

ARIZONA INDEPENDENT REDISTRICTING COMMISSION

Thursday, September 8, 2011
3:06 p.m.

Location

**Fiesta Resort - Galleria Ballroom
2100 South Priest Drive
Tempe, Arizona 85282**

Attending

Colleen C. Mathis, Chair
Jose M. Herrera, Vice Chair
Scott Day Freeman, Vice Chair (via Skype)
Linda C. McNulty, Commissioner
Richard P. Stertz, Commissioner

Ray Bladine, Executive Director
Buck Forst, Information Technology Specialist
Stuart Robinson, Public Information Officer

Mary O'Grady, Legal Counsel
Joe Kanefield, Legal Counsel
Bruce Adelson, Legal Counsel

Reported By:
Marty Herder, CCR
Certified Court Reporter #50162

Phoenix, Arizona
September 8, 2011
3:06 p.m.

P R O C E E D I N G S

(Whereupon, the public session commences.)

CHAIRPERSON MATHIS: Good afternoon. This meeting of the Arizona Independent Redistricting Commission will now come to order.

The time is 3:06 p.m. Today is Thursday, September 8th.

And let's start with the pledge of allegiance.

(Whereupon, the Pledge of Allegiance was recited.)

CHAIRPERSON MATHIS: We apologize for the late start.

We had some difficulties transitting up here on I-10 today. But we expect Mr. Stertz here shortly, and I believe we have Mr. Freeman on the phone.

So let's start with roll call and we'll check.

Vice Chair Freeman.

VICE-CHAIR FREEMAN: Here.

CHAIRPERSON MATHIS: Vice-Chair Herrera.

VICE-CHAIR HERRERA: Here.

CHAIRPERSON MATHIS: Commissioner McNulty.

1 COMMISSIONER McNULTY: Here.

2 CHAIRPERSON MATHIS: Commissioner Stertz.

3 (No oral response.)

4 CHAIRPERSON MATHIS: And as I said, I'm sure that
5 Commissioner Stertz is on his way.

6 We will start with the next item on the agenda.

7 Oh, I should introduce all of our cast. I forgot.
8 I'm sorry, everyone.

9 So we have our legal counsel, Joe Kanefield and
10 Mary O'Grady. Bruce Adelson is also visiting and will be
11 speaking today.

12 Ken Strasma, Willie Desmond from Strategic
13 Telemetry.

14 We have a court reporter, Marty Herder, so that
15 when you do come up, if you have anything to talk to us
16 about, make sure you're speaking directly into the
17 microphone and to spell your name for the record so that we
18 get an accurately report.

19 Buck Forst is our chief technology officer.

20 Our public information officer Stu Robinson, our
21 executive director Ray Bladine, and deputy executive
22 director Kristina Gomez are in the house.

23 And Lisa Schmelling, a public outreach coordinator
24 is here.

25 And I think that covers everybody.

1 So hopefully I didn't miss anyone.

2 We'll start then with the next item on the agenda,
3 which is map presentations.

4 And I know I have one person that is going to
5 present some maps to us today, Supervisor Mary Rose Wilcox
6 from the Hispanic Coalition for Good Government.

7 SUPERVISOR MARY ROSE WILCOX: Thank you very much,
8 Chairman.

9 I do have a map, but I have comments on the maps.

10 CHAIRPERSON MATHIS: Thank you.

11 SUPERVISOR MARY ROSE WILCOX: Good afternoon,
12 commissioners. I'm Mary Rose Wilcox, and I speak today for
13 the Hispanic Coalition for Good Government.

14 Through oral testimony and written submissions,
15 including a letter offering our services to assist you, we
16 have provided you our concern that the Voting Rights Act are
17 being protected -- that voting rights be protected. We need
18 to express our concern that the what-ifs that are being
19 considered, these what-ifs may constitute violation of the
20 Voting Rights Act. Of particular concern are the what-ifs
21 concerning lowering the Hispanic VAP in the
22 minority-majority congressional district.

23 This we believe is a significant issue.

24 Lowong the Hispanic VAP does not take into account
25 citizenship. As we testified previously in certain large

1 number of us, a significant amount of majority-minority
2 districts contain undocumented workers and legal residents
3 who cannot vote. Removing these two groups significantly
4 decreases the Hispanic VAP numbers. We suggest the
5 Commission maintain the Hispanic VAP numbers as our
6 coalition has presented, because lowering this number would
7 ultimately deny voters their constitutional right to elect
8 constitutes of their own choices.

9 Thank you for listening to our concerns.

10 We also want to emphasize, again, our office is
11 here to assist you in completing your duties. It is open.

12 We are available if your PR person wants to
13 contact us, your community outreach. We will set up
14 meetings and get a lot of input from mainly the Hispanic
15 community.

16 On August 31st, 2011, we provided a letter to you
17 offering that assistance. We have not heard, so we're
18 waiting.

19 Please contact our attorneys, Jose De Jesus
20 Rivera, or Peter T. Limperis, if you need further
21 information.

22 Thank you very much, and thank you for letting us
23 participate. We stand ready and able to help.

24 CHAIRPERSON MATHIS: Thank you.

25 Did anyone have any questions for supervisor?

1 (No oral response.)

2 SUPERVISOR MARY ROSE WILCOX: Thank you for
3 letting me go early too.

4 CHAIRPERSON MATHIS: Thank you.

5 Okay.

6 Was there anyone else from the public? I have
7 other public comment requests to speak forms, but those seem
8 to be for the general one and not this one.

9 (No oral response.)

10 CHAIRPERSON MATHIS: Okay. Seeing and hearing
11 none, our next item on the agenda is discussion with mapping
12 consultant and legal counsel and possible action regarding
13 prison inmate population and the appropriate methodology to
14 use in mapping.

15 I don't know if Mr. Strasma or Mr. Adelson are
16 going to be talking.

17 KENNETH STRASMA: I was going to begin.

18 CHAIRPERSON MATHIS: Okay.

19 KENNETH STRASMA: Bear with us for a second
20 while --

21 CHAIRPERSON MATHIS: Sure.

22 KENNETH STRASMA: -- Mr. Desmond was going to
23 bring up the map.

24 So I'm going to begin discussing some of the
25 technical aspects of dealing with the prison population

1 question.

2 And then we'll turn this over to the legal team
3 for discussing some of the policy questions that arise from
4 this.

5 This has come up at a number of previous meetings,
6 the issue that there is prison population that is counted in
7 the census, but the prisoners cannot vote, and so they're
8 individuals who can't participate in election but are
9 counted towards district equal population size.

10 There are ten state prisons run by the Department
11 of Corrections in Arizona, four federal, five private, and
12 21 county-run jails.

13 In preliminary discussions, our sense is that it's
14 best not to include the county-run jails in this analysis
15 because generally speaking people incarcerated there have
16 not lost their franchise, have not lost their voting rights.

17 So we're focusing on the prisons.

18 There are approximately 39,000 individuals
19 incarcerated in state and federal prisons in Arizona. Nine
20 of the prisons are in Maricopa and Pinal County. The others
21 are scattered around the state, as you can see here.

22 There are a number of different approaches that
23 the legal team is going to talk about that different states
24 have used in trying to mitigate the effect of having prison
25 population overly concentrated in a single district.

1 Perhaps the most easy to implement would be if the
2 Commission chose to direct that we analyze in each map the
3 number of prisoners in each district and attempt to minimize
4 the concentration of prisoners.

5 One might think of it as sort of the opposite of
6 what we attempt to do with counties and minor civil
7 divisions where we attempt not to split those. In the case
8 of the prison population, an attempt could be made to split
9 those.

10 I should point out that individual prisons cannot
11 be split. We're constrained to the census block level in
12 how granular we can get.

13 And generally speaking, a prison is an entire
14 census block, even if it's much larger than a normal city
15 block. Census blocks are bounded by streets, so a prison is
16 almost always going to be entirely within one block.

17 The map up here, you'll see the locations of the
18 different prisons.

19 We are still tracking down the exact locations of
20 some of them in order to make sure we have the correct block
21 matched.

22 If you want to zoom in on one of those, Willie, to
23 illustrate the issue there.

24 The addresses of prisons are, of course,
25 available. Some of those, it's turned out as we've looked

1 at them, are administrative office addresses associated with
2 the prison and the actual physical prison is somewhere else
3 nearby.

4 So we're having people going through making sure
5 that we are seeing the physical building where the prisoners
6 are, not the mailing address or the administrative office
7 associated with the prison.

8 So that depending on the approach that's taken,
9 we'll be able to flag the census blocks that are containing
10 prisoners in order to be doing analysis of how much of the
11 population is prison population.

12 Mr. Desmond had suggested that one of the good
13 ways to think about this population would be functionally
14 equivalent to under-18 population.

15 We would be required to count the population in
16 terms of population equality for the districts, but we
17 cannot and should not count them for DOJ electoral analysis,
18 because these are individuals who can't vote.

19 And unless there are questions on the technical
20 end, I'll turn it over to the legal team for the policy
21 questions.

22 CHAIRPERSON MATHIS: Just kind out of curiosity,
23 how many total prisoners are there including in the federal
24 state and private; do you know?

25 KENNETH STRASMA: Approximately 39,000.

1 (Whereupon, Commissioner Stertz arrived.)

2 JOSEPH KANEFIELD: Madam Chair, members of the
3 Commission, I'll build upon what Ken Strasma just mentioned.
4 From a legal point of view, we did the analysis. And as
5 anything else in the law, this area is not completely
6 settled.

7 But we do have a lot of direction, and I think
8 we'll be able to give you some good guidance here.

9 The high level answer to the question is whether
10 or not prisoners can be excluded from the population for
11 purposes of districting.

12 The answer is arguably yes, but there's some
13 caveats.

14 The other side of that coin is that by including
15 prisoners in census -- as are census population for
16 redistricting purposes, you would not likely face any type
17 of challenge in that scheme because that is how it's been
18 done in the state previously, and that's how it's done in
19 most states' jurisdictions. And the courts have upheld
20 using the population as a whole, the census population, for
21 purposes of districting.

22 Again, Ken mentioned some of this, obviously
23 prisoners are counted in the census at the location where
24 they're incarcerated.

25 Historically Arizona has included them as they

1 do -- as we do children and undocumented citizens -- aliens
2 and others who can't vote but are still considered part of
3 the census population for apportionment and for districting
4 purposes.

5 The court -- the Supreme Court obviously has held
6 that for the one person, one vote purposes the districts
7 must be equal population. However, the court has made clear
8 that has -- has never made clear which population has to be
9 considered.

10 In the 1966 case *Burns v. Richardson*, the State of
11 Hawaii wished to exclude military voters because they felt
12 it skewed the population from voting. Residents and the
13 court upheld that scheme, but cautioned that those kinds of
14 exclusions would be subject to some scrutiny if they are
15 done.

16 The court stated in its prior decisions that the
17 prior decisions do not suggest that states are required to
18 include aliens, transients, short term or temporary
19 residents, or persons denied the vote for conviction of a
20 crime, if the apportionment bases in which -- by which the
21 legislators are just -- legislators are distributed and
22 against which compliance with Equal Protection Clause is to
23 be measured.

24 The court, however, has gone on to say that the
25 decision to include or exclude any such group involved

1 choices about the nature of representation, which we have
2 been shown no constitutionally founded reason to interfere.

3 So that almost is a political question kind of
4 consideration.

5 The court's going to obviously defer to the
6 judgment of the Commission on these issues, but that won't
7 necessarily insulate the Commission from a challenge.

8 So if the Commission chooses to exclude prisoners
9 from the districting criteria, or any other group for that
10 matter, they could very well raise a one person, one vote
11 14th Amendment challenge that the Commission would have to
12 defend.

13 Fast forward to 1990. The issue did come up in
14 the Ninth Circuit in a case called Garza versus County of
15 Los Angeles.

16 In that case the Ninth Circuit upheld the plan
17 based on census data for the total population, which is
18 updated to reflect some post-census changes.

19 And this was in drawing the supervisorial
20 districts in the county of Los Angeles.

21 There was a challenge saying that those districts
22 were skewed because they counted non-citizens in determining
23 the apportionment.

24 And the two-to-one vote in that case the Ninth
25 Circuit rejected that challenge that would have otherwise

1 required the district to be based on the population of
2 voting aged citizens as opposed to total population.

3 The proponents of the voting age citizen plan had
4 argued that including non-voters in that population base
5 made the weight of votes of voters in districts with many
6 non-voters greater than the weight of votes of voters in
7 district with fewer non-voters.

8 So they argued that the one person, one vote
9 ruled, thus required that the district be drawn on the basis
10 of voting population -- voting age population as a
11 reasonable measure of this.

12 As I noted, the majority disagreed with that
13 argument, held that basing the districting on the entire
14 census population, which included the prisons -- or, sorry,
15 the non-citizens in that scenario, was constitutional and
16 rejected that challenge.

17 It's important to note the Ninth Circuit did not
18 hold that only total population is an appropriate basis for
19 drawing districts, but they did suggest in that language
20 that excluding populations would be subject to scrutiny.

21 And, and that, that, that same position has been
22 echoed in at least two other circuit courts that we
23 identified. In both the Fourth and Fifth Circuits, they've
24 held that states may base their districts on total
25 population, but they don't have to, and those cases stand

1 for the proposition that if the state chooses to use total
2 population from the census that decision will generally not
3 be second guessed by the court.

4 Justice Thomas incidentally has noted on the
5 United States Supreme Court that this issue has never been
6 addressed by the U.S. Supreme Court. In a case where the
7 question would have been put to the court, the Supreme Court
8 decided not to take the case. And in a dissent from that
9 decision not to take the case, Justice Thomas argued that
10 they should have and provided the states with some clear
11 guidance on this question.

12 So, the Department of Justice has opined on this.

13 We've identified at least one voting rights case
14 where the Department of Justice weighed in and said that it,
15 it was in agreement that the use of the total population was
16 appropriate and didn't raise any voting rights or
17 14th Amendment issues that they could identify.

18 From the voting rights perspective, as Ken
19 alluded to, it's not necessarily consideration. Because
20 whether you choose to remove a population, non-voting
21 population from the districting criteria or not, it's
22 still not going to be analyzed -- that population is not
23 going to be analyzed from doing the racially polarized
24 voting analysis to begin with.

25 So Bruce may have more to say about that.

1 So it's not necessary to -- it's not necessary to
2 think of in terms of it being necessary to remove a
3 particular population base, or in terms of preclearance,
4 because they're not going to be considered in that analysis
5 whether they're in the district or not.

6 I think that that pretty much sums up
7 everything that -- I guess, just to sum it all up, it's
8 perfectly appropriate constitutional to district based on
9 the entire census population.

10 It has been done.

11 There would be little basis for any challenge if
12 the Commission chooses to do that.

13 If you choose not to, you're going to -- you could
14 very well face a challenge and would have to defend why
15 you've chosen to exclude one particular population in that
16 analysis.

17 It would also be considered a voting change from
18 the practice that has been long followed by this Commission
19 and state. So when doing the preclearance submission, in
20 addition to arguing -- justifying why the maps, submitted or
21 not, retrogressive, we would also have to argue and we would
22 have to justify why that change in the population base was
23 not retrogressive either.

24 So, with that, unless Mary or Bruce has anything
25 to add.

1 BRUCE ADELSON: Thank you, Madam Chair and members
2 of the Commission.

3 Just to reiterate what Joe was saying, I think
4 it -- I certainly concur that it's much safer
5 constitutionally to include total population.

6 That is the census count.

7 The census count doesn't delimit by whether you're
8 a minor, for example. My son, for example, is a minor.
9 He's not eligible to vote. But he is included in the total
10 census count of the population.

11 And I -- Joe's point about preclearance is very
12 important, because the benchmark for the Commission is
13 including prison population.

14 That's what your predecessor did.

15 So if you change that, that would be a change in
16 practice and procedure covered by Section 5 of the Voting
17 Rights Act.

18 And as you know, my preference is always to make
19 things as simple and clear cut as possible. Having an
20 additional element that must be precleared would create an
21 additional complication.

22 Although it certainly can -- that change, as Joe
23 was saying, is certainly permissible, but my view is, and I
24 take from Joe, is that would be a preclearance issue.

25 And I think that that might be something that

1 certainly should be taken into account as you proceed to
2 evaluate how you wish to go.

3 And nationally I do think it's the total
4 population is what is the basic standard of practice, except
5 in states that have passed legislation that might alter
6 that.

7 Like New York, Maryland, and Delaware, for
8 example, passed legislation within the last year or so
9 addressing this.

10 My understanding is that Arizona has not done
11 that.

12 Most states have not because the practice has been
13 total population, as the constitution envisions.

14 Thank you.

15 COMMISSIONER McNULTY: Madam Chair, I do have a
16 couple questions.

17 It's -- your recommendation would be to include
18 the population in the total population, but we would not
19 take into account any portion of that population that is
20 Latino for purposes of calculating the HVAP; is that
21 correct?

22 JOSEPH KANEFIELD: Madam Chair,
23 Commissioner McNulty, I think that's correct.

24 We -- our advice is to use the entire census
25 population, safest legal decision for the Commission to

1 take, but that when conducting the analysis for purposes of
2 the Voting Rights Act, that those populations, because
3 there's minority populations amongst the prison population,
4 they would not be considered for the voting rights analysis.

5 COMMISSIONER McNULTY: Okay. That leads me to two
6 or three other questions.

7 Is there any advantage to attempting to do what
8 Mr. Strasma suggested, perhaps, and spread these out? Is
9 there a difference in the answer to that question whether
10 it's a state or congressional -- whether it's a legislative
11 or a congressional district?

12 And kind of a different question. In the states
13 where they have addressed it, for example, in New York,
14 they've assigned people back to their home addresses. Is
15 that what they've done? And that's not something that we
16 would have time to do here anyway, even have the state
17 addressed it.

18 BRUCE ADELSON: Commissioner, as far as New York,
19 yes, that's correct, that they assign prisoners based on
20 their county of residence, not their county of
21 incarceration.

22 And going to your point previously, and what
23 Mr. Strasma was talking about, if you allocate prisoners
24 differently than what was done previously, that's a voting
25 change. And that requires a separate preclearance

1 justification and application.

2 Also, when you're assigning prisoners the same way
3 you would be assigning, let's say, minor children, if you're
4 assigning one group to distribute them, let's say, then one
5 challenge to that or one question would be why aren't you
6 doing that with minor children, for example.

7 But what overlays all of this, which is different
8 here than in Maryland, for example, it's a voting change.

9 And although New York City for the most part is
10 covered by Section 5, New York state is not. So I presume
11 the statute in New York had to be precleared because it may
12 have had some impact on New York City.

13 But Maryland and Delaware are not covered by
14 Section 5, so they did not have to preclear this statute.

15 Arizona, of course, would have to preclear this
16 particular change, because it's different than your
17 benchmark.

18 JOSEPH KANEFIELD: Madam Chair,
19 Commissioner McNulty, just to make sure, I think were you
20 also asking if the Commission were to try to redistribute
21 the population of the prisoners throughout the state,
22 perhaps not include all the prisons in one district, they're
23 obviously spread around, would that raise any issues from a
24 voting rights perspective.

25 COMMISSIONER McNULTY: Yes, for two reasons. One,

1 would that be a different way of doing that that would raise
2 a voting change question, and would there be a difference
3 because the legislative districts are smaller and, you know,
4 the percentage of population deviation is less, does it
5 become -- is there any potential that it could be more of an
6 issue there?

7 I would want to avoid that.

8 JOSEPH KANEFIELD: Madam Chair,
9 Commissioner McNulty, from a -- I'm not -- I don't believe
10 it would cause any concern from the voting rights
11 perspective.

12 I think your other question gets back to the one
13 person, one vote issue, which is these cases have
14 addressed -- you know, those challenges have been made where
15 a district contained a disproportionate population of
16 non-voters, and arguments have been made that that is
17 unconstitutional because it implicates the 14th Amendment,
18 the one person, one vote requirement.

19 But those arguments have generally been rejected,
20 so I don't think that it exposes the Commission to any kind
21 of liability by mapping based on the entire census
22 population.

23 COMMISSIONER McNULTY: Thank you.

24 CHAIRPERSON MATHIS: Any other questions or
25 comments?

1 COMMISSIONER STERTZ: Madam Chair.

2 CHAIRPERSON MATHIS: Mr. Stertz.

3 COMMISSIONER STERTZ: First, my apologies for my
4 delays.

5 CHAIRPERSON MATHIS: No problem. We were all
6 late.

7 COMMISSIONER STERTZ: I haven't used it yet, and
8 it's already dead.

9 Thank, Buck.

10 The designations of the blue stars are -- those
11 are our state map -- or state prisons or they're all
12 incarceration facilities throughout the state?

13 KENNETH STRASMA: Madam Chair,
14 Commissioner Stertz, that's all facilities including
15 county-run jails.

16 COMMISSIONER STERTZ: Madam Chair, Mr. Strasma,
17 when we're talking about county-run jails, is it the intent
18 through your analysis to exclude HVAP population from
19 county-run jails?

20 KENNETH STRASMA: My recommendation would be not
21 to exclude that, given that there are people who are serving
22 short sentences and have not lost their voting privileges in
23 county jails.

24 So I would recommend that whatever policy is
25 adopted only be applied to state and federal prisons.

1 COMMISSIONER STERTZ: And also, Mr. Strasma, there
2 are some INS facilities in the state of Arizona as well as
3 some federal bureau prison facilities in the state.

4 How would you recognize those for aggregate
5 housing that -- for individuals that are actually not of --
6 that are located from different parts of the globe?

7 KENNETH STRASMA: I welcome any suggestions and
8 direction on that.

9 I would guess that, and this will be something
10 that we'll be talking about again shortly, the question of
11 citizenship numbers.

12 That the INS facilities, if I understand
13 correctly, that's people who are being temporarily held
14 prior to deportation as non-citizens.

15 That that would be a factor when, when in a few
16 weeks some greater level of census information on
17 citizenship rates would be available.

18 Like I said, I welcome any suggestions.

19 I would, thinking out loud, I guess I would
20 suggest that they be treated the same as prisoners and not
21 counted for purposes of electoral analysis because they
22 cannot vote.

23 COMMISSIONER STERTZ: Madam Chair.

24 Mr. Kanefield, directed toward legal counsel, is
25 this approach that is being discussed similar to what has

1 been done in the past, or would this be a variation that
2 would require special analysis or preclearance regarding the
3 exclusion of the HVAP population from those individuals that
4 are currently incarcerated?

5 JOSEPH KANEFIELD: Madam Chair,
6 Commissioner Stertz, I'm trying to understand. I want to
7 make sure I understand your question.

8 Which proposal are you talking about?

9 COMMISSIONER STERTZ: What I just -- I apologize
10 again for walking in the center of a conversation.

11 But it appeared that there was a recommendation
12 that the HVAP population would be excluded as far as the
13 Voters Rights Act analysis.

14 JOSEPH KANEFIELD: Madam Chair,
15 Commissioner Stertz, what we were saying was whether the
16 prison population is included in the total population for
17 districting purposes or excluded, it won't necessarily
18 affect the voting rights analysis one way or the other,
19 because in conducting that analysis the Department of
20 Justice in doing its retrogression analysis is not going to
21 take into consideration non-voters.

22 COMMISSIONER STERTZ: So this approach would not
23 be a variation from what had been historically done in the
24 state.

25 JOSEPH KANEFIELD: Madam Chair,

1 Commissioner Stertz, correct. Historically, as we
2 understand the Commission, the prior Commission, and before
3 that districting based on total population, which includes
4 the census, all the census population.

5 COMMISSIONER STERTZ: Thank you.

6 COMMISSIONER McNULTY: Madam Chair.

7 CHAIRPERSON MATHIS: Ms. McNulty.

8 COMMISSIONER McNULTY: Mr. Adelson, I saw you
9 nodding when Mr. Strasma was suggesting that we would not
10 exclude county jails because those prisoners have not lost
11 their right to vote.

12 Do you agree with that?

13 BRUCE ADELSON: Yes. It's my understanding,
14 commissioner, that people who are incarcerated in county
15 jails are not adjudicated felons who have lost their voting
16 rights.

17 And if I could, just piggybacking on something
18 that Joe had said, the election analysis in determining what
19 are majority-minority districts and what are effective
20 majority-minority districts where minorities have the
21 opportunity to elect, as we've talked about, cannot include
22 felons who were incarcerated because they can't vote.

23 There have been jurisdictions over the last 20 or
24 30 years around the country who have attempted to claim that
25 various districts are viable majority-minority districts

1 when they have inflated the population of minority voters by
2 including incarcerated felons.

3 And that's something that the Department has
4 always picked up on, and certainly did during my career, and
5 resulted in requests for additional information rejections
6 under Section 5 because that -- you are creating, in
7 essence, an artificial majority-minority district where
8 minorities cannot elect at the percentage that's being
9 claimed because that percentage is artificially high due to
10 the prison population.

11 Thank you.

12 COMMISSIONER McNULTY: Just one more question.

13 Have the INS facilities been addressed?

14 Are they actually included in the census, because
15 there are people living there on the date that the census is
16 done? Does anyone have any sense of how they have been
17 handled?

18 BRUCE ADELSON: Yes, commissioner, the -- in
19 looking at, in looking at two basic populations in a sense.
20 The census is a count of all people at the time the census
21 is actually enumerated.

22 So that would include, in your example, people in
23 the INS facility, because they are in a jurisdiction at the
24 time of the enumeration. But they would not be included in
25 the Voting Rights Act analysis to determine whether a

1 certain district contains a sufficient number of minority
2 voters who can elect candidates of choice.

3 So overall population, just as in my example
4 including my son, who's a minor, is included in the overall
5 population, even though he can't vote.

6 But he would not be included when you're looking
7 at determining whether or not a district can elect a
8 minority candidate of choice.

9 That's the distinction.

10 So there's different layers of analyses.

11 I think what Commissioner Stertz was talking about
12 as far as the analysis, when we've discussed a lot, the
13 majority -- what is a majority-minority district. And that
14 is not where you would use prison population, because, as I
15 said, they're adjudicated felons.

16 CHAIRPERSON MATHIS: Any other questions?

17 (No oral response.)

18 CHAIRPERSON MATHIS: I noticed we had a couple
19 request to speak forms that are related to prisons.

20 I don't know if those people would like to speak
21 now?

22 Okay. Mohur Sidhwa from -- representing self,
23 from Pima County.

24 MOHUR SIDHWA: Thank you. Well, we all made it
25 from Tucson, so I guess that's good.

1 Couple of things, couple of thoughts I had while
2 listening to you all talk.

3 You spoke about historically what's been done.

4 There was a reason Prop 106 was passed, was they
5 didn't like what was being done historically.

6 The last Redistricting Commission, I guess it took
7 them four years to finally get cleared from the Department
8 of Justice, so perhaps that may not be the best place to get
9 your examples from either.

10 I think my biggest concern is the way the prison
11 industry's changing. We are importing prisoners from other
12 states also, and that does come into the mix.

13 One way or the other this is going to the Supreme
14 Court. And it will be taken there.

15 One would make an attempt.

16 Vis-a-vis minor children, minor children go to
17 schools. They use the facilities. Whereas people
18 incarcerated, be they from Hawaii, from other state, but if
19 they're incarcerated here, I'm not entirely sure that it's
20 appropriate to count them.

21 Another thing that you might find helpful, the
22 prison -- I beg your pardon.

23 The Census Bureau has released data to assist in
24 correcting prison-based gerrymandering.

25 This is a very common phrase we see, prison-based

1 gerrymandering. And not without reason.

2 And that is all I'm asking you to avoid doing.

3 Count the prisoners any way you wish to, but keep
4 in mind if we have a town with a non-citizen incarcerated
5 population of 3,000 plus, and a voting population of 14 to
6 1700, we have a problem.

7 So, I mean, there are some obvious glaring issues
8 that I have brought up before.

9 Meanwhile, I'm going to give you all a copy of
10 this thing. I suppose people dealing with the maps should
11 also kind of look at it to figure out how to get the data
12 from the Census Bureau itself.

13 A little bit of footwork would have done it for
14 you.

15 And thank you for, for listening to my whining and
16 dealing with the prison issue.

17 CHAIRPERSON MATHIS: Thank you. You can give that
18 to Mr. Bladine.

19 And it looked like Jim March also wanted to speak
20 on prisons.

21 Second Vice Chair for Pima Libertarian Party.

22 JIM MARCH: Thank you, very much.

23 Jim March. My last name is spelled the same as
24 the month.

25 Sorry. Give me a second here.

1 A couple things. I've actually read the document
2 Mohur has in her hand right there.

3 And it's basically just a statement of exactly
4 where to go to get to the Census Bureau's snapshot of prison
5 populations as of the time snapshot in question.

6 So, in other words, you don't have to go to the
7 private prisons, to the federal prisons, and state prisons,
8 and go searching among them for data. Census department has
9 it all in one place.

10 So that will help at some point.

11 I'd like to personally say, and I guess I can
12 speak for my party as well in saying, that I would agree
13 that the county prisons -- sorry, county jails, my bad,
14 should be definitely included in the population areas,
15 because especially as a snapshot as of April a lot of those
16 people are going to be out and voting by November. There's
17 no question about that.

18 So, yeah, absolutely those should not be excluded.

19 On this map here, let me point out a couple
20 things. I think there's an inaccuracy in that I'm pretty
21 sure there's now at least two more stars that should be in
22 Pinal County, and they're fairly big ones.

23 At least remembering back on my research.

24 Another critical thing that map is not showing,
25 and this is why I think your lawyers have led you a little

1 bit astray here, folks. Is that -- and not speaking of
2 anybody in particular, but just the general census that we
3 got from Mr. Kanefield is -- misses something important.

4 Arizona is perhaps different from any other
5 state's analysis of the problems with prison-based
6 districting.

7 Two issues in Arizona is one is the geographic
8 concentration of prisons.

9 Even accidentally it would be possible to create
10 some very bad prison-dominated districts anywhere in the
11 Maricopa through Tucson corridor and Pinal in the middle.

12 So even by accident it would be possible to do
13 some very bad district lines.

14 But a bigger issue, if you were to overlay a map
15 of the First Nations, the big tribal areas, not one of those
16 stars would be inside those tribes.

17 Now, those tribal areas are considered key
18 communities of interest.

19 So in a lot of cases you're going to draw district
20 lines right around a tribe with no prisons inside them.

21 So this -- the First Nations are going to end up
22 with a more diluted vote individually than any other
23 population in the state.

24 And they have a lot of lawyers, financed by the
25 casinos for crying out loud. You don't want to go up

1 against those guys, and you're about to run headlong into
2 them.

3 That is -- that plus the danger of DOJ choking on
4 the possibilities of what districts can be created because
5 of just the geographic concentrations together raise your
6 risk of lawsuits if you do nothing to a very high degree.

7 I would say it would be a lot more risky to
8 completely ignore the prisons as an issue. It's less risky
9 to go ahead and spread the prisons among the numbered
10 districts.

11 That was -- of the, of the, of the fix-it
12 suggestions I'm hearing, it looks like that's the one that's
13 got the most consensus if you're going to do a repair.
14 Because you don't have the power to do anything else really.

15 You just list district numbers and which prisons
16 are going to be in which one, and you -- I've been calling
17 them tendrils and blobs to grab individual prisons, perhaps
18 in the southern end of the state and merge them up with the
19 northern district, whatever needs to be done.

20 But, it will look a little funny, but it will come
21 out the fairest of any possible process. And it won't, it
22 won't hose over the tribes.

23 And so I hope you, I hope you agree to fix this
24 problem.

25 Thank you.

1 CHAIRPERSON MATHIS: Thank you.

2 Those are the only two from the public that I had
3 on prisons.

4 So, any other questions or comments for legal
5 counsel or for Mr. Strasma on this topic?

6 COMMISSIONER McNULTY: I guess I would just ask if
7 legal counsel has any comments.

8 JOSEPH KANEFIELD: Madam Chair, no.

9 CHAIRPERSON MATHIS: Okay.

10 Any others?

11 VICE-CHAIR HERRERA: Madam Chair.

12 CHAIRPERSON MATHIS: Mr. Herrera.

13 VICE-CHAIR HERRERA: Yeah, so how do we proceed?

14 CHAIRPERSON MATHIS: Well, I'm just looking at the
15 agenda item to see, discussion, and possible action is
16 noticed.

17 We can, we can actually make a decision today, if
18 that's what people want to do, on this topic.

19 There seems to be some support for that notion.

20 Any commissioners want to discuss this?

21 And I want to check in on Mr. Freeman too, just to
22 make sure he's with us.

23 VICE-CHAIR FREEMAN: Thank you, Madam Chair.

24 CHAIRPERSON MATHIS: Great.

25 VICE-CHAIR FREEMAN: Madam Chair?

1 CHAIRPERSON MATHIS: Yes.

2 VICE-CHAIR FREEMAN: Okay. I hope you can hear
3 me.

4 It was difficult to hear the counsel at times, but
5 I think I basically got the gist of it.

6 I think the Commission should certainly eliminate
7 any potential risk of an objection or challenge by the DOJ
8 at least circular -- our goal is to, to have the -- and it's
9 our duty really to construct maps that comply with federal
10 law, federal constitution, and the Voting Rights Act, and we
11 want to get this right the first time.

12 So the recommendation, I think that we would
13 should go with the recommendation of counsel with respect to
14 how to account for prisoners with respect to voting rights
15 compliance issues.

16 Otherwise I think we need to -- and perhaps it's
17 related, we're going to have to -- it's my thought we need
18 to deal with the prisoners where they are.

19 And, and that may be an unfortunate reality.

20 I question whether we have the authority to
21 distribute prisoners across the state.

22 I don't know which, you know, which legislative or
23 congressional representative would be assigned to those
24 prisoners. Would cell block A be assigned to a congressman,
25 you know, of District 1, so on and so forth.

1 Not exactly sure how that would work, or even if
2 that would be necessary.

3 And I think that the number -- the total number of
4 prisoners, you know, I'd be interested to know whether it's
5 the same order of magnitude as children, number of children
6 in the state, how they're distributed, or other, other
7 members of the public who are -- cannot vote, and whether
8 it's the same order of magnitude or different.

9 It may be an unfortunate reality on the
10 congressional side of things that some prisons get included,
11 a larger number of prisons may be included in a
12 congressional district with respect to legislative
13 districts.

14 Maybe the Commission will be able to do some
15 things to, to distribute them somewhat.

16 We also have to keep in mind that we're charged
17 with following the Arizona Constitution, and there's six
18 criteria that we're supposed to use in developing these
19 maps, and it does not address and it does not require us to
20 take prisons into consideration in drawing the lines.

21 It sets forth other criteria such as compliance
22 with the federal constitution, federal Voting Rights Act,
23 equal population, respect for political and geographic
24 boundaries, communities of interest, and competitive
25 districts where there's no significant detriment to the

1 other goals, et cetera.

2 Perhaps, you know, this is an issue that needs to
3 be addressed in the future by the legislature or the people
4 through an initiative to change that.

5 I don't know that it's within our authority to do
6 that right now.

7 So my thought is that we need to approach this
8 with respect to the Voting Rights Act issues as recommended
9 by counsel, and otherwise we should follow the Arizona
10 constitution as is, as is -- as it is stated in creating the
11 congressional and legislative districts.

12 Thanks.

13 CHAIRPERSON MATHIS: Thank you, Mr. Freeman.

14 Do you have an answer with regard to his question
15 on the order of magnitude in terms of prisoners versus
16 children and other non-voting age folks that are counted?

17 KENNETH STRASMA: Madam Chair,
18 Commissioner Freeman, I don't have an exact number in front
19 of me.

20 It is vastly different though. Obviously there
21 are vastly more than 39,000 minors in the state of Arizona.

22 CHAIRPERSON MATHIS: Thank you.

23 Any other comments from other commissioners?

24 COMMISSIONER McNULTY: My thought would be that we
25 would look at the census information just to see what it

1 offers and be cognizant of the issue, particularly as we're
2 dealing with Maricopa and Pima County legislative districts
3 in particular.

4 CHAIRPERSON MATHIS: Any other comments from
5 others?

6 COMMISSIONER STERTZ: Madam Chair.

7 CHAIRPERSON MATHIS: Mr. Stertz.

8 COMMISSIONER STERTZ: I concur wholly and
9 completely with Mr. Freeman's -- Commissioner Freeman's
10 analysis.

11 The 39,000, Mr. Strasma, what number does that
12 relate to?

13 KENNETH STRASMA: Madam Chair,
14 Commissioner Stertz, 39,000 is as of last month the number
15 of incarcerated individuals in state and federal prisons in
16 Arizona.

17 COMMISSIONER STERTZ: Okay. Thank you.

18 Madam Chair, for the purpose of analysis I went
19 back to try to find out, because I had been very curious
20 about why this question had been coming up, so I tried to go
21 back myself and find out what -- in effect, I went to, I
22 went to the prison -- PrisonersOfTheCensus.org, and tried to
23 get an understanding about prison-based gerrymandering and
24 what the public has been referring to.

25 And trying to really overlay that onto what the

1 true impact is as it pertains to our particular state.

2 And I also went back and to try to find out how
3 many new prisons have opened up in which counties over the
4 last ten years.

5 So I would went back to determine what the maximum
6 capacity was and in which counties that those opened.

7 My statistics may not be completely accurate,
8 because this was a analysis done based on some rudimentary
9 searches that I was able to compile that is.

10 Because I was trying to determine what the level
11 of impact this really meant.

12 So looking at the number that Mr. Strasma -- it is
13 900 off from, from April 1st of 2010.

14 So there's been actually a slight decline in the
15 amount of population.

16 But what was the impact while we were gaining in
17 the state a million two population. We actually had -- and
18 this is my best knowledge, in Mohave County, Pima County,
19 Pinal County, an increase of beds of about -- an increase of
20 capacity of over slightly over 12,000 of capacity built
21 during that time frame, which is one-tenth of one percent of
22 our actual population increase.

23 So I think that, in my opinion, that just in
24 general I think that we need to be cognizant as we move
25 forward, to not -- to have knowledge of where the federal

1 and state incarceration facilities are, so that we recognize
2 that we don't want to give any indication of creating a
3 non-voting population in a particular legislative district
4 that would lead those that can vote into a hypermajority by
5 virtue of having so many prisoners in a particular
6 legislative district.

7 But to do that, I think it's just going to be a
8 part and parcel of our mapping process, and not something
9 that -- and, again, going back to that we -- it's incumbent
10 upon us to follow the United States Constitution and the
11 state of Arizona Constitution, to be cognizant recognizing
12 it, having the data available to us, and follow the lead
13 that we've been just given by legal counsel to proceed.

14 CHAIRPERSON MATHIS: Thank you.

15 Any others comments from other commissioners?

16 (No oral response.)

17 CHAIRPERSON MATHIS: I think it sounded like
18 there's general agreement that we should be cognizant of
19 this and also following the lead of legal counsel.

20 I haven't heard anything different from anyone.

21 Do we need to have an official motion to proceed
22 in that regard, or can we. . .

23 JOSEPH KANEFIELD: Madam Chair, I don't believe
24 any action is necessary, because the Commission is
25 continuing to follow the population-based census numbers

1 that its predecessor had followed. And so unless the
2 Commission was going to take some other action at this
3 point, I'm not sure any action is actually necessary at this
4 point.

5 CHAIRPERSON MATHIS: Great.

6 Okay. That takes us to the next item on the
7 agenda, which is number four, review, discussion and
8 direction of mapping consultant regarding ideas for possible
9 adjustments to congressional grid map based on
10 constitutional criteria.

11 And we all have in front of us some colorful maps
12 that I think got created since our last direction to our
13 mapping consultant.

14 And I'll let Mr. Strasma or Willie take over.

15 KENNETH STRASMA: Madam Chair, if I may, as part
16 of the introduction to the congressional grid map
17 discussion bring up the question of the racially polarized
18 vote analysis, because this is one of the key issues in
19 drawing the voting rights congressional district, is the
20 question of exactly what the Hispanic percent of those two
21 districts needs to be, as was alluded to earlier in public
22 comments.

23 So you don't have a formal presentation on this,
24 but I just wanted to discuss the process as there's been a
25 number of questions about this.

1 The -- because of the secret ballot, it's
2 impossible to know how individuals of a certain race voted.
3 We don't know how an individual voted. We don't know the
4 race of particular individuals.

5 All we have is aggregate data at the precinct
6 level.

7 So for each precinct, we know from the census the
8 racial composition of that precinct and we know from
9 election results the turnout rate and also the, the
10 results, what candidates were supported by people in those
11 precincts.

12 Taken one at a time, generally speaking
13 there's a very broad range of possible results that can
14 be extrapolated from the results of any one precinct. If
15 you have a precinct that has, you know, 100 Hispanics,
16 100 non-Hispanics, and 110 votes cast for a Hispanic
17 candidate, you know that a minimum of 10 Hispanics or
18 non-Hispanics cast their vote for the Hispanic candidate.

19 You don't know for a fact which one was which.

20 So that generally a fairly broad range at an
21 individual precinct level of possibilities.

22 When I first started dealing with this type of
23 analysis in the 1990 redistricting, the state of the art in
24 terms of statistics was either that method of bounds I
25 described where there's a logical extreme for the number of

1 votes that could be cast or basic progression analysis.

2 And that's what is illustrated here, here by this
3 chart.

4 Using regression analysis, it's possible to look
5 at aggregate data and draw some conclusions about individual
6 level voting behavior.

7 This is just a chart, a scattergram showing all of
8 the precincts in the state of Arizona.

9 On the Y axis on the left is the percent of the
10 voting population that cast a ballot in the 2008
11 presidential election.

12 Across the bottom is the percent of voting
13 population in each precinct that is Hispanic.

14 You see there's a fairly broad distribution of the
15 blue, blue diamonds, but there's a greater concentration,
16 greater density in the upper left, showing that as the
17 percent Hispanic goes up, the turnout rate goes down
18 overall.

19 And not saying that this holds for every single
20 precinct.

21 Certainly not saying that this holds for every
22 single individual.

23 But, overall, as the percent Hispanic goes up, so
24 does the observed turnout rate.

25 The black line is a single regression line here,

1 which is the single line that best fits any of the dots on
2 this chart.

3 So the simple regression formula is just that
4 there is no other straight line that better explains all of
5 the aggregate data.

6 As I said, these two methods were all that was
7 available in 1990, two redistrictings ago.

8 Since then there have been significant advances in
9 what's called ecological inference, including a method
10 proposed by Dr. Gary King of Harvard.

11 And we have been able to use that approach to
12 combined these two methods.

13 We take the boundaries of the logically possible
14 outcomes, combined with regression analysis, to come up with
15 a more precise and more accurate estimate, both of turnout
16 and of candidate support.

17 One of the things -- one of the problems in the
18 1990s with this sort of analysis for racially polarized
19 voting analysis is it leads to some logically impossible
20 results.

21 There's actually been court filings from experts
22 that will say, you know, 110 percent of the African American
23 population is voting for a particular candidate or negative
24 five percent turnout for a particular group.

25 And technically, statistically speaking, that was

1 correct. Given the aggregate numbers, that was the best
2 estimate, but anyone looking at those numbers knows that
3 this can't be true.

4 The ecological inference approach allows us to
5 constrain the results within the realm of the possible.

6 The -- there has to be two steps taken.

7 The first is to calculate the likely turnout
8 rates.

9 So for that, we take the observed from the census
10 percent of voting age Hispanic in each of the precincts in a
11 jurisdiction in question and the total votes cast.

12 We've looked in our preliminary analysis at the
13 races for president in 2008 and governor in 2010.

14 One of the reasons we look at the top of the
15 ticket races, it's been brought up both in literature and by
16 members of the Commission that turnout may be artificially
17 depressed in non-competitive congressional races, so we're
18 looking at turnout in the contested statewide races within
19 the same geography of the congressional district rather than
20 congressional district turnout.

21 This allows us to estimate the turnout rates among
22 different racial groups.

23 You'll see, you know, the illustration here as
24 this line goes down across the state that the higher the
25 Hispanic population, the lower the turnout.

1 Another check of that is running a correlation
2 analysis.

3 If the line was a perfect -- you know, when the
4 turnout went up one percent for every one percent that the
5 Hispanic population went up, that would be a correlation of
6 positive one, perfectly correlated.

7 And you'll see in, in the state overall there's a
8 negative or inverse correlation. So as the percent of
9 Hispanic goes up, the turnout rate goes down.

10 And that correlation is different in different
11 congressional districts.

12 Which leads to one of the points I wanted to bring
13 up. It's not possible to say that there is a one single
14 turnout number overall among Hispanics, Native Americans,
15 African Americans, or any other protected category.

16 Rather we have to look at each individual district
17 as it's drawn, which is why this analysis is going to have
18 to be an ongoing process as the districts are drawn.
19 Because what exactly the turnout rate is, what the level of
20 support for the candidate, or the community of choice is,
21 depends on which voters are captured in a particular
22 district configuration.

23 So this will be an ongoing analysis.

24 Further complicating things also is the question
25 of citizenship, which was brought up by a speaker before.

1 One of the reasons why the turnout rate among
2 voting age Hispanics is so much lower than among other
3 groups is the large -- the relatively large proportion of
4 non-citizen Hispanics compared to other racial origin
5 categories.

6 The census does not ask in the main census
7 citizenship. It counts all individuals, citizen or not.

8 There is supplemental data. The American
9 Community Survey, that had a larger unit of geography, does
10 have citizenship.

11 There's a new release of the ACS, American
12 Community Survey, that's expected out in the last week of
13 September. So we'll be able to use that to extrapolate at
14 the census block level the citizenship rates.

15 There now will be an additional level of data that
16 we'll have for this analysis, is the citizenship rate based
17 on that information.

18 One other thing before I leave this topic. I
19 mentioned that this has to be a two-step process. We
20 can't just do the analysis to see levels of candidates'
21 support compared to the racial composition of the precincts,
22 because as we've already seen there are different levels of
23 turnout.

24 The Hispanic and non-Hispanic voters within a
25 single precinct will be turning out at a different rate.

1 So first we use this analysis to calculate the
2 likely electorate by race, and then of that likely
3 electorate we calculate the level of support for the
4 candidate of choice.

5 And, in the case of the two districts, the fourth
6 and the seventh that we're looking at, the incumbent
7 Hispanic members of Congress, to calculate the level at
8 which the Hispanic vote was supporting those candidates, the
9 level at which other minorities in those districts were
10 supporting those candidates in coalition voting, and the
11 level of support for those candidates by the non-minority
12 population, the non-Hispanic white population.

13 One of the main things that DOJ looks at -- and
14 I'm sure that legal counsel will, will elaborate if I am
15 missing this, but is the difference between the chosen
16 candidate of the minority versus the non-minority candidate.

17 That if the non-Hispanic white population is
18 supporting a different candidate from the Hispanic or the
19 Hispanic and other minority population, then that's evidence
20 of racially, quote, polarized voting.

21 And it raises the question of at what level does
22 the Hispanic population need to be in order to allow that
23 community to maintain their ability to elect their candidate
24 of choice.

25 I wanted to just address the process issues with

1 this analysis before Mr. Desmond gets into the what-if maps,
2 because I know one of the main questions has been exactly at
3 what level do -- does the Hispanic percent need to be in
4 these two districts.

5 This is an ongoing analysis. As I mentioned
6 before, there will be the new census data arriving.

7 We're currently processing primary data from 2008
8 and 2010. And I believe a future agenda item is the
9 question of whether we should be incorporating 2004 and 2006
10 data, as is the question of securing a social scientist
11 expert witness who would weigh in on this issue as well.

12 CHAIRPERSON MATHIS: Thank you.

13 Questions for Mr. Strasma on this?

14 COMMISSIONER McNULTY: I do have a question.

15 CHAIRPERSON MATHIS: Ms. McNulty.

16 COMMISSIONER McNULTY: On step two -- step two,
17 how do you determine -- we talked about in step one that you
18 may have an artificial depression in turnout because -- in
19 uncontested races.

20 Carry that now to step two, how do you determine
21 what races to use to look for this? Because it seems to me
22 you may have the same phenomena in uncontested races that
23 non-minority populations will vote for the minority
24 candidate in an uncontested race, and how do you come up
25 with a, you know, a set of races to look at that give you

1 this data?

2 KENNETH STRASMA: And that may be a question
3 Mr. Adelson wants to weigh in. And the expert witness
4 social scientist I'm sure would have opinions on that.

5 One of the things in our preliminary analysis, and
6 it actually questions splitting the step one and step two.
7 I mentioned in step one, when we were calculating turnout
8 percents, we look at top-of-the-ticket races.

9 In the step two, where we applied the estimated
10 electorate to the congressional races, our first level
11 analysis was actually looking at the congressional races
12 themselves.

13 Now that raises some issues in the case of the
14 fourth congressional district, where Representative Pastor
15 was elected by very comfortable margins is a considerably
16 different scenario than in the seventh where the races were
17 much closer.

18 And that may require that we dig deeper and look
19 at other races where the results were closer rather than
20 just the results of the congressional district race.

21 COMMISSIONER McNULTY: We would make that decision
22 with the benefit of the racially polarized voting analysis,
23 from our -- not only from the work you're doing but also
24 from our social scientist?

25 KENNETH STRASMA: Correct.

1 CHAIRPERSON MATHIS: Okay. Any other?

2 Mr. Adelson.

3 BRUCE ADELSON: Thank you. Thank you,
4 Madam Chair.

5 Yes, just to, to amplify on what Mr. Strasma is
6 saying, in looking at elections to analyze, you're starting
7 at the congressional level.

8 And I think the point Mr. Strasma was making, if
9 there's one, one congressional district, if the incumbent is
10 determined to be the candidate of choice for minority voters
11 let's say, and he has won by large margins over many
12 elections, that could give you a conclusion that there --
13 and he is supported by a substantial portion of both
14 minority voters and also he gets Anglo crossover support,
15 you may be able to conclude that there's less racially
16 polarized voting in that district compared to a district
17 where the incumbent has won, is determined to be the
18 candidate of choice of minority voters, but his margin of
19 victory is much smaller.

20 You could then infer from that that there may be
21 more racially polarized voting in that district, if analysis
22 also shows that that candidate receives less Anglo crossover
23 support, for example.

24 In looking at what other elections to analyze,
25 because we just take that election where there's a

1 relatively close margin of victory, you need to determine,
2 as Mr. Strasma was saying, okay, how many -- what's the
3 level of support, what's the level of minority voter
4 population that needs to be there to ensure that minority
5 voters continue to be able to elect candidates of choice.

6 In a district that has high racially polarized
7 voting arguably that percentage would be higher than in a
8 district with less racially polarized voting where there is
9 a sufficient amount of Anglo crossover support.

10 You could look at elections, whether they're
11 countywide elections in the same district, other state
12 elections, other statewide elections, to determine what the
13 level of population needs to be in order not to violate
14 Section 5 and not to retrogress.

15 So, I think Mr. Strasma's point, because I've been
16 in the situation where we are analyzing election after
17 election after election because we're looking for
18 conformance, we're looking for consistency, and if we see an
19 outlier that changes our notion of what the district had
20 been as far as racially polarized voting, amount of minority
21 support for a candidate, Anglo crossover support for
22 example, you may have to go in other directions.

23 I've seen that just in this redistricting cycle.

24 I certainly saw that during the previous cycle at
25 Justice.

1 There are many, many elections that can be needed
2 depending on the circumstances of each particular district.
3 And here we're talking about the congressional districts.

4 So all of this is overlaid into one large amount
5 of data to assess and analyze.

6 But at the bottom we look at voting behavior.
7 Margins of victory are very, very important.

8 If an election is uncontested, that's important
9 to. Because if there is one candidate running for office
10 without a contestant from a rival party, then turnout would
11 arguably be lower.

12 And that's something that also has to be taken
13 into account.

14 So you can go down pretty far as far as which
15 elections you want to analyze, but that is informed by
16 the results and the voting behavior in the particular
17 district.

18 Thank you.

19 CHAIRPERSON MATHIS: Thank you.

20 I'm wondering if, since we're talking about
21 election results, if the commissioners -- should we talk
22 about item six now before we get into the mapping of
23 congressional and legislative districts? Seems like this
24 would be the time.

25 Mr. Freeman, I don't want you to think we're

1 ignoring you either.

2 VICE-CHAIR FREEMAN: Thank you, Madam Chair.

3 CHAIRPERSON MATHIS: Feel free to jump in any time
4 we are.

5 Mr. Herrera.

6 VICE-CHAIR HERRERA: Yeah, I've given this some
7 thought.

8 The Department of Justice doesn't really care if
9 we take the 2004, 2006 census election vote accounted for to
10 determine voting strength or to determine competitiveness,
11 but they do need it for -- to meet the DOJ requirements.

12 So, again, these are two separate things, and I
13 think we need to distinguish them.

14 If we decide to use the 2004, 2006 election
15 results in order to make it competitive, then I would
16 consider that we weigh the 2004, 2006 for relevancy. So we
17 would -- 2010 elections are the most recent ones. We would
18 base those a little higher, whether we assign a percentage,
19 100 percent.

20 2008 would be 75 percent relevancy.

21 Or, and then 2006 would be maybe 50 percent
22 relevancy.

23 2004 would be 25 percent relevancy.

24 This would be for if we decided to take into
25 account for determining competitiveness.

1 So that's -- that would be my proposal or my
2 recommendation.

3 And then obviously consider all of 2004, 2006,
4 2008, 2010 for DOJ requirements.

5 CHAIRPERSON MATHIS: Other thoughts from other
6 commissioners?

7 COMMISSIONER STERTZ: Madam Chair.

8 CHAIRPERSON MATHIS: Mr. Stertz.

9 COMMISSIONER STERTZ: At our last meeting, we
10 asked counsel to do -- bring forward a report of the 2004,
11 2006, as a component.

12 Did I miss that report earlier?

13 CHAIRPERSON MATHIS: No, you did not.

14 MARY O'GRADY: Our unanimous recommendation is
15 that '04 and '06 be included for the reasons that
16 Commissioner Herrera stated, that it's going to be part of
17 the voting rights analysis ultimately.

18 And Bruce -- and then I know Mr. Strasma has an
19 update just in terms of the practical logistics of working
20 with that data.

21 Bruce, do you have anything?

22 BRUCE ADELSON: Thank you.

23 From the Department of Justice's perspective in
24 Section 5 of the Voting Rights Act, 2004 and 2006 election
25 returns, as Commissioner Herrera was telling you about, must

1 be included if for no other reason because DOJ will be using
2 them.

3 So that if you don't use them, you set yourself up
4 for a request for additional information.

5 If you're analyzing elections from only two
6 cycles, that will likely not give you enough information to
7 meet your burden of proving you're not discriminating
8 against minority voters.

9 Of course, you also had mentioned the
10 competitiveness issue. That's not a federal issue.

11 The Department of Justice does not examine
12 competitiveness because it's not part of the Voting Rights
13 Act. The Department of Justice only has jurisdiction to
14 review federal law.

15 What -- how you evaluate your state considerations
16 is a different question.

17 So I take your point clearly under the
18 retrogression standard, under the Section 5 standard, as
19 many elections as possible need to be evaluated going back
20 to 2004, since that was the first election cycle under the
21 precleared plan, the benchmark plan, that Justice precleared
22 under the last redistricting cycle.

23 Thank you.

24 CHAIRPERSON MATHIS: Thank you.

25 Other comments from other commissioners?

1 VICE-CHAIR FREEMAN: Madam Chair.

2 CHAIRPERSON MATHIS: Mr. Freeman.

3 VICE-CHAIR FREEMAN: With respect to voting rights
4 compliance, we're being told that we need to definitely
5 consider 2004, 2006, 2008, 2010 at a minimum. I think we
6 need to do that.

7 In terms of a competitiveness analysis, I think we
8 also need -- if the Commission is going to look at past
9 election results to some way measure degree of
10 competitiveness, I think we need the most robust data set
11 available to us.

12 I think we need to look at all those election
13 returns, and perhaps even include -- throw even certain
14 propositions that perhaps cut on ideological lines into the
15 mix as well.

16 I think they should all be weighed evenly. If
17 we're going to assign -- weight them, I would weight them in
18 the inverse order that Mr. Herrera suggested.

19 2010 was a high water mark in Arizona for
20 Republicans.

21 Republicans had the greatest number of seats in
22 the Arizona legislature than they've ever had in the history
23 of the state.

24 They also did very well congressionally.

25 And contrary to what Commissioner Herrera said at

1 our last hearing, 2008 was also a very good year for
2 Republicans as well.

3 I believe, as I recall, they increased their
4 majority in the legislature in 2008, and in the presidential
5 election they had a senator from this state running for
6 president who took the state going away while
7 President Obama won nationally by a pretty fair margin.

8 I think those are probably -- or I think those are
9 definitely outlier years, and we need a more robust data
10 set.

11 If only those years are considered, what happens
12 is that if the Commission uses past election results and
13 only those election results for 2008, 2010, what it could do
14 is have the Commission create a district that perhaps looks
15 competitive measured just on those election returns, but
16 actually when you have an election that proceeds perhaps --
17 I don't know what the precise -- most appropriate word, a
18 typical or normal election, these districts would actually
19 be Democratic districts.

20 So it seems like a little bit of gamesmanship
21 there.

22 I'm not saying that we necessarily need to
23 consider past election results to decide whether a district
24 is competitive, but I do think we should have the most
25 robust data set available to us.

1 Look at 2006, 2004.

2 We should perhaps consider looking at propositions
3 that got cut on ideological lines.

4 And I think there are other elections that we
5 might -- perhaps should consider excluding.

6 I think I vaguely recall a race for Corporation
7 Commission where I believe the Democratic candidate
8 unfortunately passed away shortly before that election.

9 I think that, that election result if it's thrown
10 into the mix might be an outlier as well that perhaps might
11 skew some results, and maybe we should consider excluding an
12 election -- that election or any other election where
13 something like that happened.

14 Thanks.

15 CHAIRPERSON MATHIS: Thank you, Mr. Freeman.

16 Other comments from other commissioners on this?

17 COMMISSIONER STERTZ: Madam Chair.

18 CHAIRPERSON MATHIS: Mr. Stertz.

19 COMMISSIONER STERTZ: This is a general question,
20 I guess, more for Mr. Strasma.

21 The voter, voter history data, voter registration
22 is a finite and fixed number, we know what voter
23 registration is, as it pertains to the 2010 cycle.

24 Voting history data, could you give me the -- your
25 description of all of the components that would feed into

1 that phrase?

2 KENNETH STRASMA: Madam Chair,
3 Commissioner Stertz, I -- vote history data, I believe,
4 would encompass both electoral returns at the precinct level
5 and the individual level vote history from the Secretary of
6 State's voter file, where past vote history, obviously not
7 who -- what candidate an individual voted for but whether or
8 not they voted is flagged on the voter file.

9 It may be slightly off your point, but one, one
10 point to raise. Although Arizona is a Section 5 state, race
11 is not flagged on the Arizona voter file.

12 So we're not able to determine turnout rates from
13 the voter file.

14 One method that is sometimes used is Hispanic
15 survey matching to determine the likelihood that an
16 individual registered voter is Hispanic.

17 There have been studies, however, indicating that
18 voting behavior is different among those with the
19 identifiable Hispanic surnames versus those with more
20 ambiguous surnames.

21 Perhaps just because campaigns are targeting those
22 with easily identifiable surnames, so that approach is
23 certainly not without peril.

24 COMMISSIONER STERTZ: Case in point, my daughter
25 and son-in-law, both surnames are Hispanic by marriage, but

1 my son-in-law is Hispanic and my daughter is Anglo, so
2 interesting.

3 The reason I'm bringing it up because the idea of
4 party registration and voter history data is a, is a testing
5 component for compliance with all the six areas of our
6 constitutional requirements.

7 I wanted to sort of, as we are going through this,
8 to sort of get an understanding about as we are testing our
9 decision making in the design of the districts, about what
10 the voter history data, what those data points would be so
11 that we will be able to use them accordingly as a testing
12 mechanism.

13 KENNETH STRASMA: Electoral results and the voter
14 registration history are the only two sources of that data
15 that I'm aware of.

16 There's been some discussion in public comments
17 against using polling data.

18 I don't believe that anyone has seriously
19 suggested that, and I don't believe that would be feasible
20 or advisable.

21 COMMISSIONER STERTZ: Thank you, Madam Chair.

22 CHAIRPERSON MATHIS: Thank you.

23 Other comments?

24 Ms. McNulty.

25 COMMISSIONER McNULTY: I have a question for

1 Mr. Strasma.

2 Once we have the data loaded or available to us,
3 can we do different formulations?

4 For example, my interest and concern is -- or one
5 of them is to favor competitive districts as the
6 constitution requires provided there's no substantial
7 detriment, et cetera.

8 And I, I don't believe there's a hard and fast
9 rule.

10 I think we want to get as close as we can where we
11 can to a competitive district.

12 So my question is, are there different ways that
13 we could display that data?

14 For example, once you have '4, '6, '8 and '10,
15 could we look at it weighted, unweighted, certain races,
16 other races, and arrive at a general picture of
17 competitiveness for different districts?

18 Or is that way too cumbersome?

19 KENNETH STRASMA: Madam Chair,
20 Commissioner McNulty, not at all. That's certainly doable.

21 The -- for the commissioners, on your laptops, the
22 electoral data that we've loaded includes all the individual
23 statewide races, statewide partisan races and congressional
24 and legislative.

25 We consciously did that rather than just loading a

1 average percent, so as to maintain the flexibility for
2 displaying it however you like.

3 And the online mapping software will also include
4 the individual races that I would anticipate doing the same,
5 if '04, '06 elections are included, we would have the
6 individual race results included, and that would allow
7 someone on the fly to choose how they wanted to combine
8 weight and display that data.

9 CHAIRPERSON MATHIS: Thank you.

10 Other comments?

11 COMMISSIONER STERTZ: Madam Chair.

12 CHAIRPERSON MATHIS: Mr. Stertz.

13 COMMISSIONER STERTZ: More of a question on
14 percentage of registration.

15 This came up with discussion of, of your chart
16 that you got, that you got up.

17 And as the -- if, for example, in, in District 4,
18 in 2010 at the census points, we were -- there was a
19 30.98 percent voter registration of that entire district.
20 Had a heavily weighted party advantage to Democrats. And by
21 virtue of what you're describing, it would appear that not
22 only voter registration as a percentage of low voter turnout
23 is also low.

24 How, how does -- how should that affect our
25 decision making as it pertains to percentages of population

1 of HVAP population in a particular district? How would you
2 weight voter registration, voter turnout, and results as you
3 capture those results?

4 Because we've -- from a congressional point of
5 view, we know what the results have been in that particular
6 district.

7 KENNETH STRASMA: Madam Chair,
8 Commissioner Stertz, the question that needs to be looked at
9 is what other population is combined with that district.

10 If there's a district where there is a very low
11 voter registration rate and low turnout rate among the
12 minority category, in this case the Hispanic voters, and the
13 non-Hispanic population is similar, that's one thing.

14 If, if new geography is added where the
15 non-Hispanic population is at a very high turnout rate,
16 which very often correlates with income, if higher income
17 areas are added, that will come into play in the DOJ
18 analysis that we'll have to look at the likely turnout rate
19 among that new population.

20 And so it makes a difference, not just the racial
21 composition, but who is in that racial composition and what
22 their turnout rates are, both registration and turnout.

23 COMMISSIONER STERTZ: As a follow-up, Madam Chair.

24 In District 4, at the 2010 census, had a
25 57.45 percent Hispanic voting age population.

1 How does that -- as you look at that, as sort
2 encapsulating about how we should be looking at analysis,
3 looking at the other population within that district as it
4 pertains to its percentage of registration -- and the only
5 reason I'm sort of focusing on percentage of registration is
6 that that is one of the weighing testing modules that we --
7 that we're -- that's incumbent upon us for reviewing our
8 six determining criteria. Is voter registration.

9 And if we've got a low voter registration, how do
10 we -- do you see us having to overly weight the population
11 within that particular district?

12 KENNETH STRASMA: And I see your body language is
13 perhaps foreshadowing what I was going to say that I believe
14 I should defer to legal counsel on that.

15 COMMISSIONER STERTZ: Please.

16 BRUCE ADELSON: Thank you, Madam Chair,
17 Commissioner Stertz. In listening, I thought that one thing
18 that might be helpful is also to explain a little bit about
19 what we did at Justice nine years ago with some of the very
20 issues that you're talking about.

21 One of the things that we're not talking about is
22 unscientific anecdotal information that Justice does receive
23 and is part of their Section 5 jurisdiction, to take in and
24 analyze anecdotal information which may suggest that a
25 certain community has a long-standing history of very high

1 voting participation, which has nothing necessarily to do
2 with race. Where another community has a very low history
3 of voter participation and voter interest.

4 So if you take the low interest and combine it
5 with the high interest district, and I am simplifying
6 this a little bit, then you can get the situation that I
7 think we've alluded to where you are combining two
8 disparate populations in trying to create a
9 majority-minority district, but the populations are so
10 disparate in terms of participation, potentially
11 registration, so that you're not actually creating an
12 effective majority-minority district.

13 That is one of the issues that we determined
14 nine years ago in at least one of the districts that we
15 analyzed.

16 So, while the analysis is crucial, election
17 returns are crucial, so is voter registration, so is
18 turnout, anecdotal information is a very important component
19 too.

20 I don't want to suggest that that's weighted
21 higher than the analysis that Mr. Strasma is talking about
22 or necessarily the voter registration information that
23 you're referring to, but anecdotal information can be very
24 difficult to get a handle on because it is information that,
25 of course, is given by individuals, or can be based on

1 newspaper analysis, or some kind of sociological data that
2 is not ecological inference or -- that Mr. Strasma is
3 talking about.

4 So I did want to mentioned that anecdotal
5 information, anecdotal history is a component of the
6 Section 5 redistricting analysis, and does come into play.
7 And that is certainly a factor for the Commission, I would
8 recommend, to look at as you're developing districts because
9 that's what Justice looks at.

10 In their redistricting guidance that they
11 published earlier this year, they made it plain that they
12 take voting history, performance, voter registration,
13 turnout, into account, in addition to all the analyses that
14 we've been talking about.

15 So that's why I think Mr. Strasma's point is very
16 well taken, that this is an ongoing analysis, that there's
17 no situation where we can complete analysis today and we're
18 done.

19 Unless we're actually submitting the plan to
20 Justice today, the analysis keeps going until the plan
21 essentially is approved and put in the mail.

22 But that's -- I wanted to stress that anecdotal
23 information is a very key component along with the ones that
24 you mentioned.

25 Thank you.

1 CHAIRPERSON MATHIS: I have a question,
2 Mr. Adelson.

3 Would Justice ever look at historical anecdotal
4 information going back prior to the last Commission, for
5 instance, or even during the last Commission?

6 BRUCE ADELSON: I could -- Madam Chair, I could
7 see that as a possibility. Of course, it would depend on
8 what that is and how relevant that is to an overall
9 regression analysis.

10 I will say that, for example, in analysis that
11 I've done this redistricting cycle, for -- not for the
12 Commission, there are certain communities that I've looked
13 at that have a very long-standing history going back decades
14 of very high voter participation, that in, in one or more
15 racial groups.

16 So that -- that's a very serious consideration to
17 look at when determining, as Mr. Strasma was saying, how
18 high does the minority percentage need to be in order not to
19 retrogress.

20 If you have a community in a given district that
21 has a very high history, a long history of voter
22 participation, active participation, relatively high turnout
23 and registration, then arguably the minority voter
24 percentage would be -- could be lower than in an adjoining
25 district where that history is not the same.

1 So, I guess the short answer is, just like many
2 things, it depends.

3 If it does relate to retrogression, I guarantee
4 that Justice will examine it.

5 Justice also, as we know, gets many, many
6 comments, both in writing, hard copy, e-mail, telephone,
7 constantly during redistricting.

8 And some of those considerations relate to the
9 Voting Rights Act. Some of them don't.

10 The ones that do relate to the Voting Rights Act,
11 Justice looks at every one.

12 My team looked at every single comment that we
13 received that raised a federal issue under the Voting Rights
14 Act during the last round of redistricting.

15 Thank you.

16 CHAIRPERSON MATHIS: Thank you.

17 VICE-CHAIR HERRERA: Madam Chair.

18 CHAIRPERSON MATHIS: Mr. Herrera.

19 VICE-CHAIR HERRERA: Of course LD 7 -- I
20 understand the districts that are -- you know, the
21 majority-minority used to have a higher percentage of
22 voters, they elect a person of their choice.

23 What about districts that have low voter turnout
24 but still consistently elect candidates of their choice?
25 How does the Department of Justice see those districts

1 compared to the one you mentioned where they -- high voter
2 turnout, keep electing candidates of their choice?

3 BRUCE ADELSON: Commissioner Herrera, if I may, I
4 think that that -- it's possible in a district like that
5 that you would need to have a higher minority population in
6 order not to have retrogression than in a district that has
7 a very strong and relatively high history of turnout and
8 participation.

9 But just like all the elements that we're talking
10 about, analysis informs and analysis answers all of these
11 questions.

12 The analysis in addition to the anecdotal
13 information -- I like to use anecdotal information as
14 potential confirmation, or as also a way to direct something
15 that analysis may not necessarily reveal.

16 There are many communities throughout the country
17 that have very high rates of participation, long-standing
18 histories of active voter interest. Then of course the
19 opposite is true.

20 Knowing what those communities are, I think, is
21 very important, but, of course, that's not something that a
22 statistical analysis will reveal. That's something that
23 comes from people's institutional memories, history.

24 As the, as the chair was referring to, that is
25 something that Justice is aware of, in part, because Justice

1 does have records going back to the 1980s of what went into
2 each redistricting submission that has been made in the
3 state since the coverage date in the 1970s.

4 And certainly when we did our review in the 2000
5 cycle, we, we had records, information, data, and we
6 recorded the comments of the people that we interviewed.
7 And that's part of the DOJ record that they have, that they
8 will use in part to help them analyze the coming
9 Redistricting Commission.

10 Thank you.

11 VICE-CHAIR HERRERA: Thank you.

12 CHAIRPERSON MATHIS: Ms. McNulty.

13 COMMISSIONER McNULTY: Thank you.

14 Mr. Adelson, how do you solicit comments when you
15 do your review, and how should we be soliciting comments
16 right now?

17 For example, Ms. Wilcox was here earlier. And she
18 has offered to give us input, and we want that input. And
19 it seems to me that we need to create more opportunities for
20 that input than simply a formal hearing.

21 We want to reach out and sit down with them, maybe
22 have our outreach -- we have an outreach coordinator,
23 Ms. Gomez.

24 If you could talk about what the best way for us
25 is to take advantage of that request that we reach out and

1 provide you with something, or, or your successors with
2 something that's useful.

3 BRUCE ADELSON: Commissioner McNulty, I think
4 that's a very good point.

5 It's also very important to look at this in a
6 couple of different ways.

7 Having an open process, I think is very important
8 from a policy standpoint.

9 It's also required by federal law.

10 So that the Section 5 regulations are a very clear
11 provision for accepting, soliciting comments. And I think
12 having the open process that I've observed from the
13 Commission so that people are welcome to present information
14 and present views is a very important part of compliance
15 with Section 5.

16 And you asked about, you know, how do you go about
17 soliciting comments.

18 I'll tell you, when I was with Justice, people
19 would -- people began calling me long before the Commission
20 completed its work. And those calls kept coming until the
21 day we came to federal court in Phoenix and produced our
22 objection letter.

23 So my -- the information that I had given to
24 various people that I was speaking to at the time in Arizona
25 was to tell everyone, no matter -- if have concerns, if you

1 have complaints, if you have issues, if you have competing
2 maps, please send them to us.

3 If they raise federal issues, that we will examine
4 them, our team will talk to you, and our team will listen to
5 your federal concerns. Which is what we did.

6 I was mentioning before anecdotal information.

7 In some of our review, the anecdotal information
8 drove the analysis and revealed issues that we were not
9 aware of when the submission came in.

10 So I think that Justice as part of its Section 5
11 review will look at the extent to which a jurisdiction is
12 soliciting information, is receiving it, is taking it into
13 account, so that if, for example, a proposal is made that is
14 compliant with federal law, the Justice Department may want
15 to know to what extent you considered it, did you reject it
16 out of hand.

17 There have been jurisdictions around the country
18 over the last 20 or 30 years that don't have open processes,
19 that don't take comments.

20 And if someone presents a map, certainly from a
21 minority organization or minority voters presenting a map
22 suggesting a way to achieve non-retrogression, and the
23 jurisdictions would say we're not interested in that, if
24 those were things that I reviewed nine years ago, I always
25 contacted them and asked them to explain that to me.

1 MARY O'GRADY: Commissioners, one thought in terms
2 of the Hispanic Coalition's comments today.

3 I mean, I had some questions. I know we didn't
4 get questions today. But she seemed to be concerned about
5 the levels in all the what-ifs that we were considering.

6 But when we look at the record over the last
7 decade, we have a record of the candidate of choice, I
8 believe, winning comfortably, at least in district -- in
9 CD 4.

10 CD 7 was at least a closer race in 2010.

11 And we know that when it was precleared, both of
12 them have increased in Hispanic percentage over the decade
13 by about 6 percent, so they're higher combined minority,
14 higher Hispanic percentage.

15 Frankly I was questioning what the evidence was
16 behind that statement.

17 Certainly they may have, in those areas, as
18 Mr. Strasma mentioned, significant non-citizen population,
19 but even if that's the case, the evidence suggests that
20 still the candidate of choice is doing fine under our
21 current numbers.

22 So, as a practical matter in terms of flushing
23 that out, I was thinking it might make sense to follow up on
24 their suggestion, and maybe at a staff level and lawyer
25 level try and have some conversations and maybe report back

1 to the Commission on how those are going in terms
2 understanding what their analysis is that's leading them to
3 think certain numbers are appropriate. And so we can have
4 some dialogue, maybe work it up a little bit between
5 meetings at a staff level.

6 VICE-CHAIR HERRERA: Madam Chair.

7 CHAIRPERSON MATHIS: Mr. Herrera.

8 VICE-CHAIR HERRERA: Yeah, I was thinking the same
9 thing with Ms. O'Grady's comments about Mary Rose Wilcox's
10 comments to the Commission.

11 You look at the river district, and what we did
12 with version four or version five.

13 And I know that they focused on the two
14 majority-minority congressional districts, but I don't think
15 there's that much difference.

16 So I -- even though I didn't ask, I don't know if
17 she was prepared to provide us data or to back up her
18 comments.

19 I can see her comments may be relevant to the
20 border district, the three border districts, but I don't see
21 that for the river district.

22 So I would -- I wish she would have provided that
23 analysis.

24 One thing that I worry when we try to partner with
25 any organization, especially the majority-minority

1 organizations, that there's some politicians, and I'm not
2 saying anybody today, but they are there to promote their
3 own self-interest.

4 They -- they're in districts that are already
5 pretty safe.

6 The individuals, the residents in those areas,
7 people like to keep candidates of their choice.

8 It's consistent. They can, you know, trace it
9 back for many years from the elections.

10 And they still offer talk about retrogression and
11 making sure that we respect the Voting Rights Act, which I
12 understand we need to, but I also worry about the issue of
13 packing.

14 It's a big issue for me. And, again, when we,
15 when we get approached by organizations, no matter who they
16 are, but they're, again, pushing the issue of making sure
17 that the, you know, that we don't retrogress, that we also
18 need to question them, making sure that, okay, what about
19 packing as well.

20 Because that's, to me, that's equally as important
21 as retrogression. And I worry about that.

22 I worry about that when we get approached by a
23 politician that may or may not have the best interests of
24 the voters in their district. Maybe, you know, that
25 individual wants to run for higher office, wants to succeed,

1 maybe not.

2 But those are issues that concern me, that concern
3 me, and I want to make sure that we always have in the
4 forefront not only retrogression but also packing.

5 Because to me I want to create as many competitive
6 districts while respecting the Voting Rights Act. And
7 that's, you know, what I'd like to do.

8 And packing as many minorities in that
9 majority-minority district doesn't help. I think it's
10 counterproductive.

11 BRUCE ADELSON: Madam Chair, if I could just
12 elaborate a little bit.

13 Commissioner Herrera, I take your point about
14 packing.

15 Packing, I think it's real important to realize
16 from the Voting Rights Act perspective, as you know packing
17 is not part of the Section 5 review.

18 So that while packing is a constitutional issue, a
19 serious one and a serious one under Section 2 of the
20 Voting Rights Act, that is not something that Justice will
21 review as part of the preclearance process.

22 One of the internal processes of Justice during
23 the Section 5 review, if someone makes a rough determination
24 that there is a potential packing issue, there will be an
25 internal referral within the Justice Department for a

1 potential Section 2 investigation.

2 That has nothing to do with preclearance.

3 Arguably preclearance can happen on a Monday and
4 the Section 2 investigation could start on a Wednesday.

5 They are two separate provisions of the
6 Voting Rights Act, as you know.

7 I agree with you about packing being a serious
8 consideration. But I find that often when this issue is
9 discussed, not everybody appreciates the same way that you
10 do that Section 2 is not part of the Section 5 preclearance
11 review.

12 So I just wanted to say that.

13 Thank you.

14 VICE-CHAIR HERRERA: Thank you. I appreciate
15 that.

16 CHAIRPERSON MATHIS: Thank you.

17 Mr. Freeman, is there -- I'm just checking in on
18 you.

19 VICE-CHAIR FREEMAN: Thank you, Madam Chair.

20 Nothing from me right now.

21 CHAIRPERSON MATHIS: Okay.

22 So this is item six on the agenda.

23 It's sounding like no one disagrees that we need
24 2004 and 2006 election results.

25 Whether we use that in a competitiveness analysis

1 later remains to be determined. But no question we need it
2 for the voting rights piece.

3 So do we need formal action to proceed on that?
4 Or is -- and feel free to object if I misstated anyone.

5 VICE-CHAIR HERRERA: Madam Chair.

6 CHAIRPERSON MATHIS: Mr. Herrera.

7 VICE-CHAIR HERRERA: The issue -- my issue is two
8 things, again, if we will be using competitiveness, then
9 we'll need to take that topic off and discuss it later at a
10 later date, whether we do that or not.

11 And I think the second thing is, it was not
12 included as part of the contract for Strategic Telemetry, so
13 we'll have to -- if we approve it, we'll have to approve a
14 budget item for an expenditure.

15 Is that correct?

16 CHAIRPERSON MATHIS: I don't know.

17 I would actually defer to Mr. Strasma or legal
18 counsel.

19 KENNETH STRASMA: Madam Chair, if I may, as much
20 as I want -- Ms. O'Grady said that we have some updates on
21 the technical aspects, a number of things I wish to address,
22 discussions that have come up.

23 One is Mr. Adelson said as to the question that
24 some people have raised of why are we talking about '04 and
25 '06 and not '02. Just because '02 was not run under the

1 existing legislative lines, so it's not useful for this
2 analysis as looking at '04 and '06.

3 The reason that the '04, '06 data was included as
4 an add-on was at the Commission's request. It was unclear
5 if that data would be required, so they asked for us to
6 price that out separately.

7 It's significantly more work compiling that data,
8 because it was run under precinct lines.

9 The '08 and '10 elections were held under the, in
10 theory at least, under the precinct lines as they exist now
11 and as were recorded in the census.

12 For those of you who saw Mr. Desmond's
13 presentation a few weeks ago, there's still a number of
14 issues with that and making that match. But the counties
15 were not in any way constrained from changing their precinct
16 lines between '04 and '08.

17 So we need to make sure that the geography can be
18 matched, which will be a significant effort.

19 One good piece of news though Mr. Mills provided
20 us a data file from the legislative counsel which may solve
21 that problem.

22 We need to do some analysis to make sure that the
23 geography is correctly allocated.

24 If that's the case, then, you know, we're
25 definitely in favor of taking the cheaper approach. And if

1 we can validate that the data is correct, there would be no
2 additional cost. And there would be an additional cost
3 capped at \$25,000 if it were necessary to redraw the past
4 precinct lines and counties that have changed their
5 precincts.

6 We would, of course, do everything we could to use
7 existing data, if it's usable in its entirety, or to
8 minimize the cost otherwise.

9 CHAIRPERSON MATHIS: Thank you.

10 VICE-CHAIR HERRERA: Madam Chair.

11 CHAIRPERSON MATHIS: Mr. Herrera.

12 VICE-CHAIR HERRERA: Thank you so much for being
13 good stewards of the money of the Arizona taxpayers.

14 The only issue that I would be, I would be in
15 favor of going with the cheaper route as long as the
16 information is, I guess, verified and checked.

17 But if you can tell me on the 2008, 2010
18 information, even though the census information was, the
19 information was the same as it is now, you still have to do
20 plenty of cleanup; is that correct?

21 That the data you presented still needed to be
22 verified and cleaned up?

23 KENNETH STRASMA: Madam Chair,
24 Commissioner Herrera, that is absolutely correct.

25 Although in theory those lines were frozen, in

1 many cases the geography that was reported to census
2 actually referred to different physical geography from what
3 the counties had recorded as their precinct lines. And it
4 was, I believe, hundreds of hours of work getting that to
5 match.

6 So I am, you know, approaching using the '04, '06
7 data with considerable caution.

8 We need to make sure that we validate and document
9 it all, and as with the '08, '10 election, we want to make
10 it available to any other organizations that are doing their
11 own analysis so that everyone is talking apples and apples.

12 And also make it available to DOJ, so that when
13 DOJ does their own analysis, we're all talking about the
14 same lines.

15 So we would definitely proceed with great caution.
16 You know, I have no reason to believe there are problems,
17 but we want to be able to substantiate that.

18 VICE-CHAIR HERRERA: Madam Chair.

19 CHAIRPERSON MATHIS: Mr. Herrera.

20 VICE-CHAIR HERRERA: We need to make a
21 motion to -- I guess we can direct them to do that, to
22 follow that route as long as the information is validated
23 and you take every precaution necessary.

24 We probably don't have to vote, just give them
25 that direction.

1 CHAIRPERSON MATHIS: Any other thoughts from other
2 commissioners?

3 Are you comfortable using the data from
4 legislative counsel via Mr. Mills and having Mr. Strasma
5 validate that, and if that works, then it's sound, that we
6 use that?

7 (No oral response.)

8 CHAIRPERSON MATHIS: Mr. Freeman.

9 I can't see Mr. Freeman, but I'm not hearing an
10 objection, so. . .

11 Okay. Well, I think, assuming that's okay with
12 legal counsel, we can proceed that way.

13 Do you need anything else from us, Mr. Strasma, on
14 that front?

15 KENNETH STRASMA: No, Madam Chair.

16 CHAIRPERSON MATHIS: Okay.

17 Thank you very much.

18 Given the time, it's now 4:50 p.m. I'm sure
19 Mr. Herder would like a break, as other people would too.
20 So we'll take a brief recess for 15 minutes.

21 (Brief recess taken.)

22 CHAIRPERSON MATHIS: Okay. We'll enter back into
23 public session. The time is 5:12 p.m.

24 And the next item on the agenda is that
25 agenda item four that we'll go to now, review, discussion

1 and direction to mapping consultant regarding ideas for
2 possible adjustments to congressional grid map based on
3 constitutional criteria.

4 So, I believe our mapping consultants completed
5 their homework assignments that they had from us from our
6 last meeting.

7 And I will look to Mr. Strasma or Mr. Desmond to
8 walk us through the handouts.

9 You should have some congressional grid map
10 what-if scenarios in front of you.

11 WILLIE DESMOND: Okay. We completed -- I believe
12 we have seven maps ready for today, four of which are
13 congressional. So I think maybe we should -- I'll just tell
14 you which ones those are and you can tell me where you would
15 like to start.

16 I should mention that the maps in the back are the
17 maps that have been presented already. They're from prior
18 meetings.

19 The maps from today's meetings are available on
20 the website right now and will be printed out and available
21 at tomorrow's meeting. Just to kind of maybe keep things
22 clear, we've been trying to make sure the maps are presented
23 before they're available to the general public just to
24 prevent any confusion, because they are -- they need to be
25 talked about. They're a little nuanced. They're not

1 representative of final plans or anything like that.

2 So the four congressional what-if maps that are
3 ready for today are the three border district with the
4 changes that Commissioner Stertz asked for at the Phoenix
5 meeting.

6 The river district with the changes that
7 Commissioners Herrera and McNulty had asked for.

8 The whole counties 4A and 4B. 4A was discussed
9 between Mr. Freeman and Mr. Stertz a little bit.

10 4B was e-mailed. Mr. Freeman went through
11 Mr. Bladine, and shared some criteria for an additional one,
12 which is presented, I guess -- my recommendation would be we
13 get to those last, time permitting, so that Mr. Freeman
14 could be here in person to kind of go over it, if possible.

15 You know, time permitting we can get to it today,
16 however you direct.

17 Are there one of those that you prefer to start
18 with?

19 VICE-CHAIR HERRERA: Madam Chair.

20 CHAIRPERSON MATHIS: Mr. Herrera.

21 VICE-CHAIR HERRERA: Yeah, if we can focus on
22 the -- if we can start with river district version five, if
23 you please.

24 WILLIE DESMOND: Okay.

25 CHAIRPERSON MATHIS: Version five you said?

1 VICE-CHAIR HERRERA: First version last time, and
2 we ended up making changes, so this is river district
3 version five with the changes that we had proposed.

4 COMMISSIONER McNULTY: I don't think that we all
5 have copies of that in our packet. If you have any extras,
6 that would be helpful.

7 CHAIRPERSON MATHIS: I have two, three, and four.

8 WILLIE DESMOND: It's river district version five.
9 We have two copies of that.

10 The ones in the folder are different, so those are
11 the ones that are from prior meetings.

12 There should be a separate stack that would be
13 included, and I apologize for that.

14 So, there were several criteria that I was
15 directed to take into account when producing this one.

16 Bear with me for one second, and I'll turn to my
17 notes and tell you specifically what changes have been made.

18 We assured that Ahwatukee and Chandler were kept
19 together and taken and put into District 6.

20 We made number one reach into rural Pima County
21 and not Maricopa.

22 We moved Arcadia to District 6, using the
23 boundaries of 56th Street and Thomas and 40th and Camelback.

24 We moved parts of east Mesa from
25 Congressional District 6 into Congressional District 3.

1 We adjusted down the current benchmark in
2 District 7.

3 And I think that was it.

4 And also we made District 9 follow the 101 kind
5 of, if you can magnify that.

6 Are there specific areas that you would like me to
7 start with?

8 VICE-CHAIR HERRERA: Mr. Desmond.

9 CHAIRPERSON MATHIS: Mr. Herrera.

10 VICE-CHAIR HERRERA: Can you, can you focus on
11 district -- on majority-minority districts?

12 WILLIE DESMOND: Sure.

13 Okay. The majority-minority districts, again, are
14 District No. 7, which is 56.03 percent voting age Hispanic.

15 That was taken down from, I believe it was, 60.2
16 in the previous iteration. And 60.2 came directly from the
17 Hispanic Coalition for Good Government's map.

18 The other district is District No. 2, and that is
19 53.38 percent voting age Hispanic.

20 COMMISSIONER McNULTY: Would you say that again?
21 52.38?

22 WILLIE DESMOND: 53.38.

23 So District No. 2 is slightly higher than the
24 current benchmark, and the 56.03 is slightly lower than the
25 current benchmark.

1 So the 56.03 is the Maricopa, Maricopa district,
2 and the 53.38 is the one that stretches from Yuma to Santa
3 Cruz and comes up into Maricopa a little bit.

4 COMMISSIONER McNULTY: What's the benchmark for
5 that one?

6 WILLIE DESMOND: The benchmark for that one, I
7 believe, was 50 point -- I'm sorry, Mary, do you have that?
8 Or, Joe, the current?

9 50.23. Thank you. I'm sorry.

10 VICE-CHAIR HERRERA: Madam Chair.

11 CHAIRPERSON MATHIS: Mr. Herrera.

12 VICE-CHAIR HERRERA: Mr. Desmond, you said the
13 benchmark for District 7, the majority-minority Maricopa
14 County, was -- what was the benchmark again?

15 WILLIE DESMOND: That one is currently at 57.45.

16 VICE-CHAIR HERRERA: Is that current?

17 WILLIE DESMOND: Current District 4 is, yeah, is
18 57.45.

19 And then in the previous version of this map using
20 the Hispanic Coalition's, that was bumped up to 60.2. We
21 were directed to bring that back down a little bit. So now
22 it's down to, again, 56.03.

23 VICE-CHAIR HERRERA: Madam Chair.

24 CHAIRPERSON MATHIS: Mr. Herrera.

25 VICE-CHAIR HERRERA: Could you talk a little bit

1 also about District 4?

2 WILLIE DESMOND: District 4.

3 Yes, I can.

4 So, District 4 is the river district, as we're
5 calling it.

6 You'll notice that it does kind of come over the
7 top of Maricopa right now. That's somewhat cosmetic. If I,
8 if I click on this census tract right here, you'll see that
9 it's just a large swath of area that does not have much
10 population. In fact, 4600 people.

11 District 4, I think you had asked me to remove it
12 from -- let me go off a second.

13 All right. So that in an earlier version, you
14 asked me to take Coconino completely out of District No. 4.

15 When District No. 5 needed a little bit more
16 population initially, I had to dip down into, into this
17 area, which is Sedona, and some of the other surrounding
18 areas a little bit.

19 But District No. 4 is, you know, a rural, rural
20 river district, by and large, to the greatest extent that
21 we've been able to tell so far.

22 Are there changes that you would like to see it
23 for further iteration?

24 VICE-CHAIR HERRERA: Madam Chair.

25 CHAIRPERSON MATHIS: Mr. Herrera.

1 VICE-CHAIR HERRERA: Mr. Desmond, can you repeat
2 that again? You had mentioned that you, on District 4, you
3 took -- removed parts from Coconino County.

4 WILLIE DESMOND: Not on this, not on this latest
5 version, but that is a remnant from a previous, previous
6 one, where it did kind of split Coconino County. You had
7 asked me to put all of Coconino County into District 5, take
8 all from District 4.

9 VICE-CHAIR HERRERA: Now, can you tell me, in this
10 map, in this version five, where Sedona is again?

11 WILLIE DESMOND: Sedona is in Yavapai County and
12 is right here.

13 So that's part of District 5 that was taken out
14 of, taken out of District 4.

15 VICE-CHAIR HERRERA: Which is exactly what we had
16 asked. So I thank you.

17 Madam Chair.

18 CHAIRPERSON MATHIS: Mr. Herrera.

19 VICE-CHAIR HERRERA: I just want to make a quick
20 comment about the -- obviously these maps are available
21 online, and I think the district -- the river district
22 version four, the people from -- the leaders from Mohave
23 County were praising that particular map saying that
24 Commissioner McNulty and the others were listening to their
25 comments, and this is close or very close to what they

1 wanted.

2 So I just wanted to make that a part of the
3 record.

4 So, again, I go back to designing the particular
5 river district based on public comment. And I just want to
6 say how important it is that we get public feedback because
7 it does make a difference.

8 So that's what I wanted to say.

9 CHAIRPERSON MATHIS: Thank you.

10 Other comments on this river district version
11 five?

12 Any questions?

13 COMMISSIONER McNULTY: I have a couple questions,
14 comments.

15 I think you had made changes in six; is that
16 right?

17 WILLIE DESMOND: Yes.

18 COMMISSIONER McNULTY: Okay.

19 I would like to -- I'd like to do two things.

20 I'd like to ask you to analyze this -- do a
21 preliminary analysis of on this based on competitiveness.

22 My goal is going to be, as I said earlier, to
23 favor competitive districts, all other things being equal
24 and where there's no substantial detriment.

25 I'd like to see a larger -- I'd like to see this

1 with the data, you know, that's underneath it, so I can
2 understand more fully, particularly what's in these
3 Maricopa County districts, and where they relate -- where
4 they are in relation to, you know, the various towns and
5 communities.

6 For example, we received quite a bit of comment
7 about the Tempe, south Scottsdale, west Mesa area.

8 So I'd like you to give this to us in a format
9 where we can, you know, analyze all of that, look for
10 community of interest comments that we've received, and then
11 also start to analyze it and work with that with a view
12 towards maximizing competitiveness.

13 WILLIE DESMOND: Okay.

14 Well, available on the website, and I can share
15 these with you also today, are the block equivalency and the
16 plan, so we can load it up in your Maptitude to make sure
17 you can look at those.

18 I can also right now, if you would like to go
19 through some of those areas. In District 6, I believe, an
20 earlier iteration of the river district had addressed some
21 of those concerns, moving south Scottsdale into District 6,
22 moving parts of Tempe.

23 If you look right now though, the one thing I did
24 want to point out is District 6 map does have this arm
25 poking up.

1 This is, this is the Arcadia area, as defined.

2 So right here is, I guess, Thomas Road. And then
3 it goes up here. And, and to link that in with District 6,
4 we just kind of had to run, run that arm up a little bit.

5 I can move these around so you can see the borders
6 of those different areas right now, if you would like to see
7 some of those.

8 Let me just go ahead and turn off this shade.

9 Okay.

10 So I know that's a little bit tougher to see, but
11 we can just go into District 6 right here.

12 So previously most of -- not all of Tempe had been
13 included in District 6. In order to accommodate reaching up
14 into Arcadia, we did have to shift that around a little bit.

15 This, again, the red area is Tempe.

16 When we reached up here to grab this population,
17 we did need to come down here and grab some of this
18 population.

19 COMMISSIONER McNULTY: We can't see where you're
20 pointing, Mr. Desmond.

21 WILLIE DESMOND: Oh, I apologize.

22 So, so if you look -- can you see my pointer on
23 here? I'm doing that.

24 VICE-CHAIR HERRERA: Yes.

25 Do you need a pointer?

1 WILLIE DESMOND: Yes, that would be great.

2 So, I believe in a previous version all of Tempe
3 had been included in this District No. 6.

4 When we reached up to grab Arcadia, we did have to
5 include some of the Tempe into what is District 9, I guess.

6 So that's a change that can be reversed if you
7 would like to keep these areas.

8 Also comprising this area are parts of, of, like,
9 west Mesa, south Scottsdale to some extent, but mostly
10 hooked out at this point, and Gilbert and northern Chandler.

11 And then, again, this area over here is Ahwatukee.
12 It's part of District 6 also.

13 VICE-CHAIR HERRERA: Madam Chair.

14 Mr. Desmond, the -- how much of a -- what portion
15 is in District 9 now from Tempe? Is that that -- can you --

16 WILLIE DESMOND: All right. So, so Tempe has, has
17 161,000 people.

18 District 6 has 103,000 of them, and District 9 has
19 58,000.

20 So this area comprises about 58,000.

21 VICE-CHAIR HERRERA: Can you tell me the
22 boundaries that are now -- the Tempe portion that is now in
23 District 9, what are the boundaries?

24 WILLIE DESMOND: I'm not -- I'm not sure.

25 I did that just by looking at whole census tracts,

1 so I don't know.

2 I can zoom in, and we can look, but it's not a
3 necessarily deliberate boundary.

4 VICE-CHAIR HERRERA: Okay.

5 WILLIE DESMOND: So this road is -- the border
6 runs south between six and nine is East Broadway Road.

7 VICE-CHAIR HERRERA: East Broadway Road, okay.

8 WILLIE DESMOND: That makes sense. That would be
9 a major thoroughfare because census tracts tend to take
10 those into account and follow geography.

11 And then the east-west divider is Priest Street.

12 VICE-CHAIR HERRERA: Priest.

13 WILLIE DESMOND: Where we are right now.

14 VICE-CHAIR HERRERA: Madam Chair.

15 CHAIRPERSON MATHIS: Yes.

16 VICE-CHAIR HERRERA: A couple more items,
17 Mr. Desmond, on District 6.

18 It doesn't look like you've added -- or maybe I'm
19 not reading the map correctly, that you added south
20 Scottsdale to District 6, and you're still including parts
21 of east Mesa in District 6.

22 I think that issue -- correcting that issue would
23 help that arm reaching upward.

24 So I want to make sure that, that we, that we
25 correct those two issues. And, again, adding south

1 Scottsdale, and removing east Mesa, just focusing on the
2 west part of Mesa.

3 WILLIE DESMOND: I believe that change had
4 happened, but then in order to grab the Arcadia area, that
5 was no longer possible.

6 If it's all right, I'd like to add the outline of
7 one of the earlier versions, and we can take a look at that
8 just to confirm that.

9 VICE-CHAIR HERRERA: Sure. Please.

10 COMMISSIONER McNULTY: Mr. Herrera, do you -- I
11 wish I had my binder, but it's late and so I left it in the
12 car, the public comment binder.

13 How far east does the lightrail extend?

14 VICE-CHAIR HERRERA: It goes to, it goes to
15 Main Street, Dobson, I think that's correct.

16 COMMISSIONER McNULTY: Is Dobson a north-south
17 street?

18 VICE-CHAIR HERRERA: It's north-south.

19 WILLIE DESMOND: I must be mistaken. Either that,
20 or it's in version three.

21 VICE-CHAIR HERRERA: Madam Chair.

22 Mr. Desmond, on version three, there were some
23 changes that I recommended and I later mentioned that I
24 probably shouldn't have made those changes, and I agree with
25 some of the recommendations that Commissioner McNulty made.

1 So I like the river district version four better.

2 WILLIE DESMOND: Okay.

3 So for the next version of this, we'd like south
4 Scottsdale added to District 6.

5 VICE-CHAIR HERRERA: Correct.

6 WILLIE DESMOND: Do you have a border that I could
7 use for south Scottsdale?

8 VICE-CHAIR HERRERA: That's a really good
9 question.

10 COMMISSIONER McNULTY: I would say downtown.

11 VICE-CHAIR HERRERA: I can picture it in my mind.
12 I just don't know which cross street to use as a border.

13 WILLIE DESMOND: Well, if I could suggest, Arcadia
14 has a northern border Camelback. I could take everything
15 south of there and use that as south Scottsdale.

16 Would that work? Or is that too far north?

17 VICE-CHAIR HERRERA: That might work, or at the
18 least keeping it broad for now. That would be fine.

19 WILLIE DESMOND: Okay.

20 Okay. And then also you had mentioned you'd like
21 to move --

22 VICE-CHAIR HERRERA: East Mesa and stick with the
23 western parts of Mesa.

24 I would like to go as far as Mesa Drive, for the,
25 for that border.

1 Because I think from what I was hearing that the
2 lightrail will extend -- it's currently at Dobson, and it's
3 probably going to extend to Mesa Drive.

4 WILLIE DESMOND: Okay. So Mesa Drive will
5 be the --

6 VICE-CHAIR HERRERA: The border for the western --
7 yeah.

8 WILLIE DESMOND: Okay. Okay.
9 Are there other changes initially?

10 COMMISSIONER McNULTY: I don't want to interrupt
11 you, but I was just going to ask about the little shoe that
12 came in that you said the area was not populated above it.

13 WILLIE DESMOND: Yes.

14 COMMISSIONER McNULTY: The little shoe, the little
15 horn sticking out of five.

16 WILLIE DESMOND: Uh-hmm.

17 COMMISSIONER McNULTY: Can that be cleaned up?
18 I'm not sure there's a reason to do it right now.
19 Maybe that should just wait until we better understand what
20 we've got here.

21 WILLIE DESMOND: Okay. And I know this is very --
22 this isn't the easiest thing to see, but you're talking
23 about this area right here.

24 And I can remove a lot of that land mass and put
25 it back with District No. 5.

1 COMMISSIONER McNULTY: I'm talking about the
2 little peninsula that sticks out of the southwest corner of
3 grid five as you're showing it, the little purple peninsula.

4 WILLIE DESMOND: Okay. I believe the reason that
5 was there was to -- some of the reservation lands.

6 COMMISSIONER McNULTY: Where is that? What is
7 that?

8 VICE-CHAIR HERRERA: Probably best if you zoom --
9 is you take out those layerings and. . .

10 WILLIE DESMOND: So the area you're talking about
11 is right here.

12 COMMISSIONER McNULTY: Yes. What is it?

13 WILLIE DESMOND: It is a sizable amount of
14 population for District 5.

15 Let me go through and tell you exactly what it is
16 and look at the areas that are comprising it.

17 Give me a little bit into this area.

18 So it's Gold Canyon and Apache Junction,
19 Fountain Hills, parts of north Mesa.

20 I believe the original intent was to -- I'll zoom
21 out.

22 I believe how it was constituted before this was
23 that this area right here was also included in District 5,
24 so it wasn't quite such an arm reaching up and under. It
25 was more like a lump that came off of District No. 5.

1 So I could include this area again in District 5,
2 and then it won't be such a non-compact and contiguous --
3 compact area.

4 VICE-CHAIR HERRERA: Madam Chair.

5 CHAIRPERSON MATHIS: Mr. Herrera.

6 VICE-CHAIR HERRERA: One of the reasons we did
7 that, if I'm not mistaken, is to include the Native American
8 reservation that was there.

9 Is that correct, or. . .

10 WILLIE DESMOND: I believe that and I believe also
11 you asked me to add as much of rural Maricopa as I could to
12 the river district, District No. 4.

13 So in order to give District No. 4 as much rural
14 area as possible, it kind of took a big bite out of that
15 area essentially.

16 VICE-CHAIR HERRERA: Sure. Because we needed to
17 make up some population when we lost -- when we removed
18 Flagstaff, Sedona from District 4, we needed to grab
19 population.

20 WILLIE DESMOND: And initially I had taken
21 population from parts of western Maricopa, going a little
22 bit into some suburban and urban areas. And you directed
23 that we get as much rural as possible to minimize that.

24 So this is a reflection of that change.

25 COMMISSIONER McNULTY: Where is fort -- excuse me,

1 where is Fort McDowell?

2 WILLIE DESMOND: I don't know, to be honest.

3 COMMISSIONER McNULTY: It's east of Scottsdale.

4 VICE-CHAIR HERRERA: By the Fountain Hills area.

5 COMMISSIONER McNULTY: You may need to pull up a
6 different layer.

7 WILLIE DESMOND: Yes.

8 COMMISSIONER McNULTY: That looks like it right
9 there. That's it.

10 VICE-CHAIR HERRERA: Which is included in
11 District 5; is that correct?

12 WILLIE DESMOND: Yes.

13 VICE-CHAIR HERRERA: Yeah. District 5.

14 Part of my reasoning was that I wanted to include
15 as many of the tribes in the same district. I think that's
16 some of the comments I heard, so that's why I had that arm
17 that way.

18 We can change it, but I wanted to keep it.

19 COMMISSIONER McNULTY: But if the Fort McDowell
20 group is interested in being with the urban area, then we
21 could combine that with six.

22 Is it -- just look at that as a possibility,
23 please.

24 WILLIE DESMOND: All right. So if I understand
25 correctly, what happened then is -- so this area would all

1 be coming into six.

2 COMMISSIONER McNULTY: Yes.

3 WILLIE DESMOND: Okay.

4 MARY O'GRADY: Madam Chair, I think it's two
5 reservations there, Fort McDowell and Salt River.

6 COMMISSIONER McNULTY: Salt River. Yes, yes,
7 thank you.

8 VICE-CHAIR HERRERA: And you're proposing changing
9 both of them?

10 COMMISSIONER McNULTY: I would keep them together.
11 I'd just like to look at the possibility of combining number
12 six, not necessarily that other -- that area next to them,
13 but the reservations themselves.

14 Mr. Desmond, could you tell me one more time what
15 else is in that arm?

16 You said it was Apache Junction, Gold Canyon --

17 WILLIE DESMOND: Yes, Queen Valley.

18 COMMISSIONER McNULTY: I got it.

19 WILLIE DESMOND: Part of Top-of-the-World,
20 Apache Junction, Gold Canyon, and then parts of Mesa.

21 COMMISSIONER McNULTY: Thank you.

22 WILLIE DESMOND: And I guess in the fist of it is
23 Fountain Hills and northern Scottsdale.

24 COMMISSIONER McNULTY: Do we need to look at more
25 here?

1 The area that was within the 101, or just north
2 of -- what is the minority district? Is that seven?

3 WILLIE DESMOND: Yes.

4 COMMISSIONER McNULTY: Okay.

5 WILLIE DESMOND: So that is District 9.

6 I followed the 101 as far as I could. It became
7 very overpopulated, so I had to cut that back a little bit.

8 Let me turn on the streets, and you'll be able to
9 see that.

10 So, that's this district, this District 9. And
11 then this area is the 101.

12 So initially I followed it all the way down to 60,
13 but then I had to cut some of that population out to give
14 it, to give it back to District No. 8, which lost a lot of
15 population when nine was extended out to the 101.

16 I can show you again. The prior line is the red.

17 So you'll see -- I know this is a lot of lines.
18 But this was, was District 9.

19 So it grew further west here, and then lost a
20 little bit off the top, and lost a little bit off of the
21 east.

22 COMMISSIONER McNULTY: What is the line in the map
23 that we're looking at on the table?

24 WILLIE DESMOND: Let me --

25 COMMISSIONER McNULTY: Which color is that line?

1 Okay. Could you put the census place layer on?

2 WILLIE DESMOND: Census place is on.

3 Would you like me to turn it off?

4 COMMISSIONER McNULTY: No.

5 WILLIE DESMOND: Let me just --

6 COMMISSIONER McNULTY: Maybe zoom in a little
7 that.

8 WILLIE DESMOND: -- to show, this is the 101.
9 I'll turn off the streets. That will make it easier.

10 COMMISSIONER McNULTY: I guess I'm looking
11 for landmarks on the west side of that box, where
12 Sun City --

13 WILLIE DESMOND: Sun City is still in
14 District No. 8. That was on the farther side of 101.

15 COMMISSIONER McNULTY: Okay.

16 WILLIE DESMOND: So, yeah, Sun City is right here.
17 I can pan the map over so you can see that a
18 little better.

19 COMMISSIONER McNULTY: That's okay. I don't need
20 to.

21 What is in the little panhandle that's sticking
22 out? What community is that?

23 WILLIE DESMOND: That's part of northern Glendale,
24 I believe.

25 COMMISSIONER McNULTY: Okay. I guess we'll just

1 need to study these.

2 You know what, could you maybe talk to us about
3 the -- on the second page of your map here, you have a
4 couple different displays of data.

5 WILLIE DESMOND: Yes.

6 So the top table -- and, again, these are
7 available on the website.

8 These are -- they're available right now for
9 anybody listening, and they will be -- they'll be there for,
10 you know, additional maps that are presented.

11 The top table is voting age populations by the
12 different racial categories, keeping in mind that this is
13 not taking into account rates or accounts that are based off
14 of people that might have selected multiple races or
15 origins.

16 The bottom table, I believe, is showing a map
17 that's directed us to start including measures of
18 compactness and contiguousness, and additionally measures of
19 competitiveness.

20 In this case we've used the 2008, 2010 average
21 Republican and Democrat statewide election results.

22 This is by no means the official definition of
23 competitiveness or anything. It's just a proxy that we had
24 available, available to members of the Commission, will be
25 available on the public mapping site.

1 And it's just a way to kind of on the fly be
2 calculating numbers quickly.

3 So it combines the, I believe, ten elections from
4 2008, 2010 that were statewide.

5 It gives the average percent Republican, average
6 percent Democrat.

7 Those percentages are based upon only people who
8 selected Republican or Democrat, the two way percentages.

9 So when you add those together, they add up to
10 100 percent.

11 And then it has the difference between the two.

12 Obviously the smaller the difference, the more
13 evenly divided that district is, a little more competitive
14 it would be.

15 VICE-CHAIR HERRERA: Madam Chair.

16 CHAIRPERSON MATHIS: Mr. Herrera.

17 VICE-CHAIR HERRERA: Seems based on just a rough
18 estimate of competitiveness, using the 2008, 2010 elections,
19 so you have, you have District 3 that is based on this
20 information Republican -- easily a Republican leaning
21 district.

22 Not leaning. It is pretty solidly Republican.

23 So is four.

24 So is six.

25 And eight.

1 And then you can argue nine.

2 That's one, two, three, four, five that are, I
3 would say, solid Republican.

4 And we have District 1 that I would say somewhat
5 competitive.

6 Based on this information, I think that would be
7 the only one that would be competitive based on your
8 analysis.

9 And I understand it's a rough estimate in your --

10 WILLIE DESMOND: That, and there's no set
11 definition of what makes something competitive or not
12 competitive.

13 I think we would -- we would suggest initially
14 using these numbers just like you would compactness, as a
15 way of making -- trying to make things more competitive or
16 less competitive.

17 COMMISSIONER McNULTY: This is just something
18 you're -- you can give us a snapshot of on the fly. That's
19 all that it is.

20 WILLIE DESMOND: Yeah.

21 COMMISSIONER McNULTY: Okay.

22 WILLIE DESMOND: We don't have like a --

23 COMMISSIONER McNULTY: No, this is great. There
24 is perfect.

25 No, no, that's not, that's not what I'm after, but

1 that's fine.

2 Let me just say what my goal is.

3 I want to work towards, you know, this is the
4 beginning obviously, and give us an idea of how we're doing
5 this.

6 But obviously we have two minority-majority --
7 majority-minority districts, and those are going to lean
8 Democratic.

9 I believe we can build four competitive
10 congressional districts, and I would like to be working
11 toward that.

12 WILLIE DESMOND: Is that something you want me to
13 try to take into account?

14 COMMISSIONER McNULTY: Yes, definitely.

15 WILLIE DESMOND: I guess what I would suggest is
16 that the changes that we've already discussed to the river
17 district, we do those as a new map. And then, separately,
18 as another new map, maybe try to increase the
19 competitiveness using this measure.

20 Is that what you're asking for?

21 COMMISSIONER McNULTY: That would be a start.

22 All other things being equal, and once we've
23 worked towards that taking into account, you know, data, you
24 know, feedback that we've received on communities of
25 interest, and information that we will understand better as

1 we work with the maps.

2 But I want to build it in from the beginning, and
3 I think this is a good time to start.

4 WILLIE DESMOND: Okay.

5 And I should just emphasize again that we have not
6 used competitiveness.

7 COMMISSIONER McNULTY: No, we -- I understand
8 that. No. That's why I'm asking that we start working on
9 that.

10 WILLIE DESMOND: Are there other changes that you
11 would like to see?

12 VICE-CHAIR HERRERA: Madam Chair.

13 CHAIRPERSON MATHIS: Mr. Herrera.

14 VICE-CHAIR HERRERA: I agree with
15 Commissioner McNulty that I would like to see all the maps
16 that are created see a measurement of competitiveness as you
17 outline here.

18 Again, this is just an idea, but it would be nice
19 to definitely start focusing on that since it is an
20 extremely important criteria.

21 What I would like to do, I'd like to look at some
22 of the changes that were made for that version. I think it
23 is five now. Because what I want to do is make District 5 a
24 little more rural.

25 So, but I don't know at this point how it's going

1 to affect three and nine.

2 So, I guess. . .

3 WILLIE DESMOND: Okay. Let me --

4 VICE-CHAIR HERRERA: Maybe more rural by going
5 into Pinal County, but I don't know how it's going to affect
6 both three and nine.

7 WILLIE DESMOND: Okay. Would -- okay. That's
8 something we can definitely do.

9 VICE-CHAIR HERRERA: And what I can do, if you
10 want some more guidance, I can probably -- let me study it
11 tonight and tomorrow give you a little more feedback on
12 exactly what I'm looking at. But that's just a rough idea
13 of what I want to do with District 5.

14 WILLIE DESMOND: Absolutely. Okay.

15 VICE-CHAIR FREEMAN: Madam Chair.

16 CHAIRPERSON MATHIS: Mr. Freeman.

17 VICE-CHAIR FREEMAN: Mr. Desmond, could you -- I'm
18 somewhat handicapped. I can't look at the finer details of
19 the map. I can see the gross layout of it.

20 Could you prepare a -- taking river, the so-called
21 river district version five, and when you're preparing
22 version six prepare a version 6B, and take out of District 5
23 that block out of non-reservation land that is in District 5
24 that encompasses the Fountain Hills area?

25 And then trade that off with area in the far east

1 portion of District 4 until they balance out.

2 WILLIE DESMOND: Yes.

3 Any other criteria for that 6B?

4 CHAIRPERSON MATHIS: That's all for 6B,
5 Mr. Freeman?

6 VICE-CHAIR FREEMAN: Yes, Madam Chair.

7 CHAIRPERSON MATHIS: Okay.

8 Any other changes from Mr. Herrera on that one?

9 VICE-CHAIR HERRERA: No. I'm done. Fine.

10 CHAIRPERSON MATHIS: Okay.

11 VICE-CHAIR HERRERA: Thank you.

12 COMMISSIONER STERTZ: Madam Chair.

13 CHAIRPERSON MATHIS: Mr. Stertz.

14 COMMISSIONER STERTZ: Willie, would you please
15 describe the compactness analysis that you have on each one
16 of these?

17 WILLIE DESMOND: Sure. To be honest, I haven't
18 been looking at the relative compactness of how these have
19 been performing.

20 I've included it where possible.

21 Would you like me to compare it to one of the
22 earlier plans, or --

23 COMMISSIONER STERTZ: Just pick one and describe
24 what the -- with Reock, the perimeter, Polsby-Popper numbers
25 would be.

1 WILLIE DESMOND: Okay. For the Reock test, how
2 that works is it takes the district, and it attempts to --
3 and it draws a circle that wholly contains that district,
4 and it compares the area of that circle to the area of the
5 actual district.

6 So in theory a perfect district would be a circle.

7 So if you're drawing a circle around a circle, it
8 would fit in there 100 percent of the time.

9 So in this, in this measure, you're going from
10 zero to a one, is a perfect score, so that the higher it
11 matches, the higher, the more circular it is, the more
12 compact it is.

13 The perimeter is not a measure that can be used
14 individually, but when you take the combined perimeter of
15 all districts in a state and compare it to a different plan,
16 you can see that there's less perimeter, so it's more
17 compact, is the thinking there.

18 And then Polsby-Popper is, is a --

19 KENNETH STRASMA: Polsby-Popper takes the
20 perimeter of the district and stretches it out to form a
21 circle and it's a ratio of the area of the district to the
22 area of the stretched out circle using the same perimeter.

23 COMMISSIONER STERTZ: So, Madam Chair.

24 CHAIRPERSON MATHIS: Mr. Stertz.

25 COMMISSIONER STERTZ: Mr. Strasma, what is the --

1 if I'm understanding correctly, the closer to 100 percent on
2 a Reock would be ultimate.

3 WILLIE DESMOND: Correct. So the closer you are
4 to one on both Polsby-Popper and Reock, the more -- the
5 better it is, using those two measures.

6 COMMISSIONER STERTZ: Is it also correct to say
7 that on Reock and Polsby-Popper that the analysis for
8 compactness in both of those analyses, if I was going to
9 look at nine districts, that if nine districts were all
10 similar in compactness, that that would lead one to say that
11 there was similarity across the board for all nine, that
12 that would be a good thing?

13 WILLIE DESMOND: Yes. There are some weaknesses
14 with like Polsby Popper since it compares the perimeter of
15 each district.

16 Districts that are drawn on, you know, like a
17 mountain range or a river that's windy has a much larger
18 perimeter than districts that are on a straight county line,
19 so it performs worse under Polsby-Popper.

20 But, on the whole, I believe, and, Ken, you can
21 answer this also, that the, the more uniform the number
22 might suggest it, but. . .

23 KENNETH STRASMA: As discussed the closer to one
24 on both these Reock and Polsby-Popper, the more compact.

25 I'm not sure there's any consensus that similarity

1 of scores is necessarily a goal to work towards, but rather
2 than district by district if they're closer to one better.

3 And it may be a beauty is in the eye of the
4 beholder situation where, you know, do you prefer a plan
5 that has eight of the nine districts very close to one and
6 one a very poor score, as opposed to one, you know, where
7 the scores are more average.

8 I don't have an opinion. I don't believe there's
9 a consensus that similarity of scores is necessarily a goal
10 to work toward.

11 COMMISSIONER STERTZ: Then, Madam Chair, as a
12 follow-up to that, on perimeter, you had said that the goal
13 would be to have a lower cumulative number was preferred.

14 WILLIE DESMOND: That's the common, yeah.
15 That the total of the perimeters, the lower the
16 better.

17 COMMISSIONER STERTZ: So as going back to the
18 analysis of commonality between districts and compactness by
19 Reock or Popper-Polsby -- or Polsby-Popper, the -- if you
20 had some that were .25 and some that were .75, having a lot
21 of disparity between them, would that be considered
22 something that -- in other words, you've got a few that are
23 very close to being at 100 percent, and some that are very
24 weak. Would it be the intent to try to get more towards the
25 mean? Is there a design that within the analysis of

1 compactness, solely on compactness.

2 KENNETH STRASMA: I -- Commissioner Stertz, I'm
3 not sure how to answer that question.

4 District by district, it's easy to say that under
5 those measures the closer to one the better.

6 It's often the case that the more you maximize
7 compactness with one district, the more you harm it with
8 others.

9 Especially, both of these are based on the concept
10 of the circle being the ideally compact shape, and obviously
11 you can't stack circles together without having missing
12 spaces.

13 So there's two, two possibilities that are in
14 opposition.

15 One is very compact districts at the expense of
16 less compact districts elsewhere.

17 And the other is closer to an average compactness
18 across the board.

19 I don't think it's necessarily clear which one of
20 those is preferable.

21 VICE-CHAIR HERRERA: Madam Chair.

22 CHAIRPERSON MATHIS: Mr. Herrera.

23 VICE-CHAIR HERRERA: I don't think as a Commission
24 we decided anything.

25 What we're trying to do, you have to first honor

1 the Voting Rights Act and equal population, and then you
2 have to consider, you know, keeping the Native American
3 tribes, what that will create is, is, is going to skew
4 compactness.

5 Is that correct, Mr. Strasma?

6 When you start putting all those criteria into
7 account, and also competitiveness, which is an important
8 criteria, that will affect compactness.

9 KENNETH STRASMA: Definitely,
10 Commissioner Herrera, that the various criteria are often in
11 conflict and end up being sacrificed in pursuit of each
12 other.

13 And as Mr. Desmond pointed out, especially with
14 Polsby-Popper, the criteria of respecting political
15 boundaries, when they follow natural boundaries, that's
16 going to lead to the more jagged boundaries having a larger
17 total perimeter.

18 VICE-CHAIR HERRERA: So as we take public comments
19 into account when we're drawing this, which I think we
20 should, and when we take, for example, the river district,
21 so looking at the map, how river district -- what is the
22 compactness score of four.

23 So the compactness score, just on Polsby-Popper,
24 is pretty low at .17.

25 But, again, when we designed this, when we took

1 that into account, the way we were creating it, it was
2 public comments that we were taking into account,
3 communities of interest that we're taking into account.

4 So, yes, that's going to affect the compactness.

5 We as a group need to settle does compactness
6 trump competitiveness, does it trump communities of
7 interest, does it trump, you know, the public comments that
8 people for those communities that they make and how they
9 want their district to look like.

10 So, compactness didn't really come into play for
11 me really because I was more focused on focusing on the
12 public comments and what they were wanting from us.

13 And then obviously Voting Rights Act first, and
14 then competitiveness.

15 So something has to give unfortunately.

16 COMMISSIONER STERTZ: Madam Chair.

17 CHAIRPERSON MATHIS: Mr. Stertz.

18 COMMISSIONER STERTZ: Commissioner Herrera, I
19 completely understand in a state like Arizona which is rural
20 and urban and large tracts.

21 The one thing that I'm finding very positive is
22 that I think that the comments that you received from
23 Tri-Valley News giving a positive feedback on respecting the
24 river district were terrific, because of the three what-if
25 scenarios, all of them have a full and complete river

1 district.

2 Which is very --

3 VICE-CHAIR HERRERA: Sure.

4 COMMISSIONER STERTZ: -- very good and positive.

5 So I think that from all of the analysis of our
6 what-ifs, we're all going in the same, in the same
7 direction.

8 VICE-CHAIR HERRERA: Quick correction.

9 I think they were pretty explicit on which ones
10 they were commenting and praising.

11 It was the river district version four. They were
12 focusing solely on that one.

13 Now, I know that the other, that the other what-if
14 scenarios had a river district, but they focused mainly on
15 the one that Commissioner McNulty recommended and myself.

16 So that's a fact based on what I've read.

17 COMMISSIONER STERTZ: Oh, and I did too. And that
18 was terrific to get that sort of feedback.

19 VICE-CHAIR HERRERA: And I don't mind praising
20 myself once in a while.

21 COMMISSIONER STERTZ: One of the six criteria that
22 we have is geographically compact and contiguous to the
23 extent practical, so we do have to take it -- after
24 Voters Rights Act and equal population, we do have to take
25 it into account.

1 So what I'm trying to do is, as we're still at the
2 macro level, try to get an understanding of how you are --
3 what these compactness tests are and what the meaning of
4 them are.

5 And, again, the good news is in the three what-if
6 scenarios that we're reviewing that both in the river
7 District 5, the river District 4, the three border
8 districts, and the whole counties version 4B, all have
9 almost a similar, an identical compactness analysis for
10 those -- for that district that you were referring to.

11 So, thank you.

12 COMMISSIONER McNULTY: Could I ask a kind of
13 off-the-wall question?

14 Is it easier to do compactness in Maryland?

15 KENNETH STRASMA: Yes, Commissioner McNulty.
16 It's -- compactness is easier anywhere where the population
17 is more evenly distributed. And so Arizona has the wild
18 swings in population density that do definitely make it
19 challenging.

20 VICE-CHAIR HERRERA: Madam Chair.

21 CHAIRPERSON MATHIS: Mr. Herrera.

22 VICE-CHAIR HERRERA: I think going forward when we
23 start getting -- drilling down and getting a little more
24 detail, that this Commission will have to decide, and I -- I
25 understand how Commissioner Stertz mentioned the Voting

1 Rights Act and mentioned compactness. But, as I said
2 before, they're not listed in order of importance with the
3 exemption of the Voting Rights Act, and it's one of the ones
4 that are constitutionally mandated -- excuse me, federal
5 requirements.

6 For the other ones that are state level, it's
7 really up to the Commission to decide which ones they will
8 grant, either weigh them as more important.

9 And, so that's still an issue that we as a
10 Commission decide going forward.

11 I don't think it's been decided now, but as I said
12 from the beginning, that I weigh competitiveness more so
13 than I do the other three criteria.

14 Because of that, the wording where it says as long
15 as it's not a substantial -- the word substantial is, is an
16 important word. And I think that the -- we need to weigh
17 that and we need to consider that when we're looking at the
18 other criteria.

19 CHAIRPERSON MATHIS: Okay. Any other comments?

20 (No oral response.)

21 CHAIRPERSON MATHIS: Mr. Freeman.

22 VICE-CHAIR FREEMAN: Madam Chair, may I just
23 comment that the word substantial detriment is not a license
24 to ignore the other constitutional criteria.

25 We need to consider all of them. We're required

1 to make judgment on all of them.

2 We need to look at those first five and then
3 determine whether we can then favor competitive districts to
4 the extent that they don't have a -- creating them would
5 create a substantial detriment to the other five.

6 VICE-CHAIR HERRERA: Madam Chair.

7 CHAIRPERSON MATHIS: Mr. Herrera.

8 VICE-CHAIR HERRERA: I don't think I -- I think
9 Commissioner Freeman misunderstand me or not heard me.

10 I don't think I said ignore, again, for the
11 record.

12 I do think that substantial detriment is really --
13 that that's a key phrase.

14 And, again, it doesn't say ignore the other ones,
15 but as long as it doesn't cause substantial detriment to the
16 others.

17 And, again, I never said ignore.

18 VICE-CHAIR FREEMAN: Madam Chair.

19 CHAIRPERSON MATHIS: Mr. Freeman.

20 VICE-CHAIR FREEMAN: Madam Chair.

21 CHAIRPERSON MATHIS: Mr. Freeman.

22 VICE-CHAIR FREEMAN: I was listening, and I heard
23 Commissioner Herrera say he favored it above the other
24 criteria. And that's not what the law says. The Arizona
25 Supreme Court said constitutional provisions mean what they

1 say.

2 We can make comments on them. And we need to
3 determine whether there's going to be a substantial
4 detriment to the other goals, and we need to draw districts
5 to satisfy those goals and evaluate whether we have other
6 options that would favor competitive districts without
7 causing a substantial detriment to the other five goals.

8 VICE-CHAIR HERRERA: Commissioner, one more
9 comment and then --

10 CHAIRPERSON MATHIS: Mr. Herrera.

11 VICE-CHAIR HERRERA: The appellate court was
12 pretty clear that they gave us -- that they gave this
13 Commission a lot of leeway in terms of which, which
14 constitutional criteria will take precedence.

15 Now, I read it differently than
16 Commissioner Freeman, that I really do believe that, that
17 competitiveness is an important criteria, that is
18 probably -- you can argue that it's probably more
19 important -- as long as it doesn't cause substantial
20 detriment to the others ones, that it is important, that it
21 is more.

22 But, again, I never said ignore. But I do, I
23 do -- eventually we're going to have to weigh some of them
24 more than others, because they do conflict with each other
25 somewhat.

1 So we need to eventually decide, okay, when we're,
2 for example, drawing these maps on -- and you look at
3 District No. 4.

4 Congressional District No. 4 has a low
5 Polsby-Popper score, a compactness score, but, again, it
6 meets, it meets the criteria that we're talking about when
7 we're taking public -- communities of interest into account
8 and public comments into account.

9 So, again, something is going to have to give.

10 And I think we need to decide as a Commission,
11 okay -- I don't know if we take it district by district. I
12 don't know how we're going to end up doing this. But we do
13 have to decide, okay, what's good for particular districts,
14 maybe for the whole map, which ones that will -- which of
15 the criteria will have more weight than the other -- than
16 the others, so -- and I'll finish with that.

17 VICE-CHAIR FREEMAN: Madam Chair.

18 CHAIRPERSON MATHIS: Mr. Freeman.

19 VICE-CHAIR FREEMAN: The Arizona Supreme Court was
20 clear. And what it said is the constitutional criteria
21 means what they say -- mean what it says, and it does not
22 rank competitive districts ahead of any other criteria.

23 In fact, it says the constitution says that we are
24 to favor those districts to the extent they do not cause a
25 substantial detriment to the other goals.

1 VICE-CHAIR HERRERA: Actually let me say one more
2 thing.

3 You know, I find it interesting that Republicans
4 always talk about competitive and how important it is in
5 business, but when it comes to redistricting, and it's not
6 important anymore. It's the last criteria.

7 So I feel like, I feel like I'm more of a
8 conservative than the Republicans, than some of my fellow
9 commissioners.

10 So I don't know if it's a positive or a negative,
11 but I feel that I'm truly the conservative and they want
12 competition.

13 And Republicans always talk about competition.
14 The only, the only time they don't talk about competition or
15 they don't care about it is when they're in power.

16 So I find that odd and somewhat disturbing.

17 COMMISSIONER STERTZ: Madam Chair.

18 CHAIRPERSON MATHIS: Mr. Stertz.

19 COMMISSIONER STERTZ: One, I think we should move
20 on.

21 But before we do that, we've got a constitutional
22 requirement to follow the constitutional language as
23 written, fortified by the Supreme Court.

24 No, no, no more, no less.

25 So if we're going to keep drilling down on

1 competitiveness as having a higher level, as
2 Commissioner Herrera continues to repeat, we have -- we're
3 going to go through a lot of arguments about this.

4 Because it is not -- it's clearly not what we've
5 been constitutionally mandated to do. So. . .

6 CHAIRPERSON MATHIS: Okay.

7 Thank you.

8 And, Ms. McNulty.

9 COMMISSIONER McNULTY: I'd hate to let this end
10 without making my own comment.

11 I think everything's going to have to give. And
12 it's a very fluid process.

13 And the job that we have ahead is to meld all six
14 of these together. Clearly we have to satisfy the Voting
15 Rights Act and we want to do that.

16 And we need to satisfy the equal population
17 requirements, and we want to do that.

18 And then we have four other criteria. And my own
19 perspective is that I'm going to be analyzing all four as we
20 look at each different area, and I'm going to be factoring
21 them all in the way the constitution describes them, which
22 says to the extent practicable we factor each in and we
23 favor competitiveness to the extent practicable so long as
24 it doesn't substantially deter the others.

25 So I'm going to be thinking about all of those as

1 we look at each of these areas, and I expect we'll each make
2 all our inner -- our own decisions about each one as we, as
3 we try and pull together a map that works.

4 CHAIRPERSON MATHIS: Thank you.

5 Mr. Freeman, did you have something?

6 VICE-CHAIR FREEMAN: Madam Chair.

7 CHAIRPERSON MATHIS: Mr. Freeman.

8 VICE-CHAIR FREEMAN: Commissioner Herrera is now
9 saying that he's more of a conservative.

10 I thought he said he's stop flattering himself.
11 That's great.

12 The Supreme Court said that the constitution means
13 what it says. The Commission needs to make findings on all
14 six criteria, and that competitive districts are to be
15 favored to the extent they do not cause a substantial
16 detriment to the other five goals.

17 CHAIRPERSON MATHIS: Mr. Freeman, I'm sorry, can
18 you repeat some of that? Marty had a hard time hearing
19 that.

20 VICE-CHAIR FREEMAN: The Supreme Court meant what
21 it said. The Supreme Court stated -- Arizona Supreme Court
22 stated that the Arizona Constitution means what it says.
23 And this Commission is required to make findings on all six
24 criteria, and competitive districts are to be favored to the
25 extent they don't cause a substantial detriment to the other

1 five goals.

2 Thank you.

3 CHAIRPERSON MATHIS: Thank you.

4 Okay.

5 I agree with Mr. Stertz that I think we should
6 move on to the next congressional map.

7 Was there any other item for the river district
8 before we move on?

9 (No oral response.)

10 CHAIRPERSON MATHIS: Okay. So you have your
11 marching orders, Mr. Desmond, on that one.

12 WILLIE DESMOND: Yes, I do.

13 CHAIRPERSON MATHIS: Okay. How about we go to the
14 border districts?

15 WILLIE DESMOND: Okay.

16 So next we'll be looking at the what-if scenario
17 three border district version number two.

18 While this is loading, the criteria for this
19 adjustment was to keep Santa Cruz County whole. Which we
20 were able to do.

21 And also to make District No. 2, which reaches up
22 into Maricopa, look a little bit more like it's compact.

23 I think we were able to accomplish that.

24 Commissioner Stertz, were there particular areas
25 right away that you wanted to look at?

1 COMMISSIONER STERTZ: Well -- Madam Chair.

2 CHAIRPERSON MATHIS: Mr. Stertz.

3 COMMISSIONER STERTZ: What I found very
4 illuminating was actually dropping these maps onto Google
5 maps.

6 Because I was able to see neighborhoods,
7 geographic features, highways.

8 And what I found out of that review is that there
9 was a, there was a lot of micro-adjustments that I could
10 make, but a lot of macro-positiveness about these -- this
11 map that you created.

12 Some general points are that we are -- that,
13 again, going back to the criteria. I'm trying not to drill
14 back to the six points that we're going to review, but we
15 have to -- we do have to realize that one of the things that
16 we do not want to overlook is geographic features, city,
17 town, and county boundaries and undivided census tracts.

18 That when I look at this map, I'm looking at ten
19 undivided counties.

20 When I drill down to the Google maps and actually
21 saw the city boundaries, we were not breaking our southeast
22 valley, Maricopa County cities into two or three
23 congressional districts.

24 They were held pretty contained for their size.

25 For example, I'm still seeing that the town of

1 Gilbert on the previous map, I believe, is still broken up
2 into -- Mesa is broken up into three congressional
3 districts.

4 Gilbert with 185,000 people is broken up into
5 three congressional districts.

6 Those, those are going to not meet the -- some of
7 the tests.

8 I mean, again, we're not, we're not speaking about
9 the Voters Rights Act issues and those districts. We're
10 speaking clearly to the other five criteria.

11 And you're meeting those in population of course,
12 plus or minus less than one tenth or one point --
13 .14 percent is your worst-case scenario.

14 And your perimeter, perimeter compactness is very
15 tight.

16 Which I also believe that we're on the right track
17 with that.

18 So I guess as I'm moving forward in doing
19 analysis, I'm looking at all of these maps that were the
20 last go-around, the river district, the last county map, and
21 three border districts.

22 There -- each one of them have got some positive
23 and negative components. But since this was the map I was
24 going to introduce, I've got the floor on this one.

25 I'd like to try to drill down from the macro to

1 the micro, not as we're looking at neighborhoods, we're
2 looking at streets, we're looking at cities, we're looking
3 at transportation corridors and then start to overlay
4 communities of interest.

5 From my perspective for the macro today, moving
6 lines and picking up small neighborhoods is not, is not a
7 relevant concern. I'm looking more at the macro pieces of
8 that.

9 And am I not interrupting counties, am I not
10 splitting cities into -- small cities into three
11 different congressional districts. Am I, am I keeping
12 the main framework of the constitutional requirements in
13 play.

14 And the answer with this version is that, yes,
15 I've got -- in this particular map we're meeting
16 compactness, we're meeting, we're meeting undivided census
17 tracts, county boundaries, cities not being split.

18 I'm not sure what sort of micro level direction
19 that you'd want to see from us or from this Commission right
20 now on this.

21 Because the river district, there, there -- the
22 Commissioners Herrera and McNulty are drilling down on the
23 street level and the block level and making adjustments
24 based on that.

25 In this case we've got a map that we've got

1 continuity and we're not splitting any -- we're not
2 splitting any Native American tribal lands; correct?

3 All of them are in -- that we're not splitting
4 them into two different congressional districts.

5 We're not loading an urban area, for example, a
6 District 5, which is truly urban -- a part of the urban
7 community is not attached to extraordinarily rural. It is
8 representative of an urban district.

9 Santa Cruz County maintains, for the first time,
10 maintains it's wholeness as part of District 2.

11 And it appears as though, if I'm not -- if I'm
12 reading my map right, that we've got a -- we're meeting the
13 voting age Hispanic population benchmarks. We're a little
14 low in one, but we're exceeding in the other.

15 But we've also increased in a couple of the
16 districts higher than were previously held.

17 So, it appears like that there's a lot of this
18 piece.

19 And, again, not, not saying anything about what
20 Tri-Valley had set up in Bullhead about the river district
21 map, but I believe the river district is the river district.
22 That's the area that is along the river.

23 So the fact that we're able to connect the entire
24 river together, and connect all of those counties together,
25 meets I believe what -- and I've watched people at public

1 hearing, I'm looking forward to being up there and hearing
2 their comments on this as well.

3 So, what sort of micro would you like to see at
4 this point?

5 WILLIE DESMOND: I mean, it's 100 percent up to
6 you.

7 I can --

8 COMMISSIONER STERTZ: Well, I mean, our goal is
9 that, is that your -- part of your criteria is to assist us
10 in making sure that we are meeting the criteria, the six
11 criteria.

12 Go ahead, sir.

13 KENNETH STRASMA: So, Commissioner Stertz, if I
14 might suggest not necessarily changes, but for the next
15 go-around on this, that we provide you some additional
16 information in the form of splits reports, that the things
17 you looked at in terms of counties and on Google about split
18 cities, that that might be the next level of analysis to
19 look at the number of maps that we should split how many
20 different ways. And then based on those numbers you may
21 wish to suggest attempts to minimize those splits.

22 COMMISSIONER STERTZ: Thank you, Mr. Strasma.

23 Madam Chair, I think that's exactly where, as we
24 start drilling down from the macro to the micro, I look at
25 the communities of interest as drilling on the street level

1 out.

2 And that's going to be moving from area to area as
3 trying to make sure that connectivity is working.

4 But we really have got to meet some macro
5 criteria. And knowing if we've got a lot of cities that are
6 split in two, or cities that are split into three counties,
7 I think that's important to know as far as data tracking
8 right now.

9 So I think your recommendations are right on.

10 WILLIE DESMOND: And I guess if you're looking for
11 a possible next step with this one, in a little while we're
12 presenting the legislative maps where we tried to respect
13 city boundaries, that's -- you know, we're going to go
14 through that.

15 But that's something that we can definitely do for
16 here is to start trying to tweak lines just to include whole
17 municipalities together and split them as little as
18 possible.

19 COMMISSIONER STERTZ: Madam Chair, I guess I make
20 that recommendation as we move forward as to all of the grid
21 what-ifs, as we start to look at them, that those data
22 points would be important to know.

23 So that we'll know on river district map 5A and B,
24 or whichever they're going to be coming forward, yes, we've
25 got -- not only are we dealing with compactness and

1 competitiveness and -- but we're also looking at how many
2 counties we have that are contained, how many census tracts
3 are contained, how many cities are split, so on and so
4 forth.

5 Thank you.

6 WILLIE DESMOND: And just a point of clarification
7 for anyone watching on the live stream or here, the Google
8 files he's talking about are available on the website. They
9 are the KMZ files. If you click on those, you'll look at
10 Google Earth.

11 CHAIRPERSON MATHIS: Thank you.

12 Okay. Anything else on three border districts?

13 VICE-CHAIR HERRERA: Madam Chair.

14 CHAIRPERSON MATHIS: Mr. Herrera.

15 VICE-CHAIR HERRERA: If Commissioner Stertz wants
16 some recommendation, I'm happy to help him.

17 COMMISSIONER STERTZ: Thank you.

18 VICE-CHAIR HERRERA: I'm here to help.

19 CHAIRPERSON MATHIS: Okay.

20 Mr. Freeman, I think the other map is the one --
21 is that the one that Mr. Freeman gave some direction on to
22 Mr. Bladine who gave it to you?

23 WILLIE DESMOND: There's actually two of the whole
24 counties maps.

25 CHAIRPERSON MATHIS: Okay.

1 WILLIE DESMOND: One was version number B was the
2 one you just referenced.

3 And number A was some general changes we discussed
4 at the last meeting.

5 CHAIRPERSON MATHIS: And, Mr. Freeman, I'm happy
6 to proceed however you'd like, if you would like to walk
7 through this or if you'd rather do this when you're in
8 person.

9 VICE-CHAIR FREEMAN: I think the whole counties
10 map version count A, I can only pull up the screen shot on
11 my computer here, was the one that commissioner -- the
12 modification that Commissioner Stertz had, I might have them
13 switched, but that Commissioner Stertz had asked for to take
14 the last version of the whole counties map and take one of
15 the congressional -- the proposed districts down to the
16 border.

17 I think that's what-if congressional whole
18 counties 4A.

19 WILLIE DESMOND: That's correct.

20 COMMISSIONER STERTZ: Madam Chair.

21 CHAIRPERSON MATHIS: Mr. Stertz.

22 COMMISSIONER STERTZ: You do not have on the 4A
23 your compactness or competitiveness chart?

24 WILLIE DESMOND: I apologize for that.

25 I did not, I did not include that when I initially

1 generated this one.

2 It was a little bit of a rush to get these all
3 ready. I just didn't have a chance to do that.

4 I can make sure that that is amended on the
5 website, and I can provide you guys with copies of that at
6 tomorrow's meeting or on Monday's.

7 But that is something that we're able to do.

8 Going forward, we'll attempt to always have those.
9 But just not on this one.

10 VICE-CHAIR HERRERA: Madam Chair.

11 CHAIRPERSON MATHIS: Mr. Herrera.

12 VICE-CHAIR HERRERA: Can you explain the
13 Pai tribes? Are they included in District 5 or 4 that? I'm
14 having a difficult time reading the map.

15 CHAIRPERSON MATHIS: Which version?

16 VICE-CHAIR HERRERA: 4A.

17 WILLIE DESMOND: They are included in District 5.

18 VICE-CHAIR HERRERA: Okay.

19 WILLIE DESMOND: If the shading is a little off,
20 that's probably what you're, what you're seeing.

21 VICE-CHAIR HERRERA: I see some similarities
22 between whole counties version 4A and the river district
23 version five, so. . .

24 WILLIE DESMOND: Oh, just to clarify, or to go
25 through this one, the main criteria for change on this one

1 was just to include all of Santa Cruz into District No. 2, I
2 believe.

3 If you bear with me for one second. I'll go back
4 and look at my notes and tell you.

5 Okay. So, so the changes that Commissioner Stertz
6 asked for last time were to move all of Yuma into
7 District No. 3.

8 Initially it had been the line that we took from
9 the Hispanic Coalition for Good Government map that kind of
10 split Yuma in half.

11 Commissioner Stertz asked that all of Yuma was
12 added to this district.

13 And then also that District No. 2 be extended down
14 to include all of Santa Cruz County, if possible. If that
15 wasn't possible, to include all of Santa Cruz County in
16 District No. 3.

17 But at any rate to keep all of Santa Cruz County
18 together.

19 So I do believe the only real splits here that
20 aren't necessitated by tribal lands are Pinal, Pima, and
21 Maricopa County.

22 There are, you know, there are the splits in
23 Mohave for the Havasupai tribes and Graham also.

24 Are there specific questions about this?

25 I could run the compactness report right now if

1 that's something that -- that doesn't take long to look at
2 competitiveness.

3 If not, there is one other thing that I forgot to
4 mention, and is -- I apologize it's not on the website yet
5 but it will be up there shortly. We did produce a
6 population density map. You had asked for some reference
7 maps. We're in the process of also doing a population
8 change map.

9 It's a large format poster, but it's going to be a
10 very large JPEG file that you can open up and you'll be able
11 to drill down a little bit.

12 It's available in this room. It's hanging up in
13 the back wall. So for once, not available online, but it is
14 available here.

15 But that will be available later.

16 I could open that up if you guys would be
17 interested in seeing some of the population density in the
18 state, or else you can just reference it if you're curious.

19 CHAIRPERSON MATHIS: Any direction there? Can we
20 reference that and maybe talk about some other stuff?

21 And, Mr. Freeman, I don't mean to be neglecting
22 you.

23 VICE-CHAIR FREEMAN: You're not, Madam Chair.

24 CHAIRPERSON MATHIS: Okay.

25 So I have kind of a crazy scenario that I'm

1 wondering if we could generate another what-if.

2 And that would be melding version 6A and B, so
3 there would be two versions of 6A and 6B from the river
4 district and then the three border districts into one map.

5 And if you can, of course, strive to keep tribes
6 and counties whole.

7 WILLIE DESMOND: Okay. Yeah, that's certainly
8 something that we can take a look at.

9 I'm not sure that I'll be able to have that for
10 tomorrow.

11 CHAIRPERSON MATHIS: That's fine.

12 WILLIE DESMOND: But for Monday.

13 CHAIRPERSON MATHIS: Sure.

14 Okay.

15 Anything else on congressional that we want to
16 talk about before we move to legislative?

17 VICE-CHAIR FREEMAN: Madam Chair.

18 CHAIRPERSON MATHIS: Mr. Freeman.

19 VICE-CHAIR FREEMAN: Just by way of explanation,
20 the what-if whole counties version 4B, which was taken from
21 version three, and I gave some instructions to modify that
22 map, what my intent was really to work around urban
23 Maricopa County to see if we could construct four
24 congressional districts, and maximizing just by county
25 lines, Indian reservation land, and Minority Coalition's

1 minority-majority districts.

2 And essentially effectively not worry about the
3 urban congressional districts in the Phoenix area.

4 So what I'd like to do is, because I've only had a
5 screen shot of it now, is just to come back perhaps tomorrow
6 on that version so we can move on.

7 CHAIRPERSON MATHIS: Okay. That sounds good.

8 So we'll talk about 4B tomorrow when Mr. Freeman
9 is in the room.

10 Anything else on congressional?

11 (No oral response.)

12 CHAIRPERSON MATHIS: The time is 6:32 p.m. Do we
13 want to take a quick break?

14 VICE-CHAIR HERRERA: Yes, Madam Chair.

15 CHAIRPERSON MATHIS: A quick recess of
16 ten minutes.

17 So we'll exit out of -- we'll go into recess at
18 6:33 p.m.

19 (Brief recess taken.)

20 CHAIRPERSON MATHIS: The time is 6:43. We'll
21 enter back in -- or out of recess back into public session.

22 The next item on the agenda is the legislative
23 maps.

24 And this is item five on the agenda, review,
25 discussion and direction of mapping consultant regarding

1 ideas for possible adjustments to legislative grid map based
2 on constitutional criteria.

3 And, again, our mapping consultants had some
4 homework, and they did it.

5 And if you could maybe talk to us a little bit
6 about these new scenarios that you've created.

7 WILLIE DESMOND: Sure.

8 So just to refresh everyone.

9 The only real set of legislative what-if maps that
10 we've been working off of have been an initial set that
11 asked us just to reform the nine, the nine Voting Rights Act
12 districts, with the additional version that made sure not to
13 split any tribal lines.

14 Then there's this version which was attempting to,
15 when possible, keep towns and cities whole.

16 We'll go to that map.

17 VICE-CHAIR HERRERA: Madam Chair.

18 Did we find out which -- we have a couple
19 different ones. So is it -- which version are you looking
20 at?

21 WILLIE DESMOND: Okay. So there's option one and
22 two for the grid maps, which was initially just meant to
23 show that there's different ways of drawing these nine
24 Voting Rights Act districts.

25 So we'll start with option one, version number

1 three.

2 COMMISSIONER McNULTY: We don't have that.

3 WILLIE DESMOND: You don't have that one?

4 VICE-CHAIR HERRERA: I think I do.

5 COMMISSIONER McNULTY: Yes, we do.

6 WILLIE DESMOND: Okay.

7 I haven't specifically compared the compactness of
8 this version two to the previous one, but I'm willing to bet
9 it's less compact just because municipal boundaries don't
10 necessarily have perfectly straight lines. They don't look
11 like circles and squares.

12 There wasn't a terrible amount of split ones
13 anywhere but Maricopa County, and in the Tucson area, and
14 then just a little bit over in District 4 where it meets
15 District 14 and District 5.

16 But is there a specific area that you would like
17 me to look at?

18 I'm going to turn off the shading, so that it is
19 able to --

20 VICE-CHAIR HERRERA: Madam Chair.

21 CHAIRPERSON MATHIS: Mr. Herrera.

22 VICE-CHAIR HERRERA: Mr. Desmond, what I'd like to
23 do is -- I'm having some difficulty with the legislative
24 map.

25 Obviously it's a little more complex than the

1 congressional one.

2 To make it easier on me, if you don't mind
3 focusing on the majority-minority districts and the -- focus
4 on the ones in the Maricopa County area first, and then
5 Pima, and then the one in Yuma, and then the Native American
6 one.

7 WILLIE DESMOND: Okay.

8 VICE-CHAIR HERRERA: So what I want to do is
9 actually look at the border, just look at the surrounding
10 areas.

11 I want to get a good feel for what they look like
12 based on this version.

13 WILLIE DESMOND: Okay. We'll start with
14 District No. 19 then, which is the highest percentage
15 Hispanic.

16 So this district goes through Maricopa. It
17 include parts of Tolleson.

18 So the northern border needs to be Thomas Road,
19 West Thomas Road primarily.

20 It is a pretty square, square district. It hasn't
21 changed too much.

22 The eastern border is North 35th Avenue. And that
23 goes down to Baseline Road, turns all the way over to the
24 Gila River reservation area, kind of goes along the top
25 there.

1 There's no other terribly -- terribly clear
2 borders.

3 COMMISSIONER McNULTY: So, Mr. Desmond, is
4 Baseline Road the south border?

5 WILLIE DESMOND: Yes.

6 COMMISSIONER McNULTY: And the Gila reservation is
7 the west border.

8 WILLIE DESMOND: Gila reservation is like a bump
9 in the south border.

10 So this is District 19.

11 Then Gila border kind of interrupts Baseline Road.

12 COMMISSIONER McNULTY: What's the west? What is
13 on the west?

14 WILLIE DESMOND: The west is not any specific road
15 or any landmark like the other three.

16 Let me show you.

17 It's a little bit of Goodyear.

18 Northwestern border is Avondale Boulevard, halfway
19 south down until 85.

20 Which then. . .

21 COMMISSIONER McNULTY: A question for whoever
22 knows the answer.

23 Is this -- this is part of the -- is this within
24 the congressional district, the Phoenix area,
25 majority-minority congressional district?

1 WILLIE DESMOND: I don't know, to be honest.

2 COMMISSIONER McNULTY: Okay.

3 WILLIE DESMOND: I haven't totally looked.

4 VICE-CHAIR HERRERA: I think it is.

5 WILLIE DESMOND: Okay.

6 It's entirely possible, but I haven't looked at
7 that.

8 COMMISSIONER McNULTY: At some point will we be
9 able to do that fairly easily, to see how these legislative
10 districts compare to the congressional districts?

11 WILLIE DESMOND: Yeah, we can overlay the -- any
12 of the what-if CD maps right now.

13 COMMISSIONER McNULTY: Okay. Not right now. I
14 just was curious.

15 WILLIE DESMOND: Yeah, that's --

16 COMMISSIONER McNULTY: I was just commenting on
17 Mr. Herrera's comments.

18 VICE-CHAIR HERRERA: That's a -- Madam Chair.

19 CHAIRPERSON MATHIS: Mr. Herrera.

20 VICE-CHAIR HERRERA: That's a question about what
21 I would like to see that eventually. Because I think
22 looking at the what-if scenarios for the congressional
23 districts and then looking at the legislative what-if
24 scenarios.

25 And if, for example, if Commissioner McNulty is

1 coming up with one map that she is, you know, liking or
2 she likes, what the congressional districts, I think it
3 would probably be somewhat helpful if, if you look at
4 river district and say, okay, can you make congressional
5 districts -- excuse me, legislative districts using the
6 congressional map. And start dividing some of the
7 legislative districts out of the congressional map.

8 Does that make sense?

9 WILLIE DESMOND: That does make sense.

10 VICE-CHAIR HERRERA: I think -- again, I don't
11 know that that's where she's going, but I think that would
12 be extremely helpful.

13 So, for example, Commissioner McNulty made some
14 changes to four.

15 So now there's going to be -- there's going to
16 probably be a version five of the river district.

17 And I would like to see, as a what-if scenario,
18 legislative districts drawn out of that map.

19 WILLIE DESMOND: Okay.

20 That, you know, since there is 30 legislative
21 districts, they won't nest evenly within the nine.

22 VICE-CHAIR HERRERA: No, and I understand that.

23 WILLIE DESMOND: I guess the best way that I
24 imagine to look at that going forward would be almost to
25 consider the congressional districts as a community of

1 interest, have it as a criteria where it shouldn't split
2 those if possible.

3 Does that make sense? Or. . .

4 COMMISSIONER McNULTY: That's not really what I
5 had in mind. I just had in mind that the, the attributes
6 that make a congressional district a majority-minority
7 district probably carry over into the legislative districts.

8 And I think probably the same thing is going to be
9 true with competitiveness. The same, you know, places where
10 we see the possibility to maximize that may be the same.

11 And I just really want to understand the geography
12 as we're pulling these together.

13 And also then think about not -- the districts as
14 communities of interest, but be able to think about
15 communities within the districts. Because if a community,
16 you know, exists within a congressional district it also
17 exists for purposes of a legislative district.

18 VICE-CHAIR HERRERA: Madam Chair.

19 CHAIRPERSON MATHIS: Mr. Herrera.

20 VICE-CHAIR HERRERA: So, I apologize.

21 I read Commissioner McNulty incorrectly, so I was
22 going to pat myself on the back again thinking that I had
23 read her correctly.

24 So, but I still want to see a map based on
25 congressional that, you know, the river district. So I

1 think you made a suggestion that I like.

2 Hopefully that kind of gives you some direction.

3 WILLIE DESMOND: Okay.

4 COMMISSIONER McNULTY: And I'll pat you on the
5 back.

6 You didn't really misread me. I just don't think
7 of these big districts as communities of interest. I think
8 of those as specific locales with people that share common
9 heritage. And there may be several of them in a district,
10 but to me that's a very different concept.

11 VICE-CHAIR HERRERA: Madam Chair.

12 CHAIRPERSON MATHIS: Mr. Herrera.

13 VICE-CHAIR HERRERA: This is for
14 Commissioner Freeman. This will be the last time I pat
15 myself on the back.

16 CHAIRPERSON MATHIS: Thank you.

17 All right.

18 So any other -- so we have version four option one
19 that we just talked about.

20 What's option two? Refresh my memory.

21 WILLIE DESMOND: So, initially, in order to kind
22 of emphasize the point that the nine voting rights districts
23 could be drawn from different areas in different ways, we
24 just started with, with two parallel, parallel maps.

25 As we've gone forward, we've, we've -- every time

1 a new change has been made, we've done it to both just to
2 kind of keep those going.

3 You will notice though that option one version
4 four is available today.

5 I haven't yet had a chance to complete option two
6 version four.

7 Option one version four is not on the website.

8 The -- all the files aren't quite ready yet
9 either.

10 I just included it, I guess, in the, the
11 possibility that we got through everything else really
12 quickly and had wanted to kind of get going a little bit
13 more.

14 So that's why it's here.

15 But tomorrow I think I'll be able to have both of
16 those legislative option number four.

17 And those were -- or version number four.

18 Those were changes that Commissioner McNulty had
19 asked regarding keeping Prescott, Prescott Valley together,
20 moving parts of Winslow over to a certain district. Some of
21 those considerations.

22 So I'll have, I'll have those versions done
23 tomorrow.

24 And then if you guys had any other what-ifs you'd
25 like to see, you can, you know, base it off of the most

1 recent version or you could say, you know, can we go back to
2 option number two and then change it like this to make, I
3 guess, like a version number 3B or 3C, so, you know,
4 branching out that way.

5 I apologize if this is a little confusing, but I
6 think that's the track we've been going down.

7 CHAIRPERSON MATHIS: Thank you.

8 COMMISSIONER STERTZ: Madam Chair.

9 CHAIRPERSON MATHIS: Mr. Stertz.

10 COMMISSIONER STERTZ: Willie, do we have -- are
11 these, option one version four, option one version three,
12 option two version three, are these online in Google maps
13 now?

14 WILLIE DESMOND: The option one and two version
15 three are online.

16 COMMISSIONER STERTZ: Okay.

17 WILLIE DESMOND: Option one version four is not.

18 COMMISSIONER STERTZ: Okay.

19 WILLIE DESMOND: And, Buck, can I just confirm are
20 the Google maps up yet?

21 Or -- I know that was the last piece.

22 BUCK FORST: Yeah, so I'm still tweaking Google
23 maps, so give me a little while.

24 WILLIE DESMOND: The -- like the -- these layouts,
25 the data tables are all available.

1 The Google maps will be up very shortly if they're
2 not, so. . .

3 The block equivalency files, the Maptitude plan,
4 the shapefiles are all available.

5 COMMISSIONER STERTZ: Thank you.

6 CHAIRPERSON MATHIS: Then we have this other
7 legislative grid map what-if scenario, the no split Indian
8 reservations.

9 WILLIE DESMOND: I believe that's an old one
10 that's already been presented. That's one of the ones I put
11 at the back.

12 CHAIRPERSON MATHIS: Okay.

13 COMMISSIONER STERTZ: Madam Chair.

14 CHAIRPERSON MATHIS: Mr. Stertz.

15 COMMISSIONER STERTZ: Just as a recommendation, it
16 would be great if you would date these.

17 WILLIE DESMOND: That's something I will do going
18 forward. I apologize.

19 COMMISSIONER STERTZ: Thanks.

20 WILLIE DESMOND: We'll make sure we get that.

21 COMMISSIONER McNULTY: Madam Chair, I would ask
22 also on this set of maps that you start looking at the
23 notion of how we're going to build competitiveness into
24 these districts. Maybe keying off what we learned as we try
25 and do that in the congressional districts, where we have

1 places in the state where we can favor competitiveness, so
2 that we can now look at that in relation to the other
3 criteria.

4 We've, I think, been told that we should be able
5 to find a number of competitive districts. I'm kind of
6 hoping that we can find eight to ten, and I'd like to start
7 considering that.

8 WILLIE DESMOND: Okay.

9 CHAIRPERSON MATHIS: Any other comments?

10 Mr. Freeman, anything on legislative maps from you
11 that you want to say today?

12 VICE-CHAIR FREEMAN: Madam Chair, nothing, just
13 that when we post them on the website, I think it's already
14 been discussed that we'll be real clear on what versions.

15 Because I'm looking at the website now and I'm
16 actually confused as to what -- which version we were
17 looking at today.

18 So I think, what I understood, is that some of
19 the versions had not been posted yet, and we're going to
20 get them clearly delineated on the website, perhaps even
21 notated with a date as well, so we can keep these versions
22 straight.

23 Thanks.

24 CHAIRPERSON MATHIS: Thank you.

25 Anything else on legislative grid maps that we

1 want to talk about today?

2 COMMISSIONER STERTZ: Madam Chair.

3 CHAIRPERSON MATHIS: Mr. Stertz.

4 COMMISSIONER STERTZ: Again, Willie, if the same
5 sort of tracking data that we're going to need to look at,
6 splits, city splits, county splits, areas -- you know,
7 before we start getting into communities of interest and
8 start to, start to grow all the binder information that
9 we've been -- that I've been reading through, to make
10 application on the micro level, let's get the macro stuff.

11 So the more factual chart data that you can pull
12 together, the better.

13 WILLIE DESMOND: Okay.

14 COMMISSIONER STERTZ: Thanks.

15 CHAIRPERSON MATHIS: Mr. Herrera.

16 VICE-CHAIR HERRERA: Madam Chair, just to make
17 sure that Mr. Desmond has enough information to -- I want to
18 make sure that you have enough to go with to create that
19 river district for the legislative set.

20 WILLIE DESMOND: So, I guess if you want to lay
21 out those criteria a little bit further, maybe I should
22 start with saying what my plans were for redistricting and
23 tell me if that matches what you were thinking.

24 VICE-CHAIR HERRERA: Okay.

25 WILLIE DESMOND: Going back to my notes.

1 For the river district, the next version I'll use
2 will include south Scottsdale into Congressional District 6,
3 possibly using Camelback as the border of what makes south
4 Scottsdale, but keeping that kind of fluid.

5 We moved east Mesa using Mesa Drive from that
6 district.

7 And combining Fort McDowell and the Salt River
8 reservations with Congressional District 6.

9 Attempt to make Congressional District 5 more
10 rural by going into Pinal County.

11 Taking -- taking CD 5 out of the non-reservation
12 land -- oh, I'm sorry, this is Commissioner Freeman's.

13 Yes.

14 And then additionally doing a first pass at using
15 competitiveness as a criteria for shifting some of the
16 lines.

17 That's what I had.

18 And then I guess going into the ledge would just
19 be to where possible include some of the whole legislative
20 districts.

21 Is that correct?

22 VICE-CHAIR HERRERA: You know, when I was
23 envisioning the legislative districts, and I was looking at
24 the what-if scenario of the river district, and I was trying
25 to create legislative districts within those congressional

1 districts, it kind of being -- kind of looking -- making it
2 look similar to -- so, for example, you know, keeping
3 Flagstaff and Sedona and the Verde Valley area together,
4 very similar to what we have in the, in the river district
5 version.

6 Looking at the Yuma area, and having those high
7 minority population areas kind of together.

8 And then creating sort of a river district
9 without -- that doesn't take Yuma, southern Yuma into that
10 area.

11 Does that kind of --

12 WILLIE DESMOND: That makes sense.

13 So if I understand you, it will be creating a
14 legislative district version that attempts to kind of follow
15 some of the places where you enumerated splits that keeping
16 areas together, keeping them apart.

17 VICE-CHAIR HERRERA: Sure. Exactly what I want.

18 And I was looking and thinking, you know, I think
19 that's possible, so. . .

20 WILLIE DESMOND: And just to clarify, I'll
21 probably base that off of --

22 VICE-CHAIR HERRERA: Version five.

23 WILLIE DESMOND: -- of this version.

24 Well, the ledge will be changed off of version
25 three.

1 Correct?

2 And then I'll base that off of river district
3 five.

4 VICE-CHAIR HERRERA: River district five, yes.

5 But the other one, legislative district version,
6 which one were you looking at?

7 WILLIE DESMOND: The one we're talking about right
8 now.

9 VICE-CHAIR HERRERA: Option one?

10 WILLIE DESMOND: Well, I'll do option one and
11 option two but version three.

12 VICE-CHAIR HERRERA: I prefer option two to option
13 one.

14 WILLIE DESMOND: Just option one.

15 VICE-CHAIR HERRERA: Yeah. Actually I was looking
16 at both and I thought option one was a better option than
17 option two.

18 Then, you know what, never mind.

19 WILLIE DESMOND: I'm happy --

20 VICE-CHAIR HERRERA: No, go with your
21 recommendation.

22 WILLIE DESMOND: Okay.

23 VICE-CHAIR HERRERA: Thank you. That's it for me.

24 CHAIRPERSON MATHIS: Okay.

25 Anything else on legislative from anybody?

1 (No oral response.)

2 CHAIRPERSON MATHIS: Okay. And you have your
3 instruction. You know everything you need to know. Okay.

4 WILLIE DESMOND: I believe so.

5 And then, just to clarify, tomorrow we'll go over
6 option one and two, version four, and show the changes that
7 Commissioner McNulty had asked for the legislative.

8 We'll talk about Commissioner Freeman's version 4B
9 of the whole counties congressional district.

10 And the other kind of that we can tackle tonight
11 and tomorrow morning to get that ready for tomorrow.

12 And then you guys can obviously add more for
13 Monday morning too.

14 CHAIRPERSON MATHIS: Okay.

15 Sounds good?

16 VICE-CHAIR HERRERA: Sounds great.

17 CHAIRPERSON MATHIS: Okay.

18 Just trying to plan for the rest of this meeting.
19 It's 7:05 p.m., and there's still -- we're at agenda item
20 seven.

21 We're meeting tomorrow and Monday, so we have the
22 opportunity to have some flexibility here, because I have a
23 number of request to speak forms too.

24 So building that in, which will probably take a
25 half hour.

1 I'm wondering if we should table agenda item seven
2 until tomorrow.

3 And we just covered eight.

4 Nine is going to be quick.

5 We have our future meetings. It's just a matter
6 of any future agenda items anybody wants to have.

7 And then an update from counsel on the attorney
8 general inquiry.

9 VICE-CHAIR HERRERA: Madam Chair.

10 CHAIRPERSON MATHIS: Yes.

11 VICE-CHAIR HERRERA: Tomorrow's meeting is
12 scheduled to start at 3:00.

13 CHAIRPERSON MATHIS: Is that correct, 3:00 p.m.?
14 Okay.

15 VICE-CHAIR HERRERA: And has an end time of
16 9:00 p.m.

17 CHAIRPERSON MATHIS: Uh-hmm.

18 VICE-CHAIR HERRERA: So I, I just want to make
19 sure that -- this agenda item is important and gets
20 discussed, whether today or tomorrow.

21 I know that Commissioner Freeman has a plane to
22 catch tonight -- so I don't know what time you leave.

23 CHAIRPERSON MATHIS: Yes.

24 VICE-CHAIR HERRERA: Commissioner Freeman?

25 VICE-CHAIR FREEMAN: Well, thank you,

1 Commissioner Herrera.

2 I do have one that departs LAX at 9:30, so I have
3 to make a decision very quickly whether I'm going to try to
4 catch it or fly back tomorrow morning.

5 So I guess I'm saying that I prefer that we push
6 that agenda item to tomorrow.

7 CHAIRPERSON MATHIS: Yeah, and we could -- what
8 time do you need to go to catch your flight tonight?

9 VICE-CHAIR FREEMAN: I would say I'd be cutting it
10 close if I left at 8:00 o'clock.

11 CHAIRPERSON MATHIS: Okay. And I assume you'd
12 want to be in on this discussion for the update on the
13 attorney general inquiry.

14 Yeah, so maybe we can do the executive director
15 report tomorrow too, and we'll limit public comment tonight
16 to just a couple minutes per person.

17 And if we could get the public comment timed just
18 so that we can try to stay on schedule so we can try to
19 accomplish that.

20 So we'll go ahead and table seven and eight and
21 nine, unless somebody had a future agenda -- it wouldn't
22 matter anyway. Nine.

23 And then we'll go straight to public comment right
24 now, which is number 11.

25 And remember to please come up to the microphone

1 and speak directly into it and spell your name so that our
2 reporter gets an accurate accounting.

3 Our next speaker -- our first speaker is
4 Richard Tracy, Sr., representing self, from Maricopa County.

5 RICHARD TRACY: Tracy, T-R-A-C-Y, Richard T. I
6 live in Mesa.

7 Elections have become less important as I've
8 gotten older.

9 I've been here for 40 years.

10 I only voted for county supervisor once.

11 We have seen the mess that we've had in this
12 county larger than 18 or 19 states, controlled by one party.

13 The past ten years, millions and millions of
14 dollars have gone out. There's never been a public meeting,
15 except on the very minor issue, maybe whether the kids
16 should have two books or one book.

17 But when they put in the 400 million-dollar
18 courthouse, we don't have a vote. And we don't have an
19 opportunity to have an open meeting to find out if it's what
20 we want.

21 I live in Mesa now for 12 years.

22 There's no legislator to vote for.

23 I do feel Mormons do have a certain amount of
24 finesse in elections, and non-Mormons should be treated as a
25 separate class. Because we don't meet every week to discuss

1 politics.

2 I have compiled some material, which I hope the
3 members will read.

4 I've got a copy for each.

5 It's unfortunate because I, as I kid, I sat and
6 talked to my uncle as he cussed out Roosevelt on the
7 fireside chats, about if we were going to be Bolsheviks,
8 communist.

9 Now I listen to Glenn Beck telling me that I am a
10 communist. And that's the only radio station that you can
11 get in most of this state.

12 These are problems that this board can do very
13 little about, but I wish you luck.

14 Looking at these maps reminds me of a puzzle, but
15 some pieces are missing.

16 Please try to find them.

17 Thank you.

18 CHAIRPERSON MATHIS: Thank you.

19 Our next speaker is Daryl Melvin, from the city of
20 Flagstaff.

21 After Daryl will be Wes Harris, and then Martha Jo
22 Billy.

23 DARYL MELVIN: Good evening, Madam Chair and
24 commissioners.

25 My name is Daryl Melvin. Last name M-E-L-V-I-N.

1 And thank you for having me here this evening. And I
2 appreciate the work that you've all been doing.

3 With regard to the city of Flagstaff, we presented
4 our maps, our scenarios on August 25th. And we thank you
5 for the opportunity to do that.

6 In looking at the maps in which you're going
7 through and in terms of creating both congressional and
8 legislative scenarios, the values that Flagstaff presented
9 at that meeting are the same values that we would like to
10 share with you this evening in terms of recommending, again,
11 priority for maintaining Voters Rights Act, Voting Rights
12 Act, considering emphasis on competitiveness in terms of the
13 districts, and then certainly looking at our communities of
14 interest.

15 Emphasizing rural districts and maintaining rural
16 districts is important, and the city council has been
17 looking at the mapping and trying to avoid what we
18 consider hub and spoke configurations in the congressional
19 districts.

20 In particular maintaining, again, rural emphasis
21 and not moving into Maricopa County with regard to the
22 congressional districts.

23 Also with regard to legislative districts and
24 communities of interest, consideration toward the mountain
25 communities, the rim communities, and certainly the border

1 towns, along reservation land.

2 And, again, these are all part of the scenarios
3 that Flagstaff had submitted earlier.

4 Lastly, when it comes to round two hearings, we
5 look forward to the Commission coming up to Flagstaff. We
6 certainly welcome all the commissioners coming up.

7 And, again, thank you for your service tonight.

8 CHAIRPERSON MATHIS: Thank you.

9 Our next speaker is Wes Harris, precinct
10 committeeman -- LD 28?

11 WES HARRIS: LD 6-28.

12 CHAIRPERSON MATHIS: Oh, 6-28.

13 WES HARRIS: Six, 28th precinct.

14 CHAIRPERSON MATHIS: Oh, got it. Okay.

15 WES HARRIS: Okay. That's Harris, H-A-R-R-I-S.

16 First I'd like to commend executive director
17 for these maps. Those are a marvelous touch. Now we can
18 see what you guys are talking about.

19 It seems to me that we have a conflict on the open
20 meeting laws. I read it here. It says this is the time for
21 public comment on items on the agenda or redistricting maps.
22 Members of the Commission may not discuss the items that are
23 specifically identified -- that aren't specifically
24 identified on the agenda.

25 And most of my questions have been items that were

1 on the agenda, but yet you don't answer them.

2 So I don't understand how the rules work.

3 And I'm asking that question, and if you could put
4 it on the next agenda to answer it, I'd appreciate it.

5 It seems to me we're spending an awful lot of time
6 on voters rights, the voter right law, and very little on
7 the rest of us.

8 We now have two CDs that are minority-majorities,
9 and now we look at nine LDs.

10 Now, is that where we're at now? Is that what we
11 have now? Or are we creating more?

12 Because Gingles requirement I think is pretty
13 clear. It basically says that Supreme Court rule that what
14 is referred to as a Gingles requirement is that the court
15 identified three necessary preconditions.

16 None apply to Arizona.

17 The only two that are close are Grijalva's
18 district Latinos down in Yuma and south Phoenix Blacks,
19 south and the south of Salt River.

20 So it's an even if Grijalva's district included
21 part of Maricopa County near Avondale and Goodyear, which is
22 how you're structuring it, there still would not be enough
23 Latinos to justify a majority-minority district. So I think
24 that maybe we're spending too much time -- here we go again.

25 I'll catch you tomorrow.

1 CHAIRPERSON MATHIS: All right. Thank you.

2 On next speaker, Martha Jo Billy, representing
3 self, from Gilbert.

4 (No oral response.)

5 CHAIRPERSON MATHIS: Okay. She may have left.

6 Kelly Townsend, co-founder of Greater Phoenix Tea
7 Party.

8 KELLY TOWNSEND: Okay.

9 I have some recommendations for CD 6.

10 What I saw, I believe it was the river district
11 map, you had west Mesa, from Mesa Road, I think it was,
12 northwest Gilbert, and I still haven't -- I don't know and I
13 don't want to use my two minutes finding what the southern
14 border is, but it looked like north of the 202 from what I
15 could tell, Ahwatukee, Tempe, and Arcadia.

16 Having ran for public office last year for LD 22,
17 I became very familiar with the landscape of Gilbert and
18 LD 22 in that area and also CD 6.

19 So I wanted to make some recommendations because
20 what I'm seeing now in CD 6, I'm seeing a Democrat area
21 except for Ahwatukee.

22 I'm not real familiar with Ahwatukee, but I'm sure
23 it's more leaning Republican, but the rest, west Mesa,
24 northwest Gilbert, Tempe, Arcadia, Democrat.

25 And I'm concerned. I don't know the numbers yet.

1 I'd like to see them of what the percentages are, but that's
2 concerning to me.

3 So I want to offer you an alternative.

4 With the housing boom, we saw a lot of new homes
5 coming in south of the 202.

6 And so southeast of the 202, there is a good mix
7 of Democrat and Republican.

8 They are younger families in these newer homes out
9 on Johnson Ranch and that way.

10 So if you do do something with Gilbert to split it
11 in two -- I heard you split it in three. That's hard to
12 believe. As a Gilbert resident, that doesn't even feel
13 right to have my city split into three different
14 congressional districts.

15 So I'm asking for you to look from Power Road
16 going north-south, and to the 202 to below it, to keep those
17 separate. That would be a good dividing line.

18 And then the whole of Gilbert, old Gilbert, to
19 keep that in the same congressional district, because it is
20 a community of interest. Most everybody there is of the
21 same mind set, and it has a good balance.

22 And I also want to ask you to conform with the
23 attorney general. Please testify, or go in and testify, do
24 their investigation, please.

25 CHAIRPERSON MATHIS: Thank you.

1 Our next speaker is Harold Stahl. If I'm messing
2 that up, I apologize. You can correct me. Representing
3 self, from Phoenix.

4 HAROLD STAHL: You pronounced it correctly. Thank
5 you.

6 My name is Harold Stahl. It's spelled S-T-A-H-L.

7 I'm a resident of Phoenix, in the Arcadia,
8 Biltmore area, legislative district -- present Legislative
9 District 11, Congressional District 3.

10 I've not testified before the Commission before.

11 And I'd just like you to know I'm not being paid
12 to appear here.

13 The most important -- I do represent myself.

14 The most important goal for the Commission to
15 achieve is competitive districts.

16 Competitive districts are good for democracy and
17 result in elected representatives who better represent the
18 electorate. And they also produce greater voter interest,
19 participation, and knowledge of public affairs.

20 In other words, a well-informed electorate as
21 envisioned by our founding fathers.

22 Without competitive districts, we've seen
23 one-party primary becoming the place where officials are
24 ultimately chosen leaving out the majority of the
25 electorate.

1 Thus a non-competitive district leads to cynicism
2 and lack of interest and participation in public affairs.

3 We must respect the Voting Rights Act, but this
4 does not mean that we should pack as many minorities as we
5 can into as few electoral districts as possible.

6 Excluding large numbers of minority voters from
7 other districts creates a new form of political segregation
8 and leads to non-competitive districts.

9 Competitive districts should remain the most
10 important goal of the redistricting process.

11 Last but not least it's worth noting that partisan
12 politics, including Arizona Attorney General Tom Horne,
13 should be protecting the rights of Arizonans. Arizonans
14 passed Proposition 200(sic) in year 2000, and that was to
15 eliminate partisan control of the redistricting process.

16 We should be thanking you, the commissioners, and
17 you're executive director for volunteering for this
18 important process.

19 And, again, I'd like to end by saying competitive
20 districts should remain the goal of the Commission's
21 efforts.

22 I can give a copy of my comments to the
23 appropriate person.

24 CHAIRPERSON MATHIS: To Mr. Bladine, the man in
25 the blue shirt.

1 HAROLD STAHL: I see. Thank you.

2 CHAIRPERSON MATHIS: Thank you.

3 HAROLD STAHL: Thank you.

4 CHAIRPERSON MATHIS: Our next speaker is Toby
5 Stahl, representing self.

6 TOBY STAHL: I'm Toby Stahl, S-T-A-H-L, T-O-B-Y,
7 for -- because it can be spelled a lot of different ways.

8 First off, I want to thank you, the Commission,
9 for your work.

10 I know what is it to volunteer, and you deserve a
11 lot of thanks and not heartache as you're getting now. So
12 thank you for your work.

13 I believe that everyone should have -- every
14 citizen should have the right to vote and should have the
15 feeling that they can be a part of it and that their vote
16 will have -- will count.

17 So I hope you will keep that in mind and create
18 competitive districts for all of us.

19 Democracy depends on people voting, and we've got
20 to save our democracy.

21 So thank you and thank you for all your work.

22 CHAIRPERSON MATHIS: Thank you.

23 Our next speaker is Randall Holmes, representing
24 self, from Tempe.

25 After Randall will be Ann Heins, Mike Flannery,

1 and Joe Murray.

2 RANDALL HOLMES: All right, folks. I want to echo
3 everyone else's comments in thanking you for doing this
4 really difficult job, for no money and very little
5 appreciation.

6 Former Attorney General Goddard was on the radio
7 Wednesday, on KJZZ, and said the same thing that we've been
8 saying, is that residents sniping at you folks about stuff
9 you might have been done in your past, maybe we should wait
10 and see what maps come out and then complain about the end
11 result.

12 I mentioned before that I had a long conversation
13 with Commissioner Stertz after the meeting in the tower of
14 power downtown back in -- a couple months ago. And we had a
15 long conversation, and he related to me that he is a
16 Christian first and then a dad and a husband and then way
17 down here a Republican.

18 And I took him at his word.

19 And we agreed that we should note them by their
20 fruits. So whatever the mapping consultants come up
21 with, you folks will decide what the maps are going to look
22 like, and then we'll complain and litigate about them
23 afterwards.

24 And I had no idea that -- I don't listen to right
25 wing radio. I didn't know Commissioner Stertz had a radio

1 show with Jesse Kelly, a former and probably future
2 candidate for public office.

3 I'm sure that has no bearing whatsoever on his
4 impartiality and independence.

5 And you, Madam Chairwoman, I don't hold against
6 you your Republican ties to George H.W. Bush.

7 I know you can all be independent.

8 As far as prison gerrymandering goes, I understand
9 that there are plans for four more prisons in Pinal County,
10 and I guess I could be excused for wondering if one day
11 Pinal County will be a majority prisoner county and we'll
12 start pronouncing it Penal County rather than Pinal.

13 And I was told that it would be over the top to
14 suggest the original intent of the founding fathers to count
15 prisoners as three-fifths of a vote, three-fifths of a
16 person, so I won't suggest that.

17 But I know that I've been told that Pinal County
18 and apportioning its supervisor districts does not count
19 prisoners for this very reason.

20 And some of the municipalities in west valley, I
21 believe, have the same rule. They don't count prisoners
22 when they apportion districts. For one very practical
23 reason, they may wind up with a district that's a majority
24 prisoners or they may have a district where there are no
25 eligible voters because they're all prisoners.

1 And so needless to say no one would be eligible to
2 hold that supervisor or city council seat, so you can see
3 how crazy it gets when you count people who can't vote.

4 Thanks for your time.

5 CHAIRPERSON MATHIS: Thank you.

6 Next speaker Ann Heins, representing self, from
7 Maricopa.

8 ANN HEINS: Ann Heins, H-E-I-N-S.

9 Well, I wasn't going to show up today until I
10 heard Commissioner Herrera that the reason for the state
11 suit is the individual is just running for a higher office.

12 So I'd like to put some notes together that say,
13 first of all, you've been asked nine times to just be honest
14 and tell the truth. And that you all -- the three Democrats
15 have stonewalled the investigation showing up and then -- to
16 show up and then not keep -- and then canceling.

17 And two commissioners have stated that the chair
18 prior to the vote in the petition contacted all the rest to
19 get a five to zero vote.

20 This is just one individual running for office.

21 And then prior conversations to line up the vote,
22 at which they then branded a 700-point perfect score.

23 Meanwhile, to cover himself, the same person that
24 says it's just about the one person running for office,
25 stated that his number one choice of research advisory, top

1 scores, professional, honest, realistic, answered well,
2 precleared by the Department of Justice on the first
3 submittal, but in the spirit of cooperation of harassment by
4 the chair and the negotiation by the chair, he voted a
5 perfect score.

6 Is this about one person so-called running for
7 office, which he's not -- hasn't declared?

8 The Arizona Capital Times said -- I can't see up
9 here -- it says that the chair had private conversations to
10 line up the vote prior to the decision.

11 Oh, and I forgot to mention that when the decision
12 was read she already had a prepared statement.

13 The East Valley Tribune stated that the chair
14 pushed for the selection prior to the vote over the
15 objections of the two Republicans only because the firm had
16 strong ties to Democrats.

17 I'm going for a minute more because you allowed
18 the other.

19 And further, the Arizona Capital Times said that
20 the chair destroyed the documents.

21 This is just about one person.

22 And, lastly, thank you for the Commission to
23 require disclosure of outside influences. I would like to
24 know how much MoveOn.org is disclosing to Strategic
25 Telemetry.

1 And thank you.

2 VICE-CHAIR HERRERA: Thank you.

3 CHAIRPERSON MATHIS: Next speaker, Mike Flannery,
4 representing self, from Yavapai County.

5 Then Joe Murphy. And that's our final respect to
6 speak form.

7 MIKE FLANNERY: I'm tempted to say good afternoon,
8 but it is evening, so good evening.

9 That's Flannery, F-L-A-N-N-E-R-Y.

10 First of all, I wanted to just apologize. I've
11 carrying a message for Yavapai County, and I wanted to
12 apologize and offer an explanation as to their late coming
13 to the dance.

14 Redistricting is not just a state project. It is
15 also a countywide. They have been engaged in a state
16 redistricting process, and they just completed that, so I
17 offer that as an explanation, not as an excuse.

18 They are now kind of fully engaged in state
19 redistricting.

20 So, anyway, in terms of congressional
21 redistricting map, the grid map, you know, the previous map
22 that we had, Congressional District 1, I think it's almost a
23 shame that we have to change that, although for population I
24 understand we have to.

25 But that was probably one of the competitive

1 districts in the state, and now we're going to change that.

2 But I have no problem with what we're doing right
3 now.

4 The only problem in terms of Yavapai County that I
5 see is when are we going to drop the labels on these things.

6 Because being in Yavapai County, it's not part of
7 a river district. Although you have it in a river district.

8 If we could drop labels, that would be awfully
9 convenient.

10 Because it's not, not convenient to be an
11 appendage to something that isn't there.

12 So, in terms of legislative district, I have sent
13 you information regarding splits that go through
14 communities.

15 Highway 89 was used as a dividing line, and it
16 split the community of Paulden, Chino Valley, and
17 Prescott Valley.

18 And if that can be remedied, that would be nice.

19 And I think you're going to be taking a look at
20 that perhaps maybe tomorrow.

21 I'll take a little liberty myself.

22 You do have a letter that is forthcoming that was
23 sponsored by Supervisor Chip Davis, drafted and signed by
24 the City of Prescott, City of Prescott Valley, Chino Valley,
25 Dewey-Humboldt, Jerome, Cottonwood, Clarkdale, and the

1 County Board of Supervisors, stating that they would all
2 like to stay together in the same congressional and
3 legislative district.

4 And if need be, I can provide that for you.

5 So, anyway, thank you, and I appreciate it.

6 CHAIRPERSON MATHIS: Thank you.

7 And our last speaker is Joe Murphy from MoveOn,
8 Maricopa County.

9 JOE MURPHY: I'm sorry, I had to do it.

10 My name is Joe Murphy -- yeah, my name is Joe
11 Murphy, M-U-R-P-H-Y.

12 I'm just a member of MoveOn. There are no paid
13 people.

14 I think I'm the only person from MoveOn to ever
15 speak here.

16 Anyway, because of the efforts of Mr. Stertz
17 through his radio program, the lobbying of Fair Trust,
18 Americans for Prosperity, the State Republican Party being
19 here, the Attorney General Horne and the other stuff, a
20 member of MoveOn, Steven Yockey, who couldn't make it here
21 tonight, he's from the Maricopa County chapter of MoveOn,
22 put out a request for signatures to show support for the
23 properly elected chair of the Commission.

24 Over 3400 signatures were delivered to the
25 governor, Governor Brewer.

1 The petition was set and signatures were collected
2 by volunteers only. Like I said, we don't get paid.

3 The statement supported was very brief.

4 Dear Governor Jan Brewer, we are pleased to
5 present you with this petition affirming one simple
6 statement: Keep Colleen Mathis as independent chair of the
7 Arizona Independent Redistricting Commission.

8 And we attached the 3400 signatures to her.

9 Well, yeah, you're paid, so of course. . .

10 The lobbyists get their -- get to keep their
11 owners' names out of the public eye, so perhaps we should go
12 to Mr. Stertz' radio program to find out who his financial
13 backers are. Perhaps we can find some of those names.

14 The Voting Rights Act was not meant to put
15 minorities into Arizona style Bantustans.

16 Our Arizona law and setting up election districts
17 cannot supersede either the letter or the spirit of the
18 Voting Rights Act.

19 Arizona elections should serve the needs of all
20 the people of Arizona, not just the most conservative
21 members.

22 Thank you.

23 VICE-CHAIR HERRERA: Thank you.

24 CHAIRPERSON MATHIS: Thank you.

25 I think that concludes public comment, unless

1 there's anybody I missed.

2 (No oral response.)

3 CHAIRPERSON MATHIS: So the time is 7:33 p.m. And
4 we want to get chairman -- Vice Chair Freeman home tonight
5 if we can, back to Phoenix.

6 So that takes us to the end of the agenda, since
7 the rest of the items we're tabling until tomorrow's
8 meeting.

9 The only other item is this report, legal advice
10 and direction to counsel regarding attorney general inquiry,
11 the Commission may vote to go into executive session, which
12 will not be open to the public, for the purpose of obtaining
13 legal advice and providing direction to counsel.

14 So with that --

15 COMMISSIONER McNULTY: Move we go into executive
16 session if -- oh, counsel, did you have anything you need us
17 to go into executive session for?

18 JOSEPH KANEFIELD: Madam Chair, members of the
19 Commission, we were just going to briefly --

20 COMMISSIONER McNULTY: Excellent, okay.

21 JOSEPH KANEFIELD: -- brief you all about what
22 happened yesterday, and then we will probably recommend
23 executive session legal advice, but in open session we'll at
24 least tell you and members of the public who may not be
25 aware of a filing yesterday.

1 Probably not the case --

2 CHAIRPERSON MATHIS: If everyone could please be
3 quiet so that our court reporter could hear.

4 JOSEPH KANEFIELD: Yesterday the attorney general
5 filed a lawsuit in Maricopa County Superior Court, in the
6 name of the state of Arizona, ex rel, the Attorney General,
7 is how these cases are postured.

8 The defendants are the Commissioner Mathis,
9 Commissioner McNulty, Commissioner Herrera.

10 It's captioned as a petition for enforcement of
11 written investigative demands and applications for order to
12 show cause.

13 What it really is is an enforcement action under
14 the open meeting law.

15 And he's asking -- he's enforcing the
16 investigative demand that he served upon each individual
17 commissioner to testify under oath, as he had asked two,
18 three weeks ago, if I recall.

19 I think it was -- I'm sorry, August 29th, 2011.

20 At this point the case has been assigned to
21 Judge Fink in Maricopa County Superior Court to set an
22 order to show cause return hearing on October 3rd at
23 11:00 a.m.

24 We understand that that's the hearing where the
25 commissioners would -- counsel would appear and meet with

1 the judge to discuss how the matter would proceed.

2 The attorney general is essentially asking for the
3 judge to issue an order -- he's issuing an order to show
4 cause to the commissioners to show cause why they should not
5 comply with the investigative demand to testify.

6 He's also, he's also asking for the documents that
7 were requested in his investigative demand.

8 Although he does note in response to the objection
9 letter that counsel served upon the attorney general in
10 response to the initial investigative demand that he would
11 be willing to work with counsel for the Commission to redact
12 certain telephone numbers from the phone records that he has
13 asked for that are unrelated to commission business.

14 So one thing to note, the initial investigation --
15 the initial press release from the attorney general
16 announcing the investigation indicated that he was pursuing
17 both open meeting law and procurement violations.

18 This lawsuit pretty clearly indicates that he's
19 only pursuing open meeting law investigations. This is not
20 in any way an effort to enforce any alleged violation of
21 procurement law.

22 So with that having been said, Madam Chair, it
23 would be our advice for the Commission to receive legal
24 advice from counsel in executive session.

25 CHAIRPERSON MATHIS: Thank you.

1 Any questions, comments?

2 Mr. Freeman, can you hear us too?

3 VICE-CHAIR FREEMAN: Yes, I can.

4 JOSEPH KANEFIELD: It would be advice and
5 direction.

6 CHAIRPERSON MATHIS: Thank you.

7 VICE-CHAIR HERRERA: Madam Chair.

8 CHAIRPERSON MATHIS: Mr. Herrera.

9 VICE-CHAIR HERRERA: Can we take a brief recess
10 before we start the, the executive session?

11 CHAIRPERSON MATHIS: Well, yeah, because we'll
12 have to have the public exit. So during that time.

13 But I do want to try to be mindful of Mr. Freeman
14 to catch his flight.

15 VICE-CHAIR FREEMAN: Madam Chair, I appreciate it.

16 I'm on hold with Southwest right now. I think I'm
17 going to go back tomorrow morning, so please take your time.

18 CHAIRPERSON MATHIS: Okay.

19 VICE-CHAIR HERRERA: So can we go back to agenda
20 seven?

21 CHAIRPERSON MATHIS: No. No, we cannot.

22 So is there any other comment or question for
23 counsel on this matter?

24 VICE-CHAIR HERRERA: I make a motion we move into
25 executive session.

1 CHAIRPERSON MATHIS: Is there a second?

2 COMMISSIONER McNULTY: Second.

3 CHAIRPERSON MATHIS: All in favor?

4 ("Aye.")

5 CHAIRPERSON MATHIS: Any opposed?

6 VICE-CHAIR FREEMAN: Aye.

7 CHAIRPERSON MATHIS: Thank you.

8 Okay. Motion carries unanimously, and we will go
9 into executive session once the public has exited the room.

10 Thank you.

11 Thanks for coming to everyone who commented. We
12 appreciate it.

13 (Whereupon, the public session recesses.)

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17 (Whereupon, the public session resumes.)

18 CHAIRPERSON MATHIS: We'll enter back into public
19 session. The time is 8:16 p.m.

20 I wanted to just quickly clarify when we went into
21 executive session, the vote for going into executive
22 session, I believe, was a unanimous approval, but we wanted
23 to clarify that for the record.

24 The commissioners here in Tempe all voted aye.

25 And, Scott, can you affirm your vote?

1 VICE-CHAIR FREEMAN: Yes, ma'am. I voted aye.

2 CHAIRPERSON MATHIS: Okay.

3 All were ayes, so that carried unanimously.

4 Any motion on how we want to proceed from
5 executive session?

6 COMMISSIONER McNULTY: Madam Chair, I would move
7 that we direct counsel to proceed in accordance with the
8 direction that we've just given to them in executive
9 session.

10 VICE-CHAIR HERRERA: I second that.

11 CHAIRPERSON MATHIS: Any discussion?

12 (No oral response.)

13 CHAIRPERSON MATHIS: All in favor?

14 COMMISSIONER STERTZ: Aye.

15 VICE-CHAIR HERRERA: Aye.

16 VICE-CHAIR FREEMAN: Aye.

17 COMMISSIONER McNULTY: Aye.

18 CHAIRPERSON MATHIS: Aye.

19 Five ayes.

20 Any opposed?

21 (No oral response.)

22 CHAIRPERSON MATHIS: Okay. The motion carries
23 unanimously.

24 And that brings us to the end of the agenda,
25 adjournment. The time is 8:18 p.m., and this meeting is

1 adjourned. Thank you.

2 (Whereupon, the public session ends.)

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1 STATE OF ARIZONA)
)
2 COUNTY OF MARICOPA) ss.

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4 BE IT KNOWN that the foregoing proceeding was
5 taken before me, Marty Herder, a Certified Court Reporter,
6 CCR No. 50162, State of Arizona; that the foregoing
7 182 pages constitute a true and accurate transcript of all
8 proceedings had upon the taking of said meeting, all done to
9 the best of my skill and ability.

10 DATED at Chandler, Arizona, this 2nd day of
11 October, 2011.

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14

C. Martin Herder, CCR
Certified Court Reporter
Certificate No. 50162

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