

STATE OF CALIFORNIA
CITIZENS REDISTRICTING COMMISSION (CRC)

In the matter of:

LEGAL AFFAIRS COMMITTEE MEETING

WEDNESDAY, JUNE 30, 2021

1:00 p.m.

Transcription By:

eScribers, LLC

APPEARANCESCOMMISSIONERS

Russell Yee, Chair
Pedro Toledo, Vice Chair
Sara Sadhwani, Commissioner

STAFF

Alvaro E. Hernandez, Deputy Executive Director
Anthony Pane, Chief Counsel
Marian Johnston, CRC Staff Counsel
Fredy Ceja, Communications Director

TECHNICAL CONTRACTORS

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

LINE DRAWING TEAM

Karin Mac Donald, Statewide Database, Q2 Data & Research, LLC
Andrew Drechsler, Haystaq DNA

VRA Counsel Strumwasser & Woocher

Andrea Sheridan Ordin, Counsel
Salvador Perez, Counsel
Fredric Woocher, Counsel
David Becker, Counsel
Dale Larson, Counsel

Also PresentPublic Comment

Sandra Barreiro, California School Employees Association
Erin Reynoso, SEIU California

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P R O C E E D I N G S

June 30, 2021

1:00 p.m.

CHAIR YEE: Hello and welcome to a meeting of the Legal Affairs Committee of the 2020 California Citizens Redistricting Commission. I'm Commissioner Russell Yee. I am chairing this committee.

If we could have the roll call, Director Hernandez?

MR. HERNANDEZ: Yes. Good afternoon, everyone.

We'll begin with Commissioner Toledo. Commissioner Sadhwani.

COMMISSIONER SADHWANI: Here.

MR. HERNANDEZ: And Commissioner Yee.

CHAIR YEE: Here.

MR. HERNANDEZ: The roll call is complete.

CHAIR YEE: Thank you. So we'll start off today with introductions. I will pause briefly to take any public comment, and then we'll get into what's listed as Chair updates, which is the meat of our meeting. We'll have a fifteen-minute break somewhere in the middle. We're currently scheduled for 1 to 4 p.m.

So let's start with introductions. We'll start with the Commission. And as we give our names, perhaps we can mention just what particular role we're playing in this VRA portion of our efforts.

So I'm Commissioner Russell Yee. I'm the June rotating Chair for the Legal Affairs Committee. I'm also

1 on the VRA Subcommittee for the Commission, and I'm here
2 at my home in Oakland.

3 Commissioner Sadhwani?

4 COMMISSIONER SADHWANI: Yes. Thank you, Chair Yee.
5 Welcome to all of our guests today. So excited to have
6 you all here with us and to be advancing this work.

7 My name is Commissioner Sara Sadhwani. I am joining
8 today from my office in Pasadena, California, in Southern
9 California. In addition to the Legal Affairs Committee,
10 I also serve on the VRA Subcommittee and Governmental
11 Affairs/Census Timeline Subcommittee, as well as the Line
12 Drawer Subcommittee, so I'm working on coordinating some
13 of those efforts as well. Very excited for our
14 conversation today and to move forward this important
15 work.

16 And I see Commissioner Toledo has joined us as well.

17 CHAIR YEE: Hey.

18 VICE CHAIR TOLEDO: Good afternoon.

19 CHAIR YEE: Go ahead and introduce yourself,
20 Commissioner Toledo.

21 VICE CHAIR TOLEDO: Commissioner Toledo from
22 Petaluma, California.

23 CHAIR YEE: And our only lawyer on the Commission of
24 all the Commissioners. But we do have a Chief Counsel,
25 and let's go to our CRC staff.

1 Counsel Pane? You're muted.

2 MR. PANE: Good afternoon, everyone. Anthony Pane,
3 Chief Counsel here for the Redistricting Commission.
4 It'll be great working with all of you.

5 CHAIR YEE: And then Marian Johnson (sic).

6 MS. JOHNSTON: Hi. I'm Marian Johnston. I'm an --
7 one of the attorneys for the Commission, and I was also
8 the attorney for the 2010 Commission, so I was involved
9 in the Padilla litigation.

10 CHAIR YEE: Director Hernandez?

11 MR. HERNANDEZ: Good afternoon. Again, this -- I am
12 Alvaro Hernandez. I'm here in Sacramento. I'm the
13 Executive Director, and I'll be available should you have
14 any additional questions today.

15 CHAIR YEE: Okay. That's our CRC team. Why don't
16 we go to our line drawers? Karin?

17 MS. MAC DONALD: Hello, everybody. My name is Karin
18 Mac Donald. I am with Q2 Data and Research, and I am
19 here with actually two hats on depending on how you need
20 me, either with that hat or with the other hat, which is
21 as director of the Statewide Database. And I am really
22 happy to be in this meeting with everybody. Thank you.

23 CHAIR YEE: Then Andrew.

24 MR. DRECHSLER: Hi, everyone. Andrew Drechsler with
25 Haystaq DNA. Together with Karin and Q2, we are teaming

1 up to be the line drawers, and excited to be here today.

2 CHAIR YEE: Thank you. Let's go to our SW team, and
3 perhaps, Andrea, would you like to conduct the
4 introductions?

5 MS. ORDIN: Yes. I'm Andrea Ordin from Strumwasser
6 & Woocher and part of your legal team, and started my
7 career in the State Attorney General's Office. And when
8 I came back to the State AG's Office the second time, I
9 was in the Chief Assistant Attorney General with
10 responsibility over civil rights, among other things, and
11 greatly enjoyed being back working with the State. And I
12 was County Counsel during 2010 redistricting for the
13 County.

14 Fred?

15 MR. WOOCHEER: Okay. My name is Fred Woocher, and I
16 am one of the founding partners of Strumwasser & Woocher.
17 I've been, among other things, specializing in election
18 law for the past 40-some-odd years, and so have some --
19 some background in many of these same issues that we're
20 dealing with here, and really looking forward to getting
21 started on this finally.

22 MR. LARSON: Hi. I'm Dale Larson. I've been with
23 Strumwasser & Woocher since 2014 and have been working on
24 election law matters since then. I was previously at the
25 Law Firm of Morrison and Foerster, although I did not

1 work on the 2010 effort that Morrison and Foerster did.

2 I -- before passing off to Sal, I just wanted to
3 remind everyone that we have two other members of our
4 team, Julia Michel and Caroline Chiappetti, who are both
5 very talented lawyers who have election law experience as
6 well, and surely you will meet them in the future. We
7 didn't want to overwhelm you with too many lawyers in --
8 in one meeting here today.

9 Sal?

10 MR. PEREZ: Good afternoon, everyone. My name is
11 Sal Perez. I am one of the junior members of the team.
12 I graduated from Stanford Law School in 2014, and prior
13 to joining Strumwasser & Woocher in January, I clerked
14 for two federal judges and worked at O'Melveny & Myers
15 and Manatt, Phelps & Phillips, and I reside in South
16 Pasadena.

17 MR. BECKER: Guess I'm probably up next. I'm David
18 Becker. My day job, I run a nonpartisan nonprofit in the
19 election space called the Center for Election Innovation
20 and Research, and I am a lawyer that has decades of
21 experience in election law compliance, and I worked for
22 several years as a voting rights counsel with --
23 litigation attorney with the United States Department of
24 Justice. And I'll be joining with Strumwasser to advise
25 on compliance with the Voting Rights Act.

1 CHAIR YEE: Great, great. That's everyone, yeah?
2 My apologies. I forgot about the two additional
3 personnel that had been added. It's been a while, and
4 certainly I do look forward to working with them as well.

5 Let's go ahead and pause for public comment. Katy,
6 if you're there, we'll go ahead and open the lines and
7 take any public comment at this time.

8 PUBLIC COMMENT MODERATOR: Afternoon. In order to
9 maximize transparency and public participation in our
10 process, the Commissioners will be taking public comment
11 by phone. To call in, dial the telephone number provided
12 on the livestream feed. It is 877-853-5247. When
13 prompted, enter the meeting ID number provided on the
14 livestream feed. It is 98748352081 for this meeting.

15 When prompted to enter a participant ID, simply
16 press the pound key. Once you have dialed in, you'll be
17 placed in a queue. To indicate you wish to comment,
18 please press star 9. This will raise your hand for the
19 moderator. When it is your turn to speak, you will hear
20 a message that says, the host would like you to talk, and
21 to press star 6 to speak.

22 If you would like to give your name, please state
23 and spell it for the record. You are not required to
24 provide your name to give public comment. Please make
25 sure to mute your computer or livestream audio to prevent

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

5 And I'd like to remind those calling in that have
6 called in previously to please press star 9 to raise your
7 hand indicating you wish to comment. We do have a raised
8 handed this time.

9 Caller 5961, if you will please follow the prompts
10 to unmute yourself by pressing star 6. Caller 5691, you
11 are unmute. Go ahead.

12 MS. BARREIRO: This is Sandra Barreiro on behalf of
13 the California School Employees Association, S-A-N-D-R-A,
14 B-A-R-R-E-I-R-O. I've called in previously regarding the
15 adoption deadline and expressed concern about a false
16 all-or-nothing narrative.

17 I urge the Commission to provide some relief from
18 the holidays while still preserving the traditional
19 primary date. Several county commissions are embracing
20 this approach, and I again urge you to do the same. This
21 will require consideration of practical election
22 administration issues. County commissions need only to
23 consult their registrars, whereas you need to consider
24 the entire state.

25 As your new counsel, Fred Woocher, knows, the same

1 policies can impact different sized counties in different
2 ways. For example, ten years ago, small counties under
3 fifty0,000 people only had a twenty percent chance of
4 being split in a plan. And if they were split, it was
5 almost always only once. Quite frankly, your deadline
6 may not make a difference to them.

7 Conversely, loud -- large counties with populations
8 over one million accounted for seventy percent of all
9 county fragments statewide. The large counties also have
10 largest GIS departments and may be able to adapt quickly.
11 Medium-sized counties between fifty0,000 to one million
12 may have the toughest challenge. Every medium-sized
13 county is currently split in at least two of the plans,
14 but their GIS departments are comparatively small, and
15 they may need longer --

16 MR. MANOFF: Thirty seconds.

17 MS. BARREIRO: -- to implement your work. I know
18 considering the effect of county size on electorate
19 admin -- election administration adds another layer of
20 complication, but I hope this helps and contributes to
21 your ongoing deliberations. Thank you.

22 CHAIR YEE: Thank you.

23 PUBLIC COMMENT MODERATOR: Thank you so much. And
24 again, I'd like to remind those who have called in to
25 please press star 9 indicating you wish to comment.

1 And it looks like that is all our public comment at
2 this time, Chair. I will defer to you.

3 CHAIR YEE: Thank you, Katy. Okay. Let's move on
4 to --

5 PUBLIC COMMENT MODERATOR: I apologize, Chair. 6296
6 did raise their hand. It just took them a second.

7 CHAIR YEE: Very good.

8 PUBLIC COMMENT MODERATOR: And 6296, if you will
9 please follow the prompt to unmute. You are unmuted. Go
10 ahead.

11 MS. REYNOSO: Thank you so much. This is Erin
12 Reynoso. I'm with SEIU California. SEIU has previously
13 encouraged the Commission to take full advantage of the
14 extra time before census data is available, so we'd like
15 to commend the counsel for outlining their potential
16 plans for 2021. There are a few additional items we
17 would like to suggest for your consideration.

18 Prior to August 16th, we would suggest counsel
19 develop recommendations for any open legal questions
20 relating to the criteria. This would include things like
21 guidance on acceptable population deviations and the role
22 of influence districts. Such decisions can and should be
23 made in the next few months, allowing line drawers to
24 move quickly once census data is available.

25 Prior to September 23rd, we suggest scheduling in-

1 person meetings so the -- so the Commission can provide
2 direction on prioritizing communities of interest. Such
3 direction is dependent on the completion of public input
4 hearings, not the availability of census data.

5 Completing this step will, again, allow for
6 visualizations of potential maps to be produced more
7 quickly once the State Database reallocation process is
8 completed.

9 The 2010 Commission was not prepared for the
10 availability of census data, leaving only about two
11 months for the actual line drawing. The potential plan
12 for 2021 includes at least three and a half months for
13 line drawing, but it's critical to first take full
14 advantage of the time before census data is available for
15 use. Thanks so much for listening.

16 CHAIR YEE: Thank you.

17 PUBLIC COMMENT MODERATOR: Thank you so much.

18 And with that, Chair, that is all our public comment
19 at this time.

20 CHAIR YEE: Okay. Very good. Thank you, Katy.

21 Okay. Let's move on to agenda item number 3, the
22 Chair updates, and that's the meat of our meeting today.
23 We'll start with discussion and setting lines of
24 direction in communication regarding VRA counsel.

25 We have several entities here: the Commission, the

1 Commission's VRA Subcommittee, which will be working most
2 closely with these matters. We have our Chief Counsel as
3 well as legal staff, including Ms. Johnson (sic). Line
4 drawers, and then our Counsel itself, Strumwasser
5 Woocher.

6 If I could ask, perhaps, our Chief Counsel Anthony
7 Pane, to speak to his particular role in all this and
8 what he is thinking in terms of the best way to arrange
9 our lines of communication going forward.

10 MR. PANE: Thank you, Chair. Just to outline
11 things, the Chief Counsel -- and this is in line with a
12 lot of the ongoing communication and established
13 practice -- is that the Chief Counsel acts as one of the
14 chief liaisons between Strumwasser Woocher and the
15 committee, and also the Commission. And that's -- that
16 to date, upon adoption of the contract, we pursued that
17 main line of communication. We think that's the most
18 efficient way to do it to help streamline communications
19 among all the various -- all the various folks.

20 Andrea's been very helpful, so thank you, Andrea.
21 You and I have been able to sort of establish the first
22 line of communication to help disseminate things
23 efficiently and would seek to continue that -- that
24 efficient use. Certainly allow for additional folks to
25 chime in as needed, but as -- as just a matter of general

1 practice, the Chief Counsel and Andrea tend to have a
2 first line of communication for anything we need, and we
3 make sure to include any and all folks that -- that need
4 to be included as well. I hope that's helpful.

5 CHAIR YEE: It is helpful. Very good. I'm
6 wondering what our line drawers are envisioning as their
7 role and what would be most helpful in terms of
8 communications in this effort.

9 Andrew or Karin?

10 MS. MAC DONALD: Yeah. Thank you very much,
11 Commissioner Yee, or Chair Yee, for -- for asking. I
12 think for us, it's important to be kept in the loop on
13 expectations for us on any kind of work that we need to
14 develop fully. You know, we'd like to just fully
15 communicate with everybody that usually maps take a
16 little while to develop, so if we're supposed to show
17 anything or develop anything, we do need a little bit of
18 lag time and work time.

19 I always say that a lot of the line drawing work is
20 done -- you know, a lot of the work that we do is
21 actually prep work before we go into meetings, and you
22 know, I'd just like to re-emphasize that, that setting up
23 a map, making sure a map looks good, doing screenshots,
24 figuring things like that out, it really takes a
25 tremendous amount of time. So -- so that's -- that's

1 important.

2 Also for -- with respect to VRA counsel, there are
3 potentially various tasks that we can fulfill and help
4 with, and we're available for that, and just let us know
5 when to be where, and we will communicate fully with you
6 and let you know what we can and cannot do. So thank
7 you.

8 CHAIR YEE: Thank you, Karin. So I'm wondering,
9 then, do requests need to come through -- from VRA
10 counsel through Chief Counsel Pane and then back to our
11 line drawers? How do we envision that happening?

12 MR. PANE: That would -- that will probably be a
13 preference. Just to navigate sort of the email traffic,
14 that would make -- that would make sense, yes.

15 CHAIR YEE: So we're envisioning, then, that Chief
16 Counsel Pane would be in the loop for -- for everything,
17 actually.

18 MR. PANE: Yeah.

19 CHAIR YEE: Yeah.

20 MR. PANE: Yeah.

21 CHAIR YEE: Okay. How does that sound to everyone?
22 I'm sure we'll -- you know, as we actually start working,
23 we'll find out --

24 MR. PANE: Yeah.

25 CHAIR YEE: -- what works well and what doesn't

1 and --

2 MR. PANE: What doesn't.

3 CHAIR YEE: -- certainly adjust as we go on.

4 MS. JOHNSTON: I think -- I think there may actually
5 be quite a bit of email traffic there once in a while,
6 you know, in particular when we're initially working. So
7 if the Chief Counsel is prepared for that, that's great.
8 We're -- we're fine with that, obviously.

9 MR. PANE: Agreed.

10 MR. WOOCHEER: Yeah. I -- just a point of clarify --
11 I mean, there may be times when we're working very
12 closely with the line drawers on these variations, things
13 like that, where I don't know whether the intent is that
14 everything goes just to Anthony and then has to go from
15 Anthony to the other party between the line drawers and
16 the VRA counsel or whether we just want to include
17 Anthony on the emails to make sure he's aware of all the
18 issues in traffic.

19 It seems to me that having a middle person is going
20 to be -- as much as I'm sure Anthony will be prompt and
21 responsive, given the other responsibilities that he has,
22 that may add an unnecessary delay factor, if nothing
23 else. So I was wondering if -- if it's okay for us to be
24 communicating directly but making sure that Anthony and
25 maybe even people from the subcommittee are included in

1 the loop.

2 MR. PANE: I think that's fine, Freddy (ph.). I
3 think that total -- that makes sense. We don't want to
4 add another bureaucratic block to it. I don't think
5 that's the -- that's the idea, so I think it's just more
6 about efficient use and it's mostly where -- and as you
7 well know, when it makes sense to sort of include the
8 group, you know, we -- we should all strive to do that as
9 well, yeah.

10 CHAIR YEE: Commissioner Sadhwani?

11 COMMISSIONER SADHWANI: Yeah, I just wanted to add
12 that I think that's absolutely right, Fred, that it's
13 about keeping Anthony in the loop. We, as the -- as the
14 subcommittee, have talked previously as well as the full
15 Commission, about really being good stewards of public
16 funds.

17 And to that end, that Anthony plays a really
18 important role in managing the amount to which we are
19 using outside counsel and keeping an eye on -- on that
20 usage. And so I think just a simple cc of Anthony and/or
21 VRA Subcommittee or other subcommittee members, depending
22 on the topic at hand, would make a lot of sense for that
23 purpose. Thank you.

24 CHAIR YEE: So I'm imagining, you know, Anthony
25 would initiate and direct the initial scope of a

1 particular stage of the work. You know, let's do this
2 particular region and take a look at population dah dah
3 dah, and so on. But then when it comes to the execution
4 of that, you know, wouldn't involve himself in the point-
5 by-point matters but would just be copied on those. That
6 makes sense. Any other thoughts?

7 And then from the Commission side, then, you know,
8 the full fourteen-member Commission is ultimately
9 responsible but has delegated the primary task of the VRA
10 work to the VRA Subcommittee. The VRA Subcommittee will
11 initiate things from the Commission standpoint through
12 Chief Counsel, again, to Strumwasser and/or the line
13 drawers. I'm thinking that's -- and it will look pretty
14 much the same that way.

15 Commissioner Sadhwani, does that sound good to you?

16 COMMISSIONER SADHWANI: Yep. That sounds good to
17 me. And I think just as a report back to everyone here,
18 you know, we did have this discussion about what is the
19 role between the VRA Subcommittee and the full Legal
20 Affairs, and we confirmed with the full Commission some
21 weeks ago that, yes, absolutely the intention of the full
22 Commission is that the VRA Subcommittee continue to work
23 towards VRA compliance, which would include working with
24 the VRA litigation team.

25 CHAIR YEE: Okay. So I think that is the general

1 picture of lines of direction and communication, and it
2 sounds like we have a good initial plan to go forward
3 with.

4 Let's go ahead and move on to discussion of our VRA
5 compliance strategy, workflow, and work plan, including
6 RPV matters. And I believe the Commissioner Sadhwani has
7 asked Strumwasser Woocher to prepare some initial
8 thoughts on that, so I'll let Commissioner Sadhwani take
9 it from here.

10 COMMISSIONER SADHWANI: Sure. So I think we were,
11 you know, specific to the agenda, we had requested that
12 the team develop some type of strategy to share with us
13 that we could discuss at this meeting. I know that there
14 are -- there is a presentation that you all prepared and
15 that is posted on our website under the meeting handouts
16 for this -- for this meeting. So I invite the public to
17 also take a look and review that along with us.

18 And with that, I am assuming, is this Mr. Becker or
19 Mr. Woocher? I'm not sure who is going to present.

20 MR. BECKER: It's me. Yeah.

21 COMMISSIONER SADHWANI: Okay. Go ahead.

22 MR. BECKER: Is that right? Okay. We're on the
23 same page?

24 COMMISSIONER SADHWANI: Go ahead.

25 MR. BECKER: Now let's see if we can -- this is

1 always the tricky part where we get to -- do we try to
2 share screens? Let me see if I can get this up. Give me
3 one second. Try one more thing here. Hold on. I knew
4 this wasn't going to work as well as I was -- as I was
5 hoping. I feel like such an amateur.

6 CHAIR YEE: No worries.

7 MR. BECKER: Okay. There it is. See if that works.
8 Hang on. Let me try this one. And okay. Can you see
9 that?

10 CHAIR YEE: Yes.

11 MR. BECKER: Wow. That actually worked. Okay.
12 Great. So this is our potential plan that we've
13 discussed and want to present to you. And you'll see
14 we've kind of divided it up in segments of time based
15 upon when certain mileposts are happening. Some of those
16 mileposts aren't set in stone yet as we're still waiting
17 for -- there's still some play in some of them, so
18 we'll -- there'll be plenty to discuss.

19 All right. So first, we're going to start with the
20 segment of time from now until August 16th, 2021, when we
21 expect the census legacy data to be delivered to the
22 state. First -- and I might need to actually -- hold on.
23 There. I can read it.

24 Well, we first will need some authorization under
25 the contract to hire a consultant on racially polarized

1 voting. We'll need the contract specifically authorizes
2 with consent from the Commission that Strumwasser Woocher
3 would hire a racially polarized voting consultant.

4 As we've discussed in previous conversations, one of
5 the elements of compliance with the Voting Rights Act is
6 that a minority population is cohesive enough to elect
7 candidates of their choice, and this racially polarized
8 voting analysis is a key element of that. And that is
9 actually something that, if we can get authorization to
10 hire someone and hire an appropriate consultant soon, we
11 might actually be able to get a head start on beginning
12 to analyze some of that data even prior to August 16th.

13 Second, working with Commission staff and
14 contractors and the newly hired consultant will begin, as
15 I mentioned, to work to analyze election data and
16 available demographic data. This is really to flag areas
17 where there might be a sufficiently large and cohesive
18 minority population that requires protections consistent
19 with the Voting Rights Act. This is not -- this is not
20 going to be definitive until the census data comes in and
21 confirms the size of the populations, but it's a good way
22 to flag areas that we'll want to take a very close look
23 at once that data comes in.

24 And then the Commission, of course, will continue to
25 conduct outreach and receive input from members of the

1 community even prior to the census legacy data coming in
2 on August 16th. And I'm by the way, I'm happy to take
3 questions in the middle or just continue through and we
4 can go back and have questions, so feel free to interrupt
5 if --

6 VICE CHAIR TOLEDO: Just a quick question. How
7 would you define sufficiently large within the context of
8 minority populations pertaining to VRA?

9 MR. BECKER: So in the context of the size -- so
10 there's multiple factors. It's the size of the community
11 and that their voting patterns are cohesive enough that
12 they form, essentially, a majority of a potential
13 district. And that then we would look at the way the
14 district lines could be drawn so that if they're large
15 enough or cohesive enough to form a majority of a
16 district, that we could form a district where they could
17 elect their candidates of choice, which might not require
18 a majority. Does that make sense?

19 VICE CHAIR TOLEDO: To some extent. I'm just
20 curious about -- let's just take an example. Asian
21 Americans across the State of California, they may not
22 make the majority in certain districts but large enough
23 that they're sizable, especially in some of -- I mean,
24 across the State of California.

25 How would we look at that type of scenario where you

1 have a minority population that's not quite the majority
2 in a district? Would they be entitled to some kind of, I
3 mean, certainly VRA analysis, but VRA protection.

4 MR. BECKER: It's possible, particularly if they --
5 if a minority population is cohesive with another
6 minority population or if there is sufficient white
7 crossover vote that they could elect a candidate of their
8 choice given the voting patterns.

9 I mean, I want to be very careful about speculating
10 and talking about hypotheticals here because --

11 VICE CHAIR TOLEDO: Sure.

12 MR. BECKER: -- the Asian communities are also not
13 monolithic. You know, the different Asian communities
14 might vote in different ways; some cohesively, some not
15 cohesively. We'll want to really get a handle on that
16 data, and I think the appropriate thing to do would
17 probably be to wait until we see what the data shows.

18 And then, you know, one of the things that's very
19 important to note, and I think you all know this very,
20 very well, it's not like this is a black and white line
21 where you clearly cross over, yes, a district has to be
22 drawn, no, a district doesn't have to be drawn. There is
23 some gray area here where -- because you're taking past
24 election results but current populations to assess what
25 would happen in the future. Does that make sense?

1 It is all -- there is some ability to look at this
2 and assess, you know, the cohesiveness of a population,
3 the population as it exists now, is it large enough. And
4 I do want to stress also one of the -- one of the easier
5 ways to think about this is there's both a liability and
6 a remedy phase. And liability is probably the wrong
7 word, but it's really a trigger.

8 Is a population large enough that, given voting
9 patterns, it's large enough and cohesive enough that it
10 tends to vote for a particular candidate and either with
11 some white crossover or without needing any white
12 crossover or with another minority, they do have the
13 ability to elect candidates of their choice. That
14 trigger is do you get over the fifty percent level?

15 But then the remedy might not require fifty percent
16 because crossover voting might be sufficient to allow for
17 minority communities to vote for -- to elect their
18 candidate of choice without necessarily needing fifty
19 percent. In fact, in some cases, populations as high as
20 fifty percent might be, in some ways, perceived to be
21 packing because you have so much -- you have a
22 significant amount of white crossover voting.

23 And we know in California, at least historically,
24 that that's not that unusual, actually, in some areas.
25 In other areas, it's more unusual. So we really -- this

1 is such a fact-intensive inquiry, which is why it was so
2 good that you asked for this plan because really having a
3 head start on starting to assess some of the facts and
4 data is really going to be key. Even though we do have,
5 perhaps, three, give or take, months to ultimately draw
6 the lines, having a good sense of the areas that we want
7 to pay close attention to is going to be very, very
8 important.

9 MR. WOOCHEER: And if I could just jump in for a
10 second to respond a little more about the specifics of
11 this, because the RPV analysis is so important to the
12 final determination, this first step phase where we're
13 trying to just identify those areas to look at in order
14 to perform the RPV analysis, we probably want to be over-
15 inclusive and -- in terms of looking at the areas where
16 there's heat, even if it doesn't rise to the level.

17 So you'd set a much lower threshold, essentially, in
18 terms of percentage, population, and things like that in
19 order to do the analysis, which would then give you the
20 data when you finally get all the census data to know
21 whether or not they do form that cohesive block and the
22 extent to which there's crossover voting, so that then
23 you can know what the final percentages sort of need to
24 be in order to create one of those districts.

25 MR. BECKER: Yeah, Sara?

1 COMMISSIONER SADHWANI: Yeah. Thanks. I'm
2 wondering if you could also talk about -- a little bit
3 about -- of course, these are all of the fact-finding
4 components of VRA compliance, but could you also speak a
5 little bit to how we might weigh the community testimony
6 that we're receiving?

7 So for example, Commissioner Toledo has mentioned
8 the Asian American community. We've already begun to
9 receive a significant amount of input from the Asian
10 American community, both in the San Jose sort of area,
11 Santa Clara, as well as the San Gabriel Valley and Los
12 Angeles. I'm wondering if you could speak to that a
13 little bit.

14 MR. BECKER: Yeah. I think one of the things we'll
15 want to look at very closely is, you know, the Asian
16 American community, historically in Voting Rights Act
17 analysis, is a little bit different than, for instance,
18 looking at the African American community where there is
19 a lot of heterogeneity in the Asian American community, a
20 lot of different cultures, a lot of different voting
21 patterns that really need to be considered.

22 And one of the things we'll want to get as good a
23 handle as we can on, both before and after the census
24 data comes in, is what are the vote -- what are the
25 voting patterns look like? Are there communities that

1 vote cohesively together even though they might not be
2 from the same background, might not have the same
3 national origin if they're in -- especially if they're in
4 close proximity. And by the way, the Asian American
5 community might also vote cohesively with Hispanic or
6 African American communities in different areas,
7 especially when they're in close proximity.

8 One of the things I've stressed prior, and I think
9 you all know this very, very well, looking at primary
10 election data is going to be as crucial as general
11 election data because, oftentimes, what we'll see is
12 the -- even with the top two primary, the primary
13 election can be incredibly instructive in telling us
14 whether communities are voting cohesively within each
15 other or with neighboring communities. And if they are,
16 whether they can elect a candidate of choice, given the
17 size and concentration of their communities in a
18 particular area that we'll get from the census data.

19 I don't know if that answered your question,
20 Commissioner Sadhwani, enough. I mean, I -- it's hard --
21 so especially in particular areas of California, as we
22 all know, there are areas where there are large
23 concentrations of minority communities, different
24 minority communities, that live in close proximity to
25 each other. That isn't always the case in many other

1 states. And being very aware of that and trying to
2 assess whether they're large enough and cohesiveness (sic)
3 enough -- cohesive enough on their own, and if they
4 aren't, if they are cohesive with a neighboring community
5 to try to assess their voting -- their voting choices and
6 power is going to be really important.

7 COMMISSIONER SADHWANI: Yeah. I mean, I definitely
8 think that's helpful, and I'll offer that I think there
9 is some recent research on Asian Americans that might
10 bear some fruit on some of these topics. But I think my
11 broader question, we don't have to answer this now, I
12 think it's something that we will continue to work
13 through in this iterative process.

14 But in addition to the analysis of data, in our
15 community testimony, we're already receiving requests
16 from communities to be kept together, or not, right? I
17 mean, we've received quite a lot, actually, already from
18 the San Gabriel Valley, for example, which I think is an
19 interesting area as we're thinking about Asian Americans.

20 But I do think that we'll continue to be thinking
21 through this as we move forward, you know, balancing the
22 data proponents of -- or data perspective of the VRA with
23 that community testimony --

24 MR. BECKER: Yes.

25 COMMISSIONER SADHWANI: -- from that community, I

1 think will be a really interesting process as we move
2 forward.

3 MR. BECKER: Yeah. That's actually a very good
4 point. I mean, community input is going to be a relevant
5 factor. If it comes in -- if it's in direct conflict
6 with what the actual census data and other data says, it
7 might be less relevant, but it's -- you know, one of the
8 things about the community input is it can often provide
9 specific -- paint specific pictures about a community
10 that the census data doesn't entirely paint.

11 So it might indicate a particular geographical
12 point, whether it be a church or a school or something
13 like that might be a center of a community, and things
14 like that that we should really pay attention to. I
15 mean, if you get community testimony that says the
16 Hispanic and Asian community in this area vote cohesively
17 all the time, but you look at racially polarized votes,
18 and they don't, then it's somewhat less relevant.

19 But I also think community testimony and community
20 input, particularly since it's going to occur before we
21 get some of the data, might help us identify areas we
22 want to take a closer look at and see if we can get
23 confirmation from the data about that. So I do think
24 it's important, and I know you've been incredibly
25 encouraging of community to provide -- you all, as a

1 Commission, have been incredibly encouraging of the
2 community to provide as much input on these issues as
3 possible.

4 The worst-case scenario is the data doesn't bear it
5 out, in which case that's still good to know that there
6 are certain communities, but it might be that the data
7 actually drives the factual analysis. But there are
8 often places where, I think, that testimony and input is
9 going to point us in the right direction to dig deeper on
10 the data.

11 CHAIR YEE: On your first point on the hiring of the
12 RPV analyst, I'm wondering if Director Hernandez can give
13 us a brief overview of kind of how long that would take
14 and what steps we would need to get there.

15 MR. HERNANDEZ: Given the previous contracts, I
16 would say anywhere from four to six weeks, and it depends
17 on the type of contract it is and the amount of the
18 contract as well. And so, you know, and that all -- you
19 know, for -- we're doing a request for an RFP. That may
20 be a little bit longer. So something to think about. We
21 could started it. The sooner the better, obviously.

22 CHAIR YEE: What would be the first step to get us
23 started on this?

24 MR. HERNANDEZ: We do need to identify the scope of
25 work, what it is that we're going to want them to do, and

1 then, you know, move that forward.

2 MR. LARSON: Can I jump in and make a point of
3 clarification here in that the contract we have with you
4 all authorizes us to sort of hire an RPV analyst within
5 the scope of our contract sort of as a subcontractor for
6 us. It does state we need the permission of the
7 Commission to do that. So my understanding is this would
8 not go through the regular state contracting process. It
9 is simply a matter of receiving authority from the
10 Commission to move forward.

11 MR. PANE: And if I could just jump in on that
12 point, one option would be, as the committee is aware,
13 there's contracting decision authority for the
14 Commission. And one option certainly would be to -- when
15 it comes time to approve a contract decision, one option
16 is to allow and essentially take a vote for a
17 contraction -- a contract decision to approve Strumwasser
18 Woocher to find and locate the appropriate contracting
19 authority for that as well as another option. And that
20 would be in line with the contract language as well that
21 Dale was just referring to.

22 CHAIR YEE: So that would be a motion just on the
23 Commission that we could --

24 MR. PANE: It --

25 CHAIR YEE: -- could do today.

1 MR. PANE: Yeah. We would probably want to --
2 again, not -- so that would be a special -- a special
3 vote. We would want to make sure that it's agendized
4 raised and we have discussion and a motion and all of
5 that. But it would require a higher threshold, but it's
6 on for contracting decisions. It doesn't have to
7 necessarily be the approval of this particular contract,
8 although, you know, that seems in line with the
9 contractual language, is what I'd just like to highlight.

10 VICE CHAIR TOLEDO: And just a question for Mr.
11 Woocher as he was talking about having, you know, we've
12 been talking about the scope of work because that's the
13 first piece. And moving forward with the contract is
14 figuring out that scope of work, and he's been -- he
15 mentioned earlier developing an analysis that's over-
16 inclusive and -- potentially so that we have the data
17 should we -- to understand our VRA needs in the state and
18 what that might look like.

19 So fleshing that out might be -- might take a little
20 bit of time to figure out what over-inclusive means and
21 for the purposes of the scope of work, right? Because
22 the more work we're asking the consultant to do,
23 potentially the more it's going to cost us. And so
24 that -- that's just a -- and maybe -- and I'm -- and this
25 is, I guess, a question for Mr. Woocher is, in terms of

1 scope of work, if you can speak to this over-inclusive
2 analysis and what we would be wanting out of our
3 contractor a little bit more.

4 MR. WOOCHEER: Well, and I'll let David or maybe
5 Karin talk about, in some respects, specifically what the
6 RPV analysis would be. But what I was referring to is
7 we're not just going to take, for example, the existing
8 districts that have already been determined to be VRA
9 districts and say those are the only ones where we've got
10 to -- you know, to do an RPV analysis, or a little bit of
11 bleeds over there.

12 There may have been districts that came very close
13 to that in the last time. We know there are certainly
14 areas where there's questions about whether you can make
15 three districts or two districts and issues like that.
16 And so you wouldn't want to be taking fifty percent, or
17 even forty-five percent necessarily, as the threshold in
18 doing the RPV analysis to begin with. You'd want to
19 lower it down a little bit. So that's what I meant by
20 being a little more over-inclusive in terms of looking at
21 the hotspot areas that we want to target to do the more
22 detailed analyses.

23 MR. BECKER: Right. I agree with that. I think
24 that there is a -- over-inclusive and under-inclusive are
25 probably not the most descriptive terms. I mean, it --

1 what we want to make sure is we don't -- we don't want
2 to -- we don't want to miss anywhere where the census
3 data might have a population that really deserves
4 attention under the Voting Rights Act, but we also don't
5 want to -- we don't want to waste everyone's time looking
6 at areas where we know there aren't significant minority
7 populations that generate possible issues with the Voting
8 Rights Act.

9 So I think what we would do is we would -- and by
10 the way, this is all -- this would all be done in
11 consultation with the line drawers and with the RPV
12 consultant -- but try to identify areas based on existing
13 population concentrations, based on census estimates --
14 assuming we're before August 16th right now, by the way,
15 based on census estimates, existing concentrations, and
16 perhaps looking at existing districts just because that
17 tells us something.

18 We're looking at -- with the existing districts,
19 we're going to be looking at certain elections. So for
20 instance, if we're looking at Assembly districts and we
21 want to determine whether or not there was racially
22 polarized voting in those Assembly districts, the
23 composition of those Assembly districts is relevant.

24 Does that make sense, Commissioner Toledo?

25 VICE CHAIR TOLEDO: It does. Thank you.

1 MR. BECKER: Okay. So we would -- we would look at
2 those kinds of things. The most important -- I think,
3 you know, I want to -- one of the things where you're
4 looking at racially polarized voting, the most relevant,
5 the most salient data, the most salient information is
6 from what's called endogenous elections, meaning if
7 you're -- if you're drawing Assembly districts, Assembly
8 elections are going to be the most relevant.

9 That doesn't mean Senate elections, congressional
10 elections in that Assembly district, or even statewide
11 elections aren't relevant. They can be relevant. They
12 just might be somewhat less relevant because we all know
13 the political dynamics within that particular district
14 might differ based on what kind of election is happening
15 in that district. So you know, certainly we know that in
16 statewide elections there's a different dynamic than
17 there is in district elections, so we'll want to take
18 that into account when we're looking into it.

19 But I think it's also really important, and you
20 raise a very smart point here, that we constantly balance
21 out doing too much work or looking too -- looking in
22 places we know there's not going to be an issue with also
23 making sure nothing slips through the cracks.

24 VICE CHAIR TOLEDO: With that, I'm just wondering if
25 Karin and Andrew might have any additional guidance for

1 the scope of work in terms of the data portion of what
2 they'll need to help us in the line-drawing process, and
3 specifically for the scope of work for the consultant and
4 what we will be getting from the consultant.

5 MS. MAC DONALD: Yeah. Certainly, Commissioner
6 Toledo. Thank you for asking what our suggestion would
7 be, and we have discussed this with the RPV team, with
8 the Counsel, is that we might take a look at where there
9 are areas that might rise to that threshold where we may
10 be able to look at -- you know, to draw districts
11 essentially that are large enough to constitute a Section
12 2 district.

13 And as Mr. Woocher has said, we want to have that
14 threshold at a lower point than where we actually --
15 where we actually may be able to draw it just so that
16 we're inclusive. But we also want to look at it from the
17 perspective of basically excluding areas where we know
18 that this just can't happen, and then we don't have to
19 direct resources for the RPV analysis into those areas.

20 Like, we all know that there are some areas -- I
21 mean, our Assembly districts are fairly large, and those
22 are the smallest districts that we're going to be
23 drawing. Let me see. I actually just looked at how big
24 they're going to be. I think it's -- oh, yeah. They're
25 going to be 494,000 people that have to be in an Assembly

1 district this time, and 989,000 in a Senate district, and
2 761,000 in a congressional district.

3 So in order to actually draw a Section 2 district,
4 you need a pretty large citizen voting age population,
5 and then, you know, those are not everywhere in the State
6 of California, but we do know that they are in certain
7 areas. So we can help to guide that analysis by perhaps
8 excluding some of the counties or some of the regions or
9 some of the areas where you just wouldn't be able to draw
10 a majority minority district at all, no matter what you
11 do.

12 And that way, the RPV analyst can focus on the areas
13 where you might be able to do it. So that would be my
14 suggestion. And of course, we would do that, you know,
15 in consultation with Counsel and with the subcommittee.
16 Does that make sense?

17 VICE CHAIR TOLEDO: It certainly makes sense. I'm
18 just curious, and this, I think, goes back to Mr.
19 Becker's point, and this is probably I'm just not as
20 familiar. There was a discussion about looking at the
21 districts, but what if the areas are different than the
22 districts that --

23 MS. MAC DONALD: Right.

24 VICE CHAIR TOLEDO: -- are currently in place,
25 right? So and I think this speaks to Karin's point that

1 she just made that you're looking at the areas rather
2 than the district themselves, but I'm just curious if you
3 could maybe educate me a little bit -- and the rest of
4 the public a little bit more, about how that might work
5 or how that -- right?

6 MS. MAC DONALD: Yeah.

7 VICE CHAIR TOLEDO: If we're looking at existing
8 districts or if we're looking at areas and space where
9 there might be VRA implications.

10 MS. MAC DONALD: Yeah. So when we're doing -- when
11 we're doing this in, like, a very first, you know, kind
12 of let's call it a kind of guiding analysis, we have to
13 anchor some place. We have to have some sort of unit of
14 analysis where we're saying, okay, this could be large
15 enough because we have to start somewhere.

16 So we have, you know, fifty-eight counties and a lot
17 of counties are really tiny and a lot of -- and a couple
18 of counties are really, really big in California. So
19 doing a county analysis doesn't really get you there
20 completely. So what unit of analysis do you use?

21 Assembly districts, we have eighty of them.
22 They're, you know -- and they all have the same -- or
23 they at least started with the same population. So it's
24 a good kind of starting point. That doesn't mean that
25 we're just going to analyze the existing Assembly

1 districts. It's a starting point to just start looking
2 at what's going on, and then we can look across the
3 borders from these Assembly districts -- from the
4 existing Assembly districts to see how the populations
5 have grown.

6 Because, first of all, everything's changed. I
7 mean, a lot of things have changed. Maybe not
8 everything, but a lot of things have changed in
9 California, and I think we all know that. But also we
10 want to be careful when we're putting something like that
11 out is that it's not perceived as us trying to draw
12 districts because that's not our job, right?

13 So starting with the existing Assembly districts,
14 because they're already there, kind of takes that
15 argument or that potential concern out of the
16 conversation because we're just looking at what's there
17 already because we understand, you understand, everybody
18 needs to understand that drawing the districts is your
19 job and not ours. And we're really just starting to do
20 an analysis.

21 So that's kind of why I think it's a good way to
22 start, because it's a good -- you know, it's just a good
23 general anchoring unit that is not going to, I hope,
24 confuse the conversation too much. That's all.

25 MR. BECKER: And I'll just add, I -- and I think

1 this is a really -- this is a really good conversation
2 because what we're talking about is really just looking
3 at starting points, that the starting point is not the
4 finishing point. We might be looking at certain
5 districts because we're looking at elections within that
6 district. An Assembly election, of course, the relevant
7 geography will be an Assembly district, but we might also
8 be looking at precinct geography. We might also be
9 looking at census geography based on the estimates. This
10 is at the time prior to receiving the new census data.

11 And all of this is going to -- we're going to view
12 this all through the lens of the totality of the
13 circumstances to try to figure out what a population
14 looks like. We absolutely -- I don't think it's an
15 intention to kind of lock into the existing districts as
16 a starting point. Even that is, you get -- you all get
17 to decide where you want to start and how the lines are
18 drawn. But we do want to -- these are really planting
19 flags in areas that you want to pay attention to.

20 Really want to identify during this early period of
21 time before the census data gets in that so that we're
22 ready once the census data comes in to overlay the census
23 data and say, oh, you know, we -- this is an area where
24 there was racially polarized voting. It also has a high
25 population of what looks to be a cohesive minority.

1 Let's see what we can do. And that will inform your
2 efforts as you direct the line drawers.

3 MR. WOOCHEER: Yeah. And if I could just try to
4 clarify a little bit, remember what we're doing in the
5 RPV analysis, we're not using that to actually draw the
6 district. We're using that to determine whether or not
7 there's a segment of the population, the minority
8 population, that votes together as a cohesive unit.

9 Now you could do this in an area where there's only
10 a five percent minority population and determine, yes,
11 they vote very cohesively, they're a real bloc there, but
12 it's not going to make a district. So the data that
13 we're getting out of this is just to determine whether
14 you have those cohesive blocs of minorities and what
15 their voting patterns are, not to determine what the
16 district will actually be or what the percentage of
17 people in that particular area could form a district and
18 be a majority or not.

19 So it doesn't really matter what -- I mean, as Karin
20 said, you need some unit in order to measure it and you
21 need to determine where you're going to do it so you
22 don't waste your resources, but the data and the result
23 we're getting out of that is not going to be, oh, this is
24 now a district that we're going to be using as a minority
25 district under the Voting Rights Act. It's just to give

1 us whether or not we have that basic notion that the
2 minority population in this area votes cohesively and can
3 form a bloc.

4 MR. BECKER: Yeah. That's a great -- I'm going to
5 paraphrase here. But remember, for every -- for Section
6 2 of the Voting Rights Act to kick in there need to be --
7 and I'm going to paraphrase -- basically three big
8 conditions. One, that the minority population is large
9 enough to form the majority in a district; two, that they
10 are voting cohesively, preferring particular candidates;
11 and that the white population is voting cohesively to
12 oppose those candidates, basically, because they're
13 voting differently.

14 And the racially polarized voting analysis really
15 addresses only the second and third of those three
16 points. The census data is going to be the definitive
17 data on the first of the three points, but the census
18 estimates might also help us before we get that kind of
19 prep ourselves where we'll want to look once we get the
20 definitive data on the census.

21 Karin, do you agree with how I just laid that out?
22 Okay. Mostly?

23 MS. MAC DONALD: Yes, I do.

24 MR. BECKER: Okay. So I think, you know, again, and
25 I just want to -- by the way, there were, I think, three

1 or four more slides here, which is -- which is good.
2 This is just -- this is just the period of time over the
3 next, what is it, forty-seven days. So I want to be
4 clear, there's other stages where we're going to be
5 getting into different areas of data analysis, and even
6 as you see later on, how we can help advise your efforts
7 as you direct the line drawers.

8 COMMISSIONER SADHWANI: And so David, if I may just
9 jump in here. This is such a helpful conversation, and
10 what I hear is actually two different components actually
11 coming out of this, right? On the one hand, we have this
12 analysis and assessment component almost, if you will,
13 using my own terminology from the academic world, a
14 research design, right, in which we have all of these
15 components, the assessment of Assembly districts as well
16 as RPV analysis.

17 But the second piece of this is also the scope of
18 work and identifying this -- the RPV analyst and the
19 approval and that process side of actually contracting
20 someone to do that work. If I'm hearing this correctly,
21 however, it sounds as though the line drawer team can
22 start this assessment of the Assembly districts using the
23 ACS data. Is that a fair assumption? And that we can
24 begin that process as soon as possible.

25 In the meantime, the -- you know, the Strumwasser

1 Woocher team will be seeking out that RPV analyst. On
2 our side, we're going to be agendizing for the full
3 Commission to take a vote on authorizing the hire of that
4 individual or team so that they can take what the line
5 drawer is working on now and drill down more specifically
6 in those key areas that are identified so that we're
7 maximizing our resources. Is that a fair assessment?

8 MR. BECKER: I think that's -- I think that's very
9 fair. I just want to -- I want to point out that the ACS
10 data and the analysis that Karin and her team can do
11 really applies to the first of those factors primarily
12 that I mentioned, the -- whether -- where the minority
13 populations are and how large they are.

14 And then the second and third factors that I
15 mentioned, the cohesiveness of the minority population in
16 terms of voting for their preferred candidates and the
17 cohesiveness of the white population in preferring
18 different candidates, we really do need a racially
19 polarized analyst to do that work for us. That's going
20 to involve math that, Commissioner Sadhwani, you've
21 probably done, but I certainly have not.

22 And I would -- and having someone who can run those
23 regressions and other -- you know, and often, as you
24 know, and many of the Commissioners might realize, this
25 often involves precinct-level data, looking at precincts

1 that are heavily minority and heavily non-minority and
2 comparing them. And that's work that specifically we'll
3 need an RPV consultant to do.

4 VICE CHAIR TOLEDO: And just to follow up with that,
5 it sounds like we -- the Commission will need a scope of
6 work in order to authorize, and probably a scope of work
7 that can be developed with the VRA committee with the
8 other three -- the stakeholders on this call, the VRA
9 committee, our legal firm, and the line drawers that
10 would come back to the Commission for approval on the --
11 on the scope of work plus the contracting piece because
12 the contracting depends on the scope of work, what we're
13 asking the contractor to do, and what we're asking our
14 law firm to contract for, right?

15 MR. BECKER: So Anthony and Counsel might have
16 different views. The way I read the contract is that the
17 contract already contemplates that Strumwasser has been
18 authorized to a certain amount to hire an RPV consultant
19 and that the contract -- I think the only provisions of
20 the contract that restrict that is that it has to be
21 authorized by the Commission.

22 Perhaps Anthony or Fred, you have a better
23 understanding of that than I do rather than having to go
24 through the complete scope of work and other approval
25 that might otherwise be necessary and might delay hiring

1 of a consultant.

2 MR. PANE: So David, I think that's generally
3 correct, but I do think there may be an interest -- and I
4 don't know if this is true, but I just want to allow for
5 this possibility. There may be an interest on the part
6 of the Commission or the committee or Commissioners to,
7 you know, be involved on some level of that. But I agree
8 from just a pure legal analysis of the contract, I think
9 that definitely allows Strumwasser to proceed on it. But
10 I do think there's a couple of things to balance there.
11 That's all.

12 Fred, I don't know if you have any thoughts.

13 MR. WOOCHEER: Yeah. I mean, look, I do think speed
14 is really important here because we -- you know, we can
15 have people review it over and over and we're just never
16 going to start to work.

17 As I understood the contract, there is a definitive
18 dollar amount that we're allocated for that for the
19 purpose of hiring the RPV. We obviously don't intend to
20 do it on our own without further guidance. I think to
21 make it specific, what we intend to do is to get out a
22 draft request for consultants. I don't know if it's
23 technically an RFP or just a document that invites people
24 to apply, and hopefully, get a draft of that out, ready
25 to go by, say, next week, run it through Chief Counsel,

1 run it through the members of the subcommittee to see if
2 they're comfortable with the scope of work that's been,
3 you know, put there, and then put it out there, then get
4 bids back in and come up with a tentative decision as to
5 whom we would like to hire, and then take that to the
6 full Commission to approve it.

7 And hopefully we can get that done by sometime in
8 mid-July or so and not too much later, so that we can
9 actually do some of the work that we've said between now
10 and August 16 when we have time to do it.

11 VICE CHAIR TOLEDO: And I'm comfortable with that,
12 and I think that that helps with the clarification I'm
13 trying to figure -- that sounds -- I'm just wondering
14 from, and maybe Anthony can -- and/or Alvaro can give us
15 a little bit of guidance. Are there any approvals that
16 we have to secure from the State before we contract with
17 this -- with the subcontractor?

18 Because I know this is -- I know our contract
19 complement -- contemplates that the law firm would
20 contract with the firm. But I if I remember correctly, I
21 was -- if I remember correctly, there was an approval
22 that was required from a State agency prior to the
23 subcontracting -- subcontracting and becoming effective.
24 If I remember correctly, from discussions around the
25 contract.

1 I might be -- there's so many contracts we've been
2 working on, I may be confusing them, so I'm just
3 wondering if you would -- if you could just speak to that
4 if, yes, in fact, there's a State agency that has to give
5 their blessing on the contract, or no, the law firm can
6 contract with them directly without having to get
7 approvals from another State agency.

8 MR. BECKER: I will have to do some additional
9 research and get back to you on that.

10 VICE CHAIR TOLEDO: I'm just worried about time
11 frame because this is a pretty -- as Mr. Woocher said,
12 our time is not on our side and, like, there's a lot of
13 work to get done. So if there is a State agency approval
14 that needs to be had and they need certain documentation
15 in a certain way, we would want to know as soon as
16 possible so that -- so that we can make sure that that
17 process is happening concurrently with the RFP process
18 that the law firm may be doing, or at least that it's in
19 the right format and such, if there, in fact, is a
20 process.

21 CHAIR YEE: So at this point, I think, you know,
22 Director Hernandez will investigate that. But meanwhile,
23 I think SW is free to begin drawing up that scope of work
24 and contracts and so forth. Looking at the calendar, I
25 think the soonest the Commission could vote on an

1 approval would be the -- July 13th. However, we would
2 not need a candidate in place by then.

3 Our discussions thus far have been around
4 contracting decisions being a fairly broad grant of
5 authority. It doesn't have to be a final contract we're
6 voting on. We can vote on granting the authority to
7 execute that contract to SW, and I believe that's the
8 case.

9 MR. BECKER: Commissioner Yee, could ask a quick
10 question?

11 CHAIR YEE: Sure.

12 MR. BECKER: And so am I right that Strumwasser
13 could send out an invitation to apply to consultants that
14 might be interested, making clear that it would be
15 subject to whatever approval process is required by the
16 Commission, and we could do that before July 13th since
17 no final decision would be made?

18 CHAIR YEE: Yes.

19 MR. BECKER: Okay. And --

20 MS. ORDIN: And I would --

21 MR. BECKER: Yeah. Go ahead, Andrea.

22 MS. ORDIN: No. I think that that looks right to me
23 in terms of the language. And the only thing we need to
24 watch the dates for is to agendize appropriately on that
25 very first meeting with the hope that we would have

1 enough information to go forward.

2 CHAIR YEE: That's why --

3 VICE CHAIR TOLEDO: And Anthony, just to get some
4 clarification here, we would need to -- the Commission
5 would need to approve the contract or whoever is selected
6 prior to their start, or no?

7 MR. PANE: Well, I think it -- I think it probably
8 depends. I think we've got some logistics to just sort
9 of iron out on that level of detail, Commissioner.

10 VICE CHAIR TOLEDO: Okay.

11 MR. PANE: I couldn't say right now.

12 VICE CHAIR TOLEDO: Okay.

13 MR. BECKER: I think we've now --

14 CHAIR YEE: I think we've actually been discussing
15 that point, right? Yeah. Some of the outreach contracts
16 and so forth. So it's possible that the answer is no,
17 that we do not need further approval, but we'll look into
18 that a bit more.

19 MR. BECKER: Okay. And so if we, perhaps right
20 after the July 4th holiday, put out an invitation to
21 apply, again, subject to all the approvals that we just
22 discussed, that is -- that's consistent with this
23 conversation and it -- we'll agendize further discussion
24 of this for the July 13th meeting; is that right?

25 CHAIR YEE: That's right. And we can agendize, you

1 know, a probable decision to be made, action to be taken
2 at that point without having to entirely specify what the
3 action will be.

4 COMMISSIONER SADHWANI: And if I may, I agree with
5 everything that's been said. I think agendizing for July
6 13th for final approval makes perfect sense, but
7 absolutely the team should go forward in identifying such
8 a person and putting out such a request.

9 If I may just offer, I think, two components that
10 would be really important for me to see in such a
11 candidate is, of course, demonstration of quantitative
12 skills and relevant experience, but also the ability to
13 demonstrate an understanding of the unique demographics
14 of the State of California. My sense is that
15 implementation and compliance with the Voting Rights Act
16 in California is different from other places, just given
17 the demographic reality of our state. So the ability to
18 speak to that in a candidate would be really important
19 for me to see.

20 MR. BECKER: Thank you. That's actually a really
21 good point.

22 CHAIR YEE: And so just a time check. I know,
23 David, you're only on your first slide, the whole hour.

24 MR. BECKER: And you wanted me to go the allotted
25 three hours for this.

1 CHAIR YEE: We will have a required break at 2:30.

2 MR. BECKER: Do I have approval to go to the second
3 slide?

4 CHAIR YEE: Yes.

5 MR. BECKER: Okay.

6 CHAIR YEE: But just so a break at 2:30. At some
7 point, we will probably, in fact, after all, go into
8 closed session to discuss the final point about timeline.
9 And so I believe you will all have received the
10 invitation to a closed session, and so that will happen
11 at some point after the break after Mr. Becker has
12 completed his presentation.

13 So please go ahead, Mr. Becker.

14 MR. BECKER: Great. Okay. The next slide covers
15 the period of time from August 16th, 2021, assuming we'll
16 get the legacy data then, to September 23rd, 2021.
17 During that time, the official redistricting database
18 will be constructed. Karin and her team will be taking
19 the lead on that. As we mentioned, that's the date the
20 legacy data will be received from the U.S. Census, and it
21 will be formatted for input into that database.

22 And during that time also, inmate reallocation will
23 be conducted and input into the statewide redistricting
24 database. So this is all -- this is all the period of
25 time during which the official census data and inmate

1 reallocation data is formatted and put into a usable form
2 for you all during the process of line drawing.

3 Yes, Commissioner Sadhwani. Oh. And should I
4 finish this last bullet? I couldn't remember my --

5 And during this time also, we as counsel will work
6 with staff and Karin and the team to begin flagging areas
7 where both the census data is indicating that we need to
8 pay particular attention, and hopefully, we've done
9 enough racially polarized voting analysis and looked at
10 both of those and overlaid them, and said, here are areas
11 where we're going to want to pay particular attention
12 consistent with compliance with the Voting Rights Act so
13 that you can -- you'll have a head start to identifying
14 where you want to direct the line drawers to draw the
15 lines in what ways when you start that process, which
16 will be the next slide.

17 COMMISSIONER SADHWANI: Thank you. I wanted to very
18 briefly -- and certainly I want you to continue -- but
19 very briefly just flag for you some of the conversations
20 we've had amongst the Commission regarding inmate
21 reallocation.

22 Certainly, we have acted and taken action on the
23 issue of those individuals currently residing in state
24 facilities, as we do have, of course, their previous
25 known addresses to the extent possible and have a

1 mechanism for -- and the Statewide Database has a
2 mechanism for reallocating them.

3 There is a strong desire amongst the Commission to
4 also reallocate those in federal facilities. However,
5 we -- we're to some extent at a stalemate as to what --
6 where to reallocate them to. We don't have their prior
7 addresses. In some instances, their prior addresses are
8 not in California. There was an attempt to drop them
9 from the redistricting rolls, if you will, so that they
10 wouldn't no -- ultimately no longer be considered.

11 The total population is not very high, so I don't
12 think it has a huge impact. However, there was most
13 certainly a conversation and I was a part of -- I was a
14 part of that contingent that felt uncomfortable with
15 dropping folks in federal facilities that from a more
16 principled perspective of representation, they are
17 deserving of representation just as everyone else is.

18 And so I think I wanted to flag that if the team has
19 any sort of unique ideas or ways of handling this
20 population that doesn't include simply dropping them from
21 the rolls for redistricting purposes. I think that, for
22 me, causes broader questions about if we can drop federal
23 inmates, could we then drop other communities, which we,
24 of course, do not want to do and it's not our intention,
25 and do not want to set such a precedence.

1 Certainly it was discussed kind of at a, you know,
2 brainstorming phase, if you will. You know, could we
3 look at the proportion of the population per county and
4 reallocate at random to various counties throughout the
5 State? What are our other options ultimately for that
6 population? So I just wanted to flag that for you. And
7 you know, we --

8 MR. BECKER: Yeah. Thanks. I don't think we have
9 any firm advice on that right now. I think there's an
10 open question that we'll want to discuss with Counsel
11 about what the law permits and requires with regard to
12 the federal prison population -- inmate population,
13 rather. And I think the State inmate population is
14 settled. I think there's widespread agreement about how
15 that's going to be dealt with, right?

16 So there's both a legal concern, and then there's
17 also, as you very well pointed out, this simple data
18 concern. Even if we had the intent to reallocate them,
19 where do we reallocate them to? Because as I understand
20 it, it's very unlikely we'll get solid data on
21 reallocating them to actual places where they formerly
22 resided. Many of them are non-Californians.

23 I appreciate that, you flagging that issue, and I
24 don't know if Fred or anyone else has any thoughts on
25 that, but I think that's something we'll want to discuss

1 internally with Counsel, and fortunately, you're quite
2 right, as I understand -- as I understand it, the
3 population is relatively small, the federal population,
4 so that it's unlikely to be dispositive on the drawing of
5 a district. I don't want to say it's impossible. It
6 might be based upon where we see things. But it's
7 unlikely to be dispositive whereas the State population
8 is much more significant, the State inmate population.

9 COMMISSIONER SADHWANI: That's right. And I'll just
10 note that there -- we do actually have a Commission
11 subcommittee. I believe that that is headed up by
12 Commissioners Kennedy and Turner, if I remember
13 correctly, who are looking at this issue, but you know,
14 so they might be the appropriate people to kind of follow
15 up with.

16 CHAIR YEE: That's correct.

17 MR. BECKER: Any other questions about this slide
18 before I go to the next one? Great. Okay.

19 So the next slide is from September 23rd, when the
20 database should be final, to the deadline for public
21 display of the draft maps. And we don't have a specific
22 date on that yet, and I -- that's something for further
23 discussion. So first, the Commission will obviously hold
24 regular meetings with staff and Counsel because this is a
25 key period of time where the lines begun -- that we begin

1 drawing the lines, that you all begin drawing the lines.
2 You'll have all of the data necessary at that point to do
3 so.

4 One of the things we recommend is looking at this
5 period of time, given that it's going to be a lot of work
6 within a relatively short period of time, you might want
7 to schedule some meetings, get -- just to lock in some
8 dates. This is purely scheduling and logisticking
9 (sic) -- logistics to get them on the calendar so that
10 you know people are available to the degree you want to
11 do in-person meetings, if that's possible, or you want to
12 do virtual meetings. Meeting with staff, line drawers,
13 us, et cetera might be important to get some of those on
14 the calendar soon because things are going to hit us
15 pretty hard once we're -- once September 23rd comes down
16 the pike.

17 Our initial discussions -- we're not absolutely
18 locked into this, but our initial discussion is that the
19 Assembly maps are probably a good one to start with.
20 They're the smallest districts. They're the places where
21 it might be most likely that minority populations could
22 form a majority of a district. And that might be the
23 best place to start.

24 It's interesting because in California, of course,
25 even Assembly districts are about as large as

1 congressional districts were in the last cycle. They're
2 very, very large, and California, at least is, I think,
3 one of the only states I know of, maybe the only state,
4 where State Senate districts are actually larger than the
5 congressional districts. So the Assembly maps, that's
6 where we suggest starting. If you have a strong opinion
7 otherwise, of course we'll be happy to work with you on
8 that.

9 This is when, during this period of time, there will
10 be iterative visualizations of potential maps that come
11 as you've directed the line drawers to draw lines in
12 places, and those visualizations will be important to
13 receive comments and input from the public about during
14 this time.

15 And then, of course, you'll officially publish the
16 draft maps by the deadline. Under the Padilla
17 decision -- Anthony, you'll probably be able to correct
18 me if I'm wrong here. I believe that the deadline of the
19 Padilla decision was November 1st originally. Is that
20 right, Anthony? And that, of course, is subject to delay
21 based on -- based on when the census delivers data --

22 MR. PANE: (Indiscernible).

23 MR. BECKER: -- to you. Right. Oh. And I had it.
24 Wow. Look at that. It's currently November 1st, and
25 then it could be extended as the Padilla decision

1 indicated.

2 Any comments or questions about this slide? Really,
3 the only thing here, because a lot of this is going to
4 have to -- we can't really speculate exactly what will
5 happen, but one thing we know for sure is we're going to
6 need some time where the line drawers and counsel and
7 Commissioners in some combination all can interact and
8 look at possibilities and start laying down lines for
9 consideration. So starting to block off sometime during
10 that period will be important.

11 MS. MAC DONALD: If I could just add, based on the
12 Padilla decision, I think that it does clearly give the
13 Commission the three and a half months after the -- or
14 three months after the census data is released. So if
15 it's not released until August 15th or 16th, that would
16 be November 15th when the first draft maps would have to
17 be. And then the question is whether we're going to go
18 any different deadline than that.

19 CHAIR YEE: This, we'll discuss in closed session.

20 MR. BECKER: Okay. And I know it's -- I mean, it's
21 just an unusual circumstance that we have this year
22 because of everything that happened over the course of
23 the past year, of course. So I know that'll be something
24 we'll talk about. But regardless, there will be some
25 date that we can clearly identify as the deadline for

1 display of the public draft maps, and that will -- and
2 there will be roughly, you know, give or take eight, nine
3 weeks for that period of time, wherever, to do all of
4 this.

5 And it's a lot of work, obviously. So again, the
6 main thing is I -- we just wanted to get on your plate to
7 start thinking about planning for blocking time off
8 because a lot of this -- these are not -- these are not
9 going to be fifteen-minute or half hour meetings. These
10 are going to be times when we're actually, you know,
11 really standing -- working with all the -- working with
12 all the staff, the line drawers, counsel, Commissioners
13 to start laying down lines and seeing what the maps might
14 potentially look like as visualizations for comment.

15 Okay. Okay for the next slide? Okay. And then
16 this is the period of time for public display of the
17 draft maps to adoption of the final maps. Again, we'll
18 leave aside what those specific dates might be for
19 consideration. But after the public display, there's
20 fourteen days of required public review of the draft
21 maps, as I think you all are aware, during which time
22 we'll receive input from the public.

23 There's thirty additional days after that for final
24 refinement of the maps. And then, of course, submission
25 of the final certified maps to the Secretary of State

1 currently by the deadline of December 15th, based on
2 census data available on July 31st under the Padilla
3 decision. That is almost certainly not going to be the
4 case, so rather, later as extended by the California
5 Supreme Court based on the date census data is available
6 for use. And we can discuss that -- discuss that further
7 as well.

8 But whatever that date is, these are the -- these
9 are the things that will happen. The public review,
10 input from the public, and then we might also want to
11 schedule some time in here for work during that 30 days
12 of final refinement of the maps based on comment and
13 input that's received.

14 I'm going to hit next not knowing whether there's
15 another slide. Forgive me. Yeah, there isn't. Okay.
16 That was it. That was the end of -- end of the
17 presentation. I am going to stop sharing this unless you
18 have objections to that, and leave it there. And by the
19 way, I want full credit. I did that four minutes before
20 our break is supposed to happen.

21 CHAIR YEE: Indeed. Excellent. Any comments or
22 discussion? Looks like a great plan.

23 MR. BECKER: And by the way, I should just say this,
24 a ton of credit is due to the Strumwasser team and also
25 to Karin and her team for contributing to this because

1 this was -- this was a team effort that we were able to
2 put together fairly quickly.

3 CHAIR YEE: Excellent. What I'm thinking is that,
4 when we come back from break, we can probably go straight
5 into closed session. So before that, let me announce
6 that, at that time, we will go into closed session under
7 the pending litigation exception. We'll be discussing
8 the Padilla decision and timeline issues. At this point,
9 I'd like to take any public comment prior to closed
10 session, and --

11 MR. MANOFF: I can help you with that, Chair.

12 CHAIR YEE: Kristian, please, you can give us the
13 short form and invitation, and open the lines.

14 MR. MANOFF: And we're taking public comment on the
15 item number 3?

16 CHAIR YEE: That's correct.

17 MR. MANOFF: Got it. The Commission will now take
18 public comment on item number 3. To give comment, please
19 call 877-853-5247 and enter the meeting ID number
20 98748352081. Once you've dialed in, please press star 9
21 to enter the comment queue. The full call-in
22 instructions are read at the beginning of the meeting and
23 are provided on the livestream landing page.

24 And we do not have any callers at this time, Chair.

25 CHAIR YEE: Okay. We'll wait just a minute.

1 MR. WOOCHEER: I just want to make sure we're doing
2 this right. I think we said it was on item 3, but on --
3 according to my agenda, the closed session is actually
4 item 4. So are we clarifying that we're taking comment
5 on the closed session as well?

6 MR. PANE: So what --

7 CHAIR YEE: Good catch.

8 MR. PANE: Yes.

9 CHAIR YEE: Yes?

10 MR. PANE: So we're taking it on 3 now, I believe.
11 Is that right, Chair? And then prior to going into
12 closed session, we are going to take public comment for
13 item 4. So we'll be taking them on both now?

14 CHAIR YEE: Actually, yes. Let's do that.

15 MR. PANE: Okay.

16 CHAIR YEE: Yes. Good catch. Thank you, Mr.
17 Woocher. So public comment on items 3 or 4.

18 MR. MANOFF: Thank you, Chair. And we do not have
19 any callers at this time.

20 CHAIR YEE: We'll wait just a few more seconds.

21 Okay. If there are no callers, we'll go to break.
22 We'll come back in closed session -- you should have an
23 invitation in your inbox -- at 2:45. 2:45, okay?

24 (Whereupon, a recess was held)

25 CHAIR YEE: Welcome back to open session. I am

1 Russell Yee, Commissioner and Chair of the Legal Affairs
2 Committee in June. We're reporting back from closed
3 session. We did discuss the Padilla ruling and related
4 timeline issues and took no action.

5 At this time, we'll open the lines for closing
6 comment involving this meeting of the Legal Affairs
7 Committee of the 2020 California Citizens Redistricting
8 Commission.

9 PUBLIC COMMENT MODERATOR: All right. In order to
10 maximize transparency and public participation in our
11 process, the Commissioners will be taking public comment
12 by phone. To call in, dial the telephone number provided
13 on the livestream feed. It is 877-853-5247. When
14 prompted, enter the meeting ID number provided on the
15 livestream feed. It is 98748352081 for this meeting.

16 When prompted to enter a participant ID, simply
17 press the pound key. Once you have dialed in, you'll be
18 placed in a queue. To indicate you wish to comment,
19 please press star 9. This will raise your hand for the
20 moderator. When it is your turn to speak, you will hear
21 a message that says, the host would like you to talk, and
22 to press star 9 to speak.

23 If you would like to give your name, please state
24 and spell it for the record. You are not required to
25 provide your name to give public comment. Please make

1 sure to mute your computer or livestream audio to prevent
2 any feedback or distortion during your call. Once you
3 are waiting in the queue, be alert for when it's your
4 turn to speak. And again, please turn down the
5 livestream volume.

6 And the Legal Affairs Committee is taking end-of-
7 meeting public comment at this time. And Chair, we do
8 not have anyone in the queue.

9 CHAIR YEE: We'll wait a minute.

10 PUBLIC COMMENT MODERATOR: And the instructions are
11 complete, Chair.

12 CHAIR YEE: Very good. Is there any further
13 business for the Legal Affairs Committee? If not, this
14 meeting of the Legal Affairs Committee is adjourned.

15 (Whereupon, the Legal Affairs Committee meeting
16 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.

Traci Fine
TRACI FINE, CDLT-169

August 8, 2022
DATE