

STATE OF CALIFORNIA

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CITIZENS REDISTRICTING COMMISSION

APPLICANT REVIEW PANEL

PUBLIC MEETING

TRANSCRIPT OF PROCEEDINGS

February 25, 2010

9:00 a.m.

Citizens Redistricting Commission

555 Capitol Mall, Suite 300

Sacramento, California

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TRANSCRIBED BY:

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A P P E A R A N C E S

PANEL MEMBERS:

- Mr. Nasir Ahmadi - Panel Chair
- Ms. Kerri Spano
- Ms. Mary Camacho

Also Present:

- Stephanie Ramirez-Ridgeway, Panel Counsel
- Diane Hamel, Panel Secretary

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ELAINE HOWLE, State Auditor	5
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1 MS. RAMIREZ-RIDGEWAY: Good morning, everyone.
2 The hour being 9 a.m., and a quorum being present, I now
3 call to order the February 25th, 2010 first meeting of
4 the Applicant Review Panel. Secretary, please call the
5 roll.

6 MS. HAMEL: Mr. Ahmadi.

7 MR. AHMADI: Present.

8 MS. HAMEL: Ms. Camacho.

9 MS. CAMACHO: Here.

10 MS. HAMEL: Ms. Spano.

11 MS. SPANO: Present.

12 MS. RAMIREZ-RIDGEWAY: Thank you, everyone,
13 for your participation in today's meeting. As indicated
14 on the agenda, the purpose of this meeting is to provide
15 panel members training on various issues, both legal and
16 practical, relating to redistricting. The panel will
17 not discuss, deliberate, or take action on any
18 applicant's or applicant materials. Toward the end of
19 the supplemental application period we do anticipate
20 holding a general housekeeping meeting where we will
21 address more procedural matters.

22 There will be an opportunity for public
23 comments before the panel takes any action, and at this
24 meeting, a general opportunity for public comment
25 towards the end of the meeting. We ask that you limit

1 your comments today to the items on the agenda, as the
2 panel will not discuss or deliberate other matters.
3 Additionally, it may be necessary for the panel to limit
4 the time allotted for discussion on a particular item,
5 and the time allotted for individual speakers. All
6 members of the public will have the same maximum amount
7 of time to address the panel, and members of the public
8 may also submit written comments to the bureau via the
9 internet at www.wedrawthelines.ca.gov.

10 This meeting is being live-streamed over the
11 internet and recorded. The recorded meeting will also
12 be available on the internet for public viewing. If you
13 wish to speak, we ask that after a call for public
14 comments, you line up at the podium and that before
15 beginning your comments, you state your name for the
16 record. If you would like to be added to our list of
17 interested persons so that you receive future mailings
18 regarding further panel meetings, you may sign up at the
19 back of the room before you leave today; however, doing
20 so is purely voluntary and in no way a prerequisite to
21 speaking.

22 This meeting will adjourn at five or whenever
23 the panel completes its business, whichever is sooner.
24 And with those general announcements out of the way, we
25 can proceed to our first item on the agenda. It is my

1 great honor to introduce the California State Auditor,
2 Elaine Howle.

3 MS. HOWLE: Thank you, Stephanie. Good
4 morning everyone and welcome to the first meeting of our
5 Applicant Review Panel. A historic day in California.
6 I just wanted to say a few opening remarks. First of
7 all, thank all of you for being here participating in
8 this very important process. We've been working on
9 this, as I'm sure you're aware, for over a year now in
10 putting together regulations, setting up the application
11 process, and as we were anticipating how well this would
12 go, we're very excited about the progress thus far in
13 seeing that we received over 30,000 applications from
14 people thought California, all areas of the state, a
15 very diverse group. We're very excited about that, and
16 we're embarking on this next step as far as getting the
17 Applicant Review Panel established. We, as I'm sure
18 you're aware, established the panel back in November.
19 Our distinguished panelists are here today. Obviously
20 they're employees of my office. I have tremendous
21 respect for all three of these individuals, and have the
22 utmost confidence they're going to do a fantastic job
23 for California.

24 I know that my legal staff have done a great
25 job thus far drafting regulations. Stephanie

1 Ramirez-Ridgeway, the Counsel to the ARP, has been
2 working with them diligently in the last few weeks, and
3 actually longer than that to get them ready for this
4 very important task that they are charged with. But
5 again, I have the utmost confidence in them. I've
6 worked with these individuals for years as auditors and
7 investigators in the state auditor's office, and they
8 will exercise the same due diligence in this process as
9 they do in their regular work as auditors and
10 investigators for the state of California.

11 Again, I wanted to thank all of you for being
12 here. Just to let you know, the initial application
13 period has concluded. That was completed on February
14 16th, and as I said, we received a tremendous outpouring
15 of interest in the process, and certainly over 30,000
16 applications is remarkable; and from our perspective
17 we're excited about that and the prospects of developing
18 a Commission that really does truly represent
19 California.

20 And as you know, the Panel has the difficult
21 chore of sifting through these applications as they come
22 in through the supplemental process, which has started.
23 That started on February 17th. So all of the applicants
24 that made it through the first phase, and that's close
25 to 25,000 or a little over 25,000, is my understanding,

1 now have to go through the supplemental process. That
2 has started, as I indicated, and that will be completed
3 on April 2nd. So there's still quite a bit of time, but
4 as these supplemental applications come in, that's what
5 my staff, assisting the Applicants Review Panel, and
6 certainly the Applicants Review Panel, will be reviewing
7 those to select ultimately the 60 most qualified
8 individuals from that tremendous pool of candidates that
9 we have thus far.

10 To the extent that the Applicant Review Panel
11 needs assistance, I'm prepared to provide assistance to
12 them as far as other staff from the state auditor's
13 office and whatever it takes to get it done and do it
14 right and do it well for California. That's what my
15 office is committed to doing.

16 So with that, I have some final remarks that I
17 wanted to thank the speakers who are participating in
18 the meeting today. We're going to hear some tremendous
19 information, some aspects of why is redistricting so
20 important to all of us in California, what is
21 redistricting all about, what it's like, what is it like
22 to be a Commissioner, and some other information all
23 related to redistricting.

24 So it's going to be a very informative
25 meeting, and I'm looking forward to hearing the comments

1 from the various speakers, but I wanted to publically
2 thank each of them for taking time to come to this
3 meeting and present and share their expertise with those
4 of you in the audience, certainly with the Applicant
5 Review Panel, and with other staff in my office. And
6 also I wanted to publically thank my staff thus far for
7 the efforts that they have put into this process. And
8 as I said, we've been working on this for over a year
9 now, and we're committed to completing this process
10 through the end of this calendar year and establishing
11 this 14 member Commission.

12 So with that, I'd like to turn it over to the
13 Applicant Review Panel and have them commence the
14 meeting. Thank you.

15 MS. RAMIREZ-RIDGEWAY: Thank you, Elaine.
16 Would any member of the panel like to make opening
17 remarks?

18 MR. AHMADI: Yes, I'd like to. Good morning,
19 everybody. My name is Nasir Ahmadi, and I'm very
20 honored and privileged to be selected as a panel member.
21 I would like to thank Elaine Howle, the State Auditor,
22 and the bureau staff for the tremendous amount of
23 logistical and resilient support that you have provided
24 to us, which helps us to do our job the best way
25 possible.

1 I would like to assure you that I understand
2 my responsibility, and I'll do my best to work hard to
3 comply with the Voters FIRST Act and achieve the
4 objective in the best possible way to select 60 of the
5 most qualified applicants for the Citizens Redistricting
6 Commission. Thank you.

7 MS. RAMIREZ-RIDGEWAY: Ms. Camacho.

8 MS. CAMACHO: Yes. Good morning. My name is
9 Mary Camacho. I kind of talk loud so I can move the
10 mic. I'm registered as declined to state, and I am very
11 honored to have been selected as a member of the
12 Applicant Review Panel. In this implementation, like
13 Elaine alluded to, we are engaged in a new process for
14 the state of California, and we are auditors and
15 investigators, so we will do the best that we can.
16 Also, with our other assignments here at the state
17 auditor's office, to perform our job we have a high
18 standard, and we require us to be a professional staff
19 within the state auditor's office.

20 Also, personally I have been working extremely
21 hard to understand the -- what is required of us, and so
22 have my colleagues, in fulfilling this task. Like
23 Elaine alluded to, there is a numerous amount of
24 applications that have been received, and we have a very
25 short period of time to review those applicants; and we

1 are required to select 60 of the most impartial,
2 diverse, and skilled applicants.

3 We are going to give those applicant names to
4 the legislature. I trust and respect the opinions of my
5 colleagues. I will listen to them, and although
6 occasionally we may disagree, I am confident that we
7 will meet the task entrusted to us by the people of
8 California. Thank you.

9 MS. RAMIREZ-RIDGEWAY: Ms. Spano.

10 MS. SPANO: I just want to say, hi, ladies and
11 gentlemen. Thank you for --

12 THE COURT REPORTER: Ma'am, could I get you to
13 please speak up. I'm having a hard time hearing you.

14 MS. SPANO: Good morning, ladies and
15 gentlemen. Thank you for coming today. I'm Kerri
16 Spano. I have the same sentiments as Ms. Camacho and
17 Mr. Ahmadi. I welcome this unique opportunity to
18 participate in this critical phase of the redistricting
19 process. As my fellow panelists indicated, we have been
20 presented with a great challenge. We will make every
21 effort to ensure a fair and transparent process occurs
22 and that our decisions will result in the state's first
23 Redistricting Commission that is reflective of the
24 California citizens. Thank you.

25 MS. RAMIREZ-RIDGEWAY: Thank you. The next

1 item on the agenda is an opportunity for the panel to
2 select a Chair and Vice Chair. Additionally, according
3 to our regulations, you may also designate an acting
4 Chair for today's meeting, if you wish to do so.

5 MS. CAMACHO: I would like to make a motion
6 that we have an acting Chair, and I would like to
7 nominate Mr. Ahmadi.

8 MS. RAMIREZ-RIDGEWAY: Is there a second?

9 MS. SPANO: I second that.

10 MS. RAMIREZ-RIDGEWAY: Is there a debate or
11 discussion? Opportunity for public comment.

12 UNIDENTIFIED SPEAKER: Yes. Could you speak
13 louder, please. The microphones don't seem to work.

14 MS. RAMIREZ-RIDGEWAY: Okay. Any public
15 comment on the motion to designate Mr. Ahmadi as acting
16 Chair for the purposes of today's meeting? Seeing none,
17 I will call the vote. All in favor say aye.

18 (All in favor.)

19 MS. RAMIREZ-RIDGEWAY: All opposed? Seeing no
20 opposition, the motion is carried. Mr. Ahmadi, I hand
21 the matter over to you.

22 MR. AHMADI: Thank you everybody again. We'll
23 just go over the agenda one by one, but before going
24 into the presentations, I would like to start with
25 moving to put a limit on the amount of time that each

1 speaker in the public comment session will have to
2 speak, and that's for the purpose of giving everybody
3 equal opportunity to be able to present their case.

4 So I'm moving that we will set a three-minute
5 limit for that purpose, during the public comment
6 session. Do we have a second?

7 MS. SPANO: I second.

8 MR. AHMADI: Do we have any debate? Comments?
9 Questions?

10 MS. CAMACHO: Should we also kind of take a
11 look at maybe -- can you hear me? Let me know if you
12 can't hear me. What I would like to do is also kind of
13 discuss the possibility of maybe not having a
14 three-minute time limit set and seeing what the public
15 is willing to comment on in the sense of if we have a
16 vast number of people that want to comment, then we can
17 limit the time at that point.

18 MR. AHMADI: I can certainly see the value in
19 that. Thank you so much. I can see that we don't have
20 a big -- we do have a big crowd, but I think we will be
21 able to accommodate everybody with maybe more than three
22 minutes, but -- so you're suggesting that we should
23 leave it open and then intervene if we need to limit the
24 time for each speaker?

25 MS. CAMACHO: That's what I'm suggesting,

1 correct.

2 MR. AHMADI: I can agree with that. So do we
3 have a second?

4 MS. SPANO: Second.

5 MS. RAMIREZ-RIDGEWAY: You should withdraw
6 your first motion.

7 MR. AHMADI: Okay. I'm sorry. I withdraw my
8 first motion, and I would like to make my motion that we
9 will leave the public comment session open in terms of
10 the timing for each speaker. So do we have a second?

11 MS. SPANO: Second.

12 MR. AHMADI: Thank you. Do we have any
13 comments? Debates? Any questions about that? I don't
14 see any comments or debates, so all those in favor say
15 aye.

16 (All in favor.)

17 MR. AHMADI: Those opposed, say no. Okay.
18 The motion is carried. We will have no time limit for
19 the speakers to speak, but I encourage you to please be
20 sensitive to the amount of time that we will probably
21 have at the end of today at the public comment session.

22 Next I'd like to -- everybody has a copy of
23 the agenda for today, so the next item on the agenda is
24 "Why Redistricting Matters." We'll have a presentation
25 by Sam Walton. Sam Walton is the redistricting

1 consultant at NAACP, and Sam will provide remarks on the
2 Voters FIRST Act, Prop 11, and the importance of the
3 redistricting. Sam, please take the podium. Okay. It
4 appears that Sam is not here.

5 UNIDENTIFIED SPEAKER: He stepped out.

6 MS. RAMIREZ-RIDGEWAY: We can wait for him.

7 MR. AHMADI: I can -- yeah, we can wait a few
8 minutes.

9 UNIDENTIFIED SPEAKER: May I ask a question of
10 Ms. (inaudible).

11 MR. AHMADI: Since we have time, sure.

12 MS. RAMIREZ-RIDGEWAY: We have a gentleman who
13 would like to ask a question. It's not generally the
14 time for public comment, but why not.

15 MR. AHMADI: Yes. Would you like to go to the
16 podium, please, so that everybody can hear you. Thank
17 you so much.

18 MR. HENSON: I'm not an expert in these
19 procedural things. The selection of the Chair was for
20 this meeting only? Is that the way I understood it?

21 MR. AHMADI: That is correct.

22 MR. HENSON: And then there will be another
23 Chair every time?

24 MR. AHMADI: When we meet the next time, we
25 will have an agenda item to select and decide on whether

1 or not we want to have a Chair for that meeting
2 specifically or a Chair for all the meetings from that
3 point on.

4 MR. HENSON: Thank you.

5 MR. AHMADI: You're welcome. Do we have
6 another question?

7 MS. RAMIREZ-RIDGEWAY: This is Mr. Walton.

8 MR. AHMADI: Oh, Sam. I'm sorry, Sam.

9 MR. WALTON: Well I thought I was going to be
10 up at 10:00, but I love to be early. I'd like to start
11 off by first of all pointing out that as you go through
12 the list, you might find my name as an applicant, and I
13 wanted to let you know I'm not applying; but I spent a
14 lot of time encouraging people to apply, and the one
15 thing I think is important is that when you encourage
16 someone to do something, you understand what that
17 process is. And it was useful because I had a lot of
18 people call me about experiences that they were having,
19 and I was able to respond because I had the same
20 problems or the same challenges.

21 So, when you see my name, don't expect to see
22 me continue the process. And if it's possible, I'd like
23 to withdraw that name, but I don't know how that process
24 works. We'll find out. So I'd like to -- I'd like to
25 first of all commend the three of you on your recent

1 appointments --

2 MR. AHMADI: Thank you.

3 MR. WALTON: -- for the formation of the
4 Applicant Review Panel. It's a very, very important
5 responsibility. Probably one that you didn't anticipate
6 in the course of a lifetime you'd have.

7 It's a -- it's a responsibility where the
8 people of California are entrusting you to guide the
9 fate of 38 million Californians. And in addition, it's
10 a -- it's a task that the three of you are being asked
11 to structure the work to be accomplished; that is, work
12 that has been accomplished historically by 120
13 legislators.

14 So your framework is going to take the -- is
15 going to replace the activities, the three of you, your
16 structure, your infrastructure, your framework, is going
17 to replace the work of 120 legislators. It's a pretty
18 tall order. It's a daunting responsibility, and I trust
19 that you're up to the job. I trust that you're up to
20 the job because I have witnessed the activity of the
21 state auditor's office over the last several months as
22 this process has been undertaken. I have witnessed the
23 staff, the State Auditor, Elaine Howle, and the
24 aggressive behavior to try to bring this system, this
25 new system, up to a place that meets the expectations

1 and the hopes and dreams of all Californians. It's a
2 big job.

3 And I've participated with a lot of
4 community-based organizations, with a lot of
5 individuals. I've participated in public forums,
6 impressed with their abilities, and wherever I've been
7 I've seen either the state auditor or someone from the
8 state auditor's staff. It's a big deal. So I'd like to
9 say to you, I am, indeed, honored to have been asked to
10 share my perspective with you on why redistricting
11 matters. And while I'm scheduled to start at 10, don't
12 be disappointed if I finish by 10.

13 MR. AHMADI: Then we can take a break.

14 MR. WALTON: Redistricting matters because
15 redistricting is the cornerstone of democracy. It's
16 that big. It's a big concept. It's the cornerstone.
17 It's the pillar for which one person, one vote, rests.
18 Redistricting. Redistricting is a process that is
19 designed to give every individual citizen an equal voice
20 in deciding how the state of California works. It's a
21 big job, but if every individual is given that
22 opportunity, if every individual believes that their
23 vote will make a difference, then they will participate;
24 and when individuals participate in democracy, democracy
25 grows. Government is responsive, and when government is

1 responsive, democracy is stronger. When democracy is
2 stronger, then our individual securities, our liberties
3 and our freedoms, are protected.

4 So I know that as a general rule, at least my
5 view of what auditors do, is they go to their office and
6 they put on their blue shades and they look at numbers,
7 review reports, and evaluate the conduct of others; but
8 this time you have been given a challenge to take all of
9 your -- your experience and your knowledge of how
10 government works, all of the reports, all of the tools,
11 the ability to analyze, the ability to interface with
12 other individuals, you're now being asked to take those
13 things and move them from the room where the blue shades
14 are and to move out to where the people are and
15 participate in a process that will never happen again.
16 Not in our lifetimes. This is a unique opportunity.

17 The redistricting process, if done properly,
18 strengthens the fabric of our government. As people
19 participate, it's responsive. As it responds, we grow,
20 we develop, and we merge toward a civilization of
21 individuals that work to provide the dreams and hopes
22 for millions of people.

23 California's history is such that up until
24 1950, it was a pretty objective process in carrying
25 forth a redistricting process. Up through 1950. Up

1 through 1950, California voters pretty much selected
2 their representatives in a very competitive way. And
3 it's important to have competition, because when
4 individuals are competing, then every individual's voice
5 gets to participate, every individual gets to make a
6 statement, and every individual's vote gets to count.
7 And when every individual's vote count, then the
8 majority gets to rule; but only if every individual's
9 vote counts.

10 So if we find ourselves in a system where
11 individual votes do not take precedent, then we work to
12 the contrary of the foundation of democracy. When
13 individual votes count, then people support our
14 government. And often times we find that political
15 parties, they sometimes pursue the interest of the
16 political party; and they do this in the name of we are
17 doing it on behalf of the people. And I believe they
18 believe that. But sometimes the political party
19 interests and the special interests don't always line up
20 with the average citizen. And when the average citizen
21 believes that their vote doesn't count, when they
22 believe their vote doesn't mean anything, they stop
23 participating. And when they stop participating,
24 government stops being responsive. And when government
25 is not responsive, it leads to undermining the fabric of

1 democracy and it is a direct threat to our individual
2 securities, to our liberties, and our freedom.

3 Individuals make the country. The power is
4 placed in the hands of individual citizens, and if we
5 can do anything possible to make that happen, to the
6 extent we can make it possible for individuals to have a
7 voice, then we've strengthened democracy.

8 As I said, California, for many years, had a
9 system where individual's votes mattered, and not until
10 1950 did that change. And in 1950, the 1950
11 redistricting was the first time where the party in
12 power decided that their particular party should have
13 more power and influence than the other party and did
14 not feel it would be useful for there to be a
15 competitive election. So as a result, they began the
16 slippery slope of drawing districts in the interest of
17 the party.

18 Partly this happened because you had the
19 migration of the '30s, and from that migration, by the
20 '50s there was a whole different population than there
21 was prior to that; and the people who were in charge
22 felt threatened by that. And that notion of being
23 threatened jeopardized the progress of California over
24 the last 60 years. From 1950, every ten years the party
25 in power has drawn lines to enhance the position of the

1 party in power. And when the party in power, when their
2 interests come ahead of the individual voter, it
3 jeopardizes that voter's individual rights. And when
4 the individual rights are jeopardized, our entire system
5 is jeopardized.

6 And it wasn't until 2000, not until 2000, that
7 it became so blatant that the interest of the individual
8 had been subject to the rule of the party leaders, and
9 in 2000, both parties said, let's just make a deal.
10 Let's just make a deal. The democrats can have so many
11 seats and the republicans can have so many seats. Let's
12 just make a deal. That deal meant that if individual
13 citizens were not happy with the direction the
14 government was going, whether it was democrat or
15 republican, they could replace their representative with
16 another member of the same party. They could replace
17 their representative with a democrat if they were in a
18 democratic district, or they could replace a republican
19 with another republican; but if they did not like the
20 direction that that particular party was leading, they
21 could not do anything about it. And that truly
22 undermines the fabric of democracy.

23 And in 2008, California voters said, we want
24 to do something different. We want to explain. We want
25 to share our opinions with our legislators. They say

1 they are working in our interest. In 2008, the voters
2 shared their impressions of that, and they then decided,
3 no more will political professionals decide what
4 representation would be in California. They passed
5 Proposition 11, the Voter's FIRST Act, and opened the
6 door to the average citizen. Welcome.

7 Opening the door to the average citizen means
8 that we have an opportunity. This is historic. It's
9 never going to happen again. We are never going to
10 experience this in our lifetimes, but what we do can
11 last for years. It can last for generations. We can
12 institutionalize the foundation upon which this country
13 is built. People like us. This system will work if we
14 make it work. This system will work if each one of us
15 believes in the fundamental notion of democracy. And
16 that is that every individual should have a vote and
17 that that vote ought to carry the same weight. And the
18 way we get that is to have a structure that provides for
19 competitive districts, districts where individuals can
20 compete effectively for the -- for the vote of the
21 people they want to represent. And if those individuals
22 are elected when every individual's vote is counting,
23 then we'll have representation that is speaking on
24 behalf of the people. And when we have a legislature
25 that is truly speaking on behalf of the people, we can

1 bring back to California the greatness that this
2 country, that this state, has had. We can bring back
3 the belief that people have and have had that individual
4 rights are important; that equality is important; that
5 everyone should have an opportunity, an equal
6 opportunity, to participate, to be treated fairly, and
7 to have a government that is addressing its needs.

8 Through a redistricting process we can achieve
9 that, but this new process is not going to be -- it's
10 not going to be simple. It's going to be very
11 difficult, and everybody in this room is going to have
12 to assume some responsibility for its success or its
13 failure. Never again are the doors going to be thrown
14 open to the average citizen to make policy decisions at
15 this level. Not in our lifetimes. Never again. It's a
16 very important process, but if we can put it in place,
17 if we can get this process in place this time, we can
18 build and strengthen the hopes and dreams of generations
19 to come.

20 So as I -- as I'd like to say, this process is
21 not going to be easy, and we could get it wrong. We
22 could get it wrong. We must not take for granted this
23 opportunity. This opportunity isn't about democrats or
24 republicans. It's about California. It's about the
25 people of California, and we could get it wrong. But if

1 you do what you have the authority to do, and that is to
2 set the framework for the selection of 14 intelligent
3 individuals who can be trusted to put the interests of
4 all Californians ahead of the interests of special
5 interests and political parties, if you can do that, if
6 you can put the framework for that process -- but I can
7 tell you, that's not going to be easy, and the
8 individuals that make up that 14 to represent the
9 Commission are going to unequivocally and absolutely
10 have to reflect California's population if that
11 Commission is going to have any credibility at all.

12 And trust me, it's not going to be easy.
13 There are a lot of people that don't want it to work.
14 There are a lot of people who believe that the party
15 bosses ought to be in charge. There are a lot of people
16 who believe that the party bosses know better what we
17 need. There are a lot of people who believe that.
18 There are a lot of people who will originate campaigns
19 to counter what you're doing. There will be a lot of
20 people who will criticize every decision you make, but
21 you have to stand strong and you have to push on. And
22 if you can set the framework of the selection process
23 such that you narrow -- you narrow the choices, as you
24 must, to 60, but in your narrowing it is possible to
25 have a panel of 60 people that will stand for individual

1 qualified applicants. Thank you very much again.

2 Since we are doing very well on time, I think
3 we can take advantage of that and take a 15-minute
4 recess. So we'll be back by five minutes 'til 10.
5 Thank you.

6 (A brief recess transpired.)

7 MR. AHMADI: So, it's time to get us started
8 again, please. It's five minutes to 10 and we'd like to
9 start on schedule. I'd like to make an announcement
10 before we go to the next item on the agenda, and that is
11 related to the video and the stenographer. It will be
12 available on our website in as little time as we can put
13 it up there, so it may take a day or two, but we will
14 have it ready on the website.

15 At this point I'd like to request
16 Mr. Pesquiera, Ralph Pesquiera, the Former Chairperson
17 of the 2000 San Diego Redistricting Commission, to take
18 the podium and tell us about what is a day in the life
19 of a Commissioner. Mr. Pesquiera.

20 MR. PESQUIERA: Well thank you very much.
21 It's a pleasure to be here, and thank you for the job
22 that you're doing now. It's going to be very important.
23 It wasn't a day in the life; it was nine months in the
24 life of a commissioner. As you can appreciate, there is
25 a big difference between a city like San Diego and the

1 state of California, and we'll get into some of that.

2 To give a little background, in San Diego the
3 Civilian Redistricting Commission was put into effect by
4 a lawsuit that was brought to bear on the city council
5 because they were doing the same thing that we accuse a
6 lot of legislatures of doing. And the lawsuit demanded
7 that a Commission be set up, and they were to be
8 absolutely no way affected by any legislator. And I'll
9 talk a little bit about that in a little bit. But it
10 was fun. It really was. We had a good time, and we
11 enjoyed it. There was a five judge panel, which is
12 where you are. We had a five retired judge panel that
13 selected -- of course we only needed seven instead of
14 what you've got to go through, but it was very good.
15 They were completely unbiased, no politics. Everything
16 was great. And when we were selected, they then
17 selected the first chairman of the Commission until the
18 Commission could seat itself, and then the Commission
19 then selected the Chair. There was no outside influence
20 on who the Chair would be, so that made it pretty good.

21 As Chair I had to spend several weeks working
22 with the clerk's office in the city of San Diego to do
23 all the book work, the administration. We had to hire a
24 chief of staff who then we worked with to hire a staff.
25 We had to have computer experts because one thing that

1 you're going to be doing, I'm sure, is that you're going
2 to really need a computer, and this computer is going to
3 have to have a program that won't be out until late
4 January, February, which is going to cut your time down
5 even more, but you need that. You really have to have
6 that.

7 One of the things I heard you say, which I
8 think is very important -- oh, and we also had to
9 establish a budget. We had to get office space. We had
10 to beg, borrow office space from other agencies in the
11 city of San Diego because there was just nothing
12 available and they didn't want to rent some office
13 someplace, and so we got that and so our chief of staff
14 and her staff people were given an office and the budget
15 was set up so she could do the work. She turned out to
16 be a very valuable person to the Commission, very
17 valuable because as the chief of staff, we relied on her
18 for all of the incidentals that would take place. And
19 that included things as simple as whether or not there
20 was going to be coffee or juice or some kind of food or
21 whatever it might be. So there's an awful lot of
22 administration that goes on in setting up a Commission
23 like this to make it work, work well.

24 So as Chair that was my responsibility to sign
25 off on all of those items, and it worked real well. And

1 we had a couple of closed meetings beforehand when we
2 discussed personnel matters and how much she was going
3 to be paid and how much the staff was going to be paid,
4 and we had to approve all of that. But that was about
5 the only time that we ever did any private meetings, and
6 I'll speak to that in just a second. One of the most
7 important things you can do -- and you did mention this,
8 but I emphasize. This is so important. Every single
9 Commissioner must completely understand federal, state
10 laws regarding redistricting, and they must know that
11 backwards and forwards. And one of the things that they
12 must also know is geography, at least as we read the
13 law. We had to know geography because when you start
14 establishing lines, you can't let freeways, canyons,
15 lakes, water sources that are too big for people to
16 communicate across them. Districts had to be confined
17 into areas where there was as small a group as possible
18 without going across a river or going across a mountain
19 ridge or anything of that nature because then you lose
20 the whole purpose of having that particular district.

21 Like, for example, some districts in the
22 federal government go all the way in San Diego, all the
23 way from San Diego to Yuma. Look at the different
24 people that you -- the demographics that you've got
25 there. They're so different. It's very difficult to

1 try to work with them.

2 So in my opinion, because at least the law
3 that we had, and I presume is still there, is that once
4 you establish the population of the state of California
5 and then you establish how many legislators you have,
6 then you have to divide that and come up with how big
7 your districts are going to be. And the federal law, as
8 I recall, only allowed you to go over 10 percent or
9 under 10 percent, and that was difficult sometimes. You
10 can't do that. We also were not -- we were required to
11 have the districts as contiguous as possible. We
12 couldn't have little fingers running up in different
13 ways like that. That presented a small problem to us
14 because we'd have one district that really should be
15 two, and I recommended that to our city council when I
16 was through, that starts in what we call La Jolla, the
17 Village of La Jolla, and then it goes up, way up into
18 the north county; but there's nothing we could do about
19 that.

20 Then we had another district, which is
21 District 8, which had its core in the city of San Diego,
22 but they had a small place called San Cedro, which is
23 down by the Mexican border, and over the years nobody
24 added council people to those two outlying districts, so
25 it was given to the council inside, but we just had

1 sliver connections. That we had no choice of, but we
2 had to justify that. And it ended up being quite
3 hurtful because as those two outlying districts grew
4 over the years before we got to it, it caused the core
5 area to diminish in size because we had to limit our
6 districts to 100,000 plus or minus ten, and that was all
7 we could do. There was nothing else. And when you
8 start playing with that, it's like playing with mercury
9 on a mirror. You push a little bit here, and it goes
10 off over there. And so it became quite of an
11 interesting point.

12 Another thing that we had, which I wish I
13 could say that you would have, but I understand that's
14 not going to be the case, because it was a lawsuit that
15 formed us, the lawsuit specifically stated that no
16 elected official could have any input whatsoever in what
17 we were doing. I wish that were the case here because I
18 think you have to submit the panel to the legislature
19 for their choice, and we didn't have to do that. We had
20 absolute authority. And one of the first things that I
21 did once I was selected Chair, I went to each council
22 office and told them, I'm not going to talk about any
23 redistricting, but I want to remind you, you cannot
24 influence my Commission in any way. And that worked.
25 It worked very well. I said, you can come before us as

1 a citizen, but no. And we -- we made sure that each
2 commissioner understood that very, very clearly. Any
3 evidence that they were doing the bidding for a council
4 person, they were removed from the Commission, that
5 fast. And so we were able to do that. We luckily did
6 not have to have that kind of a situation take place,
7 but as I was explaining a minute ago to the auditor,
8 that we -- we selected two or three alternates in case
9 we had to do it. If we had to remove a Commissioner, we
10 could pull a Commissioner in -- I mean a new
11 Commissioner in and seat them, and they had been going
12 to the most of the meetings to keep that up.

13 We -- I was called in by the mayor and he
14 said, I'm not here to tell you how to do your job but,
15 he says, the chief of staff told me, he says, but get it
16 done as fast as you can. And I said, well what do you
17 mean by that. And he said, well, two meetings maybe is
18 all you're going to need and a third meeting to present
19 it. I said, I'm sorry. I'm sorry. I said, my
20 philosophy is that this is going to be the most
21 transparent Commission you have ever seen; that every
22 single member of the city of San Diego, resident of the
23 city of San Diego, was going to have absolute confidence
24 in us. And they did. And we won a national volunteer
25 award for the way we conducted that. But it was very

1 difficult to keep this in mind for the Commissioners at
2 the very beginning. And whoever your Chair is, is going
3 to have to be a strong enough person to make sure that
4 he or she is guiding that Commission right down the
5 narrow legal road that they possibly can. And that's
6 sometimes very, very hard.

7 One council person tried to interfere because
8 he felt that his district wasn't being properly
9 represented on our panel. The five judges that selected
10 us had the authority to step in at that time and
11 basically told him, get out of here, you have no
12 authority to say what goes on here. He tried to file a
13 lawsuit. It was thrown out of court right away because
14 of the lawsuit, which is a little different than Prop 11
15 was. But my job today is to give you my experiences,
16 and that was an experience that I wish that this
17 Commission is going to be able to have, but I understand
18 that it wouldn't.

19 So developing the faith and confidence of the
20 citizens of the state of California, as Mr. Walton said,
21 it is the most important thing this Commission can do.
22 They must do that. Yes, sir.

23 MR. AHMADI: I'm sorry for interrupting you.
24 Since you have alluded to a question in regards to the
25 process for the Prop 11 for the Commissioners, I would

1 like to ask Counsel if she has any comment to clarify on
2 the process for the Commissioners, the selection of the
3 60 members that we select and the selection process, if
4 you'd like to add a comment about that.

5 MS. RAMIREZ-RIDGEWAY: I think I'm unclear as
6 to the issue. Certainly we're selecting the Commission.
7 We won't be personally redistricting. The panel will be
8 selecting the Commissioners. I'm not sure what your
9 question is, Mr. Ahmadi.

10 MR. AHMADI: I think the question was about
11 Mr. Pesquiera alluded to he didn't understand what the
12 process was for the selection of the 60 members, which
13 is our responsibility --

14 MS. RAMIREZ-RIDGEWAY: Correct.

15 MR. AHMADI: -- to come up with 60 of the most
16 qualified applicants that we will present before the
17 leaders of the legislature, and then they will pick
18 certain names or two names per leader and give it back
19 to us, and then the process will be to -- it will be
20 based on a dingle ball selection --

21 MS. RAMIREZ-RIDGEWAY: Correct.

22 MR. AHMADI: -- and then the first eight
23 Commissioners who will be selected will then have a
24 chance to collect randomly from a list that we come up
25 with the remaining seven.

1 MS. RAMIREZ-RIDGEWAY: That's correct. So
2 what I understood your comment to be, Mr. Pesquiera, was
3 that you were sort of hopeful that there was no
4 legislative influence, and here we have that written
5 into the statute.

6 MR. PESQUIERA: Yes, I know you do.

7 MS. RAMIREZ-RIDGEWAY: And we can't modify it.

8 MR. PESQUIERA: I know you do. And like I
9 say, I'm telling you my experiences and adding a
10 commentary here and there because I understand that's
11 the case. I was asked to apply for this Commission, and
12 when I read through the requirements, one of them said,
13 cannot be a gubernatorial appointment, which I'm a
14 gubernatorial appointment on another Commission, so I
15 could not come onto the panel.

16 But going back to developing a good faith and
17 confidence, the citizens have got to have that;
18 otherwise, it will just be a sham. And that's what you
19 can't have. You can't have a sham.

20 We, during -- oh, when the chief of staff for
21 the mayor told me to get it over with, I said, no. My
22 plan -- we had eight districts. I said, my plan was to
23 take my Commission twice. Once at the beginning to
24 every district to get feedback from the district people,
25 and then when it was towards the end, to take our

1 proposed plan, which was changeable, back to them and
2 say, what do you think about this. So we were able to
3 do something like that in, of course, a smaller area,
4 but because of that, we were televised. Every single
5 meeting we had was televised. Our Commission became
6 quite popular. Wherever you went in San Diego, somebody
7 recognized you. And it got to the point where people
8 would say, you know, we watched that; we can hardly wait
9 for the film to come on so we can see what you're doing.
10 And we did. We were very casual, not formal. We
11 started off with coat and tie; we ended up with Hawaiian
12 shirts and stuff like that. But -- because it just
13 became -- it became -- the group became so close to each
14 other that we began to really become very casual, and we
15 would discuss the minutest details right there in front.

16 When you get your program, and I presume
17 you're going to get a program from the census on this
18 thing, one thing you want to do is when you call your
19 experts in to talk to you about redistricting, you need
20 to have somebody who knows something about the program.
21 And you -- we used UC Berkeley, the people from up
22 there, and they were very good in explaining to us and
23 giving us an idea of how that program worked. And it
24 made it a whole lot easier for all of us. And not only
25 that, but when we would discuss a particular district

1 and we'd say, gee, we've got more than 10 percent here,
2 we've got to cut out 10 percent, well where are we going
3 to add them. Naturally you can't add them to some
4 district way up here, they had to be added to one of the
5 districts nearby or close to it. And so we would say,
6 well, let's take out 10 percent here and we'll move them
7 over here. No, it's going to run that one out of
8 balance, and back and forth. But they watched every
9 single moment of every line we made, and that gave them
10 a lot of feeling that they were involved. They were
11 involved because they could see how we moved those
12 lines, and we made a point that that was what we wanted
13 to do. Every discussion we had went over the air so
14 that they could hear exactly what we were saying. And
15 as I said, I could -- anyplace that I went, and I'm sure
16 my Commissioners had the same situation, if I was
17 downtown down in one of the valley shopping centers,
18 somebody would come by and say, Mr. Pesquiera, we've
19 been watching you; we watch that more than we watch
20 anything else. And I thought, well, that's good.
21 Bonanza wasn't on anymore.

22 But we developed a tremendous loyalty of the
23 citizens of San Diego. And that, I think, is so
24 important because they felt that they were really
25 involved. And as I said, we met in each district twice.

1 We televised every meeting. To begin with we met once a
2 week to get things, kind of get our feet on the ground.
3 By the end -- towards the end of the time limit we were
4 meeting two and three times a week, depending on where
5 we were, but we took the time because we wanted to do it
6 right. We were one of the first volunteer citizen
7 commissions around, and we wanted to be sure that we
8 left a good legacy. And apparently we did. We really
9 enjoyed that.

10 One thing I can say is that there must be in
11 that Commission a sense that they trust each other.
12 That's going to be very important. They cannot have a
13 feeling that any one Commissioner is doing the bidding
14 of one of the legislators. You just can't do that
15 because once you do that, you've lost it. So we made
16 sure that we stayed that way. I mean, we ate together,
17 we did everything together on the days that we had
18 Commission meetings. It kept us -- it bonded us
19 together, and we didn't want to cause any distrust with
20 any other fellow Commissioner. I think that became very
21 important as well. We did get into arguments. No doubt
22 about it. So it's -- it was something that we had to
23 take into consideration.

24 And during that year, it was really -- well,
25 not quite a year. By the time we got started it was --

1 we got the program, it was February to September because
2 you had to have everything turned in so the people who
3 were running for office in November had to have enough
4 time to see where their districts were going to be. The
5 other thing we did, we had a council person come in and
6 say, well, I live near the border of my district, what
7 are you going to do. And even their constituents said,
8 what are you going to do; if you move something, you
9 might move him out of the district. I said, I'm sorry.
10 If we move him out of the district, then he can remain
11 in office for the remainder of that term, but he cannot
12 re-run again. So this one individual I said, I suggest
13 if you really want to help your constituents, you'll
14 move inside the district further. And he did. He and
15 his wife sold their home and moved into the center of
16 the district because he wanted to stay. And he was
17 reelected.

18 So these are things that the Chair has got to
19 be prepared to say so that there's no -- no sign of any
20 -- anybody trying to do the bidding of a legislator.
21 That's, again, my opinion. So that sense of justice
22 that you treated everything fairly -- there were times
23 when we would have to really, really have a hard time in
24 how are we going to move a border because that border
25 could change an awful lot that they had become

1 accustomed to, but we had to show them that we were
2 doing this with a great deal of concern and how it was
3 going to affect everybody.

4 We would invite -- I would invite people in
5 the district to come down and talk to us if they felt
6 things were going the way they didn't want to, and we
7 had many people. At the very beginning, the whole
8 council office or the counsel room would be filled with
9 people. By the time we were midway through, we seldom
10 had more than 10 or 12 people. That much confidence had
11 began to develop that we were doing the job correctly.
12 And that's something that your Commission needs to
13 hopefully try to do, make sure that the public feels
14 they're doing the job correctly and they're not trying
15 to pull the wool over anybody's eyes.

16 Mr. Walton said "we could get it wrong."
17 Yeah. There's no doubt about it. It's going to take a
18 strong Chair to make sure it doesn't go wrong. It's got
19 to be somebody who is willing to tell a legislator, I'm
20 sorry, but I cannot accept your input, and I cannot go
21 to your office and visit with you. This becomes very
22 important. Now whether or not you can do that, I'm not
23 sure. We could. We could do that because we had
24 absolute authority.

25 And the other -- the last thing I wanted to

1 say here is that there can be no closed-door meetings.
2 Absolutely no closed-door meetings. Every meeting you
3 have as a Commission must be wide open to the public and
4 of course to television. And sometimes we'd get -- as
5 the time went by we'd get moved from the council office
6 to a small council committee room. We got moved into
7 the basement one time, but we made sure that the cameras
8 followed us wherever we went. When we'd go out to a
9 district, the cameras were there. It would be on the
10 nightly news. Of course just snippets of our meeting,
11 but it would also be every minute that we met was on
12 public television. You know, the government television
13 station.

14 I wish you all luck, really a lot of luck.
15 And I hope that you will have fun. It's been ten years
16 since we had a Commission, and you know something, we
17 still see each other periodically because I think we
18 developed a sense of honesty, and we had faith in each
19 other, and we developed faith in the public. And that's
20 going to be the hardest thing you can do. Now I don't
21 know if you're going to have a budget for traveling
22 around the state. I don't know anything like that. But
23 however you do it, if you can't travel around the state,
24 then the public needs to know that they can come to you
25 via television. But everything must be transparent.

1 Every single thing must be transparent. Nothing,
2 nothing can perceive to be hidden.

3 With that I'll close and answer any questions,
4 if you have any. I think I've got a minute or two.

5 MR. AHMADI: Any questions?

6 UNIDENTIFIED SPEAKER: I have one question.
7 In your meetings, did you -- as in city council where I
8 live, they request -- although you can walk in a meeting
9 and make a comment, but do you request someone ahead of
10 time if they wanted to speak? Do you have a form --

11 MR. PESQUIERA: No. They could walk in. We
12 had a form back at the back of the room, and they'd come
13 in and fill out the form. They had to present the form
14 to our secretary. Now we had a secretary sitting in.
15 We also had an attorney sitting with us all the time.
16 So if a question came up about the legality of anything
17 that was being done, that city attorney had to answer
18 that question; but they would present that paper, the
19 secretary would get them, she'd go through them really
20 quickly and determine the order that they should go in.
21 And we did have a time limit, by the way, but of course
22 I had the ability to adjust that time as I saw the need.
23 And if there was a large group of request to speak
24 slips, then I would say, well, we've got this many
25 minutes or an hour or so to go, can I -- if I've got 25

1 people who want to speak, you know, I've got 60 minutes
2 divided by 25, how many minutes can I give them and that
3 would be it. So I'd tell people, if there are several
4 of you together, get together and choose one of you to
5 talk and -- because we needed to have the time. So we
6 did that. We did it that way. Tried to keep it as fair
7 as we possibly could.

8 UNIDENTIFIED SPEAKER: Did you have a red and
9 green light?

10 MR. PESQUIERA: We had a red, yellow, and
11 green light. No. We had a green, yellow, and red
12 light. The yellow light was the one-minute warning.
13 Sir.

14 UNIDENTIFIED SPEAKER: I appreciate your
15 comments about how the Commission functions. I
16 understand that today's meeting is to help the selection
17 panel choose from a multitude of applicants. Because
18 you were asked to apply for the San Diego Redistricting
19 Commission, do you have any advice you could share on
20 how that process of selecting (inaudible) and the other
21 San Diego Commissioners might go to achieve goals of
22 diversity and whatever needs are specified.

23 MR. PESQUIERA: Well, when we submitted our
24 applications to the city clerk's office, and then those
25 applications were turned over to this five retired judge

1 panel who reviewed them, then they would send you a
2 letter stating that you had been chosen to be in the
3 larger pool. And then we would -- each of us went up
4 and spoke and told the panel, the judges, why we thought
5 we would do a good job here and had the ability to do a
6 good job. From that conversation they cut the pool down
7 to about half. Then they went back again and had those
8 half come in for a little bit longer discussion rather
9 than just a few minutes, and from that they chose the
10 panel.

11 In fact, they chose the panel that very --
12 they took a one-hour break, and they came back in and
13 chose the panel and invited them to come forward and
14 congratulated them for being chosen. And each judge
15 would determine whether it was unanimous or not. And
16 luckily our panel was selected individually unanimously
17 by the judges.

18 UNIDENTIFIED SPEAKER: One way or the other it
19 sounds like the voir dire process in the courtroom to
20 try to get a jury (inaudible) practical criteria that
21 the California state panel selection might consider
22 (inaudible) end result which is interesting, but from
23 your point of view, why did they select you over anyone
24 else, per se?

25 MR. PESQUIERA: I have no idea. I'm glad they

1 did. But once we were selected, then we received a
2 criteria of what was expected of each Commissioner, and
3 that was very important.

4 MR. AHMADI: Thank you very much. I would
5 like to ask Counsel if she has any comments on this
6 issue?

7 MS. RAMIREZ-RIDGEWAY: I do have a question.
8 I appreciate so much the wonderful job you've done of
9 telling the public what they can expect as
10 Commissioners. Having performed redistricting, though,
11 I wonder if you could impart some knowledge to the panel
12 about those qualities that you think are essential to
13 being a good Commissioner and whether that's from your
14 personal experience or having worked with such a great
15 group of people. I took some notes and I see that you
16 said a good knowledge of geography and federal and state
17 law relating to redistricting, a willingness to have a
18 transparent process, and a sense of justice and
19 fairness, which is what our rights require in
20 partiality; but I'm wondering if there are any other
21 sort of concrete skills you think this panel should be
22 looking for in trying to identify 60 of the most
23 qualified diverse applicants to do the mapping.

24 MR. PESQUIERA: Well, we were from all walks
25 of life. So I mean, from a retired person to

1 non-retired people to people who owned businesses, who
2 worked in businesses. I would say that the quality had
3 to be, do you really have an interest in doing the job;
4 why do you want to do the job; what do you see in it. I
5 think those are some of the things that we discussed.
6 We never really used them as a direct criteria for
7 selection, but we discussed them that way. Since we
8 were going to be meeting with the frequency we met, they
9 had to be willing to take that into consideration.

10 I mean, literally speaking, sometimes we had
11 to cancel vacations in order to make sure we had a
12 complete committee there. So there had to be that
13 willingness to set that year of their life aside, and
14 they did it. They did it. So I think each of us would
15 take a little week off each time, but we'd just cancel
16 the meeting for that week. So we tried to always meet
17 together and be there 100 percent. But I think it's
18 something -- I don't know that you can really say it
19 must be and can't really put down, but you had to detect
20 that there was a willingness to be there and there was a
21 willingness to do your homework, there was a willingness
22 to be prepared to answer questions that constituents
23 would ask us when we went out into the districts.

24 And again, I go back to what you just said,
25 there had to be that feeling that they were going to be

1 fair. Those are things that are intangibles. I think
2 the tangible items were pretty much what we just said.
3 There was no real criteria that said you had to be a
4 college graduate or you had to be this or that. No. It
5 was just you had to have that willingness, and I think
6 we succeeded in that. Any other questions?

7 MR. AHMADI: We have another question.

8 UNIDENTIFIED SPEAKER: Yes. What kind of
9 ethnic or minority representation did your panel have at
10 your districts?

11 MR. PESQUIERA: Well, we had -- if I can
12 remember it. I think we had two blacks, two Anglos,
13 three Hispanics. Something like that.

14 UNIDENTIFIED SPEAKER: And how large was your
15 panel?

16 MR. PESQUIERA: Seven. And it worked out very
17 well. We all had -- we all developed strong friendships
18 in that. I think you had a question.

19 UNIDENTIFIED SPEAKER: Yes. What sort of
20 geographic entities did you use for determining things
21 such as proper racial make up, and what have you -- did
22 you use precincts or zip codes? I mean, is this the
23 sort of information you get from the census people?

24 MR. PESQUIERA: Yes.

25 UNIDENTIFIED SPEAKER: What did you use for

1 your exercise?

2 MR. PESQUIERA: Well, it depended on how easy
3 it was to form a district. If it became very
4 complicated, as it did towards the end because you were
5 squeezing and popping out all kinds of things, we went
6 down to blocks. That's where the zip codes worked, and
7 then the block codes. Each block in San Diego has a
8 code of its own. And I'm sure that's --

9 UNIDENTIFIED SPEAKER: Did the census data --

10 MR. PESQUIERA: The census data gave us all of
11 that, so we were able to bring it down. But the main
12 thing is we could not split a district by some
13 geographical item that would cause part of the people in
14 a district to live on one side and the other part to
15 live on the other side because you didn't -- you
16 couldn't have commonality that way, and so our feeling
17 was we kept everything together. So we used canyons,
18 freeways, parks. Things of that nature.

19 UNIDENTIFIED SPEAKER: And I guess kind of a
20 follow-along question to that, and it might be directed
21 to the panel or somebody in this building, are we going
22 to be constricted by such things? Is this panel -- are
23 the Commissioners going to be restricted by such
24 geographical orders and artifices?

25 MR. AHMADI: Definitely. My understanding of

1 the law is that we have minimum qualifications for
2 considering who to be selected as the candidates for the
3 Commission.

4 UNIDENTIFIED SPEAKER: That wasn't my
5 question. Would the redistricting process have to
6 consider these sort of considerations?

7 MR. AHMADI: Definitely. That is my
8 understanding.

9 MS. RAMIREZ-RIDGEWAY: That is part of the
10 state and federal law that applies. And you'll learn
11 more about that, actually. If you are able to stick
12 around, you'll learn more about those federal
13 requirements later this afternoon and how complex it
14 ends up being because of those considerations and
15 bearing in mind communities of interest. That's really
16 what Mr. Pesquiera is referring to; that you couldn't
17 allow a freeway to divide a community of interest, but
18 you will learn more about that if you have the
19 flexibility in your schedule to stay around for a little
20 bit.

21 MR. PESQUIERA: Yeah. We had to take into
22 consideration, for example, District 4 tended to be a
23 district that was made up in most -- most of the
24 district was made up of the black population. District
25 8 was the Hispanic population. District 3 was the gay

1 population. And then, of course, the rest of it was
2 pretty much white. Not white entirely but Latinos would
3 move out of their district into another district. But
4 where there was a concentrated number of people of any
5 one of those ethnic groups, we would do everything we
6 could to keep them together. We would not take fingers
7 and reach out to pick up somebody two miles away to
8 bring them into that district. The districts had to be
9 as concise as we could possibly and as tight as we could
10 possibly get them, and taking into consideration all the
11 other requirements. So that was very important to us.
12 I think this lady here.

13 UNIDENTIFIED SPEAKER: Yes. Mr. Pesquiera,
14 you said that you think that every Commissioner must
15 understand every law and regulation related to
16 redistricting.

17 MR. PESQUIERA: Yes.

18 UNIDENTIFIED SPEAKER: I just wanted to
19 clarify. I assume that you mean they don't need to be
20 redistricting experts when they come in?

21 MR. PESQUIERA: No.

22 UNIDENTIFIED SPEAKER: That they will be
23 trained?

24 MR. PESQUIERA: No. When is the Redistricting
25 Commission going to be selected?

1 MS. RAMIREZ-RIDGEWAY: Well, we'll do an
2 initial selection of our first eight on November 18th.
3 And after that, by December 31st of this year, those
4 first eight members must have selected the remaining
5 six, and at that point they'll be completely formed and
6 they can get to work.

7 MR. PESQUIERA: Okay. But you probably won't
8 get your census data until the end of January or
9 February, so you've got about a month and a half there
10 where there needs to be a strong group of meetings that
11 discuss the law, what they can, what they cannot do.
12 And I'm sure that's what you're going to do.

13 MS. RAMIREZ-RIDGEWAY: Well, as you may be
14 aware, the state auditor's office is charged with the
15 selection process. We don't have any authority over the
16 final Commission, so we're certainly hopeful that once
17 that Commission kicks off and is fully staffed, that
18 they will commit all of their resources to learning this
19 complex area of law.

20 MR. PESQUIERA: I hope so. I really do. I
21 think that -- I think should be discussed, the need for
22 the Commission to do that because it's -- there are some
23 complications there, and you do need to recognize when
24 those complications come in. Even though -- that's why
25 we had a city attorney with us all the time who was an

1 expert on that. And sometimes we'd have to call the
2 professor we used up at UC Berkeley and fly him down and
3 his staff down to just sit there and watch us to make
4 sure that we were complying with that law, and it
5 worked.

6 MS. RAMIREZ-RIDGEWAY: And for those of you
7 applicants who are concerned about this issue and how
8 you might digest all of this information, I think our
9 panelists can certainly relate, but the proposition does
10 provide for the Commission to select staff and
11 consultants. So if are you selected, you will have the
12 opportunity to bring on experts who can help educate
13 you, and hire counsel and do all the things you need to
14 collect the resources necessary to do the job. I think
15 Mr. Pesquiera's point, if I can assume --

16 MR. PESQUIERA: Please.

17 MS. RAMIREZ-RIDGEWAY: -- or presume is simply
18 that there is an upswing and there is a learning curve,
19 and you will need to be committed to digging right in
20 and trying to understand what is a very important and
21 complex area of law.

22 MR. PESQUIERA: It really isn't that
23 difficult. The laws are not that lengthy, and it
24 explains it in bullets. Sometimes it's just a matter of
25 terminology that you have to get straight in your mind,

1 and an attorney will help you out with that, so I don't
2 see any problem there. Who else had a -- yes.

3 UNIDENTIFIED SPEAKER: Other than the legal
4 questions, what is it at the end of the process that you
5 wish you had known at the beginning?

6 MR. PESQUIERA: That's a good question. I
7 would say if we wanted anything, we wish we had more
8 time because you get -- you really get put in a bind as
9 you get closer to it. But what we knew -- I would say
10 we probably could have gotten it done faster if we had a
11 little bit more time to discuss the laws and understand
12 the laws so that we could relate to them immediately and
13 not have to think back and go, well what did it say over
14 here in paragraph three or two or whatever it might be.
15 So that might have been one thing. But again, I think
16 we were helped an awful lot. And we were -- I guess the
17 encouragement we got from the citizens was probably the
18 biggest thing that helped because the more encouragement
19 we got and the more kudos we got, the better we acted
20 and the better we were.

21 As I said earlier, we started out with a coat
22 and tie, and we ended up with Hawaiian shirts and
23 leaning on our desks like this instead of sitting very
24 formally and looking at the camera. So it made it -- it
25 made it -- again, it doesn't take long. Once you get

1 into the swing of it, you've got it. I think there was
2 another question back there, sir.

3 UNIDENTIFIED SPEAKER: You touched about the
4 time commitment because you're going to have people who
5 are retired, you're going to have people working with
6 kids. Having been on the grand jury with Sacramento
7 County, I know what a commitment that was, and this
8 sounds like (inaudible), so can you speak about just how
9 much time commitment is going to be required for a
10 person to be on the committee.

11 MR. PESQUIERA: Well, when we first started,
12 as I said earlier, the first couple of -- the first
13 month we met a little bit frequently because we were
14 being -- being given a lot of information and we needed
15 to digest that information. But typically my meetings
16 would start at about 3:00 in the afternoon or
17 thereabouts and would go up until about 6 or 7:00,
18 depending on what our discussion was and how fast we
19 would were getting through it.

20 UNIDENTIFIED SPEAKER: Two or three times a
21 week?

22 MR. PESQUIERA: It started out about once to
23 twice a week. Mostly once a week. As we went about
24 half way through, we started needing more and more time.
25 That did cause some problems, but actually, by that time

1 most of the Commissioners were pretty well committed to
2 the job they were doing and made sure. I'd say, can we
3 meet. And we had a calendar right there, and the
4 calendar was on the screen, too, so the people could see
5 it. Could we meet here, who can't meet here. We'd go
6 through this periodically as we'd go along.

7 MR. AHMADI: Thanks again. Do we have any
8 other questions? Do the panel members have any
9 questions for Mr. Pesquiera? Okay. Thank you very
10 much. Very informative. I appreciate you coming in and
11 sharing.

12 MR. PESQUIERA: I wish you all the luck in the
13 world, and I think I would have liked to have been on
14 the Commission.

15 (Applause.)

16 MR. AHMADI: Next on our agenda we have a
17 presentation on the legal concepts that the Citizens
18 Redistricting Commission must apply in its work and on
19 the role that the Citizens Redistricting Commission will
20 perform, a presentation by Justin Levitt. Justin is
21 Counsel for the Democracy Project, the Brennan Center
22 for Justice at NYU School of Law. Justin, please take
23 the podium. Thank you, sir.

24 MR. LEVITT: I, too, want to thank very much
25 the members of the panel and the bureau for inviting me

1 here, and thank the members of the public for all of
2 this interest and participation, and the 31,000 people,
3 obviously, for applying. It's an honor to be here and
4 an honor to speak with you today. I'm going to try to
5 address some of the questions that came up, and in the
6 course of talking about the sorts of legal standards
7 that the Commissioners you select will be asked to apply
8 and what that might imply for the sorts of individuals
9 that you would be ideally looking for are people who
10 would be able to apply the sorts of legal standards I'll
11 discuss.

12 I'm very heartened by the fact that you felt
13 like you could interrupt and ask questions of
14 Mr. Pesquiera. I hope that you take the opportunity to
15 do that of me as well.

16 MR. AHMADI: Certainly.

17 MR. LEVITT: I will try to be as clear as I
18 possibly can, but some of these concepts, I agree they
19 can be readily explained, but they're also layers of
20 detail; and I do hope that you ask whenever you have
21 further questions, and I also hope to leave plenty of
22 time for questions from the members of the public that
23 are here as well.

24 I also congratulate you on being part of many
25 firsts, in addition to California's first truly public

1 Redistricting Commission. This is one of the first
2 meetings I've been a part of that's running well ahead
3 of schedule, so it's a remarkable enterprise in many
4 respects.

5 MR. AHMADI: I take that as a compliment.

6 MR. LEVITT: If this actually works, and if it
7 doesn't, then I can improvise. My name is Justin
8 Levitt. As you mentioned, I'm here to take the next
9 about hour to hour-and-a-half to try and walk through
10 some of the legal concepts that will apply to the work
11 of the Commission that you are charged with selecting.

12 The organization that I work for is called the
13 Brennan Center for Justice. We are based at NYU School
14 of Law, but we do work nationwide. And on redistricting
15 matters in particular, we've extensively studied
16 redistricting current practices and reform initiatives
17 across the country, we've analyzed existing laws and
18 proposals, we've provided testimony before
19 decision-makers, before legislators, before Commissions
20 themselves, we've consulted and drafted, we've produced
21 advocacy and publications on the topic, we've litigated
22 where necessary, we have some experience in working
23 through some of what the Commissioners you select will
24 be called upon to do; and there are many more public
25 education materials that we have available on our

1 website for you and for members of the public that wish
2 to learn more about the topic than could possibly be
3 covered in an hour at www.brennancenter.org. We also
4 have, I understand, paper copies of the handout of the
5 presentation that I'm giving today for any members of
6 the public who wish, and we'll make this presentation
7 readily available, of course, complying with the
8 (inaudible).

9 Today I'm going to focus, with your
10 permission, on laws that the Commissioners will need to
11 apply in order to let you assess the traits that
12 Commissioners have. You obviously won't be drawing
13 lines yourself, but you'll be selecting those who will
14 be charged with drawing lines, drawing multiple sets of
15 lines. So understanding what the legal requirements are
16 for them will help you choose who they might be.

17 I'm going to be tailored in this presentation.
18 It's not going to be a general presentation about
19 redistricting and all of its varies contours. I'm going
20 to be specific to the tasks in front of you which are
21 the laws governing California's districts. And some of
22 them will be the same that Mr. Pesquiera mentioned and
23 some of them, I suspect, will be different.

24 I'm going to be specific to particular types
25 of districts in California, the ones that the Citizens

1 Commission will be charged with drawing, state senate,
2 state assembly, Board of Equalization lines. Different
3 rules apply to federal lines, different rules may apply
4 to local district lines; and as I understand it, those
5 aren't the lines that the Citizens Commission is charged
6 with drawing, so I'm going to keep my comments to the
7 lines of the Commission that you're selecting.

8 I'm going to try to walk through some of the
9 legal concepts and requirements with as little legal
10 jargon as I possibly can. And I want to be clear that
11 although the Brennan Center does, in part of its
12 incarnation, advocate for certain practices, we also do
13 public education stripped of advocacy, and that is very
14 much what I intend this presentation to be, simply
15 walking through the law as it exists and as the
16 Commissioners will be charged with implementing, rather
17 than expressing policy preferences of the Brennan Center
18 or otherwise.

19 As I see it, the policy preferences that you
20 will be charged with making sure Commissioners are able
21 to reflect are already set out in the law. And in
22 particular, for your charge you have many different
23 factors to consider, including as was mentioned before,
24 and as I hope will be mentioned again, reflecting the
25 diversity of the state and individuals who are committed

1 to a fair and impartial process. In addition to that
2 I'm going to focus the legal requirements on what the
3 relevant analytical skills are that the Commissioners
4 will need, because that is also your charge, to make
5 sure the Commissioners have those skills that they'll
6 need in order to draw the lines.

7 I'm going to draw the basic contours of the
8 presentation from forth grade journalism and try to
9 cover all but one of the basic W questions. Who, of
10 course, is going to be up to you. What I'm going to try
11 to cover are a very basic overview why we pursue
12 redistricting anyway, because it's helpful to have that
13 context for what the Commissioners will be doing. Where
14 they'll be charged with drawing the lines, what it is
15 that they will be charged with doing in addition to
16 drawing the lines that might bear on your selection
17 process, and as we just mentioned, the time frame for
18 all of this.

19 So starting in -- and please do interrupt with
20 any questions whenever you have them. Starting in with
21 the "why." Very basic, and this I hope everyone in the
22 room knows, redistricting is the process of drawing and
23 redrawing the lines that determine which voters are
24 represented by each legislative seat, by members of the
25 assembly, by members of the state senate, by members of

1 the Board of Equalization.

2 Why do we bother redrawing the lines once
3 they've been set, well in part, if you have a state
4 filled with at least uniform size and pure color of
5 individuals, you have people assorted to each district
6 in California, and the districts shown up here are the
7 state senate districts. You have roughly the same
8 amount of people in each district when they're drawn.
9 So at the beginning of the decade, in 2001, you had
10 roughly the same number of public in each district, but
11 over time people move around the state. And when the
12 population moves, districts naturally become lopsided.
13 Different parts of the state grow or shrink relative to
14 each other at different rates. And when the districts
15 become lopsided like this, there's a mandate to redraw
16 the lines so that once again the districts reflect about
17 the same number of people.

18 The mandate comes to us from the supreme court
19 in a series of cases that started in the early 1960's
20 with Baker versus Parr, roughly called one person, one
21 vote cases. And what they establish are that districts
22 of all kinds have to have a roughly equal population.
23 And that's a primary mandate and the reason why we're
24 called upon to redraw districts.

25 It's also the reason that the redistricting

1 process follows the census because you need to know
2 where the people are in order to make sure that you are
3 drawing districts of roughly equal size. So every ten
4 years when the census is conducted, redistricting
5 naturally follows because now there's a new snapshot of
6 where all the Californians are and how many are in which
7 areas of the state. That's the easy bit.

8 Now, getting into where the lines will
9 actually be drawn. It starts, the process starts, with
10 federal law. And there are two overriding federal
11 mandates that take precedence everywhere in the country,
12 including in California. The first, equal population,
13 and the second, race and ethnicity. And I'll talk about
14 each in turn, starting with the equal population
15 requirement. We talked a little bit about it just a
16 second ago. It's the reason that we redraw the lines.
17 This comes from the constitution's equal protection
18 clause, and it says that there should be, there must be,
19 a reasonably equal number of people in each district.

20 The supreme court and other courts for the
21 types of lines that the Commission will be asked to draw
22 for state senate, for state assembly, for Board of
23 Equalization districts, has never put a more precise
24 number on reasonably equal. Reasonably equal varies
25 from case to case. Generally the cases have, as I

1 believe Mr. Pesquiera or Mr. Walton this morning
2 mentioned, generally cases have coalesced around a
3 figure that says up to 10 percent difference between the
4 most populated district and the least populated district
5 will be okay, if it's for a legitimate reason. There
6 have been cases that have struck down plans that had a
7 population deviation, most populous to the least
8 populous, within that 10 percent band, but for a bad
9 reason or for a reason that the courts deemed bad.

10 One example was in Georgia, and the population
11 deviation was deemed to be for particular partisan
12 purposes that was not encompassed by the law in Georgia
13 at that time, and the Court said, even though you're
14 within this 10 percent threshold, because the deviation
15 was for an illegitimate reason, that's not okay. But
16 generally by and large the consensus has been that up to
17 10 percent spread between most populous and the least
18 populous, for a good reason, is constitutionally fine.

19 What does it take to be able to know when
20 districts are spread out like this. As I'm sure some of
21 the other speakers in the afternoon, particularly Karin
22 MacDonald, will discuss and the types of data that the
23 Commissioners will be receiving, commissioners will have
24 to be able to look at a map of the state and recognize
25 where big population centers are and to seek to tally or

1 to draw the districts in the state so that the
2 population in each is roughly equal. Then you have to
3 get down to a more nitty-gritty analysis where you
4 actually calculate the population, total population,
5 within each district of the state and try to see which
6 have to be tweaked where to get you within that roughly
7 10 percent threshold. There are computer software
8 programs that facilitate this. Nobody has to go through
9 with an abacus anymore to actually work this out. It
10 will be up to the Commissioners, as I understand, to
11 work out exactly how they come by these calculations,
12 and so you want somebody at least with an understanding
13 sufficient to review the computer program or the experts
14 who recommend the computer program or whichever staff
15 comes up with the answer. Not everyone has to be
16 well-versed in math, but you want somebody at least to
17 be able to double check what's going on and make sure
18 that the program is working as it should.

19 The calculation is actually pretty simple.
20 You tally up the total population within each district,
21 add it together in this extremely straightforward state
22 with ten districts and a total population of 10,000
23 people, that means the average population is 1,000
24 people per district, you then calculate the deviation
25 from that average, how much more or less is each

1 district from the average, and you can spot districts
2 that are the most underpopulated and the most
3 overpopulated. The largest district in this fake state
4 is 1,050 people and the smallest is 940 people, and
5 together that gives you a spread of 11 percent deviation
6 between largest and smallest. And that would, should,
7 raise a constitutional warning flag.

8 So in this hypothetical state, this
9 configuration of those districts should signal to your
10 Commissioners, we have to adjust the population in order
11 to make sure that these meet legal muster.

12 MS. CAMACHO: I have a question.

13 MR. LEVITT: Please.

14 MS. CAMACHO: Now, when they're having to
15 tweak this, would that be when they go into the computer
16 system and move those lines?

17 MR. LEVITT: There are a number of ways to do
18 it. They could start with a set of lines that they
19 thought reflected a guess as to where the big population
20 centers were and get things roughly equal. They could
21 start with a whole other set of criteria sort of further
22 down the list. I actually recommend starting -- and
23 this we'll get to in a second -- drawing districts that
24 satisfy the Voting Rights Act first and then radiating
25 out from that. There are a number of different ways to

1 start. Some of them will involve using the computer to
2 tweak. Some of them may not.

3 At this point they will probably -- and there
4 are a number of different ways to do this, and I'm sure
5 Karin will mention all -- some, if not all of them, at
6 this point, depending on what system they're using to do
7 this. In the olden days this was done with a road atlas
8 and note cards and, you know, tallies on dot matrix
9 printed paper of -- or typed paper of the population
10 count for each. You can adjust the boundaries too. For
11 example, in the district with 940 people, add a few more
12 people into that district and you get closer to the
13 ideal. That's necessarily going to take population away
14 from somewhere else. So, depending on the geographic
15 configuration of these districts, if District 4 happened
16 to be next to District 9, then you could easily move
17 population from the overpopulated district into the
18 underpopulated district, if that satisfied all of the
19 other criteria that the Commission were charged with
20 drawing.

21 If District 4 is not next to District 9, then
22 it creates what's known as the ripple effect, and you
23 have to move populations so that at the end of the day,
24 all of the districts end up roughly equal within that 10
25 percent threshold. There are a number of different ways

1 to do that. Certainly now there's computer software
2 that makes the process much easier than it was when you
3 were just dealing with numbers on a piece of paper
4 without a tangible geographic representation of where
5 those people lived.

6 MS. CAMACHO: Thank you.

7 MR. LEVITT: Of course. So for this equal
8 population calculation, what does that mean our
9 Commissioners are going to need to do at the end of the
10 day. They'll need to be able to calculate averages and
11 deviations from average as we just did, or review staff
12 calculations for all of the qualifications I'm going to
13 discuss. I understand the Commissioners will have the
14 authority to hire consultants or staff, and they can
15 either do or delegate; but you'll want someone with a
16 capacity to review that which they've delegated at some
17 point.

18 They'll need comfort with a result other than
19 a strict one-person deviation. That is, the law does
20 not require that each district have a strictly equal
21 exactly the same number of people within the district.
22 And as we'll see, there are other criteria down the road
23 that actually are only possible or are likely only
24 possible to meet if you don't require exactly the same
25 number of people in each district. In California and

1 federally, the law only requires a reasonably equal
2 number of people, and so you'll have to have
3 Commissioners that are comfortable with a concept as
4 hazy as reasonably equal without needing to get down to
5 each district having the exact same number that might
6 detract from some of the other legal requirements. And
7 then you'll have to have Commissioners who understand
8 maps of population data -- and this is exactly what we
9 were just discussing -- to adjust districts as
10 necessary. It's easiest when you can see on the map
11 where the individuals will have to come from in order to
12 increase the population of an underpopulated district or
13 where they'll have to go to decrease the population of
14 an overpopulated district.

15 Before I get into the next big federal
16 requirement to confront race and ethnicity, are there
17 any other questions, any other questions thus far from
18 members of the panel? I can also take questions from
19 the audience.

20 MR. AHMADI: We have a question from the
21 audience.

22 UNIDENTIFIED SPEAKER: Do you ever create -- I
23 mean, when you're trying to do this moving around like
24 in California, you have Los Angeles that has more people
25 in one square block than you can have in a county in

1 Northern California. How would you move that around?

2 What do you do? Can you actually create another
3 district, a new one?

4 MR. LEVITT: It's an excellent question, and
5 I'm going to repeat the question just because I'm not
6 sure how it's coming through over the mics. The
7 question is can you create a new district. There are
8 parts of the state that have a lot more population than
9 others. How do you deal with that and do you have to
10 sort of -- do you have to start with what's given and
11 shift around, or can you create new districts. And as I
12 read the law, the law doesn't require Commissioners to
13 start at any one point. That's something they'll have
14 to decide. They could either start with the status quo
15 and look at population shifts and try to move from the
16 current districts in order to satisfy all of the legal
17 criteria they're given -- that was just one -- or they
18 could start with a completely blank map and build up
19 from there.

20 The number, the total number of districts, is
21 set by law. So if there are now a certain number of
22 state senators or a certain number of state assembly
23 members or a certain number of Board of Equalization
24 members, you can't just add a new one because the
25 population has grown. You start with that total number,

1 you divide the total population of California by that
2 number, whatever it may be, and that's the target for
3 how many people you have in the district. That's what
4 you're aiming for, knowing of course, as I mentioned,
5 you can deviate from that so that districts are
6 reasonably equal, but they don't have to hit that number
7 exactly. Yes, sir.

8 UNIDENTIFIED SPEAKER: Does practice or law
9 make a distinction between the total population versus
10 the voting age population?

11 MR. LEVITT: That's an excellent question.
12 The law, as I read it, in California requires for equal
13 population purposes that the total population, everyone,
14 be counted. And that's -- that echos federal law which
15 requires for members of congress, the Commission is not
16 charged with drawing, but nevertheless it echos that
17 members of congress, every person -- that's the word in
18 the constitution -- has to be counted.

19 For the Voting Rights Act, which we'll mention
20 in a second, there's a slightly different calculation
21 because it's aimed at something different. It's not
22 aimed at ensuring equal representation for equal numbers
23 of people. The Voting Rights Act is aimed at ensuring
24 effective political power, effective voting power to
25 minorities, certain racial language minorities. And

1 there, the calculations do involve members of the voting
2 age population, citizens of voting age population,
3 effective turnout and things like that. But just for
4 equal population purposes, it's everyone.

5 UNIDENTIFIED SPEAKER: That would mean to me
6 that in a neighborhood district of families with four or
7 five kids, okay, this percentage of 10 percent or 10
8 percent under would be an adjustment factor because
9 you're not going to have the voting people. That's the
10 people that decide in the end, correct?

11 MR. LEVITT: No. And that's -- I'm glad you
12 brought that up because it's really important.

13 UNIDENTIFIED SPEAKER: When the election takes
14 place, it's the voting which, to me, determines who gets
15 elected.

16 MR. LEVITT: That is certainly true. When the
17 election takes place, it's the voters that decide who's
18 elected. But -- and this is an important point to note
19 -- both the constitution and the state law of
20 California, as I read it, require that districts be
21 based on equal population. That means everyone. And
22 the census will count everyone, just born to having
23 walked the earth for quite a while, because the
24 representation has to be equal.

25 UNIDENTIFIED SPEAKER: So I vote for my four

1 kids?

2 MR. LEVITT: The law presumes that you do,
3 whether they agree with you or not.

4 MR. AHMADI: If I could interrupt for a
5 second. I'm sorry. I understand this is a very
6 interesting topic and there may be a lot of questions in
7 the minds of the audience that each one of them is
8 important and we would like to discuss that. I'm sure
9 Mr. Levitt would be interested to address those. In the
10 interest of moving with the agenda in a timely manner,
11 if possible I would like to suggest that we should hold
12 onto some of the questions to the public comment
13 session, please, if that is possible. Thank you.

14 MR. LEVITT: Of course. So let me move
15 briefly if I can then to the next big federal
16 requirement of race and ethnicity. A three second tour
17 through an awful lot of history. The laws that exist to
18 protect particular racial and language minorities exist
19 because of a series of practices that were effectuated
20 through voting laws and election laws, but also through
21 redistricting. And it's important to understand what
22 those practices were in order to understand what the
23 Voting Rights Act is attempting to combat against.

24 Here I have an extremely square-shaped state,
25 which is not meant to represent any particular

1 square-shaped state. And the filled in circles
2 represent here. The minority population of that state.
3 I should mention that you will -- I know you have other
4 speakers who will delve into the Voting Rights Act in
5 much greater detail, and so this is going to be a very
6 short overview, but that's largely because I know that
7 you will be receiving a lot more information about the
8 Voting Rights Act in a lot more detail later.

9 In this particular state, there are what's
10 called 36 voters, and there are -- I keep forgetting how
11 many there are here. I believe 14 -- 16 representative
12 minorities. Assume -- and this is built into the Voting
13 Rights Act calculation. I'll going through this in a
14 second -- but assuming that the minorities prefer
15 different candidates than the white majority voters, and
16 that, therefore, the minority will reliably vote for
17 different candidates than the majority of white voters.
18 That's obviously not true everywhere, but assuming in
19 this unusual state it is. There are 16 minority voters
20 and 20 majority white voters. And in a system like
21 this, if everyone voted for every candidate, the
22 majority -- even though the minority population is quite
23 significant, the majority would win all of the seats all
24 of the time. So, one of the things that's done is to
25 draw districts that divide voters up and give different

1 groups of people different opportunities to elect
2 candidates.

3 In this jurisdiction the minority presence is
4 very substantial, and so you would expect that they
5 would be able to collect at least a few of, let's say,
6 four candidates for office. If this were a four seat
7 jurisdiction, the minority presence in this jurisdiction
8 is sufficiently substantial that they should at least be
9 able to have the opportunity to elect some of those four
10 seats. But in a practice known as cracking, means if
11 you draw the district lines in such a manner as to
12 fracture the heart of the minority community, you can
13 effectively ensure that even though there's a very
14 substantial minority community, they don't have the
15 opportunity to elect any candidates.

16 In this example, even though -- and I want to
17 point out, even though the lines are nice and neat and
18 regular, they're drawn directly through the heart of the
19 minority community. And in this example, in each of
20 those four districts there are five majority white
21 voters, four minority voters, and the majority would
22 reliably outvote the minority in every single case.

23 Another tactic to dilute the minority vote,
24 intentionally or unintentionally, is known as packing.
25 Something of the opposite. If you have a minority

1 population, you put as many minority voters into just
2 one district as possible. You overconcentrate. And so
3 you make sure that all of the minority voters that you
4 can are packed into one district. And that leaves the
5 surrounding district with very little minority power.
6 And this, too, has been used to dilute minority voting
7 power over time.

8 The response, one of the responses, was the
9 Voting Rights Act, which in part says if the minority
10 population is substantial enough, you cannot use these
11 tactics to break up a diluted minority power. And as I
12 mentioned, you'll get plenty more nuance on all of this
13 from some of the speakers later in the afternoon.

14 Section two of the Voting Rights Act, in
15 particular, protects against both cracking and packing
16 and a host of other tactics to dilute minority voting
17 power. It says, in the fastest overview of Section two
18 that you've ever heard, it asks a series of questions.
19 Do minorities represent most of the voters in a
20 concentrated area. Is there a large portion of
21 minorities, over 50 percent, of the voters in the
22 concentrated area. And here, the gentleman's question
23 before, this is the concern here is voting age
24 population, voting population. Are most of the voters
25 minorities. Is voting polarized. Do whites tend to

1 vote for different candidates than minorities. It's
2 tricky to tell sometimes because you don't always have
3 minorities' ideal candidates running in every election.
4 Sometimes there's political cleavages that don't
5 actually represent the minorities would preferred given
6 the choice. And so this is a very -- as you'll hear,
7 this is a complex determination to find out whether
8 white truly, given their druthers, would vote for
9 different candidates most of the time than minorities.

10 In some parts of the state the answer may be
11 yes, in some parts of the state the answer may be no.
12 And there are experts who do a lot of in-depth review of
13 voting patterns in particular kinds of elections within
14 the jurisdiction, outside of the jurisdiction, broader
15 than the jurisdiction, in order to try to suss out,
16 because obviously we don't know who individuals vote for
17 in this country, in order to try and suss out by
18 precinct, can you find reliable patterns that tell you
19 whether whites tend to vote for different candidates
20 than minorities.

21 And the third big factor is, is the minority
22 population otherwise protected given the -- this is what
23 the law says -- totality of the circumstances. There
24 are a lot of things that go into the totality of the
25 circumstances, and I'm not going to go into each of them

1 now. There are a lot of qualitative factors and a lot
2 of quantitative factors that were listed in the senate
3 report originally accompanying the Voting Rights Act
4 that has since been adopted into law by courts across
5 the country. And in order to apply the Voting Rights
6 Act, you need to know, the Commissioners need to know or
7 need to hire experts or consultants or staff who will be
8 able to tell them whether these factors apply and to
9 what extent.

10 It's one of the reasons, I understand, that
11 there's a specific requirement in the law that at least
12 one of the counsel retained by the Commission be
13 especially well-versed and practiced in the Voting
14 Rights Act is because this particular analysis is not
15 easy.

16 After those three factors are reviewed, if it
17 is true that minorities represent most of the voters in
18 a concentrated area, if it is true that there's
19 polarized voting, if it's true that the minority
20 population is not otherwise protected, and what all that
21 amounts to is if minority voters were not protected,
22 could they elect a candidate of -- could they elect a
23 candidate of choice, or would they be prohibited from
24 electing a candidate of choice. Would there be cracking
25 and packing. Would there be attempts to dilute their

1 voting power.

2 And if these things, if the first two are true
3 and the third is not, if the minority population is not
4 otherwise protected, the Voting Right Act says, do not
5 dilute the minority population's voting power. Keep
6 them, as Mr. Pesquiera mentioned before, keep them
7 together in a district so that the voting power is
8 preserved so that they have the opportunity, not the
9 guarantee, but the opportunity to elect a candidate of
10 choice. Turnout goes into this discussion. Level of
11 education goes into this discussion. When courts review
12 plans for Voting Rights Act compliance, they look with a
13 very pragmatic eye at whether a minority population has
14 the opportunity to elect a candidate of choice.
15 Sometimes this means a bare majority of minority voters,
16 sometimes this means more than a bare majority of
17 minority voters. And it depends -- it's heavily
18 circumstantial. It's heavily contextual to see when a
19 particular population may have an effective opportunity.

20 The Voting Rights Act doesn't tell you what
21 kind of district to draw. So in this circumstance, if
22 the minority voters are clustered in the middle, you
23 could draw that district, you could draw that district.
24 It doesn't tell you where the bounds must be. It just
25 says that you have to draw a district so that that

1 minority population has an effective opportunity to
2 elect a candidate of choice.

3 Section five of the Voting Rights Act also
4 applies in California. This is a map of where Section
5 five applies across the nation. The states filled in in
6 red are entirely covered by the Voting Rights Act. The
7 states in what appears to be indistinguishable from the
8 background, there are a few states there where just
9 portions of the state are specifically covered by
10 Section five of the Voting Rights Act, a different
11 portion of the Voting Rights Act; and in California
12 there are four counties in particular that are covered
13 by this Section five of the Voting Rights Act.

14 Section two is about preserving minority power
15 no matter what it looked like before. Section five is
16 about backsliding. So Section five asks, compared to
17 what was there, is a new plan, is a new map, intended to
18 dilute minority votes, or no matter what the intent was,
19 does it leave minority voters worse off than what was
20 there before. And so Commissioners or their staff and
21 counsel will have to be very careful, particularly in
22 these four counties, but a redistricting plan affects
23 the entire state, so we'll have to evaluate the entire
24 state's plan to make sure that voters protected by
25 Section five are not made worse off than they were under

1 the previous map.

2 And in California a map will have to be
3 submitted to the Department of Justice in order to make
4 sure that nothing is made worse off before it can
5 actually take affect. This is known as preclearance.
6 And if the Commission has done its job, then the map
7 will be approved in due course by the Department of
8 Justice. The Department of Justice actually has a
9 certain period of time in which to object. If they
10 don't object, the map is considered approved.

11 UNIDENTIFIED SPEAKER: Not only the Department
12 of Justice. (Inaudible).

13 MR. LEVITT: The gentleman is absolutely
14 correct. This is all shorthand, and so you're
15 absolutely right. The Department of Justice is one
16 opportunity to preclear a map. The other opportunity in
17 the federal law is the district court in the District of
18 Columbia. That's the other place that maps can be
19 submitted for preclearance, and that's the other route
20 that can be taken in order to ensure that a map lives up
21 to its responsibilities.

22 The Department of Justice has a faster -- has
23 historically had a faster administrative process, and so
24 most, the vast majority of changes are submitted to the
25 Department of Justice for this review, but that's

1 absolutely correct, that it's not only the Department of
2 Justice that has this role.

3 UNIDENTIFIED SPEAKER: And the reason is
4 because the Justice Department is considered
5 (inaudible).

6 MR. LEVITT: The drafters of the Voting Rights
7 Act accounted for -- I'm sorry. The drafters of the
8 Voting Rights Act accounted for the fact that different
9 political parties would be determining the membership of
10 the Department of Justice, and so allowed for this
11 provision to submit to either the district court in the
12 District of Columbia or the Department of Justice,
13 either one. That's correct.

14 MR. AHMADI: And I would like to, since we're
15 kind of at a point that I can make a comment here, I
16 would like to correct my statement earlier that the
17 questions should be waited until the public comment
18 session. What I meant to say is that if you could
19 please wait until he finishes the presentation, then I'm
20 sure that he would be willing to take all the questions
21 at that time.

22 MR. LEVITT: I would be delighted to, yes.

23 MR. AHMADI: Thank you.

24 MR. LEVITT: I would hope -- I can certainly
25 understand that as a rule for the audience. I would

1 hope that you, the members of the panel, if you have
2 questions in between would, feel free to interrupt me as
3 often as you wish. It's your prerogative as inviting me
4 here.

5 So briefly, what does all of this mean for
6 what the Commissioners will have to do in terms of
7 satisfying their obligations under the Federal Voting
8 Rights Act. They'll need to be able to calculate the
9 minority proportion of the citizen voting age population
10 of the voters in a region or review expert calculations
11 or hire people to review expert calculations. They'll
12 need to determine voting patterns by race in a region or
13 review expert determinations of those patterns. They'll
14 need to assess the very practical and pragmatic
15 opportunity to elect candidates of choice in the region,
16 or again, review the expert assessments. And they'll
17 need to consider all of the range of qualitative and
18 historical contextual circumstances, including how
19 minorities fared in the protected regions under the
20 prior plan, or review the assessments of experts that
21 they've hired for this purpose.

22 I'll suggest that you don't want Commissioners
23 who are entirely dependent on staff or counsel or those
24 consultants that they've hired, but neither do they all
25 need to be subject matter experts themselves. It's one

1 of the reasons that there is particular expertise called
2 for in the Voting Rights Act under the law.

3 They'll also -- and this is very, very
4 important particularly in California -- they'll need to
5 be able to creatively reconcile the rights of multiple
6 minority communities who may be living interspersed with
7 each other. These are not about single homogeneous
8 blocks of minorities that live in one place surrounded
9 by a sea of white majority voters. Especially in
10 California, as you know, minority communities often live
11 interspersed, and they may have -- each separate
12 minority community may vote in a different way or prefer
13 to vote in a different way, may have multiple Voting
14 Rights Act rights that the Commissioners will be called
15 upon to reconcile. And in particular, that may mean
16 drawing districts with shapes that seem quite strange.

17 It is -- and I'll talk about this. You'll see
18 this particular comfort level throughout the process.
19 There are some natural human tendencies that I would
20 suggest that you recognize but that you seek to test how
21 strongly they're held in people who are applying to be
22 Commissioners. In particular, one of the natural human
23 tendencies is to try and simplify geographic shapes. As
24 I'll explain throughout, the legal obligations on
25 Commissioners override that tendency or have to override

1 that tendency. And so you don't have to look for people
2 who don't have that natural tendency, but I would
3 suggest that you at least be able to test whether that
4 tendency is so strongly held that it will compel
5 individual applicants or Commissioners deviate from
6 their legal responsibilities. And in particular, the
7 ability or the need to reconcile rights of multiple
8 minority communities and mean some shapes that appear
9 strange, but that absolutely conform to the law.

10 I'll give one example that maybe you can see.
11 This is a demographic map of one portion of the Chicago
12 suburbs. And I've deliberately chosen a jurisdiction
13 that's not in California because I don't want to suggest
14 any particular alignment of any particular districts in
15 California.

16 This is in the Chicago suburbs. The purplish
17 blocks represent census blocks. And I know Karin
18 MacDonald will talk much more about this. This is how
19 the data comes in about where demographically people
20 live. So the purple blocks represent African American
21 population in census blocks. The more robust the shade
22 of purple, the larger the population. And the orange
23 blocks represent the Latino or Hispanic population in
24 census blocks. The more robust the shade, the larger
25 the Latino population.

1 As you can see in this particular map, there
2 are spaces of land, of territory, with very little
3 population at all. There are spaces with more heavily
4 concentrated population. There's spaces with larger
5 numbers of African Americans, larger number of Latinos.
6 And here, although individual pockets of minority
7 housing appear clumped together, as a whole in the
8 region, the population is quite interspersed. This
9 region was big enough, it was large enough, to have two
10 congressional districts. And so it came to the people
11 who were drawing this particular map to try and figure
12 out how to satisfy their Voting Rights Act obligations
13 to draw two congressional districts in this area.

14 If you drew a regularly shaped or relatively
15 regularly shaped district just to encompass the heaviest
16 concentrations of Latino population in the north and in
17 the south, you would cut directly through the heart of
18 the African American community. And if you draw a
19 relatively regularly shaped district to get at the
20 concentration of African Americans to give them an
21 effective opportunity to elect a candidate of choice,
22 you would cut right through the heart in the southeast
23 there of the Latino community in the area.

24 Each community had a majority of voters in a
25 concentrated area. Each community voted in different

1 ways. Each community had a right under the Voting
2 Rights Act to have the opportunity to elect a candidate
3 of choice. And those who were drawing the lines in this
4 area, with help from the minority communities
5 themselves, had to figure out how best to accommodate
6 both groups' rights. And the solution they came up with
7 is legally extremely elegant, but looks to many people,
8 I'm going to say, wrong. And I want to suggest that in
9 selecting Commissioners, you are able to evaluate who is
10 able to overcome what may be that initial instinct, that
11 a map looks wrong even though it does what it is legally
12 required to do.

13 Those are the districts that were drawn. And
14 you can see that the central district, the Seventh
15 Congressional District in Illinois, keeps the African
16 American population together in a way that actually
17 preserves that minorities opportunity to elect a
18 candidate of choice quite effectively. And the
19 surrounding district is the Fourth Congressional
20 District of Illinois, and it preserves the Latino
21 population of that district's opportunity to elect a
22 candidate of choice. And this, I hold up as an example
23 of an extremely successful, under the law, ability to
24 creatively reconcile the rights of those multiple
25 minority communities.

1 Before I go on, and I know that you will be
2 hearing much more about the Voting Rights Act, but this
3 is a complex topic and a difficult topic, and so I want
4 to make sure I answer any questions you may have. Are
5 there any questions that you have?

6 MS. SPANO: May I interrupt. May we take a
7 short recess for ten minutes?

8 MR. AHMADI: Sure. We'd like to take a
9 ten-minute short recess. One of the panel members needs
10 to take a break, so we'll reconvene at 11:30.

11 (A brief recess transpired.)

12 MR. AHMADI: Thank you everybody. I think
13 Mr. Levitt is ready to move to his presentation.

14 MR. LEVITT: I'm ready when you tell me I'm
15 ready.

16 UNIDENTIFIED SPEAKER: Use your gavel.

17 MR. AHMADI: I'm sorry? Oh, this one. Thank
18 you everybody. Before the break, Mr. Levitt asked us if
19 we have any questions. I would like to ask the panel
20 members if they have any questions at this point in time
21 or we should wait for the end of the presentation so we
22 can discuss the questions. No questions from the panel.

23 MR. LEVITT: Okay. And I will attempt to
24 leave time at the end to take questions.

25 MR. AHMADI: Thank you so much.

1 MR. LEVITT: So where are we. We've discussed
2 the first two of the several legal requirements that
3 Commissioners will be asked to apply and take into
4 account. Federal equal population requirements, and
5 federal requirements to preserve the rights of racial
6 and ethnic minorities. They're five additional
7 requirements that I want to mention here today that the
8 state law imposes that Commissioners will also ask to be
9 asked to account for.

10 First, contiguity. Contiguity is a relatively
11 simple process, simple concept. It means that all parts
12 of the district are connected to each other. The
13 district on the left with two parts not connected to
14 each other is not contiguous. The district on the right
15 is contiguous. And that's all that contiguity means.

16 California has islands, and those create
17 special conditions because islands are, by definition,
18 not connected to the rest of the land. And so
19 Commissioners will have to decide what it means for an
20 island to be contiguous. In some parts of the country
21 there's a requirement that there be a ferry route or a
22 bridge or some other connection between the island and
23 the land mass. In some parts of the country the only
24 requirement is that it be close to the land mass. And
25 in some parts of the country there's no requirement at

1 all. And so the California law does not specify, and
2 your Commissioners will have to choose what they think
3 contiguous means in the case of islands.

4 Really, other than that particular choice,
5 what that means for Commissioners in terms of what they
6 will have to confront is just the need to be careful
7 that all parts of the state are accounted for. You have
8 contiguity problems when you're drawing districts and
9 you leave out a portion of the state and then you have
10 to figure out where to put it, and you might have to
11 overpopulate or underpopulate. That's what creates a
12 contiguity problem.

13 There is, as some of your later speakers will
14 mention, there's software to help make sure that you
15 haven't left a part of the state out, but that's really
16 what drives the contiguity, the concern with contiguity
17 that the Commissioners will have to account for.

18 Political geography is the next criteria
19 that's listed in the state law. And by the way, I'm
20 listing these in order of their importance as they
21 appear in the state law, and so Commissioners have to
22 consider these things in this order of importance, and
23 that's the -- that is both by the structure of federal
24 and state law, and also as it's written in the state law
25 itself. And it's important that Commissioners

1 understand that they aren't able to pick and choose one
2 of the later listed legal requirements as more important
3 than an earlier one just because they like it better.
4 The law actually sets out a strict criteria order of
5 priority.

6 Political geography in California's law says
7 that Commissioners should account where practicable for
8 cities, counties, cities and counties like the city and
9 county of San Francisco, neighborhoods, and communities
10 of interest and should attempt to keep those geographies
11 whole where they can. Some cities are obviously going
12 to be larger than the average population and so will
13 need to be split. Some counties will be larger than the
14 average population and will be need to be split. So
15 these aren't inviable rules. But where practicable,
16 says the law, should keep these areas together.

17 Neighborhood isn't further defined in the
18 California constitution. There are cities that have
19 adopted various definitions of neighborhoods. For
20 example, I now live in Los Angeles, and Los Angeles has
21 neighborhood councils with very specific geographies.
22 It may be that the Commissioners decide to adopt those
23 geographies as their definition of a particular
24 neighborhood or not, but that's a choice that they have
25 available to them.

1 Community of interest is similarly not further
2 defined in the California state law. What it generally
3 means -- and this is -- it's a term of art, and so it
4 has an established meaning -- is a community with a
5 common interest in a subjective legislation. It's one
6 of the reasons for representation is that you have a
7 representative representing something, a group of people
8 with a common interest in something, and those interests
9 are the -- the people that comprise that group is called
10 a community of interest. There are states that have
11 chosen to define further what this means, and I give you
12 -- if I go the right way -- what Kansas has defined as
13 its community of interest. Social, cultural, racial,
14 ethnic and economy interest common to the population of
15 the area which are probable subjects of legislation.
16 That is a definition. That's not the right definition
17 because there is no right definition, but that is a
18 common articulation of what this concept means. And as
19 you can see, it's broad, and it may well vary based on
20 the particular region.

21 What may be a coherent community of interest
22 in or around my area of Los Angeles may be very
23 different from what may be a community of interest in
24 the central valley or up in the Bay Area or way up
25 north. And so that's acceptable. It doesn't have to be

1 one thing that is a community of interest across an
2 entire state. It's whatever is most salient to the
3 population in a particular area.

4 I was asked over the break is there anywhere,
5 for example, where the California state law includes
6 things like water rights and how districts are to be
7 drawn. If the Commission decides that in some areas of
8 the state an interest in water rights is a community of
9 interest, is a coherent geographic community of
10 interest, then this is where that subject would fall.
11 Before I mentioned that it's important to have people
12 who may be able to overcome a natural tendency towards
13 nice regular shapes, if that's not what the law
14 requires. These lines, too, may be irregular. This is
15 the city boundary of the city of Los Angeles, and it is
16 geographically predetermined, and as you can see it, as
17 the product of annexation medals and the like, it twists
18 and turns throughout much of the state, but that is a
19 boundary for many of the districts larger than the
20 districts they will have to draw for sure; but these
21 sorts of boundaries, are the sorts of boundaries that
22 Commissioners will have to consider when evaluating
23 whether they can keep a city whole or not. And many
24 cities across California have similarly irregular
25 boundaries.

1 Neighborhoods may also be irregular. The
2 neighborhood as defined by the Los Angeles Neighborhood
3 Council -- and I want to stress that that's not a
4 necessary definition for the Commissioners. It is
5 simply a definition that the city has come up with for
6 purposes of its own local representation. The
7 neighborhoods there may also be irregular.
8 Neighborhoods don't have to be neat little circles. So
9 this is the neighborhood, boundaries of the neighborhood
10 council known as the Harbor Gateway North Neighborhood
11 in Los Angeles, and it looks like a lower case R. This
12 is the area for the Neighborhood Council of BelAir and
13 Beverly Crest. Some other neighborhoods do look more
14 regular, so I don't want to suggest that there's
15 anything right or wrong about these or those, but it
16 would behoove Commissioners to have comfort with
17 neighborhoods or communities that may not fit regular
18 geometric patterns.

19 What will your Commissioners need in order to
20 evaluate political geography, in order to evaluate
21 cities and counties, neighborhoods, communities of
22 interest, they'll need to reconcile potential conflicts
23 among geographies. Sometimes a neighborhood may overlap
24 the bounds of a city. Sometimes a community of interest
25 may overlap the bounds of a city. It may be larger

1 than, may be smaller than, may be a spillover in some
2 way; and they'll have to figure out on their own how to
3 deal with that. There's no right or wrong answer.
4 They'll need to reconcile potential conflicts in
5 testimony, again, even when there is no right or wrong.
6 One group in a particular area of the state may say, my
7 community of interest is X, and if I were to run it in a
8 boundary, it would stretch through a particular area.
9 And another group in that same area might say, well my
10 community of interest is Y, and its boundaries look
11 entirely different. And there's no correct answer to
12 who is right or wrong. It's not a factual dispute that
13 can be resolved mutually. That's something the
14 Commissioners will have to reconcile on their own.

15 They'll need to be comfortable determining
16 borders that are not predefined. So city boundaries are
17 set and established. County boundaries are set and
18 established. But neighborhoods may not be and
19 communities of interest may not be. And so your
20 Commissioners will have to be comfortable determining
21 where the outline of a community of interest may be that
22 they're trying to preserve in a particular district.
23 And again, it may behoove them to be comfortable with
24 strange shapes because they may hear testimony that
25 says, my community of interest stretches in X or Y

1 manner, and that manner may not be pretty.

2 Before I go on, we've covered two additional
3 criteria. Are there any questions from the members of
4 the panel?

5 MR. AHMADI: Do you have any questions? No,
6 we don't. Thank you.

7 MR. LEVITT: Of course. Diving in then --
8 we're reserving the most time for other members of the
9 public to ask questions. Compactness is the next most
10 important priority in terms of what the state law lays
11 out. Many people think of compactness in terms of
12 abstract shapes, and in many states and in many academic
13 considerations of compactness, what makes a district
14 more or less compact is how it looks in the abstract.
15 The district on the left would be considered less
16 compact. The district on the right would be considered
17 more compact. But, this is not how California defines
18 compactness.

19 Specifically, California defines compactness
20 in its law as a district that does not bypass nearby
21 population centers; that does not include more far-flung
22 population and bypass more nearby population. And
23 that's important because population patterns may not fit
24 abstract shapes. So for example -- and here I do turn
25 toward a California example -- these are the counties of

1 California. And again, my apologies. I'm not sure how
2 clear that is to see, but I've highlighted in purple a
3 section in the middle of California, purely in order to
4 expand it, make it larger, make it clear what section
5 we're talking about. And I would like you to imagine
6 that these two counties have populations too large to
7 keep whole. That is, they have to be split somewhere.
8 In order to satisfy the equal population requirement,
9 they have to split counties somewhere. Remember, there
10 is a higher priority requirement in the state law to
11 preserve counties whole where practicable.

12 So image, if you will -- and this is unrelated
13 to actual fact, and I don't want to prejudice whatever
14 the actual districts may look like. This is just an
15 exercise to demonstrate how compactness works. Imagine
16 that those two districts have to be split somewhere.
17 Those who focus on abstract shapes may think that the
18 easiest way to split this section of the state into two
19 different districts is just to draw a line -- there's a
20 rough connection -- following the westernmost line of
21 the counties on the east, and to follow that line --
22 this is my fault for drawing it in a purple color --
23 follow that line through an imaginary path through the
24 two counties that need to be split to connect the dots,
25 in a way. I don't know if you can see it there, but

1 I've drawn, essentially, one big district on the left
2 and one big district on the right. If we were focused
3 on abstract shape, that might be the presumed way to
4 accommodate compactness while focusing on shape. That
5 is not, remember, what California asks.

6 California asks you to look at population.
7 And this is population data from the 2000 census. The
8 green areas are the least populated. The reds areas are
9 the most populated. You can see, as you would expect,
10 population clusters in the major cities. And if you
11 apply that same population data to the counties we're
12 talking about on the right, you can see that the
13 abstract shape now actually breaks up that population
14 cluster right there in the center of the county, Fresno.

15 And so it's important to remember California's
16 definition of compactness as opposed to a fixation on
17 abstract shape. It asks very specifically to draw
18 districts that don't bypass nearby population in order
19 to take into account a more far-flung population. Here
20 those two principles would be in conflict. And so here
21 you'd want someone who, if they had a preconception
22 about what compactness meant in the abstract, was able
23 to put that aside in order to focus instead on where the
24 population was.

25 Are there questions about this in particular?

1 MR. AHMADI: Do you have any questions? No.

2 Thanks.

3 MR. LEVITT: So what will your Commissioners
4 need to be able to do here. Two, you'll need to be able
5 to identify the population clusters in order to make
6 sure that individuals are -- in order to make sure that
7 the districts are drawn in a way that is compact
8 according to state law. And again, it may be necessary
9 to be comfortable with shapes that appear "strange",
10 because there's nothing inherently strange about a
11 shape, just that people tend to trend in toward
12 geometric regularity, and here there's a definition in
13 the state law that means something different.

14 Next down the priority list is a concern with
15 nesting. Imagine, if you will, that this is, again, a
16 wholly fictional state senate district, and those are
17 two assembly districts. In this case the assembly
18 districts would not be nested in a state senate
19 district. There's no relationship between the two
20 assembly districts and the state senate district.

21 Nesting says that you take a senate district
22 and subdivide it, or take two assembly districts or more
23 and draw a senate district around them, conglomerate
24 them to create a senate district. It means that the
25 boundaries coincide wherever possible. So the districts

1 on the right would be nested. There's no preference in
2 the California law for whether you start with senate
3 districts and draw assembly districts or whether you
4 start with assembly districts and draw senate districts,
5 and the Commissioners will have to choose how they wish
6 to go about it or they'll have to iterate between the
7 two. But the requirement, again, this is lower priority
8 than each of the things we've already discussed, is to
9 nest the districts, I believe, where practicable.

10 It is also important to note, and here
11 particular emphasis on the Voting Rights Act, that a map
12 that may be valid for one plan may be invalid if nesting
13 is very strictly applied. And this is part of the
14 reason why it is an expressly lower priority on the list
15 because the mandate of the Voting Rights Act, for
16 example, overrides. Returning to the same very square
17 fictional state with a different minority population
18 distribution, assuming four districts, it may be that it
19 is possible to draw four districts that look as they do
20 on the left here in order to satisfy the Voting Rights
21 Act; that the population in the lower left is
22 concentrated in a geographic area; that, with all of the
23 assumptions that we made before and all of the caveats
24 before, the district in the lower left might allow the
25 minority population its effective opportunity to choose

1 a candidate of choice. And the other districts, because
2 there is not a concentrated minority population in a
3 particular area, the other districts are drawn in order
4 to satisfy other criteria. It may be that these, call
5 them assembly districts, satisfy the Voting Rights Act
6 mandate. But if the task is to draw a larger set of
7 districts, state senate districts for example, you start
8 running into problems with the Voting Rights Act in this
9 jurisdiction because you cannot combine two of the
10 assembly districts in order to create a senate district
11 that satisfies the Voting Rights Act.

12 For a larger district, that population is
13 concentrated in an area and large enough to elect a
14 candidate of choice, and so for this larger district you
15 would have to draw something like the district on --
16 that's represented there in the southwest corner in
17 order to create a senate district to satisfy the Voting
18 Rights Act. You'll notice that's not a combination of
19 either of any of the assembly districts that have been
20 drawn. There's no way to nest two of these assembly
21 districts in that senate district in order to satisfy
22 the Voting Rights Act.

23 This won't happen all the time. It may not
24 happen any of the time. But it might well happen, and
25 so you'll need Commissioners who understand that it's

1 not possible to simply stick districts together and
2 assume that their job is done once they have satisfied
3 all the requirements for a particular plan. That is,
4 each of the plans that's drawn has to match each of the
5 criteria that's laid out in the state law. And in
6 particular, they'll need to be able to review and either
7 redraw assembly lines in a circumstance like this, or
8 decide that it is not practical to nest these districts.
9 So just make a decision that some of the districts will
10 be nested and some will not. That would be up to them.
11 But it's necessary to review at each stage the districts
12 that you draw to make sure that all of them comply with
13 the law.

14 So again, the Commissioners you select will
15 need to be comfortable reevaluating one valid map, if it
16 inevitably produces an invalid map for a different
17 chamber or for the Board of Equalization, and they'll
18 need to be comfortable deviating from nesting where
19 necessary, if it's necessary.

20 Finally -- and I know you're eager to get to
21 finally -- there is a state law requirement that
22 concerns political candidates and political parties. In
23 particular, forbidding the Commissioners to consider the
24 residence of any particular candidate for office within
25 the districts they draw. I'm going to give you an

1 example of part of the reason why.

2 Again, these are not California districts.
3 This is actually a district in the southern portion of
4 Chicago, south side of Chicago. Bobby Rush's
5 congressional district in the year 2000. And this is
6 the map as redrawn by Bobby Rush's congressional
7 district in 2002. There are many, many reasons why
8 these maps were drawn as they were, in part to satisfy
9 the Voting Rights Act; but if I can expand the upper
10 right-hand corner for a moment, I will show you one
11 particular reason why many suspect they were drawn as
12 they were.

13 Barack Obama, then State Senator Barack Obama,
14 challenged Bobby Rush for this district in the year
15 2000, and won 30 percent of the primary against the
16 congressman. And in the year 2002, the district ran a
17 block to the north, a block to the west, and a block to
18 the south of Mr. Obama's house. That would be evidence
19 that the residence of a particular political candidate
20 was considered in how to draw the lines, unless there
21 were some other explanation for why the district ran as
22 it ran.

23 There are examples of this certainly across
24 the country that have been conducted by either political
25 party. I don't mean this as a political statement in

1 any way. I just use it to illustrate part of why the
2 residences of particular candidates have been precluded
3 from consideration by the California state law. And so
4 you'll have to have Commissioners who, if they happen to
5 know where candidates live, incumbents or challengers,
6 are willing to put aside that information and not use it
7 in the drawing of district lines.

8 The law also commands that lines can't be
9 drawn in order to favor or disfavor any particular
10 incumbent, any particular candidate, any particular
11 political party. And so I know in your overall
12 guidelines you have the requirement to select people who
13 have the ability to be fair and impartial, and this is a
14 particular legal requirement in the drawing of
15 districts, they will also have to abide. That is to
16 say, the Commissioners you choose will have to need to
17 know that there's information they're not permitted to
18 utilize under the law, and they'll have to actually
19 refrain from utilizing that information.

20 And although you are commanded to choose
21 certain categories of individuals from certain pools of
22 party registration -- that's the feature of the
23 selection process -- the Commissioners that you select
24 will have to also know that though they have this
25 partisan affiliation, that districts may not be drawn in

1 order to favor one party or the other or another.

2 So those are the legal requirements that state
3 and federal law give to your Commissioners. There are a
4 fair number of them. They are individually explicable,
5 and some of them are actually, for example, contiguity,
6 simple in application most of the time. Some of them,
7 like the Voting Rights Act, go into a great bit -- a
8 great amount of detail further. Overall, they leave me
9 to suggest that you want Commissioners with some
10 quantitative capacity, at least to review what experts
11 and staff suggest, with some qualitative capacity to
12 take testimony and review expertise, with some ability
13 to consider and resolve conflicts, because there will
14 inevitably be conflicts that arise among the criteria,
15 much less among the Commissioners themselves; and so
16 they need to be flexible in their application of these
17 concepts.

18 I also want to draw attention, by the way, to
19 particular criteria that are not there. There is no
20 legal requirement that districts be drawn in order to be
21 competitive. For example, Commissioners may arrive with
22 that preconception, and if all of them agree and it
23 satisfies these other criteria, or if the majority of
24 them agree, pardon me, and it satisfies this other
25 criteria, then that may be something they wish to

1 consider, but they are not legally required to do so.
2 And there are other criteria, I'm sure, that individuals
3 would like to see on the drawing of districts that if
4 they satisfy these other criteria, they may wish to
5 consider it; but again, there's no requirement that they
6 do so.

7 A few closing thoughts. I suggest you watch
8 out for some natural human tendencies. These exist, and
9 I have seen them and others have seen them in observing
10 redistricting Commissions. You don't have to screen
11 them out entirely, but you'll want to know at some point
12 in the application process that the individuals you
13 select have an ability to overcome them. Many people,
14 naturally, prefer clarity to ambiguity. It's a natural
15 human response. And some prefer to spend less mental
16 effort on more ambiguous concepts. They gravitate
17 naturally to things that are more certain and more
18 defined and more predetermined, and prefer to spend less
19 effort and energy on concepts that are less determined,
20 demand a little bit more consideration. But in some
21 places in the California law, the law makes ambiguous
22 concepts just as important as clear ones.

23 For example, county boundaries and community
24 boundaries or neighborhood boundaries are given the same
25 weight, and so you'll want Commissioners who are able to

1 set aside that natural preference to just gravitate
2 towards the clear concepts and that also are willing to
3 embrace the more ambiguous concepts.

4 In difficult choices, another natural human
5 tendency is many people prefer to constrain their own
6 discretion. If there are a lot of choices to make,
7 people may prefer to hem themselves in more in order to
8 reduce the number of choices, but in some places the law
9 intentionally leaves discretion in order to allow to
10 satisfy other objectives. I mentioned before there may
11 be very definite reasons not to seek precise quality of
12 population so as to be able to accommodate cities or
13 counties or communities or neighborhoods or other
14 objectives. And here the law says that reasonably equal
15 population is sufficient, and in fact, may allow greater
16 compliance with other criteria than demanding strict
17 equality. You'll want people who don't feel the need to
18 maximize or don't feel the need to constrain their
19 discretion artificially, where the law actually gives
20 them discretion until they've satisfied all of the
21 criteria that are given to them, at which point any
22 further constraints they wish to make on themselves are
23 as they wish at their disposal.

24 Another preconceived natural human tendency is
25 to imagine in your head what good looks like. And

1 you'll want Commissioners -- you can't ever eliminate
2 that, but you want Commissioners who have an ability to
3 stick to the mandates of the law, no matter what in
4 their head good may visually appear to be. I have in
5 similar presentations introducing redistricting shown
6 these districts all outside of California, all
7 congressional districts, just as examples, and people
8 naturally tend to gravitate toward the district on the
9 upper right and the district in the center middle, the
10 lower portion of the six districts here in the center,
11 because they're slightly more regularly shaped. But
12 each of these districts was drawn to do something in
13 particular. It was drawn for a particular reason. And
14 the shape doesn't tell you much about what that district
15 was drawn to do. And so a preconceived notion of what
16 good shape may be may actually interfere with legal
17 obligations.

18 In particular, the two districts people
19 naturally tend to gravitate toward, upper right and the
20 lower center, are both unlawful. The district in the
21 upper right is not equally populated, and the district
22 in the lower center was drawn as a violation of the
23 Voting Rights Act. So you'll want to make sure that
24 people are able to recognize and set aside any
25 preconceived notions they may bring about what a good

1 district may look like.

2 And I also like to use as an example -- some
3 of you may recognize the American Idol star, Susan
4 Boyle, and similarly many people were surprised by her
5 audio performance because they had a preconceived notion
6 of what a good singer would look like. And just so,
7 you'll want people who are able to overcome their -- any
8 preconceived notions they may have about what a good
9 district looks like in order to actually apply the
10 criteria that they're given.

11 Another way of saying this is the law asks for
12 a careful balance of factors that doesn't privilege any
13 one particular picture of a good district. And so
14 you'll want people who are able to follow the
15 requirements that the law sets out. And then one
16 learned human tendency, some people who have encountered
17 redistricting in the past or who have done redistricting
18 in the past have some preconceived notions about what
19 certain redistricting factors mean because they have
20 different meanings in other contexts, or they've learned
21 them where other entities have given them different
22 definitions.

23 So for example, compactness is the example I
24 give. It's often defined in terms of an abstract shape,
25 but in California the law instructs how compactness

1 should be measured. And so to the extent someone
2 arrives with a preconceived notion of what compactness
3 means, you'll want to at least test whether they're able
4 to set that aside and adopt the definition that the
5 California law has given.

6 And in other places, the Commission as a
7 whole, or at least the voting majority of the Commission
8 as a whole, must arrive at a further understanding of
9 what something needs rather than just one person's
10 experience from elsewhere. There are ambiguities in the
11 law, and the Commission is going to have to decide what,
12 for example, constitutes a community of interest, or in
13 this particular example, it gets down to very nuts and
14 bolts. Some of the language in the law asks to do
15 something to the extent possible, and some of the
16 language in the law asks to do something to the extent
17 practicable. And the Commission will have to decide for
18 itself whether those have different meanings, and if so,
19 what the difference is. And preconceived notions from
20 elsewhere doesn't mean that you shouldn't be looking at
21 people with expertise. Expertise is very useful in this
22 exercise, as you can imagine, follow the factors to
23 apply, but you do want to make sure that the people who
24 have that expertise are able to apply the law as it's
25 given and/or where it's not given, come to some

1 resolution in concert with their other Commissioners who
2 may not have the same level of expertise.

3 In summation, these tendencies can all be
4 overcome, but they will be important to evaluate in the
5 screening process. You shouldn't eliminate anyone who
6 strikes you as having these tendencies because they are
7 natural, but you're going to want to look for them as
8 you start narrowing the task down.

9 What and when are very -- are shorter topics
10 because they're somewhat less complicated, but in
11 addition to drawing the lines, your Commissioners will
12 do quite a bit beyond just drawing the lines. They'll
13 have to hire and supervise staff and counsel, they'll
14 have to establish -- these are all mandates in the law
15 -- establish a hearing and public review process,
16 they'll have to coordinate with the legislature on
17 hearing schedules and access to data, they'll have to
18 produce a report at the end of the day that includes the
19 terms they've defined and the standards they used to
20 draw districts, and they are tasked, the Commission is
21 tasked, with defending litigation against the districts
22 that are drawn. And so you'll need Commissioners who
23 are able not just to apply the legal concepts, but who
24 are able to also undertake these factors. Not everyone
25 on the Commission has to be able to do every one, but

1 you'll want a Commission that as a whole, as a body, is
2 able to accomplish these tasks. And they'll have to do
3 it in a very short amount of time. December 31st, as
4 you heard mentioned before, is the date by which the
5 Commission must be established as a whole, by which all
6 of the members must be chosen. They will have to
7 establish an internal process for decision-making,
8 they'll have to learn about redistricting, they'll have
9 to hire staff. I would suggest that they begin taking
10 testimony because this is a lengthy process all before
11 April 1st.

12 April 1st, 2011 is the last possible day on
13 which census data will be delivered. It tells them
14 exactly how many people live where. Often the census
15 data comes in before that, so it may arrive as early as
16 February or March, but April 1st is the statutory last
17 possible date for the census data to come in. And then
18 the Commission will have to continue taking testimony,
19 will actually have to draw the maps, and their deadline
20 for final approval is September. And that is, as you
21 know, an awful lot to compress. So you want people who
22 have the capacity to do all of this optimally in that
23 amount of time, and to engage in any litigation that
24 comes thereafter. And I add that as an extra just
25 because history shows that there is often litigation

1 answer. Those who tend not to like the way the lines
2 are drawn will often turn to litigation, and depending
3 on the state or depending on the area, those who don't
4 like it can have any one of a number of grievances.
5 Voting Rights Act violations are very frequently
6 litigated. I would hope that the Commission is
7 well-trained and well-informed so that there are no
8 Voting Rights Act violations. Sometimes members of a
9 particular party will litigate the resulting maps
10 because they perceive that their power has been in some
11 way damaged in a way that they don't like.

12 I should mention litigation does not mean that
13 litigation is always successful. Cases are brought and
14 cases fail all the time. Most of the time the
15 litigation follows one of the criteria in a state's list
16 of criteria, and every state is different in that
17 respect. And so somebody will find something in the
18 application of the criteria they disagree with. There's
19 not really a further direction, a further clump of what
20 most litigation is based on.

21 The more successful litigation, litigation
22 that undoes maps that have been drawn, tend to be
23 litigation over more definitive requirements. And the
24 more ambiguous a requirement in the law, the less
25 successful litigation tends to be. But that's a very

1 broad overgeneralization.

2 MR. AHMADI: Thank you. Next question,
3 please. I think we'll go with the gentleman in the
4 front row here.

5 UNIDENTIFIED SPEAKER: The questions way back
6 at the very start about the population distribution, is
7 there any restrictions on whether that is to include
8 citizens only, or does it include the whole kit and
9 caboodle of documented citizens and non-documented
10 aliens, et cetera?

11 MR. LEVITT: That's an excellent question.
12 The equal population mandate --

13 UNIDENTIFIED SPEAKER: What was the question?

14 MR. LEVITT: The question -- that's a good
15 point. I will repeat the question so that everyone can
16 hear it. The question was way back in the beginning,
17 the equal population requirement I mentioned, is that
18 the requirement to include everyone including citizens
19 and undocumented individuals, the whole kit
20 and caboodle, I believe you mentioned.

21 UNIDENTIFIED SPEAKER: Illegal aliens.

22 MR. LEVITT: Yes. So the short answer, and it
23 is a short answer, is yes. There is a requirement to
24 include literally everyone who is in the country. The
25 requirement includes people who vote for the incumbent,

1 people who don't vote for the incumbent. It includes
2 people of voting age, people of not voting age, people
3 who are citizens, people who are not citizens. The
4 census bureau has a mandate to count every person
5 physically in the country, and there's a target date of
6 April 1st, 2010, and that is the population that goes
7 into determining the equal population of each district.
8 It follows the constitution's -- the constitution
9 requires for federal law that federal offices be a
10 portion based on persons, not citizens or voting age
11 citizens or voting citizens, but persons. And that's
12 across the board.

13 MR. AHMADI: Thank you. We have a question
14 here.

15 UNIDENTIFIED SPEAKER: Mr. Levitt, would you
16 be kind enough, based on your experience, to hazard a
17 guess of what the time commitment required to execute
18 the duties of a Commissioner will be during the period
19 you've defined. Let's take X litigation for a minute,
20 just the sort of January 1st to September, whatever it
21 was.

22 MR. LEVITT: That's an outstanding question,
23 and I'm actually going to duck the question and not
24 hazard a guess because you have people here who have
25 actually done it and people who have very closely worked

1 with those who have been on Commissions before. And
2 I've observed the process and been around for the
3 aftermath, but I haven't actually participated on a
4 redistricting body like this before, so my guess would,
5 at best, be uninformed. You have those who are very
6 informed actually here in the room, so I'm going to
7 leave that to them if I can.

8 MR. AHMADI: The gentleman behind the camera I
9 think had his hand up first.

10 UNIDENTIFIED SPEAKER: May I compliment you on
11 a very confident presentation. Having heard a lot of
12 these, that was very well done.

13 MR. LEVITT: Thank you, sir.

14 UNIDENTIFIED SPEAKER: Let me ask you two
15 questions. One, in the area of litigation, if there's a
16 conflict, say between nesting and the Voting Rights Act,
17 where is this litigation going to occur, and does the
18 California law specify who the decider is going to be
19 once the Commission has done its work, you get
20 litigation, the constitutional litigation, the state
21 law, federal law, who's going to decide this?

22 MR. LEVITT: That's an excellent question.
23 The question is about litigation that follows the
24 drawing of the map, where it occurs and who actually
25 decides those cases. And I believe, and here I'm going

1 to ask for Counsel's assistance if I get this wrong. I
2 believe that the law specifies that any cases brought in
3 state court are to be heard by the California Supreme
4 Court as an original matter, and cases in federal court
5 can be brought wherever the plaintiffs seek to bring
6 those cases. There are certain requirements on where
7 plaintiffs can bring cases in federal court, but the law
8 doesn't specify which federal court the case is to be
9 brought. So there are at least, as I understand it, two
10 options for where the case is initially to be brought.

11 The Commission as a whole is charged with
12 defending litigation if it chooses to do so, and I take
13 it that the Commission would vote on litigation matters
14 just as it would vote in the course of all of its other
15 duties. There's no separate voting rule or requirement
16 for how the Commission would conduct decisions on that
17 separate from all of its other decisions.

18 UNIDENTIFIED SPEAKER: My second question is
19 they didn't key in all of this for someone like me as
20 the staff (inaudible), and I was just curious does the
21 Brennan Center, or any centers outside of California,
22 offer staff assistance, because the political turmoil in
23 the state is such that it's going to be very hard to
24 find a competent staff without a political ax to grind.

25 MR. LEVITT: That's an excellent question.

1 The question was about whether there are centers or
2 organizations outside of California that offer staff
3 assistance. The shortest of all possible answers is the
4 Brennan Center has not thus far. There are
5 organizations that do. There are both consulting firms
6 outside of the state and academics outside of the state
7 who have offered professional expertise and experience.
8 Whether the Commission chooses to employ them or I know
9 there -- you'll hear from someone who has very ably
10 assisted redistricting efforts within the state in the
11 past later on this afternoon, and how the Commission
12 decides the staff that it's going to employ is going to
13 be up to it; but there are resources available. I think
14 particularly given the, in some ways, first in the
15 nation nature of the enterprise, I think people would be
16 interested in assisting the Commission in its work.

17 MR. AHMADI: The person in the back of the
18 room.

19 UNIDENTIFIED SPEAKER: Going back to that
20 nesting, I'm wondering why a Commission couldn't put two
21 assembly districts within a senate district and satisfy
22 all the requirements that the state and the feds
23 require. My feeling is that if you have the assembly
24 doing a reapportionment and the senate doing a
25 reapportionment, sometimes they're going to differ and

1 maybe that's why you're outside of this nesting thing.

2 For example, if I'm a senator, maybe I would
3 like some of my relatives in my district, so maybe I
4 have the influence to have them included, or maybe I
5 want some businesses who will donate to me included in
6 my district, or maybe there's a museum that I figure the
7 board of directors have a lot of people there that could
8 help me or I want the prestige of having those museums
9 in my district, I would like to try to influence them,
10 or donors, maybe somebody in Beverly Hills, maybe I
11 would try to grab some people there, or the possibility
12 of a football or a baseball stadium, I want that in my
13 district and maybe some other legislator wants it too
14 and maybe I'm going to say, if I don't get it, maybe I
15 won't help the city on various things. Those kind of
16 things may influence somebody. So -- they could happen
17 in other things too, but if a Commission is going to do
18 it and they don't have those, you call them human
19 tendencies, I call them political tendencies, wouldn't
20 the Commission consider the idea that maybe their work
21 would be simplified if they put two assembly districts
22 within a senate district?

23 MR. LEVITT: So the question is why would a
24 Commission that is presumably insulated from some of the
25 political tendencies not be able to simply put assembly

1 districts inside a senate district or a senate district
2 inside an equalization district.

3 UNIDENTIFIED SPEAKER: To simplify things.

4 MR. LEVITT: To simplify things. And there is
5 a mandate that where -- I believe where possible, and I
6 always confuse what's practical and what's possible in
7 the law -- where possible there is the mandate that they
8 do so. It will be important for Commissioners not to
9 oversimplify things. And there are higher priority
10 criteria laid out in the law that will occasionally, not
11 always, but in some cases may require districts not to
12 neatly fit into bigger districts.

13 One example I gave was the Voting Rights Act
14 may apply differently to a district of a larger size,
15 and so you may need a different configuration for a
16 senate district to satisfy the Voting Rights Act than
17 you would for two smaller assembly districts. Another
18 example is when assembly districts are not large enough
19 to encompass an entire city but a senate district is,
20 the mandate would be to keep the city together in the
21 senate district, and the assembly districts might not be
22 able to do so and so it wouldn't have to do so. The
23 Commission will have to nest where possible or
24 practicable or --

25 MS. RAMIREZ-RIDGEWAY: Practicable.

1 MR. LEVITT: Practicable. But it's important
2 the Commissioners know not to oversimplify where there
3 are actually legal requirements that take precedence for
4 a given plan.

5 MR. AHMADI: The person in the front row,
6 here.

7 UNIDENTIFIED SPEAKER: I come from an old
8 school. If it isn't broke, don't fix it. But there's a
9 key thing that the Commission will approach in this
10 whole myriad of product, and California is probably one
11 of the worst places to fix problems, but in your
12 opinion, we know what the districts are now, right.
13 What constitutes the most major thing a reason for
14 changing one of those districts is. Any one of them.

15 MR. LEVITT: I think the most major reason for
16 changing the districts would be to comply with new legal
17 requirements that are in place now that weren't in place
18 in 2008. There are a set of legal requirements, those
19 that I just went through. Some of them may comport with
20 current districts, and some of them may not. And the
21 Commission will be legally bound to consider whether the
22 districts they're interested in drawing, whether they
23 would prefer to stick with the old districts or start
24 over, actually meet those new requirements. So that's
25 really the biggest reason.

1 MR. AHMADI: The lady in the front row here.

2 UNIDENTIFIED SPEAKER: Yes. You said that
3 relative to litigation that you thought the Commission
4 would probably vote as to whether to contest the
5 litigation or not. It seems to me that successful
6 litigation would have the affect of changing the lines
7 that are drawn, and so why would the -- I mean, if the
8 Commission decides not to litigate, would they then have
9 to draw the lines to make people happy with the -- that
10 were -- for the litigation they didn't contest?

11 MR. LEVITT: I didn't mean to read anything
12 into it. The question is why would the Commission
13 possibly vote -- I think one version of the question is
14 why would the Commission possibly vote not to contest
15 litigation, and the another circumstance, what if they
16 voted not to contest litigation. As I read the law,
17 they are charged with the obligation to defend
18 litigation against the plans that they have drawn, but
19 that is a decision that the Commission makes, like all
20 of the other decisions the Commission makes, pursuant to
21 whatever its membership wishes.

22 So if there is litigation, if someone sues,
23 then presumably the Commission will have to vote on the
24 tactic to take or the response to take, and there they
25 will have able legal counsel -- pardon me. I didn't

1 mean to gesture because I don't know that you may or may
2 not be their legal counsel, but they will have legal
3 counsel that they will have hired in the course of this
4 process that will undoubtedly advise them about what
5 they should do and how.

6 MR. AHMADI: The individual in the back.

7 UNIDENTIFIED SPEAKER: You put quite a bit of
8 importance on the (inaudible). I can see how that may
9 come up or be apparent in this battle, but how would you
10 suggest that the panel screen these people before the
11 fact without (inaudible).

12 MR. LEVITT: I'll take it by the chuckle that
13 most everyone heard, but for the folks not directly in
14 the audience, I put a lot of emphasize, and you're right
15 I did, on sort of the natural human tendencies and the
16 need to screen for people who are able to overcome them.
17 And the question was how do you possibly do that
18 beforehand rather than waiting to see what happens
19 afterwards without using the Rorshock (ph) Test.

20 It's one of the reasons that I wished the
21 panel good luck. The application process is rigorous,
22 and it's rigorous for many reasons, but I take it
23 included in those reasons are the ability to assess the
24 most qualified applicants. And my emphasis here was to
25 make sure that in the mix of what is considered a most

1 qualified applicant is the ability to apply the law as
2 it's given, which in some cases means overcoming these
3 natural tendencies. And there are, I take it, a series
4 of further application questions and potentially a
5 series of interviews that the panel has contemplated in
6 order to choose people. And so I think it will be able
7 to suss out at some point in the process whether people
8 have these preconceived notions, and if so, how strongly
9 they're held. Everyone has some preconceived notions
10 about things, and the operative question here will be
11 can the individuals who are selected put those aside to
12 apply the law that they're given. And that, like any
13 application for a job, is something that the members of
14 the panel will have to undertake to see if they can suss
15 out.

16 MR. AHMADI: Are there any other questions?
17 The lady in the back here, please.

18 UNIDENTIFIED SPEAKER: Yes. Are there any
19 requirements or constraints in redistricting law
20 affecting federal lands, i.e., like maybe the American
21 federal sections of lands as to what can be done
22 populationwise with those?

23 MR. LEVITT: That's an excellent question.
24 The question is whether there are any constraints in the
25 law affecting federal lands. The example given was

1 Native American lands. Not directly, but there are
2 legal requirements that very much impact those lands,
3 and I would expect that they would come up as a regular
4 basis. For example, for Native American populations, it
5 may be covered under the Voting Rights Act. And in some
6 states and in some areas certainly are. So that's a
7 potentially racial minority that would have to be
8 considered in discussing whether the Voting Rights Act
9 applied in a certain area.

10 It may well be that a reservation or other
11 federal land comprises a coherent community of interest
12 that the Commission would be called upon to recognize.
13 That's more something to being taken in in testimony,
14 and one of the reasons for public hearings is to gather
15 from throughout the state where people felt their
16 communities of interest were, and Commissioners will
17 have to decide how strongly to evaluate that. But those
18 would be the places that I would most expect those sorts
19 of issue to come up.

20 MR. AHMADI: Thank you. The gentleman there.

21 UNIDENTIFIED SPEAKER: Have other states done
22 this, and if the answer is yes, was it successful with
23 the set of Commissioners like we're talking about here?

24 MR. LEVITT: The question was have other
25 states done this, and if the answer is yes, was it

1 successful. And I will say other states and
2 jurisdictions, sometimes cities, sometimes counties,
3 have done versions of this sort. No one has done
4 exactly this. There have been other proposals and other
5 actual implemented Commissions with slightly different
6 rules and slightly different laws to consider and
7 slightly different composition.

8 There has never been one precisely along these
9 lines. And I think as with any such enterprise, whether
10 it's been successful or not depends entirely on your
11 point of view, and whether it's been more successful
12 than what was there before it depends entirely on your
13 point of view. So I might call some things successes
14 that others would disagree with, but there have been
15 other Commissions put in place over a period of time,
16 some with similar rules and some with rules that are
17 quite different.

18 MR. AHMADI: Thank you very much.

19 UNIDENTIFIED SPEAKER: Have they redistricted
20 their state?

21 MR. LEVITT: That's right. Sorry. The
22 follow-up question was have these people actually
23 redistricted their state. There are various versions of
24 Commissions. Some of them include politicians, some of
25 them do not include politicians. Some of them have a

1 Act, Why Diversity Matters in the Context of
2 Redistricting. Kristen Clarke. She's the Co-director
3 of the Political Participation Group of the NAACP --
4 excuse me -- legal defense fund, and she'll provide the
5 presentation.

6 MS. CLARKE: Thank you. Good afternoon.
7 Again, my name is Kristen Clarke. I'm co-director of
8 the Political Participation Group at the NAACP Defense
9 Legal Fund based out of Washington, DC, and I'm very
10 pleased to have the opportunity to participate in the
11 very first meeting of the Applicant Review Panel.

12 My participation and training should not be
13 understood to be an endorsement of the Voters FIRST Act
14 or Proposition 11. As a participant in today's meeting,
15 I hope to provide an overview that is helpful of the
16 Voting Rights Act of 1965 and discuss the very important
17 and essential role in of the Act in redistricting. I
18 will also focus on the role of diversity in the
19 redistricting context.

20 Just by way of overview, I plan to organize my
21 presentation as follows. First, I want to, again,
22 provide an overview of our nation's very long struggle
23 to extend voting rights to historically disenfranchised
24 minority groups, including African Americans, Latinos,
25 women, among others. Then I want to turn to a focus on

1 the events that gave rise to the adoption of the Voting
2 Rights Act of 1965, which is widely regarded as our
3 nation's most important and successful civil rights law.
4 And then I want to spend some time discussing the Act
5 itself, its core provision, the goals underlining the
6 adoption of the Voting Rights Act, its important role in
7 our democracy, and why congress deemed it strong
8 medicine, very necessary in our country today.

9 Finally, I want to talk about diversity and
10 why this is so important in the context of
11 redistricting. It's very important in our view that
12 line drawers appreciate the importance of diversity when
13 redrawing boundary lines and that line drawers approach
14 the process with a real understanding of the need to
15 have maps that fairly reflect the diversity of
16 communities, and maps that adequately protect minority
17 voting strength. And then I hope to reserve some time
18 at the end to entertain any questions that you might
19 have.

20 By way of background, the NAACP Legal Defense
21 Fund has been very involved in our nation's long
22 struggle to extend voting rights to minority groups. I
23 myself also served for several years in the U.S. Justice
24 Department Civil Rights Division. This is my second
25 redistricting round, so I'm very pleased to have the

1 opportunity to speak with you today. I bring that
2 experience to bear.

3 As you all know, we are on the threshold of a
4 very important round of redistricting, and much has
5 changed on the legal landscape over the past decade, so
6 I'll talk some about that as well. But I think it's
7 very important to underscore that, you know, we don't
8 arrive at this moment with a clean slate. Again, the
9 struggle to extend voting rights to minority groups
10 throughout our country is one that really has shaped and
11 defined the history of our country.

12 In 1869, congress passed the 15th amendment
13 which gave African American men the right to vote, and
14 that was ratified by the states in 1870. In 1884, the
15 supreme court issued a ruling in a case called Elk
16 versus Wilkins ruling that Native Americans cannot vote.

17 In 1888, the Florida legislature adopted
18 multiple disenfranchising provisions which caused voter
19 turnout among African American men to plummet from 62
20 percent to 11 percent over the course of a four-year
21 period. In 1896 the state of Louisiana adopted a
22 grandfather clause which was adopted to disenfranchise
23 African American voters. The percent of registered
24 black voters there dropped from 45 percent in 1896 to
25 just 4 percent over the course of four years.

1 In 1913, the 17th amendment was adopted
2 requiring direct popular election of senators. In 1920
3 the 19th amendment was ratified giving women the right
4 to vote. In 1944 the supreme court adopted a case,
5 Smith versus Allwright holding that it's
6 unconstitutional for political parties in Texas to
7 discriminate on the basis of race. In 1946 Colegrove
8 versus Green is ruled upon permitting voting districts
9 of unequal populations, thus denying citizens equal
10 representation in congress.

11 In 1955 the supreme court rules in a case
12 called Lassiter (ph) versus North Hampton County Board
13 of Elections that literacy tests do not violate the 14th
14 and 15th amendments. In 1957 congress adopted a federal
15 law, the Civil Rights Act of 1957, which gave the U.S.
16 Attorney General authority to bring suit on behalf of
17 African Americans denied the right to vote and
18 establishing the Civil Rights Commission with the power
19 to investigate voter discrimination, but ultimately that
20 law proved ineffective.

21 In 1960 congress again adopted another law,
22 the Civil Rights Act of 1960, requiring election
23 officials to have all voter registration records
24 publically available for inspection, another federal
25 civil rights law that again proved ineffective. And all

1 of that kind of is what characterizes the backdrop that
2 leads up to congress' adoption of the Voting Rights Act
3 of 1965.

4 Interestingly enough, we are 45 years away
5 from that moment. This is the 45th anniversary of
6 congress' adoption of the Voting Rights Act in 1965, and
7 many of the events, landmark events, preceding congress'
8 adoption of the Act indicate what a long and protracted
9 struggle has unfolded throughout our nation to extend
10 suffrage rights to Americans of all stripes.

11 And I again, you know, want to underscore that
12 we don't arrive at this point with a blank slate. The
13 events that led to congress' adoption of the Voting
14 Rights Act in 1965, of particular significance, in March
15 of 1965 there was a moment that we have come to know as
16 Bloody Sunday. In Selma, Alabama there were hundreds of
17 activists, both black and white, who marched across the
18 Edmund Pettus Bridge and were met with violence, were
19 assaulted in their efforts to march to see that all
20 Americans, including blacks, had the right to vote. And
21 Bloody Sunday is ultimately in large part what prompted
22 Lyndon B. Johnson to sign the Voting Rights Act into
23 law.

24 And the Voting Rights Act today plays a very
25 important role in ferreting out voting discrimination.

1 Its strong provisions proved to be precisely the kind of
2 medicine that our democracy needed to begin to unroot
3 discrimination root and branch, and it's played a very
4 important role in redistricting cycles over the course
5 of the last several decades, and will again play a very
6 important role in safeguarding the rights of minority
7 voters as we go into the next round of redistricting.

8 So I wanted to kind of provide that backdrop
9 just so we all kind of understand how we got to the
10 place where we are today, and now kind of turn attention
11 to some of the provisions of the Voting Rights Act that
12 are core and, indeed, play a very significant role in
13 redistricting our country.

14 Section two of the Voting Rights Act is
15 considered in some respects to be one of the most
16 important provisions of the Act. And you've heard some
17 about it already. Section two of the Act, it applies
18 nationwide. It applies here to the state of California
19 and requires that officials, to the extent possible,
20 draw plans that do not dilute minority voting strength.

21 In 1982 congress amended Section two
22 incorporating what we know to be a result standard into
23 the Act. Meaning that prior to that, courts had
24 interpreted Section two to require a showing of
25 discriminatory purpose. And congress made it clear in

1 1982 that if you can show that a voting change,
2 including a redistricting plan, has a discriminatory
3 affect, then that's something that is also actionable
4 under Section two.

5 The language of Section two today requires
6 consideration of both discriminatory intent and effect
7 and prohibits practices "imposed or applied in a manner
8 which results in a denial or abridgement of the right to
9 vote." This result standard has remained in place and
10 was untouched during congress' most recent 2006
11 reauthorization of the Act.

12 In 1982, the supreme court first interpreted
13 and applied the amended version of Section two in a case
14 that's fairly seminal called Thornburgh versus Jingles
15 (ph). This is a case in which the Court identified and
16 laid out the tests that must be satisfied by plaintiffs
17 in Section two litigation. Plaintiffs must show, one,
18 that the minority group is sufficiently large and
19 geographically compact to constitute a majority in a
20 single member district. That's called the compactness
21 requirement, for short.

22 Plaintiffs in Section two cases must also show
23 that the minority group is politically cohesive, meaning
24 the minority voters in whatever contested region it is
25 that you're looking at tend to vote in similar ways,

1 tend to support similar candidates, tend to take similar
2 positions on issues. And three, they must show that the
3 majority, the non-minorities in whatever contested
4 region it is that you're talking about, tend to vote as
5 a block, enabling it usually to defeat the minority's
6 preferred candidate of choice.

7 In addition to what we call those Jingles'
8 preconditions, those threshold factors that have to be
9 satisfied, the Court also identified a number of other
10 considerations that may help illuminate whether a voting
11 change or redistricting plan harms minority voters. And
12 those factors include looking to see, for example,
13 whether minority voters more so than others experience
14 socioeconomic discrimination, whether there was a
15 history of official discrimination that animates the
16 backdrop against which the contested practices or plan
17 was adopted, whether there is a history of racial
18 appeals in political campaigns that happen in the
19 region. And all of these are factors that can help a
20 court determine whether or not a voting change or
21 restricting plan disadvantages minority voters. And so
22 the Thornburgh versus Jingles case is a very important
23 case to understand in thinking about the role that
24 Section two plays in the redistricting context.

25 Over the course of the past decade there have

1 been a number of cases in which the supreme court has
2 helped us better understand the interpretation and
3 application of Section two, and I want to talk about
4 those cases briefly. The first such case, one of the
5 two cases that I want to focus on, is Barklin versus
6 Strickland. This is a case in which the supreme court
7 looked closely at that first Jingles' factor that I
8 mentioned earlier, the requirement that minority voters
9 show that they are geographically compact. And the
10 question in this case was whether minority voters must
11 show that they would constitute at least 50 percent of a
12 district in order to present a viable claim under
13 Section two.

14 So what do I mean by that. I mean that if you
15 had a redistricting plan, for example, that were
16 challenged because it did not put in place a majority
17 minority district, the Court essentially established in
18 Bartlett that minority voters who might wish to mount
19 some challenge would need to show that once they reached
20 the remedial phase of the litigation, that they could
21 show that they would represent at least 50 percent, a 50
22 percent numerical majority of the population in some
23 district that might be drawn to remedy any
24 discrimination that the Court may have found.

25 Some districts, often called coalition

1 districts or influenced districts, are ones that fall
2 beneath that 50 percent numerical majority requirement,
3 and are ones that the civil rights community and others
4 have viewed as very important in providing minority
5 voters opportunities to elect candidates of choice. The
6 lawsuit that was issued in this particular case is one
7 that arose out of the state of North Carolina. During
8 their last round of redistricting, the state made an
9 effort to preserve a district with a 39 percent voting
10 age black population. And the -- the challengers in
11 this case argued that there were other provisions in
12 North Carolina's State Constitution that they thought
13 should be adhered to before the state made an effort to
14 preserve this 39 percent black district.

15 Analysis revealed that the black voters in
16 this particular district, along with crossover support,
17 a reliable amount of crossover support from white
18 voters, had historically been able to elect candidates
19 of their choice. The litigants in this case argued that
20 a provision in North Carolina's State Constitution that
21 required that the legislature endeavor to the maximum
22 extent possible to keep counties whole, took precedent
23 over the state's desire to preserve this 39 percent
24 district.

25 And so the question essentially in this case

1 was whether majority minority district under Section two
2 means just that, a district that's at least 50 percent
3 or more minority in its population. The Court in this
4 case chose to adopt a bright-line rule and found that
5 majority minority district indeed means districts with
6 at least a 50 percent minority population. There is
7 some very important limitations on the Bartlett ruling
8 that I'd like to underscore for the panel. This is not
9 a case that serves as an indication to jurisdictions to
10 dismantle districts that may have less than 50 percent
11 minority populations.

12 The Court essentially said that plaintiffs in
13 future cases need to satisfy this threshold requirement,
14 but this certainly isn't an invitation to dismantle
15 coalition and influence districts. And, in fact,
16 there's very strong language from the Court in the
17 Bartlett ruling that makes clear that such actions could
18 be interpreted as ones motivated by discriminatory
19 purpose in that those kinds of actions or endeavors to
20 dismantle coalition and influence districts could invite
21 challenges under Section two of the Voting Rights Act.

22 Moreover, the supreme court made clear that
23 state legislatures and other bodies remain free to
24 create coalition and influence districts because they
25 recognize the affirmative opportunities provided -- that

1 they provide to minority voters to elect candidates of
2 their choice. So the supreme court seems to recognize
3 that this is a very good thing for our democracy, and I
4 think it's something for you to be mindful of as we go
5 into this next round of redistricting. And there's some
6 language from the supreme court that I think is worth
7 highlighting here. The opinion was authored by Justice
8 Kennedy who observed "racial discrimination and racially
9 polarized voting are not ancient history; much remains
10 to be done to ensure that all citizens of all races have
11 equal opportunity to share and participate in our
12 democratic processes and traditions."

13 So this is a very recent observation from this
14 supreme court that recognizes that discrimination is
15 something that we continue to wrestle with as a nation,
16 recognizes that racially polarized voting is not a thing
17 of the past; that there are many communities throughout
18 the country in which minorities and non-minorities vote
19 different ways. And I think that's something to be very
20 sensitive to as we go into this next round of
21 redistricting here in the state of California.

22 Another very important case to come down from
23 the supreme court over the course of the last decade
24 that interprets Section two of the Voting Rights Act is
25 a case called League of United Latin American Citizens

1 verse Perry. LULAC versus Perry for short. Here the
2 supreme court clarified that partisan justifications are
3 not acceptable explanations for minority dilution. That
4 you can't hold up a partisanship as a reason for
5 dismantling or diluting minority voting strength.

6 In LULAC the Court found that the state
7 legislature in Texas wrongfully dismantled a voting
8 district that contained substantial numbers of
9 politically cohesive Latino voters who were growing in
10 size and becoming better poised to exercise their
11 increased voting strength. The supreme court emphasized
12 the fact that it was only when Hispanics had organized
13 into a cohesive group and gained in population enough to
14 defeat the incumbent that the state chose to divide
15 them. The Court found that these actions almost rose to
16 the level of an equal protection violation in its eyes.
17 In addition, the Court rejected the state's proposed
18 substitute for the elimination of this viable minority
19 district, one that would have combined two disconnected
20 Hispanic communities located miles apart.

21 The Court determined that this tradeoff did
22 not offset the resulting vote dilution in the district
23 in question because both the distance between the two
24 Hispanic communities that were joined and the
25 differences in their "needs and interests" were

1 substantial and notable in their eyes. LULAC versus
2 Perry clarifies that state legislatures can't resort to
3 certain purported redistricting criteria such as
4 incumbency protection to justify dilution of minority
5 voting strength. Jurisdictions must -- and line
6 drawers, must be vigilant in their efforts to comply
7 with the Voting Rights Act during redistricting, and
8 officials will not be able to merely point to
9 traditional redistricting principles as an excuse for
10 their failure to do so. Moreover, courts will look very
11 closely at efforts to divide and substitute viable
12 minority opportunity districts, even those replaced by
13 districts that on their face may appear to preserve
14 minority electoral opportunities.

15 The Court, the supreme court, is no exception.
16 It has been very careful to conduct very fact-intensive,
17 context-specific analyses of districts that are
18 challenged in voting rights cases to figure out whether
19 the changes are ones that truly disadvantage minority
20 voters. So something that may seem okay on its face may
21 not be immune from a finding of liability by the Court,
22 and certainly not by the supreme court.

23 I want to talk now very briefly about some of
24 the dangers that we have encountered routinely and
25 historically in the redistricting process in thinking

1 about the ways that minority voters can be
2 disadvantaged. The dangers of packing and cracking are
3 ones that are always of heightened concern. While there
4 are a number of ways in which a redistricting plan might
5 be found to dilute minority voting strength, some of the
6 most common pitfalls often involve packing and cracking.

7 Packing is a term used to refer to the act of
8 compressing minority communities into a small number of
9 districts. Packing can occur, for example, when
10 districts are created with unnecessarily high minority
11 populations. This kind of packing might be found to
12 violate Section two when, for example, more majority
13 minority districts could be drawn if the minority
14 population were not unnecessarily concentrated and
15 instead spread out more evenly and fairly across
16 districts.

17 Here, the central part of the inquiry is
18 looking to determine the point at which minority voters
19 are able to exercise the ability to elect candidates of
20 choice. And here there's no magic number.
21 Determinations about the viability point for our
22 districts are ones that must be made on a case-by-case
23 basis, as various factors impact the ability to elect,
24 including the presence of racially polarized voting, and
25 the level of racially polarized voting may be different

1 in Sacramento than it is in San Francisco than it is in
2 Los Angeles, for example. Packing minority voters into
3 a district well above the point of viability could
4 expose a redistricting plan to challenge under Section
5 two.

6 The terms cracking, fracturing, or splitting
7 are used to refer to the act of spreading cohesive
8 groups of minority voters across a large number of
9 districts. For example, cracking can occur if two
10 districts are created that have 30 percent Latino
11 population in each if a court were to determine that at
12 that level of 30 percent, the Latino voters do not have
13 a meaningful opportunity to elect candidates of choice
14 and that it were, indeed, possible to draw a district
15 that combined the Latino population into a single
16 district where they would have a meaningful opportunity
17 to elect candidates of choice.

18 Both packing and cracking are illustrative of
19 the ways in which redistricting plans can be found to
20 dilute minority voting strength and deny minority voters
21 an equal opportunity to elect candidates of their
22 choice.

23 I want to also talk about the dangers of
24 racially polarized voting. This, again, goes back to
25 that third Jingles' prong that I referenced earlier and

1 is often one of the most important factors that courts
2 look to in voting -- in voting cases. The underlying
3 focus of the third Jingles' prong is to determine, for
4 our purposes, whether a redistricting plan interacts
5 with high levels of racially polarized voting making it
6 difficult for the minority voters in the contested
7 regions of that redistricting plan to participate
8 equally in the political process.

9 To that end, the third Jingles' factor
10 inquires whether there's some consistent relationship or
11 significant correlation between a voter's race and their
12 voting preference in elections, leading to non-minority
13 voters generally being able to vote as a block and
14 defeat minority voters preferred candidate of choice.
15 The question of whether racially polarized voting exists
16 in a given jurisdiction or in a particular area of a
17 redistricting plan that may come under scrutiny is best
18 answered by statistical analysis of election data to
19 determine whether non-minority voters in some area vote
20 differently from minority voters. The preferred
21 candidate among minority voters need not be minority,
22 rather the key question is whether minority voters are
23 politically cohesive in their support for a particular
24 candidate.

25 Political cohesion is generally when the

1 members of a protected minority group tend to vote
2 consistently or regularly for a clear identifiable
3 candidate of choice. In the course of litigation,
4 plaintiffs generally would rely upon political
5 scientists and statisticians to measure the level of
6 racially polarized voting in a contested jurisdiction
7 while courts make the ultimate determination about
8 whether that polarization level is of legal
9 significance. Comparing the precincts or districts
10 containing high percentages of non-minority voters, a
11 process that's called homogeneous precinct analysis, has
12 proven to be a particularly useful way to analyze voting
13 patterns. Ecological regression analysis, which
14 determines the correlation between race and voting
15 preference by examining voting patterns in all
16 precincts, regardless of their particular racial
17 composition, has proven to be another helpful
18 methodology. Comprehensive exit polling conducted as
19 voters leave polling sites is also proven to be a
20 reliable indicator of voting patterns in a jurisdiction;
21 although, experts kind of differ on the merits of that
22 approach.

23 All of this to say that these analyses, again,
24 are very complex, very context specific, and that an
25 effort and endeavor to draw a redistricting plan that

1 fairly reflects the minority voting strength of a
2 community of a state and a plan that would avoid packing
3 and cracking needs to involve a very careful and
4 specific expert analysis of voting patterns to figure
5 out what are the levels of racially polarized voting
6 that exist throughout the state. So that's Section two
7 of the Voting Rights Act.

8 And I want to turn to another provision of the
9 Act that applies here in California and will impact
10 redistricting choices made in those jurisdictions where
11 it applies, and that's Section five of the Voting Rights
12 Act. Section five of the Voting Rights Act is often
13 regarded as the heart of the Act. It's a critical
14 provision of the Act that requires covered jurisdictions
15 to submit any change that impacts voting, including
16 redistricting plans for federal preclearance. And those
17 changes or plans are reviewed administratively by the
18 U.S. Department of Justice or judicially by the DC
19 District Court.

20 More often than not, most jurisdictions submit
21 their changes in their plans to the Justice Department
22 because that's a review that generally must be completed
23 by statute within 60 days. It's a cheaper and faster
24 process than litigating in courts; however, during the
25 last cycle, we saw some jurisdictions such as the state

1 of Louisiana that opted to go to the DC District Court
2 for review.

3 Section five of the Voting Rights Act applies
4 to four counties here in California, which means that
5 the statewide redistricting plan is one that will have
6 to be precleared and reviewed by the Justice Department.
7 There's a very important case that was heard by the
8 supreme court last year, Northwest Austin Municipal
9 Utility District Number One versus Holder, that touches
10 upon Section five, and so I want to talk very briefly
11 about that.

12 The plaintiffs in this case were seeking to
13 exempt themselves from Section five coverage through
14 what's known as a bail-out. The defendant interveners
15 on the other side of the case, which included my
16 organization and many others, argued that the statute
17 clearly didn't allow this small utility district to seek
18 preclearance. The language of the statute made it
19 fairly clear that only states and counties could seek to
20 exempt themselves from Section five's coverage.

21 So in the alternate, the plaintiff in this
22 case argued, well, if the Court were to find it
23 ineligible to seek bail-out, it asked the Court to turn
24 its attention to the constitutional question in the
25 case, and they argued that Section five was

1 unconstitutional; that it was an impermissible exercise
2 of congressional power under the 14th amendment,
3 essentially that we've reached a new day and that
4 Section five's protections no longer remain necessary.
5 These are arguments that we have heard before and that
6 have been dismissed by the supreme court in the past.

7 This summer the supreme court issued a ruling
8 that left Section five intact. It adopted a new
9 interpretation of the kinds of jurisdictions that could
10 bail-out and allowed this small political subunit to
11 exempt itself from Section five coverage, which means
12 that Section five remains intact. And I flagged this
13 case because it's one of the most important voting
14 rights cases to come before the supreme court in many
15 years. Most importantly, it leaves Section five intact,
16 and thus must be something that officials and line
17 drawers are mindful of as we go into the next round of
18 redistricting.

19 And I want to talk about why the Court's
20 judgment was -- was the right one, and why having
21 Section five's important protection in place today isn't
22 necessarily a good thing, particularly in a place like
23 California. Section five of the Voting Rights Act
24 successfully blocks and detours voting discrimination at
25 the outset. You recall at the very beginning I

1 mentioned some civil rights laws that were passed by
2 congress prior to the adoption of the Voting Rights Act
3 of 1965 that proved ineffective in dealing with the
4 problem of voting discrimination. And the great thing
5 about Section five is that its preclearance requirement
6 means that before jurisdictions get the opportunity to
7 put something into effect, to put a redistricting plan
8 into effect, they have to get that check, that review to
9 make sure that it's one that will not discriminate
10 against minority voters. So it doesn't give the
11 discrimination an opportunity to take root. The
12 preclearance process has helped blocked hundreds of
13 instances of voting discrimination over the course of
14 the last ten years, and I would like to highlight some
15 examples.

16 Section five has blocked and detoured voting
17 discrimination of all kinds. It's blocked efforts to
18 move polling sites to locations deemed hostile by
19 minority voters. It prevented the adoption of
20 redistricting plans that eliminate majority minority
21 districts or reduce the minority population percentages
22 of districts to levels that would make it more difficult
23 for minority voters to continue electing candidates of
24 their choice.

25 Section five has prevented efforts to cancel

1 elections at the moments where significant numbers of
2 minority candidates are qualifying to run. Section five
3 has prevented efforts to move from single member
4 districts to an at-large method of election. It's
5 prevented the adoption of majority vote requirements for
6 certain elected positions where it's shown that that
7 could disadvantage minority voters. And in the
8 redistricting context, I thought I would just highlight
9 two fairly stark examples that came out of the last
10 redistricting cycle, statewide redistricting plans that
11 were blocked or prevented from being put into place
12 because of the protections afforded by Section five.

13 In Louisiana, the state adopted a plan for its
14 legislative house that eliminated a majority black
15 district in Orleans Parrish, and they argued that the
16 change was necessary because they were seeking to
17 preserve proportional representation of white voters in
18 the New Orleans area. The Justice Department conducted
19 a statewide review of their plan, as they do with all of
20 their plans, calculated the number of opportunity
21 districts under the benchmark or the existing plan,
22 found that the proposed plan reduced that number,
23 particularly with the outright elimination of a district
24 in the New Orleans area, found that the state officials
25 were almost clear in their objectives by proffering this

1 explanation of wanting to preserve proportional
2 representation of why it's opposed Louisiana's efforts.
3 And ultimately on the eve of trial, about two or three
4 days before the case was set to go to trial before the
5 DC District Court, the state reversed course and
6 restored the minority opportunity district to the New
7 Orleans area.

8 The Justice Department's position in this case
9 wasn't that, you know, that they had to maintain that
10 district. They would have avoided opposition from the
11 Justice Department if that district were substituted and
12 replaced by something else in the state, but here it was
13 an outright elimination. It's the kind of action you
14 generally don't see by states. Generally we're dealing
15 with problems of looking at reductions in minority
16 population percentages to see if they are significant or
17 not, but here it was a fairly kind of clean, clearcut
18 issue where they were outright eliminating a district.
19 It's the kind of action that's generally barred and
20 prohibited by Section five, and an example of one good
21 way that Section five functioned during the last round
22 of redistricting.

23 Earlier there was a question about
24 redistricting Commissions and their role during the last
25 redistricting cycle. The state of Arizona is another

1 place that has an independent redistricting Commission
2 in place. And during the last round of redistricting,
3 the plan that they produced was one that drew an
4 objection by the Justice Department under Section five.
5 The 2000 census data for the state of Arizona indicated
6 that they had a population that was 25 percent Hispanic,
7 about 5 percent Native American, and 3 percent African
8 American. And the Justice Department, after very
9 careful review of the legislative plan adopted by the
10 independent Commission there, encountered several
11 problems with the plan.

12 There was one -- and I'll just note some of
13 the problems that formed the basis for the Justice
14 Department's objection in this instance. The Justice
15 Department found that the Arizona Independent
16 Redistricting Commission had not met its burden of
17 establishing that minority voters will be able to elect
18 candidates of choice in five particular districts. In
19 one district they found that a reduction that moved one
20 particular district from 51 -- from 65 percent to 51 or
21 2 percent was a stark and significant enough reduction
22 that it eliminated the opportunity to elect among
23 Hispanic voters in that particular area. And in another
24 area of the state they found that 43 percent Hispanics
25 would not maintain the ability to elect. And there were

1 several other defects observed by the Justice Department
2 with its plan, but you know, this is just another
3 example of the way that Section five has worked to
4 prevent discriminatory redistricting plans from taking
5 root, and I guess a very important example of why
6 compliance with Section five and understanding how --
7 how to comply with Section five is so very important as
8 we go into this next round of redistricting.

9 Section five is a very carefully designed
10 statute. It doesn't apply nationally. It applies to
11 certain parts of our country, 16 states in whole or in
12 part where the history of discrimination is significant
13 and where dealing with the problem of voting
14 discrimination has proven to be particularly stubborn.
15 It's not a permanent law. It's temporary. And it's
16 provisions were -- were due to expire most recently in
17 2006. Congress convened in 2006, close to two dozen
18 hearings, heard testimony from close to 100 witnesses
19 and compiled an extensive congressional record that was
20 more than 25,000 pages in length detailing and
21 describing ongoing and contemporary problems of voting
22 discrimination all around the covered jurisdictions,
23 including the state of California. And at the end of
24 the day that process resulted in a vote of 98 to 0 in
25 the senate; 98, almost a unanimous view among U.S.

1 senators, including the two from the state of
2 California. I believe the finding concluded that
3 Section five's strong medicine remains necessary to deal
4 with the problem of discrimination. That bill was
5 signed into law by then President Bush.

6 Section five is not static. It has a bail-out
7 provision that I mentioned earlier, and a bail-in
8 provision, meaning that there are ways to capture
9 jurisdictions that have new histories of discrimination
10 that may not have existed before, and there's a way for
11 those jurisdictions that have a clean slate, a clean
12 bill of health, to move to exempt themselves from
13 Section five's requirements. And Section five doesn't
14 apply to all laws. It applies only to laws that impact
15 and touch on voting, including redistricting plans.

16 So for those reasons, Section five is proven
17 to be a very carefully designed statute that has been
18 repeatedly recognized by the supreme court as exemplary
19 legislation for dealing with the problem of voting
20 discrimination in our country.

21 There is, of course, the ruling which I talked
22 about earlier which leaves Section five intact, and I
23 want to mention very briefly some more recent, other
24 instances where the supreme court has recognized the
25 important role played by Section five. In a 2000 case

1 called U.S. versus Morrison, the supreme court stated
2 that Section five is a proper example of the exercise of
3 congressional power. In a 2001 case, Board of Trustees
4 of the University of Alabama versus Garrett, the Court
5 stated Section five is a detailed but limited remedial
6 scheme. In a 2006 case, LULAC versus Perry that I
7 mentioned earlier, the Court found that compliance with
8 Section five constitutes a compelling state interest.
9 And on prior occasions, in 1980 and 1968, the supreme
10 court rejected outright efforts to constitutionally
11 strike down Section five. So Section five's very
12 important protections remain in place as we go into the
13 next round of redistricting, which I think is a very
14 good thing for all voters in California and in the other
15 covered states where it applies.

16 There's some other provisions of the Voting
17 Rights Act that I'm not going to talk about extensively
18 that have some bearing, some relevance. Section two of
19 the -- 203 of the Voting Rights Act deals with minority
20 language requirements. So one thing that will be very
21 important is to figure out whether this places any
22 obligations or restrictions on the next round of
23 redistricting. The minority language requirements of
24 the Voting Rights Act requires certain areas where its
25 provisions applied to make sure that all

1 election-related materials, not just the ballots but any
2 mailings that may be distributed, any ballot initiative
3 language, that these things be made available in
4 languages that would allow other minority groups to
5 meaningfully participate in the process.

6 And while I'm not prepared to offer a view on
7 Section 203's role during the upcoming round of
8 redistricting, I do think it's very important to be
9 mindful of the various minority language groups here in
10 the state of California, and mindful of the need for
11 them to be able to participate in the process,
12 regardless of the language of their preference.

13 There's also provisions in the Voting Rights
14 Act that deal with election day access and voter
15 intimidation, and I want to highlight a few examples
16 just because they help illustrate the various groups
17 that are provided protection by the Act's provisions.
18 In Hamtramck, Michigan in 2003, there were allegations
19 of efforts to lock out Arab Americans. I think we
20 typically think about the Voting Rights Act as providing
21 protection for African Americans and Latinos. It also
22 provides protections for Native Americans, Asian
23 Americans, and here's an example of one way that the Act
24 has worked to protect Arab Americans. In Hamtramck,
25 Michigan, an anti-Arab group had assembled to challenge

1 persons who looked Arab American, or had Arab American
2 sounding names on election day. Those voters were
3 required to present proof of citizenship, intimidated,
4 and many of them turned away. And the Justice
5 Department intervened in this case to prevent the
6 intimidating activity and to deploy hundreds of
7 observers to monitor elections in Hamtramck, Michigan to
8 ensure that Arab Americans would have equal access to
9 the ballot box.

10 So there was a question earlier about whether
11 the Act applies to Native Americans, and I wanted to
12 make sure that it's clear that the Act really provides
13 very robust provisions that ultimately protect and
14 provide access for minorities of all stripes throughout
15 our country.

16 Now, a very general point that I want to
17 briefly mention is that Section two litigation, Section
18 five litigation, these cases can be incredibly complex
19 and costly and time intensive and protracted. There
20 have been studies done looking at cases that have been
21 filed in federal courts ranking them by range of
22 complexity, and voting rights cases have ranked number
23 four as the most complex kind of case ever filed. You
24 know, they are typically and generally filed in federal
25 courts. And I think that's important to note in helping

1 to underscore why it's so important to bring to the
2 redistricting process a real understanding and
3 appreciation for the role that the Act plays and the
4 requirements imposed by all of the Act's various
5 provisions.

6 Now I want to wrap up and close by talking
7 about the role of diversity in the redistricting context
8 and why thinking about diversity as an important
9 principle is so very important. Again, our country has
10 engaged in a very long struggle to achieve the right to
11 vote, and redistricting plans are really what give
12 meaning to that right to vote. Plans that dilute or
13 deny individuals an opportunity to have a meaningful
14 vote at the end of the day, negate the value of the
15 vote.

16 If racial block voting is present and minority
17 voters are fractured across districts, they will not
18 have the equal opportunity to elect candidates of
19 choice, and minority voters will be left without
20 representation, which is a danger that I think we all
21 seek to avoid in the redistricting process.

22 Again, it's not about electing, you know,
23 preserving an opportunity for black voters to elect
24 black candidates or Latino voters to elect Latino
25 candidates. It's about making sure that all voters have

1 an equal opportunity to elect candidates of their
2 choice, whatever they may look like.

3 Some of the other benefits of diversity that I
4 think -- some of the residual benefits that are worth
5 noting are checks and balances. Having a process that
6 is representative where the line drawers reflect the
7 great diversity of a state, you know, is extremely
8 important in getting the buy-in of communities and
9 getting communities to, you know, be more likely to
10 stand behind a plan at the end of the day. I think
11 where people kind of see a decision-making process where
12 they feel their voice has been excluded, that you are
13 likely to run the risk of less buy-in and more
14 inclination that you will have voter citizens looking to
15 challenge that plan, which I think is something that we
16 all seek to avoid.

17 The United States, as we all know, enjoys a
18 reputation of being a world-class democracy, and this
19 status and progress is largely traceable and has been
20 achieved in great part because of the protections
21 afforded by the Voting Rights Act. So I think it's very
22 important that officials, decision-makers, line drawers
23 bring to the table a real understanding and appreciation
24 for the Voting Rights Act. States like California, I
25 think, are especially under the microscope, given how

1 large it is, how populous it is, and given that is
2 really reflects the growing diversity of our nation. I
3 think all eyes will be on California during this next
4 route of redistricting, and in particular who's at the
5 table, who are the decision-makers, who are the ones
6 redrawing the lines. Many will be looking to California
7 to produce plans across the board, not just at the state
8 level, that reflect the political reality that we are
9 becoming an increasingly diverse nation.

10 And in thinking about the role that race
11 should play in the redistricting process, there's some
12 points that I really want to underscore. Race
13 consciousness in the redistricting process is not by
14 itself illegal. In fact, a colorblind approach to
15 redistricting could invite the very kind of voting
16 rights litigation that might otherwise be avoidable. We
17 need to be race conscious to ensure compliance with
18 Section five to avoid liability under Section two, and
19 to really produce meaningful plans that reflect the
20 diversity of communities around the state. There is a
21 case, Shaw versus Reno, a ruling by the supreme court
22 that identifies what constitutes an illegal
23 consideration of race.

24 The Shaw versus Reno ruling essentially states
25 with a proposition that race should not be the sole

1 criteria, and you know, race alone is considered
2 alongside other factors is certainly something that has
3 been permissible post Shaw versus Reno. Colorblindness
4 is not only inappropriate, it is of course impossible.
5 We redistrict using population data that reveals
6 detailed demographic -- demographic data down to the
7 block level reveals very detailed racial make up, gender
8 make up of communities. So any hope or expectations
9 that we could be colorblind in our approach to
10 redistricting, would be a fallacy.

11 I close by this, diversity and
12 representativeness are key. And at the end of the day,
13 I think that the redistricting plans that emerge from
14 this process will provide a measuring stick about how
15 successful we are in working to achieve a diverse and
16 representative democracy that reflects the real make up
17 of our nation. So I'll close there and welcome any
18 questions that you might have.

19 MR. AHMADI: Thank you so much. Very
20 informative. At this point I would like to ask the
21 audience if you have any questions, or the panel
22 members, of course. We have one question here, please.

23 UNIDENTIFIED SPEAKER: Ms. Clarke, thank you
24 very much for a very enjoyable and educational
25 presentation. I wonder if you would be willing to share

1 with us, given the assumption for the moment that the
2 Commission will be made up of a group of individuals who
3 are representative of the state's diversity, what you
4 think the key skills, capabilities, or experiences of
5 the 14 Commissioners who will be drawing these lines
6 will be with an interest of implementing the Voters
7 Rights Act as efficiently as possible, (inaudible).

8 MS. CLARKE: For one, I think of course
9 bringing an understanding and appreciation for the role
10 of the Voting Rights Act is key, and understanding that
11 this is an incredibly complex law, but because of that
12 complexity, a very successful federal civil rights law.
13 It's very important and we need to bring its strong
14 medicine to bear in the redistricting process. So I
15 think that is certainly key.

16 I think it's very important also to make sure
17 that we give ourselves some discretion and latitude. I
18 observed in a number of places around the country kind
19 of scramble to adopt rules and restrictions and
20 redistricting criteria that will, in my view, lock the
21 hands of line drawers at a time where they need great
22 flexibility to make sure that they can truly comply with
23 the federal requirements, one person, one vote, and the
24 federal requirements of the Voting Rights Act. So I
25 think there are many skills and criteria that need to be

1 brought to bear, but certainly those are two things I
2 think are paramount.

3 MR. AHMADI: The gentleman here.

4 UNIDENTIFIED SPEAKER: You mentioned that the
5 Section five applies to four counties in California, but
6 I thought I heard you say that the Justice Department
7 would end up reviewing the entire plan. Now why would
8 that be?

9 MS. CLARKE: Well I should make that clear.
10 The whole plan must be submitted for the department to
11 conduct its review. It wouldn't be possible to just
12 piecemeal and submit those parts of the plans that apply
13 to the four covered counties, but its analysis would be
14 focused on the impact on minority voters in those four
15 counties.

16 MR. AHMADI: The lady in the back, please.

17 UNIDENTIFIED SPEAKER: If I understood it
18 right, you said that over time, Section five could
19 either add areas or take areas away from having special
20 considerations. I'm wondering if you have been be able
21 to see a trend in there being more areas added to that
22 list or less areas added to that list over time.

23 MS. CLARKE: Those provisions of the Act,
24 again, are known as the bail-out and bail-in. Bail-out,
25 of course, are those jurisdictions that have moved to

1 exempt themselves from coverage, and bail-in are
2 jurisdictions that have moved to come in. And there
3 certainly have been more instances of jurisdictions
4 being bailed out. There are a number of jurisdictions
5 throughout Virginia, pending bail-out requests from
6 jurisdictions in Georgia and other places, but we've
7 seen a trend of more bail-outs happening than bail-ins.

8 UNIDENTIFIED SPEAKER: Is that a good thing or
9 a bad thing?

10 MS. CLARKE: I think that the flexible
11 approach about Section five is a point that I wanted to
12 underscore there. There have been some opponents to
13 Section five that have argued, well things have changed.
14 And I think that we all acknowledge and recognize the
15 progress, and the Act has a way of responding to that
16 progress by permitting those jurisdictions that have
17 clean bills of health to move to exempt themselves from
18 the unique requirements of Section five.

19 UNIDENTIFIED SPEAKER: Thank you.

20 MR. AHMADI: I think I saw another hand here,
21 before I get to you, ma'am. Do you still have a
22 question, because you were first up. You can go ahead.

23 UNIDENTIFIED SPEAKER: The sense I got from
24 the cases you described was that when the litigants were
25 looking at what occurred in the redistricting, they

1 compared (inaudible). So there was a kind of, here's
2 what we had, for some reason that was good, now I'm
3 looking at why this one is better or different or
4 doesn't violate anything.

5 Is it always done in that manner, or in the
6 case of what we may be doing here, which is a major
7 change across the state that you -- that the litigants
8 can look at from a perspective of, I've got a big
9 problem to deal with as opposed to the minuteness of one
10 little area.

11 MS. CLARKE: That's a very good question, and
12 helps underscore a very important point. Section five
13 is a limited role in the redistricting context. It just
14 prevents backsliding. It says that you can't make
15 things worse than what they are presently. So if, for
16 example, in the covered jurisdictions there were three
17 minority districts that provided a real opportunity to
18 elect to the minority voters in that region, the state
19 could not propose a plan that only maintained two
20 districts or two and a half, two and a district where it
21 would be a gamble. They'd have to preserve at least
22 three.

23 Section two functions very differently.
24 Section two is a way for litigants to bring affirmative
25 litigation that might result in the creation of new

1 opportunities where none have ever existed before. And
2 so for example, if there are places in California that
3 have experienced significant growth in their minority
4 population percentages and there were a plan that
5 resulted that didn't reflect that growth, plaintiffs
6 could potentially bring a Section two challenge there
7 that might result, if they were successful in a court,
8 drawing a new remedial plan that created new majority
9 minority districts where none existed before.

10 MR. AHMADI: Do you still have a question,
11 ma'am?

12 UNIDENTIFIED SPEAKER: Yes. Could you talk a
13 little bit about the four counties in California, as to
14 why they're -- they have been singled out for Section
15 five preclearance.

16 UNIDENTIFIED SPEAKER: What was the question?

17 MS. CLARKE: The question was about the four
18 counties here in California that are subject to Section
19 five. The four counties are Kings, Monterey, Yuba, and
20 is it Mercer [sic]?

21 UNIDENTIFIED SPEAKER: Merced.

22 MS. CLARKE: Merced. I always get that one
23 wrong. There have been efforts. I know that there was
24 some discussion during the reauthorization about
25 exempting Monterey County. Jurisdictions are subject to

1 Section five coverage based on a formula that looks at a
2 number of things. It looks at the -- at the time the
3 Act was passed, basically a snapshot of what was
4 happening in the jurisdiction. California was picked up
5 later subsequent to 1965.

6 Monterey County is an unusual situation.
7 There are significant military voting bases there, and
8 as a result, it throws off a snapshot of kind of whether
9 all eligible voters in that jurisdiction are
10 participating. I don't know whether there's talk in
11 Monterey County about moving to bail-out. I don't know
12 whether the Justice Department would oppose or support
13 their efforts to bail-out, but I do know that there is a
14 slightly unusual story there.

15 And the other jurisdictions are picked up
16 essentially because of the formula that underlies the
17 adoption of Section five. And that is identifying those
18 parts of the country that have had a real stubborn and
19 long history of intractable voting discrimination. Some
20 of them are areas where there were large numbers of
21 eligible voters who were weren't registered. Some of
22 these are areas that had prohibited tests or devices in
23 places like literacy tests and poll taxes. So there are
24 kind of a range of factors that explain how all or part
25 of the 16 states that are covered are covered today.

1 UNIDENTIFIED SPEAKER: Thank you.

2 MR. AHMADI: I think the gentleman in the back
3 had the hand up first.

4 UNIDENTIFIED SPEAKER: Not knowing the make up
5 of the four counties that are protected under Section
6 five, if there was a -- an inability to satisfy both
7 Section two and Section five, would the protective class
8 in Section five win out?

9 MS. CLARKE: That's an interesting question.
10 I think it's more helpful to look at Section two and
11 Section five as being statutes that operate in entirely
12 different ways. In both of your examples, the inquiry
13 is looking at what's happening with minority voters
14 there; are they disadvantaged. That's a consideration
15 across the board. But again, Section five only prevents
16 backslide, and Section two prevents affirmative
17 opportunities to achieve something that may not be in
18 place already.

19 UNIDENTIFIED SPEAKER: The cultural diversity
20 of California in San Joaquin County, I think there's,
21 like, 146 different races from all the Asian population
22 and the different Hispanic populations and whatnot, and
23 I can foresee trying to satisfy each one of those things
24 under Section two can completely put Section five in
25 jeopardy if -- because I live in San Joaquin County. I

1 -- and San Joaquin County isn't covered, but if Kings
2 County or Monterey County had a similar issue, I could
3 see how they could almost oppose each other.

4 MS. CLARKE: Well, again, we talked about the
5 role of experts in the process, and I think in diverse
6 communities it's very important to look at whether
7 minority groups across the board are politically
8 cohesive, whether they all kind of tend to vote in
9 similar ways. So I think that would be a starting point
10 for the inquiry. And I certainly don't view and hope
11 that it isn't the case that the Voting Rights Act
12 invites a kind of competition maybe suggested by your
13 example; that this, the Voting Rights Act, is really
14 about a way of promoting inclusive democracy and
15 providing a vehicle to make sure that all groups are
16 able to participate equally in the process.

17 MR. AHMADI: I think you had your hand up
18 first.

19 UNIDENTIFIED SPEAKER: Could you better define
20 quantitatively, I guess, what constitutes dilution. In
21 other words, you know, if a particular group suffers a 5
22 percent drop in their -- I guess their population or
23 their demographics for a particular reason, is that
24 dilution or is it 3 percent? 1 percent?

25 MS. CLARKE: Yeah.

1 UNIDENTIFIED SPEAKER: There's also the
2 opposite affect where it goes up so that you have a
3 greater concentration. It's the packing and cracking
4 problem.

5 MS. CLARKE: That's a very important question,
6 and again, I think gets at the very important role that
7 experts need to play in this process, and that's
8 figuring out where a reduction in a minority population
9 percentage of a district would be of consequence. You
10 may have an area, for example, where a district has
11 moved from 70 percent Latino to 58 percent, and where 58
12 percent of the Latino voters in this community are still
13 able to elect a candidate of choice, but in a different
14 state at 58 percent, those minority voters may be
15 wrestling with a higher level of racially polarized
16 voting, higher levels of block voting on the part of the
17 non-minorities such that that district would need to be
18 drawn at a higher level to preserve their opportunity to
19 elect.

20 So the short answer to your question is that
21 there is no easy way to answer that; that there is no
22 such thing as a magic number; that these are
23 determinations that have to be made on a case-by-case
24 basis really looking at what are the factors at play in
25 that community, what's the level of racial block voting

1 in that community. But all of those factors can help us
2 determine at what point you're providing minority voters
3 an opportunity to elect and at what point are you
4 stripping that away from them.

5 MR. AHMADI: We have a question from the lady
6 back here.

7 UNIDENTIFIED SPEAKER: It was a question that
8 was asked of the other gentleman this morning that
9 talked about voter rights issues. There are counties in
10 the central valley which have a lot of prisons and
11 migrant camps, which unfortunately have a higher
12 minority rate than they should, but it is what it is;
13 but it's a non-voting population. And with the migrant
14 camps it's, like, because of the crops, they will be
15 there in April for the census but not in November to
16 vote because they will have gone where the crops are.
17 But it drastically alternates the racial components
18 between what in many cases are a very rural kind of
19 communities or not urban areas but a sparsely populated
20 kind of area with a high influx of artificially
21 generated minorities on a census but not in the voting
22 records, which assumes that from the census that
23 although those people are voters kind of thing, and so
24 it's like how do you work out the communal needs of the
25 population that lives there versus the transitory

1 population that changes the stats. If that isn't so
2 confusing you don't understand.

3 MS. CLARKE: No. I am very glad that you
4 brought that up because, again, I think it really
5 underscores the importance of doing very case-by-case,
6 context-specific analyses to see what are the factors at
7 play in particular communities. There's just going to
8 be tremendous variance across the board. And so an
9 area, indeed, where you have non-voting minorities
10 inflating or kind of creating the appearance that
11 minority voters occupy a significant percentage of the
12 population to elect candidates of choice, it's going to
13 take an expert or somebody who kind of really
14 understands, you know, what are the issues in your
15 community to figure out what level you need to draw a
16 district to really provide minority voters an
17 opportunity to elect.

18 And there are debates unfolding all around the
19 country. New York, I know, is one of them about how to
20 count prison populations in census counts. And the
21 question of how prison populations should be treated in
22 the redistricting, I think, is another good question
23 that a lot of jurisdictions are wrestling with.

24 UNIDENTIFIED SPEAKER: Well part of the
25 problem I -- one of the reasons I ask is because our

1 district right now is a three hour drive from one end to
2 the other, which is no longer communal in any sense of
3 the word, but I guess racially it meets the criteria, it
4 meets one criteria that supercedes another criteria, I
5 guess. And so it's like you have people trying to
6 campaign in this long corridor where the people have
7 absolutely no continuity other than a profile that says
8 that this is how it was done.

9 MS. CLARKE: Yeah. Yeah. Yeah. I think -- I
10 don't think you are in kind of a unique position. I
11 think there are some voters who you may talk to in your
12 district who would describe your community differently,
13 but again, it also comes back to this point about really
14 making sure that line drawers and officials have a lot
15 of latitude and discretion because there are so many
16 competing interests that have to be juggled.

17 UNIDENTIFIED SPEAKER: I would like to see
18 where everybody has a voice that is probably
19 (inaudible). I'm not going to take up your time.

20 MS. CLARKE: Don't we all though.

21 MR. AHMADI: Ms. Clarke, I'm so glad that
22 those questions are not directed to me. Do we have more
23 questions from the audience? I have one last question
24 here from the gentleman.

25 UNIDENTIFIED SPEAKER: I don't want to

1 oversimplify this, what's going on here, but could you
2 explain to me in a simple term -- and I might have my
3 own opinion, but I would like your opinion -- why would
4 not a minority be able to vote on a person of his
5 choice? What would prevent anyone to vote for who they
6 want to vote for? Explain that to me, please.

7 MS. CLARKE: Well, the one thing I want to
8 make clear is that I talked earlier about the Jingles'
9 factors and looking to see whether minority voters are
10 politically cohesive. So really we're talking about
11 areas where when you closely examine what's happening,
12 the minority voters are indeed kind of cohesive and a
13 strong community and all together tend to vote and
14 support similar candidates. And the problem arises when
15 that exists along racial block voting where
16 non-minorities vote as a block to routinely defeat that
17 minority groups preferred candidates of choice. And
18 that's where the Voting Rights Act steps in and serves
19 as a remedy to that kind of discrimination that has
20 proven to be pervasive, not in all but in some
21 communities, around our country.

22 It's not about protecting the individual
23 voters, as you suggest, but it's about protecting group
24 of minority voters who are truly politically cohesive
25 and encountering, dealing with, wrestling with

1 discrimination.

2 UNIDENTIFIED SPEAKER: You're not stating in
3 any part that a minority is not going to be happy about
4 voting unless they can vote for a minority?

5 MS. CLARKE: Oh, no. In fact, I mentioned
6 earlier that it's about protecting the opportunity for
7 minority voters to have a shot at electing candidates of
8 their choice, be they black, be they white, be they
9 Asian, be they Latino. Making sure that all voters have
10 a meaningful opportunity to participate in our
11 democracy.

12 UNIDENTIFIED SPEAKER: That was true of our
13 new president. Who voted for our new president?
14 Everybody.

15 MS. CLARKE: Yeah.

16 MR. AHMADI: I said one last question, but I
17 think we can take one more question.

18 UNIDENTIFIED SPEAKER: I just was wondering if
19 there has been any discussion about how to mitigate the
20 fact that a lot of people are planning to not identify
21 their racial affiliation in this next census.

22 MS. CLARKE: There has been talk about this,
23 and this presents complex issues during every round of
24 redistricting. I know the Justice Department has
25 published guidelines in the past to help guide

1 jurisdictions on how to handle census data, read data,
2 how to put groups together for purposes of submitting,
3 you know, plans for review under Section five; and I
4 image they'll be reissuing those guidelines soon. But,
5 yeah. That's a very tough issue, and one that I think
6 will create a lot of questions and perplexities for
7 places like California because it's so diverse.

8 MR. AHMADI: Thank you so much, Ms. Clarke.

9 MS. CLARKE: You're welcome.

10 MR. AHMADI: We really appreciate it.

11 (Applause.)

12 MR. AHMADI: Before we move on to the next
13 agenda item, the presentation by Ms. MacDonald, we will
14 take a ten-minute recess, and we will be back at about
15 2:45.

16 UNIDENTIFIED SPEAKER: 2:30.

17 MR. AHMADI: 2:30. I'm sorry. Thank you.

18 (A brief recess transpired.)

19 MR. AHMADI: The meeting will come to order
20 now. We'll reconvene from our recess. I have the
21 pleasure to invite Karin MacDonald, the Director, and
22 Nicole Boyle, the analysts from Statewide Database &
23 Election Administration Research Center who will tell us
24 about the Redistricting Experiences, please.

25 MS. MacDONALD: Okay. Well, thank you very

1 much for inviting us. Is this working properly?

2 UNIDENTIFIED SPEAKER: Yes.

3 MS. MacDONALD: Okay. So thank you for
4 inviting Nicole and me to be here. We're with UC
5 Berkeley's Statewide Database, which actually is the
6 redistricting database for the state of California. And
7 if you go the next screen, we can start going through
8 this. I'm a walker, and so I will be walking around
9 pointing out the screens here, and you may want to keep
10 in mind that if you end up on the Commission, walking is
11 a really good way to stay awake late nights. It also
12 provides you with much needed exercise, which you will
13 need.

14 Okay. So the statewide database, again, it's
15 the redistricting database for the state of California.
16 We are located at UC Berkeley. We're off campus now.
17 We used to be at the Institute of Governmental Studies,
18 and now we are a part of UC Berkeley's Law School. And
19 Nicole and I have worked together for about 14 years.
20 Again, I'm the director, and Nicole has been working as
21 a GIS analyst. GIS stands for Geographic Information
22 Systems, which is merely a fancy word for a mapping
23 program.

24 Our redistricting experiences, however, beyond
25 just working at the database, extends to, actually,

1 working on redistrictings. And we have both worked on
2 the San Diego redistricting, so this morning when the
3 Chair of the Commission was talking about those Berkeley
4 people, he was actually talking about us. And we also
5 worked on the San Francisco redistricting. That was
6 also an independent redistricting Commission, and both
7 of these redistrictings were transparent and open to the
8 public in an absolutely unprecedented way in that people
9 could participate. From day one on, all lines were
10 drawn in public, and as you heard Ralph talk about it,
11 people really got engaged and people really did take
12 advantage of the fact that they could participate and
13 actually get their hands on software and have access to
14 consultants. And it was really an incredible
15 experience, but again, that walking around late night,
16 definitely that comes in handy. So you spend a lot of
17 time when you open the process up because people do
18 become interested and they do become engaged.

19 Nicole's also worked on the Arizona Commission
20 Redistricting and we've also worked on some other
21 redistrictings as consultants, but most of the time when
22 there was no redistricting going on, and that actually
23 is most of the decade, usually in years ending in '03 to
24 years ending in '09, unless you're in California where,
25 you know, this last decade it seems like we've been

1 dealing with redistricting nonstop because we've had it
2 on the ballot a couple of times and, you know, people
3 have been talking about how to reform it. So
4 essentially when there's no actual redistricting going
5 on, then what we do is we deal with data, and we will be
6 over-viewing the data and previewing some of the data
7 that everybody will be using in this upcoming
8 redistricting.

9 In this particular session, again, we'll be
10 talking about data, data used in redistricting. We will
11 provide a context for the qualifications of the
12 applicants that the Applicant Review Panel will look
13 for, and we're going to try to provide some realistic
14 examples for the application of those qualifications,
15 because when you look at the qualifications and you look
16 at the supplemental application, there are all kinds of
17 things that are there. Okay. You should be able to do
18 this and you should be able to do that, but really how
19 does that tie into actual redistricting. So I have been
20 thinking about this presentation and we hope to
21 illuminate the entire process a little bit so that this
22 all makes a little more sense.

23 And then finally, we're going to do a live
24 demo on how to move lines. And again, you heard the
25 Chair this morning, Ralph Pesquiera from San Diego, talk

1 about how, you know, this program came in and you could
2 actually see how the districts were built. And that is
3 actually something that not only the Commissioners have
4 always been able to appreciate, but also the public
5 because it's a pretty phenomenal way; and, you know,
6 thanks to computer technology where we can just actually
7 see the impact in terms of demographic changes
8 immediately. So immediately when you're -- when you're
9 suggesting a change, you can see what the impact is
10 going to be, not just on that district, but also on the
11 other districts.

12 So we'll show you how districts are
13 constructed.

14 UNIDENTIFIED SPEAKER: Can I ask you a
15 question. I'm confused. What do you mean by the second
16 point and the third?

17 MS. MacDONALD: I'm going to illuminate that,
18 so bear with me. And if I lose you or if I don't touch
19 on those points, then remind me. Okay. Thank you. So
20 let's go through what skills the Applicant Review Panel
21 will actually be looking for in these applications. And
22 this comes straight from the regulations. And if you've
23 looked at the application recently, there's some really
24 good documentation on the BSA (ph) website, on the We
25 Draw the Lines website. And basically I have just

1 grabbed some of the explanatory points and just
2 summarized them here a little bit.

3 So the first one is analytic skills. So what
4 does that mean in the context of redistricting. The
5 reds tell us that this includes the ability to
6 understand technical materials, including maps and
7 statistical information and resolve complex problems.
8 So we'll be talking about this with help of some
9 examples. There's the ability to be impartial. And
10 that includes the ability to evaluate information with
11 an open mind, make decisions that set aside personal
12 views and interests. And then finally there is an
13 appreciation for California's diverse demographics and
14 geography, understanding that California benefits from
15 having effective participation by persons of all
16 demographic characteristics. And those include race,
17 ethnicity, gender, sexual orientation, economic status
18 and so forth.

19 A very, very important point for everybody
20 here is that applicants do not need to be experts to be
21 selected. This only sounds a little daunting, but
22 nobody started redistricting as an expert. Okay. It
23 all can be learned. Everything here can be learned.
24 And even though it looks a little overwhelming, the most
25 important thing is to want to stick with it and just

1 hope and know that there's somebody who's going to walk
2 in that door who's going to illuminate all that stuff
3 and actually explain it to you. And that will happen.
4 I can guarantee you. Somebody will come in and explain
5 it. So if there's any questions, they will be resolved.

6 So let's start talking about data. We're
7 talking about our data set, the state of California's
8 redistricting data set. So what kind of data do we
9 have. What kinds of data do you use for redistricting.
10 Well, you use census data. That's how we start. The
11 census of course is collected every ten years. We're
12 just about to embark upon a new round of census
13 collection. And we also have electoral data. Beyond
14 data, beyond numbers, when you're redistricting, you're
15 talking about geography. So we're also including census
16 and electoral geography. And I will explain this
17 further in the next slides.

18 We have conversion files that we're going to
19 ignore for a moment because that's one of the those
20 really confusing things that you need in between
21 redistricting, but what we also make secondarily
22 available at the database site is data reports and maps,
23 redistricting and census news, court case archives, and
24 then some redistricting research. This is on our
25 website, and anybody is welcome to, of course, take a

1 look. All the data that are provided on this database
2 are free, public. Everything we have is completely
3 transparent. If there are questions, send us an e-mail,
4 call us, we will answer, we will explain.

5 Let's start with census data. So census 2000,
6 the last round of census, they used two forms. Did
7 anybody here get a long form? Anybody get a long form
8 that it took you about an hour to fill out? Nobody.
9 Okay. I got one, actually. I was really happy. So the
10 short form, that's the -- that's the questionnaire that
11 everybody got. So that was a two-pager. The short form
12 just asks for really basic demographic and housing
13 information, including age, sex, race and ethnicity,
14 number of people in the housing unit, and whether you
15 were a renter or owner. So every household, again,
16 received that form.

17 The long form was only sent to one in six
18 households, and I just honestly could not believe my
19 luck. It collected the same information as the short
20 form, but then it asked all kinds of other questions,
21 including income, education, citizenship, language
22 spoken at home and so forth. The long form data used to
23 be called the sample data, and the short form data used
24 to be called the 100 percent data or the 100 percent
25 sample. I'm telling you this because this is all good

1 information to know.

2 We're going into the next round of census now
3 and here's what happened. What's new is the 2010 census
4 will actually only use the short form. So everybody
5 will get or every household will get this two-pager that
6 just asks you very, very basic information. The sample
7 data are now collected so the one-in-six sample is now
8 collected in the American Community Survey, also called
9 ACS, instead of the long form. So no more long form.
10 What's old is that the short form data must be released
11 by the census bureau before April 1. And you have heard
12 Kristen talk about this and you have heard Justin talk
13 about this. And California always gets the census data
14 last. So it gets collected on April 1 this year, and
15 then they have one year to release all of the states.
16 We always get it the last day of March. Why? Because
17 they really like it when they can check states off of
18 their list to, you know, we've already released 50
19 percent of all of our states. Well, who you going to
20 release first, you know, the small ones of course. So
21 we're a big state, lots of data, so we get -- we get the
22 data last. And I should also say that this has to do
23 with legislative deadlines for redistricting because
24 these data are actually collected for redistricting.

25 Please fill out your census form. Just a

1 little note. There's a big effort underway right now to
2 get people to participate in the census. I'm sure
3 everybody here knows all of this, but it's really
4 important. There's very little money to do census
5 outreach and it's tremendously important. The census
6 data that we include, "we" the statewide database,
7 include in our data set and also basically the census
8 data set that gets released specifically for
9 redistricting purposes is known as the PL94171. Public
10 law 94171. It's a data set specifically released for
11 redistricting by the census bureau. It's the only data
12 set that's really released. The only 100 percent sample
13 that's released on the census block level. And I will
14 show you the geography that goes with this later.

15 Again, the data are directed in the decennial
16 100 percent count. The forms are sent to every
17 household in the U.S. versus the sample data from the
18 census that survey just a smaller part of the
19 population. Again, that used to be the long form, and
20 now it's the American Community Survey. The
21 demographics that are released on the PL94 include total
22 population. And remember we were talking about equal
23 population; you need total population to get your equal
24 population criteria. This is where you get it. Voting
25 age population. So 18 and above. And race and

1 ethnicity. Data are reported on the census block level,
2 and there are five detail tables that are released as
3 part of the PL94 data product.

4 So when we were talking about analytic skills,
5 just remember that one of the definitions in the regs
6 was ability to understand technical materials, maps, and
7 statistical data. And this is where you start running
8 into it, and it doesn't get a whole lot worse than this,
9 but it's a good idea to just familiarize yourself with
10 the terminology with the data that are released, how
11 they are released, and kind of what it looks like. That
12 doesn't mean there's going to be a quiz at the end of
13 this presentation. There's not going to be a quiz at
14 any time. You can always ask. You can always just go
15 over it again. There's a lot of documentation
16 available, and there's a lot of people you can ask about
17 this. But it's good to have seen it because that way
18 you know what's out there, and that way you can make a
19 good decision about what you want to use.

20 So when these data are released, we're getting
21 what's called five tables. So the first "table" -- that
22 is census terminology -- has a total population in reds.
23 The next table has Hispanic or Latino or not Hispanic or
24 Latino by race, and also total population. Then there
25 is race for the population of 18 and over, so it's

1 voting age population by race, and then the fourth table
2 is total population, voting age population for Latinos
3 and non-Latinos. And the last table is occupancy
4 status, so we're looking at housing units.

5 As you can further in the census terminology
6 -- so this was basically, like, the first page. The
7 first page was like, okay, here's these tables. This is
8 the data we're going to give you. So what does this
9 look like. Table one basically gives you a number for
10 what your total population is, and remember, it's by
11 census block. I'm going to show you some geography in a
12 second. So you will know what the total population by
13 census block is. You will know what the population of
14 one race is. So, white alone, black alone, and American
15 Indian and Alaskan Native alone, Asian alone. And when
16 we say "alone," we're basically talking about the fact
17 that in the census you can check multiple ethnicity or
18 races because people -- you know, we have -- we have
19 very multicultural neighborhoods, obviously, and people
20 here in the state of California, and we have more and
21 more multiracial -- just multiracial people. So they
22 are not forced anymore to just check one race or one
23 ethnicity. For example, if your dad is black and your
24 mom is white, you do not have to choose one over the
25 other, but rather you can, you know, choose both. And

1 you can also select an ethnicity. And for census
2 purposes, Latino, non-Latino, is considered an
3 ethnicity, not a race. So you can be black and Latino.
4 That means your race is black and your ethnicity is
5 Latino.

6 So then this basically gets repeated on the
7 next tables, and I don't want people's eyes to glaze
8 over, so we'll just go to the next table really quickly.
9 Table three basically repeats all of this. Table four
10 repeats it again, but this is an example for technical
11 documentation that if you are selected as a
12 Commissioner, you may have to take a look at, spend a
13 little time with it, familiarize yourself with it, and
14 start walking. Stay awake.

15 Okay. Next. The district building blocks.
16 Now we're going to census geography. So again, with
17 analytical skills you were told that it's a good idea to
18 be able to deal with maps to familiarize yourself with
19 geography. Well, census geography is something you will
20 be dealing with all the time because that is basically
21 how we put districts together. So census geography
22 consists of census blocks, block groups and tracts,
23 places -- that's a census term for cities -- and
24 counties.

25 Just to give you an overview of how California

1 has changed as far as the census is concerned in terms
2 of geography units, in 1990 California was divided into
3 5,874 census tracts and 400,000 blocks. In 2000 we had
4 7,049 census tracts and roughly 530,000 blocks. What
5 this means is when you are building districts, you look
6 at the population of these blocks and you're starting to
7 put them together. So looking at how many blocks we
8 have and how many tracts we have on which population is
9 reported, you know right here that you're not going to
10 draw a statewide plan of California in a couple of
11 hours. It's not happening. It takes a little longer.
12 And this is also when you start appreciating that we now
13 have computers.

14 This is what the geography looks like. When
15 you start getting the census data -- and this is
16 something you also get from us, obviously, at the
17 database, or you can get it from the census -- you
18 basically will just see this map that has lines on it.
19 And I'm just going to point out what these lines are.
20 Basically they're really -- this is -- the red line is a
21 block group, so it's basically a number of blocks put
22 together into one, what's called, unit of analysis. The
23 smaller lines here are blocks, city blocks. And what
24 you get with the PL94 data is population for each of
25 these tiny little census blocks. And when you're trying

1 to meet your equal population criteria and you're trying
2 not to go too much away from the ideal population, you
3 will select blocks and you will try to get as perfectly
4 as possible to that ideal number that makes that
5 district into a good district in terms of people
6 population. So there's a lot of clicking and pointing
7 and figuring out what goes in and what goes out.

8 This is also one of those technical
9 documentation things that I, you know, sometimes you
10 wonder do they want to scare us, but this is essentially
11 the hierarchy of geography that the census uses. So you
12 start with blocks, then you go up. They basically
13 perfectly nest in block groups, then you go up to census
14 tracks into counties and states and then the nation.
15 But essentially, data are available from different data
16 sets for all of these geographic units.

17 Okay. There is also election data that is
18 part of the statewide database. And why is that. We've
19 heard from both of the voting rights attorneys here that
20 for Voting Rights Act testing, you need electoral data
21 because you're going to have to do polarized voting
22 analyses and the likes, so data have to be collected
23 over time, and data have to be made available on the
24 same unit of analysis actually, the census data, because
25 otherwise you're dealing with these overlapping units,

1 and I will show you this in a second, and it makes it
2 very difficult to do an effective assessment.

3 So what we include in the database is SOR,
4 short for Statement of Registration, and the data
5 recorded includes the total registration, party
6 affiliation, sex, age, ethnicity, and language group.
7 And this is something that comes directly from the
8 voting registration form. Statement of vote data
9 recorded includes total vote, votes for candidates, and
10 then votes for proposition and measures. And the
11 statement of votes, of course, is recorded by precincts.
12 While we use the statement of registration, which is
13 reported on the individual level to put our data set
14 together, we do not make individual level data
15 available. Our data are abrogated, and the smallest
16 unit of analysis on which this data from the database
17 are available is the census block.

18 This is an example of what election data looks
19 like. So when I talk about election data usually in the
20 context of the database, we're talking about precincts.
21 And everybody knows polling places for precincts.
22 Essentially that's how you get the totals. And what do
23 precincts look like. Well, the magnificent thing is
24 that precincts are really units for registrars of
25 voters, you know. Registrars have to put their voters

1 into these units to collect -- to collect the total
2 votes data, and it's actually a fairly complex process
3 because they cannot overlap any of the other districts.
4 And remember, while we're just talking about assembly
5 and senate and Board of Equalization districts here
6 right now, there is thousands of different districts in
7 the state of California from your mosquito abatement
8 district to your city council district and your water
9 district and your school district and the Board of
10 Supervisors and whatnot. So just imagine all of these
11 districts laying on top of each other, and they create
12 quite the puzzle for these registrars of voters in
13 precincts where the voters are actually all in the
14 particular districts in which they have a vote, and
15 nobody kind of sticks out a little bit.

16 So that's why you get these really strange
17 creeping configurations, and they have very little to do
18 with census geography because census geography, again,
19 the census really doesn't deal with voting. They don't
20 really care what precinct people are in and what voting
21 place they go to. I mean, the census is all about
22 collecting data and reporting data for various purposes
23 including redistricting, of course. So these two data
24 sets have nothing to do with each other. So when you're
25 talking about geography from two different sets, it

1 makes it quite difficult. And really what we specialize
2 in is just making things a little bit easier and doing
3 the stats so that people can look at these two different
4 data sets on the same unit of analysis, which is the
5 census block.

6 Let's move on to something else, and this will
7 make sense to you in a second. As I pointed out
8 earlier, the long form was replaced by the American
9 Community Survey, and the community survey -- the
10 American Community Survey, in short ACS, is a nationwide
11 survey that replaced the long form. And remember, in
12 the last census, the long form was sent out at the same
13 time as the short form. So basically it was a one shot
14 kind of -- you know, April 1, you either get the long
15 form or you get the short form. Well this has all
16 changed because even though the ACS essentially collects
17 the same information on people and housing and whatnot,
18 it is now an ongoing survey. So they're constantly
19 collecting data. They're not just doing this once every
20 ten years. They have -- actually, I think they started
21 in, what was it, '04s? Was it '02? It was, like,
22 early, early in this -- '04. Yeah, I think it was in
23 '04 they started basically with their first round of
24 data collection. And they're constantly selecting new
25 units and adding to this data set. And that makes it

1 really interesting when you're looking to use these data
2 at this point because these data are now released in
3 multiyear estimates, so it's not like, you know, the
4 short form data, the PL94 where we know, okay, this was
5 all collected on this one day. Uh-uh. This is now --
6 this was collected over time, like over the last two
7 years, three years, four years, five years. So we're
8 basically getting a completely different data set. It
9 has detailed geographic socioeconomic and housing data,
10 but it's not collected as part of the decennial census.
11 Again, it's an ongoing process.

12 The ACS data can be grouped into four main
13 types of characteristics. And this becomes interesting
14 if you're thinking about defining communities of
15 interest, actually. We'll talk about this in a second.
16 And those are social, economic housing, and demographic.
17 Remember when I said that these get released over time.
18 What we care about is what we will have available for
19 redistricting, right. So let's look at what they're
20 releasing in 2011.

21 So in 2011, for all areas, which means also
22 for census blocks, which is probably what we want which
23 is this very small unit of analysis, what they're
24 releasing is data that were collected between 2006 and
25 2010. So some of these data are actually quite old. So

1 when you're thinking about what's been happening in
2 terms of foreclosure in the central valley -- think
3 about that, right. Or even here in Sacramento, in these
4 areas around here, we don't really know what exactly
5 happened. When you're looking at this data and you see
6 an interval, you don't see a one shot deal, basically.
7 So it makes it more interesting, I think.

8 All right. Let's go to -- let's say you're on
9 the Commission. So where do you even start with all of
10 this. It's a bit overwhelming, right. So the first
11 thing is probably just go straight to the law. Just go
12 straight to the law and see what does the law really
13 tell us about what we need to do. Now, we know we have
14 the data and we know we have the geography, we'll
15 probably figure out how to get a couple of computers,
16 and so now we start looking at California's Constitution
17 Article I. And I've excerpted some of these, some of
18 the law, basically, just to, you know, for brevity's
19 sake. So let's go to the next slide.

20 I've highlighted some of these sections, and
21 unfortunately it's not really coming out very well on
22 the screen, but the first criterion that's outlined here
23 about what the Commission is supposed to do, aside from
24 on the last slide -- actually, go back one more time --
25 is that the Commission is supposed to conduct an open

1 and transparent process enabling full public
2 consideration of and comment on the drawing of district
3 lines, which of course means that the Commission is
4 going to have to make some decisions right away about
5 what that means. Does that mean what Ralph was saying,
6 that every line gets drawn in public. Does that mean
7 that everything is going to be on the television. Does
8 that mean that there are no meetings outside of, you
9 know, the public meetings. What does that mean. So
10 these decisions will have to be made by the Commission.

11 Okay. Let's go to the next one. But when
12 we're looking at criterion, the first criterion that is
13 outlined is that districts have to comply with the U.S.
14 Constitution. Then in the next section here we're
15 talking about equal population. You've heard a lot
16 about this from Justin, as well as Kristen.

17 Districts shall comply with the federal Voting
18 Rights Act. That's our third criterion. Districts
19 shall be geographically contiguous, the next criterion,
20 and then we have the geographic integrity of any city,
21 county, city and county, neighborhood and community of
22 interests shall be respected to the extent possible and
23 so forth. Then the next section talks about encouraging
24 geographic compactness. And then, you know, there's
25 some other -- some other criteria outlined below.

1 If you summarized all of this, you get the
2 following criteria. And next to it I've put the data
3 that I used to actually figure out these criteria.
4 Equal population, what do you need. We now know PL94171
5 census data, block level data, total population, this is
6 how we get our equal population. Those are the data
7 that we use. Compliance with federal law, PL94171,
8 again because you want to know your total population,
9 then you want your statement of registration and you
10 want your statement of vote for Voting Rights Act.
11 Compactness. You use census geography. Remember the
12 census gives you all of the block groups and the tracts
13 and whatnot and also the city and county boundaries, so
14 that is essentially how you know what shape your
15 district will have.

16 Contiguity. Same thing. Contiguous meaning
17 not half your district is in Northern California and the
18 other half is in Southern California. They are
19 connected in some fashion, and hopefully in a compact
20 way, at least somewhat compact. And so that -- for that
21 you also use census geography. Then there's respect for
22 city and county boundaries. Again, thinking about that
23 little chart that the census releases. The census gives
24 you the county boundaries, gives you the city
25 boundaries; and we'll look at some of those later. They

1 look pretty interesting, actually.

2 Respect for neighborhoods. This is an
3 interesting one because where do you get neighborhoods.
4 Now, Justin was talking about the city of LA's
5 Department of Neighborhoods. Actually, coincidentally,
6 you didn't know this, I was actually involved in setting
7 up some of the criteria of how these neighborhoods
8 should be -- should be selected, or how they should
9 define themselves. Now I don't know if they listened to
10 me, but anyway, that's another story. But the way you
11 find out about neighborhoods, generally speaking, is
12 probably through public testimony, because there is not
13 one source where you can go and say, give me a file of
14 all of the neighborhoods in the state of California, or
15 even, give me a file that shows all the neighborhoods in
16 this county, in this county or that county. It just
17 does not exist.

18 Now, what you may have is some cities that
19 actually have some data on neighborhoods. Now we ran
20 into a very funny situation in San Diego because we were
21 trying to use a neighborhood layer that the city of San
22 Diego had in that particular Commission redistricting,
23 and you wouldn't believe how much public testimony we
24 got about how these neighborhood boundaries had really
25 nothing to do with the neighborhood. So, you know, this

1 also happens. And in the public process, of course,
2 there's a give and take. You throw out an idea, you
3 say, okay, we're thinking about using this, and then you
4 will receive feedback. It's an interactive process.
5 You will receive feedback from the public, from
6 effective people on what this does, are you right, are
7 you wrong. You're going to find out about it. And
8 then, of course, as a Commissioner, you'll have to
9 weigh, you know, who's right, who's wrong, is this
10 credible, and all those good things. It comes in with
11 the public testimony.

12 Data and geography, that can also be submitted
13 by the public. So essentially, in both San Francisco
14 and in San Diego, we had -- we had people come in with
15 maps drawn that showed their neighborhoods that
16 basically said, okay, here's our neighborhoods, here are
17 the boundaries, please don't split us; we have been
18 organizing, you know, we have been doing all of this
19 stuff together for many, many years. They gave us a
20 little bit of data or a little bit of history on their
21 neighborhoods, or on their communities of interest for
22 that matter, and that is how it was introduced.

23 And, again, sometimes you may get a
24 neighborhood layer if you're very luckily, one that
25 everybody agrees with -- probably won't happen, but you

1 never know -- from a city or a county. Then there is
2 respect for communities of interest. Where do you get
3 those data, from public testimony, because again, there
4 is no place where you can go and say, okay, what are the
5 communities of interest. It can't be that easy, right.
6 It would just make the process too boring. So this is
7 all going to be submitted by the public. You will get
8 submissions from the public, you will get testimony, you
9 know, people will send e-mails. However you're
10 receiving input, this is basically how you do it.

11 Now we'll look at some maps here. I want to
12 outline a couple of things. So again, everything here
13 is sliding. When we're talking about geography, you
14 hear a lot about, you know, how -- how lines are kind of
15 strange looking and fingers and weird looking districts
16 and whatnot. So when you're looking at this, you know,
17 I think a lot of people would probably say, well that is
18 a very strange looking district. Well, what it really
19 is is the city of Bakersfield. So this is -- this is
20 what the city boundary for the city of Bakersfield looks
21 like. And there's some really very great examples.
22 Somebody talked about a Rorshock Test earlier. I think,
23 you know, some of these city boundaries actually come
24 very close to that. This is a really good one too, and
25 that happens to be the city of Fresno. So what you see

1 here is the red is the city of Fresno. It's not
2 contiguous. There's these little floating islands out
3 there, and also it has some holes in the middle. So
4 this all makes it very exciting when you're trying to
5 keep cities and counties together. When you're looking
6 -- this was an actual district that was drawn in 1991 by
7 the Court, and if you look at this district, I mean,
8 it's splitting counties, it's splitting cities, it's
9 doing all kinds of good stuff. It looks very strange,
10 and really what it is, it's a Section five district.
11 This is a Section five district that was drawn by the
12 judges.

13 So what I'm trying to get across here is you
14 can't just look at something that looks a little funny
15 and assume that there was some funny business going on,
16 because often times when you're dealing with
17 California's geography -- and I will tell you this, we
18 are pretty unique. When you look at California's
19 geography with all of these nice annexations that people
20 are doing, you know, not just in the central valley but
21 also in other areas, it gets very interesting when
22 you're starting to put districts together, especially if
23 you're trying to make them look pretty because it's not
24 all that easy.

25 Okay. Let's go on. I want to touch upon the

1 VRA (ph) very, very quickly. You've heard a lot about
2 it, and you probably could pass a quiz at this point,
3 I'm sure, after Justin and Kristen have done a really
4 great job explaining all of this stuff, but again, let
5 me just reiterate a little bit that Section two is about
6 majority minority districts. And what this means is not
7 only do we have Bartlett versus Strickland, a minority
8 group must be large enough to constitute a majority in a
9 district. So you have a have a minimum of 50 percent,
10 right. The minority group must be geographically
11 compact, and there must be evidence of polarized voting
12 against the minority group.

13 What does this not mean. It does not mean
14 that Section two prohibits the drawing of influence
15 seats, which are seats that have high minority
16 populations but don't meet the 50 percent threshold.
17 That is also something that Commissioners really need to
18 understand; that race and ethnicity are a factor beyond
19 the Voting Rights Act. And also, that minority groups
20 are not monolithic groups. We have different -- we have
21 a lot of different minority groups in the state of
22 California, and they cannot be treated as just one
23 group.

24 Also, Section two does not prohibit
25 Commissioners from considering racial and ethnic

1 communities of interest. Now, where one does need to
2 pay attention is that race and ethnicity should not be a
3 predominate criteria because that's can open you up to a
4 totally different challenge called a Shaw Challenge;
5 however, race and ethnicity are a very, very -- are
6 very, very important factors to consider, and I'll
7 illustrate this further in a second.

8 And then Section five I'm not going to go into
9 too much. Preclearance and retrogression is what we're
10 talking about. Preclearance of course, you know, you
11 either go to the district court or you go to the DOJ
12 with any kind of changes to your electoral system,
13 including redistricting, drawing districts. And these
14 are the four counties that are covered in California,
15 Kings, Merced, Monterey, and Yuba.

16 Let's go to the next one. Okay. I wanted to
17 illustrate this point about minority groups and race and
18 ethnicity mattering beyond just the Voting Rights Act,
19 okay, because it can really help to illuminate where
20 traditional communities of interest may have been that
21 are defined by race and ethnicity. So if you're looking
22 at this -- and I'm sorry it doesn't come out very well
23 -- the red areas are high concentrations of the
24 population. So when you're looking at the high
25 concentration here of blacks in the Los Angeles basin,

1 you almost have exactly the boundaries of south central
2 LA. So essentially you look at this and you can almost
3 define the neighborhood just by looking at this, and the
4 traditional boundary.

5 Now what you are not dealing with here at all
6 is actually city and county splits because this is the
7 same city, it's the same county. There is no
8 compactness issue, really. There's no other issue here,
9 but what you do have is you have the same area that has
10 a lot of different racial and ethnic groups. And just
11 looking at the concentrations may help you to figure out
12 how to divide a district or, perhaps, which groups to
13 try to keep together a little bit. You see that the
14 Latino concentration is right up here, and then
15 Asian and Pacific Islanders are more towards the east.

16 This is another example -- this is a really
17 interesting example, actually, of a current district.
18 It's Assembly District 49 in LA. And this is a district
19 that had 48 percent -- 48 percent Asian Pacific
20 Islanders, or 48 percent Latinos. So if you want to
21 push that over the 50 percent threshold, then you have
22 to make some really hard decisions, which is, you know,
23 if you're adding Asian Pacific Islanders and make that
24 into an API district, then you're losing some of the
25 Latino population, or you know, you push it up into the

1 50 percent and beyond Latino margin, essentially, and
2 then you're dropping the Asian Pacific Islander
3 population down. So these are the kinds of -- these are
4 the kinds of decisions that Commissioners are likely to
5 run into.

6 And why is this important. I think it's
7 important to know that it helps to have some, you know,
8 racial and ethnic background and representation on the
9 Commission. I think it's tremendously important to have
10 a diverse Commission so that there can be a reasoned, a
11 well-reasoned discussion of these issues. And, you
12 know, a lot of redistricting is really about perception
13 as well. And, you know, you don't want to have people
14 that are not part of this racial group at all making all
15 of the decisions that affect a certain racial group. So
16 diversity and the diversity that reflects the state of
17 California in some fashion I think is tremendously
18 important for the Commission to succeed.

19 This map I put in here by popular demand
20 earlier, about an hour ago. And it came from -- it came
21 from a different presentation, which is why it has
22 totally different colors and all that. But I wanted to
23 talk about geography diversity just a little bit. This
24 is a congressional district map, and I'm using American
25 Community Survey data, its projection data, and

1 obviously, I'm not a big fan of projection data. So
2 there are a lot of different projections out there.
3 They vary greatly. The Department of Finance has its
4 own projection. There's a lot of different companies
5 that release projection data and, you know, then there's
6 the census with projection data, and if you compare
7 them, they all -- I mean, the variance is just
8 incredible. I mean, they can't even agree on how many
9 people we have in California, and that's all fine, but I
10 think what this -- what they all do show, when you use
11 them, is that there is a particular trend; and here is
12 what that trend is.

13 When you see the dark blue, the dark blue
14 areas here, so the coastal counties, they're all losing
15 population. So basically when you're looking at the
16 congressional districts right now, they're all
17 underpopulated. So just because these are congressional
18 districts, of course, doesn't mean that the assembly or
19 the senate districts are in any way different because
20 we're just looking at underlying population.

21 So what you have here is coastal counties, and
22 we know that the coast, for example, votes different
23 than the central valley, and that, you know, there's
24 definitely some differences in opinion in terms of,
25 perhaps, environmental issues and whatnot, farming

1 issues and so forth. So there's definitely -- there's a
2 wide range of diversity in the state of California. So
3 when we're looking at this particular map, what we see
4 is that these -- these -- all of these coastal counties,
5 they have to pick up population to be equally populated.
6 So where are they going to go. Well, if they end up
7 going south, they're just going to depopulate even more
8 the coastal counties, so this entire trend is going to
9 have to go to the east. So this is going to get pretty
10 interesting when you're looking at it because you are
11 potentially sticking some of the coastal counties in
12 with some people, you know, that may have totally
13 different interests. And so lest you think that this
14 may be a boring process where all you have to do is just
15 look at boring data and documentation, it's not. It's
16 going to be actually quite exciting.

17 Okay. So actually, you know what, go back and
18 let's do some line drawing. Okay. So we are going to
19 finally draw some lines to help everybody stay awake.
20 The worst is over. This is the part that everybody
21 likes because now that we've learned so much about all
22 these different data sets, it would be a shame if we
23 didn't put all that knowledge to really good use and
24 start drawing some lines and actually put a district
25 together or two.

1 Are you ready?

2 MS. BOYLE: Ready.

3 MS. MacDONALD: Okay. So what we have here
4 is -- this is an -- oh, this is 1991. That's why it
5 looks different. So this is 1991 assembly districts
6 with 2001 data in it. So remember, 1990 districts,
7 they're good until the new data comes out, and then the
8 new data comes out and then everything gets reshuffled,
9 as Nicole calls it. So basically you have to equalize
10 the populations because that really is why we do the
11 redistricting. And people tend to forget that. The
12 rust colored areas here were in 2000 the areas that
13 needed to lose population. So they were -- when we're
14 talking about the ideal population, what we do is we
15 take the total population for the state of California,
16 divide it by the number of districts that we're going to
17 draw, and then you have your ideal population. And from
18 the ideal population you're measuring your deviation,
19 how much are you over, how much are you under. So we
20 have our ideal population, and then we basically just
21 took a look at what was over and what was under.

22 So the rust colored areas here, they were all
23 overpopulated, so they needed to shrink; and then the
24 greenish areas, they were underpopulated. So the darker
25 they get, the more population they basically needed.

1 And you will fill in if I forget to say something,
2 right?

3 MS. BOYLE: Yes.

4 MS. MacDONALD: Okay. So, we're going to go
5 now to the Bay Area, and we're going to assume that
6 we've drawn lines already and we've kind of reached this
7 point right here, and we have arrived in San Francisco.
8 So Nicole's basically selecting some area here, and what
9 she just put on there are blue, all those blue lines,
10 those are actually the census blocks for the city and
11 county of San Francisco. So we're assuming that our
12 district line's from the northern district, so we're
13 assuming we started redistricting from the north on
14 down. We arrived at San Francisco, and now we're going
15 to draw some lines in the San Francisco area looking at
16 the city and county of San Francisco and looking at Daly
17 City, which is right below it.

18 San Francisco has a population -- can you put
19 the pop-up, Nicole.

20 MS. BOYLE: For San Francisco? For the
21 county?

22 MS. MacDONALD: Yeah. So San Francisco is a
23 city and county, and basically what you see here is
24 these are all of the tools that she has available to
25 essentially figure out what's in each geographic unit.

1 So for each of these census blocks, we will have data
2 available. So this is the city and county of San
3 Francisco. She now has the census track zone.
4 Remember, blocks nest in census tracks. When you're
5 first starting to redistrict, it's a whole lot quicker
6 to use census tracks first and then go down to the
7 blocks because otherwise you're going to be, like,
8 clicking, clicking, clicking, clicking, you know,
9 500,000 times essentially. So census tracks are our
10 friends, as are the larger census units that we just
11 learned about.

12 The population for San Francisco for this
13 particular example was, what was it, 670,000? No. 700.
14 There we go. So this is the ideal -- the ID box that
15 you get with this redistricting software. So it shows
16 you that the population for this particular unit of
17 analysis, which is the city and county of San Francisco,
18 is 776,000 people. And what you want for a district,
19 the ideal population for the district, is -- Nicole.
20 Nicole is clicking too fast. Okay. The ideal
21 population that we want is 423,000. So we already know
22 because the city and county of San Francisco is bigger
23 than the 423,000 that we want to shoot for, the ideal
24 population, we're going to have to split San Francisco
25 someplace. So now the question is where and how.

1 So what do we do. So what we figured is we
2 just used an existing district. This is part of San
3 Francisco. This was already put into one district. And
4 the remainder of San Francisco is right here. Do you
5 want to explain that, Nicole? So how much is left?

6 MS. BOYLE: Of San Francisco?

7 MS. MacDONALD: Uh-huh.

8 MS. BOYLE: So there's 400 -- we'll know once
9 we pick up the rest of San Francisco.

10 MS. MacDONALD: So essentially we have
11 assigned this piece of San Francisco already, and we
12 have that piece left. So what we need to do is we need
13 to move south and pick our population because north is
14 already assigned to districts. So this is really how
15 this works.

16 MS. BOYLE: I'm picking up the remainder of
17 the population in San Francisco.

18 MS. MacDONALD: So she's doing that by
19 selecting the geography, and then the computer will add
20 together what kinds of population figures she has right
21 now. And what she will find -- what she can load in
22 there is everything from total population to voting age
23 population to race and ethnicity. Whatever variable we
24 have in our redistricting data set, she will be able to
25 look at block by block by block if she wants to, and

1 then basically build the district from there. So what
2 are you doing right now?

3 MS. BOYLE: So I'm adding the other half of
4 San Francisco in. That particular selection has 253,000
5 people, so we're still short for that district.

6 MS. MacDONALD: Okay. So you understood that
7 that was -- basically we are 70,000 people short now
8 that we have assigned San Francisco to one perfectly
9 populated district, and then the rest of the San
10 Francisco was moved into another district. So where do
11 we get our population. Now we had a conversation,
12 Nicole and I. We were the redistricting Commission. We
13 had a conversation and we decided we really wanted to
14 keep Daly City whole. So Daly City is, like, right
15 below there, and because, you know, it's a fairly small
16 city and why should Daly City suffer just for being
17 right below San Francisco. So we made that executive
18 decision, and so we tried to add Daly City.

19 Now, by the way, this is the boundary for Daly
20 City. I promised you something that would look a little
21 funny. So this is the city boundary for Daly City right
22 here. This is where most people -- if you just put this
23 on your wall and say, I'm a redistricting Commissioner
24 and you put this underneath this, what do you think
25 everybody is going to say.

1 UNIDENTIFIED SPEAKER: (Inaudible).

2 MS. MacDONALD: Exactly. Well, it's not.
3 It's the city boundary. There's nothing else as
4 creative as city boundaries, really. If you start
5 looking at them, they're quite funny. Okay. So we add
6 all of Daly City into the district of San Francisco, and
7 what happens, now we're over. So now we have, what,
8 33,000 people too much. So now what are we going to do.
9 Well, San Francisco has water on one side. We have one
10 perfect district, and really the only place where they
11 could go was down. And over here, you would think maybe
12 we can get over here and maybe pick up Brisbane. Well,
13 you know what, there's not a whole lot of population
14 here. So remember that the districts have to be
15 contiguous and they're supposed to be compact, so we're
16 in a pickle.

17 We're in a further pickle by looking at this
18 here because Daly City has this wonderful feature of
19 having a city within a city, and remember, the districts
20 have to be contiguous, so essentially when you are
21 redistricting anything with Daly City, you have to put
22 the city of Broadmoor in there as well because otherwise
23 you're creating an island. So now what do we have. We
24 just added another 4,000 people. So now what do we do.
25 We really wanted to keep Daly City together, Nicole and

1 I. So we're thinking maybe plan B, we'll just go back
2 to San Francisco and make some decisions. Now the
3 decision is San Francisco is already split. So do we
4 split San Francisco again, or what do we do.

5 So plan B was we thought maybe we will just
6 swap the districts around and do that side of San
7 Francisco, populate that into the perfect district. So
8 basically we're going to move this side of San Francisco
9 into a perfectly populated district and then see maybe
10 we can go over to the East Bay to pick up some
11 population. I have to tell you, we did this yesterday.
12 We tried to come up with a scenario. It took us
13 forever. It took us forever. It was really funny
14 though.

15 Okay. So we drew a district -- oh, we are
16 drawing a district? We're still drawing it?

17 MS. BOYLE: We're still drawing it.

18 MS. MacDONALD: We're still drawing a district
19 now. And just remember, you'll be doing this for the
20 entire state of California, so patience. Patience. And
21 I have to tell you also, the software got a whole lot
22 faster since the last time around. Again, that walking
23 thing.

24 So she's now picking up San Francisco's west
25 side, putting it into a perfectly populated district,

1 and then we will see whether we can maybe keep the Daly
2 City people whole and do something to San Francisco here
3 and maybe say hello to our friends in the East Bay.
4 Yeah. I live here, on it's other side, so I can tell
5 you a little bit about that. That's why we wanted to do
6 this scenario.

7 So remember that some of the redistricting
8 criteria we have are keeping neighborhoods together,
9 keeping communities of interest together, keeping cities
10 and counties whole. So we've already figured out,
11 obviously, that you can't keep all of the cities and
12 counties whole because just imagine about LA. People
13 think about just splitting counties when you don't
14 necessarily have to split them. Well, there are splits
15 within counties. There are splits within cities, just
16 because the counties are so large that you can construct
17 many, many different districts within them.

18 And again, in California we have a very unique
19 geography. It's not just our coast and our central
20 valley areas and the fact that we have Section five
21 counties and those are difficult and challenging to deal
22 with, but we have different interests. We have
23 agriculture. We have the coastline. We're a unique
24 place, and you know, appreciating how unique we are will
25 really help in making some of these decisions.

1 Okay. Where are you?

2 MS. BOYLE: Here on 13. 12 is done.

3 MS. MacDONALD: So we now have created -- we
4 flopped our districts around, so this is now the
5 district that's perfectly populated. And we're not even
6 talking about what neighborhoods we've split in San
7 Francisco because, remember, one of the criteria are
8 also the appreciation for all of California's diversity,
9 including sexual orientation. And as somebody who was a
10 lead consultant in the San Francisco Commission
11 redistricting, I mean, that was something we talked
12 about a lot because there was an LGBT Community Center
13 that was being created there, there was a whole
14 community that wanted to stay in a particular district;
15 and those are all issues that people have to be open to,
16 be willing to receive testimony on, and that have to be
17 weighed against other -- against other interests.

18 So now what we're doing is we are moving
19 across the Bay Bridge. Remember Justin was talking
20 about contiguous districts. Well, as long as the Bay
21 Bridge doesn't come down, I suppose, anytime soon -- I
22 don't know. What do you think, Justin? That would be a
23 good one, uh?

24 MR. LEVITT: It would work.

25 MS. MacDONALD: It would work, even when it's

1 down? Okay. Good. So we have it on good authority
2 that this will work. So we're now going to move over
3 via the Bay Bridge into the East Bay. Now there's that
4 question about being a small fish in a big pond, or you
5 know, the big fish in the small pond. And we talked to
6 some of the Oaklanders to see if they want to be part of
7 San Francisco. That would be an interesting
8 conversation. That would be a really interesting
9 hearing. A very interesting hearing.

10 So remember, city and counties are supposed to
11 be kept together, so we looked at Emeryville. We
12 thought, hey, Emeryville is perfect, perfect for a city
13 to stick in there. You don't have to split it, it's
14 small. Yeah, we'll put it in there. Emeryville goes in
15 there, so how many people do we still need. We go back
16 to our info box here and we still need 60,000 -- we
17 still need to pick up 60,000 people. We already know we
18 need to split Oakland, right. So Oakland is the big
19 deal, but where do we split Oakland. So now we go into
20 West Oakland. Do your thing Nicole.

21 So we didn't want to go into Alameda because
22 that would have created a very funny looking district,
23 we thought, so we decided we'll just stick with this
24 whole Bay Bridge approach, which the Bay Bridge kind of
25 comes in around here, and we're just going to pick up

1 some West Oakland. So we're in the port area now, and
2 we're looking at some boundaries, essentially, that
3 would make sense like some freeways, you know, some
4 hills perhaps, something that is existing so that this
5 district doesn't start looking too funny.

6 And as you see, every time she clicks, see the
7 deviation here. I don't know if you can see this, but
8 the deviation goes down. So that's how she knows that
9 she's getting closer to getting her ideal population,
10 right.

11 MS. BOYLE: We're over now.

12 MS. MacDONALD: So at this point, we're pretty
13 close. We have our -- we still need 5,000 people.

14 MS. BOYLE: We're over 5,000 people.

15 MS. MacDONALD: We're over 5,000 people. We
16 don't need 5,000. We need to lose 5,000 people.

17 MS. BOYLE: This is where you get to make your
18 big decision as someone with public testimony.

19 MS. MacDONALD: Okay. So this is where I come
20 in as public testimony. Okay. And I will tell you that
21 Nicole has just managed to keep my neighborhood
22 together, and I'm very grateful for that; however,
23 Nicole has just split my community of interest, and I
24 will tell you why. Because there are two neighborhoods
25 that work very closely together -- where are we, Nicole?

1 Put some streets on. Okay.

2 So this is when you make the nitty-gritty
3 decisions, right. You're moving away from tracks,
4 you're going into blocks, you're putting some streets
5 on, you situated yourself, you start building the
6 district, and then you get testimony on it. What did I
7 do. Well, Nicole did a pretty good job keeping the
8 neighborhood together, but unfortunately, she split a
9 redevelopment district. Well, the redevelopment
10 district, could she have known about it, probably not.
11 If there is some sort of a layer, as we call it, some
12 sort of a geography that shows all the redevelopment
13 districts, no. Does a redevelopment district
14 necessarily mean it's a community of interest, probably
15 not. For us it is because, you know, I happen to know
16 something about it, I'm part of that community, so I
17 know a lot about it; and it is a community of interest
18 and it should be kept together.

19 You also probably wouldn't want to go
20 necessarily across certain freeways because that gets
21 you into parts of town that are being developed totally
22 differently. And in Oakland these days, it's really a
23 lot about development and what goes where. There's the
24 historic district, there's a lot of, you know, the
25 (inaudible) and whatnot else. I could talk about his

1 until the cows come home. Anyway, there are also
2 existing communities of color. There are new
3 communities of color that have been moving in, so these
4 are all considerations that you want to look at. You
5 don't want to split anybody who could potentially come
6 back and say, hey, we are a community and we are working
7 together on X, Y, and Z issues.

8 So there are multiple, multiple scenarios
9 where you can run into it. And then, of course, again,
10 there's the big question about does little West Oakland
11 really want to be in a district with big San Francisco.
12 Will little West Oakland get any representation or good
13 representation if it's part of big San Francisco. It's
14 already a disadvantaged community and, you know, do you
15 really want to do that.

16 So this is our redistricting exercise. And I
17 would like to -- Nicole, unless I forgot to make a
18 point -- did I --

19 MS. BOYLE: No. I think that was good.

20 MS. MacDONALD: -- forget to make a point
21 here. So can we go back to the power point just for one
22 second there and then we'll wrap it up and take
23 questions and answers. Is that okay. So I want to just
24 go back to remember we were talking about the
25 qualifications for, you know, that you are looking for

1 in these applications. And as you can see, it's going
2 to take patience, okay. It's going to take
3 appreciation, really appreciation for, you know,
4 diversity, and every diversity you can think of. And
5 it's going to take the ability to make decisions. I
6 think that's a very important thing because it's not
7 going to be easy to make these decisions, but somebody's
8 got to make them. And it's not the staff; it's the
9 Commissioners. The Commissioners are going to have to
10 makes these decisions.

11 I'd like to outline a couple of things. We
12 did a little bit of research. We did a couple of
13 research projects for the Irvine Foundation a few years
14 ago, and I would like to just give you a couple of the
15 results that came out of the research because we're
16 talking about, you know, the resolution of complex
17 problems. When you're looking at all these criteria,
18 they're not straightforward. And not only are they not
19 straightforward, they are also in conflict with each
20 other. And actually, you know, the most interesting
21 thing is we're talking about equal population. That's
22 the most constricting criteria you can have. You know,
23 you're supposed to keep cities and counties together.
24 Well, with these very strict population criteria, well
25 you can't, you know, because very few cities have

1 determined to grow just at the right size that we need
2 for whatever district we're drawing. It just doesn't
3 work.

4 So what we found was that there are certain
5 criteria interactions. And I'm just giving you a few
6 examples that really conflicted with compactness because
7 compactness is one of those criteria that especially
8 people that don't really do a lot of redistricting, they
9 like compactness because it's, in light of all the other
10 ones, it's actually pretty easy because, you know, if it
11 kind of looks like a square or looks like a box or it
12 doesn't look too horrible, let's compact this district
13 to a red. Now we've just met one criterion.

14 Compactness actually conflicts with the
15 drawing of majority minority seats because majority
16 minority groups are not necessarily growing or living in
17 compact areas, you know. There is often times some --
18 there's a lot of dispersion that has to be picked up.
19 And also, as we saw, when you're trying to preserve city
20 and county boundaries, well good luck drawing a compact
21 district around Bakersfield. Remember Bakersfield with
22 those little squares that are going down there. I mean,
23 it looks like an art piece, but does it look like a
24 compact district, no.

25 Communities of interest, it's the same thing.

1 I mean, you know, people organize around all kinds of
2 different things, but not necessarily around a shape or
3 a square or a rectangle. So this is really -- we drew
4 districts. We had four people that knew nothing about
5 redistricting, and we had them draw districts for
6 California. We gave them criteria. We had them start
7 from the top, from the bottom, from the left, from the
8 right and whatnot, and we looked at the outcomes of
9 those maps. These were totally non-political maps. And
10 this is basically what we found out is that -- that
11 these kinds of things happen. It's very, very difficult
12 to draw majority minority districts if you are also
13 trying to meet compactness. So again, these are
14 tradeoffs that have to be made.

15 Then finally I want to say something about the
16 mapper affect. And this goes to the ability to be
17 impartial. What we found out when we did these studies
18 was that the people that were drawing lines, they spent
19 a whole lot more time on areas that they knew because,
20 you know, they were just more familiar with them. So
21 the districts in areas that they knew, they would be
22 just magnificently refined. You know, look better, have
23 better population deviations. Amazing. Once we figured
24 this out, we said, okay, start drawing from a particular
25 -- from a different spot. Don't start drawing from the

1 upper left, start drawing from lower right. Well what
2 do you know, they still ended up spending more time on
3 the district, and they tended to split the district, or
4 they split the cities and counties that they knew in
5 exactly the same spot over and over again. And it
6 didn't matter where would you have them start and what
7 you would tell them to do. And it was really
8 interesting how people really bring their biases into
9 this process. Again, these were people that knew
10 nothing about redistricting.

11 You know, over a period of time of like five
12 months or so, it was just really amazing to observe
13 this. And I think what's important is not to find
14 people that don't have a bias, because I think people
15 will have a bias, but people that understand that they
16 have a bias and be able to set it aside and say, you
17 know, maybe it's not my place to say Fresno should be
18 split along this particular street, but we have public
19 testimony that says it shouldn't; that split should go
20 someplace else, and then just to say, okay, it's not
21 necessarily me, it may be somebody else. So you have to
22 be able to just put it aside.

23 And do we have another slide. We do. And
24 then finally, of course, this is what everybody here
25 already knows because I said it already, and you will

1 know this by now, probably, and what the Commissioners
2 will know, when you say redistricting, what everybody
3 says to you is -- Nicole, push the button. Gerrymander.

4 MS. BOYLE: Oh, sorry.

5 MS. MacDONALD: Push the button. Gerrymander.
6 Push the button. There we go. Okay. Drum roll. Okay.

7 (Applause.)

8 MR. AHMADI: Thank you so much.

9 UNIDENTIFIED SPEAKER: You're not suggesting
10 that the blind is going to be leading the blind in this,
11 are you?

12 MS. MacDONALD: No. Absolutely not. I'll
13 gladly take questions if you have any.

14 MR. AHMADI: Yes. I think we do have
15 questions, but I know we also have a list of a sign-up
16 sheet for those who volunteered to put their names for
17 questions.

18 MS. RAMIREZ-RIDGEWAY: Diane is going to get
19 that. Would you like to take questions on Karin's
20 presentation first before you open up --

21 MR. AHMADI: Sure.

22 MS. RAMIREZ-RIDGEWAY: -- to hear the general
23 comments.

24 MR. AHMADI: Sure. Mary has a question here
25 first, and then I'll get to you.

1 MS. CAMACHO: I have a couple of questions.
2 In the sense of performing this task, how long did these
3 individuals take, and how long would you expect this
4 Commission that might not have this knowledge take to
5 perform the redistricting process?

6 MS. MacDONALD: When you say "the
7 redistricting process," do you mean just drawing one map
8 for the state of California just as a sample map, or the
9 entire process of just drawing every district in a way
10 that they feel like --

11 MS. CAMACHO: Exactly.

12 MS. MacDONALD: For that part they're going to
13 need every minute that they have from the release of the
14 census data, I think, until the districts are drawn.

15 MS. CAMACHO: So the Commissioners need to
16 expect that their time will be committed to this task?

17 MS. MacDONALD: Yes. I think so. Yes.
18 Absolutely. To, you know, receiving public testimony,
19 and I mean, I am really -- I am really hoping that this
20 Commission is not going to try to do this themselves;
21 that they will pretty much immediately look for staff,
22 good staff, because redistricting is one of those things
23 where you can learn it, you can learn a lot about the
24 process, you can learn about the data, you can learn
25 about participation, and you can participate in a

1 meaningful way as a Commissioner, as well as the public,
2 but doing what Nicole for example did, I mean, Nicole
3 has been moving lines around and working with data for
4 14 years. You know, it takes a while to just come up to
5 speed because the software, even though they tell you
6 the software is really easy to learn, well you know,
7 there's about five things that are easy to learn and
8 then it gets very complicated very quickly.

9 So, you know, I think good staff and -- you
10 know, will really make a big difference.

11 MS. CAMACHO: And so when you're saying staff
12 that they'll need, you're saying staff that is maybe
13 knowledgeable about this?

14 MS. MacDONALD: Absolutely.

15 MS. CAMACHO: The software --

16 MS. MacDONALD: Yes.

17 MS. CAMACHO: -- and all the requirements to
18 help them move those lines?

19 MS. MacDONALD: Yes. Yes. I think there has
20 to be, you know, at least one person, and preferably
21 more, who have the skills that Nicole has, or the
22 equivalent.

23 MR. AHMADI: Counsel has a question, and then
24 after that question I would like to make an announcement
25 and then we'll get into your questions.

1 MS. RAMIREZ-RIDGEWAY: Karin, thank you so
2 much for showing us, giving us a little taste of what
3 the Commission will face. I just wanted to clarify to
4 make sure that I was following along. Your demo here
5 was strictly population based. It had nothing to do
6 with voting patterns or --

7 MS. MacDONALD: Correct.

8 MS. RAMIREZ-RIDGEWAY: -- minority numbers?

9 MS. MacDONALD: Correct.

10 MS. RAMIREZ-RIDGEWAY: So it's far more
11 complicated than what we saw?

12 MS. MacDONALD: Yes. It was pretty -- this
13 was pretty easy because really all we did, because we
14 didn't have a lot of time to do this, all we did was
15 just we equalized population and, you know, didn't even
16 do a very good job at that. But this -- this is kind of
17 -- this gives you a taste of just using one criterion
18 and the decisions that go into just even using that one
19 criteria.

20 MS. RAMIREZ-RIDGEWAY: Thank you.

21 MR. AHMADI: Thank you so much.

22 UNIDENTIFIED SPEAKER: Imagine what you could
23 have done if you had time. You could do it all for us.

24 MS. MacDONALD: Yeah.

25 MR. AHMADI: Before we get into the next

1 session, which is the questions and comments by the
2 public, I know this morning we decided that we would
3 leave it open at that time, but I have the list of all
4 the individuals who signed up their names to ask
5 questions or make a comment, and based on this list I
6 can see that there's 31 individuals. Some of them might
7 have left the room by now, but I think in the interest
8 of having an equal opportunity for everybody to have a
9 fair amount of time to share their comments and ask the
10 questions, I move to suggest that we should set a time
11 limit of two minutes per speaker for the questions and
12 comments.

13 MS. CAMACHO: I second that.

14 MR. AHMADI: Any questions or debates on that?
15 The motion is carried. We have a two-minute limit --

16 MS. RAMIREZ-RIDGEWAY: All in favor?

17 MR. AHMADI: Yes. All in favor say aye.

18 (All in favor.)

19 MR. AHMADI: Those opposed say no. The motion
20 is carried. We have a two-minute limit per speaker to
21 discuss their questions and share their comments. And
22 I'm going to go with the sign-up sheet first --

23 UNIDENTIFIED SPEAKER: Can we ask questions of
24 the speaker here first though?

25 MR. AHMADI: Yes. Definitely. Definitely.

1 Go ahead.

2 UNIDENTIFIED SPEAKER: Yes. Part of your data
3 was providing party registration, and since the
4 Commissioners are explicitly directed to ignore that
5 information, can you screen that so they aren't tempted
6 to look at those numbers?

7 MS. MacDONALD: Okay. So the question was,
8 you know, the database provides voting and registration
9 data and the Commissioners are explicitly directed to
10 ignore those data, whether we can screen whether those
11 Commissioners are actually using the data or whether
12 they are not. And I think that's where setting up the
13 process comes in. That's where setting up whether or
14 not you're going to have a transparent process that
15 actually does everything in public comes in because when
16 you shine a light on a process, you see what's going on
17 and you can monitor and you can participate. So I think
18 that's how that would work. Our data are free and on
19 the web for anybody to use. We don't ask, you know, who
20 uses it or for what. So that's partially actually how
21 the database gets debugged because we have so -- we have
22 such large data sets, you know, just by having people
23 use them, academics and whoever is using them over time,
24 that's how we find potential problems so that the state
25 of California has a good data set. So it's not limited

1 to anybody. I hope that answers your question.

2 UNIDENTIFIED SPEAKER: That actually wasn't
3 the question.

4 MS. MacDONALD: Oh, okay. Again, try me one
5 more time.

6 UNIDENTIFIED SPEAKER: Well, since the
7 Commission cannot consider party registration in how
8 they draw the lines, why do they need to see that data?

9 MS. MacDONALD: For the Voting Rights -- for
10 Voting Rights Act testing purpose you will need those
11 data. You have to look at registration and you have to
12 look at past history. So it all goes into polarized
13 voting analysis under Section two, and then actually
14 under Section five, because you're accessing
15 retrogression. And remember we have four Section five
16 counties in the state of California that because they
17 touch upon certain other counties, you're not just
18 looking at those four counties. You're actually looking
19 at districts -- at the districts as they touch onto the
20 other counties as well.

21 So there are many instances in which they will
22 not need to use those data, but there are also many
23 instances in which they will.

24 UNIDENTIFIED SPEAKER: Thank you.

25 MR. AHMADI: You can go ahead.

1 UNIDENTIFIED SPEAKER: You indicated that the
2 detailed census data is no longer being taken. I take
3 it that's (inaudible) census information, but is that a
4 political decision based in Washington or what? Why
5 aren't they doing the detailed census?

6 MS. MacDONALD: Okay. This is a question
7 about how detailed the census data are and the changes
8 that the census went through over the last ten years.
9 What they are still doing is they're still doing the
10 short form data, which is the data that you really are
11 dealing with in the redistricting, right. The long form
12 data is the one that was discontinued, and they're doing
13 now a rolling -- basically a rolling sample. I have
14 personally not looked at whether, for example, the error
15 rate is much different from doing the sample. The
16 census says it's --

17 UNIDENTIFIED SPEAKER: What's a rolling?

18 MS. MacDONALD: I'm sorry?

19 UNIDENTIFIED SPEAKER: What is a rolling
20 sample?

21 MS. MacDONALD: A rolling sample just
22 basically means that you're not just going once in and
23 you're surveying just a portion of the population.
24 You're constantly surveying a particular section of the
25 population. Let's just say in March you're surveying

1 Sacramento, and then the next year in April you're
2 surveying San Francisco. You're just picking up
3 populations and sending those surveys out on an ongoing
4 basis, not just once every ten years.

5 So what the census says is that the data will
6 actually be fresher, so to speak, because we won't have
7 just completely outdated census data. What we will have
8 is just data that are more accurate for a longer period
9 of time in between census collection. So I think that's
10 partially why they made that change.

11 UNIDENTIFIED SPEAKER: But it's based on
12 census?

13 MS. MacDONALD: It is still the census bureau.
14 It's the census bureau doing it.

15 UNIDENTIFIED SPEAKER: And they're still
16 sending out information but more than every ten years.
17 Is that it?

18 MS. MacDONALD: Correct. Yes. The question
19 is do they still collect the information but just more
20 than every ten years, and yes. That is basically the
21 point.

22 UNIDENTIFIED SPEAKER: Every year.

23 MS. MacDONALD: They're doing it every year.

24 MR. AHMADI: Thank you. Next question for the
25 speaker. I think you had your hand first.

1 UNIDENTIFIED SPEAKER: Yes. I didn't quite
2 understand. Are you the state of California official
3 depository of the data that will be used?

4 MS. MacDONALD: The question is, is this the
5 official depository for the redistricting data. And,
6 yes. The answer is yes. This is the official --

7 UNIDENTIFIED SPEAKER: So you're paid by the
8 state?

9 MS. MacDONALD: We are actually paid by UC
10 Berkeley, but UC Berkeley gets a grant from the state
11 to, you know, collect the data and make it publically
12 available.

13 UNIDENTIFIED SPEAKER: So will the Commission
14 be required to use this software?

15 MS. MacDONALD: No. The software has nothing
16 to do with us. Basically we bought the software. The
17 software has nothing to do with us.

18 UNIDENTIFIED SPEAKER: So it's the data that
19 --

20 MS. MacDONALD: Yeah. It's just the data.
21 And there's a long history about data. You know, as you
22 can see in redistricting, you're making a lot of policy
23 decisions, right. What you don't want to do is you
24 don't also want to argue about what data you should use.

25 UNIDENTIFIED SPEAKER: And I assume that the

1 state requires you to certify that data through some
2 process. Is that correct?

3 MS. MacDONALD: I'm not sure that I would call
4 it -- the question is whether the state mandates a
5 certification of the data.

6 UNIDENTIFIED SPEAKER: How does the Commission
7 know if your data is accurate?

8 MS. MacDONALD: We have a quality control
9 process, and it's basically a public betting process;
10 and you know, that's essentially how it works.

11 MS. RAMIREZ-RIDGEWAY: I'd like to interject
12 for just one moment, please, Mr. Chair, if you'd indulge
13 me.

14 MR. AHMADI: Sure.

15 MS. RAMIREZ-RIDGEWAY: And ask the public to
16 show a couple of courtesies for us. First of all, our
17 stenographer is really trying very hard to take down
18 everything that's being stated, and so it's very
19 important that no one interrupt her during the course of
20 doing that. The transcript that she's creating will be
21 made available to the public as soon as she's able to
22 catch up, which at this point could be about 30 days.
23 That's a joke, but I understand that you've worked very
24 hard today, and I really appreciate that.

25 Second of all, just for pure purposes of

1 decorum, if we could wait until we're recognized by the
2 Chair before we call out, that's just a courtesy that it
3 would be great if we could all honor. I'm sorry to
4 interject there.

5 MR. AHMADI: No. I appreciate that. Thanks.
6 The gentleman in the front row.

7 UNIDENTIFIED SPEAKER: I have a couple of
8 questions, actually, but I'm going to throw this out to
9 the group as a total. Do we have a good definition of
10 interest groups and neighborhoods? I mean, I don't
11 think somebody's testimony in front of a Commission
12 saying, I think I'm a neighborhood, is sufficient. I'm
13 kind of from Missouri a little bit here. You know, show
14 me. So there's got to be some sort of proof of what
15 constitutes those things.

16 The second question is has there been any
17 thought to using some of the optimization techniques for
18 -- that you can do for this to more automate the process
19 to kind of apply a rule-based system, because what I saw
20 is that we're basically starting from our existing
21 districts, and we're modifying those. And I think the
22 thrust of Prop 11 was to rethink the problem of how
23 these districts lie in total. I'm probably in my
24 comment area than anything.

25 MR. AHMADI: I was about to say, you know, it

1 sounds like you are making a public comment, and that
2 should be for the public comment session; but I invite
3 the speaker to answer your question from a technical
4 point of view, if you can, and I'm also asking the
5 Counsel's help, if she has any input in regards to your
6 question related to the Prop 11 requirements.

7 MS. RAMIREZ-RIDGEWAY: I'll touch just a
8 little bit on some of the importance here. In terms of
9 identifying those communities of interest, we've heard a
10 lot about the Voting Rights Act. And the communities of
11 interest component is also in Proposition 11, so we do
12 need to make sure that we are listening to the public.
13 The Commission is actually specifically tasked with that
14 process in having an open, transparent process where the
15 public is invited to participate and provide input on
16 proposed maps. Those are legal requirements in federal
17 law as well as in our state law. I think the Commission
18 will have to decide, based upon the testimony that they
19 hear, what is a community of interest. And that's
20 probably one of the most challenging aspects of the job.
21 With that, all technical aspects I'll certainly defer to
22 Karin.

23 MS. MacDONALD: Okay. So the second question
24 -- the second question was about optimization procedures
25 and whether or not to start drawing from existing

1 boundaries. And again, I think that is a decision that
2 the Commission has to make. I mean, you know, we had,
3 like, ten minutes to set up an example, and I will tell
4 you it's a little easier if you're just using an
5 existing line and you're trying to illustrate something.
6 That is the only reason why we did it, and I'm not
7 presuming that I know what the Commission will decide to
8 do.

9 MR. AHMADI: Thank you very much. Any other
10 questions for the speaker? Yes, sir.

11 UNIDENTIFIED SPEAKER: This morning Mr. Levitt
12 made a comment concerning the Commission would probably
13 be required to acquire the software to work with this,
14 and I think he made the comment something to the effect
15 that the Commission would have to verify the software.

16 MR. LEVITT: I think I said to produce to the
17 public. The Commission has to make the data or ensure
18 that the data is available to the public (inaudible).

19 UNIDENTIFIED SPEAKER: Oh, okay. I was just
20 curious if there was other sources of the software other
21 than --

22 MS. MacDONALD: Okay. Well, let me repeat the
23 question. So this gentleman basically just reiterated
24 something that Justin said this morning about the
25 Commission needing to make sure that the data and the

1 software were both available. And on that point I would
2 like to tell you that we actually received a grant from
3 the Irvine Foundation to set up redistricting assistance
4 centers throughout the state of California that will
5 actually make software available. So there will be six
6 sites throughout California where people from the
7 general public can just walk in and there will be a
8 technical person sitting there, software will be
9 available, and people will be able to draw some lines
10 and perhaps provide input to the Commission, or just
11 figure out how districts should be -- should be
12 presented. And this is a brand new way to bring people
13 into the process. And, you know, I applaud the James
14 Irvin Foundation for trying this out and seeing if
15 there's actually interest out there where people really
16 want to come in and participate in a meaningful way in
17 this process. And the data, of course, have been
18 available to everybody free since 1993, since we got it
19 down in Berkeley. So those criteria are met.

20 MR. AHMADI: Thank you so much. At this point
21 I might suggest that if you would like to clarify for
22 the audience and for the public and for us whether the
23 registration data will be used by the Commission. If
24 you have any points, we would appreciate to hear that.

25 MR. LEVITT: Sure. I'm going to borrow the

1 mic for just a second.

2 MR. AHMADI: Sure.

3 MR. LEVITT: I just wanted to clarify very
4 quickly, and Karin was exactly right in her response to
5 the question that was asked about party registration
6 data. Karin is precisely right that for some purposes
7 it has to be used; that is, for the Voting Rights Act
8 there's a requirement to make sure in trying to address
9 effective opportunities for minorities to vote, that the
10 electoral data is part of what's considered in
11 determining both whether there's an obligation and
12 whether that obligation is satisfied.

13 There was also, in the question about party
14 registration data or election results, an implication
15 that the law forbids the Commission to otherwise look
16 into that information, and I just wanted to make sure,
17 at least as I read the law, and the Commission's Counsel
18 may well give an opinion on this, that there's no
19 prohibition in the law on using election information or
20 party registration data or others of that sort. The
21 only thing that the law says you may not use is the
22 residence of a candidate. That's a strict prohibition.
23 Otherwise, the law says that no district can be drawn in
24 order to favor or disfavor a candidate or an incumbent
25 or a political party.

1 And one of the decisions the Commission is
2 going to have to make is whether that means it ignores
3 election data entirely, or whether it considers election
4 data and uses it in an attempt to now favor or disfavor
5 any particular party and what that means. But that's a
6 decision that, I think at least as I read the law, the
7 Commission is going to have to make. And it's easy to
8 assume that the political data shouldn't be used, but
9 that's not actually, at least as I see it, a requirement
10 of the law itself. I just wanted to make that one
11 qualification.

12 MR. AHMADI: Thank you so much. I can take
13 one more question for the speaker, and then as we're
14 approaching the 4:00 hour, we're going to start with our
15 public comment session. So a question by the gentleman
16 behind there.

17 UNIDENTIFIED SPEAKER: Well, I just wanted to
18 make a statement for the record since some question was
19 raised about your database. The legislature developed
20 its own database in 1971 for reapportionment. It then
21 turned that entire database over to UC Berkeley for
22 safekeeping and to be updated with software. And it was
23 precisely for the reasons to create a non-partisan, a
24 non-political, public access, supervised database. And
25 so that database has been there for 40 years. The

1 legislature started it. I worked on the original data.
2 And so that database is the best you're going to find.
3 If you go anywhere else but that database or that
4 software, you're going to find all kinds of problems.

5 So I just wanted to state for the record that
6 that's a very good database. The legislature has paid
7 \$200,000 to develop that database in 1970, and it was a
8 decision to turn it over to UC Berkeley for just this
9 kind of purpose; although, they didn't envision they
10 would lose reapportionment.

11 MR. AHMADI: Thank you, sir. Thank you so
12 much for the comment. At this time we have to move on
13 to our next agenda item, which is the public comment
14 session. I'd like to ask the speakers who are -- I'm
15 going to read the names first from the sign-up sheet
16 that I have here, and of course as I can see, the room
17 is not as fully occupied as it was this morning, so some
18 of the individuals might have left by now; but I'm going
19 to go through the names and read the names, and I'm
20 asking each speaker to please take the podium. Please
21 consider that we have a limitation of two minutes per
22 speaker for comments or questions. Thank you.

23 The first name that I have here is Steve
24 Rawlinson.

25 MR. RAWLINSON: I've already (inaudible).

1 MR. AHMADI: Thank you, Steve. The next name
2 that I have is Helen -- I'm very bad at reading the
3 handwriting, but maybe you can help me with it.

4 MS. CAMACHO: Hutchinson.

5 MR. AHMADI: Hutchinson. I'm sorry. Helen
6 Hutchinson. Not present. The next one I have is Tim
7 Dorsey.

8 MR. DORSEY: (Inaudible).

9 MR. AHMADI: You're done. Thank you, sir.
10 The next one I have is Malka Korrel.

11 MS. CAMACHO: I believe she's gone.

12 MR. AHMADI: She's gone. The next one I have
13 is Melissa Riess. The next one I have is Cheryl Keller
14 [sic]. The next one I have is --

15 MS. CAMACHO: Schroder.

16 MR. AHMADI: I'm sorry. Cheryl Schroder. Not
17 present. The next one I have is Grace -- did I say that
18 name? Grace Keller. Not present. Don Prince. Not
19 present. Bob Kruse. Not present. If I can read this
20 handwriting correctly, it's Nancy Davenport. Not
21 present. Patricia Crigg.

22 MS. CRIGG: I don't -- I've already said what
23 I needed to say.

24 MR. AHMADI: Okay. Thanks, Pat. The next one
25 I have is Peter Van Meter. Peter is here and we're

1 going to hear from him for the next two minutes.

2 MR. VAN METER: Thank you so much for this
3 opportunity. This has just been a wonderful day. So
4 interesting and so informative. I wish all 25,000
5 applicants could have been here. Maybe a little bigger
6 room, but it was just so important. My name is Peter
7 Van Meter. I'm an applicant from Sausalito, and as I
8 say, my pleasure to be here.

9 It was like when Mr. Walton was talking this
10 morning, I felt like he was channeling my thoughts on
11 this. It was such a beautiful and eloquent statement.
12 I think that everything he had to say was right on. And
13 then the comments that came up later from Ralph and
14 Karin, in particular, about the relevant analytical
15 skills, I think really shows how important all that is.
16 It's a balance against the issues of diversity and
17 satisfying both the spirit in the letter of the Civil
18 Rights Act and Voter Rights Act, et cetera.

19 One of the things that Ralph, in particular,
20 said, and I think it came up later in Karin's remarks,
21 was the importance of geographic features as part of
22 this district drawing, the issues of both natural and
23 manmade features like, you know, the affect of rivers or
24 mountains. I was a little surprised the example went
25 across the bay. I mean, that seemed to be maybe a

1 little bit not contiguous, but I understand the reasons
2 that might have to happen in the future and the
3 importance of mapmaking skills and so on.

4 But one of the things that I think you as the
5 selection panel are going to be faced with is --

6 MS. HAMEL: 30 seconds remaining.

7 MR. VAN METER: -- among these 25,000
8 applicants, how to pick the people with those skills.
9 And there may be a temptation to pick names that are
10 known to you of people who are in the public domain and
11 who, you know, may in fact have a lot of comments
12 because of the public comment period. And I just urge
13 you to somehow think of the balance of getting
14 "ordinary" citizens as you go through this process.
15 You've got a huge job. Good luck to you. Thank you so
16 much.

17 MR. AHMADI: Thank you, sir. Thank you.
18 Definitely we'll consider that. Thanks for the comment.
19 Next on my list I have Henry Tyson. Not present. Next
20 I have, if I can read correctly, Sam Walton. Next I
21 have Randi Swisley. Randi is not present. I'm sorry.
22 I can try this, but please forgive me if it I misspoke
23 this name. The last name is Kelley. Kelly is not
24 present. Gayland Taylor.

25 MR. TAYLOR: I'm sorry. I thought that was

1 just a sign-up list. I have no particular comment.

2 MR. AHMADI: Thank you, sir. Thank you. The
3 next one I have is Martha Turner. Not present. The
4 next one I have is William Roselle. Not present. The
5 next one I have is Jason Berger. Not present. The next
6 one I have is Ida Robinson. Not present. The next one
7 I have is Kathleen McPherson. Not present. The next
8 one I have is David Cousins. Not present. The next one
9 I have is Michael Strong. Not present. The next one I
10 have is John Pedri. Not present. The next one I have
11 is Astrid Garcia. Not present. The next one I have is
12 Bill -- I can't say the last name, to be honest. Is
13 Bill here? First name Bill.

14 UNIDENTIFIED SPEAKER: Well I'm a Bill.

15 MR. AHMADI: Do you have a comment?

16 UNIDENTIFIED SPEAKER: Mine is easy. I would
17 just like to congratulate our last speaker.

18 (Applause.)

19 MR. AHMADI: Thank you so much. Thank you.
20 The next one I have Bob Bratman. Bob is not present.
21 The next one I have is Dan Levin. Not present. And the
22 last one I have is Mary Gordon. Not present. Now, do
23 we have any members of the audience who has a question
24 or comment, you can take the podium please, and please,
25 once again I do remind you that we have a two-minute

1 limit on the time.

2 MR. TAYLOR: Do you want me to take the podium
3 just to ask one question?

4 MR. AHMADI: Please. If you can please state
5 your name for the record.

6 MR. TAYLOR: My name's Daylan (ph) Taylor, and
7 I'm an applicant. I'm curious. There was one thing I
8 couldn't overlook about the whole process, and that is
9 the administration that's going to take place, the
10 ability to put in motion all the things that are going
11 to take place. I'm wondering who's doing that now?
12 Having been involved with state contracts for many, many
13 years, if we're going to line up consultants, do those
14 kind of things, essentially that has to be in motion
15 now.

16 MR. AHMADI: Good question.

17 MR. TAYLOR: Is that being taken care of? If
18 I'm going to eventually going to go to work here, we
19 need to know what's (inaudible).

20 MR. AHMADI: For a good response, I'd like to
21 ask our Counsel to address that.

22 MS. RAMIREZ-RIDGEWAY: You won't be coming to
23 work here, unfortunately. I know you're great. You
24 will go to work for the Commission, and under the law,
25 the state auditor does not have authority to establish

1 the operations of the Commission. In fact, the
2 proposition is very clear that once the Commission is
3 fully staffed, the secretary of state shall offer
4 support, both administrative and otherwise. So we
5 cannot exceed our statutory authority with regard to the
6 Commission, and we're very hopeful that the secretary of
7 state is aware of the role, the important role she
8 plays, and I'm confident they're making the appropriate
9 preparations.

10 MR. AHMADI: Thank you. Do we have any other
11 questions, comments?

12 UNIDENTIFIED SPEAKER: When is our next
13 meeting? What's the next procedure for us who are
14 interested?

15 MR. AHMADI: Yes. Do you want to address
16 that, Counsel?

17 MS. RAMIREZ-RIDGEWAY: Sure. I think I -- I
18 intended to mention in my opening remarks that we
19 anticipate having a lengthy housekeeping meeting towards
20 the end of March after we've had an opportunity to gage
21 the total number of supplemental and completed
22 applications that have been submitted, and at that point
23 the panel will make some more permanent decisions about
24 how it's going to undertake its important job. So we
25 hope you'll watch our website and come out.

1 UNIDENTIFIED SPEAKER: Okay. That will be on
2 the e-mail?

3 MS. RAMIREZ-RIDGEWAY: That's correct. If you
4 signed up for further contact, you'll absolutely get
5 e-mail; otherwise, if you didn't and you don't want to
6 sign up, just keep checking --

7 UNIDENTIFIED SPEAKER: Well I missed your
8 first meeting. I'm one of those persons you e-mailed
9 and (inaudible) the first meeting.

10 MS. RAMIREZ-RIDGEWAY: Well we're glad you
11 made it.

12 MR. AHMADI: Thank you so much. Thanks. It
13 appears we don't have any other comments or questions,
14 so I would like to thank everybody, especially our
15 presenters. It was very informative and educational.
16 Thank you so much for sharing that knowledge with us and
17 thanks for your participation. The meeting is now
18 adjourned.

19 (Conclusion at approximately 4:10 p.m.)
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Shorthand Transcriber
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