STATE OF CALIFORNIA
2020 CITIZENS REDISTRICTING COMMISSION (CRC)

In the matter of:

PUBLIC MEETING

721 Capitol Mall, 2nd Floor
Sacramento, California 95814

WEDNESDAY, MARCH 17, 2021
9:30 A.M.

Reported by:
Peter Petty
APPEARANCES

Commissioners Present:
Jane Andersen, Chair
J. Ray Kennedy, Vice Chair
Isra Ahmad
Linda Akutagawa
Alicia Fernandez
Neal Fornaciari
Antonio Le Mons
Sara Sadhwani
Patricia Sinay
Derric H. Taylor
Pedro Toledo
Trena Turner
Angela Vasquez
Russell Yee

Staff Present:
Alvaro E. Hernandez, Executive Director
Marian Johnston, Counsel
Freda Ceja, Communications Director

Also present:
Kristian Manoff, AV Tech

Public Comment:
Deborah Howard, California Senior Advocates League
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PROCEEDINGS

Wednesday, March 17, 2021 9:31 o'clock a.m.

CHAIR ANDERSEN: Good morning. Welcome to the March 17 meeting of our -- of the 2020 California Citizens Redistricting Commission. Our meetings are from the 16th through the 18th this week. I am Jane Andersen, your Chair. Our Vice Chair is Ray Kennedy.

At this time, please call the roll.

EXECUTIVE DIRECTOR HERNANDEZ: Commissioner Fernandez?

Commissioner Fornaciari?

Commissioner Kennedy?

VICE CHAIR KENNEDY: Here.

EXECUTIVE DIRECTOR HERNANDEZ: Commissioner Le Mons?

Commissioner Sadhwani?

COMMISSIONER SADHWANI: Here.

EXECUTIVE DIRECTOR HERNANDEZ: Commissioner Sinay?

COMMISSIONER SINAY: Here.

EXECUTIVE DIRECTOR HERNANDEZ: Commissioner Taylor?

COMMISSIONER TAYLOR: Thank you. Present.

EXECUTIVE DIRECTOR HERNANDEZ: Commissioner Toledo?
COMMISSIONER TOLEDO: Here.

EXECUTIVE DIRECTOR HERNANDEZ: Commissioner Turner?

Commissioner Vasquez?

COMMISSIONER VASQUEZ: Here.

EXECUTIVE DIRECTOR HERNANDEZ: Commissioner Yee?

COMMISSIONER YEE: Here.

EXECUTIVE DIRECTOR HERNANDEZ: Commissioner Ahmad?

COMMISSIONER AHMAD: Here.

EXECUTIVE DIRECTOR HERNANDEZ: Commissioner Akutagawa?

COMMISSIONER AKUTAGAWA: Here.

EXECUTIVE DIRECTOR HERNANDEZ: And Commissioner Andersen?

CHAIR ANDERSEN: Here. Good morning all and Happy St. Patrick’s Day to everybody.

At this point I will report back. We did have -- we ended in closed session yesterday. The Commission took no action.

And we will move on to our next item, which is every morning when we start a meeting, we have ask the public to call in with any comments.

So, Katy, at this time could you please read the instructions for public comment?
PUBLIC COMMENT MODERATOR: Yes, Chair. Good morning.

In order to maximize transparency and public participation in our process, the Commissioners will be taking public comment by phone. To call in, dial the telephone number provided on the livestream feed. It is (877) 853-5247. When prompted, enter the meeting I.D. number provided on the livestream feed. It is 91834691695 for this meeting. When prompted to enter a participant I.D., simply press the pound key.

Once you have dialed in you will be placed in a queue. To indicate you wish to comment, please press star nine. This will raise your hand for the moderator. When it is your turn to speak you will hear a message that says, “The host would like you to talk and to press star six to speak.” If you’d like to give your name, please state and spell it for the record. You are not required to provide your name to give public comment. Please make sure to mute your computer or livestream audio to prevent any feedback or distortion during your call.

Once you are waiting in the queue, be alert for when it is your turn to speak and, again, please turn down the livestream volume.

And at this time we do not have anyone in the queue.
CHAIR ANDERSEN: Okay. Thank you very much. We will wait just a few minutes and let the live feed catch up with us.

At this time, while we’re waiting, are there any comments from the other Commissioners?

I understand Commissioner Sadhwani’s article is out in The Post this morning, The Washington Post. Congratulations.

Commissioner Fernandez?

COMMISSIONER FERNANDEZ: I just wanted to let Director Hernandez know that I am present, a minute late but present.

EXECUTIVE DIRECTOR HERNANDEZ: Thank you.

COMMISSIONER TURNER: Oh, and I hope you see me. Oh.

PUBLIC COMMENT MODERATOR: The instructions are complete on the stream, Chair.

CHAIR ANDERSEN: Thank you. Sorry, Commissioner Turner, what was that?

COMMISSIONER TURNER: I was just ensuring that he saw me as well.

CHAIR ANDERSEN: Perfect. Thank you.

EXECUTIVE DIRECTOR HERNANDEZ: (Indiscernible.)

CHAIR ANDERSEN: Well, I believe we’re going to get any comments in this morning.
So at this point we will continue on with the agenda.

PUBLIC COMMENT MODERATOR: Chair, we do have a caller --

CHAIR ANDERSEN: Oh.

PUBLIC COMMENT MODERATOR: -- right as you said it.

CHAIR ANDERSEN: Thank you.

PUBLIC COMMENT MODERATOR: If the person that just called in, if you would like to make a comment, could you press star nine to raise your hand, indicating you wish to talk? Thank you. And the floor is yours.

MS. HOWARD: Hi. This is Deborah Howard calling in from the California Senior Advocates League. I am calling in related to the conversation yesterday regarding transcripts.

And I’d like to go on the record vociferously in favor of the Commission deciding to do that. I think the Commission, as a whole and individually, is working extraordinarily hard and diligently on (indiscernible), just on outreach and education, the Legal Affairs Committee, language access, all of those sleds (phonetic) that you’ve put so much time on. Those -- that process that you put in place will be lost without transcripts. It’s sort of like you’ve put all of the weight into the
process but the content that you’re going to be capturing through those activities is going to be lost, save for anybody who, you know, has the capacity to watch hours and hours of video without knowing -- really, it’s just a search for a needle in a haystack.

So -- and I truly think it would serve the Commission better, as well, in just knowing what decisions you made when. By not keeping regular, you know, kind of standard minutes, like small boards and commissions do, you lose the historical perspective of how the conversation evolved.

So I can go on. I just think it’s a really important component. I think it’s a convenience of the public. You are 100 percent focused on public inclusion and, yet this seems like an odd line to draw.

So that’s my comment. I appreciate your consideration of that. And, as always, the work and the diligence that you put into it, I know that that is an overwhelming task.

Thank you.

CHAIR ANDERSEN: Thank you.

Commissioner Sinay?

COMMISSIONER SINAY: I think that the caller brought up several great points. And I’m really curious if this wouldn’t be a good student project? I know I spent
hours doing similar things right out of college and I learned so much when I was -- when -- in my first job at Human Rights Watch. And as much as it’s tedious, they’ll also learn a lot and learn about the process.

So I’m just curious of getting a few students to work on that piece wouldn’t be a great way to get it done and to also educate the future generation on what we did?

CHAIR ANDERSEN: Thank you. That’s an interesting idea. There are several more technological solutions which we were just presented with a little bit -- a while ago. And that’s all going to be given to our -- I believe it’s the Administration and Finance Comment, is that who’s looking into this? Yes. I’m seeing a nod from Commissioner Fernandez. And there are a few more very, very pertinent ideas that have just come across this morning that will end up in their lap that might make this much, much easier and, of course, cost effective, which is one of the reasons why we don’t just automatically do it. But it turns out we might be able to do it better and cheaper.

So thank you for the comment to the -- from you -- Ms. Howard. It’s very pertinent and very important to the Commission. We appreciate that and we, basically, we’re on it. Thank you very much.

Are there any other callers?
PUBLIC COMMENT MODERATOR: No, Chair, that was it.

CHAIR ANDERSEN: Thank you.

At that point I’d like to move on to the number - - item number ten on our agenda, which is the Legal Affairs Committee Update, that’s Commissioners Yee, Toledo and Sadhwani.

COMMISSIONER YEE: Thank you, Chair.

So as you know, we are planning to hold interviews for our VRA Counsel and Litigation Counsel, six candidates. And those are scheduled for next week, Monday and Tuesday. Wednesday we have reserved for deliberations. And we hope to have a recommendation to you for our meeting on the 29th.

In the meeting handouts for today you have our proposed questions for VRA Counsel and Litigation Counsel candidates, as well as an evaluation worksheet. And today we wanted to finalize those.

I also want to let you know that we have -- our paralegal has prepared background verification of the campaign contributions, Bar memberships, lobbying activity of the candidates, and prepared reports which were sent out to those candidates this morning. We invite them to respond to those verification reports by the end of this week -- or Sunday night, actually. And any response they
give will be posted as a public comment. And the verification reports themselves will be posted as public comment, as well, along with these interview questions.

So today, we mostly wanted to verify the -- or finalize the interview questions and the evaluation worksheet. Also, per earlier discussion, I believe we will indeed have a Deputy Attorney General present during the interviews and we’ll be providing legal support for that. Because that would be redundant with our current counsel, I think the recommendation will be to have just the Deputy Attorney General at the interviews.

So let’s see, Commissioner Sadhwani or Toledo, anything to add before we look at the questions?

COMMISSIONER SADHWANI: Sure. Thank you so much, Commissioner Yee. And thank you for chairing for this month. It’s really exciting to see you in this role.

You know, before we begin reviewing the questions, I think it’s exciting, it’s very exciting for us to have the opportunity to get the feedback from the full Commission. We, of course, are simply an advisory committee and we’ll be providing a recommendation to the full Commission after the interviews.

I did want to actually ask Marian, while we have her here, about our procedure in moving forward -- oh, I see she’s gone off camera, actually, so she’s not available
right now -- through the analysis and due diligence kind of -- oh, there she is -- collected on all of the applicants. So if you recall, we had received a letter suggesting that, perhaps, the applicants had additional items that had not been recorded.

We took that very seriously and have had Tina Keller, our paralegal for the Commission, looking at, as Commissioner Yee had mentioned, a number of items for each and every individual listed on those applications.

In particular, one of the things that we found is that for two of the VRA Counsels, the Lead Counsel, the lead individual, actually, is not admitted to the Bar here in the state of California. We had discussed this to some extent previously in the preparation of the RFI, saying that they don’t need to be based in California because the VRA, the Voting Rights Act, itself is a federal law. And so experience and expertise in the VRA is what we’re looking for.

However, my question for Marian is if she can provide a little bit of guidance on how we can proceed with applicants who are actually not admitted to the Bar in California? They are, of course, a part of larger teams that are admitted to the Bar. So I just wanted to get her advice on whether or not that’s problematic or how we should proceed?
MS. JOHNSTON: Well, the problem is that, unless you’re admitted to the Bar in California, you cannot provide legal advice in California. So if those Lead Counsel --

COMMISSIONER SADHWANI: I think I -- I’m not hearing you, Marian. I apologize because you cut out a little bit.

CHAIR ANDERSEN: Yeah, Marian, we’ve lost you.

COMMISSIONER YEE: But we can see you.

CHAIR ANDERSEN: Ms. Johnston had a car emergency, so that’s why she’s not (indiscernible).

COMMISSIONER YEE: Oh, dear.

COMMISSIONER AHMAD: Marian, you may want to try turning off your video so that we can hear you better. There we -- yeah. And I think we lost you at, “So the problem is.”

COMMISSIONER YEE: Cliffhanger.

COMMISSIONER AHMAD: Oh, and now we’ve --

EXECUTIVE DIRECTOR HERNANDEZ: I think we just lost her.

COMMISSIONER AHMAD: Yeah.

COMMISSIONER YEE: Oh, dear. Yeah.

COMMISSIONER SADHWANI: Well, perhaps, I think it’s okay if we want to move on. And then, perhaps, when Marian gets back we can return to this question. I would
be comfortable doing that.

CHAIR ANDERSEN: You know, though, as a professional engineer, that is true, the same thing, no, you cannot do that in the state of California if you’re not a registered engineer in the state of California.

COMMISSIONER SADHWANI: That’s right.

CHAIR ANDERSEN: You can work under someone else but your -- you cannot directly, so they could not be the lead. Because I’m pretty sure that’s what she’ll end up coming back to say.

COMMISSIONER SADHWANI: I saw Commissioner Toledo also had a --

CHAIR ANDERSEN: Right.

COMMISSIONER SADHWANI: -- thought on this.

COMMISSIONER TOLEDO: Just, while we wait for Marian, maybe we can touch bases on the public comment we received from Angelo Ancheta from 2010? I don’t know if there’s any discussion that we might want to have about that? He just brings up the point of provisions in the Voters FIRST Act about favoring or discriminating against political parties, incumbents and candidates which, of course, has to do with the impartiality aspects of our requirements. And they’re suggesting some line of questioning around some of the VRA and redistricting criteria and, potentially, some of the cases that might
have led or are leading to minority vote dilution.

And, of course, the comment is on our -- is posted on our website. I didn’t know if (indiscernible).

COMMISSIONER YEE: Yes. Yes. Yeah. I will pursue that.

But I think we have Marian back.

If you’re connected, Marian, you can pick up with -- you left off at, “The problem is.”

(Pause)

(Background Zoom conversation.)

COMMISSIONER TURNER: We hear you now, Marian.

COMMISSIONER YEE: And your assistant.

COMMISSIONER SADHWANI: Why don’t we move on and wait for Marian to get back.

COMMISSIONER YEE: Yes. Okay. So the memo from our predecessor, Angelo Ancheta from the 2010 Commission, suggests that we add a bit more language and the questions to inquire about the use of partisan election data. And you know, as you know, we will be employing racially-polarized voting analysis at some point in helping us comply with VRA requirements, so that’s racially-polarized voting. The polarized there is political polarization. So on one hand, we’re not allowed to use partisan, you know, favoritism in designing our districts. On the hand, with RPV analysis, it comes into the picture. So the question
is: How to balance that?
And we actually have a national expert in the subject in the form of Commissioner Sadhwani, so --

MS. JOHNSTON: I apologize. I’m having car problems, so now I’m back on --

COMMISSIONER YEE: Yeah.

MS. JOHNSTON: -- my cell phone. Did my answer come through before, about how you have to be licensed in California to give advice?

COMMISSIONER YEE: Yes. And then you started with, “The problem is,” and that’s where we lost you.

MS. JOHNSTON: Started with what?

COMMISSIONER YEE: “The problem is.”

MS. JOHNSTON: Oh. The problem is that if it’s the Chief Attorney who’s not able to give legal advice, that, I think, is a real problem.

COMMISSIONER YEE: So assuming, presumably, their intention is to, you know, channel their Chief -- the Lead Attorneys advice through someone who is Bar certified, is that workable, do you think, or is that really a showstopper?

MS. JOHNSTON: Well, that’s up to the Commission. I would think that if you’re not able to get advice from the primary attorney, that’s a problem.

COMMISSIONER YEE: Okay. Any further thoughts on
that question?

CHAIR ANDERSEN: Commissioner Fernandez?

COMMISSIONER FERNANDEZ: I’m just wondering if that’s like -- that would be a question that you would ask, maybe, during the interview, just to see how they would work around that?

COMMISSIONER SADHWANI: I --

CHAIR ANDERSEN: Go ahead, Commissioner Sadhwani.

COMMISSIONER SADHWANI: Yeah. I completely agree with you, Commissioner Fernandez. I mean, it’s one of those tricky pieces because I think it needs to be a follow-up question because it doesn’t apply to all three candidates evenly. We can certainly ask the question of all three candidates. But in particular, you know, for the two where this is like the issue, they wouldn’t be able to be the Lead Counsel, and so I certainly question.

And then I think we did have a question about, and I’ll look more closely at it, how you’ll work with the Commission? And, perhaps, it can come up in that regard as a follow-up question for them.

CHAIR ANDERSEN: Oh, I didn’t -- I don’t have to call on myself. Calling on myself.

And one thing we have to watch out for is, because certain engineering, they try and do the same thing, is another person who really is not the lead but
they have the license, so they say, oh, well, they’re --
this is all come from them. And I don’t think that’s, you
know, the -- there’s a term for that, I don’t recall what
it is, but I’ve heard it mentioned in the law before as
completely unacceptable in the law. It has to be -- the
actually lead attorney has to be licensed.

So you know, if you’re getting all -- or, you
know, the person who’s actually recommending and doing all
the work with us is not licensed, you know, not able to
practice law in California, they can’t use someone else’s
title. So that is more of the actual -- the specifics of
that question. And, actually, that’s something we could
everybody because do we know, do they actually have their
Bar numbers up there, or that sort of thing, just it could
be a generic question for all three. It doesn’t have to be
specific, so --

COMMISSIONER YEE: That’s right. We could
inquire about the verification report we produced for each
candidate. Okay.

Any other discussion on that route?

COMMISSIONER SADHWANI: I guess, if I may, the
key issue here is we will continue to interview them, even
though we’ve flagged the fact that, for two of these
candidates, they have individuals on their teams who are
not admitted to the Bar in the state, as opposed to
removing them from the applicant pool. And I think I just want to ensure that everyone is comfortable with that, with us proceeding in that way?

CHAIR ANDERSEN: Commissioner Turner?

COMMISSIONER TURNER: Thank you, Chair.

I saw a lot of nods of affirmation but I just wanted to voice that I would not be comfortable moving in that way. If it’s something that will cause an issue or that there is a workaround that we’ve having to do, knowing going in, I would prefer not interviewing them and not moving in that path.

CHAIR ANDERSEN: Yeah. For me, I would prefer knowing, you know, are they well aware of -- now is this a person on their team or is this, you know, one of their leads? I mean, is this like, you know, number two, number three, or is this number one, number two? I don’t know how they’re proposing to put the team together.

COMMISSIONER SADHWANI: If I may, I think that we would learn more about how they would actually work together from an interview. But at the same time, I also hear Commissioner Turner in that concern.

I mean, if I can go into the details? I mean, all of their applications are public. And we’ve searched their Bar status publicly.

And those, I believe, Commissioner Yee, the
COMMISSIONER SADHWANI: And we will posting them, so I’m not sharing anything that’s, you know, of a personal matter by any means.

For example, Chad Dunn from UCLA’s Voting Rights Project, who has presented for the Commission previously, is not admitted to the Bar in California. He was based in Texas. He’s now affiliated with UCLA. But the other attorneys are admitted to the Bar here in California.

So you know, I think it’s a reasonable question to ask them how they would then work. But you know, I’m raising this because I think it is a key issue that we, as a Commission, need to make sure that we’re all comfortable with it, certainly before we come back with a recommendation.

And then I guess just to add the other one, not to single out, one of the applicants, there is another applicant confirmed, Kareem Crayton, who previously -- I surprised to learn that he wasn’t admitted to the Bar in California. He previously was a professor of political science and law at USC. He’s no longer living in the state.
of California, is my understanding, and is no longer admitted, or I assume that he was but -- I think he was, at one point, he was admitted to the Bar in California.

CHAIR ANDERSEN: Commissioner Kennedy, and then Commissioner Fernandez.

VICE CHAIR KENNEDY: Just as a theoretical possibility, I mean, it may be that some of these individuals have allowed Bar -- California Bar memberships to lapse and could easily reinstate or, you know, may be able to obtain admission through reciprocity with the state where they are admitted.

So I’m okay with interviewing them, as long as we’re all aware of this issue, and as long as we ask them, you know, what -- if they’re not currently admitted, what their proposal would be for, you know, gaining that status so that they could advise us?

Thank you.

CHAIR ANDERSEN: Commissioner Fernandez.

COMMISSIONER FERNANDEZ: And you also had Commissioner Akutagawa, but I’ll just go quickly. So --

CHAIR ANDERSEN: Oh.

COMMISSIONER FERNANDEZ: -- I support moving forward with the interviews, as long as it’s not like just one person that’s admitted to the California -- to the Bar in California. And I would really be interested to see how
they respond to that. I mean, if it’s just one person that
is not, and then they’ve got maybe five or six that are,
then I’m -- that’s doable because they can also do research
and provide whatever other support they need.

But I think we should still move forward with the
interviews.

CHAIR ANDERSEN: Commissioner Ahmad.

COMMISSIONER AHMAD: Thank you, Chair.

I agree. I think we should move forward with the
interviews. And this whole situation about being licensed
in California versus not, that’s something we can ask them.

I do think that there should be a standardized
protocol if you -- for example, I’m not saying this is what
it is, for example, if our primary contact has to be Bar
licensed, or something like that, or whoever, however they
structure their organization in working with us, there
should be some way that we can ensure that we are getting
advice from a legally sound method moving forward.

But I don’t see, you know, holding off the
interviews at this point as something that needs to be
done, considering it’s an interview to see if they are
eligible; right? So that’s just my thought.

CHAIR ANDERSEN: Commissioner Sinay.

COMMISSIONER SINAY: I’m going to ask a Legal 101
question, and you might have answered it, but just
sometimes, as Commissioner Taylor has said in the past, I need repetition, so if you don’t mind repeating it?

If -- so when the -- this is about -- I mean, the VRA, they’re going to help us figure all this out. But then when -- the main question is if we get -- when the maps get sent to court, they will need to represent us in court. The court -- it would go first to the California Supreme Court, and then it would go, if it continued to move up the ranks, it would eventually go the Federal Supreme Court?

MS. JOHNSTON: If there were a federal issue it would go to the federal -- it would go to the Supreme Court. But if it were just a California issue, if they complied with, not the -- not an issue of Voting Rights Act but something else. There also is a possibility for -- in litigation to get admitted for the purpose of a single case.

COMMISSIONER SINAY: Okay. So the -- because in the past we’ve been told we need -- we’re looking at big law firms, national law firms, because they need to have the Supreme Court experience, you know? And so we’ve been constantly balancing, we need that Supreme Court experience with we need the California Bar.

And so I would tend to agree with the colleagues that are saying, you know, the reality is we need a diverse
team. And some people may have that California Bar and some people may have the Supreme Court but we need both on our team to be successful in the long run.

COMMISSIONER SADHWANI: If I may just respond to that a little bit?

CHAIR ANDERSEN: Yes. Please.

COMMISSIONER SADHWANI: Okay. I think that’s a really helpful kind of insight, and also a reminder.

And just as a reminder, we’re looking for two separate teams. So one will advise on the VRA component which, again, is federal law. But to advise in California, we need people that are Bar certified regardless; right? We need that for -- to get the attorney advice.

At the same time, we’re also interviewing separate teams just for litigation purposes. And, ideally, such a team would be able to very successfully defend the Commission and the maps either in the California State courts or in the federal courts, potentially, if something were to arise, you know, and going all the way up to the Supreme Court. I’m hoping that doesn’t happen. But it’s always best to have the strongest legal team possible and be prepared for it.

COMMISSIONER YEE: And the two firms mentioned earlier are our VRA applicants, not litigation applicants.

CHAIR ANDERSEN: I do have a question here.
The actual issue isn’t so much -- it’s federal experience, it’s actual Voting Rights experience, it’s not Supreme Court experience because hardly anyone has Supreme Court experience. It’s actual -- because the Voting Rights Act is a federal issue, so it doesn’t have to be strictly California because California is the California Voting Rights Act.

The actual issue is if they are not certified to give legal advice here in California and our maps are based on -- our Voting Rights Act map are based on that advice, that’s an issue that they could be challenged on, and that’s the issue as I see it.

And I think that’s what Marian was kind of trying to say. But you know, like I know, in terms of engineering, I know things have been thrown out because, that’s nice, wonderful, you’re not qualified to say that, so everything you said doesn’t matter. Next. You know? And in our case, that would be -- it could be our maps. Sorry, they’re not -- that’s -- they’re not based on sound (indiscernible).

(Background Zoom conversation.)

CHAIR ANDERSEN: So sorry.

That said, I still think at this point we should ask, how are they putting themselves together? Because if they have not considered this issue then, yes, that’s a
reason, like thanks very much for applying, we just can’t
use you. If they have already thought about this in great
detail, that would be another matter entirely, and that’s
what I would be expecting to hear.

So I’m sort of in the idea of going ahead as
well.

Commissioner Turner.

COMMISSIONER TURNER: Thank you. I want to
appreciate Commissioner Ahmad’s suggestion to ensure we
have protocols or guidelines in place, et cetera. Because
what typically happens or what can happen is we’ll get
vested into this conversation and into the time and
everything’s a timing issue always, of course, with our
Commission. And we do have already -- we’ve heard from
Marian, we do know what the -- I just don’t want to get too
far down this path and then the time has passed on and then
we’re making decisions based on the time that we have
available.

And so I will -- I can support the interviews. I
want to be real clear that we’re clear in what counsel
they’re able to provide and who’s going to provide it. And
I don’t want us later to make allowances or move forward
based on a lack of timing and not, you know, maybe going --
the names that were mentioned, the names, wonderful, all of
that’s great. I don’t want us to later be in a time crunch
and make decisions based on time.

MS. JOHNSTON: Would you like me to respond to that?

CHAIR ANDERSEN: Yes, please.

MS. JOHNSTON: The problem is, as Commissioner Andersen was saying, is the giving legal advice pre-litigation. And unless you’re licensed in California, you cannot provide legal advice in California, so you could not rely on them for advice, for example, on how to draw your maps to satisfy the Voting Rights Act or to satisfy the California requirements. Now it could be that, well, you could exclude that process. But in my mind that would be difficult if it were the lead attorney.

COMMISSIONER TURNER: And Marian’s response is exactly the point that I’m making, so that is the point. That is why I want to make sure. And I guess I can rest on protocols. I just want to make sure that -- well, I guess I’m repeating myself at this point. But, yes, based on what Marian has said, what she’s offered up before, and the discussion that we’re currently having, I think the questions will have to be very detail-specific. We’ll have to be real clear on who’s going to provide what.

And at some point, regardless of the other strengths and value and merit that they bring, if the answers are not suitable for or fall within the guidelines
that Marian has stated, then I think we should pass and move on, and then we’ll be back to trying to have someone else apply.

CHAIR ANDERSEN: One way to look at this is if the person does not have a California license, essentially they’re a paralegal, they’re not attorneys. And that’s sort of an easier way to kind of think about that. You know, they might -- and while that’s nice advice and things, it’s just, you know, it’s like me giving legal advice, it doesn’t have any weight. It might be set -- it might be really, wow, it sounds like a great idea, and that’s how we should think about it.

But again, I would like these people to say how they’re -- what their plan is. And if they have a very good plan of -- and that we like that plan and we are comfortable with that plan, as Commissioner Turner is saying, then I think we should go ahead with them. At this point, I think it’s very clear, the Committee is getting this message, is those questions better be really good because we’re really going to be looking at that.

So Commissioner Sinay?

COMMISSIONER SINAY: I’m just trying to still wrap my arm -- my arm? -- my head around this.

For the VRA piece, which is what we’re discussing right now, a lot of it is the racial voting -- you know,
RPV, it’s research versus legal advice. I mean, the team has to be able to do the research piece, and then part of the team has to do the legal advice, or is all considered legal advice? Because as you -- when you started all of this, Commissioner Yee had said, well, Commissioner Sadhwani does a lot of this in her day job but, you know, she has a PhD, not a legal degree, a legal.

So I just -- you know, my -- I just want to understand that in this case they may -- a team may have someone who doesn’t have a legal background but has a PhD, or am I totally off right now? I’m just trying to think through how people could put together teams.

CHAIR ANDERSEN: Commissioner Sadhwani?

COMMISSIONER SADHWANI: Sure. So, theoretically, yes, a team certainly could. And one of the things that we haven’t finalized yet in this process is who would actually do RPV analysis, the racially-polarized voting analysis. And I do want to talk more about that, and then the letter from Angelo Ancheta, as well, which we began to talk a little bit about.

But, in general, you’re going to want an attorney with experience in the Voting Rights Act to understand more about what the courts have said previously about what’s allowable and what’s not. That’s not something that I feel like I -- I crunched the numbers, you know? Someone else
had more experience actually in the courts or with the, you know, within the system of Voting Rights compliance will be able to bring more to bear on what we anticipate being allowable, right, under the courts if we were to be challenged from a VRA perspective? What is it that the courts have said about districts that were drawn, compliantly or not, and how do we defend ourselves against such lawsuits?

So it’s that combination of both technical and legal advice when they’re actually drawn, as I see it.

CHAIR ANDERSEN: Commissioner Sinay?

COMMISSIONER SINAY: Sorry. One last question. I’m just trying to really -- when I worked with military families, one of the biggest challenges was that military spouses were licensed in one place, and then their active military got moved around a lot. And this became a huge issue. And so a lot of the -- around those who were licensed or whatever. Yeah.

So federally, this became a big issue. And they were looking at legal teachers and others, not just for military spouses because they couldn’t just make an exception for one group, but they were looking broader. And I don’t know where that had gone, that whole movement, but I just wanted to put that out there, as well, because things are changing in regard to some of these very strict
guidelines that the states have set up because they have been -- they have kept, yeah, they’ve kept people out like, they’re supposed to, but they’ve also made life very difficult for people.

CHAIR ANDERSEN: Commissioner Ahmad?

COMMISSIONER AHMAD: Thank you, Chair. And I guess this question is directly for the Legal Affairs Committee.

Is the question that is being asked of us, if we are comfortable moving forward with the interviews, knowing that not everyone holds the California Bar license, is that the question?

COMMISSIONER SADHWANI: That was the idea.

COMMISSIONER YEE: I think so, yes. Yeah.

CHAIR ANDERSEN: Okay.

COMMISSIONER SINAY: It sounds like we’re all comfortable with that, with moving forward, so long as we’re asking the appropriate questions about how the teams would work together.

COMMISSIONER AHMAD: Okay. Got it. And then just a follow-up on that. And I don’t know enough about the legal world to have an opinion one way or another, but I wonder what the process is to get that license in the case the Commission would require that? And that’s just something for you all to consider during your interviews.
COMMISSIONER YEE: So what I’m hearing then is, you know, we do -- we consider this a major impediment to have a lead attorney who is not a part of -- a member of the Bar, the California Bar. And so we’ll inquire about this. And since it’s a major impediment, you know, we’re looking for a very -- if the candidate is going to be move forward or be considered, thoroughly satisfying response to how that major impediment will be dealt with.

CHAIR ANDERSEN: Commissioner Toledo?

COMMISSIONER TOLEDO: Yes. So I saw it a little bit different than asking about comfort. I saw it more to just alert the Commission that we do have a couple of candidates, to warn and to make sure that you are aware of, and especially because we have been doing due diligence and we -- this is just something that came through in our due diligence process.

The interviews have been scheduled, so they had them scheduled previously. And, of course, we wanted feedback from the Commission in terms of questioning, questions to ask, especially in light of some of these conflict of issues-type questions and other-type questions that we have uncovered in our due diligence process.

So whether -- I mean, it’s not just whether they’re licensed or whether some of these other conflicts in terms of impartiality that might have arisen and you
have the questions that we have developed, so impartiality conflicts with regards to political donations or cases that they’ve been involved in, that sort of thing, is really what we’re seeking feedback on, is my understanding.

And correct me if I’m wrong, Commissioner Yee and Sadhwani, it’s just we want to make sure that we have a thorough vetting of the conflicts of interest, the impartiality aspect, and of course, also, the licensure component of that. And that’s all part of the due diligence work that we’re doing and our -- and that our Paralegal and Legal Support Team have been conducting --

COMMISSIONER YEE: That’s correct.

COMMISSIONER TOLEDO: -- as we launch into interview process next week.

CHAIR ANDERSEN: Commissioner Ahmad?

COMMISSIONER AHMAD: Well, thank you for alerting me on this. I appreciate all your work. And good luck on the interviews.

CHAIR ANDERSEN: I just want to go ahead and say, just because I also see this as you’re also educating us in terms of the importance of each decision. And when you don’t know the particular rules, it seems like, oh, a good teacher, why can’t they do the same, you can just learn from them, but there are particular rules about why.

And I just want to say, because I do follow how
licensures work in different groups and states, and with
the law, basically getting a California license and a New
York license, those two states are, essentially, dominant.
And they have very, very different rules. And so while if
you have a California license, it’s pretty easy to get
licenses then in Arizona or states kind of around us, which
is sort of similar to New York, part of the same. It’s
very hard the other way around because you haven’t had that
experience.

So, basically, my understanding is, except for a
Supreme Court Judge or something like that, is the only way
to get the California license is to take the California
Bar, which is a whole other, you know, sets of exams. And
the same for New York. So it is a big deal.

Now, as Commissioner Kennedy said, if you had the
license, let it lapse, that’s another issue, so that’s --
and not all professors have the licenses, and that’s true
in all of the different fields. That’s also -- that’s true
in medicine. That’s true in engineering. That’s true in
many of the different fields, so -- in terms of licensure
fields, so -- and it is a real problem.

Thank you, Commissioner Sinay, for bringing that
up about the military. That is an issue.

So just for -- that’s for just kind of
everybody’s understanding of, you know, well, it’s easier
just to do that, that’s not an easy step to do.

And thank you, Committee, and please continue.

COMMISSIONER YEE: Okay. So shall we return back to the questions? So let me get the public comment from Angelo Ancheta. And let’s see, okay, there’s Commissioner Sadhwani. So I would like to propose adding part of a question to satisfy the concern he raises, and I have it worded here. “So how would you advise the Commission to use or not use partisan election data in pursuing VRA compliance and defending its work?” So once more, “How would you advise the Commission to use or not use partisan election data in pursuing VRA compliance and defending its work?”

And adding that to one of the questions on the VRA, perhaps question number six on the VRA interview questions, and adding it to question number seven on the litigation questions.

But I think Commissioner Sadhwani can probably give us more detail on the concerns being raised here.

COMMISSIONER SADHWANI: I mean, my understanding from what I read of the -- of Mr. Ancheta’s comment had more so to do with the perspective that the 2010 Commission took around not touching anything that’s potentially partisan. We haven’t gone to that length. I mean, we’ve had a conversation, even from our outreach standpoint, that
we think it’s appropriate to talk to local parties and such things as well.

I wanted to go back. I think some -- I forget who had mentioned racially-polarized voting, meaning polarized --

COMMISSIONER YEE: I did.

COMMISSIONER SADHWANI: -- politically. That’s actually not the case. Racially-polarized voting suggests that a community votes together, that they, themselves, are supporting a particular candidate, that they’re polarized in that way, not necessarily from a partisan standpoint.

Yeah, I mean, conducting RPV analysis requires using vote returns. We will know the registration of the voters. But what we would be looking for is their -- our expectation of their race; right? Are they Latino voters? Are they Black voters? Are they Asian American voters? Less so, do we take into consideration in conducting RPV their partisan affiliation? Though it would mean that we have that data. And we would be looking at candidates who are Democrats and Republicans; right?

So I think in that regard, yes, we would be dealing with partisan data, but we’re looking instead at how do communities, particularly communities of color, who are their preferred candidates and are they able to elect them?
I’m fine with it, if we want to include the question on there. I don’t have any strong reservations to it. But as I read his comment, it had more so to do with the fact that they ran into this issue because they had this kind of strong barrier up. And the 2010 Commission operated quite differently than we are operating. And so, therefore, I understand where he’s coming from. I’m not certain how necessary it is but I don’t have a problem including it.

COMMISSIONER YEE: So it was the thought that, you know, the analysis would be does this block vote, consistently vote differently than the surrounding block. And it really doesn’t matter which way the difference points. I mean, it doesn’t even matter which parties are in play, just that they’re different.

COMMISSIONER SADHWANI: AS I see it. As I see it. And again, you know, I haven’t conducted RPV for redistricting purposes previously. But, yes, I mean, that’s how I see it. When I conduct analysis in Orange County, you’ll see communities sometimes supporting Democrats and sometimes supporting Republicans. But the question is: Are they voting together the majority of the time, even though sometimes they might flip-flop in terms of their candidate of choice?

So I don’t have a problem including the question.
I think, as you’ve worded it, it sounds appropriate.

COMMISSIONER YEE: Okay.

CHAIR ANDERSEN: Commissioner Toledo?

He had his --

COMMISSIONER YEE: Yeah.

COMMISSIONER TOLEDO: It seems to me that question seven on the Litigation Counsel is very -- tries to get at the same type of issue, the question about -- and that’s the question that is talking about whether -- I mean, I think it even referenced -- at some point, the beginning of that previous, I think even references the Santa Monica case. I think we took that out. But essentially, how would you defend the constitutionality of majority-minority influence or coalition districts that the Commission may draw? It’s trying to get -- I think it’s trying to get at the same type of issue that Angelo raised. I’m just wondering if we need both.

COMMISSIONER YEE: Right. I was thinking of adding --

COMMISSIONER TOLEDO: What they’re -- or how different they are.

COMMISSIONER YEE: Yeah. I was thinking of adding the more specific question at the end of that question, actually.

COMMISSIONER SADHWANI: I’m sorry. What question
COMMISSIONER TOLEDO: All right.

COMMISSIONER SADHWANI: -- that you were referring to?

COMMISSIONER TOLEDO: Number seven on litigation.

COMMISSIONER SADHWANI: Oh, on litigation.

Sorry. I’m looking at VRA.

CHAIR ANDERSEN: Commissioner Sinay.

COMMISSIONER SINAY: Just out of curiosity, in looking at the teams, are the -- the applicants, it feels like, to date, when people talk about all of this to us, they’ve been predominantly White males. Are the applicants reflecting the diversity of California and some of the issues that we’re trying -- you know, some of the communities that are affected by VRA?

COMMISSIONER YEE: They’re all different in our evaluation worksheet, we do speak of overall fit to CRC identity, values and goals. I think that would cover part of those concerns. But the different teams are all different.

CHAIR ANDERSEN: I actually did see Mr. Ancheta’s comment a little bit more like -- both like Commissioner Sadhwani, but I really liked that Commissioner Yee wanted to put that initial question in there. I support that because I actually read it as though he was flagging, as
Commissioner Sadhwani, that 2010 completed divorced from any looking at political party and you do as you’re looking at the Voting Rights analysis but it shouldn’t be emphasized.

And I believe, looking at, particularly, people who come in from not California, they do tend to say, well, the Republicans did this and the Democrats did that, and they tend to view -- the polarized analysis often comes quickly into talking about the Democrats or Republicans.

We’ll see, they all want to vote for a Republican, they all want to vote for a Democrat.

And that’s, I think, that’s an issue in terms of, in California, we really are looking at as do they vote as a group, as Commissioner Sadhwani was saying? And I kind of caught that as in making sure that they’re -- how they’re framing -- that we ask questions to see how they would frame the information given to us? Because then that is, indeed, how trying to separate the party part of it and use the party part of it, but you’re actually talking about voting rights analysis, not -- and he also says a little bit like -- because watch out, a lot of people just use this as a ruse for political -- advancing political parties.

And so that’s how I saw it, which I really like. And while I love the question that they are written, I
prefer Commissioner Yee’s addition to it, let’s, you know, qualify that a little bit more. So that’s how I read his public comment, which I thought was a very valid point. We do have to -- we do, actually, have to specifically talk about the parties. Because, again, in California, we’re not -- we don’t necessarily push political parties. We’re talking about how the voting changes. And it can, as Commissioner Sadhwani, it can change from one candidate to another candidate. If there are the different race groups, are they voting together in blocks or not and that combination?

COMMISSIONER YEE: So shall we say we will add that further bit of language to an appropriate question in each of the sets of questions?

CHAIR ANDERSEN: That’s my choice.

But Commissioner Turner also had a question.

COMMISSIONER TURNER: Yes. Yes, I think we should add it. I just wanted to have, how would you advise the Commission to use or not use partisan data, and have you repeat the ending one more time.

COMMISSIONER YEE: “How would you advise the Commission to use or not use partisan election data in pursuing VRA compliance and defending its work?”

COMMISSIONER TURNER: Yeah, I think it definitely should be added. I appreciate the specificity of it, the
additional conversation that it can bring. And I do see how it’s already in that seven on the one area, et cetera, but I just think a little more detailed conversation would be beneficial.

COMMISSIONER TOLEDO: Are we adding it to both the litigation and to the VRA question sets, or just to litigation? Because this is more a VRA question, that’s why I’m asking. And question seven is in the litigation question sets.

COMMISSIONER YEE: Angelo sees it as both, but we can discuss that.

CHAIR ANDERSEN: My preference would be both because it does -- it starts with VRA, and then it would also end up in litigation. I would like to hear how both of their groups would plan to address it.

COMMISSIONER TOLEDO: If that’s the case --

CHAIR ANDERSEN: Any other --

COMMISSIONER TOLEDO: -- we may want to put question seven and this additional question into both the litigation and the -- because Litigation Counsel, of course, would be supporting the VRA Counsel if we have litigation. And then VRA Counsel, obviously, would be able to (indiscernible).

COMMISSIONER YEE: I was thinking of adding -- for the VRA Counsel, I was thinking of adding it to
question six which is a similar question, a little more brief.

COMMISSIONER TOLEDO: Oh, it looks good.

COMMISSIONER YEE: Yeah.

COMMISSIONER SADHWANI: Question seven of the litigation, counsel interviews is actually also incorporate in question three for VRA in terms of creation of majority-minority influence and coalition districts.

COMMISSIONER TOLEDO: Yeah, that works too.

COMMISSIONER YEE: Yeah, that’s even better.

Yeah.

COMMISSIONER TOLEDO: Yeah. That works.

COMMISSIONER YEE: We can add it to three then. Okay, so adding that, and then adding the question about Bar memberships and how to deal with any issues those raise. Anything else?

For Litigation Counsel --

COMMISSIONER TOLEDO: Well --

COMMISSIONER YEE: Yeah. Go ahead.

COMMISSIONER TOLEDO: -- would we be adding another question or would that be follow-up? Because that doesn’t apply to all candidates. It would be -- that almost seems like a due diligence conflict-of-interest follow-up questions because it doesn’t apply to all candidates? Or are we thinking about standardizing the
COMMISSIONER YEE: I guess I’m a little unclear about that because, you know, what I keep hearing is you need to ask everyone the same questions. So if we phrase it that --

COMMISSIONER TOLEDO: So we do have standardized questions.

COMMISSIONER YEE: Yeah. So you can --

COMMISSIONER TOLEDO: But then you can have follow-up on the conflict of interest and background checks.

CHAIR ANDERSEN: Could I? Do we know that everyone on one of the groups -- unless we know for a fact that every single person on the group has a California Bar, then I would ask all three. Don’t assume someone has it. So which -- that’s why I was thinking that the question would be asked to everybody.

Also --

COMMISSIONER SADHWANI: We’ve checked everyone.

COMMISSIONER TOLEDO: Yeah, we checked. We had our Litigation Support Team check, so they verified, so we know who has them and who doesn’t at this point.

CHAIR ANDERSEN: Was this -- will this be a process issue, then, if you don’t ask the same questions?

COMMISSIONER YEE: Right. So I was thinking, you
know, to ask, you know, in the interview to confirm our findings on Bar memberships. And then that would lead to further questions for some of the firms.

COMMISSIONER TOLEDO: To me, it seems like it’s follow-up. Maybe we can ask Marian. But, to me, it seems like it’s follow-up on conflict of interest and background check rather than a standardized question because it’s a requirement, okay? So it’s a requirement of the RFI. And we did our conflict-of-interest checks and did our background checks and we’re at that point. Just for those candidates that might have an issue, we’re trying to resolve that.

COMMISSIONER YEE: That’s fine. I mean --

COMMISSIONER TOLEDO: But we could ask Marian if that would align, if our questioning should be the same for everybody, even if it doesn’t apply to everybody.

COMMISSIONER YEE: Right.

COMMISSIONER SADHWANI: I agree with that.

COMMISSIONER YEE: Ms. Johnston, are you there?

No.

MS. JOHNSTON: I am.

COMMISSIONER YEE: Oh, okay. So the question is raising these Bar memberships conservation, should we have standard question that we ask all candidates, you know, asking them to confirm our findings on their memberships,
and then following up with those that raise issues, you
know, how they would deal with those issues, or do we not
ask it as a standard question but simply follow up with
each candidate as appropriate?

MS. JOHNSTON: I think you should ask a standard
question of all to verify that the information that we have
is correct.

COMMISSIONER YEE: Okay. Okay. Very good. That
made sense. And you know, I think it’s about the same, you
know, either way, it’s just whether it’s on the printed set
of questions or not. So we’ll follow it up the same either
way. Okay.

Anything else on these questions?

On the Litigation Counsel questions, I’m thinking
of striking number six which is a question about
independent redistricting commissions. As you all know, in
2015, the Arizona case seemed to confirm that independent
commissions are constitutional. And so the question was,
“How firm do the candidates believe that decision is? I
think we can strike that because H.R. 1 raises that
question in a whole new way. And I’m not sure we’re able
to add much to this process to hear a response to that at
this time.

CHAIR ANDERSEN: Commissioner Kennedy.

VICE CHAIR KENNEDY: So rather than striking it
entirely, you know, maybe another approach would be to reorient the question to focus instead on H.R. 1 revisions and what we might face in the future as a result of H.R. 1?

CHAIR ANDERSEN: Yes. I might add, I was hoping that that question would be added to both the VRA and the Litigation. Because, as we know, we’re already talking about how could it impact the VRA? So I would definitely like to see question about that on both the VRA and the litigation.

Commissioner Turner.

COMMISSIONER TURNER: Just a quick process question.

Your interviews, how long are they scheduled for?

COMMISSIONER YEE: I think it’s about one hour. Yeah.

COMMISSIONER TURNER: So we’re going to have to prioritize.

COMMISSIONER YEE: We’re counting on lawyers talking fast.

COMMISSIONER TOLEDO: And we did start off -- we did start off, I think, with like, 12, 13 questions on each and we’ve brought it down to the ones that were the -- we found to be the most important. But we did have many more to bring these down.

CHAIR ANDERSEN: You know, one thing I might say
on that is if you -- if they know they have an hour and
these are the questions -- are these getting -- they’re
getting the questions beforehand?

    COMMISSIONER YEE: That’s right.

    CHAIR ANDERSEN: Yes. So attorneys need --
they’re -- you know, the judge is only going to give them
so much time, so they need to be able to answer these. And
that’s sort of another -- as I see it, that’s a bit of a
check on can they address the issues in a timely manner?

    Commissioner Fernandez.

    COMMISSIONER FERNANDEZ: Does the one hour
include any follow-up questions you may have or is
everything supposed to be done in an hour --

    COMMISSIONER YEE: Everything in an hour.

    COMMISSIONER FERNANDEZ: -- including the follow-
up?

    COMMISSIONER YEE: That’s right.

    COMMISSIONER TOLEDO: They have an hour.

    COMMISSIONER FERNANDEZ: Including follow-up?

    COMMISSIONER YEE: Yes.

    COMMISSIONER SADHWANI: I don’t know. I’ll just
jump in. So I don’t know.

    I wanted to come back to this question in
question six, the Arizona v. Arizona and Commissioner
Kennedy’s point around bringing up H.R. 1. So H.R. 1 isn’t
law. It’s passed in the house. But I understand the point; right? I think what this question is asking is it’s very possible that someone could try to bring challenges, specifically to challenge the notion of independent redistricting commissions. That’s what Arizona was doing in that case.

So I think, perhaps, if we can reword it in such a way that it could cover either the Arizona case or the possibility of H.R. 1 moving forward and what world we might live in, in which there could be potential litigation challenges that could bring down the existence of independent redistricting. I think if we can come up with a different way of rewording it, that might be sufficient and kind of hit both sides of this question. And I’m happy to take a closer look at what that might be or look like.

COMMISSIONER TOLEDO: I do worry about asking the two questions because it ends up being two questions if we reword it, I think. Because when we’re asking about Arizona v. Arizona, and then we’re asking about H.R. 1, and they’re two different -- related but different sets of issues as well.

COMMISSIONER SADHWANI: But what if it’s a question about what do you see as potential litigation challenges to independent redistricting nationwide? Something along those lines; right? And the response could
be talking about Arizona, it could be talking about H.R. 1, it could be --

COMMISSIONER TOLEDO: I would support that.

CHAIR ANDERSEN: Commissioner Kennedy

VICE CHAIR KENNEDY: And I would prioritize asking about H.R. 1 over asking about recent changes on the Supreme Court. I mean, the Supreme Court is the Supreme Court. And I wouldn’t cast it in terms of -- or I wouldn’t cast it around the recent changes in the Supreme Court.

I think I would get more from an answer that said, okay, we’ve generally considered independent redistricting commissions to be on constitutionally-safe ground since Arizona versus Arizona. How might H.R. 1, if passed into law, change that?

CHAIR ANDERSEN: Yeah. I would be more concerned with what’s going to affect us right now? The idea of the future of independent redistricting, I think, is a very valid issue. But the Supreme Court’s effect on that I really don’t think is going to happen between now and our getting our maps out. It might happen that we might be dissolved later. But I don’t think that’s going to hit the first couple of years of our job. So that’s where I’d prefer going to H.R. 1.

COMMISSIONER SADHWANI: I can support that. And I think the piece that Commissioner Kennedy raised, that
suggestion of language is excellent.

But I mean, to that point, we’re hiring a litigation firm who is going to have to take on these kinds of future challenges for us; right? This is one way to bring down our maps is to say that we shouldn’t have the authority to engage.

COMMISSIONER TOLEDO: I believe Marian has her hand up.

CHAIR ANDERSEN: Yeah, Marian.

MS. JOHNSTON: Apologies for being in and out but I think I’m here now.

I don’t know if you’ve all had a chance to look at the H.R. 1 analysis. I sent it. It was pretty late last night. But one of the questions, if you’re going to be asking about H.R. 1, is what it’s affect will be on this Commission’s activities if it passes. And I pointed out three particular issues that the Commission would have to face. So that is a nuance that you might want to look into.

COMMISSIONER YEE: And I believe one of those included redistricting criteria; is that correct?

MS. JOHNSTON: Well, the redistricting criteria, I think that, probably, you’ll be okay with. It was -- if you are allowed to follow your criteria in addition to those listed in H.R. 1 for independent commissions that
already exist, that is one of the issues.

The other two issues are what happens if you
don’t draw a map, who it goes to. And it would change it
from being the California Supreme Court to the U.S. Supreme
Court.

And right now I can’t think of what the third
point was but I will. It’s in the memo.

VICE CHAIR KENNEDY: if I can, it was on how
many --

MS. JOHNSTON: Oh, the voting.

VICE CHAIR KENNEDY: -- members each of the pools
would be required to pass the maps.

MS. JOHNSTON: Correct. And it would be a much
lower standard than what the California Commission now
operates under.

Thank you, Commissioner Kennedy.

COMMISSIONER YEE: Okay. So I think I’m hearing
that we do want to repeat the question, rewording it per
Commissioner Sadhwani and Commissioner Kennedy’s language
and adding it, as well, to the VRA Counsel questions.

COMMISSIONER TOLEDO: Can we hear the question
again? Can you -- because I’m in support of it, I’m just
trying to remember what the language was.

COMMISSIONER YEE: What I heard was, after
Arizona v. Arizona, we’ve generally considered independent
redistricting commissions to be on constitutionally-safe
ground. How would you advise the Commission -- oh, I’m
sorry. “What do you see as possible challenges to
independent redistricting commissions nationally?”

COMMISSIONER TOLEDO: I thought we were going --

COMMISSIONER YEE: But then Marian --

COMMISSIONER TOLEDO: I thought we were going to
refocus it on H.R. 1. That was my understanding. I may
have misunderstood though.

COMMISSIONER YEE: I think, actually, that’s
correct, and I don’t think I wrote down that version.

Commissioner Kennedy, do you want to repeat what
you have?

VICE CHAIR KENNEDY: I don’t think I can come up
with it verbatim but it was, basically, you know, if H.R. 1
were to become law, how might this affect the -- how might
this affect the Commission in the future?

COMMISSIONER YEE: Although it could be the
present, as well; right?

CHAIR ANDERSEN: Yeah. I would so both now and
in the future.

VICE CHAIR KENNEDY: I consider future to be
anything from ten minutes from now onward, basically.

COMMISSIONER YEE: Or maybe we don’t even need to
specify time. So if H.R. 1 becomes law, then how might
this affect the Commission?

VICE CHAIR KENNEDY: Right.

CHAIR ANDERSEN: Go ahead, Commissioner Sadhwani.

COMMISSIONER SADHWANI: I like that. And I actually don’t feel like we need to add this to the VRA questions. It’s an important question but it’s not specific to the VRA. The VRA -- you know, I think if we want to ask about the John Lewis Voting Rights Act, which hasn’t even been introduced yet, or the current case before Arizona, if that undid section two, for example, that might make sense. But given the vast number of questions we already have for the VRA, I feel like having this for litigation is sufficient because it’s not exactly VRA related. We wouldn’t be asking our VRA Counsel to represent us if H.R. 1 -- if there are any H.R. 1 claims in the future.

CHAIR ANDERSEN: You know, seeing the number of questions and the quality of the questions, I certainly see that point. It would be interesting, though, to make sure that they are up with H.R., expecting them to say, well, it doesn’t really contain the VRA, or it only partially mentions it and the VRA would be in H.R. 4, I would kind of like them to see how up on the whole issue they are, but that’s a preference. I do see that we have a lot of questions here that are very, very good. If there’s a lag,
I would certainly put it in. Not anticipating that though.

Any other questions from the Commission? All right.

Please continue.

Oh, I’m sorry, Commissioner Fornaciari.

COMMISSIONER FORNACIARI: Sorry. I thought you were asking for different questions. I have a different question but --

CHAIR ANDERSEN: Wait. Are you entertaining different questions at this time?

VICE CHAIR KENNEDY: Sorry. And I apologize. Can you hear me okay? Okay. I apologize. I was late and you may have already discussed this but I just, I have one thing.

In reading the applications for the VRA applicants, it seemed to me that some of the applicants were always on one side of the issue and some of the applicants were always on the other side of the issue or the cases that they brought forward.

And so, you know, you’re kind of getting at that in question one. But I, to me, I’d like to see the word balanced in there; right? So how can they balance kind of both perspective if they’ve only been mitigating one side or the other of these cases? And maybe I’m wrong, but that was kind of my reading of it.
I think we can certainly add the word balance. “The public must have a high level of trust and confidence in Counsel’s ability to provide objective, balanced, nonpartisan advice to the Commission.” This was, actually, the main concern in 2010 that generated the most controversy between the various applicants, the selection between them, one, you know, one perceived as being Republican-leading and another perceived as being Democrat-leading.

COMMISSIONER FORNACIARI: And I’m not -- certainly, it can be partisan. But I think both parties have violated the Voting Rights Act, right, in some way or other; right? So it’s -- I kind of see it -- there’s partisanship in it, too, but it’s also kind of a balance perspective on the Voting Rights Act.

COMMISSIONER YEE: Definitely. And you know, if you look at the verification reports, you’ll see political contributions which definitely lean, you know, this way and that.

COMMISSIONER SADHWANI: Thank you, Commissioner Fornaciari. I really like that suggestion. And I think that makes perfect sense to add the word balanced to that first question, as Commissioner Yee identified.

COMMISSIONER YEE: Okay. Shall we move on? I think we have ten minutes to break and, perhaps, we can
finish this in that time.

So the last bit is the evaluation worksheet. So this was our move away from numerical scoring, instead identifying nine areas to rate. And we did add some, you know, kind of scoring through rating each area as exceeds requirements, meets requirements, or lacks requirements. And the idea would be for each of the three Legal Affairs Committee members to individually review the candidates and rank the pool. And then next Wednesday, a week from today when we actually discuss and try to come to the recommendation to use those rankings and further input from the interviews, of course, to jointly develop our recommendation, which would need to be unanimously agreed upon.

The DAG advised us that the only -- it’s a fairly low standard. We need to simply not appear capricious and arbitrary in our decision, which I think will be easy to achieve.

So any feedback on the evaluation worksheet? It’s pretty open-ended, as intended.

CHAIR ANDERSEN: Commissioner Ahmad?

COMMISSIONER AHMAD: Just a quick question on that evaluation worksheet. Would those be made public after the interviews or is this personnel related, so therefore it’s confidential?
COMMISSIONER YEE: Good question.

Marian?

MS. JOHNSTON: Everything related to your selection of contractors, which is, in effect, what this is, is public. There’s no personnel exception.

COMMISSIONER YEE: Does that -- so following up, does that require that we later post our individual --

MS. JOHNSTON: If you don’t -- if you discuss them during public meeting, then they have to be posted.

COMMISSIONER YEE: So with our comments, with our individual ratings --

MS. JOHNSTON: Right.

COMMISSIONER YEE: -- our rankings? Yeah. Oh.

CHAIR ANDERSEN: Commissioner Ahmad?

COMMISSIONER AHMAD: Sorry. I just need to clarify.

They are public but they would only need to be posted if discussed in open public meeting?

MS. JOHNSTON: Correct.

COMMISSIONER YEE: And they absolutely will be discussed. I mean, that’s the whole point. So I think, yeah.

COMMISSIONER AHMAD: Okay.

COMMISSIONER YEE: So that mean we would need to post them for the 24th, yeah, so --
MS. JOHNSTON: Well, I don’t know. You could fill them out privately and then come together to discuss them, or what’s your plan?

COMMISSIONER TOLEDO: So my understanding was that we were going to do the scoring together in public, and that it wasn’t going to be done individually, was my understanding as we were thinking through that. But I know that we’re still kind of figuring that out as we discussed a little bit more, but that --

MS. JOHNSTON: Well, it’s the discussion in public session that makes them become public, so it’s how you operate. If you each have your individual ones but what is discussed in joint session is your joint one, then it’s only your joint one that becomes public.

COMMISSIONER TOLEDO: So -- and that’s what I was thinking that we would be discussing our joint -- our scoring; right? So we’d be discussing, essentially, the joint scoring of the applicants.

COMMISSIONER YEE: So as long as we -- so of course, we’re going to make private notes to ourselves as we review the applicant’s; right? Anything we bring up in public discussion, we can then put into the public worksheet that we discussed and have posted.

MS. JOHNSTON: That sounds right.

CHAIR ANDERSEN: Commissioner Fernandez?
COMMISSIONER FERNANDEZ: No, I was just going to clarify that, like your individual notes would not necessarily be public, it’s what you discuss on the one sheet. So I just wanted to clarify that.

CHAIR ANDERSEN: So actually, I do have a clarification question as well.

If each of them, you know, have -- fill out this sheet and then together create one, it’s only the one that they create together that gets discussed and published, I guess, and posted; is that correct?

MS. JOHNSTON: That’s correct.

COMMISSIONER SADHWANI: It sounds like a good plan to me.

COMMISSIONER YEE: Okay. So --

COMMISSIONER SADHWANI: And I would be happy to take notes, if need be, during our public discussion of these criteria so that it can be posted if we need it.

Any other questions?

I like it, by the way. My opinion on all of these questions and the form is it’s very thorough, very well thought through. And I think the Committee has done a very good job for the Commission. Thank you very much.

COMMISSIONER YEE: Thank you, chair.

CHAIR ANDERSEN: Any other --

COMMISSIONER YEE: So that’s all I -- that’s all
we have, I believe.

CHAIR ANDERSEN: Any other questions or comments from any other Commissioner?

Seeing none, thank you very much to the Committee. And best of luck on Monday, Tuesday and Wednesday. Those are -- would you please run through the timing of that for us?

COMMISSIONER YEE: So Monday, we have the VRA Counsel applicants, Crimcard, UCLA, and Strumwasser & Woocher. And then Tuesday, we have the litigation candidates, Gibson Dunn, who was the 2010 Commission’s counsel, Renne Public Law Group, and Strumwasser & Woocher again. They were the only one who applied to both.

CHAIR ANDERSEN: So it’s 9:30 on Monday the 22nd, and then again 9:30 on Tuesday the 23rd, also 9:30 on the 24th?

COMMISSIONER YEE: Right, so Monday-Tuesday interviews from morning through about 2:00 p.m. And then a couple hours of discussion following, probably. Tuesday same thing. And then Wednesday is discussion and decision.

CHAIR ANDERSEN: Thank you.

Commissioner Sinay.

COMMISSIONER SINAY: Just a friendly reminder that new -- just a friendly reminder, just not to be too -- I guess I’m saying I’m feeling a little uncomfortable that
we just announced that 2010, yeah, that was the legal
counsel for 2010. And just a friendly reminder that that
good and bad and indifferent, just to look at all of them
equally.

COMMISSIONER YEE: Absolutely. Absolutely. I
certainly didn’t mean to favor or disfavor Gibson Dunn on
that basis.

CHAIR ANDERSEN: Well, thank you very much.

That basically wraps up most of our agenda. If
we’d like to go over our last items of business, which now
I have to bring the agenda up again. Basically, I believe
that is just the future meeting dates and agenda items.
We’ve just heard about the Legal Affairs meeting dates.

Tomorrow from 4:00 to 8:00 in the afternoon or
early evening will be the Public Input Meeting Design
Subcommittee. And we, of course, invite the -- all the
public, as usual, to watch any and all of our meetings.

We could go over the -- and those are the next
meetings to come about.

Then, in terms of our currently-scheduled future
meeting dates, the next one will be March 29 and April 1st.
We then do have more posted and they are listed, but that
is to bring your attention. Actually, the entire list of
upcoming meeting dates and times is on our website. And
please note that we are starting several of the meetings,
rather than at 9:30 in the morning, some of them start at 1:00 in the afternoon. And often on Wednesdays are the Public Input Design -- Meeting Design Committee tends to be from 4:00 to 8:00 on Wednesdays. And so, please, have a look for your calendar. We actually have our calendars out. The dates are up on the website from March through most of May.

And with that, any other comments or items from the Commission?

Commissioner Ahmad.

COMMISSIONER AHMAD: Thank you, Chair.

Just circling back to an update from you about line drawers and the process of that, if you have an update to share with us? You’re on mute.

CHAIR ANDERSEN: Thank you. Unfortunately, no. The only information that we have is that the Office of Legal Services asked a little bit more questions about budget items and they -- that’s all we have. So we, unfortunately, no, we don’t -- I don’t have them onboard yet. So as soon as we get that information, that will certainly be posted to the website, as well as go out to all of our -- all the full Commission.

So with that, I would like, before we end the meeting, we always end with public comment.

So, Katy, could you please read the instructions
for public comment?

    PUBLIC COMMENT MODERATOR: Yes, Chair.

    In order to maximize transparency and public participation in our process, the Commissioners will be taking public comment by phone. To call in, dial the telephone number provided on the livestream feed. It is (877) 853-5247. When prompted, enter the meeting I.D. number provided on the livestream feed. It is 91834691695 for this meeting. When prompted to enter a participant I.D., simply press the pound key.

    Once you have dialed in you will be placed in a queue. To indicate you wish to comment, please press star nine. This will raise your hand indicating you wish to comment for the moderator. When it is your turn to speak you will hear a message that says, “The host would like you to talk. Please press star six to speak.” If you would like to give your name, please state and spell it for the record. You are not required to provide your name to give public record. Please make sure -- oops -- please make sure to mute your computer or livestream audio to prevent any feedback or distortion during your call.

    Once you are waiting in the queue, be alert for when it is your turn to speak and, again, please turn down the livestream volume.

    And the Commission is taking their end-of-the-day
public comment at this time. And we do not have anybody in
the queue.

CHAIR ANDERSEN: Thank you, Katy.

Commissioner Kennedy, I saw you had your hand
raised, also Commissioner Sinay.

VICE CHAIR KENNEDY: I just have a quick
question. I know that it was mentioned yesterday of
contacts with CACEO for a panel. If you need any help with
contacts with them, just let me know.

CHAIR ANDERSEN: And Commissioner Sinay.

COMMISSIONER SINAY: Yesterday we talked about
different partnerships to try to help with outreach. And
in following up with Staff, some of them require -- some of
them, during the census, did happen. Some of the
partnerships with like CPUC and Starbucks and others. But
it was done through the Governor’s Office or the Secretary
of State’s Office.

And so a question we have is does the Government
Affairs Committee want to take that on or do you want the
Outreach Subcommittee to continue moving on those
partnerships where we may need to talk with the Secretary
of State or Governor’s Office?

COMMISSIONER SADHWANI: I think either way. Oh,
if I can jump in, Chair?

CHAIR ANDERSEN: Yes.
COMMISSIONER SADHWANI: Either way, we’ve definitely been in touch, both with the Governor’s Office and the Secretary of State’s Office, so happy to put you in touch with them if you want to be in touch directly. Either way is fine with us. I mean, I’m speaking for you (indiscernible) but I think either way is fine.

CHAIR ANDERSEN: I would suggest possibly an intro, and then hand it off to the outreach Committee since that way you don’t -- sort of separating the tasks. But the, obviously, the introduction would be essential.

PUBLIC COMMENT MODERATOR: Chair, the instructions are complete and there is, also, no one in the queue at this time.

CHAIR ANDERSEN: All right. Thank you very much. And it is a little past the break time. I did notice that but I realized, as we’re almost wrapping up the day, I thought we could push a little bit. Normally when I say that, we get a caller in. I don’t see --

PUBLIC COMMENT MODERATOR: Not this time.

CHAIR ANDERSEN: Not this time. All right. Well, then I believe it’s, barring no other hands raised, it’s time to adjourn the meeting. Any other questions before we go? No?

Thank you very much and I adjourn this meeting.

(The Commission convened at 11:04 a.m.)
REPORTER’S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of July, 2021.

[Signature]

PETER PETTY
CER**D-493
Notary Public
CERTIFICATE OF TRANSCRIBER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.

MARTHA L. NELSON, CERT**367

July 1, 2021