and voting rights office of the
3 Census. So this is what they deal with, and they deal
4 with geography, and they deal with data collection.

5 They identified the geographic areas desired quite
6 some time ago as what they call census tabulation blocks.
7 And we all just talk about them as census blocks. Their
8 requirements are to conduct the program in a nonpartisan
9 manner. And like Justin said, there are ongoing
10 questions about the delivery date this time.

11 And that is just because, you know, at some point we
12 had a request to delay the count and you know, to keep
13 counting. And now we have backpedaled. So now we're
14 stopping the count. We know that the entire organization
15 at this point is focusing on getting the reapportionment
16 numbers out. And from what we've heard, people have been
17 moved to dealing with reapportionment numbers.

18 There was a question from, I believe,
19 Commissioner Sinay last time on Friday about, if you were
20 to write a letter to the census for what you could ask
21 for. And I, of course, said just to keep counting. But
22 you know, another thing that you could ask for, I think,
23 and looking at this slide, you know, you guys, this
24 Commission has the responsibility for the Legislative
25 redistricting of each -- of the state. Right?

1 So you are really somebody who has a -- major stake
2 in -- in this particular project in the census data and
3 making sure that you're getting good data. So I don't
4 think that it would be, you know, a bad thing to ask for
5 them to do a really good job with the nonresponse follow
6 up, with data processing, with, you know, what they call
7 post-processing, which I'll go through in a second and
8 you know, just ask them to do a quality job.

9 And make sure that they are really enumerating every
10 person as much as they can. So you know, I would
11 absolutely say that you are at your right to -- to weigh
12 in on this and forcefully.

13 So what's in the P.L. 94 datafile? The final 2018
14 prototype redistricting data file design -- and this is
15 very classic census, usually in a, you know, in a regular
16 census year, regular census period. They give you
17 prototype files. They have very good deadlines. We know
18 years in advance when things are going to be released.
19 But that, of course, didn't happen this time.

20 But the prototype file essentially has just a few
21 tables in it. You get race, you get race for the
22 population of 18 years and over. So that's your voting
23 age population. Then you get Latino, nonLatino by race
24 and then you get, you know, Latino, nonLatino by race for
25 the population of 18 and over. So again, for your voting

1 age population.

2 And then there is one table that talks about
3 occupancy status. So that's renter/owner. And so this
4 is a little in the weeds. And you'll become more
5 familiar with this once you start drawing lines. And
6 then there's a new table this time. And that's really
7 why I put this slide in here. And that is the group
8 quarters population by group quarters type.

9 So that is something that they have not released
10 before as part of the -- the block level data release,
11 the P.L. 94-171 data release. They are releasing this
12 this time for the states that have to do prisoner
13 reallocation. Because the prisons and you know,
14 the -- the correctional facilities are considered to be
15 group quarters. And so we need to know something about
16 them so that we can then reallocate people from those to
17 their previously known address.

18 The group quarters table, however, it does not give
19 us all of that detail. So they don't give us, you know,
20 race and -- and voting age population. They just give us
21 the total population. Are there any questions right now
22 about this?

23 COMMISSIONER VAZQUEZ: Yes. This is Commissioner
24 Vazquez.

25 MS. MAC DONALD: Hi Commissioner.

1 COMMISSIONER VAZQUEZ: Hi. How are unhoused people
2 counted for the census?

3 MS. MAC DONALD: Yeah. As best as possible, you
4 know. There are -- there are various operations that
5 have gone out. Generally, the census really works a lot
6 with community groups to try to enumerate unhoused
7 people. And also, as you probably know, the State of
8 California has put quite a bit of money into
9 supplementing the outreach for -- for the census count.
10 And -- and some of those funds went into, you know,
11 funding community groups on the local level also to
12 ensure that the unhoused population was going to be
13 counted.

14 So it's basically -- it's been very difficult. I
15 think this has always been a hard to count population,
16 obviously, because that population is not necessarily in
17 the same place for any period of time and you know, may
18 not have an interest at all in participating in anything
19 that is government required or government sponsored. So
20 there were just a lot, a lot of different problems with
21 it. But -- but I would say that mostly they are -- that
22 population is counted through a collaboration with
23 community groups that are going out there.

24 COMMISSIONER VAZQUEZ: And so -- sorry, as a follow-
25 up question, I know several bigger jurisdictions do their

1 own homeless count. Are those -- are those available?
2 How -- how might -- if we choose to use them, how might
3 they assist us in some of this work, since they're not --
4 they're probably not broken down by census tracts even,
5 much less than just blocks.

6 MS. MAC DONALD: Yeah, thanks for -- thanks for that
7 question. I think what happens is when -- when they're
8 out as part of the census, they're collecting the census
9 data and then it goes into the count that you're going to
10 receive. However, I think that some of the groups may
11 want to weigh in under communities of interest. Because
12 it's not just about being counted. It's also about, as
13 you talked about, representational goals and so forth.

14 So you may want to engage these groups and -- and
15 figure out where people are and what their needs are, and
16 see if they want to participate on that level. So I
17 think, in general, the census will capture what they can,
18 and they will allocate people where they -- where they
19 possibly can, so that I think that they will
20 accurately -- accurately reflect the data that they have
21 received as much as they can.

22 But you know, there are just some questions about
23 the detail in the data and whether or not they have
24 actually received all the data about all the people that
25 are in the State of California at this point. Does that

1 make sense?

2 COMMISSIONER SINAY: This is this is Patricia. I
3 did the -- I volunteered on the point and count count,
4 not this year, but last year. And it is the whole State
5 of California tries to figure out where homeless are on a
6 particular night, and they do it every year. And it is
7 pretty detailed about kind of what corner and all that.

8 So I think you bring up a good point that when it
9 comes time to look at communities of interest, we may
10 want to look at the point and count data for each of the
11 regions.

12 COMMISSIONER ANDERSEN: Also -- sorry. Commissioner
13 Andersen in here -- just a quick. I was helping out the
14 County of Alameda, and what they were actually doing is
15 they already had in the preliminaries, we know,
16 particularly in Alameda, where large homeless populations
17 live. And part of the way they're going to count is,
18 they have multiple different community groups accessing
19 different -- because it's a big county, so across the
20 whole groups.

21 But they were being counted in terms of where their
22 actual groups were. So if you on one slide back there in
23 terms of where people who haven't been -- the
24 documentation's rather low. You can actually -- quite a
25 few of those areas do relate to, which would normally be

1 just free -- open freeways or open space. And that's
2 actually where a lot of the homeless live.

3 So they are being actually counted, in terms of
4 those areas. So I think the census outreach managers in
5 each area, they are probably already coordinating, but we
6 can make sure they are coordinating with the point and
7 count people, in terms of where all these people have
8 been counted and whether they have not. And it might be
9 an easier on catch for us, and it might already been done
10 for us, hopefully.

11 COMMISSIONER TAYLOR: This is Commissioner Taylor.
12 So just so I can sum it up. So the homeless population
13 is or isn't captured in a census block?

14 MS. MAC DONALD: It should be captured in the census
15 block. It should be reflected in the census block.
16 Thank you.

17 COMMISSIONER TAYLOR: Thank you. Thank you.

18 COMMISSIONER AKUTAGAWA: This is Commissioner
19 Akutagawa. Just two questions. One is, I know you said
20 that the homeless is -- is counted in the census as best
21 as possible. If I understand what I'm hearing the other
22 Commissioners talk about, is the idea that that census
23 number could possibly be supplemented by the point in
24 counts, knowing that there's probably a high likelihood
25 of a big undercount, or is it used mostly in the context

1 of really just trying to determine what's more of a
2 community of interest without just really seeing
3 representation? So that's one question.

4 And then the other question is related to the data
5 that's in the P.L. 94-171 datafile. I'm just kind of
6 curious as to why occupancy status is in there. I know
7 that the census also releases data around just occupation
8 and other different kinds of data that can also help us
9 to understand communities of interest. So I am just
10 curious as to why this particular one versus the other
11 ones, and do we take those into account as well, too, as
12 we think about communities of interests?

13 MS. MAC DONALD: Yeah. Thank you for those
14 questions. I'm going to take the second one first and
15 just say you and I both on -- on that occupancy status
16 variable. I have, as I can remember -- I may be going
17 senile, but I have never used that particular table for
18 redistricting.

19 So I'm sure there's a good reason for why it's in
20 there. It's not one that's that I have ever really found
21 to be useful. Now, of course, that new table is going to
22 be very, very important for us. And yes, you're
23 absolutely right there. There are really good data out
24 there on, you know, various housing variables in the
25 American Community Survey.

1 But just remember, there are -- the P.L. 94 is not
2 just for California. No, it's for the entire U.S. So
3 I'm sure there's somebody who needs this particular table
4 and maybe somebody has used it. And you know, if
5 somebody wants to weigh in on that, it's possible that
6 I'm missing something.

7 On your first question, and I'm hoping I recall it
8 properly, so please prompt me if I don't. I think that
9 there are two parts to it. One is whether or not there
10 is going to be an adjustment to the numbers that you're
11 going to get from census.

12 Considering that we know that they are having a lot
13 of problems right now. And I think that is something
14 that we should talk about, perhaps once they've stopped
15 to count and once we have perhaps received some of the
16 measures that the census usually releases that talk about
17 data quality.

18 And there are some measures that are out there that
19 we may be able to employ. But I think at this point,
20 it's a little bit premature, because there are so many
21 things that are a moving target. The one thing that
22 Commissioner Vazquez brought up and also echoed by, you
23 know, Commissioners Andersen, and I think, another
24 Commissioner, was that there will be a lot of information
25 available.

1 There are so many people dealing with figuring out
2 where the unhoused population is at this point. And
3 there's been so much effort in trying to bring people
4 into the census that, you know, reaching out perhaps
5 under the community of interest criterion, and in talking
6 to people and figuring out the geographies for what is
7 really a changing also population.

8 I mean, just because, you know, on April 1, on
9 census day, there was a particular population in one
10 location doesn't mean that that population is still there
11 when you're drawing lines. So you may want to supplement
12 anyway. I think you will be supplementing, you know, the
13 information that you're getting from the census.

14 And that's really kind of the genius thing about
15 communities of interest, is that this is not stale
16 information that you're able to get. You can reach out
17 to people and people can come out and say, this is what's
18 going on now. This is not what was going on, you know,
19 as part of the community survey now five years ago, this
20 is -- or during the homeless count in, you know, Alameda
21 County in April. This is what's going on right now, when
22 you are drawing lines. So you can be very responsive to
23 that, I think.

24 COMMISSIONER TURNER: Ms. Mac Donald, it's
25 Commissioner Turner. A quick question prompted by your

1 comment in regards to the P.L. 94-171. Under the new
2 table, the P5 that's there now, who determines what do we
3 receive or not in this file?

4 MS. MAC DONALD: That's determined by the census.
5 So they've already determined what goes in there. That's
6 part of their documentation, and I can provide you with a
7 link after the meeting. I'll get it to you, to Raul.
8 They have a pretty good documentation set about what goes
9 into these census files and for what purpose. So that --

10 COMMISSIONER TURNER: Okay, yeah.

11 MS. MAC DONALD: -- might be good for you to have
12 anyway.

13 COMMISSIONER TURNER: Um-hum. I was just curious
14 about the addition of just the P5. Okay, thank you.

15 MS. MAC DONALD: Yeah. So thank you for that.
16 Yeah, that really was prompted by the states that are
17 doing the prisoner reallocation. Before this particular
18 census, the group quarters file was not released at the
19 same time with the P.L. 94 because people really just
20 didn't need it, quote/unquote, but some people really
21 would've probably liked to have had it anyway.

22 But this census, especially states like California,
23 where we are doing prisoner reallocation, we really do
24 need to know where the group quarters are because those
25 are the areas that we're adjusting, so.

1 COMMISSIONER TURNER: Thank you.

2 MS. MAC DONALD: Thank you. Are there any more
3 questions? There's nothing --

4 COMMISSIONER AKUTAGAWA: This is Commissioner
5 Akutagawa. Just to follow up on that Table P5 question.
6 I noticed that you said that they are not broken down by
7 race or ethnicity. I am curious because if I recall
8 correctly from Prof. Levitt's presentation yesterday, he
9 did show data that seemed to imply that, depending on how
10 occupants of the group quarters are counted, it can skew
11 a racial demographic of a county because, for example, he
12 used Lassen County, and he said population wise, it's
13 overwhelming White, but the group quarter's population is
14 overwhelmingly Black and Latino, and that can really skew
15 the way that particular -- I guess, census location is
16 going to appear. And so it seems like, one, is that more
17 broken-down information available? It seems like that
18 would be helpful for us to also understand as well too in
19 terms of how we consider, you know, this particular
20 population and which way we want to use it.

21 MS. MAC DONALD: Thank you for this question. This
22 is such a great question because it really pulls together
23 a lot of the different aspects of building this
24 redistricting date set this time. So yes, the group
25 quarter's population is not broken down by race. It's

1 only total, but look at the other tables.

2 So the other tables have race and so forth in them,
3 and do you remember I was talking about block boundary
4 suggestion? So this program that we did at state-wide
5 database to make sure that the block boundaries were
6 drawn in a way that made sense for the cities and
7 counties and also for you to some extent.

8 So somebody looked at most of the 720,000 census
9 blocks and tried to make sure that the geography worked,
10 and one of the things that we looked at was where are the
11 prisons? And where are the group quarters? So in areas
12 where we were able to make sure that the prisons and the
13 correctional facilities were in a single census block --
14 in those areas, we know that we're going to get race and
15 race for a population of 18 and over and so forth, and we
16 know that it's a group quarter. So in that case, we will
17 actually have the detail.

18 So where it gets a little bit more fuzzy is where we
19 have institutions or facilities that are not in a single
20 census block, where there is other housing mixed in, and
21 that does happen, and in those cases, we do the best we
22 can.

23 Please remember that when we received -- and we'll
24 go through this in a second, but when we received the
25 data file from the California Department of Corrections

1 and Rehabilitation, they actually did send us race and
2 ethnicity. So we will know the way that they collect it,
3 not necessarily the way that the census collects it, but
4 we do have information about the race and ethnicity of
5 the population that is under the control of the
6 California Department of Corrections and Rehabilitation.
7 So we will be able to do this as best as possible.

8 Does that make sense?

9 COMMISSIONER AKUTAGAWA: Yes. Thank you very much.

10 MS. MAC DONALD: Thank you. Any other questions on
11 this, and if not, I'll keep moving.

12 COMMISSIONER FERNANDEZ: This is Commissioner
13 Fernandez. I just had a quick question for you. When we
14 talk about reapportionment because that has to deal with
15 the Congressional districts, they base the Congressional
16 districts solely on the census data; is that correct?

17 MS. MAC DONALD: That's correct.

18 COMMISSIONER FERNANDEZ: And I'm assuming that's why
19 there's this huge push to ensure that as many are counted
20 from our state as possible because we can make
21 adjustments, but they don't make adjustments, correct?

22 MS. MAC DONALD: That's correct.

23 COMMISSIONER FERNANDEZ: Okay. And then the second
24 part of that, and I might have missed it when we were
25 talking about corrections. When you receive the

1 information from them that had the race and ethnicity,
2 did it also show the race and ethnicity of the counties
3 or cities that they originally came from? Does that make
4 sense?

5 MS. MAC DONALD: No, no it didn't. So the data file
6 that we received from CDCR is a data file that just shows
7 what they collected for that particular person, and
8 actually, what they do is they have people, for the most
9 part -- and remember, this is a dataset that could go
10 really pretty far back because some people have been
11 there for a while. So everybody has undergone changes
12 in, you know, the forms that they have used and the data
13 bases that they have used and so forth, but they ask for
14 the person's ethnicity and then they code that ethnicity
15 as a race.

16 So it's a little different than what the census does
17 because the census asks you for your race and for your
18 ethnicity, and it also gives you an option to check
19 multiple race categories, you know. So it is definitely
20 a little bit apples and oranges, but you know, we'll make
21 it work as best as we can.

22 COMMISSIONER FERNANDEZ: I'm sorry, just because I
23 work for corrections, so I do know they have the
24 information in detail and -- I mean, but that's something
25 separate. How does corrections know what information to

1 provide us? I mean, do we have, like, an opportunity to
2 request specific information in terms of -- you know, so
3 many inmates are from the Sacramento area initially and
4 here's the break down in terms of age and ethnicity and
5 race. Who determines what we're going to get from them?

6 MS. MAC DONALD: Um-hum. So the election code
7 section that that -- there's an election code section
8 that speaks to that. I want to say it's 21003, but I
9 will verify that because I don't have it in front of me,
10 and you know, it gets to a lot of numbers here.

11 So I'll send that to you, and it's pretty clear what
12 exactly they have to provide and you know. Also
13 considering, and you know this better than I do,
14 obviously -- everybody is very concerned about privacy
15 and confidentiality. So you know, you don't want to
16 release too much. We're already getting individual level
17 information with addresses, and we're not getting names.
18 We're getting a unique code, and you know, there was
19 definitely back and forth. We collaboratively worked
20 with the CDCR for quite some time to make sure that, you
21 know, they were comfortable and were able to get us the
22 dataset that we needed for this.

23 So we have the previous addresses, but you know, we
24 can always merge in -- once we have this information, we
25 can merge in the race and ethnicity or the demographics

1 from the areas where people come from. So that is no
2 problem because we know where they came from because one
3 of the data items in there is also the location of where
4 the inmates --

5 COMMISSIONER FERNANDEZ: Um-hum.

6 MS. MAC DONALD: -- are residing at the moment.

7 COMMISSIONER FERNANDEZ: Right.

8 MS. MAC DONALD: We know where to take them out, and
9 we know, you know, where to put them back in.

10 COMMISSIONER FERNANDEZ: Okay, thank you.

11 MS. MAC DONALD: Okay. Wonderful, so --

12 COMMISSIONER TAYLOR: I have one more question.

13 It's Commissioner Taylor. So as we continue to look
14 through group quarters information, are we just going to
15 give back information from the CDR or is it going to
16 include, like, Orange County, LA County, and juvenile
17 populations and exclude the federal population?

18 MS. MAC DONALD: Yeah, thanks for that question. So
19 on this particular slide, these are all the things that
20 we're getting from this census. So this does not refer
21 to what we're getting from the CDCR, okay? And again, I
22 think it is election code 21003. It spells out exactly
23 who is covered by this, and it is actually adult
24 populations. So you know, its' not the juvenile
25 populations.

1 But I have some slides on this in a little while,
2 and we can go over this one more time in a little bit
3 more detail if you wish. But I hope that answered your
4 question.

5 COMMISSIONER TAYLOR: Yep.

6 MS. MAC DONALD: Okay, thank you.

7 COMMISSIONER AKUTAGAWA: This is Commissioner
8 Akutagawa again. I'm curious; why is it that the
9 juvenile population is not being counted? Because if
10 we're counting the adults, I mean, isn't this about
11 counting all people?

12 MS. MAC DONALD: Okay, so they are counted in the
13 census, they're just not covered by the reallocation
14 under election code section 21003. So there's just no
15 reallocation from the place where people are currently
16 held to their last known address. So election code
17 section 21003 just does not cover everybody who is
18 institutionalized. You know, it only covers some
19 populations.

20 COMMISSIONER AKUTAGAWA: So in other words,
21 juveniles are counted in whatever location they're housed
22 and there's no option to consider them as part of where
23 they came from?

24 MS. MAC DONALD: Not at this point as far as I know,
25 and I am not an attorney. So this is where I wish I

1 could make Justin, you know, like the genie in the
2 bottle, appear, but maybe your counsel can weigh in on
3 this. I'm sure you can get an answer from one of the
4 attorneys that are affiliated with this process exactly
5 on what went into the thinking there and you know, why
6 these populations are not covered.

7 COMMISSIONER AKUTAGAWA: I mean, that seems more
8 apples to oranges than what you had previously mentioned.
9 So okay, this was helpful.

10 COMMISSIONER ANDERSEN: All right, Commissioner
11 Andersen here, just a quick -- I think it's because of
12 the Federal Voting Rights Act. So they're concerned
13 about voter age and the racial and Justin pointed that
14 out.

15 COMMISSIONER AKUTAGAWA: Got it.

16 COMMISSIONER ANDERSEN: That's it. That's just a
17 thought.

18 COMMISSIONER AKUTAGAWA: Good point.

19 COMMISSIONER KENNEDY: Commissioner Kennedy here.
20 Ms. Mac Donald, I'm looking at 21003, and I did a search
21 for the word adult and a search for the word juvenile.
22 It doesn't show any hits with either word in 21003, and
23 in fact, 21003 subsection A sub 1 is calling for
24 information regarding each inmate incarcerated in a state
25 correctional facility. Now, you know, some of those

1 words might implicitly exclude youth, but I'm not seeing
2 anything in the, you know, plain language of the statute
3 that would exclude youth.

4 MS. MAC DONALD: Yeah, thank you for that. And I'm
5 going to want to table this question partially, if
6 possible, just to go back to my notes, but I actually
7 think that in the CDCR, in the facilities that the law
8 asks for, there are generally no juveniles housed. So
9 that may be the distinction there, but again, with your
10 permission, I would love to go back to my notes and just
11 verify that, and I'm happy to provide you with that
12 information later. Perhaps after lunch already. So I'll
13 go back to my notes, but thank you.

14 Shall we go on? So thanks again for this very
15 engaging conversation. This is really great.

16 So here's just a quick informational slide going
17 back to equal population. This is from the last
18 redistricting. So the ideal population, and Justin has
19 gone through that. Of course, how do you get your ideal
20 population? You figure out what is your total population
21 for the entire jurisdiction that you're responsible for
22 and then you divide it by the number of districts.

23 So last time, we had, you know, 465,000 and some for
24 the Assembly, twice that for the Senate because we have
25 eighty Assembly districts and forty Senate districts. We

1 have fifty-three Congressional districts, and you know,
2 we'll find out sometime in December or at some point how
3 many Congressional districts you will be responsible for
4 redrawing, and then there's Board of Equalization
5 districts, which there are four.

6 And you can see what the deviations were, and of
7 course, I'm not going to linger on this slide because
8 Justin talked at length about deviations and you know,
9 hand-cuffing, and you know, being too hard on yourself
10 and making your life a little bit more difficult or less
11 difficult in what you can and cannot do. So this is
12 really just a data slide that gives you some information
13 about what this all looked like in practice when the
14 Commission was done in 2011.

15 So let's go back to the census, and I'm just really
16 glad that you're all so engaged on this. This is a
17 little bit of detail on differential privacy which was
18 also mentioned as a point of interest by some of you, and
19 I have titled this slide protecting privacy in census
20 data.

21 Here's a little bit of history. So in general, the
22 census has a great concern about the ability by
23 somebody to reverse engineer summary data to individual
24 responses, and I know that Jaime has talked about this
25 yesterday in her presentation.

1 So in this particular case because we're talking
2 about the P.L. 94.171 data said, we're talking about
3 block-level data. There's a long history of laws and
4 court action that goes into privacy protection.

5 So in 1952 -- and it really is very abbreviated
6 history -- so in 1952, the census implemented the 72-year
7 rule which says that there's no public release of data
8 for 72 years. So whatever is collected, it's just a no-
9 go. You cannot get it for 72 years except for summary
10 data. Again, this is individual level data that they're
11 talking about.

12 And in '54, there was a consolidation of the privacy
13 laws in Title 13 of the code, and that basically said no
14 sharing of census results for nonstatistical purposes.
15 '58, there was a case, U.S. v. Bethlehem, and that
16 basically the outcome was no government access to census
17 data for nonstatistical purposes, and you can imagine
18 what led to some of these cases. And in '76, there was a
19 ruling that said the census director is not allowed to
20 grant disclosure exceptions, and then in '82, they
21 followed up with the census address lists and said that
22 they are now protected, confidential information, also.

23 So there's a really long history that goes into
24 this, and that gets us to a general discussion of
25 disclosure avoidance methods, and again, this is a little

1 bit of a history. So previous censuses employed various
2 methods to avoid disclosure of information and just
3 because I'm saying previous censuses doesn't mean that
4 they're necessarily not used anymore except for the
5 eyeball test. I think that is probably not used anymore.

6 So the eyeball test in 1920 basically just did
7 exactly what it said. The census employees would look at
8 the information and they would remove information or
9 combine it to protect people's privacy. Then, in the 70s
10 census, they added suppression of all tables to protect
11 people's privacy in small geographic areas. So they
12 would just not report data.

13 Then there was data swapping. So essentially, your
14 data were collected in a particular census block, but
15 there were perhaps not enough people in that census block
16 or not enough people of a particular characteristic in
17 that census block, so they would swap the data with a
18 nearby census block, so that when you aggregate it up,
19 you still had, you know, good and fairly, you know, very
20 accurate information but perhaps on the census block
21 level, it was not completely accurate.

22 And then in the 2000s, they added rounding and a
23 host of different coding techniques that a lot of us, you
24 know, data people of course know about and also employ
25 oftentimes when we're using, you know, small numbers of

1 cases.

2 And then, that gets us to the internet. So now we
3 have the internet and everybody's collecting data. There
4 are so many big datasets that people can purchase, and
5 you know, it starts with credit card information, and it
6 goes into, you know, all these, you know, political
7 organizations that are collecting data on behavior, and
8 that, of course, brought up a whole new threat level for
9 census disclosure and census results also were published
10 for the first time online in 2000, also making things
11 easier for people that want to perhaps combine data.

12 The census then evaluated additional ways to start
13 to safeguard data and you know, combining publicly
14 available data with census data. They became very clear
15 about that, that that may result in a reconstruction or
16 as I called it earlier, reverse engineering, of
17 individual data and result in a loss of privacy. And
18 that is the worst thing that can happen to census. I
19 mean, that is I think what every census employee is
20 worried about is that that data could be compromised.

21 So and then that gets us to differential privacy.
22 So what is differential privacy? Differential privacy is
23 the new methodology to safeguard data privacy. So it
24 kind of just comes -- you know, this is all an evolution
25 as times start changing, as new datasets are available,

1 as computers are becoming more powerful and so forth.

2 So differential privacy will see it's first, like,
3 large scale implementation in Census 2020 in the P.L.
4 94-171 dataset, and the Census Bureau is planning on
5 using that particular privacy methodology for other data
6 that they're releasing going forward also, but at this
7 point, they're only planning and testing on the P.L.
8 94-171 dataset.

9 What it does in a nutshell is it will inject noise
10 into the data to prevent individual identification, and
11 so it just makes it a little bit more fuzzy. It uses a
12 mathematical formula to balance privacy loss and
13 accuracy. So they're trying to just weigh the midpoint
14 between potential loss of privacy and still maintaining
15 data accuracy to the point where the data remain useful
16 for the purposes for which they are collected, and
17 there's a sidenote for the mathematicians amongst all of
18 us -- of which I am not one by the way -- it quantifies
19 'acceptable risk' at an Epsilon at zero.

20 So it uses Epsilon, and Epsilon at zero means that
21 the data are completely scrambled. So they are so fuzzy
22 that you can't use them, and then as you move away from
23 that, the data become -- basically, they move closer to
24 accuracy, closer to usability, but also closer to the
25 point where you may be able to identify an individual.

1 So they are really striving for balance.

2 And here is something that you need to really keep
3 in mind, and this is also in light of the letter that you
4 may be sending to census. After the differential privacy
5 algorithms are applied, the census data go through what's
6 called post-processing adjustments, and post-processing
7 means that they're adjusting partial and negative numbers
8 and so forth, because you know, when you're doing
9 algorithms, you're always going to find, you know, that.

10 In this census block, there is like point two people
11 are living here. Well, point two people are never going
12 to live in a census block. It's always going to be whole
13 person, so they're kind of just fixing things like that.
14 And differential privacy plus post-processing equal or
15 they result in what we call the 2020 disclosure avoidance
16 methodology.

17 But this post-processing phase is really important.
18 The census has always done that, and under their new
19 timeline to get the P.L. 94 out as quickly as possible,
20 despite the fact that they haven't really had a lot of
21 time to work on it, they're going to cut down post-
22 processing phase.

23 And that may be something where you may want to
24 weigh in and you want to say okay, we want you guys to do
25 a really good job on post-processing because we know you

1 already have less time to count. You have a more
2 difficult environment in which to count, and there are
3 just so many factors that came into this census process
4 this time that even if you do stop counting, which we
5 don't want you to do, please pay attention to the post-
6 processing and give census employees enough time to go
7 through the post-processing phase.

8 So back to differential privacy and then I'll stop
9 after this slide again for some questions if you have
10 any. The census did release a test dataset for by
11 which -- what they did is they used the 2010 census data
12 and they applied the differential privacy algorithms to
13 the 2010 P.L. 94-171, and then they put that data set out
14 and they asked user groups to provide feedback, and there
15 was a really interesting meeting that's also online.

16 You can watch it. It was the National Academy of
17 Science Committee on National Statistics. They had a
18 workshop in December of 2019. That is one of them, and
19 actually, Justin was one of the presenters on that, and
20 there are some really smart people talking about
21 differential privacy and the issues that they had with
22 the algorithms, and based on the feedback from the user
23 groups, from this particular workshop and so forth, the
24 methodology is still being refined, and there is more
25 internal testing happening.

1 Actually, let's look at two more slides really
2 quickly and then I'll break, if I may. So there's a
3 really quick one. This is from the Caliper Corporation,
4 and again, I have to thank Justin for suggesting that I
5 use these two slides.

6 So Caliper is the company that makes the
7 redistricting software that is very widely used in
8 drawing lines and altitude, and they put some slides
9 under their website after this particular test dataset
10 was released, and what it shows is that in large areas,
11 this differential privacy methodology probably has
12 minimal effects, and that is because, you know, things
13 just kind of aggregate out.

14 So injecting noise if you are at a larger unit, like
15 a Congressional district, which is what this is looking
16 at, you don't really have that much of a difference. So
17 you're seeing that there are some differences that are,
18 like, negative 271 numbers, so this is comparing the
19 P.L. 94 from 2010 that just employed different privacy
20 protections to using differential privacy, and I should
21 say that this is an older dataset. They have already
22 refined the dataset that this map is based on because
23 they are working out the kinks right now on this
24 methodology, but this is a good kind of first look at
25 what this may do.

1 So on a larger area, you don't see that many
2 differences, but when you're looking at smaller areas,
3 you will see that it actually creates a small area bias.
4 So what this particular map is showing is the increase in
5 rural populations for when you're applying differential
6 privacy to the 2010 census data.

7 What it shows is the dark grid shows 5,000 persons
8 or more that were added. So this is what the 2010 census
9 dataset would look like if we were using it today with
10 the differential privacy applied to it, and I was talking
11 to Justin about this for quite some time about how to
12 best explain this, and the way that he explains it, which
13 I think is really good, is that he says look, when you're
14 looking at an urban area and you're looking at a rural
15 areas, in rural areas, you have fewer people living in
16 these census units.

17 So when they're trying to make the data a little bit
18 more fuzzy, what they sometimes do is they just add more
19 people to have more data points. So that is what
20 basically drives that shift from the urban to the rural
21 area to kind of just inject that level of noise and that
22 is where the error comes in.

23 And again, perhaps we shouldn't spend too much time
24 on this particular map. It was made in 2019. They have
25 gone through some methodological changes already. They

1 are going to release a new census dataset, a new test
2 dataset for differential privacy in I think the end of
3 this month. So there will be people working on this and
4 figuring out, you know, where's the bias, is there a
5 bias, and making suggestions to the census on how they
6 could perhaps improve this dataset, but this is a good
7 illustration of what can happen.

8 So I'm going to stop right here and please, if you
9 have any questions or if I lost you someplace, please
10 ask. Thank you. And I know this is really in the weeds.

11 COMMISSIONER AKUTAGAWA: So if I'm understanding
12 what you're saying, I just want to say it out loud. What
13 you're saying around this small area bias, if I
14 understand you correctly, it means or it implies that
15 there are more people in these rural areas which then
16 inflate essentially, the numbers of people in those areas
17 of which then apportionment is being done and then later
18 what redistricting is going to be based on.

19 MS. MAC DONALD: Yes. So I think for the states,
20 they were keeping the populations' total, so I don't know
21 that it would necessarily affect apportionment, but on
22 redistricting, yes, you may see -- I mean, if this
23 remains the same which I'm guessing, after they saw these
24 slides, the census probably went back and did what they
25 could to minimize that bias, but yes, that's what it

1 would do.

2 And I think that's why it's really important to
3 continue to engage in a conversation about what's going
4 on with census and you know, what is happening with these
5 analytics? What do we know, you know? I think this is
6 so much more important for you than it was for the last
7 Commission just because it's just a completely new world.
8 With all of the issues that we already know about and
9 then these factors come in.

10 So you might consider having, I don't know, a
11 working group or a subcommittee or -- as you decide,
12 organize yourself that gets regular updates about these
13 things because I probably don't want to be charged with
14 being the Commissioners that know everything about this.
15 And there are certainly people that know more than I do
16 about this, but there's so many different aspects to this
17 it might be really good to get regular updates on where
18 this is going and what we know.

19 COMMISSIONER YEE: So differential privacy then,
20 that's a policy decision by the Census Bureau to apply in
21 the post-processing and you know, that's within their
22 right to introduce that additional methodology, but it
23 seems like the kind of thing that could be challenged,
24 right? I mean, you are adjusting numbers and there seems
25 to be some -- I don't know. We'll get the numbers we get

1 from the Census Bureau. I mean, that's the end of the
2 story. I guess it's between now and then that you're
3 saying we can weigh in and should weigh in, yeah?

4 MS. MAC DONALD: Well, I think they can probably
5 do -- you know, post-processing is going to be really
6 important. It's going to be really important that they
7 really go through all of these analytics and all of these
8 checks that they usually employ and really take their
9 time to do it well because that can make up for some of
10 these issues, and you're right. I mean, the census is
11 going to give us what the census is going to give us.

12 Part of the problem is that they've actually shown
13 that the privacy protections that they used in 2010 are
14 not good enough anymore to protect privacy. So they've
15 kind of boxed themselves in a little bit, right? Because
16 what was available before, they have shown themselves is
17 not going to be good enough for this particular census.
18 So this is, they believe, the best possible privacy
19 protection methodology that is available to them, and you
20 know, to their credit, and I love this about the census
21 is that they really do reach out to user groups. They
22 ask for feedback and they collaborate with people.

23 They do what they can to bring people into the
24 process but in the end, they're going to have to do
25 something to protect the data and to protect everybody's

1 privacy because as everybody whose worked on census
2 knows, we're telling people fill this out. Your privacy
3 will be protected.

4 So the census can then not go out and say well,
5 here's this fantastic dataset and ten minutes later,
6 somebody who has a really good computer and access to
7 every dataset known to people in the U.S., you know, has
8 added this all up and has reversed engineered to
9 individual level information. So that will be the end of
10 the census, really, if you think about it. So that's
11 kind of where we're at. It's a pickle.

12 COMMISSIONER YEE: Yeah. Right, well, okay. Thank
13 you.

14 MS. MAC DONALD: Let's see what time it is. So it
15 is 12:20.

16 Madam Chair, would you like me to go on to the next
17 slide, or how would you --

18 COMMISSIONER TURNER: We actually have until 12:40
19 before we have to, but if this is a natural breaking
20 point, you tell me. Can we get in another twenty minutes
21 or should we break now?

22 MS. MAC DONALD: I could go for another twenty
23 minutes. I think this is a breaking point after talking
24 about that particular topic, but I think we can cover the
25 next topic pretty easily in the next twenty minutes.

1 COMMISSIONER TURNER: Okay, let's do that. Thank
2 you.

3 MS. MAC DONALD: Yeah, thank you.

4 So this is going to be a little bit easier I think
5 in general to digest, and I know there's been a lot of
6 information. Again, part of why I try to be very
7 explicit with this PowerPoint was that I know that you
8 have access to the PowerPoint and you can go over it
9 later and it gives some information that perhaps wasn't
10 all that clear. I am always available for questions to
11 you via email, any which way you want to get it to me
12 through your staff, and I'm happy to provide additional
13 explanations or provide you with more information.

14 So criterion 2, Federal Voting Rights Act, and The
15 American Community Survey. So this is of course
16 something that you've already heard something about.
17 This goes back to Friday's presentation, and The American
18 Community Survey, again, here we have a little acronym,
19 ACS. It replaced the long form starting in 2005. If you
20 know the long form, you belong to my kind of people, the
21 older group of the population, and 2010 was the first
22 short form only census.

23 The ACS, The American Community Survey is conducted
24 monthly, and so the way to think about it is that there
25 are 250,000 households that are contacted every month in

1 the United States, and they answer a lot of questions.
2 It's released yearly, and the collected data include
3 things like educational attainment, income, housing,
4 housing costs -- we talked about this earlier --
5 disability status, employment, and more, and it collects
6 data on citizenship. So not on the short form, but
7 rather, on The American Community Survey, and that
8 dataset releases Citizen Voting Age Population or CVAP.

9 Quickly, back to Friday's presentation then just to
10 remind you, the census has published a special tabulation
11 for Citizen Voting Age Population. Since 2011, this was
12 a request by the U.S. Department of Justice, and the CVAP
13 special tabulation dataset, is based on the five-year
14 data collection of The American Community Survey.

15 The dataset has been used for Voting Rights
16 Assessments and Compliance since 2011. So again, this is
17 a longitudinal dataset. We have worked with it. We know
18 something about this dataset. We know the pros and cons
19 of it, and following, are a couple of slides that show
20 how California's Voting Age Population has changed over
21 time, and this is also -- somebody asked for. One of the
22 Commissioners had mentioned it, and I think I had said
23 maybe Eric McGhee, who's going after former Commissioner
24 Ancheta and I. Maybe he could provide that slide, but I
25 think he was already set or he didn't get the message, so

1 here it is. Here is the slide.

2 So this is the Citizen Voting Age Population Trends,
3 and this was shared by a colleague of mine, and it looks
4 at how citizen voting age population in various groups
5 has changed over time. So what you're seeing is the
6 different categories: black is African American block,
7 red is Asian, Pacific Islanders. So not just Asian, it's
8 Asian and Pacific Islanders combined. Green is Latino,
9 yellow is White, and this kind of goes in order of years.

10 So the first column is the ACS release from 2005
11 through 2009, and then the next column is 2006 through
12 2010, and then we go, you know, 2007 to 2011, and so
13 forth. And you can see how some of these data groups go
14 up and some of them go down.

15 So what you're seeing is Whites, the citizen voting
16 age population as reflected in this special tabulation
17 has really changed from the 2005 through 2009 release to
18 2014 through 2018 from 55.4 percent to 47.3 percent, and
19 at the same time, for example, Latinos have gone up from
20 23.3 in '05 through '09 to 29.2, and even though you may
21 think well, that should've gone quicker or that number
22 should be bigger, remember that there are naturalization
23 rates that factor into citizenship, also right. So not
24 everybody is necessarily born, you know, in the U.S. And
25 then you're seeing that the API, Asian-Pacific Islander

1 population group has also gone up from 12.3 percent in
2 '05 through '09 to 14.8 percent from, you know, in the
3 2014 through 2018 dataset.

4 So it's an interesting slide, and it just kind of
5 shows you that even when you're looking within one year,
6 you're seeing an increase, and remember when Justin was
7 talking about how fifty percent really matters, and fifty
8 percent in CVAP matters in California when you're drawing
9 section 2 Federal Voting Rights Act districts. So a
10 little bit of an increase can really make a big
11 difference in whether or not you actually have a district
12 that could constitute a section 2 district.

13 And on that note, this is again another slide that
14 was shared with me that is Latino maturity citizen voting
15 age population and you know, you're of course welcome to
16 look at that in more detail perhaps over the break or
17 later, and it shows the currently drawn districts. So
18 the left column is the Assembly districts, and there is
19 the Senate districts, and the Congressional districts.
20 So these are some of the districts and how they've
21 changed.

22 So for example, Assembly District 30 on the upper
23 left corner. It's highlighted in dark green. When it
24 was drawn, it had forty-four percent Latino CVAP, but if
25 you're looking at The American Community Survey from 2014

1 through 2018, you see that that district now is at fifty-
2 one percent Latino CVAP. So that's a pretty significant
3 increase, and it just kind of shows how this really
4 matters, how these trends matter, and it's good to have a
5 dataset that shows you the population over time because
6 you can also see where it's going.

7 Another example is Assembly District 32, which has
8 gone from 46.3 percent to 57.9 percent. So that's a
9 pretty large increase and again, these are, you know,
10 older numbers. And you've seen some of this in the
11 Senate districts of course and then also in the
12 Congressional districts as well.

13 Are there any questions on this? If not, then I
14 will move on and we'll see if we can get through a few
15 more slides before lunch.

16 Okay. So this is Federal Voting Rights Act and
17 Mapping Data. So these are the 2011 Assembly districts.
18 So this just kind of goes along with this dataset that I
19 just showed earlier. These are the Latino in the
20 southland, the Latino districts and the Asian districts
21 that the previous Commission drew that had a citizen
22 voting age population of fifty percent or more.

23 And this is a slide again that a colleague shared
24 with me. This is using The American Community Survey
25 CVAP data to maybe start early, and so let me just

1 explain this. So the last slide showed where the voting
2 rights act impacted the lines in 2011. So this is just a
3 slide that kind of shows where you may have some of the
4 areas that could impact the lines in 2021.

5 So this is based on the current district boundaries,
6 and the areas in red are all the various districts. So
7 there are the Assembly and Congressional and Senate, and
8 based on the most current American Community Survey, they
9 have either Latino or Asian citizen voting age population
10 that's greater than forty-five percent.

11 So why is it greater than forty-five percent and
12 not, like, greater than fifty percent, which is what
13 we've talked about previously? And that is because we
14 have another year of population growth, of course, to
15 account for, so this may look a little different when
16 you're getting the newest CVAP dataset in February of
17 2021.

18 And then also you can kind of imagine that areas
19 where the citizen voting age population ten years ago was
20 where there was no way to draw maturity minority
21 districts. So the last Commission didn't have to really
22 maximize representation for a protected class, but now
23 due to, like, changing demographics, a small adjustment
24 might actually turn this into a section 2 district. So
25 again, it may not just be possible; it may actually be

1 required.

2 I should say that this is not a perfect map.
3 Looking at this, it misses some significant Asian
4 populations. In particular, in Orange County and in the
5 San Gabriel Valley, and some of the Black population
6 concentrations in south LA. So I wouldn't say interpret
7 this as the be all, end all for where, you know, the
8 voting rights act applies in California.

9 It's really kind of just a brushstroke of where you
10 might be looking to perhaps collect some additional data.
11 It gives you some sense of the areas, but it's likely a
12 factor that you have to consider. And you see that
13 there's a lot of area. In fact, the areas in red, they
14 cover almost a third of the entire State of California.
15 So there's definitely a lot of consideration.

16 So as discussed previously in our Friday
17 presentation with former Commissioner Ancheta, we're
18 pretty excited to get this CVAP data sent out of the
19 census. Sorry I'm putting it like that, but you know,
20 honestly, I didn't think it was going to happen. I just
21 thought hey, we'll ask and you know, what can they say?
22 They can say no, but they said yes.

23 So it gives you an option to jumpstart early, and
24 you know, you could get a jumpstart on doing a racially
25 polarized voting analysis if you so choose, and also

1 consider at the state wide database, we are collecting
2 data. We are going to have some data processed already
3 for the general election of 2020. So there will be more
4 data available, you'll have data over time.

5 So you know, I hope you'll find this slide useful,
6 and I hope you'll find this dataset useful, and you know,
7 if you decide to hire a consultant who can do this for
8 you early, then this is your optional dataset to get
9 started.

10 I'm going to stop right here. What time is it?
11 We're almost at lunch, I think, and if you have any
12 questions, I think this could be a stopping point or we
13 could go through a little bit more of the CVAP dataset.
14 So --

15 COMMISSIONER TURNER: No, this is fine. This is a
16 good stopping point.

17 MS. MAC DONALD: Okay. Wonderful.

18 COMMISSIONER TURNER: Okay. Well, we can stop now.
19 Can you hear me?

20 MS. MAC DONALD: Yes, I can. Thank you, thank you
21 very much.

22 COMMISSIONER TURNER: Okay, so Commissioners, we'll
23 stop and break now for lunch. When we come back from
24 lunch, we will need to take public comment as per our
25 commitment, and then we will continue on with the

1 presentation and your questions. So lunch from 12:35 to
2 1:35.

3 COMMISSIONER ANDERSEN: Commissioner Turner, before
4 you have us adjourn, we already have -- am I correct in
5 saying we have a professor --

6 COMMISSIONER TURNER: Right.

7 COMMISSIONER ANDERSEN: -- at 1:30. So who's going
8 next?

9 COMMISSIONER TURNER: Yes, we will continue. I have
10 currently -- staff is reaching out to delay if we're able
11 to delay Matt. So we'll have that information when we
12 return.

13 COMMISSIONER ANDERSEN: Thank you.

14 COMMISSIONER TURNER: Um-hum, thank you. Alrighty.
15 1:35, we'll be back. We'll recess now for lunch.

16 (Whereupon, a recess was held from 12:35 p.m.
17 until 1:35 p.m.)

18 COMMISSIONER TURNER: Good afternoon. Welcome back
19 from our lunch. We will resume our meeting for today,
20 and we're going to start at the top of the hour with our
21 public comment, and so I am hopeful that we have some
22 public that's listening in, and if you have comments, we
23 will take them at this time.

24 So Ryan, would you please check to see if we have
25 anyone waiting in queue?

1 AT&T OPERATOR: Yes. As a reminder, please press 1,
2 then 0 if you wish to make a comment. 1-0. I'm allowing
3 a few moments. We do not have anyone in queue at this
4 time.

5 COMMISSIONER TURNER: Well, we'll wait a couple of
6 minutes since we are starting with public comments to see
7 if we have anyone that dials in before we begin.

8 Raul, I'm just seeing your response. Yes, please
9 check.

10 AT&T OPERATOR: And as reminder, please press 1-0 if
11 you wish to make a comment, 1-0. And we have no one in
12 queue at this time.

13 COMMISSIONER TURNER: Okay, thank you so much.

14 Ms. Mac Donald? I think she's back on.

15 MR. MANOFF: We haven't seen her come back just yet.

16 COMMISSIONER TURNER: Okay.

17 UNIDENTIFIED SPEAKER: Chair?

18 COMMISSIONER TURNER: Okay, thank you. Then let's
19 make good use of the time. Which agenda item, let's see
20 here, do we think we could get through?

21 MS. JOHNSTON: Madam Chair, you might want to
22 inquire on the three committees that are checking on the
23 staff applications to see when they'd be ready to discuss
24 those items?

25 COMMISSIONER TURNER: Perfect. Let's see, so for

1 application review, we have Kennedy and Fernandez for the
2 Executive Director, Toledo, Andersen for counsel, and
3 Taylor, Vazquez for communications. What say you? When
4 will you be ready?

5 Commissioner Fernandez?

6 COMMISSIONER FERNANDEZ: Commissioner Kennedy and I
7 discussed the applications this morning and we're going
8 to have another discussion tomorrow morning before our
9 regular meeting, so we should be able to have that
10 discussion with the full Commission tomorrow for the
11 Executive Director.

12 COMMISSIONER TURNER: Perfect. Or what about
13 counsel and communication?

14 COMMISSIONER TOLEDO: So we're meeting this
15 afternoon. We've read the resumes, we've looked at the
16 guidance, and we'll have a conversation, and we hopefully
17 will be ready for tomorrow. I believe we will.

18 COMMISSIONER TURNER: Perfect, and that's for
19 counsel? And then --

20 COMMISSIONER TOLEDO: That's for counsel.

21 COMMISSIONER TURNER: Thank you, and for
22 communication, will tomorrow work as well or what are we
23 thinking?

24 COMMISSIONER FERNANDEZ: Yes, we are ready. We've
25 discussed.

1 COMMISSIONER TURNER: Outstanding. And for the
2 rotating chairs, I know that Commissioners Yee and Toledo
3 have been anxiously waiting responses for those that's
4 willing to participate as a chair. If you can get back
5 to them expeditiously, we will perhaps be ready tomorrow.
6 They can get all of our responses. Outstanding, and then
7 we also had, and I think Sadhwani, you spoke early --
8 Commissioner Le Mons?

9 COMMISSIONER LE MONS: Just a clarity question on
10 that. My understanding was that we just needed to
11 respond if we did not want to be in the rotation; is that
12 correct? Or are you supposed to respond either way?

13 COMMISSIONER TURNER: Commissioner Yee?

14 COMMISSIONER YEE: The first one, respond only if
15 you do not want to be in the rotation. Thanks.

16 COMMISSIONER TURNER: Okay, perfect. Thank you for
17 the clarification. Okay, so after today, whatever you
18 receive, I think you'll be ready to rock and roll with
19 who did or did not respond. Thank you.

20 INTERIM ADMINISTRATOR VILLANUEVA: Excuse me, Chair?
21 I just got a message that we do have some public comment
22 waiting.

23 COMMISSIONER TURNER: Oh, perfect.

24 COMMISSIONER LE MONS: If you want to resume that.

25 COMMISSIONER TURNER: Ms. Mac Donald, we'll resume

1 public comment and then we'll go into the continuation of
2 your presentation.

3 MS. MAC DONALD: Thank you.

4 COMMISSIONER TURNER: Yes. Ryan, we're ready for
5 public comment.

6 AT&T OPERATOR: Okay, and if you'd please spell your
7 name after I open your line. Our commentor is Abby
8 Morales [sic]. Please go ahead.

9 MS. MORALES: Hi, sorry. Gabi Morales, G-A-B-I, and
10 Morales, M-O-R-A-L-E-S.

11 COMMISSIONER TURNER: Thank you. Welcome.

12 MS. MORALES: Hi, thank you. Sorry about that. It
13 took a while to ring me in. So as I said, my name is
14 Gabi. I called last week during Mr. Johnson's
15 presentation on behalf of the LGBT community, and I
16 wanted to thank Ms. Mac Donald for clarifying and
17 correcting the rural communities of interest in the
18 redistricting process.

19 Mr. Johnson suggested giving priority to communities
20 legally defined or defined but governmental dataset
21 sources, however, this would create an explicit and
22 implicit bias against the other communities. The LGBT
23 community knows all too well the discriminatory effect
24 this can have. For example, to date the Census Bureau
25 has not included information on sexual orientation.

1 If this Commission gives preference to communities
2 based on the availability of ACS data, it will have the
3 effect of creating a bias against our community. LGBT
4 communities are often long-standing, vibrant, and easily
5 identified. However, due to a history of discrimination,
6 government officials have often lagged in granting
7 official recognition.

8 Even in progressive Sacramento, Lavender Heights,
9 which was founded in 1983, wasn't officially recognized
10 by the city until 2015 despite extensive public testimony
11 on its importance. Had the last Commission favored
12 governmentally defined communities of interest, would
13 this neighborhood have been split?

14 So thank you, Ms. Mac Donald for highlighting that
15 fair representation isn't a math problem. It isn't a
16 golf score where every split is equivalent as was
17 suggested last week. Splitting a community of interested
18 defined by the community itself, especially a community
19 that has long struggled for fair representation can be
20 vastly more harmful to voting rights than splitting a
21 city with seemingly random boundaries that most residents
22 probably don't even understand. I urge the Commission to
23 use the extra time granted to you to gather information
24 on all the proverbial voting blocks and not diminish the
25 critical role of public testimony just because it is



1 harder and more challenging than some demographers may
2 prefer. Thank you so much.

3 COMMISSIONER TURNER: And thank you for your
4 comment, Gabi. Thank you.

5 Next caller, please.

6 AT&T OPERATOR: And we have no further in queue at
7 this time.

8 COMMISSIONER TURNER: Okay. Thank you so much.

9 Ms. Mac Donald will continue, please. Ms. Mac
10 Donald. Oh, you're on mute.

11 MS. MAC DONALD: I'm -- I'm sorry. I was trying to
12 get this screen to share and my apologies. I understand
13 you were looking for me, and I wasn't quite on. I was
14 trying to evict my two four-legged furry coworkers from
15 this room because they're -- they can be quite
16 opinionated and I -- yeah. So my apologies for that.

17 COMMISSIONER TURNER: No worries. We used the time
18 expeditiously.

19 MS. MAC DONALD: So thank you for your attention to
20 the presentation so far. I really appreciate talking to
21 all of you about this and with all of you about this.
22 It's a really great conversation for me.

23 Before I get moving on this slide, I wanted to
24 update you on a question that came up earlier on the
25 prisoner reallocation and wanted to thank Commissioner

1 Kennedy about his question on juveniles and whether the
2 juvenile facilities were included. And I looked back
3 onto my records and also was able to connect with a
4 colleague -- with Ethan Jones from the Assembly Elections
5 and Redistricting Committee. Thank you very much, Ethan.

6 He also went back through his notes and Commissioner
7 Kennedy is correct. Adult is not in the language at this
8 point. We actually changed that. That language was
9 changed with Assembly Bill 2172. That was the Weber
10 Bill. And we clarified in that bill the information that
11 was going to be given to Statewide Database and found out
12 that adult correctional facilities was actually not
13 perhaps the correct term to use.

14 The bill now references facilities under the control
15 of the California Department of Corrections and
16 Rehabilitation. And in fact, juvenile facilities are
17 part of that dataset. So my apologies for the confusion.
18 Thank you very much, Commissioner Kennedy, for jumping
19 onto the election code and for looking that up. I had
20 the word adult from the previous version of the bill in
21 my head. So thank you. I wanted to clarify that.

22 COMMISSIONER TURNER: Wonderful. Thank you for
23 checking and getting back with that response. Thank you.

24 MS. MAC DONALD: Absolutely. Thank you. So going
25 back to where we stopped, we are now talking about the

1 ACS CVAP versus the post-2020 CVAP dataset. So this goes
2 again back to our Friday conversation. And one of the
3 Commissioners, I think it may have been Commissioner
4 Andersen, had asked what administrative datasets may be
5 part of the post-2020 citizen voting age population
6 dataset. So this comes from their documentation.

7 And again, they have not yet -- so again, this is
8 not the dataset that Commissioner Ancheta -- Former
9 Commissioner Ancheta, I'm sorry, and I were able to
10 secure for your use. This is the dataset that will be
11 released at the same time as the P.L. 94-171 whenever
12 that is. This is a brand new dataset that we have not
13 yet seen. And apparently, there are still some
14 questions.

15 So the documentation, as thin as it is at this
16 point, says that the post-2020 CVAP is expecting to use
17 and is evaluating data from federal administrative record
18 sources, including the following. And there's a whole
19 list, Social Security Administration, Internal Revenue
20 Service, Centers for Medicare and Medicaid Services,
21 Department of Housing and Urban Development, and so
22 forth.

23 So again, these are federal data sources. These are
24 administrative data, as opposed to American Community
25 Survey, which is compiled from actual interviews with

1 people. So that's actually a survey.

2 And in addition to these data sources, they are also
3 perhaps expecting to use when available. And again, we
4 talked about this, about what may be available from the
5 State of California. The answer is probably not much.
6 Temporary Assistance for Needy Families, Low Income Home
7 Energy Assistance program, and state driver's licenses,
8 and so forth. So that is in response to the question
9 that was asked on Friday.

10 Why is this screen not moving?

11 COMMISSIONER SINAY: Just to clarify, this is the
12 attempt that's being done to figure out who's
13 undocumented and who's not?

14 MS. MAC DONALD: This is the attempt to compile a
15 different citizen voting age population dataset. That is
16 this -- this particular attempt.

17 COMMISSIONER SADHWANI: Just to throw in here --

18 MS. MAC DONALD: Yes.

19 COMMISSIONER SADHWANI: -- my assumption is
20 obviously that the census is -- the Census Bureau is
21 acting on behalf of the wishes of the Trump
22 Administration and the Secretary of State. Should we
23 have a new president come 2021, this could change; is
24 that correct? That the Census Bureau -- would they have
25 enough time to go back and do some of the processing? Or

1 are we completely missing it? Will we have completely
2 missed it if the administration changes?

3 MS. MAC DONALD: Yeah, I think that -- so first of
4 all, you're correct that, you know, if there is a new
5 administration, all kinds of things could happen. At
6 this point, from what I know, they are focusing on just
7 getting the reapportionment dataset done. And that
8 pretty much means all hands on deck. So a lot of people
9 that would have been working on something like this are
10 now working on something else.

11 I would say that if there is a change in the
12 administration, I think it's a pretty good guess that
13 some things could happen that perhaps at this point are
14 not happening, including perhaps doing more post-
15 processing and perhaps extending the time line.

16 COMMISSIONER SADHWANI: Thank you.

17 MS. MAC DONALD: So a little bit more about the ACS
18 and on some of these points we've already touched. The
19 ACS, the American Community Survey is not a count of the
20 population, so that is something to remember when you're
21 thinking about how to use that dataset. It produces
22 estimates that are comparable for geographies recognized
23 by the Census Bureau. So those geographies, of course,
24 are census blocks, census tracts and so forth.

25 It's generally described as a portrait of the

1 population. And remember, I spoke about the P.L. 94, the
2 shortform data as a snapshot. So snapshot of -- of
3 census day and portrait is something that is developed
4 kind of over a longer period of time. It's more
5 descriptive.

6 The five-year ACS estimates are released yearly for
7 small geographies and then the three-year estimates are
8 released for larger geographies and they are also
9 actually released yearly, but I touched on this on
10 Friday, so I won't go into too much detail on this.

11 The larger geographies are 20,000 people and up.
12 And if you think about this in terms of mapping it, if
13 you were to map it, you would have a lot of areas that
14 are not covered with any data on the three-year
15 estimates. And ACS data, this is a note to self, they
16 are not released on the census-block level. So the P.L.
17 94 data, this snapshot of the population, those data are
18 released on the census-block level.

19 This is a nifty, little chart that I've been using
20 for many years, and it kind of just shows you how the
21 different census geographies are relating to each other
22 and what nests in what.

23 So at the very bottom you see that there are blocks,
24 so census blocks. And you see that they nest in all of
25 these other geographies that are recognized by the

1 census. So BGs are block groups and then there is census
2 tracts if you go up in the middle. And then there's
3 counties and states. So nothing is essentially split by
4 a census block, which is why the census block's so
5 powerful for us when we're thinking about building
6 districts. And that's also why redistricting databases
7 are built on the census block. Because once you have
8 them, you have that flexibility to go -- you know, well,
9 this may not be able to go.

10 This is a slide -- and this is something that Jaime
11 was trying to show yesterday, and I'm not sure how clear
12 it was, but this might illustrate a little bit better
13 what she was trying to show.

14 COMMISSIONER TURNER: Ms. Mac Donald?

15 MS. MAC DONALD: Yes.

16 COMMISSIONER TURNER: Excuse me. It's Commissioner
17 Turner. Back on the previous page on the chart that you
18 refer back to frequently.

19 MS. MAC DONALD: Yes.

20 COMMISSIONER TURNER: I didn't quite grasp this
21 chart. Can you tell me again, what should this be
22 telling me?

23 MS. MAC DONALD: Absolutely. Thank you for that
24 question. So this is a chart that shows census
25 geography. So these are the various census geographies

1 that the census basically reports various sets of data
2 on. And some of these are geographies that you're
3 probably not going to be working with ever, not in this
4 process and not in any other process. But other ones,
5 they might just be good to know.

6 So at the very bottom in the center of this chart,
7 you see blocks. So that refers to census blocks. Census
8 blocks are the units of analysis or the little
9 geographies on which we get our shortform data. So the
10 P.L. 94 is released on a census block. So you are
11 getting particular information about how many people,
12 what's the race --

13 COMMISSIONER TURNER: Um-hum.

14 MS. MAC DONALD: -- and ethnicity, what's the voting
15 age population on the census block. And just to refresh
16 your memory, we have about 720,000 census blocks in the
17 State of California, so that's a lot of -- or say, if
18 you're -- if you're working on a map, that's a lot of
19 clicking if you have to just select --

20 COMMISSIONER TURNER: Um-hum.

21 MS. MAC DONALD: -- every census block at the same
22 time, you know, carpal tunnel here -- here's your chance.

23 But census blocks also nest in larger units of
24 analysis, for example, block groups. So block group, as
25 the name suggests, of course, is a group of blocks that

1 are put together and some data are released on the block-
2 group level. So for --

3 COMMISSIONER TURNER: Um-hum.

4 MS. MAC DONALD: -- example, from the American
5 Community Survey, sometimes you get data released on the
6 block-group level.

7 COMMISSIONER TURNER: Um-hum.

8 MS. MAC DONALD: And then there are yet other
9 surveys or other datasets from the census or other tables
10 from the census that are released on what's called a
11 census tract. So blocks nest in block groups. They nest
12 in census tracts. So all of these, anything that you do
13 on the block can be aggregated to a larger unit, which
14 also means that you can then kind of use these larger
15 units -- use those first so you don't click 720,000
16 times.

17 COMMISSIONER TURNER: Um-hum.

18 MS. MAC DONALD: You take a census tract and you
19 throw that into your district, and then you can, from
20 there, go to like the smaller units because it all nests
21 and it all perfectly lines up.

22 COMMISSIONER TURNER: Um-hum. Thank you.

23 MS. MAC DONALD: And I think you can --

24 COMMISSIONER TURNER: So I guess my -- the thing I
25 was wondering about is the lines going off to the right

1 and left -- I get the straight-up line and how they nest
2 to one another. Is there something we do with the other
3 ones?

4 MS. MAC DONALD: Yeah. Well, some of the other ones
5 might be interesting to you. I mean, one of the ones, if
6 you go up to the left, you see school districts. So
7 these are the outlines of the school districts, for
8 example. And the census also collects those and their
9 geography. And that, by the way, is also a program that
10 we worked at -- through Statewide Database. It was the
11 school district boundary review --

12 COMMISSIONER TURNER: Um-hum.

13 MS. MAC DONALD: -- program to make sure that the
14 census had accurate statistics available. But generally
15 speaking, this is really just an informational chart.
16 And I wouldn't want you to think that -- you know, you
17 need to know everything that's on this chart. If --

18 COMMISSIONER TURNER: Um-hum.

19 MS. MAC DONALD: -- you look to the right -- if you
20 follow the block line to the right, you see this term
21 places. And --

22 COMMISSIONER TURNER: Yes.

23 MS. MAC DONALD: -- places, those are basically
24 cities.

25 COMMISSIONER TURNER: Right.

1 MS. MAC DONALD: So that's the census term for
2 cities and certain areas that function like cities. And
3 what this shows you is that blocks also nest in cities.
4 So if you take a whole city and you put it into your
5 district because you need to take cities -- you have to
6 keep cities and counties and cities and counties
7 together, you can be sure that you're not splitting a
8 census block when you're doing it. So that's --

9 COMMISSIONER TURNER: Well --

10 MS. MAC DONALD: -- that's the nifty thing about
11 this chart --

12 COMMISSIONER TURNER: Um-hum.

13 MS. MAC DONALD: -- is it just shows --

14 COMMISSIONER TURNER: Um-hum.

15 MS. MAC DONALD: -- you what nests in what. And it
16 also shows you what perhaps does not nest in what. And
17 you see that there is no line from census tracts to
18 city --

19 COMMISSIONER TURNER: Right, right. Okay.

20 COMMISSIONER TURNER: -- into places. So that's a
21 good one to know because census tracts can actually spill
22 over city boundaries.

23 COMMISSIONER TURNER: I see it. I see it. Okay.

24 MS. MAC DONALD: So --

25 COMMISSIONER TURNER: Thank you.

1 MS. MAC DONALD: Yeah. That's why I like this
2 chart. I just --

3 COMMISSIONER TURNER: Um-hum.

4 MS. MAC DONALD: -- think it's handy.

5 COMMISSIONER TURNER: Um-hum.

6 MS. MAC DONALD: You know.

7 COMMISSIONER TURNER: Um-hum. I got it. Thank you.

8 COMMISSIONER ANDERSEN: Oh, sorry. Ms. Mac Donald,
9 just a quick question here. On the American Community
10 Survey, you know, you say that data is not released on
11 the census-block level, but some parts that are on block
12 groups, some are census tracts. Could you at a later
13 point maybe give us a little chart similar -- I mean, not
14 just -- charts are really handy. So could we have a
15 little chart from the American Community Survey what data
16 is based on what all group. That makes sense?

17 MS. MAC DONALD: Certainly. Certainly that does
18 make perfect sense. And yes, I can supply that for you
19 probably not today, but we'll put something together for
20 you.

21 COMMISSIONER ANDERSEN: Great. Thank you very much.

22 MS. MAC DONALD: Oh, here we go. Okay. So this is
23 just a little visualization of what we just spoke about.
24 So this is a map that shows some of these small census
25 units. And the red little dotted lines are census

1 blocks. And you see the census block groups. Those are
2 the ones that are in the faint purple. And I don't know
3 how this shows up on your screen, so these are you know,
4 the second largest units that are in there. And then the
5 darker lines that are not dotted or striped, the very
6 dark lines, those are census tracts.

7 So that's essentially how census geography is built.
8 And you'll become used to these pretty quickly, in
9 particular, I would say probably blocks and tracts.
10 Those block groups are not that frequently used and
11 that's kind of is what it is, so.

12 COMMISSIONER SINAY: So this is Patricia. One of
13 the things from having used census data that gets really
14 frustrating for the community and this will happen with
15 neighborhoods and community of interest is that they have
16 nothing in common with the ZIP codes. So communities of
17 interest, usually neighborhoods will -- you know, know
18 each other by their ZIP code. And the tracts -- none of
19 that, as you can see from the previous one, feeds into
20 that. So that's just something to keep in the back of
21 our minds.

22 MS. MAC DONALD: Yeah. Absolutely. It's a really
23 good point. Thank you.

24 So really quick just a census geography by the
25 numbers. And I've already, you know, mentioned this.

1 California, we have fifty-eight counties and in 2010, we
2 have the following units of analysis or census units that
3 were delineated 8,000-something census tracts, 23,000-
4 something census block groups, and two -- 710,144 census
5 blocks. And in around February, probably, we will get
6 new census geography. And then we'll see how many units
7 we have. The census was really trying to maybe get rid
8 of some of these blocks, clean up some of this geography,
9 but you know, we just don't know what it's going to look
10 like, so that'll be interesting.

11 If there are no questions on this, then I will go on
12 to criterion 2 and election data. We had some questions
13 on that earlier. Does that sounds good? Okay.

14 So election data. Election data are necessary for
15 the Federal Voting Rights Act for assessment and for
16 compliance. And they are used along with the P.L. 94-171
17 dataset and the ACS data, as we've heard before. And
18 election data really consist of two datasets. It's the
19 SOR or statement of registration, and the SOV, stands for
20 statement of vote.

21 So these are the two datasets that we think about.
22 This is the answer to the question that was asked earlier
23 about where do we get these data. And we get them from
24 the Registrar of Voters and from the Secretary of State;
25 that's how they are collected. And the statement of

1 registration is what we call an individual-level dataset
2 because we know for each individual how that person was
3 registered. And for example, when they were registered
4 and so forth. We know their age and so forth.

5 But the statement of vote, because the vote is
6 private, that is a precinct-level dataset. So there are
7 multiple responses or -- you know, ballots that get
8 compiled into an aggregate dataset. So the smallest unit
9 of analysis on which the statement of vote is available
10 is the precinct. So this is very similar to the smallest
11 unit of analysis on which census data are available is
12 the census block, right. In here, this is a precinct.

13 And of course, we're all familiar with this because
14 you know, we're all voters and we know that precinct
15 results are released. And this is just a little
16 information about how that works.

17 So let's go back to these geographies set we just
18 discussed. In the datasets we talked about, we talked
19 about different geographies. We talked about census
20 blocks, which are the smallest for the census. And then
21 census-block groups and tracts which are a little bit
22 bigger. And then we also talked about election
23 precincts. And Commissioner Andersen just weighed in on
24 ZIP codes, for example. That is also another geography
25 that we haven't even talked about because some people

1 think in ZIP codes. So there's a lot of geographies in
2 this space.

3 Census geography is maintained by the Census Bureau.
4 It stays constant for ten years. Remember I said that
5 we're getting a new set of blocks in February. That is,
6 by the way, a delay. We usually get the new census
7 geography in December of the year ending with zero, so
8 this is a two-month delay.

9 Precinct geography is maintained by the fifty-eight
10 registrars of voters. And those are essentially
11 organizing units to conduct the elections and then
12 release the results. Precincts in California change
13 pretty frequently, and they oftentimes change with every
14 election, which keeps us all on our toes and makes things
15 very interesting.

16 Here is a slide that shows you some detail on the
17 differences between election precincts and census blocks.
18 So again, and this is thanks to Jaime for providing these
19 slides for this presentation, the census-block boundary
20 is the one with the red stripes, the little, like broken
21 up dots there. And the precinct boundary is this darker
22 gray boundary that basically encompasses some of the
23 census blocks, but it also splits some of the census
24 blocks. If you look toward the left, in the more leftish
25 center of the slide, you can see one of these census

1 blocks that's split -- or actually multiple ones. And
2 here's a little insert of that. So this is an example of
3 a census block that is split among three precincts.

4 And that gets us to what a redistricting database
5 actually is and what it does. So a redistricting
6 database solves the problem of conflicting and frequently
7 changing geographies. The way to think about this is
8 that you don't want to hop from geography level to
9 geography level when you are looking at these different
10 datasets. What you really want is you want as many data
11 points as possible on the same geography so that you can
12 look at all of them at the same geography and then build
13 your districts with that.

14 So redistricting databases contain various datasets
15 and they are merged and they get then released on the
16 census-block level. So typically, a redistricting
17 dataset contains census data, the P.L. 94, the American
18 Community Survey data, which, by the way, you've heard is
19 released not on the census block but rather on the block
20 group. So a redistricting dataset will put that also
21 under the census block. And statement of vote data,
22 which you heard is released on the election-precinct
23 level and statement of registration data, which are
24 individual-level data. Okay?

25 So all of these datasets are merged and released on

1 the same unit of analysis, which is the census block.
2 And that essentially is a redistricting database. And
3 that is a redistricting database no matter where you go.
4 So it's not just California. It's anybody who releases
5 or who builds redistricting databases, this is what they
6 tried to accomplish, more or less.

7 So redistricting data in California, Government
8 section -- it's Government Code section 8253 says, "The
9 Legislature shall take all steps necessary to ensure that
10 a complete and accurate computerized database is
11 available for redistricting and that procedures are in
12 place to provide the public ready access to redistricting
13 data." And that is the function that we provide through
14 the Statewide Database.

15 But please, also, this is something that I would not
16 have highlighted ten years, but today I'm going to
17 highlight it. And this is the complete and accurate
18 piece, you know. I mean, we do what we can, but you
19 know, when part of your dataset is census data, then the
20 accuracy at this point is definitely something that --
21 you know, keeps us up at night. And that's partially
22 also why I am one of the people in California that's so
23 involved with kind of finding out what's going on with
24 census -- and you know, with what goes into the census.

25 So the Statewide Database, and this goes back to the

1 question that Commissioner Sinay asked at the very
2 beginning of my presentation, the Statewide Database is a
3 redistricting database for the State of California. We
4 are located on the UC Berkeley campus. We're part of
5 Berkeley Law.

6 And we have -- what we provide to the public is a
7 longitudinal dataset that goes back to 1992, actually.
8 Usually redistricting databases span ten years, but you
9 know, we have data back to 1992. In the early years, not
10 necessarily complete, but in the later years they are
11 definitely complete.

12 And I think, at least, one of you has worked with
13 Statewide Database data, so you probably know this.
14 Commissioner Sadhwani, yeah. So it is a public
15 nonpartisan, free-of-charge dataset. And it's available
16 in different formats and it provides data and geography
17 for the entire State of California.

18 It's become a little bit more popular in the last
19 year since the California Voting Rights Act was
20 implemented. You know, we really -- until people started
21 to really almost start going from at-large to district
22 elections, during nonredistricting years, it wasn't that
23 busy. But now that everybody's going to -- you know, or
24 a lot of people are going to district elections, there's
25 definitely -- we're definitely seeing more web traffic,



1 not foot traffic, but web traffic.

2 Just to give you quick overview of our data, we
3 start with the P.L. 94-171. We have statement of vote
4 data from statewide elections, so not local elections,
5 unfortunately, at this point. Though, one can hope that
6 that may be something that we will be able to incorporate
7 in the future. And I have my fingers crossed that that
8 might actually happen. Statement of registration data
9 from statewide elections and American Community Survey
10 citizen voting age population data, precinct data and
11 geography. So we have a really big section of just
12 geographies for mapping. And then in every year ending
13 with one, we produce a redistricting dataset that
14 contains the new census data and multiple elections on
15 the census-block level.

16 So I'm going to stop right here for a second and
17 then we can go into the reallocation of census data -- of
18 prisoner data one more time, very briefly. But if you
19 have any questions on the redistricting dataset section,
20 I'm very happy to answer them. And if not, then I'll go
21 on.

22 COMMISSIONER YEE: Question --

23 COMMISSIONER FORNACIARI: Question --

24 COMMISSIONER YEE: -- about -- go ahead.

25 COMMISSIONER FORNACIARI: Okay. So how do you



1 reconcile the data that comes in large geographies down
2 to the census-block level?

3 COMMISSIONER YEE: That was also my question.

4 MS. MAC DONALD: Yes. So we have a very talented
5 statistician from Caltech who has been working on this.
6 And there is no short answer to this, I hate to tell you.
7 But there is a really -- we have documentation on exactly
8 how that works, and I'm happy to send that to you. You
9 can take a look at it. And then if you'd like to talk
10 about that in more detail, we can schedule that for the
11 future.

12 Essentially, the registration data are geo-coded, so
13 that's pretty much the easiest part of it because we have
14 individual level census data and then -- you know, we
15 have one person at Statewide Database that is responsible
16 for making sure that the precinct geography is properly
17 digitized and makes sure that that makes it into the
18 database. And then there are various statistical
19 processes, including ecological inference, that go into
20 building this dataset. So I'm sorry. That's a quick
21 question to a very complicated -- quick answer to a very
22 complicated question. And I hope that will be okay for
23 today, but I'm very happy to send the documentation over.

24 COMMISSIONER FORNACIARI: Okay. That would be
25 great. Thank you.

1 MS. MAC DONALD: Okay. Any other questions? If
2 not, then I will move on.

3 COMMISSIONER SADHWANI: I'll just chime in to say
4 that you all done amazing job of preparing the data. And
5 yes, like, trying to figure out CVAP at the precinct
6 level is like the bane of my existence. But you know,
7 thank you for all of the amazing work that you and your
8 team do at the Statewide Database. Incredible.

9 MS. MAC DONALD: Thank you for using this dataset.
10 This is how the dataset gets better, you know, feedback
11 from people that use the dataset. So thank you.

12 COMMISSIONER SADHWANI: Yes. Absolutely.

13 MS. MAC DONALD: So very quickly back to our
14 reallocation of prisoners dataset. There were two major
15 bills that governed that particular move to implementing
16 this for California. They were AB 420 the Davis bill and
17 then the cleanup bill, which is the Weber bill, AB 2172.
18 And that is where I got my wires crossed because that
19 bill actually changed the language from -- took the adult
20 out and changed that to facilities under the control of
21 CDCR.

22 Those bills require the California Department of
23 Corrections and Rehabilitation to provide a dataset to
24 the Citizens Redistricting Commission and the Legislature
25 between April 1, 2020 and July 1, 2020 regarding the last

1 known place of residence of each inmate in a facility
2 under the control of the CDCR on April 1, 2020.

3 And of course, what you're seeing there is between
4 April 1, 2020, we wanted to make sure that the data we
5 get coincide with census day. Because just like many
6 datasets, for example, registration data, these are
7 datasets that are always in flux because you know, people
8 register, people move. And so there's -- every hour or
9 so something will change. And that's the same for CDCR.
10 People are being moved; people are coming into the --
11 into the facilities. They're going out of the
12 facilities. We wanted to just make sure that we get a
13 dataset that is pulled on the same day and it's accurate
14 as of the same day as the census date.

15 It requires CDCR to provide information about the
16 race and ethnicity as identified by the inmate and any
17 information about the race of the inmate to the extent
18 such information is maintained. And it then requires the
19 Legislature in coordination with the CRC, to ensure that
20 the information provided by CDCR is included in the
21 computerized database that is used for redistricting.
22 And it requests the CRC to deem each incarcerated person
23 as residing at his or her most recent residential address
24 rather than at the institution of his or her
25 incarceration. So of course, we have gone through this

1 in bits and pieces over the last -- you know, few days.
2 And that is essentially what these bills and what the
3 election code section does.

4 I should tell you that we did receive the dataset
5 from CDCR. We -- you know, collaborated with them on
6 file formats and so forth. And as you can tell by the
7 fact that there was AB 2172, it was pretty complicated to
8 make sure that the language was -- was proper and that
9 you know, the dates would work. And -- you know, the
10 original bill had talked about the offender management
11 system and that is not in operation anymore. So there
12 was definitely some cleanup necessary. And we are now
13 working on this, so we're working on data cleaning and so
14 forth.

15 Are there any questions about this?

16 COMMISSIONER YEE: I have a question. So I took a
17 look at Elections Code 21003 over lunch --

18 MS. MAC DONALD: Um-hum.

19 COMMISSIONER YEE: -- and noticed something. So
20 first of all, this does not include county jails. It's
21 only state institutions. So like, here in Alameda
22 County, we have Santa Rita, which is like 3- or 4,000
23 prisoners, but those would be deemed to live at Santa
24 Rita then, I guess, right?

25 MS. MAC DONALD: Right.

1 COMMISSIONER YEE: Okay.

2 MS. MAC DONALD: That is correct.

3 COMMISSIONER YEE: Yeah.

4 MS. MAC DONALD: That is correct. And actually, if
5 you recall a few years ago, there were some court cases
6 where the state had to release people because of the
7 facilities under control of CDCR were under -- were
8 overcrowded, so essentially the numbers in the CDCR
9 facilities went down and the county facilities actually
10 went up. So yes.

11 COMMISSIONER YEE: Wow.

12 MS. MAC DONALD: Yes, technically, it's not covered
13 by this bill.

14 COMMISSIONER YEE: Okay. Then one other provision
15 that is pretty clear, but I just want to get my head
16 around it. So if a prisoner's last known address is not
17 known or is in a federal facility, they are not to be
18 counted in the location of the prison, but just assigned
19 to the general California population. So the effect is
20 that -- in the end, inmates in state prisons, nobody's
21 going to be counted in the block group where that prison
22 is located unless they happen to -- last known address
23 happens to be right outside that prison.

24 MS. MAC DONALD: I think that would be correct,
25 yeah.

1 COMMISSIONER YEE: Yeah. Wow. Okay.

2 MS. MAC DONALD: Yeah. And here -- here's the
3 detail that you are just referring to. I just --
4 actually just added --

5 COMMISSIONER YEE: Yeah. Well, there it is.

6 MS. MAC DONALD: -- the slide. Yeah. Sorry. I
7 forgot that was there. Apologies. So yes -- so --

8 COMMISSIONER YEE: No worries.

9 MS. MAC DONALD: -- if the inmates last known place
10 of residence is outside California or it cannot be
11 determined or the inmate is in federal custody in a
12 facility within CA, California, then they are deemed to
13 reside at an unknown geographical location in the state
14 and exclude -- and then we're supposed to exclude the
15 inmate from the population count for any, you know,
16 district, ward, or precinct, yes.

17 And again, race and ethnicity data should be
18 adjusted in districts, wards, and precincts that contain
19 prisons to reflect the reductions in the local population
20 and to the extent practicable, those deemed to reside at
21 an unknown geographic location. So there's going to be
22 some random assignment on some people that we can't
23 allocate. If the address is not specific enough to
24 assign to a census block, then we're supposed to allocate
25 to a randomly determined census block, or you know,

1 locate within the smallest geographical area that can be
2 identified.

3 So for example, think about it that way, if we have
4 an address that is only specific enough to use a previous
5 example to allocate to say, a city, then we will randomly
6 allocate within that city. If it's a county, then we're
7 randomly allocated to the county. If it's a ZIP code,
8 randomly within -- you know, the ZIP code. So we'll try
9 where we can to be as specific as possible, obviously, to
10 work with this dataset.

11 COMMISSIONER YEE: And that's a Statewide Database
12 doing that random assignment?

13 MS. MAC DONALD: That's correct. Yeah. That's --
14 we're doing the whole thing, yes. Um-hum.

15 COMMISSIONER AKUTAGAWA: This is Commissioner
16 Akutagawa. So if I'm hearing this correctly, anybody in
17 a federal prison is -- are they counted anywhere at all?

18 MS. MAC DONALD: Okay. So federal prisons are
19 actually not under the control of the CDCR. So this bill
20 is really about facilities that are under the control of
21 the CDCR and -- but there are potentially some federal
22 prisoners that are in facilities under the control of the
23 CDCR. So that -- that is why the federal prisoners even
24 got in there. It does not cover federal prisoners that
25 are residing in federal facilities.

1 And I had a conversation with a colleague over the
2 weekend on this. And I think the reason for that is that
3 the -- California just could not -- we can't require for
4 the federal government to give us data. But you know, we
5 could get data from -- from the State of California and
6 from CDCR. So I think that was the intent here was to do
7 what -- what could be controlled and what could be done,
8 but not require something that, in all likelihood, cannot
9 be done with this bill.

10 There might be -- you know, this might actually,
11 again, be something that Justin could weigh in on because
12 he knows more about the legal implications of these
13 issues.

14 COMMISSIONER AKUTAGAWA: I think I just asked -- I
15 mean, well, one, it's out of curiosity in terms of
16 wanting to understand if and by whom are they accounted
17 for? In other words, if not by California, then, you
18 know, are they counted in any kind of census numbers?
19 Because it just makes me think if, for whatever reason
20 they're released, they just then all of a sudden pop up
21 as if they're a newborn or something like that again. So
22 I guess that was just one kind of thought that I had.

23 But the other one is these federal prisons still
24 exist in some location in California that do require some
25 level of services within -- or I would think by the State

1 of California just by the fact that they're physically
2 located in California. And I just wanted to
3 understand -- you know, how do they get accounted for?

4 And I know that, you know, what we're doing is for
5 the purposes of representation and -- you know, voting.
6 But it's still -- you know, it still seems like the work
7 that we're doing is to ensure that anybody who is
8 physically in the State of California has some type of
9 adequate representation, whether or not they can actually
10 vote or not. So I guess that's partly the kind of -- the
11 reason why I'm asking these questions.

12 MS. MAC DONALD: Right. And thank you for that. So
13 if it's of any help, the number of people that are in the
14 dataset that for whom the last known place of residence
15 was outside of California is actually very small. So
16 this is not -- this is not going to be a large number.

17 And again, as you just said, this is really just for
18 the redistricting database. So for example, federal
19 funding and things like that are not going to be affected
20 by this move, right. So I could probably get you a more
21 accurate -- you know, an accurate number about like who
22 is in that small little, little -- you know, pocket where
23 we just don't have a last known place of residence that's
24 inside of California. But I do remember from looking at
25 it, that it's a very small number. So just don't think

1 that there's going to be a big effect.

2 COMMISSIONER AKUTAGAWA: Sure. Thank you very much.

3 MS. MAC DONALD: Yeah. Thank you.

4 Commissioner Yee?

5 COMMISSIONER YEE: So Commissioner Yee again. So
6 just to see if I get it right, so yes, everyone is
7 absolutely captured in the federal -- in the U.S. Census,
8 including federal prisoners. Californians who are in
9 federal prisons in California right now will get assigned
10 randomly to some geography; is that not correct, along
11 with folks who do not have a good last known address?

12 MS. MAC DONALD: We're actually not touching the
13 federal facilities because we don't have any information.
14 So they stay where they are. So we're not touching them.
15 They are going to be counted and they're going to be
16 where they are because we don't get any information about
17 them.

18 COMMISSIONER YEE: Right. So then the language at
19 this slide we're looking at right now deemed to reside at
20 an unknown geographical location in the state are -- and
21 excluded from main population. Okay. Okay. Right.
22 Okay.

23 MS. MAC DONALD: Yeah. So it's a summary slide. So
24 to make it fit on the slide, I took a bunch of words out.
25 But the bill, they refer to -- these folks, they refer to

1 facilities under the control of the California -- of
2 CDCR, so California Department of Corrections and
3 Rehabilitation because that is where we get the data. So
4 when we're talking about federal prisoners, we are
5 actually talking about federal prisoners that may be part
6 of -- that may be temporarily or whenever -- were on
7 April 1 incarcerated in a facility under the control of
8 CDCR.

9 COMMISSIONER YEE: Right. So they will be counted
10 in the total state population for reapportionment
11 purposes but will not be assigned to any geography for
12 redistricting purposes.

13 MS. MAC DONALD: That's correct.

14 COMMISSIONER SINAY: And just to clarify, the
15 immigration detention centers, those are considered
16 federal, so they're not part of this conversation?

17 MS. MAC DONALD: I think that that is correct, yes.
18 That's my understanding also. So thank you for this.
19 Somehow I changed the slide without me even touching it.
20 So this PowerPoint must want to move on. So if that's
21 okay with you, then I will do that.

22 So what does this all mean? Very quickly, in
23 summary, California will be adjusting the data that it
24 will receive from the census. And the Citizens
25 Redistricting Commission, you must consider whether or

1 not you want to use the adjusted dataset for
2 redistricting. And then you're going to have to explain
3 to the public why the redistricting data for California
4 may be slightly different from P.L. 94-171 as compared to
5 the census, because you know, the census is going to have
6 this dataset out on their website, but not the adjusted
7 dataset, right. Our dataset is going to be a little
8 different.

9 And I've had quite a few conversations with -- you
10 know, some of the software providers to make sure that
11 they know that because the last thing you want is
12 confusion. You know, you don't want to -- you don't want
13 to have hour-long conversations with people that are
14 saying that your data are wrong because they're not the
15 same as what the census has on their website. So this is
16 something to keep in mind.

17 This all will be made more complicated by the
18 application of differential privacy methods, because you
19 know, we're talking about differential privacy and
20 disclosure avoidance and post-processing and the census
21 is going to give us a particular dataset. But you know,
22 we don't really know what we're going to get from them
23 and because those data are going to be a little bit --
24 you know, they have noise infused.

25 Well, when we're going to go through, we're kind of

1 looking at a dataset that the CDCR gave us. And that's
2 actually an accurate dataset about where people were. So
3 some of that may not correspond exactly to what the
4 census gives us, but I have my fingers crossed that this
5 is not going to be a big problem. And if it is, we will
6 let you know because you need to know about this, so.

7 Here is a time line slide that I provided for you.
8 And so just to kind of go back about -- to the ongoing
9 uncertainty about when we're going to get the data, which
10 for the last Commission, that was not something that they
11 had to worry about, right. That was one of the very
12 certain things that they had was we're going to get the
13 data by a particular time. And then get a little -- give
14 a little time to Statewide Database to integrate the
15 election data and so forth and off we go to the races.
16 But you don't really know when that's going to happen.

17 But it is interesting and important perhaps to look
18 at how these data issues fit into a larger time line.
19 And that's why I'm hoping this particular chart is going
20 to be helpful to you.

21 So if you look at this chart, you see it divided
22 into three colors. And yellow is the period after the
23 Commission forms but before you can start to draw lines
24 with the P.L. 94 data. The green is time after the
25 release of the data up to the deadline to finish the

1 maps. So that's where you're putting the maps together.
2 And the red are book ends when the -- with Commission
3 formation on the front end and then post-mapping work on
4 the back end, like dealing with any litigation, or as
5 Justin says, certain litigation and considering
6 potentially -- you know, statutory amendments for the
7 next cycle or whatever you need to do.

8 So if you think about it in terms of red light,
9 green light, yellow light, then there is -- you know,
10 this perhaps makes sense. There's some takeaways on this
11 one, which is that even with the uncertainty, you
12 actually have a lot of time compared to what the last
13 Commission had. And I know it doesn't seem that way.
14 And this may all -- especially after the last couple of
15 days of presentations, it may sound a little
16 overwhelming, honestly. I mean, it sounds overwhelming
17 to me just talking about it. But you know, if you go
18 back to the original time line for the release of the
19 P.L. 94, you're going to have twice as long in the yellow
20 phase as the -- as the last Commission.

21 So when the last Commission was you know, already
22 trying to juggle line drawing and all of that, no matter
23 what happens federally, you do have time to be deliberate
24 in -- you know, debating and discussing data issues and
25 you know, how to organize yourself and gathering public

1 input and so forth. So there is definitely time.

2 But second, while you have more time, you also
3 probably have to use it wisely because these things, they
4 just creep up on you and all of a sudden you know, you
5 are scrambling and there is no redistricting without
6 scrambling at some point. There just is -- I mean, I
7 haven't seen it if there is. So you know, with a narrow
8 exception, you still have just four months to draw all
9 these districts. And so you have, you know, roughly the
10 same amount of time to do that as the last Commission
11 did.

12 And then you know, finally and this is something you
13 want to discuss with Counsel, if we do go back to the
14 original census time line and the data are released
15 before July, the court did encourage the -- encourage the
16 Commission to make every effort to expedite the process,
17 but they didn't say you have to go back to the original
18 time line. So you may be able to squeeze some more time
19 out of it. And if I were you, I'd use it for sure
20 because -- you know, remembering the last time, it was
21 definitely -- it was just a lot of work for a very, very
22 brief period of time. And a lot of things could have
23 been done much more thoroughly with more time available.
24 So that may -- that may mean finish -- finishing before
25 December, but it could also mean that you finish August

1 15 or any time you know, before December, so.

2 And that's really -- if you look at the lower -- the
3 lower slide there, the 2021 Commission shortened census
4 plus -- plus court, that said like gradation between
5 green and red in the lower righthand corner. And you
6 know, there's legitimate reasons for why you may need to
7 take advantage of that.

8 So last time the census data, the P.L. were actually
9 released a little early. And that meant that the
10 Statewide Database was also able to release the data
11 early. And if the Census Bureau needs more time, then
12 you may need to take advantage of the flexibility that
13 you have from the Court or you know, they may be bad
14 count and we heard a lot about that. But again, you
15 know, the last Commission had eight months and you have
16 at a minimum twelve months to do this. So hopefully,
17 this is -- this is another illustration of something that
18 you know. But you know, hopefully it's helpful.

19 If there are no questions on this, then I'll move on
20 to contiguity very quickly and the rest -- okay. Thank
21 you. The rest of this should probably go pretty quick.

22 So contiguity, very quickly, districts shall be
23 geographically contiguous is what the constitution says.
24 And the definition is it's a district in which all parts
25 are connected to each other. In other words, a district

1 in one -- which may -- "in which one may travel from any
2 one location to any other location without crossing the
3 district boundary."

4 And I know that Justin has talked about this before,
5 and so this probably pretty clear to you. Census
6 geography is what we use to meet this criterion. And I'm
7 still giving you a slide. And this was the slide where
8 Jaime, in her presentation yesterday, was kind of
9 laughing about how everybody uses the same slide on
10 contiguity, so here it is again.

11 Here is a contiguity slide. This is actually
12 considered to be a contiguous district. You know, the
13 Channel Islands, Catalina Island, it's just too small.
14 You can't just create their own district for them. They
15 have to be attached somewhere. And you're not crossing a
16 district boundary to add this particular island to the
17 district there.

18 And this is a slide of -- for bridge contiguity. So
19 this is down in the Southland. There is the Coronado
20 Bridge, of course, those of you that are familiar with
21 San Diego. And that is also connecting this particular
22 district to Coronado.

23 And then here, we are up in the Northland. This is
24 the Bay Bridge and this, of course, really funny looking
25 geography.

1 And that just also tells you something about census
2 geography, because the census assigns everything to
3 geography. There's no holes in there. So sometimes you
4 have areas that are water or -- and so forth -- you know,
5 and they're also -- they also get their census geography.
6 So here you see the Bay Bridge that is connecting
7 Treasure Island and Yerba Buena Island to San Francisco.

8 If there are no questions on that, then I will move
9 on to criterion 4, to communities of interest. So to
10 remind you, data on county and city boundaries are part
11 of the Statewide Database, but data on communities of
12 interest are not. That's not something that we collect.
13 Neighborhood data and neighborhood boundaries are also
14 not part of the Statewide Database. They are not
15 generally readily available and need to be collected
16 somehow.

17 So again, sometimes you rely on public testimony in
18 general, and there may also be data on geography
19 submitted by the public or by cities. I know that you
20 have heard about collecting or getting neighborhood
21 boundaries, for example, from San Francisco or from Los
22 Angeles and I have a little bit of a slide on that.

23 I have had the unfortunate -- I have found myself in
24 the unfortunate situation of -- of getting some very loud
25 feedback to using a administrative neighborhood dataset a

1 long time ago that people just did not agree with. And
2 you know, it was a suggestion, and that suggestion was
3 very quickly dismissed.

4 What you'll find when you -- I think, when you
5 collect neighborhoods from cities, that sometimes people
6 will say, yeah, that's great. That's definitely --
7 that's my neighborhood. Those are our neighborhoods and
8 we organize around those neighborhoods. But in other
9 situations, you may find that those are not the
10 neighborhoods that people organize around or that are, in
11 fact, in anyway used by people.

12 There are many different organizations or groups or
13 big-data, you know, collaborations that are now
14 crowdsourcing neighborhoods. And I would say that just
15 because they're crowdsourced doesn't necessarily mean
16 that they're accurate, because you have to look at who is
17 part of the crowdsourcing. And oftentimes crowdsourcing
18 does not include some people that are just not part of
19 the digital universe the way that some other people are,
20 so it can exclude people. And those are all things to
21 kind of weigh when you're looking at neighborhoods.

22 And then communities of interest, this is pretty
23 much the same thing, they are just not readily available
24 and need to be collected in some way. Oftentimes, you
25 know, people rely on public testimony. And that's in

1 fact, what the last Commission did. And that was well-
2 received. And then data on geography also submitted by
3 the public to go along with this is my community of
4 interest and here's where the boundaries are. And
5 sometimes you can get some information from local
6 officials or from other data sources also.

7 So public input in this particular criterion, again,
8 it's not ranked within the criterion, right. So cities,
9 counties, neighborhoods, communities of interest are all
10 on the same level. And that's sometimes really hard when
11 you're working with this criterion to wrap your head
12 around because yeah, of course, we all know where the
13 city is and how can the city not be more important than
14 this little neighborhood that happened to grow across the
15 city boundary. But if you're following the law, you have
16 to consider that on the same -- with the same weight as
17 the city boundary.

18 So Government Code section 8253 says, "The
19 Commission shall establish and implement an open-hearing
20 process for public input and deliberation that shall be
21 subject to public notice and promoted through a thorough
22 outreach program to solicit broad public participation in
23 the redistricting public review process." And that is,
24 of course, kind of where the outreach to communities to
25 collect that -- those data and so forth can come in.

1 And that is also -- you kind of see this throughout
2 the Constitution, and I think, throughout the approach
3 that the last Commission took, also -- was that -- they
4 took this very seriously that they were supposed to be
5 collaborative with the communities, to come in and just
6 share what they knew about their communities and share
7 what representational needs that they had.

8 Again, California Constitution Article 21 provides
9 some definitions and some examples. And we had some
10 people that fit very well into these examples. Some
11 communities fit very well, and others were just a little
12 bit more creative, essentially. One thing to keep in
13 mind is that, of course, communities of interest shall
14 not include relationships with political parties,
15 incumbents, or political candidates; the no politics,
16 kind of, exclusion. And that's also something that's
17 going to come up, because this is, for many people, a
18 very important federal election that's coming up, and
19 people are organizing right now around political parties
20 and around political candidates. So it's very likely
21 that people get to know each other and really feel very
22 strongly that they have a community built around them.
23 But that is something that this particular section of the
24 constitution says you can just not take into
25 consideration.

1 So how do you then define a community of interest?
2 So you do it through a public input process that solicits
3 information from those that live or work in the
4 community. You can request oral or written testimony
5 about the community. You ask the public for input, for
6 example, on what bonds your community; what is your
7 commonality; where is your community located; what are
8 the borders; and then you could also ask why should it
9 stay together, but I don't know that you're going to need
10 it -- that particular question. It may be a variation of
11 these questions. And again, that may not be the only
12 data set that you use, but that is a good starting point
13 to have a conversation with people. And it's been
14 tried -- it was tried in '98. I wrote my -- I was in the
15 Ph.D. program at Berkeley, and I wrote my master's thesis
16 on this. This was, essentially, my master's thesis. So
17 what the previous presentation on Thursday referred to as
18 The New York -- The L.A. Times project of actually going
19 to neighborhoods and having them define themselves, that
20 is what I did in the City of Oakland. And I had people
21 identify their communities of interest, and their
22 neighborhoods, and whatnot, and I've used that, and many,
23 many, many people in many redistrictings have used that
24 methodology or a variation of that methodology to build
25 districts. And it's worked pretty well, so perhaps

1 something like that will work for you. It's something to
2 consider.

3 One thing that we know about communities of interest
4 is that they may or may not be supported by quantitative
5 data, such as census or American Community Survey data.
6 And they don't necessarily need to be, because if you go
7 back to the constitution, it doesn't say you have to have
8 administrative data to make your point about your
9 community. For example, if I live in a historic area,
10 and I organize with my neighbors around this historic
11 area, and we have all these houses that were built before
12 1900, and we're eligible for inclusion in the National
13 Register of Historic Places and so forth. That is not
14 something that I'm going to be able to document with
15 American Community Survey data. That's just something
16 that's not in there. And there are many, many, many
17 other communities, some of which that we've heard from
18 and others that we will be surprised about, that will not
19 be able to come in with quantitative data. And that
20 doesn't make them less a community of interest. And I
21 think that's what Justin was trying to say when -- or
22 what he did say when he said sometimes what's easy is not
23 necessarily the best path forward, or it's not
24 necessarily right. So that's what I'm trying to convey
25 with this slide.

1 You will also get conflicting information about
2 communities of interest. They can vary in size and range
3 from small to large. People don't agree on exactly where
4 the neighborhood boundary is. They can have a current
5 interest, or maybe they have a goal that binds them. So
6 for example, everybody's working towards getting this
7 particular park built, or they are already working on
8 this community center that they got built, and
9 everybody's organizing around that community center.

10 Again a reminder, neighborhoods and communities of
11 interest are part of the same criterion, and they're not
12 ranked. So again, it's the same weight as cities and
13 counties, and the law really does not limit the kinds of
14 interests that may bind the community, with this one
15 exception of political parties, candidates, or
16 incumbents.

17 This is all something that I've mentioned already.
18 Some examples for economic interest could be -- again,
19 current situation could be common employment or economic
20 opportunities like, we're all working for this particular
21 manufacturer in this area, we're organizing around that.
22 Or goals, we're expanding opportunities; we're trying to
23 get this particular business to move in here. It could
24 be development, bringing in jobs, things like that.

25 In social interest, you'll most certainly here about

1 schools, culture, shared culture, transportation. You'll
2 hear about a shared history. There are all kinds of
3 things that go in here. Transportation, as Commissioner
4 Kennedy brought up earlier -- people may organize around,
5 say a Greyhound station. This happened in Oakland.
6 There was a Greyhound station that was supposed to be
7 relocated, and there was very swift organization around
8 that, and people would have definitely told you that they
9 were a community of interest around that particular area.
10 And parks is also something that is often mentioned
11 within social interests, and it could be a regular park
12 or -- everybody's waiting for me to say it, because I'm
13 the best-known dog nut probably in the redistricting
14 world. It's organizing around a dog park, and that can
15 really polarize people one way or the other; we want it
16 or we don't want it. And then there's goals, improving
17 recreational opportunities or public safety.

18 I'll give you a few more examples, and then I'll
19 stop and perhaps we can talk about it if you have some
20 questions. In the last redistricting, some of the
21 community sects spoke up. Where, for example, foothill
22 counties that -- and they were counties, so imagine that.
23 I'm going from a small city park where people may be
24 organizing, to a whole county that may come in and say,
25 we have multiple counties and we are a community of

1 interest; and why, because we share the same water shed,
2 and this is a really, really important issue for us. You
3 have communities -- you have communities, as I mentioned,
4 organizing around historic neighborhood. Cities with a
5 shared transportation corridor. This was something that
6 happened down in LA County, for example, where there was
7 a lot of transportation truck traffic on a particular
8 transportation corridor, and that went in to
9 environmental concerns. There're cities with a
10 commonality of economic interest. So we had cities
11 coming and saying we need to be staying together because
12 of whatever, it could be Silicon Valley cities, or
13 something like that. We had areas with a high non-
14 English speaking cultural communities -- a community that
15 wanted to stay together. There were very organized
16 neighborhoods with active groups, and then there were
17 communities organizing around economic development, and
18 coastal communities working to fight offshore drilling,
19 for example.

20 So it really just -- it was a very wide range. And
21 again, some of these -- you may find some big data
22 sources, administrative data sources, federal data
23 sources, census data to support and others just not.

24 This is a good one if you want to talk about big
25 data and the various data sets that you can find online.

1 So this is Koreatown. So where is Koreatown? And I bet
2 you everybody from these data sources you talk to, they
3 feel pretty strongly about that that is where is
4 Koreatown is, and none of this tells you where Koreatown
5 actually is; whether they're right, whether they're
6 wrong. This just tells you that there are a lot of
7 people that have a lot of different opinions about where
8 Koreatown is. So this includes, by the way if you can't
9 see the small writing, the Wilshire Center Koreatown
10 Neighborhood Council boundaries, The L.A. Times Mapping
11 L.A. Project boundaries, the City of Los Angeles & Google
12 Maps boundaries, and the L.A. Wilshire Community Plan
13 boundaries. So it is pretty interesting stuff. So --

14 CHAIR TURNER: Ms. Mac Donald --

15 MS. MAC DONALD: Yes?

16 CHAIR TURNER: Ms. Mac Donald --

17 MS. MAC DONALD: Yes.

18 CHAIR TURNER: -- we have a required break at 2:50.

19 MS. MAC DONALD: This might be a good time to do
20 that, if you'd like.

21 CHAIR TURNER: Okay.

22 MS. JOHNSTON: It might be 2:50.

23 CHAIR TURNER: Counsel, am I off on the time? I
24 show 2:50.

25 MS. JOHNSTON: We came back at 1:35?



1 CHAIR TURNER: Yes.

2 MS. JOHNSTON: So it'd be 3:05. But it's fine to
3 take it now.

4 CHAIR TURNER: Yeah. Nope, let's go ahead, and
5 probably -- maybe we'll get through the other parts.

6 MS. MAC DONALD: Okay. If there are perhaps any
7 questions on these last -- on this section of communities
8 of interest, the rest of the slides are going to be
9 pretty quick.

10 COMMISSIONER SINAY: This is Patricia --
11 Commissioner Sinay. Yesterday, it felt like we were
12 being told -- and I think you're saying the same thing,
13 but I just want to make sure -- to let ourselves be
14 flexible on criterion number 4 -- criterion number 4,
15 because cities, counties, communities of interest,
16 neighborhoods are all weighed equal, and so not to make
17 any agreements among ourselves that one is more important
18 than the other, because in different places, we may -- it
19 may feel different, or we may get enough information to
20 make decisions sometimes based on the city and sometimes
21 based on communities of interest. Is that what you're
22 saying as well, is to maintain that flexibility?

23 MS. MAC DONALD: Absolutely. I think that is
24 exactly what I'm trying to say, though I am sure that
25 Justin said it better than I did. And I think also, it

1 might be good to keep in mind that you want to avoid an
2 implicit bias when you're looking at communities of
3 interest. Like for example, if you're using some scoring
4 system, which have been suggested, it could create an
5 incentive to preserve -- for example, lots of small lower
6 priorities -- priority communities even if that then
7 means splitting a bigger and more critical community in a
8 particular way, and that damages their ability to get
9 fair representation. So if you're focusing on, like,
10 data-defined communities early on, the question is does
11 that create a permanent bias favoring those communities
12 over the ones that are defined by the communities
13 themselves?

14 And so there are a lot -- there are a lot of issues
15 in here. You want to be aware of a potential implicit
16 bias; you want to keep your flexibility; and you want to
17 just work with the district as they appear before you and
18 in some areas, like I showed, you may be looking at
19 putting counties together, like those foothill counties
20 that needed -- that wanted to preserved because of the
21 shared water shed. And in other areas, you may be
22 looking at completely different units.

23 So keeping an open mind, being flexible, don't box
24 yourself in, don't use, like, a scoring system or
25 something like that too early -- just keep an open mind

1 on it and just see what comes in the door. And most
2 definitely listen to communities, because they live
3 there. So they're going to know what they need. That's
4 a pretty important thing I think, to just keep an open
5 mind. So thank you for that.

6 Are there any other questions on this? And if not,
7 I'll move on to compactness.

8 Okay. So criterion five, compactness. Not the most
9 exciting criterion, at least to me. Somebody may feel
10 different. I apologize.

11 So to the extent practicable, and where this does
12 not conflict with the criteria above, districts shall be
13 drawn to encourage geographical compactness such that
14 nearby areas of population are not bypassed for more
15 distant population. Please remember -- and Justin went
16 through this is in great detail, all these software
17 packages they have a lot of really fancy compactness
18 measures in them, and it's so easy for somebody to just
19 say measure compactness, click that button, and there you
20 go. And none of that is going to tell you if, under
21 California law, your district is actually going to be
22 compact, because we are a little different than most
23 people, and we know that, and we're proud of it. So
24 geographical compactness in California is defined by not
25 bypassing nearby areas of population for more distant

1 population. And for this you use census geography and
2 your population measure, of course.

3 So what is it? Again, it's a geographic criterion.
4 You're using your census geography. Again, we'll have it
5 in February, the new geography. It's not going to be
6 tremendously different from the last geography, but there
7 will be some changes which is -- and it will be the
8 geography on which the P.L. 94 will be released. But
9 until then, you can use the old geography if you are
10 starting earlier to do any of your work.

11 Why do we have compactness? It's assumed to guard
12 against all types of gerrymandering. Drastic departures
13 from compactness are a signal that something may be
14 amiss, and that comes from judges and -- again, Justin
15 went through this. I don't think I need to elaborate on
16 it any more. There're literally hundreds of measures
17 that have been developed. It's great fun for
18 statisticians to do this. In particular, as you run up
19 to the census -- and there's certainly lots of papers
20 that get published on it. And courts have also used the
21 eyeball approach.

22 So again, it can be difficult to create a compact
23 district, and they may be tradeoffs with the other
24 criteria. So for example, cities may not be compact, but
25 they are part of a higher ranked criterion. So remember,

1 compactness is criterion number 5. So just because it's
2 not compact, doesn't mean you get to say well, this
3 community can't keep you together, people, because you
4 are not compact. That just does not work. And just from
5 looking at it, it can be very difficult to ascertain
6 whether a district is noncompact without having more
7 information.

8 Nesting goes into this also. So nesting too compact
9 Assembly districts, may actually not make a compact
10 Senate district or a noncompact one for that matter. So
11 this is a slide that somebody else has used. I always
12 use my Bakersfield slide, because I just love those city
13 boundaries. Not only are they noncontiguous, but they
14 also just look really fun. And again, if you had to keep
15 that together, then your district would look accordingly,
16 and you will be explaining for the next ten years why
17 your district looks like this. So that is sometimes what
18 we consider when we say eyeball approach. But of course,
19 it's a higher rank criterion, so you don't really have a
20 lot of flexibility.

21 Lessons learned from research on this. So we did
22 some research projects leading up to proposition 11
23 and -- when I say we, I mean over at UC Berkeley -- we
24 looked at criteria interaction effects on compactness.
25 And this is an older study, but it was very interesting

1 to do and of course, it's been shown to be true. And
2 what we found is that there are definite -- when you're
3 trying to make compactness a higher ranked criterion, you
4 will have some adverse effects on majority/minority
5 districts, so they are harder to create, or you can't
6 create them at all. It's going to make it more difficult
7 to preserve city and county boundaries. Again, I just
8 showed you Bakersfield. So if you elevate compactness,
9 which of course you're not supposed to do because it is
10 below all of these criteria, then you would have a hard
11 time keeping city and county boundaries together. And it
12 would also make it more difficult to respect communities
13 of interest, because they just don't grow in a compact
14 way. It just doesn't work that way.

15 So that gets me to nesting. Let me just make sure
16 we're still good on time. It is 2:58. Can we -- I'm
17 sorry. I forgot when the break is going to be.

18 MS. JOHNSTON: By 3 --

19 CHAIR TURNER: 3:05.

20 MS. MAC DONALD: 3:05. Okay. Well, maybe we can do
21 this. This is great.

22 This gets me to criterion 6, nesting to the extent
23 practicable, and where it does not conflict with the
24 criteria above. Each Senate district shall be comprised
25 and so forth. So you use the newly created district for

1 this. I talked about it earlier, and Justin of course
2 talked about it. There's nothing easy about nesting.
3 There really isn't. It is a difficult problem to
4 accomplish, and it sounds so wonderful, right? And I'll
5 tell you, a lot of -- a lot of consultants really like
6 this, because you get a good Assembly district, gosh, you
7 are done with your Senate district in a flash. But if
8 you didn't have all these other criteria that you had to
9 satisfy first, then that would be probably pretty quick
10 turnaround. But not in California. So this is the
11 lowest ranked criterion, and that's probably the reason
12 for it.

13 There are again, tradeoffs with other criteria. It
14 really constrains the line drawing process if you have to
15 nest. And what it may do, is it may double a wrong. If
16 Assembly districts are not meeting the needs of a
17 community and then you're putting them together into a
18 Senate district -- so you may have the same problem in
19 both the Assembly and in the Senate district. And it was
20 interesting, the last Commission they had this wonderful
21 line where they said they were sharing the pain. I don't
22 know if you've heard about that. They were trying not to
23 split people into district plans, and I just thought that
24 was wonderful, because they were really trying to not
25 double a wrong. They were trying to just spread things

1 around, just knowing that they had to -- there were going
2 to be some tradeoffs, and they had to make some hard
3 decisions and hard choices.

4 So this kind of factors right into this particular
5 slide. So nesting in practice. So this is the map from
6 2011 where there was perfect nesting. And if you look at
7 the report from the last Commission, they also talk
8 about, like, almost perfect nesting. So they really did
9 try. And it's really not correct to say that they
10 abandoned nesting form the get go. That is not true.
11 They really tried to nest where they could, but they also
12 complied with the law. And that just made it difficult.
13 So three of these four Assembly districts, just to let
14 you know -- just a little FYI, there are actually
15 majority/minority districts, and both of the overlaying
16 Senate districts are also majority/minority Senate
17 districts. The Assembly districts are very compact,
18 looking at California criteria, and the line between the
19 two Senate districts is a county boundary. So this is
20 actually a really, really good example of meeting and
21 integrating all of these higher ranked criteria. And
22 it's almost nirvana if you go to -- you get to criterion
23 number 6 and you can do this. That's fantastic. So on
24 the Rose Institute presentation, there was a slide -- I
25 think it was slide 27 that actually shows a district that

1 goes around -- that surrounds on the northeast of this
2 area -- those particular districts, and it was described
3 as kind of the leftover. And it's actually a direct
4 result of following all of the criteria and nesting this
5 particular area that I'm showing on this slide. So it
6 just shows you can't just take one district in isolation
7 and just give feedback on it without looking at the
8 surrounding areas in context, and look at what's going on
9 there. So that district would have looked different,
10 most likely, if these districts had not been drawn in
11 compliance with the law and had not been nested fully.

12 So finally, this is my last slide. And thank you
13 very much for your attention and for working with me on
14 this. Line drawing and illustration of criteria
15 implementation is not coming first -- after this. This
16 came first. And we're going to have Matt Barreto next.

17 So I wanted to add one more thing before I leave,
18 and that is about live line drawing. And this is also
19 something that a couple of you have brought up. So
20 something about live line drawing is really that it
21 increases transparency. And a lot of the questions about
22 why is this line here, or why is it there, is not a
23 question that anybody needs to ask later, or that you
24 need to puzzle about, because you know that the line went
25 there because you put it there. And you put it there

1 live, and anybody who was watching could see why it went
2 there. So it really -- it removes the perception that
3 this is being done in a smoke-filled room where nobody
4 knows how it went there, and it also makes sure that the
5 Commissioners know -- that you all know why it's there,
6 and you can explain it to people. In the last
7 redistricting, I think that was very important for
8 everybody to come to a consensus. And the last time, it
9 was the first time we did this. It was really --
10 transparency was just one of the most important things
11 that that Commission could do, and this was one of things
12 that accomplished that.

13 So that is my presentation, and I'm available to you
14 at any time now or later. Thank you.

15 CHAIR TURNER: Thank you, Ms. Mac Donald. This was
16 amazing. What we'll do at this point, if you would
17 please stick with us, we're going to go to the break, and
18 when we come back we'll see if there are additional
19 questions from the council. But we'll also need to open
20 for public comment, and I'd love for you to still be on
21 in case the public has a comment as well.

22 MS. MAC DONALD: That sounds great. Thank you.

23 CHAIR TURNER: Okay. So we'll be back at 3:15.

24 MS. JOHNSTON: 3:20.

25 CHAIR TURNER: 3:20, please.



1 MS. MAC DONALD: Thank you.

2 (Whereupon, a recess was held)

3 CHAIR TURNER: Thank you and welcome back. We're
4 going to now be -- turn it over to the Commissioners to
5 see if you have -- thank you for joining us, Professor.
6 Matt will be with you in just a moment.

7 Commissioners, let's see if you have any questions
8 of Ms. Mac Donald before we go to public comment. I know
9 we asked a lot as we went through, but if there are any
10 other comments or questions. Okay. Let's see.

11 Ryan, if you would, please. Let's see if we have
12 any public comments waiting for this agenda item.

13 AT&T OPERATOR: Okay. Okay. Ladies and gentlemen,
14 if you wish to make a comment, please press 1 then 0 at
15 this time, 1-0. And I'll know in a few moments here. We
16 do not have anyone in queue at this time.

17 CHAIR TURNER: Okay. Well, thank you so much.

18 Ms. Mac Donald, we certainly appreciate the
19 thoroughness of your presentation and answering all of
20 our questions. We thank you and applaud you. So thank
21 you so much.

22 And at this point, I'd like to welcome Matt Barreto.

23 Yes, Commissioners? You all are waving bye or you
24 have comments? Yee, Fernandez, Le Mons -- oh, they're
25 just waving. Okay. Perfect.

1 Then, Matt, thank you for joining us. We'd love for
2 you to talk to us, or at least begin to talk with us
3 about the Voting Rights Act.

4 PROF. BARRETO: You got it. Thanks. Thanks for
5 inviting me. I'm going to turn my screen share on, I
6 think. Let's see if this works. All right. Does
7 everyone have that? Yup.

8 All right. So I'll go ahead and get started, and
9 feel free to jump in. Ask any questions along the way.
10 Happy to answer anything I'm able to.

11 So my name is Matt Barreto. I am a professor at the
12 University of California in Los Angeles. My primary
13 appointments are in the Department of Political Science
14 and the Department of Chicana and Chicano Studies. I am
15 also the faculty director of a center in the UCLA Luskin
16 School of Public Affairs; that's called the UCLA Voting
17 Rights Project. And there, we do a lot of research on
18 all topics related to voting rights. We have been
19 researching everything involved in vote by mail this
20 cycle, as that has become a hot topic. We otherwise
21 research things like vote dilution, which you're going to
22 hear about today, and districting. So we have a large
23 and exciting team of lawyers, Ph.D. students, law
24 students, public policy students, et cetera who work with
25 us in our center. And I'll tell you a little bit about

1 some of that work later, as it relates to understanding
2 and interpreting the Voting Rights Act.

3 I was fortunate to work with the Commission in 2011,
4 as Karin was, who you just heard from. And I did an
5 analysis of the Voting Rights Act in 2011 with the
6 Commission. Since then I have worked on a number of
7 Voting Rights Act cases, both for jurisdictions, the
8 states or counties. I've also worked with plaintiff's
9 groups. And the question we're always trying to answer
10 is whether or not a districting plan is creating fair and
11 equitable representation. I'd be happy to talk about any
12 of the other redistricting lawsuits or legal challenges
13 that I've been involved in. As I said, I have worked for
14 both government and defense and plaintiff's side in those
15 across the years.

16 So I'm going to start out by talking about the
17 Federal Voting Rights Act, giving you just the super
18 brief history of it and talking about how it applies to
19 California, and then we'll go through and talk about what
20 some of the challenges are when it comes to districting.

21 So it had been the case that section 5 of the Voting
22 Rights Act required states or subdivisions with a history
23 of or ongoing discrimination to pre-clear their plans or
24 any changes at all related to voting. And in 1968,
25 Monterey and Yuba Counties were added to this list in

1 California. And in 1972, Kings County in California was
2 added.

3 However, the Supreme Court struck down the coverage
4 formula, which was called section 4(b) in 2013, and so
5 section 5 is something that we won't have to deal with
6 this year in California, and in 2011, we did and had to
7 submit pre-clearance plans as they related to those
8 counties. But that federal monitoring, that pre-
9 clearance is no longer in effect as section 4(b) has not
10 been resolved.

11 The Supreme Court asked the Congress to resolve it,
12 or it gave the Congress permission to resolve it, but not
13 surprisingly, the Congress has not resolved that over the
14 last seven years. And so we do not have section 5 of the
15 Voting Rights Act as a current oversight authority for
16 the State of California or any jurisdiction.

17 Instead, we have section 2 of the Federal Voting
18 Rights Act of 1965, and section 2, as it outlines in
19 section 2(a) prohibits the discrimination in any voting
20 standard, practice, or procedure that results in the
21 denial or abridgment of the right of any citizen to vote
22 on account of their race, color, or membership of the
23 minority language group.

24 This applies nationwide. It's not only in select
25 jurisdictions like section 5 used to be. And

1 specifically, what we're looking at is section 2(b),
2 which is the enforcement arm of the voter -- of the
3 federal Voting Rights Act. And section 2(b) reads,
4 perhaps most importantly here in the middle, that a
5 violation occurs when members of an -- have less
6 opportunity than other members of the electorate to
7 participate in the political process and elect
8 representatives of their choice.

9 That ends up being a very key phrase and a key
10 interpretation of the Voting Rights Act. Simply put,
11 that we cannot create districting systems that would lead
12 to vote dilution, meaning that even if every member of a
13 protected class voted at their highest rate and voted for
14 candidates, they would be systematically blocked or
15 denied from being able to vote for candidates of their
16 choice and have an opportunity to meaningfully elect
17 those candidates of their choice.

18 As it relates to districting plans, this occurs when
19 there is the use of racial gerrymandering where race is a
20 predominant figure in the drawing of lines and that the
21 lines are drawn in such a manner that they dilute
22 minority rights to having that opportunity to elect
23 candidates of their choice.

24 Section 2 of the Voting Rights Act has been widely
25 used since 1965, and since it withstood its

1 constitutional challenge, has been renewed multiple times
2 and has been effective in upholding opportunities for
3 different groups to vote. It has been used most often by
4 African-Americans, but increasingly today by Hispanic or
5 Latino voters, Asian-American voters, Native Americans,
6 and white voters.

7 There are many parts of the country and many parts
8 in California where white non-Hispanic voters are a
9 racial or ethnic minority. And in fact, white voters
10 have used the Voting Rights Act of 1965 to bring
11 challenges.

12 What are plaintiffs challenging here is that a
13 districting scheme might draw lines in a way that either
14 pack or crack their population, and we're going to talk
15 about that a little bit more. I know you've heard those
16 terms from some of the other folks who have -- who have
17 briefed you. But that's essentially what we need to be
18 on the lookout for, is whether or not the districting
19 scheme packs or cracks a certain population in such a way
20 that it dilutes their ability to have meaningful choice
21 in the election.

22 The goal is to ensure the right balance, the right
23 fit, and that means fair and equitable districts. And we
24 want those districts to not just be fair and equitable,
25 but we want them to successfully be defended against any

1 challenges, against any outside criticism, as well as any
2 outside lawsuits. The districts that you create will
3 undoubtedly be scrutinized, and by following closely the
4 Voting Rights Act of 1965 as you're drawing them and
5 keeping it in mind, you'll be able to have districts that
6 are not only balanced and fair but that will successfully
7 withstand challenges.

8 So I'm going to give you an example here of cracking
9 and packing. I know you've heard a little bit about
10 this, but it's a complicated process and it's a process
11 that is no simple single definition. Rather, different
12 experts might give you different interpretations. And so
13 I think what I'm about to explain is probably quite
14 similar to what Justin explained in his presentation.

15 Here, I'm using Clark County, Nevada, next door to
16 us, and the dark green areas you can see here by a legend
17 is high-density Hispanic or Latino. Parts of Clark
18 County in the dark red are very low-density Hispanic or
19 Latino areas.

20 In the first example that I want to give you is one
21 in which six, let's say, district boundaries are created
22 that splits or cracks the minority population. Here, the
23 Latino population appears to be split into multiple
24 districts and perhaps never being able to see their
25 candidate win. In such a district boundary, which in

1 this case I'm just using a hypothetical here for
2 illustrative purposes, the Hispanic or Latino population
3 might always be stuck in the thirty to forty percent
4 range, never being able, if their community votes
5 together to have a candidate of their choice elected to
6 office. That's called cracking, where you split the
7 population up in such a way.

8 The second alternative to this is one that's called
9 packing. And in this case, you can see District 5 right
10 in the center of your screen might be one that has a
11 very, very high-density Hispanic or Latino population,
12 perhaps seventy, eighty or even ninety percent. Here,
13 the population is concentrated into a single district,
14 and this might be helpful for creating one district, but
15 the population might have been theoretically large enough
16 that two influence districts might have been drawn, and
17 so this is called packing.

18 The balance is to try and find two districts in
19 which Latino voters have an opportunity to elect
20 candidates of choice. And I want to put an important
21 caveat that the map drawer can give consideration to race
22 as a condition -- not the only condition, as one
23 condition -- if historical conditions and voting behavior
24 justify considering race.

25 So it's never going to be something that you start

1 with and it's never going to be a predominant factor.
2 But if you're in a situation where a group could
3 challenge because they could put on evidence that this
4 population has been historically discriminated against,
5 they have had historically unequal rates of
6 representation, and if you either cracked the population
7 so that it was too small to ever influence the outcome,
8 or you packed it so that they could only have one
9 district, this might be susceptible to a voting rights
10 challenge.

11 And again, the balance would be to try to find
12 districts in which the Latino or Latina population could
13 have an opportunity to elect candidates of their choice.
14 That's what we're looking out for, and that's what courts
15 will be looking at and what possible plaintiffs will be
16 looking at when they evaluate the different boundaries
17 and plans.

18 So what are the considerations on drawing the lines?
19 I know you just heard a lot about this from Karin, and so
20 I'm not going to stay on this point for too long. Of
21 course, you have to comply with federal and state laws.
22 That includes the federal Voting Rights Act but any other
23 federal state laws that are related to how lines are
24 needed to be drawn nationally or in the State of
25 California.

1 Compactness, which you just heard about, contiguity,
2 which you just heard about, making sure the districts
3 hold together. Competitiveness is another issue that
4 different courts have given weight to and in 2011, was
5 one of the issues that Commissioners considered in
6 creating districts. Preservation of political
7 subdivisions. Karin talked about that as well. We don't
8 typically like to see districts drawn that split up or
9 crack not just minority communities, but counties,
10 cities, or other political subdivisions.

11 Preservation of communities of interest, how do we
12 draw districts that keep communities together. And
13 deference to the core of prior districts. What that
14 means as we think about drawing the districts this year
15 in 2021, we don't ever want to go in just as a blank
16 state and start from scratch. We want to look at the
17 districts as they exist now and figure out what is the
18 right way to work with the core of those districts but to
19 improve them to achieve population balance.

20 And oftentimes, courts have looked to issues where
21 in two incumbents perhaps of the same political party are
22 put into the same district and a new district is drawn
23 with no incumbent, and courts have looked down upon that.

24 Another important consideration, of course, is the
25 size of the district, and I know both Justin and Karin

1 talked about this a little bit, but it's an important
2 consideration before we get directly into the Federal
3 Voting Rights Act of 1965 and some of the important court
4 decisions that have come along the way.

5 Of course, maximum population deviation that is
6 allowed is ten percent for state and local offices. That
7 means the largest district can perhaps be 5 percent
8 overpopulated and the smallest district could be 5
9 percent underpopulated or some combination of there.
10 Trying not to stretch that past 10 percent is the
11 boundary that courts have generally accepted for state
12 and local offices.

13 For U.S. Congressional offices, those seats are
14 supposed to be as close to equal in population as
15 possible. Some deviation is going to occur, and when
16 that deviation does occur, it needs to happen with good
17 reason. An important guiding principle in this is *Larios*
18 *v. Cox* in 2004, in which, when there is a population
19 deviation from that ideal population point, that should
20 be based on traditional districting principles. Those
21 are the things in the previous slide.

22 So if you needed to make a district slightly bigger
23 because it included the entirety of the County and you
24 didn't have to split the County, that might be something
25 that's allowed. If you had to make the district slightly

1 smaller because you were grouping together traditional
2 communities of interest, that is something that might be
3 allowed. But population deviation should not be used as
4 the sole basis to discriminate against voters on the
5 basis of race. That was an important and guiding
6 decision in the *Larios v. Cox* decision.

7 Now, as we get into when racial discrimination
8 happens and whether or not discriminatory intent takes
9 place, we want to look to what the courts have called the
10 Arlington Heights factors. This comes out of a case in
11 1977 related to housing, but this is one of the first
12 things that any plaintiffs are going to have to look at
13 when they're trying to determine whether or not the
14 action that this body has taken was taken with
15 discriminatory intent.

16 And in that case, which came out of Chicago, the
17 Court outlined some principles, or what are now referred
18 to as the Arlington Heights factors, and these have
19 become very important and often cited in voting rights
20 cases. The first is the impact of the official action,
21 whether that official action bears more heavily on one
22 race than another. So we can look at the impact. Impact
23 alone is important but not determinative, the Court held.

24 The historical background of a decision. If it
25 reveals a series of actions that have been taken for

1 invidious purposes. So is there a history of continuing
2 excluding or cracking a certain population over and over
3 again? Is the specific sequence of events leading up to
4 that decision? What challenged that? Why was that
5 involved? What were all the minutes and notes and emails
6 perhaps in this case that were happening?

7 And did anything depart from the normal procedure?
8 Was there a new rule that was instituted to allow one
9 group to have more influence over another? This item
10 number four is one that's had -- historically, commonly
11 been cited in voting rights cases when a Legislature,
12 city council, or county Commission might have invented a
13 new rule, something out of the ordinary that wasn't
14 keeping with norm in order to exclude a certain
15 population from having access to the vote or by diluting
16 their district. And so these sorts of factors are often
17 looked at.

18 The final is the administrative history. So of
19 course, all of these meetings are public. All of the
20 exchanges are public. And in this case, California is
21 far ahead of the curve because of the transparency that
22 is involved. There's very unlikely to be any sort of
23 paper trail of some sort of discriminatory factor, but
24 these are things that the courts established in Arlington
25 Heights.

1 The next thing before we get directly into the
2 analysis that we're going to have to do to understand the
3 Voting Rights Act and whether and how it applies is a
4 quick consideration of when we can use race, and that
5 came from the Shaw v. Reno case in 1993. And they
6 outlined some principles for when race can be considered
7 in redistricting.

8 First of all, redistricting based on race must be
9 held to a standard of strict scrutiny under the equal
10 protection clause. And so it qualifies for this type of
11 analysis, and that is what the Court will be expecting.
12 Secondly, bodies undertaking redistricting must be
13 conscious of race to ensure compliance with the VRA. So
14 on the one hand, you should not expect to get away with
15 drawing boundaries that are entirely based on race. The
16 Court would say that's probably not allowed, that we're
17 going to evaluate this under strict scrutiny.

18 At the same time this body is undertaking
19 redistricting, it needs to be aware of and it needs to be
20 cognizant that it does have to abide by and be in
21 compliance with the Voting Rights Act. And so from that
22 perspective, because the Voting Rights Act is primarily
23 talking about racial and ethnic minorities and whether or
24 not they're being excluded or included in voting, you do
25 have to be aware of this and you have to at least be

1 conscious of it as you're making those decisions.

2 This brings us to the famous Gingles test. This is
3 the test that we'll spend a little bit of time talking
4 about and one in which the courts will weigh in when
5 they're evaluating whether or not there is a violation of
6 the Voting Rights Act. This came out of a landmark
7 Supreme Court case in 1986 called Thornburg v. Gingles in
8 which the Court set up a three-pronged test to assess
9 minority vote dilution.

10 So people such as myself, voting rights expert,
11 political scientists who do data analysis, we spend a lot
12 of our time evaluating these three prongs. The first is
13 the size of the minority group. Is the minority group in
14 question of sufficiently large and geographically compact
15 in order for a district to be drawn? If the group is not
16 large enough, if a group is only two percent of the
17 population, even if they can prove up some of the other
18 standards in a voting rights case, they're not going to
19 be able to get over that first hurdle of being able to
20 have enough of a group population in one district in
21 order to potentially influence the outcomes of the
22 election. So that's first.

23 Second is minority voters. Are they cohesive? Do
24 they vote together? Basically, what the Court is asking
25 us to say is if minority voters are willing to bring a

1 lawsuit, is there such a thing as minority interests. Do
2 those voters vote together and try to get certain
3 candidates elected? And if they do, do the majority
4 voters -- do the other voters vote in such a way that
5 usually defeats their interests? So we need to assess
6 how and why different groups are voting in order to prove
7 up whether or not there is or is not liability or a
8 challenge based on the Federal Voting Rights Act.

9 The last thing to keep in mind is an important case
10 from 1994, *Johnson v. De Grandy*, in which the Court
11 weighed in on the idea of proportionality and basically
12 said there is no guarantee right -- and other Courts have
13 said this outside of *De Grandy* -- there is no guaranteed
14 right to proportional representation.

15 And so you can't make the argument that if your
16 group is exactly sixty-two percent, you should have
17 sixty-two percent of the case -- of the seats in any sort
18 of jurisdiction. That lack of proportionality is not
19 something that, by itself, is enough to bring forward a
20 voting rights challenge.

21 In addition to those three factors, the size of the
22 minority population, is the minority population cohesive,
23 do they vote together, or is the majority population
24 blocking, the Court has also included a list of things
25 called the totality of circumstances. This came around

1 in 1982 after a 1980 voting rights case which set voting
2 rights in a more difficult path.

3 In 1982, the Senate issued a report and a review and
4 came up with new standards that they called the totality
5 of circumstances. These are other things that we will
6 consider and you will want to think about if, in fact,
7 you're worried and wondering about a voting rights
8 challenge. So I'm just going to run through these
9 quickly. There are eight of them, I believe, and then
10 I'll just pick out a couple to talk about.

11 The extent of any history of official
12 discrimination, the extent to which discriminatory voting
13 practices or procedures have been put in place. Is there
14 a candidate slating process where minorities have been
15 denied access? The extent of any discrimination against
16 minorities in other areas that might hinder their
17 participation in the voting process. Are campaigns
18 characterized by overt racial appeals? The extent to
19 which minority group members have been elected to public
20 office or never been elected to office. Whether there is
21 a lack of responsiveness on the part of elected officials
22 to those minority group members. And finally, whether
23 the policy of supporting the use of a voting policy or
24 practices ends.

25 Let me just break down a couple of these. These are

1 all things that you can easily find if you look up the
2 1982 Senate factors or just type in totality of
3 circumstances, Gingles factors, you'll find all of these.
4 So one of the things I want to spend a little more time
5 on is just the extent of any history of official
6 discrimination with respect to minorities right to vote.

7 So when we're looking at whether or not a group
8 would be successful in challenging for the creation of a
9 seat or challenging the districts as they are drawn by
10 this Commission, they will need to put on evidence to
11 show that there has been discrimination and previous
12 efforts to block minorities from being fully inclusive.
13 They don't have to. They're not required. That's one of
14 the things that could be evaluated in the totality of
15 circumstances. So even if we think things are being fair
16 right now, if there's a long history of people getting
17 excluded or having a hard time participating, that's one
18 of the things the Court could consider.

19 Another thing is the extent to which there is
20 unequal access or unequal representation in other facets
21 of life. So if we find out that the public school system
22 is doing a very poor job of educating minority students,
23 if we find out that minorities are not eligible for good
24 paying jobs in a community, any other evidence that comes
25 from the census, other lawsuits that have been filed, or

1 any other data that gets compiled, that might go to show
2 the totality of circumstances that this community is
3 facing and that sort of evidence is often put on.

4 And the last one that I'll highlight is whether or
5 not there's been a lack of responsiveness on the part of
6 elected officials. So as groups are making voting rights
7 challenges, they often will be able to point out with
8 pretty effective evidence that they need to have an
9 opportunity to elect the candidate of choice because
10 their group has been shut out or put on the sideline of
11 the political process.

12 If your group has enjoyed great access to the
13 political process, you have been elected to lots of seats
14 over the course of your group, you have access to
15 different policymakers and things like that, if there's
16 not that lack of responsiveness, it's harder to make the
17 argument that your group needs a seat. And so these are
18 just some of the factors. Again, these aren't required,
19 but these are other things that the Court will look at to
20 understand the totality of circumstances when thinking
21 about a voting rights challenge.

22 So let me go -- now I'm going to spend a little bit
23 of time going through the three Gingles factors. These
24 are the things that we want to be familiar with as we
25 think about drawing the districts and thinking in the

1 back of our mind about potential challenges to the
2 districts that you all are going to draw. Whether or not
3 a plaintiff's group could come along and say, I want to
4 challenge those districts because I believe they violate
5 the Voting Rights Act and I'm going to put on my
6 evidence, Gingles factors.

7 In 2011, we did a lot of analysis as things were
8 unfolding to think about were any of these districts
9 vulnerable, were we doing a good job of living by the
10 rules and the spirit of the Voting Rights Act? And so
11 there was a lot of analysis that unfolded along the way
12 to make sure that as the districts were going forward,
13 they would be able to be successful and withstand any
14 challenges.

15 So the first factor in the Gingles tests is just the
16 group size. So how do we measure the group size? And I
17 know Karin talked a lot about the census. That's going
18 to certainly be one of the options that you'll be able to
19 use is the decennial census as it comes out. And I know
20 there's going to be a lot of question marks about that,
21 and so it is also possible that you might have access to
22 either one-year or five-year census ACS data in order to
23 try to understand group size.

24 In addition to that, you might consider when you're
25 trying to determine is this group of large enough size in

1 order to compete for a district, you might also consider
2 looking at the voter file itself. One of the questions
3 that we might have is whether or not such a potential
4 district could perform. Would there be enough actual
5 voters, not just population, but would there be enough
6 actual voters to vote in a meaningful way to elect
7 candidates of choice? And so there, in addition to
8 looking at population data from the census, you might
9 look at voter file data.

10 And commonly in the State of California, Spanish or
11 Asian surname analysis is done. But I'm going to also
12 spend some time talking to you about a new advancement
13 that's called BISG, Bayesian Improved Surname Geocoding,
14 that combines both surname analysis with census data.

15 So that's just sort of a checkpoint is, is the
16 geographic -- is the group of geographic compactness and
17 large enough size in order to create a district. If the
18 answer is yes, you still have to meet Gingles factors two
19 and three, and this has to do with how people vote. Are
20 minority voters politically cohesive? Do they vote
21 together? Do majority voters, the other folks in that
22 district, do they vote in such a way that they always
23 block your option from ever being able to get elected?

24 This requires an analysis of voting patterns by race
25 and ethnicity, so this is a central part of understanding

1 compliance with the Voting Rights Act. This is a central
2 part of bringing a challenge. If you're working with the
3 plaintiffs group and you want to challenge districts that
4 are being drawn, you will be doing an analysis of voting
5 patterns by race and ethnicity.

6 The questions that the Court will ask us to answer
7 is, is there evidence of what's called racially polarized
8 voting? Some of you have already heard of this term.
9 Others, it's new, but it's going to be a very common term
10 as it relates to the Voting Rights Act, and it's one that
11 you will have to be able to answer as you create
12 districts or as you decide, do we need to create a
13 district here, does this make sense, should we create a
14 district over here? We're going to want to know, is
15 there evidence of racially polarized voting?

16 What does that mean? What is racially polarized
17 voting? Racially polarized voting exists when voters of
18 different racial or ethnic groups exhibit very different
19 candidate preferences in an election. It just means
20 simply that voters of different groups are voting in
21 polar opposite directions, hence the word polarization,
22 rather than voting together in coalition or voting in a
23 very mixed or nonpatterned way.

24 Racially polarized voting does not necessarily mean
25 that voters are racist. It only measures the outcomes of

1 their voting patterns, who they prefer, who they tend to
2 vote for. It just looks at determining whether patterns
3 exist. Is there a clear and consistent evidence that
4 voters of different racial and ethnic groups vote for
5 different candidates?

6 The bottom line that you'll be asking is, are
7 minority voters voting in one way and are majority voters
8 voting in another way? And we can place in any racial or
9 ethnic group into the minority or majority status. It
10 just depends on their size in the population. But
11 because majority voters are more numeric in their
12 district, they're larger in size, they're able to control
13 the outcome of elections in such a way that even if every
14 single minority voter turned out and voted with 100
15 percent unity, they would not be able to overcome this
16 bloc. There's a very strong bloc.

17 If that is consistently found and the minority group
18 is of large enough size to have otherwise had its own
19 district, that's when we think about a violation of the
20 Voting Rights Act occurring. It's important to remember
21 when you think about this that this analysis that we're
22 doing is about the individual voters in the jurisdiction.

23 Even if the governing body is well intentioned,
24 whether it's the State Commission, whether it's a County
25 Redistricting Commission, whether it's a City Council

1 doing its drawing. Even if that governing body is well-
2 intentioned, this analysis is about the individual voters
3 across different counties or different jurisdictions and
4 how they behave and are they voting in blocs to either
5 try to get certain candidates elected or are they voting
6 in blocs to systematically always block and oppose other
7 candidates from getting elected? That is the question
8 that the Court will be asking.

9 So how do we measure this? How do we try to
10 determine racially polarized voting? This is not
11 something that's a simple on/off, yes/no answer. Like
12 many things, it can vary in degree and intensity. It can
13 be measured and quantified, and we, by now, have really
14 good statistical tools and analysis that have been used,
15 vetted, and accepted in the courts.

16 The key question and what complicates this is that
17 your vote is secret. We'll never know how you voted, but
18 we need to try to understand those larger patterns. So
19 how do we understand voting patterns by race and
20 ethnicity when your vote is private? How do we put on
21 evidence that say, voters of this group are trying to get
22 this candidate elected?

23 Sometimes we have exit polls. Those are
24 increasingly rare and have come under scrutiny themselves
25 for perhaps being less accurate. But we don't often have

1 them in every corner of the state. We might have them
2 for a statewide election, but we may not have enough
3 voters in an exit poll in one particular county or in one
4 particular Congressional district.

5 Instead, we are developing tools for what's called
6 ecological inference. We're going to try to infer these
7 voting patterns using ecological data points. And I have
8 been part of a team with Dr. Loren Collingwood at the
9 University of California Riverside to develop a new
10 package and a new statistical tool to use precinct level
11 voting data and racial and ethnic demographics of voters
12 to come up with very precise measurements for how we
13 measure racially polarized voting. That is called
14 ecological inference. We're taking ecological units,
15 precincts, and we're looking at the patterns across those
16 precincts to then infer how different racial or ethnic
17 groups vote.

18 So detecting this minority vote dilution that I've
19 just been talking about is difficult. It's not just
20 something that you can look up on the Secretary of
21 State's website. We have to do statistical analysis. We
22 have to merge together a wide variety of datasets, census
23 data, voting data, election returns. And we have to have
24 statistical analysis involved. We have to have some
25 computer programming involved to write code. Luckily,

1 people have been working on this for a while, and so
2 we're at a point where we have a good tools and good
3 capacity to do that sort of stuff.

4 This package that I'm going to be talking about,
5 which is publicly available, is called eiCompare, and it
6 offers a number of tools that are critical in districting
7 practices in order for people to be able to identify,
8 unpack and understand voting patterns. It includes a
9 number of different tables, graphics and different
10 statistics, in order for you to understand, is this
11 something that I should be worried about? Is there an
12 area where we need to be pushing harder? Is there a
13 possible claim here? We'll give you the ability to
14 diagnose and detect that.

15 So let me tell you a little bit about what this
16 looks like. How do we get to this ecological inference?
17 How do we come up with the answer to the question of how
18 do different racial and ethnic groups vote in Orange
19 County, or how do different racial and ethnic groups vote
20 in San Mateo County? Those are the type of questions
21 that you're going to have to think about as we look at
22 the -- as we look at the racial group population size.
23 And so there's going to have to be different analyzes
24 across the state. We're going to have to do that
25 ecological inference.

1 Well, there's a couple of inputs. What are we
2 putting into this ecological inference model? The first,
3 are election results. We'll get these from the Secretary
4 of State website, from each individual county website,
5 and from other sorts of publicly available databases.
6 We'll also feed into that, the voter file. We have a
7 publicly available voter file, and we can group voters
8 into precincts.

9 From these two primary public data sources, we will
10 run this analysis called ecological inference. But
11 there's two things that we need to do. The voter file in
12 the State of California does not tell me the race and
13 ethnicity of every voter. It just has your name and
14 address. And so we're going to use a new technique
15 that's called BISG, Bayesian Improved Surname Geocoding,
16 to estimate the race of the voters. We have to answer
17 this question whether we like it or not. The Court is
18 requiring us to answer this question; How do different
19 racial and ethnic groups vote? And so we want to use the
20 most accurate and technically correct approach to do
21 that, and we think that's called BISG.

22 To start with, we have to do geocoding of the voter
23 file. Some of this is already done in some instances.
24 But for the most part, we need to take that voter file
25 for the State of California and put it through a

1 geocoder, and I'm going to just break that down very
2 quickly for you, and then show you a couple of examples
3 of what racially polarized voting looks like, so that we
4 know how to detect it, we know what it is, and we know
5 what to be on the lookout for.

6 So the first step here is to get the public voter
7 file. We get the voter file for the State of California,
8 and we have to clean the voter file. We have to make
9 sure that the addresses are in the correct format. We
10 have to put them all into the same columns. We have to
11 use the same abbreviations. You can imagine that each
12 county might use slightly different standards. It might
13 have apartment numbers in there, and we need to take that
14 voter file and pre-process it for all of the 20 million
15 voters that are on the voter file. Then we need to find
16 the best geocoding. What we're trying to do for every
17 voter is place that voter within their latitude and
18 longitude so that we can learn more about the
19 neighborhood that they live in. And once we do that, we
20 then feed them into our geocoding process. From there,
21 we evaluate the geocode.

22 So every voter will be put into a geocode and we
23 will then see whether or not those were successful. Some
24 voters might come back and say, this address could not be
25 found. We'll have to go through, pull those out, put



1 those through a second geocoder to clean those up. And
2 then what we're going to do, every voter will have the
3 latitude and longitude. We're going to then join your
4 voter to your census block that you live in, so that we
5 can learn something else about you using census data.

6 From there, once we have those two pieces of
7 information, the voter file has been geocoded. We can do
8 our BISG estimate of the race. And once we do the BISG
9 estimate of the race, we then take that data -- some of
10 this is already being done not using the BISG principle.
11 But some of this has already been done -- taking that
12 public data file for the State of California, collapsing
13 it down to each individual precinct. We can then finally
14 merge that data and we can get back to our ecological
15 inference.

16 And so this entire process is all contained in this
17 software package that Dr. Collingwood and I have written
18 called the eiCompare. We've been working on it for about
19 five years, and it does a lot of stuff in the back end
20 that helps us understand and detect minority vote
21 dilution.

22 So let's start out by where the data comes from. It
23 all comes from public databases. The first is the
24 election results, as I mentioned. We're going to get
25 those election results from the official state or county

1 registrar voter websites. These are official election
2 results that say in precinct number 423, how did people
3 vote for a certain office.

4 We then need the data on the ethnicity of voters,
5 and this comes from either official county records -- if
6 you live in a former section 5 jurisdiction, remember
7 that very first slide that I started with -- some
8 jurisdictions in the United States, predominantly in the
9 South, they were required by law to record the race and
10 ethnicity of voters when they signed up to vote. That
11 was in order to monitor and make sure that they were not
12 excluding blacks from being able to register at the same
13 rates as whites. Those states have largely kept that in
14 practice. And so if you are in one of those southern
15 states, you can get the race or ethnicity of every
16 individual registered voter.

17 In nonsection 5 states, like California, we need to
18 use some other technique. The Court doesn't give us a
19 break and say, well, you don't have to prove racially
20 polarized voting. You still have to do that, but we have
21 to use other techniques in places like California, such
22 as census data, surname lists, or now BISG.

23 We're going to start out by looking at what's called
24 endogenous elections. Those are the elections being
25 challenged by the lawsuit. These would be Congressional

1 elections, State Assembly elections, State Senate
2 elections. But we might also look at other analysis. We
3 might look at other elections to get a larger view of how
4 people vote in general. We maybe don't want to take too
5 narrow of a view. One particular election might be very
6 peculiar. It might be an outlier. And so most analysis
7 will look at not only the elections being challenged, but
8 also the larger elections just in general on that data.

9 So how do you assess racially polarized voting? I'm
10 going to start with what we call the old tools. This is
11 a map of New York City, and it shows the 2017 Mayor's
12 election. Your panel on the left is the vote results.
13 Each individual voting precinct across New York City, and
14 how they voted. It's shaded by intensity. Super, super,
15 dark blue are places where de Blasio got over seventy or
16 eighty or ninety percent. Light blue, he may have only
17 gotten fifty or sixty, down to the places that are very,
18 very high density red or Malliotakis got eighty or ninety
19 percent. So you can immediately look at it, and then if
20 you compare it to the panel on your right, it's the same
21 exact map of New York City. Instead of voting precincts,
22 these are census blocks, and that has the shaded in race
23 or ethnicity.

24 So in its origins, analysts would take maps like
25 this. And in fact, they may not even have to take a map.

1 They might just know by looking at a part of town what
2 the racial and ethnic demographics are. But essentially
3 what the Court is asking us to do is to say, is the vote
4 for this candidate extremely strong among minority
5 populations, but other populations are voting in the
6 exact opposite way.

7 As you can see in this data set for the State of New
8 York or for the City of New York, we don't necessarily
9 need a fully complex statistical analysis. We can very
10 easily just look at it and we can see a correlation
11 between places that are very high-density minority and
12 the highest vote totals for de Blasio in that 2017
13 Mayor's election. That's what the Court is asking us to
14 do.

15 Are people voting in different ways and does the way
16 they vote, does it systematically block the minority
17 group who might be in a numeric minority from ever being
18 able to get their candidate elected? They're trying to
19 get their candidate elected, but they're always
20 outnumbered, and they can never win the election.

21 So how do we measure that? And let me just walk you
22 through a quick discussion. You're going to end up
23 seeing a lot of charts like this. You can come back and
24 look at this presentation later when you're down the road
25 and you're getting into an analysis of racially polarized

1 voting.

2 You're going to get charts like this that measure
3 precincts, all these precincts in California might just
4 be for one county. You might only be looking at Fresno
5 County or Orange County, or you might be looking at an
6 entire region. You might be looking at the entire San
7 Joaquin Valley. On one axis over here, the Y-axis,
8 that's going to always measure the percent of the vote
9 the candidate got. And on your second axis, the X-axis
10 on the bottom, that's going to always be your measure of
11 the race or ethnicity of the people inside that precinct.

12 So for any individual precinct, we know two pieces
13 of information. We know that this precinct, in this
14 example is about fifteen percent Latino, if you draw a
15 line straight down. We know that it voted about fifty-
16 two percent for the candidate for Reyes (ph.). We then
17 can put every single precinct in that election on a map
18 like this, and we can see whether or not there's a
19 pattern. Is there a correlation? And this is some data
20 from Yakima, Washington, in 2008. And what we see is
21 that as the percent Latino went up across precincts, that
22 this candidate for Reyes got more and more votes as the
23 percent Latino went down, the candidate got less votes.
24 And so in this case, it looks like there is a pattern
25 related to race and ethnicity of the voters in how they

1 voted for different candidates.

2 What if there's no polarized voting? What does that
3 look like? Well, here's another example. The election
4 data will always be arrayed in a plot, or it won't. We
5 can't force it to find polarized voting and we can't
6 force it to not find polarized voting. So here's an
7 example from another election where you don't see a
8 diagonal pattern at all. You see that pink line is the
9 fifty percent line. And depending on how many minorities
10 are in the precinct, it doesn't appear that the
11 candidate's necessarily getting more or less votes. The
12 candidate hovered somewhere around the fifty to sixty
13 percent mark in high density white precincts and in high
14 density minority precincts.

15 So sometimes we see plots like this. Here's a plot
16 from about twenty years ago. This is the 2002 primary
17 election in the State of California for a statewide
18 primary. And you do see a pattern. That's what we're
19 looking for, that sort of pink arrow that just comes
20 across the screen there. Is there a pattern that as a
21 precinct increases in the minority population? Is it
22 increasing its support for the candidate? That suggests
23 to us that the minority population is cohesive. The
24 second test of the Gingles prong.

25 As you decrease the minority population, is the

1 candidate doing less. And here you see a clustering in
2 this bottom section of your graph. You see a clustering
3 of precincts in which this candidate in this primary,
4 Calderon (ph.), primarily got less than twenty percent of
5 the vote in areas that were less than fifteen percent
6 Latino. So this candidate did not do very good, was not
7 a preferred candidate in these areas where they were
8 very, very few Hispanic voters.

9 So these are some of the examples of plots and
10 charts that will come out. We're then going to give you
11 something that looks like this. These are called
12 tomography plots. You're not expected to be able to read
13 these, or interpret these. Those are for us to look at
14 and interpret. But for each election, you're going to
15 get something like this. And just very, very briefly,
16 this plot in the top left corner where you see a nice
17 convergence, is indicating that there is racially
18 polarized voting. This plot over here on the right,
19 panel, top left, where the lines just don't really
20 intersect, is giving us a diagnostic that there's not
21 much going on here.

22 So these are sort of behind-the scenes diagnostics
23 that we're going to be able to do to give you answers to
24 the questions, more precisely, whether or not there's
25 something to worry about when it comes to the Voting

1 Rights Act .

2 This next section of the presentation, I'm going to
3 focus on how do we estimate the race of voters? And this
4 is something that our eiCompare pack spend a lot of time
5 doing. So the data on the ethnicity, as I said, comes
6 from one or two sources, either it's publicly reported --
7 that's not the case in California. So we have to use
8 other means. Prior accepted methods of estimating race
9 or ethnicity of a voter in a precinct, are first of all,
10 use of census data. Either the decennial data that you
11 get from the decennial census or the five-year ACS data.
12 This is widely used. However, one question here is that
13 these are not actual voters.

14 The census gives us data on everyone who lives in a
15 census block that we could then correlate with a
16 precinct. And the best that we can do is we can restrict
17 that to citizen voting age population; CVAP. That
18 doesn't mean that all of those people are registered, and
19 it doesn't mean that all of those people voted.

20 So while the census data can be quite good for many
21 things, its limitation is that it's not telling us
22 exactly anything about voters. Because of this, a lot of
23 analysts started using surname matching against the voter
24 file, and they use Spanish and Asian surnames to identify
25 highly probable Latino or Asian voters. This is an

1 improvement over census data because it's actually going
2 to the voter file and saying, among the people who voted
3 in this election, the people who cast ballots, this is
4 their expected race or ethnicity.

5 So BISG, Bayesian Improved Surname Geocoding, is
6 also an accepted practice by the courts, and it uses the
7 best of both of these worlds. It uses a surname, and it
8 uses geocoding. And the geocoding refers to the census
9 data. So it's going to use both of those things off of
10 the voter file. So the starting point of BISG, which
11 makes it quite accurate, is that it is only analyzing
12 voters. And so if you're worried about whether or not
13 voter turnout was high or low, as long as you start with
14 the voter file, you're going to have an advantage there
15 in that the people who are not voters are not introducing
16 noise into your estimates. And I have there in a
17 citation, this was just accepted by two courts, most
18 recently in NAACP v. East Ramapo, New York State.

19 So let me just give you a quick example of how this
20 works. I think you'll find it quite interesting, and
21 it's based on a lot of really good data and the theory
22 that comes out of public health. In fact, this first
23 article from Marc Elliott is a public health researcher
24 at RAND Corporation. It was then later replicated and
25 validated by Kosuke Imai, who is a political scientist,

1 and it has been then applied to voting data.

2 Essentially, this is what we have. We have a group
3 of voters. And the first thing that takes place is that
4 their last name is scored on the census surname list. So
5 you might have a voter here, Jackson, and this is the
6 case. Jackson has a thirty-nine percent probability of
7 being a white surname; a fifty-three percent probability
8 of being a black surname, and a three percent probability
9 of being Latino surname. That doesn't give us entirely
10 useful information. This person could be a high
11 potential of being black, but also a very reasonable
12 potential of being white.

13 The geocoding comes in and says, let's place that
14 individual voter Jackson in the block where they live,
15 and let's let the block also tell us something about the
16 probability of their race or ethnicity. So if this
17 particular Jackson lived in this city block, which was
18 eighty-five percent black, we would then have much more
19 confidence that this person was probably black. However,
20 if they lived in this city block, perhaps two blocks
21 away, and this city block, according to census data, was
22 ninety percent white, we could adjust our estimate and we
23 could tell the analysis that this person has a higher
24 probability of being white.

25 So we're using both their surname, as per census

1 analysis of surnames, which the census has available for
2 us every year. And then the census data on the
3 neighborhood in which you live.

4 I'm going to give you an example from the project
5 that I am working on with Dr. Collingwood and a summer
6 program that we led. Just this summer, our project was
7 selected as one of a fellowship to work with a team of
8 data scientists and PhD students to try to further
9 improve.

10 So this voter named Jackson is a real voter. They
11 live at 105 Leaf Lane, and the first thing that we did
12 was we placed them -- we geocoded them, as I explained
13 earlier, and we found out that this person was right here
14 where they are always showing you, and this was their
15 latitude, forty-five degrees by seventy-five degrees.
16 What is the race or ethnicity of this voter Jackson? So
17 let's investigate a little bit further. We then take
18 this person, and we know that from the surname list, as I
19 just described to you, they have a thirty-nine percent
20 probability of being white; fifty-three percent
21 probability of being black.

22 When we look at that -- we took their latitude and
23 longitude -- they live in census block 1001. And census
24 block 1001 is twenty percent white and eighty percent
25 black. And so that allows us to use BISG to do a

1 statistical analysis, to do a Bayesian analysis, and to
2 come out and say that this person has a probability of
3 being -- a seventy-two percent probability of being black
4 and a twenty-five percent probability of being white.

5 We are never trying to identify -- and when we score
6 the voter file, we're not identifying individual voters
7 and pulling this person out and saying, how did this
8 person vote? They must be white, black, or Hispanic.
9 Rather, we're just trying to get counts in precincts. So
10 we're going to always aggregate this data down to
11 precincts and discard the individual level data. The
12 individual level data is just to give us clues as to what
13 that precinct neighborhood looks like.

14 Is this effective? This is a technique that's been
15 around since about 2008, used extensively in the health
16 sciences to understand disease and medical conditions as
17 they relate to race and ethnicity. And in a publication
18 looking at -- using the Census Bureau's list, these
19 authors found way back in 2009 that BISG is 19 percent
20 more efficient. That it has a 41 percent increase over
21 surname analysis, and a 108 percent increase over address
22 methods alone.

23 They then reported what's called concordance
24 statistics, meaning that the extent to which these
25 matched the self-reported statistics when someone

1 actually self-reported their race versus, we had to
2 estimate it. And you can see that at the end, it was
3 ninety-five percent for Hispanics, ninety-four for Asian
4 Pacific Islander, and ninety-three for black and white.

5 A second article -- a second independent article, I
6 believe this is by Allen Fremont, went on to say that it
7 can give us very accurate estimates when self-reported
8 data are lacking. And again, this article by Fremont
9 found that the concordance was between ninety and
10 ninety-six percent.

11 We gave this task to our students this summer in our
12 fellowship program, and we asked them to look at a state,
13 Georgia, where self-reported race is on the voter file.
14 People report their race and ethnicity as required
15 because it was a section 5 voting rights case. And we
16 then looked at it for whites and blacks. These are the
17 two groups that perhaps are less well known to work from
18 just surname analysis. And in fact, we don't analyze
19 these groups on surname analysis alone because of
20 surnames such as Jackson, which are not overwhelmingly
21 white or overwhelmingly black.

22 But you can see that when we take into account the
23 surname with your census block, the neighborhood in which
24 you live, both of those pieces of information together.
25 And what you have here on the X-axis is the actual

1 percent white in each county in Georgia. What you have
2 on the Y-axis is our prediction, using BISG, and we ran
3 two different models. That gray line in the middle is
4 the actual correct result of what did people in each
5 county write down as their race or ethnicity.

6 What you can see is that both of the models that we
7 applied here using BISG, were extremely accurate for
8 predicting at the county levels the number of white
9 voters and black voters. We were not looking at the
10 self-reports. We used the BISG method. And on the panel
11 on the right, you see the same thing for black voters.
12 Because Latino and Asian surnames are even more commonly
13 occurring or exclusive to their groups, BISG tends to
14 work even better within these populations.

15 The final thing that we're going to do is then try
16 to get you some vote estimates. We're going to tell you
17 the answer to the question how the different racial or
18 ethnic groups vote? That's what, at the end of the day,
19 we're going to have to put on that evidence to the Court.
20 And once we have all the precinct level data in, we have
21 all the election results, we now estimate the surname of
22 the voters. We then run what's called ecological
23 inference regression. We're going to tell you the
24 answers. These are going to produce for you vote choice
25 estimates by race and ethnicity that will include

1 confidence intervals.

2 So here is just an example of what some of the
3 outputs will look like that you might be seeing if you're
4 asking for whether or not there's racial or ethnic
5 polarized voting. You might be seeing a plot like this
6 for white voters. Their estimated vote for candidate A
7 versus candidate B, and then another plot next to it for
8 minority voters. Both of these are real elections with
9 real election data run through our package. And what you
10 can see is that white voters, the panel on your left,
11 they preferred candidate A.

12 The estimate is that they voted at 81.7 percent for
13 candidate A in a very, very tight -- you don't see much
14 of a bell curve there -- a very, very tight estimate,
15 which means that it's probably quite precise, only
16 eighteen percent for candidate B. However, minority
17 voters, they had the opposite experience. They voted
18 73.9 percent for candidate B and only 18 percent for
19 candidate A.

20 So for each election you analyze, you're going to
21 get this sort of information and read out. To the extent
22 that those estimates crossed the fifty percent level, or
23 to the extent that those estimates cross each other,
24 that's telling you that perhaps there wasn't polarized
25 voting. Perhaps voting is not as disparate as we think

1 it might be. And so these tools will help us understand
2 and present to the Court whether or not there is a need
3 for these districts.

4 One or two points left here. The final thing that
5 we introduce, and you saw a little bit of this in the in
6 the last slide, is a better understanding of confidence
7 intervals. When experts give you an estimate and say, as
8 in the last slide, that 81.7 percent or 73.9 percent
9 voted in this direction. Remember that these are
10 estimates. We don't actually know the precise, direct
11 answer to that. That estimate is in the center of a
12 normal bell curve -- of an uncertainty distribution.

13 Here are some additional real data from an election
14 that we analyzed in 2015 in a local contest, and we were
15 interested in understanding how Latinos voted. The
16 estimate told us that eighty percent of Latinos voted for
17 a candidate named Morales (ph.) and that only twenty
18 percent of Latinos voted for a candidate named Rothman
19 (ph.). We had a very small sample size. There was only
20 a limited number of precincts in this case.

21 And so the distribution around those estimates, the
22 ninety-five percent confidence distribution overlapped.
23 In fact, if you look at the lowest tail for the Morales
24 estimate, it could have been that the Latino vote was as
25 low as forty-eight percent, and on the Rothman estimate,

1 it could have been that the Latino vote was as high as
2 fifty-two percent.

3 So we can see that those tails possibly overlapped.
4 If the tables overlap, we may not be able to say with
5 ninety-five or nine-nine percent statistical certainty
6 that those estimates are different. But that's a very,
7 very high standard for something in which we're just
8 trying to assess patterns and estimates.

9 And so what we advise is to also look at a
10 probability analysis, and to say what percentage of the
11 data comes from that red shaded area, and what percentage
12 of the data comes from the unshaded area. And in this
13 case, when you actually look at the tails, you see that
14 it's actually only a 3.5 percent chance, in this case,
15 that Morales was not the Latino preferred candidate. As
16 you can see, just another graphic from our package there
17 will report the overlap and will report a statistic in
18 the middle of the percentage of the distribution that
19 overlaps.

20 So in redistricting and the Voting Rights Act, the
21 Commission must, of course, consider important
22 considerations of many things. All the stuff that you
23 heard Karin and Justin talk about. One of those
24 important considerations is the Federal Voting Rights
25 Act. And to understand the Voting Rights Act where

1 appropriate, we need to assess and examine the prevalence
2 of minority vote dilution. As I showed you in some
3 examples, sometimes it doesn't exist. Unfortunately, it
4 still does exist in many instances today. And if it does
5 exist, the data will show us that. If it doesn't exist,
6 the data will show us that it doesn't exist.

7 So properly studying and reporting racially
8 polarized voting is increasingly technical. It should be
9 done with great care using the latest social science
10 methods and tools. And that's what I hope to leave you
11 with that as you think about these aspects -- I know many
12 of them are technical, and we got a little bit into the
13 weeds of some of this stuff -- but that you are taking
14 that care to make sure that you're getting it right, not
15 having any shortcuts, because at the end of the day, we
16 want to create fair, equitable representation, those that
17 comply with the Voting Rights Act, that doesn't go too
18 far in one direction or the other. And when there are
19 challenges, we are able to successfully defend the
20 districts that we draw and that there are not outside
21 challenges that easily poke holes in these districts.

22 All right, that's it. I am going to turn my screen
23 share off. I can refer back to any of the slides, if
24 there's any questions. I don't know if we still have
25 time for questions today. I know you've sat through a

1 lot of information already, but thank you for your time.

2 Thanks for inviting me.

3 CHAIR TURNER: And thank you so much. We absolutely
4 do have time for questions. And I see Commissioner Ahmad
5 and Commissioner Fornaciari, and then Commissioner Le
6 Mon, and Commissioner Kennedy.

7 VICE-CHAIR AHMAD: Thank you for that presentation.
8 It was really interesting. On the slide labeled Yakima
9 Washington County Commission 2008, the X and Y-axis make
10 sense to me, but I don't think I caught what the size of
11 the circle indicates.

12 PROF. BARRETO: Let me pull that back up.

13 VICE-CHAIR AHMAD: Yeah.

14 PROF. BARRETO: In that particular case, it was
15 the -- there's different ways to present this. I'll just
16 put it back up really quick so that you can see it as I'm
17 talking about it. That had to do with how many voters
18 lived in the precinct. So if you look at the second
19 example I had here, this one, whenever we created this
20 graph, we just treated each precinct as the same. So
21 each saw it as the same. We did not take size into
22 account. And the same thing on this.

23 VICE-CHAIR AHMAD: Got it.

24 PROF. BARRETO: This is the way that we think about
25 it now. And so you see one tiny little precinct over

1 there. It only had perhaps 25 voters. And so
2 essentially, we're waiting for the results by the number
3 of voters in the precinct.

4 VICE-CHAIR AHMAD: Got it. Thank you.

5 CHAIR TURNER: Commissioner Fornaciari.

6 COMMISSIONER FORNACIARI: Yeah. Thank you for that
7 presentation. Really, really interesting. So how does
8 this work in a kind of practical sense? I mean, do we
9 identify areas that we think might have a problem and do
10 the analysis? Do we do the analysis for the whole state?
11 I mean, how do we figure out -- how do we get started and
12 how do we figure out where we're headed with this?

13 PROF. BARRETO: Well, probably the first part, if
14 you think of the jingle's tests, is to first think about
15 the size of the population. And so there are probably
16 some portions of the state where the size of different
17 groups does not really lend itself to needing an
18 analysis. In 2011, we did some statewide analysis with
19 some elections just to give a sort of general read that
20 we could break out into different regions. But most of
21 the analysis was in areas where there either had been a
22 history of lawsuits or a history of underrepresentation.

23 So those were areas that you might want to look at
24 first to see as you're thinking of drawing the lines
25 there. And you heard Karin talking to you about like,

1 you might move a line over here. You might leave a line
2 over there. You just want to be aware -- as the Court
3 said in *Larios v. Cox*, you just want to be aware of that
4 if you move that line -- you might remember that Clark
5 County map I showed you, you might go, uh-oh, we moved
6 that line, and now we've split this population in half.
7 That might be okay. You might be totally fine doing that
8 if there is not a history of underrepresentation and
9 polarized voting and stuff like that.

10 So as you get into those discussions, that's where
11 you might say like, hey, let's do a quick analysis and
12 see if moving this line one way or another might leave us
13 susceptible.

14 CHAIR TURNER: I'm trying to find my notes. Le
15 Mons, was it next?

16 COMMISSIONER LE MONS: Thank you for the
17 presentation. In your historical analysis, what has been
18 the prevalence of racially polarized voting?

19 PROF. BARRETO: Well, it really varies by the
20 geography that we're analyzing and by time. So there are
21 some places that I have analyzed where there had been
22 racially polarized voting and that eventually, as
23 populations changed, different candidates were able to
24 eventually get elected. We saw that polarized voting go
25 away.

1 In other places, as a new population grows and
2 emerges and gets really large in size, there might have
3 never been racially polarized voting in the past, but now
4 suddenly it exists. And so it is definitely the sort of
5 thing that we don't like to prejudge before we go in; we
6 want to look at it on a case-by-case basis. I would say
7 that in California, in general, there has been a history
8 of different racial and ethnic groups voting for
9 candidates from their community. That's not surprising.
10 When given a chance, people usually do try to find
11 someone from their community to represent them. But that
12 doesn't mean that in every election we analyze, we're
13 going to find that pattern. There are candidates that
14 get higher or lower support.

15 So it really is a case-by-case and a time. The
16 Court will give more weight to more recent elections. If
17 someone is trying to challenge your plans and they're
18 putting on lots of election data from the 1980s and
19 1990s, the Court might say, well, that's not relevant.
20 You can't punish the voters in 2020 or the bad choices
21 that the voters in 1980 made. And so more recent
22 evidence is usually the most relevant.

23 COMMISSIONER LE MONS: Thank you.

24 CHAIR TURNER: Commissioner Kennedy.

25 COMMISSIONER KENNEDY: Thank you, Madam Chair.

1 Thank you, Prof. Barreto, for the presentation. Two
2 questions at this point. One is, how would you eliminate
3 noise coming from candidate quality? Now, I've worked in
4 campaigns since I was a teenager. There is something --
5 now, there is candidate quality. And it just seems like
6 that could create a lot of noise in this type of
7 analysis. And the second question is, I just would like
8 to ask you for a little bit more detail on factor eight
9 under the totality of factors.

10 PROF. BARRETO: Sure. Let me take the first one,
11 candidate quality. So that is definitely something that
12 the courts have talked about and looked at and said that
13 you should not base your analysis on whether you think it
14 helps you or hurts you on just one election. I'm not
15 aware of any analysis that has been successful in either
16 defending themselves or for plaintiffs using just one
17 election and saying, this one election proves anything
18 up. And that is because every candidate does have their
19 own unique attributes. If you have really, really low-
20 quality candidates, the data will probably tell you that
21 and the majority or the minority group probably won't
22 vote for them.

23 So usually when there are -- sometimes we see
24 candidates that I call, as a political scientist, like
25 perennial candidates, like there's this man or woman who

1 runs every year no matter what, and they have a \$4,000
2 budget, but they have their yard sign and that's it.
3 That person doesn't usually get more than 3 percent of
4 the vote. And so we would not see evidence of cohesion.
5 People would not be coalescing around them. They might
6 look like they're getting blocked, voted against, right?
7 Because no one's voting for them. But low-quality
8 candidates usually are not -- they usually don't meet
9 Gingles 2. In order to meet Gingles 2, the candidate has
10 to be preferred by the minority community.

11 So sometimes what we do is we go precinct by
12 precinct and we say, hey, here's a precinct that's
13 eighty-four percent minority. Which candidate came in
14 first? Because whichever candidate came in first in that
15 one precinct was preferred. So even if you or I or
16 someone else might be like, man, that candidate is
17 garbage. If the people in that precinct voted for them
18 first, that's their preference. So we let the data speak
19 for itself, but usually low-quality candidates, I agree
20 with you, of which there are many, don't usually end up
21 getting a lot of support.

22 The last factor on the eighth prong of the totality
23 of circumstances is what is the policy of supporting the
24 use of the voting policy or practices tenuous, refers to
25 whether or not there is a new policy that's coming into

1 place, which has been challenged or which has previously
2 been overturned or which has now been reinstated, and
3 whether or not that practice itself is tenuous.

4 So oftentimes we would see when city councils change
5 majorities or things like that, they might try to
6 reinstitute something from before. But it might be
7 getting challenged and getting overturned. So whether or
8 not -- and again, some of these things on the totality of
9 circumstance slide -- which I can just put up really
10 quickly, just so you can see them -- are things that are
11 more appropriate to city councils and county Commissions.
12 Many of these are used to challenge at-large voting
13 systems where everyone runs for one or two seats at
14 large. And the ones that I highlighted are the ones that
15 we probably have to think more about in terms of
16 districting schemes.

17 So some of them are far less applicable to what
18 we're doing here. You're not going to be changing any
19 policies necessarily. This was also similar to the
20 Arlington Heights factor I told you about where, if
21 things are out of the norm, if some new rule pops up that
22 no one can explain, that might look fishy.

23 CHAIR TURNER: Commissioner Sinay, oh, and then
24 Commissioner Sadhwani, and Commissioner Toledo.

25 COMMISSIONER SINAY: Hi. Sorry for my technical

1 difficulties earlier, and I missed the beginning of your
2 presentation, but I quickly looked at it and I kind of
3 had -- I have a few questions -- kind of theoretical
4 questions, I guess. Anyway, let me just ask them.

5 First, I know that for the Voting Rights Act, it's
6 based on race, ethnicity and language. What about women
7 or LGBTQ? Other you know -- other individuals'
8 communities who could be -- who could be discriminated
9 against in all your examples you used white as the
10 majority is -- and I know in California, a lot of times
11 there's a change of demographics. So it was a black
12 district, or a black community and a lot of Latino
13 immigrants are moving in. And so do we do the same
14 analysis based on that? And is there ever a time when
15 white is the minority in these conversations? I know
16 that that wasn't why -- I understand why it was created.
17 So it might be just kind of a strange question.

18 And then we talk about voters, and we use those who
19 are registered and those who actually vote. But how do
20 we take into account those who aren't even registering to
21 vote, because there's just -- they don't think that they
22 have a chance to get their voice heard? We just ignore
23 them in this whole conversation. So hopefully they all
24 make sense.

25 PROF. BARRETO: Yeah. Thanks. Those are great

1 questions. I'll just take that last -- I'll take them in
2 reverse order as I wrote them down. The nonvoters are
3 taken into account in Gingles 1, in terms of
4 understanding whether or not there is a large enough
5 community to draw a district around. So that is based on
6 starting with perhaps the total population of everyone,
7 including kids and people who aren't registered to vote.

8 As we get to the question of whether or not the
9 district can perform -- can it actually do what the
10 Voting Rights Act wants it to do, which is to give people
11 a chance to elect a candidate from their community?
12 That's when you start honing in on either eligible
13 voters, registered voters, or voters. But at the first
14 step, those are taken into account. When we estimate how
15 people vote, which is what the Court is going to ask you
16 for. They're going to say, well, how did the groups
17 vote? That's where we do want to limit it to just
18 voters. We're trying to correlate the actual votes cast
19 in a precinct with actual voters. That's why I don't
20 like using census data for that step, because the census
21 data includes a lot of nonvoters. And I don't want an
22 area that has a very high population, one group, but if
23 they're not in the voting electorate, they could not have
24 possibly voted. So that's the only time we're excluding
25 those votes, is when we're doing that analysis of how

1 people voted.

2 In terms of which racial groups are covered. Yeah,
3 I talked about this briefly at the beginning. Anyone, of
4 course, historically, the Voting Rights Act of 1965 was
5 set up primarily because of vote denial and abridgment of
6 African Americans in the South. The Voting Rights Act
7 has been used and can be used just as the State of
8 California Voting Rights Act can be used for any group,
9 which is a numeric minority and feels that the
10 districting scheme that is in place is blocking them from
11 being able to have a chance to elect the candidate of
12 choice.

13 So there was a section 2 Voting Rights Act lawsuit
14 in Dallas County, Texas, brought by white plaintiffs that
15 challenged the system and said that the districting
16 scheme limited their ability to elect candidates of
17 choice. So anyone can use -- the same rules apply. You
18 have to show a history of discrimination, unequal
19 services, the totality of circumstances, and if you do
20 that, then your group would be entitled to draw a seat.

21 So we should think about it, especially in a state
22 like California, which is so incredibly diverse, and is
23 already at the state level, a majority/minority state,
24 any group could potentially use the Voting Rights Act to
25 say, hey, is my group getting represented? And they

1 would have to put on that evidence. So that's something
2 to think about.

3 It is written from the perspective of a racial or
4 ethnic or language minorities -- in response to your
5 first question. I don't know of any challenges. It
6 could be to the 14th Amendment, equal protection
7 challenges. So those are certainly possible, and that's
8 where I would think those others would be. But the
9 Voting Rights Act, they still would have to pass
10 Gingles 1 prong, which would be of sufficient size and
11 geographical compactness. And so by some of those
12 metrics, LGBT populations may not be of sufficient size
13 and geographically compact, perhaps, to form a district
14 in some levels. In some places they might be. But the
15 Voting Rights Act, as written and applied, is applying to
16 it on the basis of race, color, national origin, or
17 language.

18 CHAIR TURNER: Commissioner Sadhwani.

19 COMMISSIONER SADHWANI: Thank you so much. And
20 thank you, Dr. Barreto, for coming in and spending this
21 time with us today. I would just say for my fellow
22 Commissioners, Dr. Barreto is definitely the leading
23 scholar on racially polarized voting. So I appreciate
24 you coming in today.

25 My question is actually a bit of a follow up to

1 Commissioner Sinay's, and that's to hear more about
2 perhaps some of the best practices around the creation of
3 potentially coalition districts or potentially some --
4 from your experience, if those two end up getting
5 challenged, I'm thinking about areas throughout the
6 state -- and California is, of course, particularly
7 unique from other places around the country, in which if
8 we think about, for example, South L.A. and the historic
9 African American community and Latinos. If we think
10 about Oakland or San Jose with Asian-Americans and
11 Latinos, or even like the San Gabriel Valley and parts of
12 Orange County. I can imagine those kinds of issues
13 coming up when we're thinking about racially polarized
14 voting, when we have multiple communities who can all
15 make claims under section 2. Do you have thoughts about
16 things that we need to be aware of or best practices or
17 examples that we might draw from?

18 PROF. BARRETO: So yeah, that's a great question.
19 California is certainly at the forefront of that as these
20 communities are quite diverse here in our state and often
21 live in close proximity to one another. The courts have
22 given policymakers and line drawers leeway in creating
23 what's called coalition districts. The same burden is at
24 play, though.

25 So we would not draw a coalition district just

1 automatically based on population. We would need to go
2 in and see, are African Americans and Asian-Americans
3 voting for similar candidates? Do they have a similar
4 political agenda there? If they don't, creating a
5 district isn't going to create any positive outcomes. It
6 might just create a lot of division.

7 So if you're able to do that and demonstrate that,
8 yes, these groups are voting in coalition -- and think
9 back to some of the other standards that Karin and others
10 talked about, just communities of interest. Sometimes
11 there might be immigration; there might be class; there
12 might be geographic or even topographic sort of interests
13 that create a "community of interest" that overlays race
14 and ethnicity.

15 So those coalition districts are certainly feasible.
16 Courts have allowed that. But one of the pieces of
17 evidence -- and this is one of the pieces of evidence we
18 had to put on at Ramapo, that was a coalition district
19 case based on the combined voting strength of black and
20 Latino voters, was that they were voting together for the
21 same candidate.

22 So not only did we need to show that black voters
23 supported candidate A, but Latino voters also, and that
24 if we drew a district, it could work for, "minority
25 interest" because those voters might vote together.

1 So all of the same standards would apply if they do
2 get challenged. But from the perspective of the line
3 drawers, the courts have given a lot of leeway to the
4 creation of coalition districts as being allowed.

5 CHAIR TURNER: Thank you. Commissioner Toledo.

6 COMMISSIONER TOLEDO: My question has been asked.
7 Thank you.

8 CHAIR TURNER: Okay. Commissioner Fornaciari, did
9 you just raise your hand earlier? I didn't know if
10 you're stretching or raising your hand. Okay.
11 Commissioner Andersen.

12 COMMISSIONER ANDERSEN: And thank you very much for
13 the presentation. It was very impressive. Just on the
14 idea of the validity of data. Could you speak a little
15 bit about the racially polarized voting and in your --
16 the BISG, how is the new idea of differential privacy
17 going to affect that and specifically the geocoding? I
18 mean, if they switched districts -- people from their
19 actual census blocks, how would you compare, let's say
20 that Jackson example? We wouldn't necessarily know. So
21 could you talk about that a little bit, please?

22 PROF. BARRETO: So the idea on privacy is that
23 perhaps it's a very fine level. We wouldn't be able to
24 place an individual in the right household. But on the
25 voter file, we do have your address. You have to

1 register to vote at an address to be placed in the proper
2 district. So that we're going to always have. It's
3 publicly available in every single state.

4 So I'm going to be able to find you on the voter
5 file, find out what your address is, and I will be able
6 to geocode you. The question is then, if there has been
7 some noise introduced into the census data, those are not
8 being introduced at the -- across block level,
9 necessarily. It's just at the finer level. And so we
10 would still be able to have confidence that the geocoded
11 location of that voter, Jackson in the example, is in
12 this census block, because I have that person's address,
13 and that census block as a neighborhood has these
14 demographics.

15 So at the neighborhood level, we're always going to
16 be able to identify neighborhood-level census
17 demographics. And may not be able to use census data to
18 identify individual people, but I will be able to say,
19 oh, that neighborhood over there, north of 14th Street
20 and west of Palm, that neighborhood has these
21 characteristics. So at the neighborhood level, that data
22 will always be there for us to access. And so we'll be
23 able to take that in, put it in there, and say, okay,
24 this voter, Jackson, lives in a neighborhood that has
25 these characteristics.

1 So that's not going to be at risk in terms of being
2 able to do the BISG. And as well as using census CVAP
3 data and other stuff like that at the aggregate level.
4 At the individual level, they are going to a lot of
5 lengths to protect privacy.

6 COMMISSIONER ANDERSEN: All right. Thank you. I
7 was misunderstanding some of that in terms of where the
8 noise is being added in terms of actually switching some
9 of the data. So in terms of the data that you're
10 actually getting, not the voting data, but the voter
11 registration data, but from the other, could be racial.

12 PROF. BARRETO: So the idea is that if you had a
13 neighborhood block that you thought -- or let's say the
14 real "true answer" was that it was ninety-eight
15 percent -- or in many cases there are blocks down to the
16 block level that are a 100 percent -- 99.8 percent of one
17 race or another. The idea is that if you had that, then
18 you have turned on the answer. Like, there's no
19 uncertainty anymore. Everyone who lived there exists.

20 So in those cases that are more extreme, the census
21 is thinking of doing some replacement across boundaries
22 and getting some people from over here and bringing them
23 over. So they're absolutely not going to, though, tell
24 me that that precinct -- that that census block, which
25 was ninety-nine percent white, is now seventeen percent

1 white. They're going to tell me it's ninety-six percent
2 white. Just by moving maybe three percent of the data,
3 it introduces enough uncertainty that I can't pinpoint
4 the demographics of people who live there.

5 Okay. Same thing if say, a hundred percent of
6 everybody did not have a college degree. If that were
7 the case, the census would introduce a little bit of
8 noise so that instead of a hundred percent being
9 uncollege-educated, it would now be ninety-four percent.
10 So the pattern is still going to be the exact same. But
11 just in some of the extreme cases, they are going to
12 introduce some noise so that I can't go to a
13 neighborhood, pull up the census demographics, and
14 suddenly no information about everyone.

15 In the districts that are more diverse, let's say
16 seventy-five percent/twenty-five percent, what we're
17 learning is that they're probably not going to introduce
18 any noise into those districts. But that's still an open
19 discussion. They haven't told me the answer to what
20 they're going to do yet.

21 CHAIR TURNER: Commissioners, just a point for you
22 and Dr. Barreto. We're about five minutes away from a
23 required break. I do want to go to public comment while
24 we have Prof. Barreto online in case the community wants
25 to ask questions. So are there any other Commissioner

1 questions before? Okay. So we'll take -- operator, I
2 think we'll take about five minutes public comment. At
3 least I want to check to see if there are people waiting
4 for public comment on this issue, please.

5 AT&T OPERATOR: Yes. We do have one ready for
6 public comment. If you could, please spell your first
7 and last name. We will go to Rosalind Gold. Please go
8 ahead.

9 MS. GOLD: Hi. Good afternoon. It's
10 R-O-S-A-L-I-N-D. The last name is Gold, G-O-L-D. I'm
11 Chief Public Policy Officer with the National Association
12 of Latino Elected and Appointed Officials, that's the
13 NALEO Educational Fund.

14 I want to once again thank the Commissioners and
15 thank Dr. Barreto for his very, very excellent
16 presentation. One of the things we're very blessed with
17 in California is a lot of very good experts on
18 redistricting and different components of redistricting
19 criteria. And I thought it might be useful to maybe just
20 do a little bit of a clarification of one of the points
21 or slides that Dr. Barreto presented with respect to
22 redistricting criteria.

23 When people talk about what are lawful redistricting
24 criteria for California, I think it's important to make a
25 distinction between what are the specific criteria that

1 are laid out in the California Constitution, as the
2 criteria this Commission must use, and what are some of
3 the traditional criteria that generally are used by
4 states.

5 And as you heard from Karin MacDonald and Justin
6 Levitt, we have very special criteria and specific
7 criteria that range from complying with the California --
8 sorry -- complying with the U.S. Constitution, complying
9 with the Federal Voting Rights Act, making sure that we
10 respect community use of the interest and political
11 boundaries, compactness, contiguity -- excuse me -- and
12 nesting. Okay. And these are laid out in very specific
13 order to let you know what your priorities are with
14 compliance with the Constitution and compliance with the
15 Federal Voting Rights Act as being the top priority.

16 There is no criteria that requires or even
17 encourages the Commission to take competitiveness into
18 account when looking at our districts in the state. And
19 as I believe I mentioned earlier, one of the challenges
20 with using competitiveness as a criterion is that it may
21 make it more difficult to comply with the much higher
22 priorities, such as compliance with the Constitution,
23 compliance with the Federal Voting Rights Act, and
24 respecting city political subdivision boundaries, and
25 communities of interest.

1 In addition, with respect to whether one in
2 California can lawfully draw lines to avoid putting
3 incumbents in the same district, I think it would be very
4 difficult to find that to be lawful under the California
5 Constitutional provisions, in light of the fact that
6 those provisions say that Commissioners cannot take the
7 place of residency of incumbents into account when
8 drawing district lines. And there is an argument that
9 there might be circumstances under the Federal Voting
10 Rights Act where you would want to know where incumbents
11 are. But at least to my understanding, that was much
12 more relevant when we still had -- Dr. Barreto talked
13 about the pre-clearance requirement. We don't have that
14 requirement anymore.

15 So perhaps other folks and your own counsel will
16 weigh in on this. But again, I would just very much
17 suggest that the Commissioners be very careful in terms
18 of looking at competitiveness, especially as it might
19 undermine the ability to comply with the constitutionally
20 mandated requirements --

21 CHAIR TURNER: Thank you.

22 MS. GOLD: -- and also be very careful about any
23 kind of information about where incumbents reside or what
24 districts that they are in under the new maps. Thank you
25 so much. I really appreciate it.

1 CHAIR TURNER: And thank you for calling in. AT&T
2 Operator, we won't take the next call because we're at a
3 required time break, but are there others in the queue?

4 AT&T OPERATOR: At this time, there are no further
5 in the queue.

6 CHAIR TURNER: Okay. Then, with no further in the
7 queue, I think rather than break, we'll end the day
8 today. We'll recess until tomorrow morning, and tomorrow
9 we'll be covering items 13, 14, 15, 18, and 23. 13, 14,
10 16, 18, and 23. Okay. And so we'll recess until
11 tomorrow morning at 9:30. Thank you all and good night.

12 (Whereupon, the CRC Business Meeting
13 adjourned.)

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CERTIFICATE OF TRANSCRIBER

I certify that the foregoing is a correct transcript, to the best of my ability, of the videoconference recording of the proceedings provided by the California Citizens Redistricting Commission.



LORI RAHTES, CDLT-108

July 22, 2022

DATE

