STATE OF CALIFORNIA

CITIZENS REDISTRICTING COMMISSION (CRC)

In the matter of:

CRC BUSINESS MEETING

WEDNESDAY, SEPTEMBER 2, 2020

9:30 a.m.

Transcription by:

eScribers, LLC
APPEARANCES

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

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TECHNICAL CONTRACTORS
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PRESENTERS
Karín MacDonald, Director of Statewide Database
Matt Barreto, Prof. Political Science and Chicana/o Studies, UCLA

Also Present

PUBLIC COMMENT
Gabi Morales
Rosalind Gold, NALEO
# INDEX

<table>
<thead>
<tr>
<th>Topic</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Call to Order and Roll Call</td>
<td>4</td>
</tr>
<tr>
<td>Bagley-Keene Reminder</td>
<td>10</td>
</tr>
<tr>
<td>Public Comment</td>
<td>11</td>
</tr>
<tr>
<td>Update on Census Delay</td>
<td>13</td>
</tr>
<tr>
<td>Discussion regarding the Per Diem Policy</td>
<td>24</td>
</tr>
<tr>
<td>Public Comment</td>
<td>40</td>
</tr>
<tr>
<td>Training on census data and the process of map-drawing, an overview</td>
<td>41</td>
</tr>
<tr>
<td>of census data, census geography, and line-drawing/mapping with</td>
<td></td>
</tr>
<tr>
<td>Karin Mac Donald</td>
<td></td>
</tr>
<tr>
<td>Public Comment</td>
<td>119</td>
</tr>
<tr>
<td>Presentation with Karin MacDonald (Continued)</td>
<td>121</td>
</tr>
<tr>
<td>Public Comment</td>
<td>178</td>
</tr>
<tr>
<td>Training on the Federal Voting Rights Act of 1965 and its application</td>
<td>179</td>
</tr>
<tr>
<td>to Redistricting</td>
<td></td>
</tr>
<tr>
<td>Public Comment</td>
<td></td>
</tr>
</tbody>
</table>
CHAIR TURNER: Good morning. Thank you so much for joining the California Redistricting Committee, our public meeting. And we'll begin our day with roll call again, please.

MS. JOHNSTON: Thank you. Commissioner Ahmad.

VICE-CHAIR AHMAD: Here.

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

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

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

COMMISSIONER ANDERSEN: Here.

MS. JOHNSTON: Commissioner Fernandez. Commissioner Fornaciari.

COMMISSIONER FORNACIARI: Here.

MS. JOHNSTON: Commissioner Kennedy.

COMMISSIONER KENNEDY: Here.

MS. JOHNSTON: Commissioner Le Mons.

COMMISSIONER LE MONS: Here.

MS. JOHNSTON: Commissioner Sadhwani.

COMMISSIONER SADHWANI: Present.
MS. JOHNSTON: Commissioner Sinay.

COMMISSIONER SINAY: Here.

MS. JOHNSTON: Commissioner Taylor.

COMMISSIONER TAYLOR: Present.

MS. JOHNSTON: Commissioner Toledo. Commissioner Turner.

CHAIR TURNER: Here.


Kristian, can you help her with her communication?

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

COMMISSIONER VAZQUEZ: Yeah, major issues on my end.

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

CHAIR TURNER: Commissioner Toledo seems like he's on

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

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

MR. MANOFF: Okay. She can call the tech support
number. And for the other Commissioners also, please keep the Zoom teleconference info close in case you get disconnected.

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

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

MS. JOHNSTON: Would --

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

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

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

MS. JOHNSTON: Thank you.

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

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

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

COMMISSIONER YEE: Okay. I'm here too by the way.
CHAIR TURNER: Oh, yep. Thank you.

COMMISSIONER YEE: Sorry, I just got here.

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

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

INTERIM ADMINISTRATOR VILLANUEVA: Good morning.

These are the instructions for making public comments by phone. In order to maximize transparency and public participation in our process, the Commissioners will be taking public comment during their meeting by phone. There will be opportunities to address the Commissioners regarding the items on the agenda and the process in general.

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

To make a public comment, please dial 877-226-8163. After dialing the number, you will speak to an operator.
You will be asked to provide either the access code for the meeting, which is 5185236 -- that's 5185236 -- or the name of the meeting, which is the Citizens' Redistricting Commission First Commission Meeting.

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

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

So after providing a name and speaking with the operator, you will be placed in a listening queue, which is a virtual waiting room where you will wait until it is your turn to speak. You will be able to listen to the live audio of the meeting. So please remember to mute your computer live stream audio because the online video
and audio will be approximately sixty seconds behind the
live audio that you are hearing on your telephone.

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

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

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

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

After the moderator introduces you, please state the
name you provided to the operator, and then state your
comment clearly and concisely. After you finish making
your comment, the Commissioners will move on to the next
caller and you may hang up the call.

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

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

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

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

AT&T OPERATOR: And as a reminder, if you do want to
make a public comment, please press 1, then 0. 1-0. And
currently, we do not have anyone in queue for public comment.

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

Marian, we're in your hands.

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

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

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

And finally, just a word about advisory committees, Bagley-Keene does exempt from the open meeting
requirement an advisory committee, so long as it does not consist of more than two Commissioners. You can meet with each other, you can meet with staff. Staff don't count as people for purposes of Bagley-Keene. And I encourage you to contact your -- if you're on a committee, contact your COAT committee person and set up whatever arrangements you'd like and let Raul or me know if you'd like to include us in your conversations.

Any questions? Yes. Commissioner Sinay.

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

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

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

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

CHAIR TURNER: Commissioner --

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

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

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

COMMISSIONER SINAY: Thank you.

CHAIR TURNER: Counsel, were you complete?

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

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

INTERIM ADMINISTRATOR VILLANUEVA: That would assist there.

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

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

COMMISSIONER SADHWANI: Sure. Yes. We actually just met this morning. We are putting some final
touches. We have a draft letter that we'd like to share with you. But we want to make a couple of final changes to it.

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

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

So you know, if Commissioners have any feedback for us, that will kind of inform, you know, the final draft that we can put together for you. And we will have that for you tomorrow. And I don't know if Commissioner Toledo has anything he'd like to say.
COMMISSIONER TOLEDO: No, sorry, I -- so we started off with -- so and we do have a memo that just kind of outlines all of this. And really for the Commission, we want to bring forward the letter to the Census Bureau and to the Department of Commerce and -- as well as draft letters for advocacy that could be used, whether sending it to Legislative leaders or to the press or others. So depending on how -- what we want to do, right. So depending on what the Commission -- we want to be able to give options to the full Commission on where and how to move forward and how much advocacy we want to do.

CHAIR TURNER: Okay. Commissioner Sinay.

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

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

Okay. So with that, Commissioners Toledo and Sadhwani, if you have --
COMMISSIONER VAZQUEZ: Madam Chair?

CHAIR TURNER: Yes.

COMMISSIONER VAZQUEZ: Sorry. Commissioner Vazquez.

CHAIR TURNER: Yes, please.

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

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

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

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

And especially with the information we got yesterday, so.

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

MS. JOHNSTON: Just one comment. The other suggestions from other Commissioners should come up during the public meeting when it's discussed.
CHAIR TURNER: Thank you. Commissioner Toledo.

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

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

COMMISSIONER TOLEDO: All right. Thank you.

CHAIR TURNER: Okay. Commissioner Sadhwani.

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

I feel like we need additional information from them. But at the same time, given our, like, Bagley-Keene rules and such, I don't know what the best way is to get that information. So I am happy to call on folks and get that information, but I think that that might be in violation of Bagley-Keene. I think if we even tried to invite them to speak to us, then we need a fourteen-day turnaround time for our agenda.
So I kind of feel a little handcuffed here to even be responsive to the request, because I hear you and I think it's something that, you know, we could discuss whether or not we want to explore it in general. But how we go about exploring it given sort of the rules that we're under is not entirely clear to me.

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

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

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

So it could be done by the middle of September.

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

COMMISSIONER SADHWANI: Yes, in terms of process,
and then I think then the question is does the Commission want Commissioner Toledo and I to reach out and actually gather some information from these organizations.

CHAIR TURNER: Commissioner Le Mons.

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

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

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

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

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

CHAIR TURNER: I hear you.

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

CHAIR TURNER: I hear you.

COMMISSIONER LE MONS: That's all.

CHAIR TURNER: I got it now. Thank you.

Commissioner Ahmad.

VICE-CHAIR AHMAD: Just quickly before our guest
speaker comes on. I would find it helpful if we can just briefly go through the agenda for today and tomorrow, which items we expect to cover -- or hope to cover today, and which items will carry over to tomorrow.

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

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


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

The hope for tomorrow, Thursday, is that we will be able to do the state contract training with Raul, which is item 15. Item 16, a report on the RFPs, all of that piece part. One of the public comment requested to know that in advance. We're hoping to cover that on Thursday,
to give it a sure shot of actually happening on the day
that we announce. And item 23 is at which time we can
talk about our future agenda items and the future meeting
dates.

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

MS. JOHNSTON: Kristian's looking into it.

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

COMMISSIONER KENNEDY: Chair.

CHAIR TURNER: Yes. Commissioner Kennedy.

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

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

Thank you, Commissioner Kennedy.

Commissioner Fernandez. Still no -- yeah, okay.

Commissioner Akutagawa.

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

MS. JOHNSTON: Let's see. We haven't, but much of
that has already been discussed. You've had quite a
thorough discussion of the election code. The only
one -- other one I wanted to bring up was about the amendment process, but that can wait.

COMMISIONER AKUTAGAWA: Okay. Thank you.

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

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

Commissioner Yee.

COMMISIONER ANDERSEN: Commissioner Ahmad had her hand up.

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

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


CHAIR TURNER: Commissioner Fernandez. No.

Commissioner Sinay.

COMMISIONER SINAY: Just in case -- it seems like today we have a quirky day, so everyone might just want to write down the call-in number and the password and stuff so that we can quickly just pick up our phones and
call in if we need to. That information is in the Zoom invitation. And so just to have that quick and easy access.

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

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

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

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

So my proposal I have sent to Raul and I think was
the best way to get it before the Commission.

MS. JOHNSTON: Raul, do you have it?

INTERIM ADMINISTRATOR VILLANUEVA: Yes.

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

INTERIM ADMINISTRATOR VILLANUEVA: Yes.

CHAIR TURNER: Was it sent out already?

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

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

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

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

MS. JOHNSTON: So let's --

INTERIM ADMINISTRATOR VILLANUEVA: He did.

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

INTERIM ADMINISTRATOR VILLANUEVA: Yes.

COMMISSIONER YEE: Yes.

MS. JOHNSTON: Okay.

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

COMMISSIONER YEE: Okay.

INTERIM ADMINISTRATOR VILLANUEVA: Can everybody see
it?

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

MS. JOHNSTON: Either way.

INTERIM ADMINISTRATOR VILLANUEVA: Chair.

CHAIR TURNER: Yes.

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

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

COMMISSIONER YEE: Excellent.

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

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

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

COMMISSIONER YEE: The three little dots, yeah.

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

COMMISSIONER YEE: Okay. Well, why don't I go ahead and read it out. So my proposed Commissioner per diem
policy. Commissioners may claim the statutory per diem compensation for the following: One, calendar days when the whole Commission meets; two, nonmeeting calendar days when a Commissioner works on documented Commission business at least six hours either that day or cumulatively with one or more prior nonmeeting days.

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

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

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

CHAIR TURNER: Before you do that, I'd like to know
if there are comments from any of the Commissioners.

Comments or questions? Okay.

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

CHAIR TURNER: Thank you, Commissioner Sinay.

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

And so I would like to consider changing number 3.

CHAIR TURNER: Thank you. And Commissioner Kennedy.

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

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

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

Commissioner Akutagawa.

COMMISSIONER AKUTAGAWA: I also wanted to I guess maybe ask for clarification on the last part, which is
the documentation part. How -- I mean, I'll be honest, I mean, that alone could just become, you know, really up to interpretation. You know, trying to -- how do you -- yeah, I'll just stop there.

CHAIR TURNER: Commissioner Andersen, are you saying something?

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

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

And then on the -- I would including -- I would just have basically number 1. I would essentially almost ditch number 2 and 3. And then I don't know if we even
need how we document it. Again, I think it's just a little too much, because we're already being given how we're supposed to document things, according to state regulations. So you know, I don't think we need to be that specific.

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

CHAIR TURNER: Thank you. Commissioners Vazquez and Kennedy.

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

CHAIR TURNER: Commissioner Kennedy --

COMMISSIONER VAZQUEZ: With no restrictions.

CHAIR TURNER: -- Kennedy and Le Mons.

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

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

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

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

So Thank you, Madam Chair.

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

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

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

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

So that was the thought on that.

CHAIR TURNER: Thank you. I appreciate the dialogue concerning this. I think I am heavily still leaning towards Commissioner Le Mons last statement after looking at the document and thinking it through. Certainly will abide by whatever we determine, but I think for me, is every time we think through and have a discussion concerning the amount of days and time that we will spend away from home and the hours and the length of days that
we will still not capture additional time for. For me it makes me very comfortable still being able to stand and represent that we have served the Commission well without having the specific limits of over six, under six, or any of those other piece parts.

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

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

COMMISSIONER YEE: You know, I trust everyone. It's not a matter of trust on the condition. It's thinking of those who would wish to discredit us, you know, what opening might we give them if things are not documented and clear.
CHAIR TURNER: Thank you. Commissioner Le Mons.

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

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

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

So I'd lean to open and move forward.
CHAIR TURNER: Commissioner Toledo.

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

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

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

CHAIR TURNER: I'm not seeing any other hands. At this point, I imagine there could be a motion still and/or determination not to do -- determine not to do a
policy change or a motion and we can vote on it at this point. We've all spoke on it. Commissioners, how do -- Commissioner Yee, you brought it back, so it would be -- how do you want to move, sir?

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

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

COMMISSIONER YEE: I'm done.

CHAIR TURNER: Okay. Commissioner Andersen.

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

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

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

If someone said, oh, well, you're just doing whatever, then, you know, they clearly weren't listening to our whole conversation and the consensus that we came up to, in which case as Commissioner Le Mons said, we can, you know -- I'm sure every single one of us if it comes down to what did you do on this particular do and go back and go, well, let's see, my sheet said I did X,
Y, Z. So I think we can all feel more comfortable, if
that helps at all.

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

CHAIR TURNER: Commissioner Le Mons.

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

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

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

CHAIR TURNER: Agreed. Thank you. Okay
So with that, we are going to close agenda item
number 7.

MS. JOHNSTON: You want to --
CHAIR TURNER: And since it's --
MS. JOHNSTON: -- ask for public comment, Madam
Chair?
CHAIR TURNER: Thank you. And so at this point, we
will call for public comment for agenda item number 7.
So Ryan, would you please see if we have any public
comment waiting for agenda item number 7.
AT&T OPERATOR: And as -- pardon me. And as a
reminder, if you would wish to make a public comment,
please press 1, then 0 at this time. 1-0. And we do not
have anyone in queue for public comment.

CHAIR TURNER: Okay. Thank you so much.

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

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

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

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

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

Good morning, Commissioners. Thank you again for inviting me and thank you also for giving us the flexibility to change the presentation a little bit. I know that this was probably not all that easy because my colleague Jamie in her taped video presentation referred to some items that I am actually going to talk about today. So it's all a little bit backwards here, but I am hoping that considering Justin Levitt's fantastic presentation yesterday.
And then also, you know, some of the Q&A that happened with Jamie, it wasn't all out of the blue what you heard there. I also would like to mention that Jamie is on standby. She does have a map loaded and is ready to go. So should there be any questions, should you want to see something, she's ready to show that to you live. And if so, if you'd like to just mention perhaps in advance what you'd like to see so that she can have it ready to go and we can do this really quickly.

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

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

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

So let me try to share my screen and we'll go from there. Okay. Let me share and then from the beginning. Okay. Can you -- can you see the slide? Wonderful. Thank you.

CHAIR TURNER: Yes.

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

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

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

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

During the nonredistricting years, which are roughly
the years ending with, you know, three through eight, we
generally have reduced funding because we don't need that
much in terms of funds to do our regular operations. And
then once we go into redistricting, we receive more funding to accomplish more goals. And those goals and projects that we complete and that we engage with are mostly census related. We had a question yesterday -- or Jamie received a question about block geography and census block geography. That is one of the things that we accomplish during redistricting years.

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

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

I also know that there is that the Legislature or Legislative staff has been in communication with, I believe, CRC staff to perhaps set up a time where they can talk about these things in a little bit more detail.
So again, I am here as part of the Statewide Database. And also I should mention that I think Commissioner Sinay, I this was something you asked Jamie about yesterday about, you know, line drawing and what hat, you know, she has on or I have on.

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

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

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

I'm going to provide some more context for the data decisions at the CRC that you will need to confront and make, and I hope to provide some realistic examples of how these may be applied, and then the demo on moving
lines and how districts are constructed, of course, that is what we did yesterday.

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

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

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

You know, I tell people it's a good thing to also kind of underline sometimes what you really need to know, because that way you know where to look. So your first criterion is population equality, equal population.
Justin has talked about the differences between Congressional districts and the other set of districts. He's talked about deviations and so forth, about giving yourself a little bit more flexibility perhaps than the last Commission gave themselves to draw these. Those are all really good suggestions.

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

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

So the P.L. 94-171 data file, it's a census block level dataset. It's actually the only dataset that's released by the census on the census block level. And when Jamie was talking about the teeny, tiny little units, she was thinking about the entire State of California, where we have 720,000 of these units. So that is a lot of units or units of analysis, as we call
them, in research. And that is where we get from the census. And the way to think about this is that each little census block has some data associated with it. So you don't have details on the people that live in the census block, but you have the aggregated numbers for that particular census block.

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

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

I put in a tiny little footnote here about reapportionment versus redistricting, because that's also
something that people get confused about. And those
terms are pretty frequently misused. And in even in our
official channels, I mean, I've seen, you know,
reapportionment committees that really are redistricting
committees. And so reapportionment is, of course, the
process by which the Congressional districts get assigned
to all of the states, and that that's not something that
you really have anything to do with.

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

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

So criterion number 2, again, ranked in order,
districts shall comply with the Federal Voting Rights
Act. And this is also something that Justin mentioned.
There may be some confusion about the California Voting
Rights Act. So a lot of us have started to refer to the
Federal Voting Rights Act as the SVRA, just to
distinguish it from the CVRA, which is the California
Voting Rights Act.

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

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

So there are two parts to complying with the Federal
Voting Rights Act. And again, I'll go through this very
quickly, because Justin has done a fantastic job of
outlining what goes into this measuring and analyzing so
you get an expert who conducts a racially polarized
voting analysis. You work with your expert or multiple
experts and Counsel to make decisions about
majority/minority districts.

And it's important to remember that this work really
can begin before the release of the block level data.
And I will talk about the timeline later. I have a slide
on that, as you may have seen, if you've looked at the
presentation. And then, of course, the second part is
you draw a district. And then in that case, you -- you
take the work from the Counsel in from the expert, and
you give that to your redistricting consultant, and
collaboratively, they work together to construct
districts that comply with the Federal Voting Rights Act.

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

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

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

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

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

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

So you know, not maximizes their division. So you don't just look at it and then you try to, you know, split them up into as many districts as you can. You
actually try to minimize the division to the extent possible without violating the requirements of any of their preceding subdivisions.

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

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

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

For counties, cities and counties, well, your best source is really census geography, because the census has this geography integrated. They call them places instead
of cities. You know, there's some detail that you need
to be aware of that's kind of a little bit in the weeds.

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

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

Let me do a time check here. Okay. So communities
of interest. Those are also not readily available. And
when I say "readily available", what I mean is nobody's
going to send you a data file that has all the
communities of interest. It's just not going to happen.
So again, you're going to rely on public testimony,
probably on this item more than on anything else.

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

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

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

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

This was definitely within the time frame that the Commission had available and the fact that this was done
the first time, this was definitely a challenge. So as part of the mandate to provide public access to redistricting software, we at Statewide Database are in development of a very simplified online tool that lets people describe and draw their communities and then submit them directly to the Commission.

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

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

I just would like to say that this is a one-trick pony, so to speak. This is very, very simple, and we are, you know, user testing currently with some groups that are working with, you know, perhaps harder to reach populations to make sure that it's that it's easy, that
it's very, very easy, because this stuff can be very
overwhelming. Like, for redistricting software packages,
they do a lot of things, and they don't necessarily do
this, or they don't do this at all.

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

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

I would like to just point out that this is the last
criterion. So you know, keeping something in mind can
sometimes, you know, bias you towards perhaps
prioritizing things. I know that it's hard enough to
follow all of these criteria, as the Constitution is
asking you to do it, and come up with some good lines.

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

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

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

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

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

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

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

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

Because even other data sources, they benchmark themselves on the census. The census is an incredibly difficult to compile dataset. It is intricate, and it's
very powerful and just important to every single survey
you have ever seen launched in the U.S. pretty much. So
with that, I would suggest we perhaps go to a break.

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

CHAIR TURNER: Yep. It's a perfect breaking point.

So thank you so much. We will go to break, and we'll be
back at -- let's come back -- can we come back at 11:10?
Let's give ourselves a little bit -- a couple extra
minutes? 11:10, please.

(Whereupon, a recess was held)

CHAIR TURNER: I mean, I'm sorry. Who was that?

Commissioner Kennedy?

COMMISSIONER KENNEDY: Thank you, Madam Chair.

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

So we have approximately 200 local profiles produced
every other year by the research unit at SCAG. I don't
know about the other MPOs in the state, but I suspect
that they may have something similar. I'm just wondering
if -- if any of that data has been found to be useful.
Thank you.

MS. MAC DONALD: Yeah. Thank you,
Commissioner Kennedy. SCAG, SOCAG, ABAG, and so forth,
they do an incredible amount of work. That is absolutely
correct. And they put a lot of information out. We
worked very closely with those organizations in block
boundary suggestion, so I'm quite familiar with some of
the work that they're doing, and they have some really
good people there.
I know that there are some data datasets that they
produce that might be helpful to you that you may want to
take a look at. You know, again, you have to just take
this all in the context of the many, many, many datasets
that are available. And you know, it is really all about
context with communities of interest. And I'm assuming
that was the context in which you wanted to discuss this.

And we could talk about it in a little bit some
more. It's just the -- challenge with this is always to
how to reconcile all these datasets, right? They're all
on different units of analysis. You know, they're
created for different purposes and not necessarily for
the purpose of, you know, achieving representational
goals, perhaps so.
But I do think that some of these datasets might be very helpful in areas where you perhaps don't have any -- any public testimony and no comments. And there were certainly quite a few of those areas the last time a Commission tried to do this. So you know, keeping them in mind and being aware that they were there is a great idea.

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

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

And you know, some of your communities may organize around that, and they will tell you that's community of interest, so then that's really great dataset to have available. And other communities may be a lot smaller
and other communities, maybe a lot larger. So again, it's another data point, and it's great to consider. Thank you.

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

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

But Commissioner Yee, please go ahead.

COMMISSIONER YEE: Thank you.

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

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

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

MS. MAC DONALD: What is the question?

COMMISSIONER ANDERSEN: Just for general clarity, Ms. Mac Donald, you know, on the -- the slide that we're looking at right now, and you're -- you're sharing with us, and you're seeing a lot of these items. They come from the census data. But now that is -- when you say
census data, that does not necessarily mean only the P.L. 94. Is that correct?

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

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

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

CHAIR TURNER: Yes. Thank you.

MS. MAC DONALD: Thank you so much. Let me see if I
can resume. Okay. Let me see if I can resume here.

Oh, this one. Okay.

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

CHAIR TURNER: Yes.


Thank you for the thumbs up, Commissioner Yee.

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

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

That is turning into a bit of a challenge this time around. And it really is the only count of the population. That's one of those works that you want to keep in mind, because that is different from the American
Community Survey, which is really not counting people. That is a survey that is being conducted, and it's not counting people. It is just giving us more information about a group of people.

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

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

So this goes to some of the questions that you asked on Friday. And I think it was Commissioner Ahmad, who I talked to, who pointed out that there are some good data sources and websites out there where you can look at the self-response rates for the State of California or also for other -- for other states, if you're interested. Of
course, we're at this point a little bit more interesting
in California.

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

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

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

And once you zoom in, however, you're seeing that
there are some significant differences, even within the
counties that look very dark purple. And this is
actually also a -- an interesting geography slide, because what it's showing you is the various census tracts. So this is a census geography unit and how people have self-responded in those census tracts.

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

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

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

And you know, we had an extension of the timeline and thought people could do their work through the end of
October. And that has now been changed. So we're actually starting -- we're stopping the count at the end of this month already. So this slide I pulled on Sunday, and they get updated very frequently. So this is not looking very good for us.

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

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

During the nonresponse follow up operation -- and you see this in the data on the left side, it says 19.4 percent. That is when somebody else has basically "resolved" this particular census case. So that could be all kinds of things. This could be somebody used a
proxy. Somebody talked to your neighbor. Somebody perhaps just asked how many people are in your household and perhaps did not have time to fill out the entire census form for you. Perhaps a neighbor didn't really know.

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

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

And here's another map that I pulled for you, and -- and I'll break after these maps very quickly to see if there are some questions. These were the hard-to-count tracks from 2010, so I switched over to go to Southern California. I pulled this off the hard-to-count site.
And you, of course, can go to that site yourself. And you see that there are some areas that were really difficult to enumerate last time.

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

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

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

So let me go to this next one. Next slide. Again,
we're still on census. And again, this is about, you know, the census is just underlying this entire process. So just to remind ourselves, what is the census supposed to ask everyone? And I'm saying supposed to just because I mentioned that during nonresponse follow up one -- one of the nonresponse options really are to just get what they call whole-person imputation.

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

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

So when we're talking about the P.L. 94-171 dataset
that -- that is the mission of what we know as the
redistricting data and voting rights office of the
Census. So this is what they deal with, and they deal
with geography, and they deal with data collection.

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

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

There was a question from, I believe,
Commissioner Sinay last time on Friday about, if you were
to write a letter to the census for what you could ask
for. And I, of course, said just to keep counting. But
you know, another thing that you could ask for, I think,
and looking at this slide, you know, you guys, this
Commission has the responsibility for the Legislative
redistricting of each -- of the state. Right?
So you are really somebody who has a major stake in this particular project in the census data and making sure that you're getting good data. So I don't think that it would be, you know, a bad thing to ask for them to do a really good job with the nonresponse follow up, with data processing, with, you know, what they call post-processing, which I'll go through in a second and you know, just ask them to do a quality job.

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

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

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

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

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

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

COMMISSIONER VAZQUEZ: Yes. This is Commissioner Vazquez.

MS. MAC DONALD: Hi Commissioner.
COMMISSIONER VAZQUEZ: Hi. How are unhoused people counted for the census?

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

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

COMMISSIONER VAZQUEZ: And so -- sorry, as a follow-up question, I know several bigger jurisdictions do their
own homeless count. Are those -- are those available?

How -- how might -- if we choose to use them, how might they assist us in some of this work, since they're not -- they're probably not broken down by census tracts even, much less than just blocks.

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

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

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

COMMISSIONER SINAY: This is this is Patricia. I did the -- I volunteered on the point and count count, not this year, but last year. And it is the whole State of California tries to figure out where homeless are on a particular night, and they do it every year. And it is pretty detailed about kind of what corner and all that. So I think you bring up a good point that when it comes time to look at communities of interest, we may want to look at the point and count data for each of the regions.

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

But they were being counted in terms of where their actual groups were. So if you on one slide back there in terms of where people who haven't been -- the documentation's rather low. You can actually -- quite a few of those areas do relate to, which would normally be
just free -- open freeways or open space. And that's actually where a lot of the homeless live.

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

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

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

COMMISSIONER TAYLOR: Thank you. Thank you.

COMMISSIONER AKUTAGAWA: This is Commissioner Akutagawa. Just two questions. One is, I know you said that the homeless is -- is counted in the census as best as possible. If I understand what I'm hearing the other Commissioners talk about, is the idea that that census number could possibly be supplemented by the point in counts, knowing that there's probably a high likelihood of a big undercount, or is it used mostly in the context
of really just trying to determine what's more of a community of interest without just really seeing representation? So that's one question.

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

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

So I'm sure there's a good reason for why it's in there. It's not one that's that I have ever really found to be useful. Now, of course, that new table is going to be very, very important for us. And yes, you're absolutely right there. There are really good data out there on, you know, various housing variables in the American Community Survey.
But just remember, there are -- the P.L. 94 is not just for California. No, it's for the entire U.S. So I'm sure there's somebody who needs this particular table and maybe somebody has used it. And you know, if somebody wants to weigh in on that, it's possible that I'm missing something.

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

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

And there are some measures that are out there that we may be able to employ. But I think at this point, it's a little bit premature, because there are so many things that are a moving target. The one thing that Commissioner Vazquez brought up and also echoed by, you know, Commissioners Andersen, and I think, another Commissioner, was that there will be a lot of information available.
There are so many people dealing with figuring out where the unhoused population is at this point. And there's been so much effort in trying to bring people into the census that, you know, reaching out perhaps under the community of interest criterion, and in talking to people and figuring out the geographies for what is really a changing also population.

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

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

COMMISSIONER TURNER: Ms. Mac Donald, it's Commissioner Turner. A quick question prompted by your
comment in regards to the P.L. 94-171. Under the new
table, the P5 that's there now, who determines what do we
receive or not in this file?

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

COMMISSIONER TURNER: Okay, yeah.

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

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

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

But this census, especially states like California,
where we are doing prisoner reallocation, we really do
need to know where the group quarters are because those
are the areas that we're adjusting, so.
COMMISSIONER TURNER: Thank you.

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

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

MS. MAC DONALD: Thank you for this question. This is such a great question because it really pulls together a lot of the different aspects of building this redistricting date set this time. So yes, the group quarter's population is not broken down by race. It's
only total, but look at the other tables.

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

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

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

Please remember that when we received -- and we'll go through this in a second, but when we received the data file from the California Department of Corrections
and Rehabilitation, they actually did send us race and ethnicity. So we will know the way that they collect it, not necessarily the way that the census collects it, but we do have information about the race and ethnicity of the population that is under the control of the California Department of Corrections and Rehabilitation. So we will be able to do this as best as possible.

Does that make sense?

COMMISSIONER AKUTAGAWA: Yes. Thank you very much.

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

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

MS. MAC DONALD: That's correct.

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

MS. MAC DONALD: That's correct.

COMMISSIONER FERNANDEZ: Okay. And then the second part of that, and I might have missed it when we were talking about corrections. When you receive the
information from them that had the race and ethnicity, did it also show the race and ethnicity of the counties or cities that they originally came from? Does that make sense?

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

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

COMMISSIONER FERNANDEZ: I'm sorry, just because I work for corrections, so I do know they have the information in detail and -- I mean, but that's something separate. How does corrections know what information to
provide us? I mean, do we have, like, an opportunity to request specific information in terms of -- you know, so many inmates are from the Sacramento area initially and here's the break down in terms of age and ethnicity and race. Who determines what we're going to get from them?

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

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

So we have the previous addresses, but you know, we can always merge in -- once we have this information, we can merge in the race and ethnicity or the demographics
from the areas where people come from. So that is no
problem because we know where they came from because one
of the data items in there is also the location of where
the inmates --

COMMISSIONER FERNANDEZ: Um-hum.

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

COMMISSIONER FERNANDEZ: Right.

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

COMMISSIONER FERNANDEZ: Okay, thank you.

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

COMMISSIONER TAYLOR: I have one more question.

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

MS. MAC DONALD: Yeah, thanks for that question. So
on this particular slide, these are all the things that
we're getting from this census. So this does not refer
to what we're getting from the CDCR, okay? And again, I
think it is election code 21003. It spells out exactly
who is covered by this, and it is actually adult
populations. So you know, its' not the juvenile
populations.
But I have some slides on this in a little while, and we can go over this one more time in a little bit more detail if you wish. But I hope that answered your question.

COMMISSIONER TAYLOR: Yep.

MS. MAC DONALD: Okay, thank you.

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

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

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

MS. MAC DONALD: Not at this point as far as I know, and I am not an attorney. So this is where I wish I
could make Justin, you know, like the genie in the bottle, appear, but maybe your counsel can weigh in on this. I'm sure you can get an answer from one of the attorneys that are affiliated with this process exactly on what went into the thinking there and you know, why these populations are not covered.

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

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

COMMISSIONER AKUTAGAWA: Got it.

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

COMMISSIONER AKUTAGAWA: Good point.

COMMISSIONER KENNEDY: Commissioner Kennedy here. Ms. Mac Donald, I'm looking at 21003, and I did a search for the word adult and a search for the word juvenile. It doesn't show any hits with either word in 21003, and in fact, 21003 subsection A sub 1 is calling for information regarding each inmate incarcerated in a state correctional facility. Now, you know, some of those
words might implicitly exclude youth, but I'm not seeing anything in the, you know, plain language of the statute that would exclude youth.

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

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

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

So last time, we had, you know, 465,000 and some for the Assembly, twice that for the Senate because we have eighty Assembly districts and forty Senate districts. We
have fifty-three Congressional districts, and you know, we'll find out sometime in December or at some point how many Congressional districts you will be responsible for redrawing, and then there's Board of Equalization districts, which there are four.

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

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

Here's a little bit of history. So in general, the census has a great concerned about the ability by somebody to reverse engineer summary data to individual responses, and I know that Jaime has talked about this yesterday in her presentation.
So in this particular case because we're talking about the P.L. 94.171 data said, we're talking about block-level data. There's a long history of laws and court action that goes into privacy protection.

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

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

So there's a really long history that goes into this, and that gets us to a general discussion of disclosure avoidance methods, and again, this is a little
bit of a history. So previous censuses employed various methods to avoid disclosure of information and just because I'm saying previous censuses doesn't mean that they're necessarily not used anymore except for the eyeball test. I think that is probably not used anymore. So the eyeball test in 1920 basically just did exactly what it said. The census employees would look at the information and they would remove information or combine it to protect people's privacy. Then, in the 70s census, they added suppression of all tables to protect people's privacy in small geographic areas. So they would just not report data.

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

And then in the 2000s, they added rounding and a host of different coding techniques that a lot of us, you know, data people of course know about and also employ oftentimes when we're using, you know, small numbers of
And then, that gets us to the internet. So now we have the internet and everybody's collecting data. There are so many big datasets that people can purchase, and you know, it starts with credit card information, and it goes into, you know, all these, you know, political organizations that are collecting data on behavior, and that, of course, brought up a whole new threat level for census disclosure and census results also were published for the first time online in 2000, also making things easier for people that want to perhaps combine data.

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

So and then that gets us to differential privacy. So what is differential privacy? Differential privacy is the new methodology to safeguard data privacy. So it kind of just comes -- you know, this is all an evolution as times start changing, as new datasets are available,
as computers are becoming more powerful and so forth. 

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

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

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

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

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

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

And that may be something where you may want to weigh in and you want to say okay, we want you guys to do a really good job on post-processing because we know you
already have less time to count. You have a more
difficult environment in which to count, and there are
just so many factors that came into this census process
this time that even if you do stop counting, which we
don't want you to do, please pay attention to the post-
processing and give census employees enough time to go
through the post-processing phase.

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

You can watch it. It was the National Academy of
Science Committee on National Statistics. They had a
workshop in December of 2019. That is one of them, and
actually, Justin was one of the presenters on that, and
there are some really smart people talking about
differential privacy and the issues that they had with
the algorithms, and based on the feedback from the user
groups, from this particular workshop and so forth, the
methodology is still being refined, and there is more
internal testing happening.
Actually, let's look at two more slides really quickly and then I'll break, if I may. So there's a really quick one. This is from the Caliper Corporation, and again, I have to thank Justin for suggesting that I use these two slides.

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

So injecting noise if you are at a larger unit, like a Congressional district, which is what this is looking at, you don't really have that much of a difference. So you're seeing that there are some differences that are, like, negative 271 numbers, so this is comparing the P.L. 94 from 2010 that just employed different privacy protections to using differential privacy, and I should say that this is an older dataset. They have already refined the dataset that this map is based on because they are working out the kinks right now on this methodology, but this is a good kind of first look at what this may do.
So on a larger area, you don't see that many differences, but when you're looking at smaller areas, you will see that it actually creates a small area bias. So what this particular map is showing is the increase in rural populations for when you're applying differential privacy to the 2010 census data.

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

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

And again, perhaps we shouldn't spend too much time on this particular map. It was made in 2019. They have gone through some methodological changes already. They
are going to release a new census dataset, a new test
dataset for differential privacy in I think the end of
this month. So there will be people working on this and
figuring out, you know, where's the bias, is there a
bias, and making suggestions to the census on how they
could perhaps improve this dataset, but this is a good
illustration of what can happen.

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

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

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

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

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

COMMISSIONER YEE: So differential privacy then, that's a policy decision by the Census Bureau to apply in the post-processing and you know, that's within their right to introduce that additional methodology, but it seems like the kind of thing that could be challenged, right? I mean, you are adjusting numbers and there seems to be some -- I don't know. We'll get the numbers we get
from the Census Bureau. I mean, that's the end of the story. I guess it's between now and then that you're saying we can weigh in and should weigh in, yeah?

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

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

They do what they can to bring people into the process but in the end, they're going to have to do something to protect the data and to protect everybody's
privacy because as everybody whose worked on census
knows, we're telling people fill this out. Your privacy
will be protected.

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

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

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

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

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

MS. MAC DONALD: I could go for another twenty
minutes. I think this is a breaking point after talking
about that particular topic, but I think we can cover the
next topic pretty easily in the next twenty minutes.
COMMISSIONER TURNER: Okay, let's do that. Thank you.

MS. MAC DONALD: Yeah, thank you.

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

So criterion 2, Federal Voting Rights Act, and The American Community Survey. So this is of course something that you've already heard something about.

This goes back to Friday's presentation, and The American Community Survey, again, here we have a little acronym, ACS. It replaced the long form starting in 2005. If you know the long form, you belong to my kind of people, the older group of the population, and 2010 was the first short form only census.

The ACS, The American Community Survey is conducted monthly, and so the way to think about it is that there are 250,000 households that are contacted every month in
the United States, and they answer a lot of questions.
It's released yearly, and the collected data include
things like educational attainment, income, housing,
housing costs -- we talked about this earlier --
disability status, employment, and more, and it collects
data on citizenship. So not on the short form, but
rather, on The American Community Survey, and that
dataset releases Citizen Voting Age Population or CVAP.

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

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

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

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

So what you're seeing is Whites, the citizen voting age population as reflected in this special tabulation has really changed from the 2005 through 2009 release to 2014 through 2018 from 55.4 percent to 47.3 percent, and at the same time, for example, Latinos have gone up from 23.3 in '05 through '09 to 29.2, and even though you may think well, that should've gone quicker or that number should be bigger, remember that there are naturalization rates that factor into citizenship, also right. So not everybody is necessarily born, you know, in the U.S. And then you're seeing that the API, Asian-Pacific Islander
population group has also gone up from 12.3 percent in '05 through '09 to 14.8 percent from, you know, in the 2014 through 2018 dataset.

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

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

So for example, Assembly District 30 on the upper left corner. It's highlighted in dark green. When it was drawn, it had forty-four percent Latino CVAP, but if you're looking at The American Community Survey from 2014
through 2018, you see that that district now is at fifty-one percent Latino CVAP. So that's a pretty significant increase, and it just kind of shows how this really matters, how these trends matter, and it's good to have a dataset that shows you the population over time because you can also see where it's going.

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

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

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

And this is a slide again that a colleague shared with me. This is using The American Community Survey CVAP data to maybe start early, and so let me just
explain this. So the last slide showed where the voting rights act impacted the lines in 2011. So this is just a slide that kind of shows where you may have some of the areas that could impact the lines in 2021.

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

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

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

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

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

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

So it gives you an option to jumpstart early, and you know, you could get a jumpstart on doing a racially polarized voting analysis if you so choose, and also
consider at the state wide database, we are collecting data. We are going to have some data processed already for the general election of 2020. So there will be more data available, you'll have data over time.

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

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

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

MS. MAC DONALD: Okay. Wonderful.

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

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

COMMISSIONER TURNER: Okay, so Commissioners, we'll stop and break now for lunch. When we come back from lunch, we will need to take public comment as per our commitment, and then we will continue on with the
presentation and your questions. So lunch from 12:35 to 1:35.

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

COMMISSIONER TURNER: Right.

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

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

COMMISSIONER ANDERSEN: Thank you.

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

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

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

So Ryan, would you please check to see if we have anyone waiting in queue?
AT&T OPERATOR: Yes. As a reminder, please press 1, then 0 if you wish to make a comment. 1-0. I'm allowing a few moments. We do not have anyone in queue at this time.

COMMISSIONER TURNER: Well, we'll wait a couple of minutes since we are starting with public comments to see if we have anyone that dials in before we begin. Raul, I'm just seeing your response. Yes, please check.

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

COMMISSIONER TURNER: Okay, thank you so much.

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

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

COMMISSIONER TURNER: Okay.

UNIDENTIFIED SPEAKER: Chair?

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

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

COMMISSIONER TURNER: Perfect. Let's see, so for
application review, we have Kennedy and Fernandez for the Executive Director, Toledo, Andersen for counsel, and Taylor, Vazquez for communications. What say you? When will you be ready?

Commissioner Fernandez?

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

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

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

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

COMMISSIONER TOLEDO: That's for counsel.

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

COMMISSIONER FERNANDEZ: Yes, we are ready. We've discussed.
COMMISSIONER TURNER: Outstanding. And for the rotating chairs, I know that Commissioners Yee and Toledo have been anxiously waiting responses for those that's willing to participate as a chair. If you can get back to them expeditiously, we will perhaps be ready tomorrow. They can get all of our responses. Outstanding, and then we also had, and I think Sadhwani, you spoke early --

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

COMMISSIONER TURNER: Commissioner Yee?

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

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

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

COMMISSIONER TURNER: Oh, perfect.

COMMISSIONER LE MONS: If you want to resume that.

COMMISSIONER TURNER: Ms. Mac Donald, we'll resume
public comment and then we'll go into the continuation of
your presentation.

MS. MAC DONALD: Thank you.

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

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

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

COMMISSIONER TURNER: Thank you. Welcome.

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

Mr. Johnson suggested giving priority to communities
legally defined or defined but governmental dataset
sources, however, this would create an explicit and
implicit bias against the other communities. The LGBT
community knows all too well the discriminatory effect
this can have. For example, to date the Census Bureau
has not included information on sexual orientation.
If this Commission gives preference to communities based on the availability of ACS data, it will have the effect of creating a bias against our community. LGBT communities are often long-standing, vibrant, and easily identified. However, due to a history of discrimination, government officials have often lagged in granting official recognition.

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

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

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

Next caller, please.

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

COMMISSIONER TURNER: Okay. Thank you so much.

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

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

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

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

Before I get moving on this slide, I wanted to update you on a question that came up earlier on the prisoner reallocation and wanted to thank Commissioner
Kennedy about his question on juveniles and whether the juvenile facilities were included. And I looked back onto my records and also was able to connect with a colleague -- with Ethan Jones from the Assembly Elections and Redistricting Committee. Thank you very much, Ethan.

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

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

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

MS. MAC DONALD: Absolutely. Thank you. So going back to where we stopped, we are now talking about the
ACS CVAP versus the post-2020 CVAP dataset. So this goes again back to our Friday conversation. And one of the Commissioners, I think it may have been Commissioner Andersen, had asked what administrative datasets may be part of the post-2020 citizen voting age population dataset. So this comes from their documentation.

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

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

So again, these are federal data sources. These are administrative data, as opposed to American Community Survey, which is compiled from actual interviews with
people. So that's actually a survey.

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

Why is this screen not moving?

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

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

COMMISSIONER SADHWANI: Just to throw in here --

MS. MAC DONALD: Yes.

COMMISSIONER SADHWANI: -- my assumption is obviously that the census is -- the Census Bureau is acting on behalf of the wishes of the Trump Administration and the Secretary of State. Should we have a new president come 2021, this could change; is that correct? That the Census Bureau -- would they have enough time to go back and do some of the processing? Or
are we completely missing it? Will we have completely
missed it if the administration changes?

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

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

COMMISSIONER SADHWANI: Thank you.

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

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

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

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

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

So at the very bottom you see that there are blocks, so census blocks. And you see that they nest in all of these other geographies that are recognized by the
census. So BGs are block groups and then there is census tracts if you go up in the middle. And then there's counties and states. So nothing is essentially split by a census block, which is why the census block's so powerful for us when we're thinking about building districts. And that's also why redistricting databases are built on the census block. Because once you have them, you have that flexibility to go -- you know, well, this may not be able to go.

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

COMMISSIONER TURNER: Ms. Mac Donald?

MS. MAC DONALD: Yes.

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

MS. MAC DONALD: Yes.

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

MS. MAC DONALD: Absolutely. Thank you for that question. So this is a chart that shows census geography. So these are the various census geographies
that the census basically reports various sets of data on. And some of these are geographies that you're probably not going to be working with ever, not in this process and not in any other process. But other ones, they might just be good to know.

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

COMMISSIONER TURNER: Um-hum.

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

COMMISSIONER TURNER: Um-hum.

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

But census blocks also nest in larger units of analysis, for example, block groups. So block group, as the name suggests, of course, is a group of blocks that
are put together and some data are released on the block-
group level. So for --

COMMISSIONER TURNER: Um-hum.

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

COMMISSIONER TURNER: Um-hum.

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

COMMISSIONER TURNER: Um-hum.

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

COMMISSIONER TURNER: Um-hum. Thank you.

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

COMMISSIONER TURNER: So I guess my -- the thing I
was wondering about is the lines going off to the right
and left -- I get the straight-up line and how they nest to one another. Is there something we do with the other ones?

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

COMMISSIONER TURNER: Um-hum.

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

COMMISSIONER TURNER: Um-hum.

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

COMMISSIONER TURNER: Yes.

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

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

COMMISSIONER TURNER: Well --

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

COMMISSIONER TURNER: Um-hum.

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

COMMISSIONER TURNER: Um-hum.

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

COMMISSIONER TURNER: Right, right. Okay.

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

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

MS. MAC DONALD: So --

COMMISSIONER TURNER: Thank you.
MS. MAC DONALD: Yeah. That's why I like this chart. I just --

COMMISSIONER TURNER: Um-hum.

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

COMMISSIONER TURNER: Um-hum.

MS. MAC DONALD: You know.

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

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

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

COMMISSIONER ANDERSEN: Great. Thank you very much.

MS. MAC DONALD: Oh, here we go. Okay. So this is just a little visualization of what we just spoke about. So this is a map that shows some of these small census units. And the red little dotted lines are census
blocks. And you see the census block groups. Those are the ones that are in the faint purple. And I don't know how this shows up on your screen, so these are you know, the second largest units that are in there. And then the darker lines that are not dotted or striped, the very dark lines, those are census tracts.

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

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

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

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

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

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

So these are the two datasets that we think about. This is the answer to the question that was asked earlier about where do we get these data. And we get them from the Registrar of Voters and from the Secretary of State; that's how they are collected. And the statement of
registration is what we call an individual-level dataset because we know for each individual how that person was registered. And for example, when they were registered and so forth. We know their age and so forth.

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

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

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

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

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

Here is a slide that shows you some detail on the differences between election precincts and census blocks. So again, and this is thanks to Jaime for providing these slides for this presentation, the census-block boundary is the one with the red stripes, the little, like broken up dots there. And the precinct boundary is this darker gray boundary that basically encompasses some of the census blocks, but it also splits some of the census blocks. If you look toward the left, in the more leftish center of the slide, you can see one of these census
blocks that's split -- or actually multiple ones. And here's a little insert of that. So this is an example of a census block that is split among three precincts.

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

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

So all of these datasets are merged and released on
the same unit of analysis, which is the census block. And that essentially is a redistricting database. And that is a redistricting database no matter where you go. So it's not just California. It's anybody who releases or who builds redistricting databases, this is what they tried to accomplish, more or less.

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

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

So the Statewide Database, and this goes back to the
question that Commissioner Sinay asked at the very beginning of my presentation, the Statewide Database is a redistricting database for the State of California. We are located on the UC Berkeley campus. We're part of Berkeley Law.

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

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

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

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

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

COMMISSIONER YEE:  Question --

COMMISSIONER FORNACIARI:  Question --

COMMISSIONER YEE:  -- about -- go ahead.

COMMISSIONER FORNACIARI:  Okay. So how do you
reconcile the data that comes in large geographies down
to the census-block level?

COMMISSIONER YEE: That was also my question.

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

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

COMMISSIONER FORNACIARI: Okay. That would be
great. Thank you.
MS. MAC DONALD: Okay. Any other questions? If not, then I will move on.

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

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

COMMISSIONER SADHWANI: Yes. Absolutely.

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

Those bills require the California Department of Corrections and Rehabilitation to provide a dataset to the Citizens Redistricting Commission and the Legislature between April 1, 2020 and July 1, 2020 regarding the last
known place of residence of each inmate in a facility
under the control of the CDCR on April 1, 2020.

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

It requires CDCR to provide information about the
race and ethnicity as identified by the inmate and any
information about the race of the inmate to the extent
such information is maintained. And it then requires the
Legislature in coordination with the CRC, to ensure that
the information provided by CDCR is included in the
computerized database that is used for redistricting.
And it requests the CRC to deem each incarcerated person
as residing at his or her most recent residential address
rather than at the institution of his or her
incarceration. So of course, we have gone through this
in bits and pieces over the last -- you know, few days.
And that is essentially what these bills and what the
election code section does.

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

Are there any questions about this?

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

MS. MAC DONALD: Um-hum.

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

MS. MAC DONALD: Right.
COMMISSIONER YEE: Okay.

MS. MAC DONALD: That is correct.

COMMISSIONER YEE: Yeah.

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

COMMISSIONER YEE: Wow.

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

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

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

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

COMMISSIONER YEE: Yeah. Well, there it is.

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

COMMISSIONER YEE: No worries.

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

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

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

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

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

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

MS. MAC DONALD: Okay. So federal prisons are actually not under the control of the CDCR. So this bill is really about facilities that are under the control of the CDCR and -- but there are potentially some federal prisoners that are in facilities under the control of the CDCR. So that -- that is why the federal prisoners even got in there. It does not cover federal prisoners that are residing in federal facilities.
And I had a conversation with a colleague over the weekend on this. And I think the reason for that is that the -- California just could not -- we can't require for the federal government to give us data. But you know, we could get data from -- from the State of California and from CDCR. So I think that was the intent here was to do what -- what could be controlled and what could be done, but not require something that, in all likelihood, cannot be done with this bill.

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

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

But the other one is these federal prisons still exist in some location in California that do require some level of services within -- or I would think by the State
of California just by the fact that they're physically
located in California. And I just wanted to
understand -- you know, how do they get accounted for?
And I know that, you know, what we're doing is for
the purposes of representation and -- you know, voting.
But it's still -- you know, it still seems like the work
that we're doing is to ensure that anybody who is
physically in the State of California has some type of
adequate representation, whether or not they can actually
vote or not. So I guess that's partly the kind of -- the
reason why I'm asking these questions.

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

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

MS. MAC DONALD: Yeah. Thank you.

Commissioner Yee?

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

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

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

Okay.

MS. MAC DONALD: Yeah. So it's a summary slide. So to make it fit on the slide, I took a bunch of words out. But the bill, they refer to -- these folks, they refer to
facilities under the control of the California -- of
CDCR, so California Department of Corrections and
Rehabilitation because that is where we get the data. So
when we're talking about federal prisoners, we are
actually talking about federal prisoners that may be part
of -- that may be temporarily or whenever -- were on
April 1 incarcerated in a facility under the control of
CDCR.

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

MS. MAC DONALD: That's correct.

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

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

So what does this all mean? Very quickly, in
summary, California will be adjusting the data that it
will receive from the census. And the Citizens
Redistricting Commission, you must consider whether or
not you want to use the adjusted dataset for
redistricting. And then you're going to have to explain
to the public why the redistricting data for California
may be slightly different from P.L. 94-171 as compared to
the census, because you know, the census is going to have
this dataset out on their website, but not the adjusted
dataset, right. Our dataset is going to be a little
different.

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

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

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

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

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

So if you look at this chart, you see it divided into three colors. And yellow is the period after the Commission forms but before you can start to draw lines with the P.L. 94 data. The green is time after the release of the data up to the deadline to finish the
maps. So that's where you're putting the maps together. And the red are book ends when the -- with Commission formation on the front end and then post-mapping work on the back end, like dealing with any litigation, or as Justin says, certain litigation and considering potentially -- you know, statutory amendments for the next cycle or whatever you need to do.

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

So when the last Commission was you know, already trying to juggle line drawing and all of that, no matter what happens federally, you do have time to be deliberate in -- you know, debating and discussing data issues and you know, how to organize yourself and gathering public
input and so forth. So there is definitely time.

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

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

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

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

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

So contiguity, very quickly, districts shall be geographically contiguous is what the constitution says. And the definition is it's a district in which all parts are connected to each other. In other words, a district
in one -- which may -- "in which one may travel from any
one location to any other location without crossing the
district boundary."

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

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

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

And then here, we are up in the Northland. This is
the Bay Bridge and this, of course, really funny looking
geo...
And that just also tells you something about census geography, because the census assigns everything to geography. There's no holes in there. So sometimes you have areas that are water or -- and so forth -- you know, and they're also -- they also get their census geography. So here you see the Bay Bridge that is connecting Treasure Island and Yerba Buena Island to San Francisco.

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

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

I have had the unfortunate -- I have found myself in the unfortunate situation of -- of getting some very loud feedback to using a administrative neighborhood dataset a
long time ago that people just did not agree with. And you know, it was a suggestion, and that suggestion was very quickly dismissed.

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

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

And then communities of interest, this is pretty much the same thing, they are just not readily available and need to be collected in some way. Oftentimes, you know, people rely on public testimony. And that's in
fact, what the last Commission did. And that was well-received. And then data on geography also submitted by the public to go along with this is my community of interest and here's where the boundaries are. And sometimes you can get some information from local officials or from other data sources also.

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

So Government Code section 8253 says, "The Commission shall establish and implement an open-hearing process for public input and deliberation that shall be subject to public notice and promoted through a thorough outreach program to solicit broad public participation in the redistricting public review process." And that is, of course, kind of where the outreach to communities to collect that -- those data and so forth can come in.
And that is also -- you kind of see this throughout the Constitution, and I think, throughout the approach that the last Commission took, also -- was that -- they took this very seriously that they were supposed to be collaborative with the communities, to come in and just share what they knew about their communities and share what representational needs that they had.

Again, California Constitution Article 21 provides some definitions and some examples. And we had some people that fit very well into these examples. Some communities fit very well, and others were just a little bit more creative, essentially. One thing to keep in mind is that, of course, communities of interest shall not include relationships with political parties, incumbents, or political candidates; the no politics, kind of, exclusion. And that's also something that's going to come up, because this is, for many people, a very important federal election that's coming up, and people are organizing right now around political parties and around political candidates. So it's very likely that people get to know each other and really feel very strongly that they have a community built around them. But that is something that this particular section of the constitution says you can just not take into consideration.
So how do you then define a community of interest? So you do it through a public input process that solicits information from those that live or work in the community. You can request oral or written testimony about the community. You ask the public for input, for example, on what bonds your community; what is your commonality; where is your community located; what are the borders; and then you could also ask why should it stay together, but I don't know that you're going to need it -- that particular question. It may be a variation of these questions. And again, that may not be the only data set that you use, but that is a good starting point to have a conversation with people. And it's been tried -- it was tried in '98. I wrote my -- I was in the Ph.D. program at Berkeley, and I wrote my master's thesis on this. This was, essentially, my master's thesis. So what the previous presentation on Thursday referred to as The New York -- The L.A. Times project of actually going to neighborhoods and having them define themselves, that is what I did in the City of Oakland. And I had people identify their communities of interest, and their neighborhoods, and whatnot, and I've used that, and many, many, many people in many redistrictings have used that methodology or a variation of that methodology to build districts. And it's worked pretty well, so perhaps
something like that will work for you. It's something to consider.

One thing that we know about communities of interest is that they may or may not be supported by quantitative data, such as census or American Community Survey data. And they don't necessarily need to be, because if you go back to the constitution, it doesn't say you have to have administrative data to make your point about your community. For example, if I live in a historic area, and I organize with my neighbors around this historic area, and we have all these houses that were built before 1900, and we're eligible for inclusion in the National Register of Historic Places and so forth. That is not something that I'm going to be able to document with American Community Survey data. That's just something that's not in there. And there are many, many, many other communities, some of which that we've heard from and others that we will be surprised about, that will not be able to come in with quantitative data. And that doesn't make them less a community of interest. And I think that's what Justin was trying to say when -- or what he did say when he said sometimes what's easy is not necessarily the best path forward, or it's not necessarily right. So that's what I'm trying to convey with this slide.
You will also get conflicting information about communities of interest. They can vary in size and range from small to large. People don't agree on exactly where the neighborhood boundary is. They can have a current interest, or maybe they have a goal that binds them. So for example, everybody's working towards getting this particular park built, or they are already working on this community center that they got built, and everybody's organizing around that community center.

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

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

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

I'll give you a few more examples, and then I'll stop and perhaps we can talk about it if you have some questions. In the last redistricting, some of the community sects spoke up. Where, for example, foothill counties that -- and they were counties, so imagine that. I'm going from a small city park where people may be organizing, to a whole county that may come in and say, we have multiple counties and we are a community of
interest; and why, because we share the same water shed, and this is a really, really important issue for us. You have communities -- you have communities, as I mentioned, organizing around historic neighborhood. Cities with a shared transportation corridor. This was something that happened down in LA County, for example, where there was a lot of transportation truck traffic on a particular transportation corridor, and that went in to environmental concerns. There're cities with a commonality of economic interest. So we had cities coming and saying we need to be staying together because of whatever, it could be Silicon Valley cities, or something like that. We had areas with a high non-English speaking cultural communities -- a community that wanted to stay together. There were very organized neighborhoods with active groups, and then there were communities organizing around economic development, and coastal communities working to fight offshore drilling, for example.

So it really just -- it was a very wide range. And again, some of these -- you may find some big data sources, administrative data sources, federal data sources, census data to support and others just not. This is a good one if you want to talk about big data and the various data sets that you can find online.
So this is Koreatown. So where is Koreatown? And I bet you everybody from these data sources you talk to, they feel pretty strongly about that that is where is Koreatown is, and none of this tells you where Koreatown actually is; whether they're right, whether they're wrong. This just tells you that there are a lot of people that have a lot of different opinions about where Koreatown is. So this includes, by the way if you can't see the small writing, the Wilshire Center Koreatown Neighborhood Council boundaries, The L.A. Times Mapping L.A. Project boundaries, the City of Los Angeles & Google Maps boundaries, and the L.A. Wilshire Community Plan boundaries. So it is pretty interesting stuff. So --

CHAIR TURNER: Ms. Mac Donald --

MS. MAC DONALD: Yes?

CHAIR TURNER: Ms. Mac Donald --

MS. MAC DONALD: Yes.

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

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

CHAIR TURNER: Okay.

MS. JOHNSTON: It might be 2:50.

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

MS. JOHNSTON: We came back at 1:35?
CHAIR TURNER: Yes.

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

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

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

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

MS. MAC DONALD: Absolutely. I think that is exactly what I'm trying to say, though I am sure that Justin said it better than I did. And I think also, it
might be good to keep in mind that you want to avoid an implicit bias when you're looking at communities of interest. Like for example, if you're using some scoring system, which have been suggested, it could create an incentive to preserve -- for example, lots of small lower priorities -- priority communities even if that then means splitting a bigger and more critical community in a particular way, and that damages their ability to get fair representation. So if you're focusing on, like, data-defined communities early on, the question is does that create a permanent bias favoring those communities over the ones that are defined by the communities themselves?

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

So keeping an open mind, being flexible, don't box yourself in, don't use, like, a scoring system or something like that too early -- just keep an open mind
on it and just see what comes in the door. And most
definitely listen to communities, because they live
there. So they're going to know what they need. That's
a pretty important thing I think, to just keep an open
mind. So thank you for that.

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

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

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

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

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

So again, it can be difficult to create a compact
district, and they may be tradeoffs with the other
criteria. So for example, cities may not be compact, but
they are part of a higher ranked criterion. So remember,
compactness is criterion number 5. So just because it's not compact, doesn't mean you get to say well, this community can't keep you together, people, because you are not compact. That just does not work. And just from looking at it, it can be very difficult to ascertain whether a district is noncompact without having more information.

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

Lessons learned from research on this. So we did some research projects leading up to proposition 11 and -- when I say we, I mean over at UC Berkeley -- we looked at criteria interaction effects on compactness. And this is an older study, but it was very interesting
to do and of course, it's been shown to be true. And what we found is that there are definite -- when you're trying to make compactness a higher ranked criterion, you will have some adverse effects on majority/minority districts, so they are harder to create, or you can't create them at all. It's going to make it more difficult to preserve city and county boundaries. Again, I just showed you Bakersfield. So if you elevate compactness, which of course you're not supposed to do because it is below all of these criteria, then you would have a hard time keeping city and county boundaries together. And it would also make it more difficult to respect communities of interest, because they just don't grow in a compact way. It just doesn't work that way.

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

MS. JOHNSTON: By 3 --

CHAIR TURNER: 3:05.

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

This gets me to criterion 6, nesting to the extent practicable, and where it does not conflict with the criteria above. Each Senate district shall be comprised and so forth. So you use the newly created district for
this. I talked about it earlier, and Justin of course
talked about it. There's nothing easy about nesting.
There really isn't. It is a difficult problem to
accomplish, and it sounds so wonderful, right? And I'll
tell you, a lot of -- a lot of consultants really like
this, because you get a good Assembly district, gosh, you
are done with your Senate district in a flash. But if
you didn't have all these other criteria that you had to
satisfy first, then that would be probably pretty quick
turnaround. But not in California. So this is the
lowest ranked criterion, and that's probably the reason
for it.

There are again, tradeoffs with other criteria. It
really constrains the line drawing process if you have to
nest. And what it may do, is it may double a wrong. If
Assembly districts are not meeting the needs of a
community and then you're putting them together into a
Senate district -- so you may have the same problem in
both the Assembly and in the Senate district. And it was
interesting, the last Commission they had this wonderful
line where they said they were sharing the pain. I don't
know if you've heard about that. They were trying not to
split people into district plans, and I just thought that
was wonderful, because they were really trying to not
double a wrong. They were trying to just spread things
around, just knowing that they had to -- there were going
to be some tradeoffs, and they had to make some hard
decisions and hard choices.

So this kind of factors right into this particular
slide. So nesting in practice. So this is the map from
2011 where there was perfect nesting. And if you look at
the report from the last Commission, they also talk
about, like, almost perfect nesting. So they really did
try. And it's really not correct to say that they
abandoned nesting form the get go. That is not true.
They really tried to nest where they could, but they also
complied with the law. And that just made it difficult.
So three of these four Assembly districts, just to let
you know -- just a little FYI, there are actually
majority/minority districts, and both of the overlaying
Senate districts are also majority/minority Senate
districts. The Assembly districts are very compact,
looking at California criteria, and the line between the
two Senate districts is a county boundary. So this is
actually a really, really good example of meeting and
integrating all of these higher ranked criteria. And
it's almost nirvana if you go to -- you get to criterion
number 6 and you can do this. That's fantastic. So on
the Rose Institute presentation, there was a slide -- I
think it was slide 27 that actually shows a district that
goes around -- that surrounds on the northeast of this area -- those particular districts, and it was described as kind of the leftover. And it's actually a direct result of following all of the criteria and nesting this particular area that I'm showing on this slide. So it just shows you can't just take one district in isolation and just give feedback on it without looking at the surrounding areas in context, and look at what's going on there. So that district would have looked different, most likely, if these districts had not been drawn in compliance with the law and had not been nested fully.

So finally, this is my last slide. And thank you very much for your attention and for working with me on this. Line drawing and illustration of criteria implementation is not coming first -- after this. This came first. And we're going to have Matt Barreto next.

So I wanted to add one more thing before I leave, and that is about live line drawing. And this is also something that a couple of you have brought up. So something about live line drawing is really that it increases transparency. And a lot of the questions about why is this line here, or why is it there, is not a question that anybody needs to ask later, or that you need to puzzle about, because you know that the line went there because you put it there. And you put it there
live, and anybody who was watching could see why it went there. So it really -- it removes the perception that this is being done in a smoke-filled room where nobody knows how it went there, and it also makes sure that the Commissioners know -- that you all know why it's there, and you can explain it to people. In the last redistricting, I think that was very important for everybody to come to a consensus. And the last time, it was the first time we did this. It was really -- transparency was just one of the most important things that that Commission could do, and this was one of things that accomplished that.

So that is my presentation, and I'm available to you at any time now or later. Thank you.

CHAIR TURNER: Thank you, Ms. Mac Donald. This was amazing. What we'll do at this point, if you would please stick with us, we're going to go to the break, and when we come back we'll see if there are additional questions from the council. But we'll also need to open for public comment, and I'd love for you to still be on in case the public has a comment as well.

MS. MAC DONALD: That sounds great. Thank you.

CHAIR TURNER: Okay. So we'll be back at 3:15.

MS. JOHNSTON: 3:20.

CHAIR TURNER: 3:20, please.
MS. MAC DONALD: Thank you.

(Whereupon, a recess was held)

CHAIR TURNER: Thank you and welcome back. We're going to now be -- turn it over to the Commissioners to see if you have -- thank you for joining us, Professor. Matt will be with you in just a moment.

Commissioners, let's see if you have any questions of Ms. Mac Donald before we go to public comment. I know we asked a lot as we went through, but if there are any other comments or questions. Okay. Let's see.

Ryan, if you would, please. Let's see if we have any public comments waiting for this agenda item.

AT&T OPERATOR: Okay. Okay. Ladies and gentlemen, if you wish to make a comment, please press 1 then 0 at this time, 1-0. And I'll know in a few moments here. We do not have anyone in queue at this time.

CHAIR TURNER: Okay. Well, thank you so much.

Ms. Mac Donald, we certainly appreciate the thoroughness of your presentation and answering all of our questions. We thank you and applaud you. So thank you so much.

And at this point, I'd like to welcome Matt Barreto.

Yes, Commissioners? You all are waving bye or you have comments? Yee, Fernandez, Le Mons -- oh, they're just waving. Okay. Perfect.
Then, Matt, thank you for joining us. We'd love for you to talk to us, or at least begin to talk with us about the Voting Rights Act.

PROF. BARRETO: You got it. Thanks. Thanks for inviting me. I'm going to turn my screen share on, I think. Let's see if this works. All right. Does everyone have that? Yup.

All right. So I'll go ahead and get started, and feel free to jump in. Ask any questions along the way. Happy to answer anything I'm able to.

So my name is Matt Barreto. I am a professor at the University of California in Los Angeles. My primary appointments are in the Department of Political Science and the Department of Chicana and Chicano Studies. I am also the faculty director of a center in the UCLA Luskin School of Public Affairs; that's called the UCLA Voting Rights Project. And there, we do a lot of research on all topics related to voting rights. We have been researching everything involved in vote by mail this cycle, as that has become a hot topic. We otherwise research things like vote dilution, which you're going to hear about today, and districting. So we have a large and exciting team of lawyers, Ph.D. students, law students, public policy students, et cetera who work with us in our center. And I'll tell you a little bit about
some of that work later, as it relates to understanding
and interpreting the Voting Rights Act.

I was fortunate to work with the Commission in 2011,
as Karin was, who you just heard from. And I did an
analysis of the Voting Rights Act in 2011 with the
Commission. Since then I have worked on a number of
Voting Rights Act cases, both for jurisdictions, the
states or counties. I've also worked with plaintiff's
groups. And the question we're always trying to answer
is whether or not a districting plan is creating fair and
equitable representation. I'd be happy to talk about any
of the other redistricting lawsuits or legal challenges
that I've been involved in. As I said, I have worked for
both government and defense and plaintiff's side in those
across the years.

So I'm going to start out by talking about the
Federal Voting Rights Act, giving you just the super
brief history of it and talking about how it applies to
California, and then we'll go through and talk about what
some of the challenges are when it comes to districting.

So it had been the case that section 5 of the Voting
Rights Act required states or subdivisions with a history
of or ongoing discrimination to pre-clear their plans or
any changes at all related to voting. And in 1968,
Monterey and Yuba Counties were added to this list in
California. And in 1972, Kings County in California was added.

However, the Supreme Court struck down the coverage formula, which was called section 4(b) in 2013, and so section 5 is something that we won't have to deal with this year in California, and in 2011, we did and had to submit pre-clearance plans as they related to those counties. But that federal monitoring, that pre-clearance is no longer in effect as section 4(b) has not been resolved.

The Supreme Court asked the Congress to resolve it, or it gave the Congress permission to resolve it, but not surprisingly, the Congress has not resolved that over the last seven years. And so we do not have section 5 of the Voting Rights Act as a current oversight authority for the State of California or any jurisdiction.

Instead, we have section 2 of the Federal Voting Rights Act of 1965, and section 2, as it outlines in section 2(a) prohibits the discrimination in any voting standard, practice, or procedure that results in the denial or abridgment of the right of any citizen to vote on account of their race, color, or membership of the minority language group.

This applies nationwide. It's not only in select jurisdictions like section 5 used to be. And
specifically, what we're looking at is section 2(b), which is the enforcement arm of the voter -- of the federal Voting Rights Act. And section 2(b) reads, perhaps most importantly here in the middle, that a violation occurs when members of an -- have less opportunity than other members of the electorate to participate in the political process and elect representatives of their choice.

That ends up being a very key phrase and a key interpretation of the Voting Rights Act. Simply put, that we cannot create districting systems that would lead to vote dilution, meaning that even if every member of a protected class voted at their highest rate and voted for candidates, they would be systematically blocked or denied from being able to vote for candidates of their choice and have an opportunity to meaningfully elect those candidates of their choice.

As it relates to districting plans, this occurs when there is the use of racial gerrymandering where race is a predominant figure in the drawing of lines and that the lines are drawn in such a manner that they dilute minority rights to having that opportunity to elect candidates of their choice.

Section 2 of the Voting Rights Act has been widely used since 1965, and since it withstood its
constitutional challenge, has been renewed multiple times and has been effective in upholding opportunities for different groups to vote. It has been used most often by African-Americans, but increasingly today by Hispanic or Latino voters, Asian-American voters, Native Americans, and white voters.

There are many parts of the country and many parts in California where white non-Hispanic voters are a racial or ethnic minority. And in fact, white voters have used the Voting Rights Act of 1965 to bring challenges.

What are plaintiffs challenging here is that a districting scheme might draw lines in a way that either pack or crack their population, and we're going to talk about that a little bit more. I know you've heard those terms from some of the other folks who have -- who have briefed you. But that's essentially what we need to be on the lookout for, is whether or not the districting scheme packs or cracks a certain population in such a way that it dilutes their ability to have meaningful choice in the election.

The goal is to ensure the right balance, the right fit, and that means fair and equitable districts. And we want those districts to not just be fair and equitable, but we want them to successfully be defended against any
challenges, against any outside criticism, as well as any outside lawsuits. The districts that you create will undoubtedly be scrutinized, and by following closely the Voting Rights Act of 1965 as you're drawing them and keeping it in mind, you'll be able to have districts that are not only balanced and fair but that will successfully withstand challenges.

So I'm going to give you an example here of cracking and packing. I know you've heard a little bit about this, but it's a complicated process and it's a process that is no simple single definition. Rather, different experts might give you different interpretations. And so I think what I'm about to explain is probably quite similar to what Justin explained in his presentation.

Here, I'm using Clark County, Nevada, next door to us, and the dark green areas you can see here by a legend is high-density Hispanic or Latino. Parts of Clark County in the dark red are very low-density Hispanic or Latino areas.

In the first example that I want to give you is one in which six, let's say, district boundaries are created that splits or cracks the minority population. Here, the Latino population appears to be split into multiple districts and perhaps never being able to see their candidate win. In such a district boundary, which in
this case I'm just using a hypothetical here for illustrative purposes, the Hispanic or Latino population might always be stuck in the thirty to forty percent range, never being able, if their community votes together to have a candidate of their choice elected to office. That's called cracking, where you split the population up in such a way.

The second alternative to this is one that's called packing. And in this case, you can see District 5 right in the center of your screen might be one that has a very, very high-density Hispanic or Latino population, perhaps seventy, eighty or even ninety percent. Here, the population is concentrated into a single district, and this might be helpful for creating one district, but the population might have been theoretically large enough that two influence districts might have been drawn, and so this is called packing.

The balance is to try and find two districts in which Latino voters have an opportunity to elect candidates of choice. And I want to put an important caveat that the map drawer can give consideration to race as a condition -- not the only condition, as one condition -- if historical conditions and voting behavior justify considering race.

So it's never going to be something that you start
with and it's never going to be a predominant factor.

But if you're in a situation where a group could challenge because they could put on evidence that this population has been historically discriminated against, they have had historically unequal rates of representation, and if you either cracked the population so that it was too small to ever influence the outcome, or you packed it so that they could only have one district, this might be susceptible to a voting rights challenge.

And again, the balance would be to try to find districts in which the Latino or Latina population could have an opportunity to elect candidates of their choice. That's what we're looking out for, and that's what courts will be looking at and what possible plaintiffs will be looking at when they evaluate the different boundaries and plans.

So what are the considerations on drawing the lines? I know you just heard a lot about this from Karin, and so I'm not going to stay on this point for too long. Of course, you have to comply with federal and state laws. That includes the federal Voting Rights Act but any other federal state laws that are related to how lines are needed to be drawn nationally or in the State of California.
Compactness, which you just heard about, contiguity, which you just heard about, making sure the districts hold together. Competitiveness is another issue that different courts have given weight to and in 2011, was one of the issues that Commissioners considered in creating districts. Preservation of political subdivisions. Karin talked about that as well. We don't typically like to see districts drawn that split up or crack not just minority communities, but counties, cities, or other political subdivisions.

Preservation of communities of interest, how do we draw districts that keep communities together. And deference to the core of prior districts. What that means as we think about drawing the districts this year in 2021, we don't ever want to go in just as a blank state and start from scratch. We want to look at the districts as they exist now and figure out what is the right way to work with the core of those districts but to improve them to achieve population balance.

And oftentimes, courts have looked to issues where in two incumbents perhaps of the same political party are put into the same district and a new district is drawn with no incumbent, and courts have looked down upon that.

Another important consideration, of course, is the size of the district, and I know both Justin and Karin
talked about this a little bit, but it's an important consideration before we get directly into the Federal Voting Rights Act of 1965 and some of the important court decisions that have come along the way.

Of course, maximum population deviation that is allowed is ten percent for state and local offices. That means the largest district can perhaps be 5 percent overpopulated and the smallest district could be 5 percent underpopulated or some combination of there. Trying not to stretch that past 10 percent is the boundary that courts have generally accepted for state and local offices.

For U.S. Congressional offices, those seats are supposed to be as close to equal in population as possible. Some deviation is going to occur, and when that deviation does occur, it needs to happen with good reason. An important guiding principle in this is Larios v. Cox in 2004, in which, when there is a population deviation from that ideal population point, that should be based on traditional districting principles. Those are the things in the previous slide.

So if you needed to make a district slightly bigger because it included the entirety of the County and you didn't have to split the County, that might be something that's allowed. If you had to make the district slightly
smaller because you were grouping together traditional
communities of interest, that is something that might be
allowed. But population deviation should not be used as
the sole basis to discriminate against voters on the
basis of race. That was an important and guiding
decision in the Larios v. Cox decision.

Now, as we get into when racial discrimination
happens and whether or not discriminatory intent takes
place, we want to look to what the courts have called the
Arlington Heights factors. This comes out of a case in
1977 related to housing, but this is one of the first
things that any plaintiffs are going to have to look at
when they're trying to determine whether or not the
action that this body has taken was taken with
discriminatory intent.

And in that case, which came out of Chicago, the
Court outlined some principles, or what are now referred
to as the Arlington Heights factors, and these have
become very important and often cited in voting rights
cases. The first is the impact of the official action,
whether that official action bears more heavily on one
race than another. So we can look at the impact. Impact
alone is important but not determinative, the Court held.

The historical background of a decision. If it
reveals a series of actions that have been taken for
invidious purposes. So is there a history of continuing
excluding or cracking a certain population over and over
again? Is the specific sequence of events leading up to
that decision? What challenged that? Why was that
involved? What were all the minutes and notes and emails
perhaps in this case that were happening?

And did anything depart from the normal procedure?
Was there a new rule that was instituted to allow one
group to have more influence over another? This item
number four is one that's had -- historically, commonly
been cited in voting rights cases when a Legislature,

city council, or county Commission might have invented a
new rule, something out of the ordinary that wasn't
keeping with norm in order to exclude a certain
population from having access to the vote or by diluting
their district. And so these sorts of factors are often
looked at.

The final is the administrative history. So of
course, all of these meetings are public. All of the
exchanges are public. And in this case, California is
far ahead of the curve because of the transparency that
is involved. There's very unlikely to be any sort of
paper trail of some sort of discriminatory factor, but
these are things that the courts established in Arlington
Heights.
The next thing before we get directly into the analysis that we're going to have to do to understand the Voting Rights Act and whether and how it applies is a quick consideration of when we can use race, and that came from the Shaw v. Reno case in 1993. And they outlined some principles for when race can be considered in redistricting.

First of all, redistricting based on race must be held to a standard of strict scrutiny under the equal protection clause. And so it qualifies for this type of analysis, and that is what the Court will be expecting. Secondly, bodies undertaking redistricting must be conscious of race to ensure compliance with the VRA. So on the one hand, you should not expect to get away with drawing boundaries that are entirely based on race. The Court would say that's probably not allowed, that we're going to evaluate this under strict scrutiny.

At the same time this body is undertaking redistricting, it needs to be aware of and it needs to be cognizant that it does have to abide by and be in compliance with the Voting Rights Act. And so from that perspective, because the Voting Rights Act is primarily talking about racial and ethnic minorities and whether or not they're being excluded or included in voting, you do have to be aware of this and you have to at least be
conscious of it as you're making those decisions.

This brings us to the famous Gingles test. This is the test that we'll spend a little bit of time talking about and one in which the courts will weigh in when they're evaluating whether or not there is a violation of the Voting Rights Act. This came out of a landmark Supreme Court case in 1986 called Thornburg v. Gingles in which the Court set up a three-pronged test to assess minority vote dilution.

So people such as myself, voting rights expert, political scientists who do data analysis, we spend a lot of our time evaluating these three prongs. The first is the size of the minority group. Is the minority group in question of sufficiently large and geographically compact in order for a district to be drawn? If the group is not large enough, if a group is only two percent of the population, even if they can prove up some of the other standards in a voting rights case, they're not going to be able to get over that first hurdle of being able to have enough of a group population in one district in order to potentially influence the outcomes of the election. So that's first.

Second is minority voters. Are they cohesive? Do they vote together? Basically, what the Court is asking us to say is if minority voters are willing to bring a
lawsuit, is there such a thing as minority interests. Do those voters vote together and try to get certain candidates elected? And if they do, do the majority voters -- do the other voters vote in such a way that usually defeats their interests? So we need to assess how and why different groups are voting in order to prove up whether or not there is or is not liability or a challenge based on the Federal Voting Rights Act.

The last thing to keep in mind is an important case from 1994, Johnson v. De Grandy, in which the Court weighed in on the idea of proportionality and basically said there is no guarantee right -- and other Courts have said this outside of De Grandy -- there is no guaranteed right to proportional representation.

And so you can't make the argument that if your group is exactly sixty-two percent, you should have sixty-two percent of the case -- of the seats in any sort of jurisdiction. That lack of proportionality is not something that, by itself, is enough to bring forward a voting rights challenge.

In addition to those three factors, the size of the minority population, is the minority population cohesive, do they vote together, or is the majority population blocking, the Court has also included a list of things called the totality of circumstances. This came around
in 1982 after a 1980 voting rights case which set voting
rights in a more difficult path.

In 1982, the Senate issued a report and a review and
came up with new standards that they called the totality
of circumstances. These are other things that we will
consider and you will want to think about if, in fact,
you're worried and wondering about a voting rights
challenge. So I'm just going to run through these
quickly. There are eight of them, I believe, and then
I'll just pick out a couple to talk about.

The extent of any history of official
discrimination, the extent to which discriminatory voting
practices or procedures have been put in place. Is there
a candidate slating process where minorities have been
denied access? The extent of any discrimination against
minorities in other areas that might hinder their
participation in the voting process. Are campaigns
characterized by overt racial appeals? The extent to
which minority group members have been elected to public
office or never been elected to office. Whether there is
a lack of responsiveness on the part of elected officials
to those minority group members. And finally, whether
the policy of supporting the use of a voting policy or
practices ends.

Let me just break down a couple of these. These are
all things that you can easily find if you look up the
1982 Senate factors or just type in totality of
circumstances, Gingles factors, you'll find all of these.
So one of the things I want to spend a little more time
on is just the extent of any history of official
discrimination with respect to minorities right to vote.

So when we're looking at whether or not a group
would be successful in challenging for the creation of a
seat or challenging the districts as they are drawn by
this Commission, they will need to put on evidence to
show that there has been discrimination and previous
efforts to block minorities from being fully inclusive.
They don't have to. They're not required. That's one of
the things that could be evaluated in the totality of
circumstances. So even if we think things are being fair
right now, if there's a long history of people getting
excluded or having a hard time participating, that's one
of the things the Court could consider.

Another thing is the extent to which there is
unequal access or unequal representation in other facets
of life. So if we find out that the public school system
is doing a very poor job of educating minority students,
if we find out that minorities are not eligible for good
paying jobs in a community, any other evidence that comes
from the census, other lawsuits that have been filed, or
any other data that gets compiled, that might go to show
the totality of circumstances that this community is
facing and that sort of evidence is often put on.

And the last one that I'll highlight is whether or
not there's been a lack of responsiveness on the part of
elected officials. So as groups are making voting rights
challenges, they often will be able to point out with
pretty effective evidence that they need to have an
opportunity to elect the candidate of choice because
their group has been shut out or put on the sideline of
the political process.

If your group has enjoyed great access to the
political process, you have been elected to lots of seats
over the course of your group, you have access to
different policymakers and things like that, if there's
not that lack of responsiveness, it's harder to make the
argument that your group needs a seat. And so these are
just some of the factors. Again, these aren't required,
but these are other things that the Court will look at to
understand the totality of circumstances when thinking
about a voting rights challenge.

So let me go -- now I'm going to spend a little bit
of time going through the three Gingles factors. These
are the things that we want to be familiar with as we
think about drawing the districts and thinking in the
back of our mind about potential challenges to the
districts that you all are going to draw. Whether or not
a plaintiff's group could come along and say, I want to
challenge those districts because I believe they violate
the Voting Rights Act and I'm going to put on my
evidence, Gingles factors.

In 2011, we did a lot of analysis as things were
unfolding to think about were any of these districts
vulnerable, were we doing a good job of living by the
rules and the spirit of the Voting Rights Act? And so
there was a lot of analysis that unfolded along the way
to make sure that as the districts were going forward,
they would be able to be successful and withstand any
challenges.

So the first factor in the Gingles tests is just the
group size. So how do we measure the group size? And I
know Karin talked a lot about the census. That's going
to certainly be one of the options that you'll be able to
use is the decennial census as it comes out. And I know
there's going to be a lot of question marks about that,
and so it is also possible that you might have access to
either one-year or five-year census ACS data in order to
try to understand group size.

In addition to that, you might consider when you're
trying to determine is this group of large enough size in
order to compete for a district, you might also consider looking at the voter file itself. One of the questions that we might have is whether or not such a potential district could perform. Would there be enough actual voters, not just population, but would there be enough actual voters to vote in a meaningful way to elect candidates of choice? And so there, in addition to looking at population data from the census, you might look at voter file data.

And commonly in the State of California, Spanish or Asian surname analysis is done. But I'm going to also spend some time talking to you about a new advancement that's called BISG, Bayesian Improved Surname Geocoding, that combines both surname analysis with census data.

So that's just sort of a checkpoint is, is the geographic -- is the group of geographic compactness and large enough size in order to create a district. If the answer is yes, you still have to meet Gingles factors two and three, and this has to do with how people vote. Are minority voters politically cohesive? Do they vote together? Do majority voters, the other folks in that district, do they vote in such a way that they always block your option from ever being able to get elected?

This requires an analysis of voting patterns by race and ethnicity, so this is a central part of understanding
compliance with the Voting Rights Act. This is a central part of bringing a challenge. If you're working with the plaintiffs group and you want to challenge districts that are being drawn, you will be doing an analysis of voting patterns by race and ethnicity.

The questions that the Court will ask us to answer is, is there evidence of what's called racially polarized voting? Some of you have already heard of this term. Others, it's new, but it's going to be a very common term as it relates to the Voting Rights Act, and it's one that you will have to be able to answer as you create districts or as you decide, do we need to create a district here, does this make sense, should we create a district over here? We're going to want to know, is there evidence of racially polarized voting?

What does that mean? What is racially polarized voting? Racially polarized voting exists when voters of different racial or ethnic groups exhibit very different candidate preferences in an election. It just means simply that voters of different groups are voting in polar opposite directions, hence the word polarization, rather than voting together in coalition or voting in a very mixed or nonpatterned way.

Racially polarized voting does not necessarily mean that voters are racist. It only measures the outcomes of
their voting patterns, who they prefer, who they tend to vote for. It just looks at determining whether patterns exist. Is there a clear and consistent evidence that voters of different racial and ethnic groups vote for different candidates?

The bottom line that you'll be asking is, are minority voters voting in one way and are majority voters voting in another way? And we can place in any racial or ethnic group into the minority or majority status. It just depends on their size in the population. But because majority voters are more numeric in their district, they're larger in size, they're able to control the outcome of elections in such a way that even if every single minority voter turned out and voted with 100 percent unity, they would not be able to overcome this bloc. There's a very strong bloc.

If that is consistently found and the minority group is of large enough size to have otherwise had its own district, that's when we think about a violation of the Voting Rights Act occurring. It's important to remember when you think about this that this analysis that we're doing is about the individual voters in the jurisdiction. Even if the governing body is well intentioned, whether it's the State Commission, whether it's a County Redistricting Commission, whether it's a City Council
doing its drawing. Even if that governing body is well-
intentioned, this analysis is about the individual voters
across different counties or different jurisdictions and
how they behave and are they voting in blocs to either
try to get certain candidates elected or are they voting
in blocs to systematically always block and oppose other
candidates from getting elected? That is the question
that the Court will be asking.

So how do we measure this? How do we try to
determine racially polarized voting? This is not
something that's a simple on/off, yes/no answer. Like
many things, it can vary in degree and intensity. It can
be measured and quantified, and we, by now, have really
good statistical tools and analysis that have been used,
vetted, and accepted in the courts.

The key question and what complicates this is that
your vote is secret. We'll never know how you voted, but
we need to try to understand those larger patterns. So
how do we understand voting patterns by race and
ethnicity when your vote is private? How do we put on
evidence that say, voters of this group are trying to get
this candidate elected?

Sometimes we have exit polls. Those are
increasingly rare and have come under scrutiny themselves
for perhaps being less accurate. But we don't often have
them in every corner of the state. We might have them
for a statewide election, but we may not have enough
voters in an exit poll in one particular county or in one
particular Congressional district.

Instead, we are developing tools for what's called
ecological inference. We're going to try to infer these
voting patterns using ecological data points. And I have
been part of a team with Dr. Loren Collingwood at the
University of California Riverside to develop a new
package and a new statistical tool to use precinct level
voting data and racial and ethnic demographics of voters
to come up with very precise measurements for how we
measure racially polarized voting. That is called
ecological inference. We're taking ecological units,
precincts, and we're looking at the patterns across those
precincts to then infer how different racial or ethnic
groups vote.

So detecting this minority vote dilution that I've
just been talking about is difficult. It's not just
something that you can look up on the Secretary of
State's website. We have to do statistical analysis. We
have to merge together a wide variety of datasets, census
data, voting data, election returns. And we have to have
statistical analysis involved. We have to have some
computer programming involved to write code. Luckily,
people have been working on this for a while, and so we're at a point where we have a good tools and good capacity to do that sort of stuff.

This package that I'm going to be talking about, which is publicly available, is called eiCompare, and it offers a number of tools that are critical in districting practices in order for people to be able to identify, unpack and understand voting patterns. It includes a number of different tables, graphics and different statistics, in order for you to understand, is this something that I should be worried about? Is there an area where we need to be pushing harder? Is there a possible claim here? We'll give you the ability to diagnose and detect that.

So let me tell you a little bit about what this looks like. How do we get to this ecological inference? How do we come up with the answer to the question of how do different racial and ethnic groups vote in Orange County, or how do different racial and ethnic groups vote in San Mateo County? Those are the type of questions that you're going to have to think about as we look at the -- as we look at the racial group population size. And so there's going to have to be different analyzes across the state. We're going to have to do that ecological inference.
Well, there's a couple of inputs. What are we putting into this ecological inference model? The first, are election results. We'll get these from the Secretary of State website, from each individual county website, and from other sorts of publicly available databases. We'll also feed into that, the voter file. We have a publicly available voter file, and we can group voters into precincts.

From these two primary public data sources, we will run this analysis called ecological inference. But there's two things that we need to do. The voter file in the State of California does not tell me the race and ethnicity of every voter. It just has your name and address. And so we're going to use a new technique that's called BISG, Bayesian Improved Surname Geocoding, to estimate the race of the voters. We have to answer this question whether we like it or not. The Court is requiring us to answer this question; How do different racial and ethnic groups vote? And so we want to use the most accurate and technically correct approach to do that, and we think that's called BISG.

To start with, we have to do geocoding of the voter file. Some of this is already done in some instances. But for the most part, we need to take that voter file for the State of California and put it through a
geocoder, and I'm going to just break that down very quickly for you, and then show you a couple of examples of what racially polarized voting looks like, so that we know how to detect it, we know what it is, and we know what to be on the lookout for.

So the first step here is to get the public voter file. We get the voter file for the State of California, and we have to clean the voter file. We have to make sure that the addresses are in the correct format. We have to put them all into the same columns. We have to use the same abbreviations. You can imagine that each county might use slightly different standards. It might have apartment numbers in there, and we need to take that voter file and pre-process it for all of the 20 million voters that are on the voter file. Then we need to find the best geocoding. What we're trying to do for every voter is place that voter within their latitude and longitude so that we can learn more about the neighborhood that they live in. And once we do that, we then feed them into our geocoding process. From there, we evaluate the geocode.

So every voter will be put into a geocode and we will then see whether or not those were successful. Some voters might come back and say, this address could not be found. We'll have to go through, pull those out, put
those through a second geocoder to clean those up. And
then what we're going to do, every voter will have the
latitude and longitude. We're going to then join your
voter to your census block that you live in, so that we
can learn something else about you using census data.

From there, once we have those two pieces of
information, the voter file has been geocoded. We can do
our BISG estimate of the race. And once we do the BISG
estimate of the race, we then take that data -- some of
this is already being done not using the BISG principle.
But some of this has already been done -- taking that
public data file for the State of California, collapsing
it down to each individual precinct. We can then finally
merge that data and we can get back to our ecological
inference.

And so this entire process is all contained in this
software package that Dr. Collingwood and I have written
called the eiCompare. We've been working on it for about
five years, and it does a lot of stuff in the back end
that helps us understand and detect minority vote
dilution.

So let's start out by where the data comes from. It
all comes from public databases. The first is the
election results, as I mentioned. We're going to get
those election results from the official state or county
registrar voter websites. These are official election
results that say in precinct number 423, how did people
vote for a certain office.

We then need the data on the ethnicity of voters,
and this comes from either official county records -- if
you live in a former section 5 jurisdiction, remember
that very first slide that I started with -- some
jurisdictions in the United States, predominantly in the
South, they were required by law to record the race and
ethnicity of voters when they signed up to vote. That
was in order to monitor and make sure that they were not
excluding blacks from being able to register at the same
rates as whites. Those states have largely kept that in
practice. And so if you are in one of those southern
states, you can get the race or ethnicity of every
individual registered voter.

In nonsection 5 states, like California, we need to
use some other technique. The Court doesn't give us a
break and say, well, you don't have to prove racially
polarized voting. You still have to do that, but we have
to use other techniques in places like California, such
as census data, surname lists, or now BISG.

We're going to start out by looking at what's called
endogenous elections. Those are the elections being
challenged by the lawsuit. These would be Congressional
elections, State Assembly elections, State Senate elections. But we might also look at other analysis. We might look at other elections to get a larger view of how people vote in general. We maybe don't want to take too narrow of a view. One particular election might be very peculiar. It might be an outlier. And so most analysis will look at not only the elections being challenged, but also the larger elections just in general on that data.

So how do you assess racially polarized voting? I'm going to start with what we call the old tools. This is a map of New York City, and it shows the 2017 Mayor's election. Your panel on the left is the vote results. Each individual voting precinct across New York City, and how they voted. It's shaded by intensity. Super, super, dark blue are places where de Blasio got over seventy or eighty or ninety percent. Light blue, he may have only gotten fifty or sixty, down to the places that are very, very high density red or Malliotakis got eighty or ninety percent. So you can immediately look at it, and then if you compare it to the panel on your right, it's the same exact map of New York City. Instead of voting precincts, these are census blocks, and that has the shaded in race or ethnicity.

So in its origins, analysts would take maps like this. And in fact, they may not even have to take a map.
They might just know by looking at a part of town what the racial and ethnic demographics are. But essentially what the Court is asking us to do is to say, is the vote for this candidate extremely strong among minority populations, but other populations are voting in the exact opposite way.

As you can see in this data set for the State of New York or for the City of New York, we don't necessarily need a fully complex statistical analysis. We can very easily just look at it and we can see a correlation between places that are very high-density minority and the highest vote totals for de Blasio in that 2017 Mayor's election. That's what the Court is asking us to do.

Are people voting in different ways and does the way they vote, does it systematically block the minority group who might be in a numeric minority from ever being able to get their candidate elected? They're trying to get their candidate elected, but they're always outnumbered, and they can never win the election.

So how do we measure that? And let me just walk you through a quick discussion. You're going to end up seeing a lot of charts like this. You can come back and look at this presentation later when you're down the road and you're getting into an analysis of racially polarized
You're going to get charts like this that measure precincts, all these precincts in California might just be for one county. You might only be looking at Fresno County or Orange County, or you might be looking at an entire region. You might be looking at the entire San Joaquin Valley. On one axis over here, the Y-axis, that's going to always measure the percent of the vote the candidate got. And on your second axis, the X-axis on the bottom, that's going to always be your measure of the race or ethnicity of the people inside that precinct.

So for any individual precinct, we know two pieces of information. We know that this precinct, in this example is about fifteen percent Latino, if you draw a line straight down. We know that it voted about fifty-two percent for the candidate for Reyes (ph.). We then can put every single precinct in that election on a map like this, and we can see whether or not there's a pattern. Is there a correlation? And this is some data from Yakima, Washington, in 2008. And what we see is that as the percent Latino went up across precincts, that this candidate for Reyes got more and more votes as the percent Latino went down, the candidate got less votes. And so in this case, it looks like there is a pattern related to race and ethnicity of the voters in how they...
voted for different candidates.

What if there's no polarized voting? What does that look like? Well, here's another example. The election data will always be arrayed in a plot, or it won't. We can't force it to find polarized voting and we can't force it to not find polarized voting. So here's an example from another election where you don't see a diagonal pattern at all. You see that pink line is the fifty percent line. And depending on how many minorities are in the precinct, it doesn't appear that the candidate's necessarily getting more or less votes. The candidate hovered somewhere around the fifty to sixty percent mark in high density white precincts and in high density minority precincts.

So sometimes we see plots like this. Here's a plot from about twenty years ago. This is the 2002 primary election in the State of California for a statewide primary. And you do see a pattern. That's what we're looking for, that sort of pink arrow that just comes across the screen there. Is there a pattern that as a precinct increases in the minority population? Is it increasing its support for the candidate? That suggests to us that the minority population is cohesive. The second test of the Gingles prong.

As you decrease the minority population, is the
candidate doing less. And here you see a clustering in this bottom section of your graph. You see a clustering of precincts in which this candidate in this primary, Calderon (ph.), primarily got less than twenty percent of the vote in areas that were less than fifteen percent Latino. So this candidate did not do very good, was not a preferred candidate in these areas where they were very, very few Hispanic voters.

So these are some of the examples of plots and charts that will come out. We're then going to give you something that looks like this. These are called tomography plots. You're not expected to be able to read these, or interpret these. Those are for us to look at and interpret. But for each election, you're going to get something like this. And just very, very briefly, this plot in the top left corner where you see a nice convergence, is indicating that there is racially polarized voting. This plot over here on the right, panel, top left, where the lines just don't really intersect, is giving us a diagnostic that there's not much going on here.

So these are sort of behind-the-scenes diagnostics that we're going to be able to do to give you answers to the questions, more precisely, whether or not there's something to worry about when it comes to the Voting
Rights Act.

This next section of the presentation, I'm going to focus on how do we estimate the race of voters? And this is something that our eiCompare pack spend a lot of time doing. So the data on the ethnicity, as I said, comes from one or two sources, either it's publicly reported -- that's not the case in California. So we have to use other means. Prior accepted methods of estimating race or ethnicity of a voter in a precinct, are first of all, use of census data. Either the decennial data that you get from the decennial census or the five-year ACS data. This is widely used. However, one question here is that these are not actual voters.

The census gives us data on everyone who lives in a census block that we could then correlate with a precinct. And the best that we can do is we can restrict that to citizen voting age population; CVAP. That doesn't mean that all of those people are registered, and it doesn't mean that all of those people voted.

So while the census data can be quite good for many things, its limitation is that it's not telling us exactly anything about voters. Because of this, a lot of analysts started using surname matching against the voter file, and they use Spanish and Asian surnames to identify highly probable Latino or Asian voters. This is an
improvement over census data because it's actually going
to the voter file and saying, among the people who voted
in this election, the people who cast ballots, this is
their expected race or ethnicity.

So BISG, Bayesian Improved Surname Geocoding, is
also an accepted practice by the courts, and it uses the
best of both of these worlds. It uses a surname, and it
uses geocoding. And the geocoding refers to the census
data. So it's going to use both of those things off of
the voter file. So the starting point of BISG, which
makes it quite accurate, is that it is only analyzing
voters. And so if you're worried about whether or not
voter turnout was high or low, as long as you start with
the voter file, you're going to have an advantage there
in that the people who are not voters are not introducing
noise into your estimates. And I have there in a
citation, this was just accepted by two courts, most
recently in NAACP v. East Ramapo, New York State.

So let me just give you a quick example of how this
works. I think you'll find it quite interesting, and
it's based on a lot of really good data and the theory
that comes out of public health. In fact, this first
article from Marc Elliott is a public health researcher
at RAND Corporation. It was then later replicated and
validated by Kosuke Imai, who is a political scientist,
Essentially, this is what we have. We have a group of voters. And the first thing that takes place is that their last name is scored on the census surname list. So you might have a voter here, Jackson, and this is the case. Jackson has a thirty-nine percent probability of being a white surname; a fifty-three percent probability of being a black surname, and a three percent probability of being Latino surname. That doesn't give us entirely useful information. This person could be a high potential of being black, but also a very reasonable potential of being white.

The geocoding comes in and says, let's place that individual voter Jackson in the block where they live, and let's let the block also tell us something about the probability of their race or ethnicity. So if this particular Jackson lived in this city block, which was eighty-five percent black, we would then have much more confidence that this person was probably black. However, if they lived in this city block, perhaps two blocks away, and this city block, according to census data, was ninety percent white, we could adjust our estimate and we could tell the analysis that this person has a higher probability of being white.

So we're using both their surname, as per census
analysis of surnames, which the census has available for
us every year. And then the census data on the
neighborhood in which you live.

I'm going to give you an example from the project
that I am working on with Dr. Collingwood and a summer
program that we led. Just this summer, our project was
selected as one of a fellowship to work with a team of
data scientists and PhD students to try to further
improve.

So this voter named Jackson is a real voter. They
live at 105 Leaf Lane, and the first thing that we did
was we placed them -- we geocoded them, as I explained
earlier, and we found out that this person was right here
where they are always showing you, and this was their
latitude, forty-five degrees by seventy-five degrees.
What is the race or ethnicity of this voter Jackson? So
let's investigate a little bit further. We then take
this person, and we know that from the surname list, as I
just described to you, they have a thirty-nine percent
probability of being white; fifty-three percent
probability of being black.

When we look at that -- we took their latitude and
longitude -- they live in census block 1001. And census
block 1001 is twenty percent white and eighty percent
black. And so that allows us to use BISG to do a
statistical analysis, to do a Bayesian analysis, and to come out and say that this person has a probability of being -- a seventy-two percent probability of being black and a twenty-five percent probability of being white.

We are never trying to identify -- and when we score the voter file, we're not identifying individual voters and pulling this person out and saying, how did this person vote? They must be white, black, or Hispanic. Rather, we're just trying to get counts in precincts. So we're going to always aggregate this data down to precincts and discard the individual level data. The individual level data is just to give us clues as to what that precinct neighborhood looks like.

Is this effective? This is a technique that's been around since about 2008, used extensively in the health sciences to understand disease and medical conditions as they relate to race and ethnicity. And in a publication looking at -- using the Census Bureau's list, these authors found way back in 2009 that BISG is 19 percent more efficient. That it has a 41 percent increase over surname analysis, and a 108 percent increase over address methods alone.

They then reported what's called concordance statistics, meaning that the extent to which these matched the self-reported statistics when someone
actually self-reported their race versus, we had to estimate it. And you can see that at the end, it was ninety-five percent for Hispanics, ninety-four for Asian Pacific Islander, and ninety-three for black and white.

A second article -- a second independent article, I believe this is by Allen Fremont, went on to say that it can give us very accurate estimates when self-reported data are lacking. And again, this article by Fremont found that the concordance was between ninety and ninety-six percent.

We gave this task to our students this summer in our fellowship program, and we asked them to look at a state, Georgia, where self-reported race is on the voter file. People report their race and ethnicity as required because it was a section 5 voting rights case. And we then looked at it for whites and blacks. These are the two groups that perhaps are less well known to work from just surname analysis. And in fact, we don't analyze these groups on surname analysis alone because of surnames such as Jackson, which are not overwhelmingly white or overwhelmingly black.

But you can see that when we take into account the surname with your census block, the neighborhood in which you live, both of those pieces of information together. And what you have here on the X-axis is the actual
percent white in each county in Georgia. What you have on the Y-axis is our prediction, using BISG, and we ran two different models. That gray line in the middle is the actual correct result of what did people in each county write down as their race or ethnicity.

What you can see is that both of the models that we applied here using BISG, were extremely accurate for predicting at the county levels the number of white voters and black voters. We were not looking at the self-reports. We used the BISG method. And on the panel on the right, you see the same thing for black voters. Because Latino and Asian surnames are even more commonly occurring or exclusive to their groups, BISG tends to work even better within these populations.

The final thing that we're going to do is then try to get you some vote estimates. We're going to tell you the answer to the question how the different racial or ethnic groups vote? That's what, at the end of the day, we're going to have to put on that evidence to the Court. And once we have all the precinct level data in, we have all the election results, we now estimate the surname of the voters. We then run what's called ecological inference regression. We're going to tell you the answers. These are going to produce for you vote choice estimates by race and ethnicity that will include
confidence intervals.

So here is just an example of what some of the outputs will look like that you might be seeing if you're asking for whether or not there's racial or ethnic polarized voting. You might be seeing a plot like this for white voters. Their estimated vote for candidate A versus candidate B, and then another plot next to it for minority voters. Both of these are real elections with real election data run through our package. And what you can see is that white voters, the panel on your left, they preferred candidate A.

The estimate is that they voted at 81.7 percent for candidate A in a very, very tight -- you don't see much of a bell curve there -- a very, very tight estimate, which means that it's probably quite precise, only eighteen percent for candidate B. However, minority voters, they had the opposite experience. They voted 73.9 percent for candidate B and only 18 percent for candidate A.

So for each election you analyze, you're going to get this sort of information and read out. To the extent that those estimates crossed the fifty percent level, or to the extent that those estimates cross each other, that's telling you that perhaps there wasn't polarized voting. Perhaps voting is not as disparate as we think
it might be. And so these tools will help us understand and present to the Court whether or not there is a need for these districts.

One or two points left here. The final thing that we introduce, and you saw a little bit of this in the in the last slide, is a better understanding of confidence intervals. When experts give you an estimate and say, as in the last slide, that 81.7 percent or 73.9 percent voted in this direction. Remember that these are estimates. We don't actually know the precise, direct answer to that. That estimate is in the center of a normal bell curve -- of an uncertainty distribution.

Here are some additional real data from an election that we analyzed in 2015 in a local contest, and we were interested in understanding how Latinos voted. The estimate told us that eighty percent of Latinos voted for a candidate named Morales (ph.) and that only twenty percent of Latinos voted for a candidate named Rothman (ph.). We had a very small sample size. There was only a limited number of precincts in this case.

And so the distribution around those estimates, the ninety-five percent confidence distribution overlapped. In fact, if you look at the lowest tail for the Morales estimate, it could have been that the Latino vote was as low as forty-eight percent, and on the Rothman estimate,
it could have been that the Latino vote was as high as fifty-two percent.

So we can see that those tails possibly overlapped. If the tables overlap, we may not be able to say with ninety-five or nine-nine percent statistical certainty that those estimates are different. But that's a very, very high standard for something in which we're just trying to assess patterns and estimates.

And so what we advise is to also look at a probability analysis, and to say what percentage of the data comes from that red shaded area, and what percentage of the data comes from the unshaded area. And in this case, when you actually look at the tails, you see that it's actually only a 3.5 percent chance, in this case, that Morales was not the Latino preferred candidate. As you can see, just another graphic from our package there will report the overlap and will report a statistic in the middle of the percentage of the distribution that overlaps.

So in redistricting and the Voting Rights Act, the Commission must, of course, consider important considerations of many things. All the stuff that you heard Karin and Justin talk about. One of those important considerations is the Federal Voting Rights Act. And to understand the Voting Rights Act where
appropriate, we need to assess and examine the prevalence of minority vote dilution. As I showed you in some examples, sometimes it doesn't exist. Unfortunately, it still does exist in many instances today. And if it does exist, the data will show us that. If it doesn't exist, the data will show us that it doesn't exist.

So properly studying and reporting racially polarized voting is increasingly technical. It should be done with great care using the latest social science methods and tools. And that's what I hope to leave you with that as you think about these aspects -- I know many of them are technical, and we got a little bit into the weeds of some of this stuff -- but that you are taking that care to make sure that you're getting it right, not having any shortcuts, because at the end of the day, we want to create fair, equitable representation, those that comply with the Voting Rights Act, that doesn't go too far in one direction or the other. And when there are challenges, we are able to successfully defend the districts that we draw and that there are not outside challenges that easily poke holes in these districts.

All right, that's it. I am going to turn my screen share off. I can refer back to any of the slides, if there's any questions. I don't know if we still have time for questions today. I know you've sat through a
lot of information already, but thank you for your time.

Thanks for inviting me.

CHAIR TURNER: And thank you so much. We absolutely
do have time for questions. And I see Commissioner Ahmad
and Commissioner Fornaciari, and then Commissioner Le
Mon, and Commissioner Kennedy.

VICE-CHAIR AHMAD: Thank you for that presentation.

It was really interesting. On the slide labeled Yakima
Washington County Commission 2008, the X and Y-axis make
sense to me, but I don't think I caught what the size of
the circle indicates.

PROF. BARRETO: Let me pull that back up.

VICE-CHAIR AHMAD: Yeah.

PROF. BARRETO: In that particular case, it was
the -- there's different ways to present this. I'll just
put it back up really quick so that you can see it as I'm
talking about it. That had to do with how many voters
lived in the precinct. So if you look at the second
example I had here, this one, whenever we created this
graph, we just treated each precinct as the same. So
each saw it as the same. We did not take size into
account. And the same thing on this.

VICE-CHAIR AHMAD: Got it.

PROF. BARRETO: This is the way that we think about
it now. And so you see one tiny little precinct over
there. It only had perhaps 25 voters. And so essentially, we're waiting for the results by the number of voters in the precinct.

VICE-CHAIR AHMAD: Got it. Thank you.

CHAIR TURNER: Commissioner Fornaciari.

COMMISSIONER FORNACIARI: Yeah. Thank you for that presentation. Really, really interesting. So how does this work in a kind of practical sense? I mean, do we identify areas that we think might have a problem and do the analysis? Do we do the analysis for the whole state? I mean, how do we figure out -- how do we get started and how do we figure out where we're headed with this?

PROF. BARRETO: Well, probably the first part, if you think of the jingle's tests, is to first think about the size of the population. And so there are probably some portions of the state where the size of different groups does not really lend itself to needing an analysis. In 2011, we did some statewide analysis with some elections just to give a sort of general read that we could break out into different regions. But most of the analysis was in areas where there either had been a history of lawsuits or a history of underrepresentation.

So those were areas that you might want to look at first to see as you're thinking of drawing the lines there. And you heard Karin talking to you about like,
you might move a line over here. You might leave a line
over there. You just want to be aware -- as the Court
said in Larios v. Cox, you just want to be aware of that
if you move that line -- you might remember that Clark
County map I showed you, you might go, uh-oh, we moved
that line, and now we've split this population in half.
That might be okay. You might be totally fine doing that
if there is not a history of underrepresentation and
polarized voting and stuff like that.

So as you get into those discussions, that's where
you might say like, hey, let's do a quick analysis and
see if moving this line one way or another might leave us
susceptible.

CHAIR TURNER: I'm trying to find my notes. Le
Mons, was it next?

COMMISSIONER LE MONS: Thank you for the
presentation. In your historical analysis, what has been
the prevalence of racially polarized voting?

PROF. BARRETO: Well, it really varies by the
geography that we're analyzing and by time. So there are
some places that I have analyzed where there had been
racially polarized voting and that eventually, as
populations changed, different candidates were able to
eventually get elected. We saw that polarized voting go
away.
In other places, as a new population grows and emerges and gets really large in size, there might have never been racially polarized voting in the past, but now suddenly it exists. And so it is definitely the sort of thing that we don't like to prejudge before we go in; we want to look at it on a case-by-case basis. I would say that in California, in general, there has been a history of different racial and ethnic groups voting for candidates from their community. That's not surprising. When given a chance, people usually do try to find someone from their community to represent them. But that doesn't mean that in every election we analyze, we're going to find that pattern. There are candidates that get higher or lower support.

So it really is a case-by-case and a time. The Court will give more weight to more recent elections. If someone is trying to challenge your plans and they're putting on lots of election data from the 1980s and 1990s, the Court might say, well, that's not relevant. You can't punish the voters in 2020 or the bad choices that the voters in 1980 made. And so more recent evidence is usually the most relevant.

COMMISSIONER LE MONS: Thank you.

CHAIR TURNER: Commissioner Kennedy.

COMMISSIONER KENNEDY: Thank you, Madam Chair.
Thank you, Prof. Barreto, for the presentation. Two questions at this point. One is, how would you eliminate noise coming from candidate quality? Now, I've worked in campaigns since I was a teenager. There is something -- now, there is candidate quality. And it just seems like that could create a lot of noise in this type of analysis. And the second question is, I just would like to ask you for a little bit more detail on factor eight under the totality of factors.

PROF. BARRETO: Sure. Let me take the first one, candidate quality. So that is definitely something that the courts have talked about and looked at and said that you should not base your analysis on whether you think it helps you or hurts you on just one election. I'm not aware of any analysis that has been successful in either defending themselves or for plaintiffs using just one election and saying, this one election proves anything up. And that is because every candidate does have their own unique attributes. If you have really, really low-quality candidates, the data will probably tell you that and the majority or the minority group probably won't vote for them.

So usually when there are -- sometimes we see candidates that I call, as a political scientist, like perennial candidates, like there's this man or woman who
runs every year no matter what, and they have a $4,000 budget, but they have their yard sign and that's it. That person doesn't usually get more than 3 percent of the vote. And so we would not see evidence of cohesion. People would not be coalescing around them. They might look like they're getting blocked, voted against, right? Because no one's voting for them. But low-quality candidates usually are not -- they usually don't meet Gingles 2. In order to meet Gingles 2, the candidate has to be preferred by the minority community.

So sometimes what we do is we go precinct by precinct and we say, hey, here's a precinct that's eighty-four percent minority. Which candidate came in first? Because whichever candidate came in first in that one precinct was preferred. So even if you or I or someone else might be like, man, that candidate is garbage. If the people in that precinct voted for them first, that's their preference. So we let the data speak for itself, but usually low-quality candidates, I agree with you, of which there are many, don't usually end up getting a lot of support.

The last factor on the eighth prong of the totality of circumstances is what is the policy of supporting the use of the voting policy or practices tenuous, refers to whether or not there is a new policy that's coming into
place, which has been challenged or which has previously
been overturned or which has now been reinstated, and
whether or not that practice itself is tenuous.

So oftentimes we would see when city councils change
majorities or things like that, they might try to
reinstitute something from before. But it might be
getting challenged and getting overturned. So whether or
not -- and again, some of these things on the totality of
circumstance slide -- which I can just put up really
quickly, just so you can see them -- are things that are
more appropriate to city councils and county Commissions.
Many of these are used to challenge at-large voting
systems where everyone runs for one or two seats at
large. And the ones that I highlighted are the ones that
we probably have to think more about in terms of
districting schemes.

So some of them are far less applicable to what
we're doing here. You're not going to be changing any
policies necessarily. This was also similar to the
Arlington Heights factor I told you about where, if
things are out of the norm, if some new rule pops up that
no one can explain, that might look fishy.

CHAIR TURNER: Commissioner Sinay, oh, and then
Commissioner Sadhwani, and Commissioner Toledo.

COMMISSIONER SINAY: Hi. Sorry for my technical
difficulties earlier, and I missed the beginning of your presentation, but I quickly looked at it and I kind of had -- I have a few questions -- kind of theoretical questions, I guess. Anyway, let me just ask them.

First, I know that for the Voting Rights Act, it's based on race, ethnicity and language. What about women or LGBTQ? Other you know -- other individuals' communities who could be -- who could be discriminated against in all your examples you used white as the majority is -- and I know in California, a lot of times there's a change of demographics. So it was a black district, or a black community and a lot of Latino immigrants are moving in. And so do we do the same analysis based on that? And is there ever a time when white is the minority in these conversations? I know that that wasn't why -- I understand why it was created. So it might be just kind of a strange question.

And then we talk about voters, and we use those who are registered and those who actually vote. But how do we take into account those who aren't even registering to vote, because there's just -- they don't think that they have a chance to get their voice heard? We just ignore them in this whole conversation. So hopefully they all make sense.

PROF. BARRETO: Yeah. Thanks. Those are great
questions. I'll just take that last -- I'll take them in reverse order as I wrote them down. The nonvoters are taken into account in Gingles 1, in terms of understanding whether or not there is a large enough community to draw a district around. So that is based on starting with perhaps the total population of everyone, including kids and people who aren't registered to vote.

As we get to the question of whether or not the district can perform -- can it actually do what the Voting Rights Act wants it to do, which is to give people a chance to elect a candidate from their community? That's when you start honing in on either eligible voters, registered voters, or voters. But at the first step, those are taken into account. When we estimate how people vote, which is what the Court is going to ask you for. They're going to say, well, how did the groups vote? That's where we do want to limit it to just voters. We're trying to correlate the actual votes cast in a precinct with actual voters. That's why I don't like using census data for that step, because the census data includes a lot of nonvoters. And I don't want an area that has a very high population, one group, but if they're not in the voting electorate, they could not have possibly voted. So that's the only time we're excluding those votes, is when we're doing that analysis of how
people voted.  

In terms of which racial groups are covered. Yeah, I talked about this briefly at the beginning. Anyone, of course, historically, the Voting Rights Act of 1965 was set up primarily because of vote denial and abridgment of African Americans in the South. The Voting Rights Act has been used and can be used just as the State of California Voting Rights Act can be used for any group, which is a numeric minority and feels that the districting scheme that is in place is blocking them from being able to have a chance to elect the candidate of choice.

So there was a section 2 Voting Rights Act lawsuit in Dallas County, Texas, brought by white plaintiffs that challenged the system and said that the districting scheme limited their ability to elect candidates of choice. So anyone can use -- the same rules apply. You have to show a history of discrimination, unequal services, the totality of circumstances, and if you do that, then your group would be entitled to draw a seat.

So we should think about it, especially in a state like California, which is so incredibly diverse, and is already at the state level, a majority/minority state, any group could potentially use the Voting Rights Act to say, hey, is my group getting represented? And they
would have to put on that evidence. So that's something to think about.

It is written from the perspective of a racial or ethnic or language minorities -- in response to your first question. I don't know of any challenges. It could be to the 14th Amendment, equal protection challenges. So those are certainly possible, and that's where I would think those others would be. But the Voting Rights Act, they still would have to pass Gingles 1 prong, which would be of sufficient size and geographical compactness. And so by some of those metrics, LGBT populations may not be of sufficient size and geographically compact, perhaps, to form a district in some levels. In some places they might be. But the Voting Rights Act, as written and applied, is applying to it on the basis of race, color, national origin, or language.

CHAIR TURNER: Commissioner Sadhwani.

COMMISSIONER SADHWANI: Thank you so much. And thank you, Dr. Barreto, for coming in and spending this time with us today. I would just say for my fellow Commissioners, Dr. Barreto is definitely the leading scholar on racially polarized voting. So I appreciate you coming in today.

My question is actually a bit of a follow up to
Commissioner Sinay's, and that's to hear more about perhaps some of the best practices around the creation of potentially coalition districts or potentially some -- from your experience, if those two end up getting challenged, I'm thinking about areas throughout the state -- and California is, of course, particularly unique from other places around the country, in which if we think about, for example, South L.A. and the historic African American community and Latinos. If we think about Oakland or San Jose with Asian-Americans and Latinos, or even like the San Gabriel Valley and parts of Orange County. I can imagine those kinds of issues coming up when we're thinking about racially polarized voting, when we have multiple communities who can all make claims under section 2. Do you have thoughts about things that we need to be aware of or best practices or examples that we might draw from?

PROF. BARRETO: So yeah, that's a great question. California is certainly at the forefront of that as these communities are quite diverse here in our state and often live in close proximity to one another. The courts have given policymakers and line drawers leeway in creating what's called coalition districts. The same burden is at play, though.

So we would not draw a coalition district just
automatically based on population. We would need to go in and see, are African Americans and Asian-Americans voting for similar candidates? Do they have a similar political agenda there? If they don't, creating a district isn't going to create any positive outcomes. It might just create a lot of division.

So if you're able to do that and demonstrate that, yes, these groups are voting in coalition -- and think back to some of the other standards that Karin and others talked about, just communities of interest. Sometimes there might be immigration; there might be class; there might be geographic or even topographic sort of interests that create a "community of interest" that overlays race and ethnicity.

So those coalition districts are certainly feasible. Courts have allowed that. But one of the pieces of evidence -- and this is one of the pieces of evidence we had to put on at Ramapo, that was a coalition district case based on the combined voting strength of black and Latino voters, was that they were voting together for the same candidate.

So not only did we need to show that black voters supported candidate A, but Latino voters also, and that if we drew a district, it could work for, "minority interest" because those voters might vote together.
So all of the same standards would apply if they do get challenged. But from the perspective of the line drawers, the courts have given a lot of leeway to the creation of coalition districts as being allowed.

CHAIR TURNER: Thank you. Commissioner Toledo.

COMMISSIONER TOLEDO: My question has been asked. Thank you.

CHAIR TURNER: Okay. Commissioner Fornaciari, did you just raise your hand earlier? I didn't know if you're stretching or raising your hand. Okay.

Commissioner Andersen.

COMMISSIONER ANDERSEN: And thank you very much for the presentation. It was very impressive. Just on the idea of the validity of data. Could you speak a little bit about the racially polarized voting and in your -- the BISG, how is the new idea of differential privacy going to affect that and specifically the geocoding? I mean, if they switched districts -- people from their actual census blocks, how would you compare, let's say that Jackson example? We wouldn't necessarily know. So could you talk about that a little bit, please?

PROF. BARRETO: So the idea on privacy is that perhaps it's a very fine level. We wouldn't be able to place an individual in the right household. But on the voter file, we do have your address. You have to
register to vote at an address to be placed in the proper
district. So that we're going to always have. It's
publicly available in every single state.

So I'm going to be able to find you on the voter
file, find out what your address is, and I will be able
to geocode you. The question is then, if there has been
some noise introduced into the census data, those are not
being introduced at the -- across block level,
necessarily. It's just at the finer level. And so we
would still be able to have confidence that the geocoded
location of that voter, Jackson in the example, is in
this census block, because I have that person's address,
and that census block as a neighborhood has these
demographics.

So at the neighborhood level, we're always going to
be able to identify neighborhood-level census
demographics. And may not be able to use census data to
identify individual people, but I will be able to say,
oh, that neighborhood over there, north of 14th Street
and west of Palm, that neighborhood has these
characteristics. So at the neighborhood level, that data
will always be there for us to access. And so we'll be
able to take that in, put it in there, and say, okay,
this voter, Jackson, lives in a neighborhood that has
these characteristics.
So that's not going to be at risk in terms of being able to do the BISG. And as well as using census CVAP data and other stuff like that at the aggregate level. At the individual level, they are going to a lot of lengths to protect privacy.

COMMISSIONER ANDERSEN: All right. Thank you. I was misunderstanding some of that in terms of where the noise is being added in terms of actually switching some of the data. So in terms of the data that you're actually getting, not the voting data, but the voter registration data, but from the other, could be racial.

PROF. BARRETO: So the idea is that if you had a neighborhood block that you thought -- or let's say the real "true answer" was that it was ninety-eight percent -- or in many cases there are blocks down to the block level that are a 100 percent -- 99.8 percent of one race or another. The idea is that if you had that, then you have turned on the answer. Like, there's no uncertainty anymore. Everyone who lived there exists.

So in those cases that are more extreme, the census is thinking of doing some replacement across boundaries and getting some people from over here and bringing them over. So they're absolutely not going to, though, tell me that that precinct -- that that census block, which was ninety-nine percent white, is now seventeen percent
white. They're going to tell me it's ninety-six percent white. Just by moving maybe three percent of the data, it introduces enough uncertainty that I can't pinpoint the demographics of people who live there.

Okay. Same thing if say, a hundred percent of everybody did not have a college degree. If that were the case, the census would introduce a little bit of noise so that instead of a hundred percent being uncollege-educated, it would now be ninety-four percent. So the pattern is still going to be the exact same. But just in some of the extreme cases, they are going to introduce some noise so that I can't go to a neighborhood, pull up the census demographics, and suddenly no information about everyone.

In the districts that are more diverse, let's say seventy-five percent/twenty-five percent, what we're learning is that they're probably not going to introduce any noise into those districts. But that's still an open discussion. They haven't told me the answer to what they're going to do yet.

CHAIR TURNER: Commissioners, just a point for you and Dr. Barreto. We're about five minutes away from a required break. I do want to go to public comment while we have Prof. Barreto online in case the community wants to ask questions. So are there any other Commissioner
questions before? Okay. So we'll take -- operator, I think we'll take about five minutes public comment. At least I want to check to see if there are people waiting for public comment on this issue, please.

AT&T OPERATOR: Yes. We do have one ready for public comment. If you could, please spell your first and last name. We will go to Rosalind Gold. Please go ahead.

MS. GOLD: Hi. Good afternoon. It's R-O-S-A-L-I-N-D. The last name is Gold, G-O-L-D. I'm Chief Public Policy Officer with the National Association of Latino Elected and Appointed Officials, that's the NALEO Educational Fund.

I want to once again thank the Commissioners and thank Dr. Barreto for his very, very excellent presentation. One of the things we're very blessed with in California is a lot of very good experts on redistricting and different components of redistricting criteria. And I thought it might be useful to maybe just do a little bit of a clarification of one of the points or slides that Dr. Barreto presented with respect to redistricting criteria.

When people talk about what are lawful redistricting criteria for California, I think it's important to make a distinction between what are the specific criteria that
are laid out in the California Constitution, as the criteria this Commission must use, and what are some of the traditional criteria that generally are used by states.

And as you heard from Karin MacDonald and Justin Levitt, we have very special criteria and specific criteria that range from complying with the California -- sorry -- complying with the U.S. Constitution, complying with the Federal Voting Rights Act, making sure that we respect community use of the interest and political boundaries, compactness, contiguity -- excuse me -- and nesting. Okay. And these are laid out in very specific order to let you know what your priorities are with compliance with the Constitution and compliance with the Federal Voting Rights Act as being the top priority.

There is no criteria that requires or even encourages the Commission to take competitiveness into account when looking at our districts in the state. And as I believe I mentioned earlier, one of the challenges with using competitiveness as a criterion is that it may make it more difficult to comply with the much higher priorities, such as compliance with the Constitution, compliance with the Federal Voting Rights Act, and respecting city political subdivision boundaries, and communities of interest.
In addition, with respect to whether one in California can lawfully draw lines to avoid putting incumbents in the same district, I think it would be very difficult to find that to be lawful under the California Constitutional provisions, in light of the fact that those provisions say that Commissioners cannot take the place of residency of incumbents into account when drawing district lines. And there is an argument that there might be circumstances under the Federal Voting Rights Act where you would want to know where incumbents are. But at least to my understanding, that was much more relevant when we still had -- Dr. Barreto talked about the pre-clearance requirement. We don't have that requirement anymore.

So perhaps other folks and your own counsel will weigh in on this. But again, I would just very much suggest that the Commissioners be very careful in terms of looking at competitiveness, especially as it might undermine the ability to comply with the constitutionally mandated requirements --

CHAIR TURNER: Thank you.

MS. GOLD: -- and also be very careful about any kind of information about where incumbents reside or what districts that they are in under the new maps. Thank you so much. I really appreciate it.
CHAIR TURNER: And thank you for calling in. AT&T Operator, we won't take the next call because we're at a required time break, but are there others in the queue?

AT&T OPERATOR: At this time, there are no further in the queue.

CHAIR TURNER: Okay. Then, with no further in the queue, I think rather than break, we'll end the day today. We'll recess until tomorrow morning, and tomorrow we'll be covering items 13, 14, 15, 18, and 23. 13, 14, 16, 18, and 23. Okay. And so we'll recess until tomorrow morning at 9:30. Thank you all and good night.

(Whereupon, the CRC Business Meeting adjourned.)
CERTIFICATE OF TRANSCRIBER

I certify that the foregoing is a correct transcript, to the best of my ability, of the videoconference recording of the proceedings provided by the California Citizens Redistricting Commission.

LORI RAHTES, CDLT-108

DATE

July 22, 2022