

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DONALD AGEE, JR., an individual, *et al.*,

Plaintiffs,

v.

JOCELYN BENSON, in her official capacity as the Secretary of State of Michigan, *et al.*;

Defendants.

Case No. 1:22-cv-00272

**Three-Judge Panel Appointed Pursuant to 28 U.S.C. § 2284(a)**

**TRANSCRIPT TO MICHIGAN INDEPENDENT CITIZENS  
REDISTRICTING COMMISSION'S OCTOBER 27, 2021  
CLOSED SESSION MEETING**

Pursuant to this Court's Order dated December 5, 2023, please find attached the Transcript to Michigan Independent Citizens Redistricting Commission's October 27, 2021 Closed Session Meeting.

Respectfully submitted,

/s/ John J. Bursch  
John J. Bursch (P57679)  
BURSCH LAW PLLC  
*Attorney for Plaintiffs*  
9339 Cherry Valley Ave SE, #78  
Caledonia, MI 49316  
(616) 450-4235  
jbursch@burschlaw.com

Michael J. Pattwell (P72419)  
Jennifer K. Green (P69019)  
James J. Fleming (P84490)  
Amia A. Banks (P84182)  
CLARK HILL PLC

*Attorneys for Plaintiffs*  
215 S. Washington Square, Ste. 200  
Lansing, MI 48933  
(517) 318-3100  
[mpattwell@clarkhill.com](mailto:mpattwell@clarkhill.com)  
[jgreen@clarkhill.com](mailto:jgreen@clarkhill.com)  
[jfleming@clarkhill.com](mailto:jfleming@clarkhill.com)  
[abanks@clarkhill.com](mailto:abanks@clarkhill.com)

Dated: December 11, 2023

Transcription of the Closed Session of the  
Michigan Independent Citizens  
Redistricting Commission

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Held on Wednesday, October 27, 2021

Commencing at 4:05 p.m.

Transcribed by Carolyn Grittini, CSR-3381

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Transcription of the Closed Session of the  
Michigan Independent Citizens  
Redistricting Commission

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Held on Wednesday, October 27, 2021

Commencing at 4:05 p.m.

Transcribed by Carolyn Grittini, CSR-3381

1 Wednesday, October 27, 2021

2 4:05 p.m.

3

4 CHAIR SZETELA: As Chair of the commission, I  
5 call this closed session of the Michigan Independent  
6 Citizens Redistricting Commission to order at 4:05 p.m.  
7 For the public record, could the secretary please take the  
8 roll? Could the secretary please take the roll?

9 SECRETARY: Commissioners, please say present  
10 when I call your name. If you're attending today's  
11 meeting remotely, please disclose during roll call that  
12 you are attending remotely. You know the drill. Doug  
13 Clark.

14 COMMISSIONER CLARK: Present.

15 SECRETARY: Juanita Curry.

16 COMMISSIONER CURRY: Present and attending  
17 remotely from Detroit, Michigan.

18 SECRETARY: Anthony Eid.

19 COMMISSIONER EID: Present.

20 SECRETARY: Brittni Kellom.

21 COMMISSIONER KELLOM: Present.

22 SECRETARY: Rhonda Lange.

23 COMMISSIONER LANGE: Present, attending  
24 remotely from (inaudible).

25 SECRETARY: Steve Lett.

1 COMMISSIONER LETT: Present.  
2 SECRETARY: Cynthia Orton.  
3 COMMISSIONER ORTON: Present.  
4 SECRETARY: M.C. Rothhorn.  
5 COMMISSIONER ROTHORN: Present.  
6 SECRETARY: Rebecca Szetela.  
7 COMMISSIONER SZETELE: Present.  
8 SECRETARY: Janice Vallette.  
9 COMMISSIONER VALLETTE: Present.  
10 SECRETARY: Erin Wagner. Erin, I'm going to  
11 prompt you to unmute on your phone.  
12 COMMISSIONER VALLETTE: Present, attending  
13 remotely from Charlotte, Michigan.  
14 SECRETARY: Richard Weiss.  
15 COMMISSIONER WEISS: Present.  
16 SECRETARY: Dustin Witjes.  
17 COMMISSIONER WITJES: Present.  
18 SECRETARY: All commissioners are present.  
19 CHAIR SZETELA: Thank you, Ms. Reinhardt. We  
20 have entered a closed session to discuss the  
21 attorney-client memos that we received from our general  
22 counsel and Mr. Adelson. Mr. Adelson, our general  
23 counsel, who wants to lead the discussion?  
24 MS. PASTULA: So I will start. Thank you,  
25 Madam Chair. So I will start. Again, stating for the

1 record and the closed session minutes that the closed  
2 session is called in accordance with Section 8H of the  
3 Open Meetings Act being MCL 15.268H. The session was  
4 called to occur on Wednesday, October 27th, upon adoption  
5 of the resolution and the closed session was called to  
6 order at 4:05 p.m. to discuss the privilege and  
7 confidential memos being Voting Rights Act of October  
8 14th, 2021 and the history of discrimination in the state  
9 of Michigan and its influence on voting of October 26th,  
10 '21. These memos are both attorney-client privileged  
11 communications that provide legal advice to the client,  
12 prepared by counsel in regard to the Voting Rights Act and  
13 are therefore exempt from disclosure under Section 13G of  
14 the Michigan Freedom of Information Act being MCL 15.243,  
15 subpart 1, subsection G.

16 The rules for closed sessions are that the  
17 confidentiality of the closed session, none of the  
18 discussion topics or documents may be shared outside of  
19 this room. Everyone received the confidentiality  
20 agreement, that if you have not returned to either Sue Ann  
21 or myself, please do so. The rules, additionally, that  
22 the topic of the closed session can only be the Voting  
23 Rights Act based on the two memoranda that are the basis  
24 for this closed session. If the topic veers off of this  
25 course, I will provide a warning. If the conversation

1 does not cease immediately, the closed session will be  
2 halted and we will return to open session at that time.  
3 If you have any questions about either of these two  
4 things, I know this is our first closed session. So  
5 again, we're here to talk about the VRA. We're here to  
6 have an open conversation between the MICRC and its  
7 attorneys about the VRA, and with all that being said,  
8 I'll turn it over to Bruce.

9 MR. ADELSON: Thank you. And thank you for the  
10 opportunity to have this meeting. Julieann and I thought  
11 that it was important with the -- as a result of the  
12 memos, the information that's being discussed in the  
13 conventional media, on social media and everywhere to  
14 answer questions, provide some advice about a path forward  
15 and discuss what the Voting Rights Act actually requires.  
16 And let's start with that.

17 The Voting Rights Act, as you know from our  
18 discussions previously in the memo, does not require any  
19 numerical amount of majority-minority districts; indeed,  
20 does not even require majority-minority districts at all.  
21 The Voting Rights Act, as you know, is designed and  
22 intended to provide an opportunity or ability to elect on  
23 the part of protected categories under the statute.  
24 That's based on race, color and membership in a language  
25 minority group. There are no guarantees of success.



1           There is nothing in the VRA nor in the jurisprudence that  
2           requires the success of any particular candidate or that  
3           any particular candidate of choice be of a particular  
4           race. Typically, as has been seen in court decisions  
5           going back decades, a candidate of choice of a minority  
6           group is often a person of a minority. But that is  
7           neither required nor does it happen in every circumstance.  
8           All of that ties into what we've been stressing for a  
9           while.

10           This is a data law analysis election results driven  
11           process. We have become concerned that there is so much  
12           misinformation out there. We wanted to have an  
13           opportunity to set the record straight in a sense, provide  
14           our advice, provide you with information about what the  
15           law actually says and to encourage that as we move forward  
16           over the next eight days, if there are ongoing questions  
17           or uncertainties, please come to us, as many of you have,  
18           to ask questions to get some additional information.

19           But we thought it was really important to stress  
20           these threshold items. And as you know, too, where we are  
21           today. As you recall, on September 2nd, Dr. Handley  
22           presented her racial bloc voting analysis. Racial bloc  
23           voting analysis is required by the Supreme Court pursuant  
24           to the Voting Rights Act in order to determine if there is  
25           racial bloc or racially polarized voting. If there is,

1 what is the remedy for that. The remedy is also informed  
2 by Dr. Handley's conclusion of the VAP, the voting age  
3 population, that's required or that she has concluded.

4 Minorities need to elect a candidate of choice.  
5 That's key. Because rather than just assigning numerical  
6 numbers and talking about a district. I read the other  
7 day that someone suggested, why don't they just create  
8 districts that are 55 to 58 percent black? What's the  
9 basis for that? Dr. Handley's analysis does not include  
10 that and we've never recommended that as an arbitrary  
11 percentage of minority voters is needed to comply with the  
12 Voting Rights Acts.

13 In addition, one of the differences this cycle,  
14 redistricting cycle, compared to ten years ago and  
15 something that Julieann and I talked about a while ago and  
16 we've been actively thinking about as the process has  
17 unfolded, the federal judiciary is more conservative than  
18 it was ten years ago. The judiciary, particularly the  
19 Supreme Court, on several occasions has indicated some  
20 reluctance to abide what they consider to be race-based  
21 solutions, race-based answers, race-based compliance. So  
22 that is yet another reason why just having arbitrary  
23 numbers, 60 percent, 58, you know, whatever they are,  
24 under the premise of the VRA, I think, has particularly  
25 fraught this cycle, and something that we have actively

1 thought about, been concerned about and that's yet another  
2 reason why we stick to the data, the analysis, the  
3 election results.

4 I also wanted to comment briefly on the Voting  
5 Rights Act in primary elections. We've heard a lot about  
6 that. Yes.

7 MALE SPEAKER: So I want to make sure that we  
8 understand this data. The analysis and the primary  
9 results --

10 MR. ADELSON: Election results.

11 MALE SPEAKER: Right, election results.  
12 (Inaudible). They didn't have Dr. Handley's second set of  
13 data.

14 MR. ADELSON: Well, the data's like what's in  
15 the active matrix. The data includes, yes, Dr. Handley's  
16 analysis. Yes.

17 MALE SPEAKER: And that the analysis  
18 (Inaudible). Sorry about that. I forgot. So yeah, the  
19 data is in the active matrix, the analysis is Dr.  
20 Handley's analysis primarily and the election results is  
21 also in the active matrix, but it's the election results.  
22 So those -- okay, thank you. Just wanted to be clear.

23 MR. ADELSON: Sure. And to your point, as you  
24 know, the matrix includes one primary results statewide  
25 from 2018. The reality in Michigan is, there are no more

1 statewide primary results. I know there's been a lot of  
2 talk about primary results.

3 What's also important to remember, and I don't know  
4 that we've touched on this specifically, often in  
5 primaries there may be a multi-candidate field that, let's  
6 say, has seven minority candidates and one white  
7 candidate. I'm just saying that at random. Remember, one  
8 of the keys for Voting Rights Act is -- and the Thornburg  
9 versus Gingles Supreme Court case. Cohesiveness. Meaning  
10 the minorities have to vote essentially for the same  
11 candidate. If you have seven, six, five -- if you have  
12 multiple candidates, minority candidates, in a primary  
13 field, it would be very difficult, in my experience, for  
14 one to achieve 50 percent or more so that that person  
15 could be analyzed to be the candidate of choice.

16 That's one of the challenges with primary elections.  
17 Although, primary elections, I agree, when they're  
18 available, can be helpful. It's also important to realize  
19 in a multi-candidate field, the Voting Rights Act doesn't  
20 pick favorites in a sense. It's all about the voters.  
21 It's not about the candidates. So if the voters are  
22 showing that they are preferring multiple candidates, then  
23 the rhetorical question is well, who's the minority  
24 candidate of choice? It would be, in my experience, very  
25 difficult in a multi-candidate field to come to that

1 conclusion, so that while primaries can provide useful  
2 information, please be advised that they don't necessarily  
3 -- they're not necessarily dispositive. They don't  
4 necessarily tell the whole choice.

5 Remember, the Voting Rights Act does not require a  
6 guarantee that any particular person will be elected.  
7 It's an opportunity to be elected and ability to elect.  
8 That's what Dr. Handley's analysis is premised on. Her  
9 analysis of a percentage that's needed, threshold  
10 percentage, for minority voters to achieve that  
11 opportunity or ability to elect.

12 So, these have been among the larger concerns that  
13 we've had with either misinformation or no information.  
14 And along the same line, I have to point out that all the  
15 studies -- I shouldn't use that word. Of all the  
16 information that's been put out there, there are no racial  
17 bloc voting analyses that we've seen that contradict or  
18 even address or even exist to counter what Dr. Handley  
19 did.

20 The information -- like for example, in the AFL-CIO,  
21 the Fair Maps Report. They mention that the Voting Rights  
22 Act requires if you have a certain number of  
23 majority-minority districts, you must have the same  
24 number. That is legally and factually incorrect. That's  
25 part of what we've been concerned about. These documents

1 are infused with either misinformation or lack of  
2 information.

3 The Michigan Civil Rights Commission document, one  
4 of the concerns that we have about that is it presupposes  
5 if a minority candidate, a black candidate, wins in a  
6 particularly packed district, like a 90 percent district,  
7 I think was one of the ones that was referenced, the  
8 report makes the assumption that there are Hispanic and  
9 Asian voters in these districts and, ipso facto, they  
10 supported the black candidates. That's just beyond the  
11 pale of being insupportable and incorrect. Drawing that  
12 conclusion is based on no analysis and is -- it's just  
13 woefully misleading.

14 So the information that's out there does not  
15 contradict what you have been doing, what you have relied  
16 upon, what the law talks about and sometimes goes the  
17 other way and provides incorrect information that's  
18 misleading or can engender opposition to something that is  
19 baseless, that has no legal support.

20 So we've talked about this for a while and the -- it  
21 just came to the point recently that we both concluded  
22 that we really need to just lay this out, make it really  
23 clear that these things are just not true.

24 To that point and one point about going forward. We  
25 have some thoughts with some suggestions about how to deal

1 with some of the issues that have come up recently. But  
2 one of the things we have to stress, emphasize, insist on,  
3 plead, beg and say please, please don't use phrases about  
4 adding black people, subtracting black people, adding  
5 white people, subtracting white people. We're going in a  
6 little bit of a different direction.

7 The reason that we -- one of the reasons we wanted  
8 to have this session is that in looking to the future,  
9 looking over the next eight days, we don't want to give  
10 people out there specific paths to challenge what you're  
11 doing. Remember one of the things we talked about  
12 initially is legally, race cannot predominate  
13 redistricting. It can be one factor of many. But when  
14 phrases like that are used, it just ostensibly rockets up  
15 to the top, gives people the ammunition that they're  
16 looking for. And to that end, there's a substantial  
17 record, obviously, the commission has put together.

18 But since you're in the last phase now, people are  
19 going to focus -- I'll borrow a phrase from some, I don't  
20 even know who said this -- focus like a laser beam on what  
21 happens now, from now until next Friday. So that even if  
22 comments were made previously, the focus will be on what  
23 you do, what the dialog, the conversation is now, much  
24 more than what happened before. That was true in Arizona.  
25

1           The lawsuits were based on the changes that were  
2           made after the draft maps were approved. After the public  
3           hearings when we went into the final mapping stage. The  
4           lawsuits focused there. What happened before was  
5           preliminary, and I think that that's also part of what we  
6           wanted to stress.

7           These draft maps are preliminary, as you know.  
8           They're trial balloons. They're not final. You can make  
9           decisions about how to deal with these maps up until your  
10          deadline.

11          So I think that there were a lot of useful comments.  
12          I want to highlight one particular area of comments. A  
13          lot of information, as you know, that has been brought out  
14          that can be evaluated for what decisions you want to make  
15          going forward. One of the comments that I want to focus  
16          on are narrative comments, some comments in Flint  
17          yesterday. And that the focus of most of the comments  
18          about keeping Flint whole or Flint together, if you listen  
19          to them, were not racial. They were about, we want to  
20          elect someone who lives in Flint.

21          Having lived in Flint and having voted in Flint, I  
22          understand the difference between City of Flint and  
23          Genesee County. Very different demographics, very  
24          different. So that description was not race based, it  
25          was essentially, keep our community together. Keep our



1 folks together, keep our neighborhoods together because  
2 we know what's best for us with all of the tragedies that  
3 Flint has experienced. And I think that's one of ours, as  
4 we've talked about, one of our suggestions for a path  
5 forward; that rather than focus on race predominantly,  
6 which, of course, as you know, we strongly advise not to  
7 do, take a lesson from Flint in a sense. The focus being  
8 keep us together, we want to elect one of our own, not of  
9 any particular race, but out of concern that our needs as  
10 a community will be best served by electing someone who  
11 lives in our community.

12 So that's one of our takeaways from yesterday,  
13 something we've talked about and I think that that can be  
14 a path forward in addressing, evaluating, debating and  
15 discussing some of the comments that you've heard over the  
16 last week or so. Yes.

17 FEMALE SPEAKER: Commissioner Eid.

18 COMMISSIONER EID: So, how do we do that  
19 without packing the districts?

20 COMMISSIONER KELLOM: Can I?

21 FEMALE SPEAKER: Commissioner Kellom.

22 COMMISSIONER KELLOM: I think what I hear  
23 Bruce saying is the rhetoric and language that we use to  
24 justify. So like what we're actually doing when we're  
25 reunifying folks is, of course, we're putting certain

1 races together and we know that. But then what we say is  
2 that we're observing the fact that these areas are  
3 uniquely different. Like when we think about Detroit.  
4 And so we're not using the language that is going to  
5 question the maps when it gets to that point. So, I think  
6 if we go back and look at the cultural aspects in the  
7 neighborhood, whether it's Flint, Saginaw, you know, the  
8 places that are completely black, just saying it  
9 like that, will be -- the undertones will be accomplishing  
10 what folks want, but doing it in a way that still upholds  
11 our criterion and everything else, like our matrix and our  
12 data and all that other stuff. But that's what I -- how I  
13 understood him to say it and what I've been thinking  
14 about. But I don't know if that's what you were asking  
15 necessarily.

16 FEMALE SPEAKER: Commissioner Orton.

17 MR. ADELSON: Before we move on, I want to  
18 address Commissioner Kellom and Commissioner Eid. One of  
19 the things that has been missing is in the public comments  
20 is the public has been like quite insistent that these are  
21 Voting Rights Act violations. Let's take a step back.  
22 They're not Voting Rights Act violations. Why?

23 Dr. Handley has determined, through her analysis,  
24 the VAP that's needed to elect in these areas. And I take  
25 your point, I agree that packing districts the way they

1 are now would be problematic. And we're not talking  
2 about that because we're really not talking about, excuse  
3 me, the Voting Rights Act. In my discussion about Flint,  
4 you notice I didn't say the Voting Rights Act at all. I  
5 didn't mention race at all. The reality is that there  
6 are, not only in Flint, but there are, I'm confident in  
7 looking at some of the comments, communities that were  
8 split, neighborhoods that were split, historic  
9 neighborhoods, particularly in the black community, that  
10 have that same commonality as the comments from Flint; we  
11 want to keep our community whole.

12 This is not about complying with the Voting Rights  
13 Act. Because it's been our determination, based on the  
14 analysis, that you've met those thresholds. There may be  
15 one or two, I think, that we can evaluate. But this is  
16 more a keeping neighborhoods whole, keeping communities  
17 whole, listening to the public. That's not a Voting  
18 Rights Act issue, per se.

19 Yes, if you had a downtown Detroit district where  
20 the black VAP was 20 percent, yes, I think that would  
21 definitely be something that we would need to address.  
22 But that's not where we are.

23 So that's a very important divide. And some think  
24 that I know Julieann and I felt and do feel very  
25 strongly about, that these comments about violating the

1 Voting Rights Act and Section II and talking about  
2 various Supreme Court cases. Well, no. Because remember,  
3 what's out there, no one has said that these thresholds  
4 are incorrect.

5 They may like, you know, certain thresholds to be  
6 different or higher and they may question why they're  
7 being used, but no one has said well, our analysis shows  
8 that the VAP should be 48.9 percent. Nobody said that.  
9 And I think that that's among the many telling omissions  
10 out there.

11 So this is less a VRA issue. That's one of the  
12 reasons in putting out the memorandum to distinguish what  
13 does the Voting Rights Act require. Not majority-minority  
14 districts, not numerical percentages; ability and  
15 opportunity to elect. Period.

16 The Flint issue is communities, neighborhoods and  
17 our being able to elect someone, not based on VRA  
18 requirements, but who understands what it's like to live  
19 in the City of Flint compared to somebody who lives out in  
20 Genesee County.

21 CHAIR SZETELA: So I would add to that, one  
22 of the things I thought was most revealing for me was, you  
23 know, you hear all these statements that people have said  
24 and it worries me deeply. And so I looked at the Promote  
25 the Vote maps, and more specifically, I looked at their

1 statistics. And if you look at our maps, like our  
2 congressional districts, we have two that are within the  
3 range of what we were aiming for, so they're in the 40  
4 percentile of BVAP. If you look at the Promote the Vote  
5 maps for their congressional, they have one district  
6 that's 43 percent and one that's 50. And then if you go  
7 to their senate map, it's the same thing. If you actually  
8 look at their senate map and look at the statistics and  
9 compare it to ours -- I'm looking at their senate map  
10 right now. 40 percent, 42 percent, 43 percent, 47  
11 percent, 41 percent. So their numbers aren't any  
12 different than ours at all. And so it's like, how is your  
13 40 percent different from our 40 percent? And my takeaway  
14 is that it isn't about the Voting Rights Act and that  
15 their maps are the same as ours when it comes to the  
16 percentages. So, it's more about the feel.

17 MR. ADELSON: Yes, that's a great point, Madam  
18 Chair because we were -- Julieann, we were just wondering,  
19 did they use like our BV analysis? You got to kind of  
20 wonder about that because they obviously don't have their  
21 own.

22 And that being said, you know, keep in mind that the  
23 VAP numbers, of course, these are estimates. They're  
24 not written in stone. There are, I think, neighborhood  
25 community of interest issues in the black community in

1 Detroit that can be addressed, just like comments that  
2 you heard about Hamtramck, for example.

3 But we view these more as neighborhood community  
4 concerns, because unlike your -- unlike the naysayers who  
5 are out there. They haven't come to the table with any  
6 analysis to back up what they're talking about. Even one  
7 reporter asked me, is there a magic number in the Voting  
8 Rights Act? Does it say a magic number that we have to  
9 have X number of majority-minority districts. And the  
10 reporter was shocked when I said no, it's not about magic  
11 or numbers. It's about what does the analysis show.

12 Now Dr. Handley, as you know, is doing additional  
13 analysis, and we're going to be speaking with her to get  
14 more of a feel when that will be done. But unlike all  
15 the organizations and the people who are speaking very  
16 loudly, what we're doing, what you're doing is you're  
17 basing your work on analysis. So that one important  
18 distinction, whether it's Flint or however many districts  
19 in Detroit you decide to adjust that way.

20 Because we're not saying that you need 50.1 percent  
21 to elect, and I want to make sure that we're clear on  
22 this, that that's not packing. Let me say that again. In  
23 Flint -- we'll use Flint. Let's say Flint is kept  
24 reasonably whole, let's say it's 54 percent. That's not  
25 packing because we're not creating a district with a

1 certain arbitrary percentage to stuff black people into  
2 this area, more than they need to elect.

3 What you're doing is something that's not Voting  
4 Rights Act.

5 FEMALE SPEAKER: (Inaudible).

6 MR. ADELSON: Yes. And that community, that  
7 neighborhood scent -- that's a very important  
8 consideration. And what's also important, too, with all  
9 of the comments in the last couple of weeks, the comments  
10 that have recommended a specific numerical number for  
11 districts, the vast majority of comments that I heard, it  
12 was 50.1 percent. Not 59. What does that tell you? That  
13 that's less a VRA issue and more of a --

14 MALE SPEAKER: (Inaudible).

15 MR. ADELSON: That and a community-based  
16 neighborhood type vibe that's not saying we have to have  
17 this. It's something different.

18 MS. PASTULA: It's based solely on race,  
19 those comments. And a lot of that advocacy efforts, and I  
20 know Cynthia's arm is going to fall off if it's up in the  
21 air anymore. But one thing I wanted to highlight, too,  
22 about Flint, and I stepped out of the room a couple times  
23 for meetings, but what I wanted to highlight is what I was  
24 hearing was water crisis, disinvestment, GM leaving, the  
25 school board issues. There were a few commenters that

1           talked about race or talked about the 50 percent plus one  
2           or you have to pack us in because the primary has too many  
3           people run. Although, I think that was a predominantly  
4           Detroit comment.

5           So again, what I was hearing wasn't VRA advocacy.  
6           What I was hearing was community of interest advocacy,  
7           founded on their lived experiences and their history  
8           and that's very different than running -- than doing  
9           that and running a BVAP number and using that in the  
10          analysis. That's not what they were suggesting. The  
11          majority of commenters. But I thought that was a  
12          fascinating thing as well. Did you talk about cohesion  
13          yet or not yet? Or we go to Cynthia first?

14                   MR. ADELSON: Yes.

15                   MS. PASTULA: Let Commissioner Orton go.  
16                   She's worried she's going to forget her thoughts.

17                   COMMISSIONER ORTON: So I did forget the  
18                   first one. But, the next one is -- I was going to say  
19                   when we're talking about this, if we choose to put  
20                   anything together that we currently have separated, we go  
21                   back to communities of interest. It's a community of  
22                   interest thing, not a VRA thing.

23                   MS. PASTULA: Just like when you were  
24                   mapping, when you were mapping, you were talking about the  
25                   public comments. You were talking about the people that



1           were giving testimony in the neighborhood. You had other  
2           sources of data that you were looking at. You had the  
3           active matrix. You had all of these sorts of things that  
4           inform your work and resulted in draft proposed maps.

5           I think it's critical. Again, they were draft  
6           proposed maps. I don't think anyone intended for a draft  
7           proposed map to make it through to the final maps without  
8           any at least discussion, I won't say modification, but at  
9           least a discussion about should anything be changed? What  
10          did we hear at the public hearings? How do we move  
11          forward on this map?

12           COMMISSIONER ORTON:: Well, I do also want to  
13          say I think, I hope we all recognize, at least I think  
14          many of the -- many, many, many of the comments that we  
15          heard, while they were saying that it was a VRA issue,  
16          it's a partisan issue. They have an agenda, and we need  
17          to be able to spot that and weed that out and not fall for  
18          that.

19           MR. ADELSON: And I think to that point, I  
20          think that's a really excellent way to look at it. I also  
21          have to say that the comments like that are in no way  
22          unique to this commission or Michigan. That there have  
23          and continue to be many situations around the country  
24          where minority voters are packed into a district to -- as  
25          a result of a working arrangement within the two major

1 political parties. That's been true for a long time. And  
2 I've seen that for a long time. And that has often  
3 resulted in packed districts.

4 And to your point, Commissioner, I think  
5 that the being able to separate that out and realize  
6 where these organized interests are coming from. I think  
7 that's very important.

8 I want to make one quick comment. I know  
9 Commissioner Curry has her hand up.

10 FEMALE SPEAKER: Yeah, Commissioner Curry has  
11 her hand up.

12 MR. ADELSON: One of the -- under the Thornburg  
13 versus Gingles Supreme Court decision, in order to make a  
14 case for a Section II vote dilution requirement, you have  
15 to show that minority voters vote together; that they  
16 support the same candidate; that there's cohesion. In  
17 these multi-candidate fields, there really isn't cohesion  
18 because there's support for various candidates.

19 What's also interesting, in the 2018 primary  
20 election, remember El-Sayed, Thanedar and Whitmer. I spoke  
21 to Dr. Handley about that to see if that might shed some  
22 light on black voter behavior. She said what it does, it  
23 shows that there's no cohesion; that black voters  
24 supported in varying degrees all three candidates. So  
25 that means that that election is a valuable one. It has

1           been very useful in helping us kind of figure out  
2           Arab-American preferences. But the only thing it tells us  
3           about black voter preferences is there's no cohesion;  
4           that they support each candidate in varying numbers, not  
5           necessarily reaching a majority.

6                        So that's really important, too, that with these  
7           multi-candidate fields like this 2018 primary, if the  
8           largest minority group is not supporting the same  
9           candidate, they're not voting together cohesively, that's  
10          one of the factors for Gingles. If you can't show that,  
11          then you cannot prove Section II discrimination.

12                       FEMALE SPEAKER: Commissioner Curry.

13                       COMMISSIONER CURRY: Yes. I want to comment  
14          that I'm tired of looking at this screen. Is there any  
15          way possible -- I can feel more like I'm there with you  
16          guys if I could see more faces, because all I'm looking at  
17          is a screen.

18                       FEMALE SPEAKER: Hi, Juanita.

19                       COMMISSIONER CURRY: I mean, it's strange  
20          being out here trying to keep my concentration just  
21          looking at Michigan Independent Citizens Redistricting  
22          Commission screen.

23                       FEMALE SPEAKER: Commissioner Lett or Sarah,  
24          is there a way that she can fix that? Can she --

25                       COMMISSIONER CURRY: Yeah, we usually do it

1 when we're at the -- when we're in sessions when I was  
2 there.

3 FEMALE SPEAKER: Yeah, you should be able to  
4 go to the upper right corner and it should give you a  
5 drop-down up at that -- there's like a little toggle and  
6 it'll say like change view and you can do like gallery,  
7 side-by-side. I'm trying to do this from memory. Yeah.  
8 Speaker. Yeah, you want to do gallery probably or  
9 speaker.

10 COMMISSIONER CURRY: I see everybody.

11 FEMALE SPEAKER: Can you see that little -- in  
12 the upper right-hand corner --

13 COMMISSIONER CURRY: I got the upper, yeah,  
14 but it's still not giving me anything. In fact, now it's  
15 all gone.

16 FEMALE SPEAKER: No, you should have the  
17 option for like speaker, side-by-side, gallery and you  
18 probably want like gallery.

19 COMMISSIONER CURRY: Okay. It's just been  
20 removed, so I'm going to leave it alone.

21 FEMALE SPEAKER: Okay.

22 MALE SPEAKER: Sorry, Juanita.

23 FEMALE SPEAKER: Sorry, Juanita.

24 COMMISSIONER CURRY: I'm going -- good night.

25 FEMALE SPEAKER: Good night. Don't go yet.

1 MALE SPEAKER: Don't go yet. Don't go yet.

2 COMMISSIONER CURRY: I can't see anything, so  
3 why stay?

4 MALE SPEAKER: Because you can hear.

5 FEMALE SPEAKER: Because you can hear us.

6 COMMISSIONER CURRY: No. You all need to fix  
7 this thing right. I want to hear and see so I can have  
8 some kind of --

9 FEMALE SPEAKER: Juanita, unfortunately, we  
10 can't fix it for you. You're going to have to change your  
11 settings on your computer.

12 COMMISSIONER CURRY: I just did.

13 FEMALE SPEAKER: There should be an option on  
14 there to change it to gallery view and then you'll be able  
15 to see everyone.

16 COMMISSIONER CURRY: I had gallery and it only  
17 showed myself bigger. Okay. I'm not seeing any faces. I  
18 want -- that's okay. You all are not getting what I'm  
19 trying to say.

20 FEMALE SPEAKER: No, we know what you're  
21 saying. I just don't know how to fix it for you.

22 COMMISSIONER CURRY: I think you would have to  
23 do it there. I can't do it. I see my -- it's changed  
24 somewhat, but Mike Brady is not showing. Rhonda Lange is  
25 not showing. Erin Wagner is not showing. Then I still

1 have a commission with a screen. That's better. Thank  
2 you. Somebody know how to do something.

3 FEMALE SPEAKER: All right. Commissioner  
4 Clark and then Commissioner Lett, sorry.

5 COMMISSIONER CLARK: Okay. Bruce, I agree  
6 with everything you said about Flint. As I reflected back  
7 on that, when I was driving home last night. I agree.  
8 But Detroit's different. And so your comments were -- it  
9 appears to be a neighborhood issue and they want to have  
10 the neighborhoods consolidated. So we can do that and  
11 make minor modifications to the districts we've done. But  
12 that, to me, doesn't fix the problem they were complaining  
13 about. The problem they were complaining about was, in my  
14 mind, was that the districts didn't give them the  
15 opportunity to elect. And so changing just the  
16 neighborhoods is not going to change that problem.

17 So the way to change that would be to make the  
18 districts -- compress them so that more of the blacks are  
19 in Detroit. But then you end up with the comment that  
20 Anthony was talking about, are we packing? So how do we  
21 resolve something like that?

22 FEMALE SPEAKER: Commissioner -- once you  
23 answer, then Commissioner Lett and then Commissioner  
24 Eid.

25 MR. ADELSON: I think that's a great question

1 and I think that the -- and you're right that a lot of the  
2 comments were, we can't elect. Of course, we don't agree  
3 with that. And you have analysis that supports our  
4 conclusion and our advice. They don't have that. So the  
5 level of VAP that is needed, I think Dr. Handley  
6 established that.

7 Now, I think that what's also true, whether it's the  
8 reunification of Hamtramck in one district, I can't tell  
9 offhand whether that -- how that changes from a  
10 population standpoint. But, in a sense, you know, I agree  
11 with you that we're not talking about vast changes. We're  
12 not suggesting vast changes to these districts. My  
13 recollection is that there are neighborhoods that were --  
14 whether they were -- I don't want to say split between  
15 counties, but that were split that just like the  
16 commission addressed the Lakeside districts and there have  
17 been a lot of comments about Ottawa County, Midland and a  
18 lot of other issues, too, that these are comments from the  
19 black community in Detroit, that if you look at the  
20 historic nature of Detroit which also -- the neighborhoods  
21 in Detroit, I think that our suggestion would be that  
22 that's something to evaluate and something to look at  
23 further.

24 And remember, too, that with the mantras, in a way,  
25 in evaluating this. The Voting Rights Act is about

1 opportunity or ability to elect candidates of choice, not  
2 candidates of a certain race and not guaranteeing that any  
3 one person or one race wins.

4 So that the process now, at the end, is a  
5 challenging one in the sense that you're filtering a lot  
6 more information than you were three weeks ago. A lot of  
7 that information is, at best, misleading. And to  
8 Commissioner Orton's point, a lot of it has a specific  
9 agenda where the people behind these agendas want a  
10 specific, relatively high black voting age population.  
11 We're not talking about that.

12 And I think that -- let's also be, you know, going  
13 back to what I had said before; that if you create  
14 districts or adjust districts so that they wind up having  
15 50.1 percent, 51, 52 percent BVAP, we're not packing  
16 because that issue is not addressing a Voting Rights Act  
17 issue that your lawyers are advising you about.

18 Whether or not people in the community think it's a  
19 VRA issue is a different consideration. That bringing  
20 these, looking at these communities as the commission has  
21 been so responsive to, like with the Lakeside districts,  
22 I think that that's an important consideration.

23 What's also important, too, remember these last  
24 eight days. Are people going to look at this, this will  
25 be the focus of litigation, the focus of testimony and the



1 focus of depositions. It's really important, your  
2 attorneys believe, that you show now an additional effort  
3 to address the recent concerns without packing, without  
4 making population choices at random, but you show that we  
5 are addressing the concerns of the black community in  
6 Detroit. We're addressing the concerns of the black  
7 community in Flint. We're not doing it by creating 70  
8 percent BVAP districts.

9 But we are looking at these, we're taking them  
10 seriously and you put on the record, show that you're  
11 doing that. Showing a court that this is what we did,  
12 that's what we did in Arizona, and there were a lot of  
13 concerns about oh, you know, you made this decision and  
14 that decision. As you know, we backed up every decision  
15 we made. We explained everything.

16 Being able to say, look at the changes that we made,  
17 look at the adjustments that were considered and approved  
18 that address these community-based neighborhood concerns,  
19 we think that's a very important place for the commission  
20 to be at this late stage because that kind of offsets  
21 significantly whatever comments, whatever issues came up  
22 previously, because it shows well, what did you do? What  
23 did you discuss? What decisions were made in the last  
24 eight days?

25 We see that as being a potentially tremendous

1 benefit that takes away a potential avenue of litigation  
2 and gives you a substantial record to run on, in a sense,  
3 to show this is what we addressed, this is how we did it  
4 and we didn't do it by packing people. We didn't do it by  
5 just randomly coming up with numbers, and we didn't do it  
6 because we thought that there was vote dilution and  
7 discrimination of the Voting Rights Act.

8 MALE SPEAKER: So with our spoke concept in  
9 Detroit, do you think we're on the right track?

10 MR. ADELSON: Well, I think that -- and that's  
11 something that, you know -- I'm glad that you mentioned  
12 that because that's something that we really wanted to  
13 stress and that this is a good time to do that.

14 Michigan, and this is part of the reason -- well,  
15 let me back up for a minute. The memorandum on  
16 discrimination, history of discrimination, is important,  
17 because if this were a Section II case under the Voting  
18 Rights Act, the court would consider that. So we thought  
19 that it's important for the commission to know if there is  
20 any type of Voting Rights Act litigation, that's exactly  
21 what people are going to be looking at. That's what an  
22 expert will be hired to do. There will be a paper like  
23 that. So your being able to see now what may happen in  
24 the future is important to know.

25 And in referencing that, Michigan, as you know, has

1           been a state since 1837. Legislative maps, until now,  
2           were drawn either by courts or by the legislature,  
3           whether it was in 1898 or 2000. So you talk about the  
4           spoke system. You spent a lot of time and hard work  
5           unpacking the city that, frankly, has been packed for  
6           decades, partly because of that arrangement we talked  
7           about between the political parties. That took a lot of  
8           work and we applaud that. We think that definitely is the  
9           right track. It expands minority vote opportunities. It  
10          expands opportunities for the black community in Detroit  
11          to expand its influence. So yes, that is definitely the  
12          right way to go. We are not, in any way suggesting, nor  
13          will we, that you pull back and go south of Eight Mile and  
14          stay there. We are not saying that at all. Your  
15          unpacking work was significant. Never happened in the  
16          almost 200-year history of this state.

17                   And what you're doing -- and I want to --

18                   FEMALE SPEAKER: We have three people who have  
19                   hands up.

20                   MR. ADELSON: Oh, I'm sorry.

21                   FEMALE SPEAKER: Commissioner Lett,  
22                   Commissioner Eid and then Commissioner Lange.  
23                   Commissioner Lett, go ahead.

24                   COMMISSIONER LETT: I agree with Bruce's  
25                   analysis for the primary reason that I've been listening

1 to what he's been saying, obviously, and I've been  
2 listening to what the civil rights director, who is an  
3 attorney, has to say. And so I was somewhat concerned --  
4 what he's saying is that if you have a majority-minority  
5 district and you have to keep a majority-minority district  
6 and Bruce is saying no, you don't. Then, who is right and  
7 have -- Johnson is his name. Is it correct saying that  
8 you have to keep as many majority-minority districts as  
9 you started with under Section II, I said, well, why not I  
10 go and look in Section II and see what it has to say.  
11 So I've done that a couple times and I did it once today  
12 as we're locked down, providing ourselves with security --  
13 ha, ha, ha. There is nothing, I'll repeat that, there is  
14 nothing in the statute that talks about a percentage.  
15 There is nothing in the statute that talks about a  
16 majority-minority district or a minority-majority  
17 district. It's not even mentioned in the statute.

18 So when he comes on in front of us and says that, as  
19 Julieann has stated, it's absolutely wrong. It's two  
20 paragraphs. I'd be happy to show it to you.

21 Secondly, Virginia, great state of Virginia tried  
22 this. They came out in a case -- the recent case. It's  
23 the -- give me the name. It's after Gingles. It's a very  
24 recent case and it says -- well, you have to have -- they  
25 decided well, we have to have a majority-minority

1 district, because I think they were under VRA and so they  
2 went 50.something. And the Supreme Court says no, you did  
3 that just because you were putting that 50+ percent race  
4 in to make that majority-minority district. You only did  
5 it because of race. That is against the case law. And  
6 that is where the VRA and Section II is analyzed is in the  
7 case law, not in the statute.

8 So the other thing is, the case law and the statute  
9 and the case law interpretation is, it's results oriented.  
10 It's not intent. So what that means is if we make a  
11 district -- I'll pick 55 percent as the number and we make  
12 a 55 percent district, that's pretty blatant on its face  
13 that the result that we've achieved is that it's a  
14 majority-minority district and it's assumed, presumed then  
15 that you did it because of race and then the burden shifts  
16 back to you, us, to prove we didn't do that.

17 Finally, in respect to Commissioner Eid's how are we  
18 supposed to protect ourselves, if you didn't read  
19 Edward's clip from 10/25/21 in which Mark Grebner was  
20 interviewed, you should. Number one, I like it because  
21 it's exactly what I believe. And he is the person -- I've  
22 known of him, he's not a personal friend, but he has been  
23 a political operative in Ingham County forever and he runs  
24 a political consulting firm. And if you want to know who  
25 voted for whom, when, go ask him, he'll tell you. He says

1 communities of interest was created as a nebulous criteria  
2 that the Redistricting Commission could use later as  
3 cover for whatever map it draws. Communities of interest  
4 is a will-o-the-wisp. It's a wreath of smoke. It can be  
5 whatever is necessary. The crucial thing is, who decides  
6 what a community of interest is that gets preserved? The  
7 answer, the commission does. Who gets to review that?  
8 Frankly, nobody does. It's up to them. Was it originally  
9 intended? Yes. It was built-in. It's nailing Jell-O to  
10 the wall.

11 Now, you can think that that's being rather over the  
12 top, but as a lot of people that have heard me talk,  
13 that's exactly what I believe. Who decides what a  
14 community of interest is? Doug asked that question right  
15 upfront, first meeting maybe, second meeting. Who  
16 defines community of interest, and my statement was, the  
17 community of interest defines if it's a community of  
18 interest. But that's what we can use now to justify what  
19 we're doing. And it's in the amendment. They put it in  
20 there for us. So let's use what we got.

21 And I know that M.C. really likes communities of  
22 interest.

23 FEMALE SPEAKER: We know that.

24 COMMISSIONER LETT: He really likes them.

25 FEMALE SPEAKER: He loves them.

1 COMMISSIONER LETT: So when we have a problem,  
2 M.C., look at your notes and tell us what the community of  
3 interest is.

4 But I mean, that's how we're going to do it.  
5 Population, they got to be contiguous, and then do what's  
6 best for the state. I agree with the people that out  
7 there said, do what's best for the state. And here's what  
8 we have to do in order to do that. And here's how we have  
9 to provide ourselves with cover. We can do it. Tomorrow.

10 FEMALE SPEAKER: Tomorrow.

11 FEMALE SPEAKER: So I have one follow-up  
12 question and this is a yes or no question/answer, please.  
13 Does the Michigan Department of Civil Rights typically  
14 enforce the Federal Voting Rights Act?

15 MR. ADELSON: No.

16 FEMALE SPEAKER: No, okay. And that was my --  
17 no disrespect to Mr. Johnson, but I'm like, why is the  
18 Michigan Department of Civil Rights weighing in on the  
19 Voting Rights Act? That's not their jurisdiction. That's  
20 the Department of Justice. Okay.

21 FEMALE SPEAKER: Political, yeah.  
22 Commissioner Eid and then Commissioner Lange and then  
23 Commissioner Kellom.

24 COMMISSIONER EID: Well, I agree with  
25 everything Steve just said. I mean, you can't really

1 argue with facts like that. I also reflected on the  
2 Detroit hearing and being someone who lives there, has  
3 lived in the city for ten years, yeah, they were just  
4 wrong. Like I hate to say it, but I mean, we have  
5 analysis. Fact-based analysis that shows that, you know,  
6 their comments were not backed by anything other than  
7 their feelings, which are very warranted as they have had  
8 a long history of oppression. But as far as the maps that  
9 we drew, you know, I was very uncomfortable with them at  
10 first. I said it in a public hearing that oh, you know, I  
11 don't know about this. But, I went back to the analysis  
12 and tried to poke holes in the analysis, I really did.  
13 But, I mean, I couldn't. It was a well-done analysis. I  
14 wanted to ask our lawyers, do you think there's anything  
15 in that analysis that could be called into question?

16 MS. PASTULA You mean Dr. Handley's  
17 analysis?

18 COMMISSIONER EID: Yeah.

19 MS. PASTULA: I think we've always been  
20 consistent. Even before the commission had Dr. Handley  
21 and Mr. Adelson, the commission has consistently said that  
22 the data's going to drive the number of majority-minority  
23 districts. Remember, we were getting a lot of pressure  
24 very early on. How many are there? Is there going to be  
25 two? Is there going to be more? Is there going to be



1 one? Is there going to be zero? And the answer always  
2 was, that until the data is taken and analyzed, that is  
3 unknown. And so what the commission has is it has the  
4 data, it has the analysis and it has the ability to make  
5 decisions based on that analysis. And I think the key --  
6 again, we've always been consistent not only with the  
7 Section II stuff, but with the case law. What does the  
8 case law say? The case law says the 50 plus one percent  
9 is garbage. The case law says retrogression is garbage.  
10 And you have advocacy people -- and I respect their  
11 passion, I respect their lived experience, but what  
12 they're doing is advocating for the commission not to  
13 follow the law. And it's our job, as unpopular as it is,  
14 to try to keep you on track with the law and advise you as  
15 best we can. So no, I think you have exactly the data you  
16 need to make the decisions, the difficult decisions that  
17 the commission needs to make and I think you have a wealth  
18 of other data to make other decisions on other criteria  
19 that we're not talking about in this session that can  
20 support those decisions as well. I think the commission  
21 should feel secure in its data and what it has available  
22 and that you have resources to discuss those with from  
23 this point moving forward. But, we've always been  
24 consistent and we will always be consistent in that  
25 advice.

1 FEMALE SPEAKER: Commissioner Kellom.

2 Oh, Commissioner Lange. I'm so sorry.

3 COMMISSIONER LANGE: Pass.

4 FEMALE SPEAKER: Pass, okay. Commissioner  
5 Kellom.

6 MR. ADELSON: Well, I just wanted to follow up  
7 briefly on what my colleague said. I agree. And I'm  
8 sorry, that's two words, I want to be as succinct as  
9 possible as I know Commissioner Kellom has a comment, but  
10 I agree with what Julieann --

11 COMMISSIONER KELLOM: I don't know if it's  
12 like a comment or -- well, yeah, it is a comment. I'm  
13 getting a little uncomfortable because it sounds like  
14 we're being empowered to not change what we've done, and I  
15 think we would be doing a disservice. I've lived in  
16 Detroit all my years and I understand, I saw the  
17 politicians that got up and spoke and I knew who they were  
18 and I know why they were saying that, but the undertone  
19 that I know to be true is that in some areas, if we don't  
20 change and if we are going to be acquiesce in our position  
21 that, you know, we've done such a great job and analysis  
22 says that, I think we're going to miss listening to the  
23 citizens in Detroit, and that really scares me. Because I  
24 see a bunch of nodding heads. I see us almost taking on  
25 the position of what politicians have done in saying oh,

1 we did a good job and we're not going to change it. And  
2 there are certain people there -- we all know that  
3 candidate of choice means electing candidates that look  
4 like them. Like, let's be clear.

5 So on one hand, there are people there that want  
6 their friends to win, et cetera. But on the other hand, I  
7 can't ignore the people that are talking about how  
8 Southfield is ripped up, and that is true. How Palmer  
9 Park is ripped up, and that is true. And these are areas  
10 in which my mother and grandparents still live and that I  
11 frequent. So it's like, Anthony, I respect what you're  
12 saying, but the Detroit area is jacked up and we need to  
13 change it. And I don't want us to sit here and start  
14 thinking about ways that we can keep it the same.

15 MS. PASTULA: And I want to jump in really  
16 quick because we're not strategizing or planning or doing  
17 a course of action because we're in closed session,  
18 what we're doing is we're discussing information and we're  
19 covering, again, the substance of Bruce's analysis, and  
20 what we're doing is we're distinguishing how what a lot of  
21 what you have heard is not supported by the VRA, is not  
22 supported by the VRA analysis. And whether it can be  
23 addressed in other ways is a topic for the open session  
24 and your deliberation and adjustment work. But again,  
25 it's that really, the substance of a lot of what you were

1 told about the VRA is flat-out incorrect. It has always  
2 been incorrect, and that that really was -- particularly  
3 with some of the questions that we were getting, it was  
4 really important to have the VRA discussion collectively  
5 so that you'd benefit from hearing each other's questions  
6 and the fuller answers. But I just wanted to jump in on  
7 that. Again, because we are in closed session, so we're  
8 talking about the contents of the memo, what the VRA does  
9 say, what the VRA does not say and how everybody keeps  
10 missing the -- not everybody in this room, but how like  
11 the public, they're very passionate about what they want  
12 without accurately identifying what they want.

13 COMMISSIONER KELLOM: Correct. So what I'm  
14 saying is, although they might be using the wrong  
15 terminology, I don't want us to ignore what they're  
16 actually saying. So if we know what they're saying, then  
17 we need to fix it. We need to -- okay, yeah, you're  
18 using the wrong word -- like you do, you know, a kid or  
19 something, but we know that we can go back and change it.  
20 So if that's what -- as long as we're all on the same  
21 page. That's all I'm saying.

22 MR. ADELSON: And I think that to that point, I  
23 think that one of the most compelling reasons why we  
24 wanted to meet is to address what does the VRA require?  
25 What does it not require? And in moving forward over the

1 next eight days, that there are, particularly in looking  
2 at the potential for litigation in the future, that this  
3 is your time to create a vibrant, compelling record that  
4 addresses many issues. As Julieann said, we're not having  
5 a strategy conversation, but these are things that it's  
6 important to distinguish. This is the time to focus on  
7 creating that record, understanding what the VRA says and  
8 doesn't say, understanding --

9 FEMALE SPEAKER: I see you, Commissioner  
10 Curry.

11 MR. ADELSON: Understanding how all these  
12 interrelationships, how they come together. And also,  
13 as I said, that the point we also wanted to make about  
14 Flint. Most of the comments didn't even address the VRA.  
15 They talked about the community, communities of interest  
16 and issues that are not VRA issues. That doesn't mean  
17 that they don't have their own compelling rationales which  
18 is separate from where we are today. But that meeting  
19 spoke loudly about many issues. Most of them were not  
20 about the Voting Rights Act, and that's an important  
21 distinction, as well as creating that record going  
22 forward, that will be examined closely in litigation.

23 Yeah, I want to mention one more point that we  
24 wanted to really stress, and this is --

25 FEMALE SPEAKER: Could we get Commissioner

1 Curry first?

2 Commissioner Curry, go ahead.

3 COMMISSIONER CURRY: Thank you. Sorry, Bruce,  
4 I lose my train of thought pretty fast, so let me get this  
5 in. I just wanted to say that when it comes to Detroit,  
6 the people that spoke out for Detroit, they use different  
7 terms as somebody just said. They may say different  
8 things, but the issue is still as important as the water  
9 issue, all other issues around the state, those issues are  
10 important because people died, people bled, people got  
11 hungry for it, people work and strive just as hard as the  
12 people that had to change the way they drink water. And  
13 I'm all for people that had to -- what happened in Flint.  
14 I mean, yeah, in Flint. But the same issue, different  
15 issues are just as important to people when they come out  
16 to tell you -- Detroit just stuck to the -- what is that?  
17 The BA -- the BRA codes or whatever. But it's the same  
18 issue, and so we need to fix it up some, because just as  
19 we fix up one place, we've got to fix up -- we've got to  
20 try and fix up everybody that has those deep concerns,  
21 because this is why we're hired. This is why we're here.  
22 And the thing about the VRAs, we got to stick to this or  
23 stick to that, I got you, Steve, you told -- that was  
24 excellent the way you brought that out. And even  
25 Julieann. But we've got to look out for Detroit. I live

1 in Detroit, so definitely, I'm going to speak up. But  
2 we've got to give the people some of what they want,  
3 because their issues is just as important as Flint's issue  
4 and I love Flint, too. I know a lot of people in Flint.  
5 I know the issues they had. The lady that did the  
6 commercials for the water thing, I kinda grew up with her.  
7 So I know the issues. But our issues here in Detroit,  
8 they come from the heart. They come from sweat. They  
9 come from work, hard work. And sometimes, hungriness.  
10 Sometimes people had to suffer for it. So let's deal with  
11 it, too.

12 MS. PASTULA: So I'm going to give you guys  
13 your first warning. Your first warning. We're getting --  
14 we're Q and A'ing on VRA, Q and A'ing on the memos, Q and  
15 A'ing on those types of things. And I appreciate the  
16 fact, again, that how things grow out and how the  
17 conversation grows out, that's a natural thing. So it's  
18 certainly expected, but we've got to pull -- are there any  
19 other specific questions on the VRA or the memos? If not,  
20 Bruce had one additional point. But again, we have to be  
21 focused on --

22 COMMISSIONER CURRY: We are focused, Julieann.  
23 I'm focused. I know exactly --

24 MS. PASTULA: No, I appreciate that,  
25 Commissioner Curry. I certainly apologize for

1 interrupting you, but again, it's not -- we can't do the  
2 strategizing session, and I'm sure a lot of your  
3 colleagues have their thoughts as well.

4 COMMISSIONER CURRY: I'm not talking about  
5 strategizing as much as being real.

6 MS. PASTULA: Thank you, Commissioner  
7 Curry. Commissioner Lett and then Commissioner Orton, did  
8 you have a comment or you were just -- okay.

9 COMMISSIONER LETT: Just two things to follow  
10 up with Commissioner Kellom. We can change. Nobody in  
11 this room is saying we can't go in and make changes. The  
12 only thing that we are saying is, when we make those  
13 changes, we need to be cognizant of the VRA and how we're  
14 going to do that.

15 COMMISSIONER KELLOM: Just making sure.

16 COMMISSIONER LETT: And we're going to do  
17 it -- I'm assuming we're going to do it in Detroit. We're  
18 going to do it in Flint. We're going to do it in Grand  
19 Rapids, Ottawa, you name it. Second point, forget about  
20 litigation when we get into these maps. Don't sit there  
21 and think well, I got to make this change, but am I going  
22 to get sued? You're going to get sued, so forget it.  
23 You're going to get sued, so forget that. Let's just do  
24 the best job we can with the advice that we're getting.

25 MALE SPEAKER: Okay, thank you.



1 MS. PASTULA: Again, the purpose of the  
2 closed session was, what is the VRA, what is not the VRA.  
3 And you guys are on -- you guys were on the right track  
4 and you're staying on the right track. You have the  
5 advice, you have the data, you have all the tools you need  
6 and you have the resources that you can tap into. Again,  
7 I would strongly advise you to listen to your lawyers, not  
8 other people's lawyers.

9 FEMALE SPEAKER: And I just want to say,  
10 remember the wording. This can all fall under communities  
11 of interest.

12 FEMALE SPEAKER: Right.

13 MALE SPEAKER: (Inaudible).

14 FEMALE SPEAKER: Absolutely.

15 FEMALE SPEAKER: M.C.

16 COMMISSIONER ROTHORN: So two thoughts in my  
17 mind. One, we were in open session, we did talk about  
18 voting or voter turnout and do we need data for voter  
19 turnout at all. And the second question was related to --  
20 should I not say anything about that?

21 FEMALE SPEAKER: Yeah, we can't -- that's --

22 FEMALE SPEAKER: We can address those in open  
23 session.

24 COMMISSIONER ROTHORN: I wasn't sure if it  
25 was related to VRA. The second question is also, is it

1 related. We've asked for Lisa to give us additional  
2 analysis. Is it related to VRA? And is there any reason  
3 to think that we need to wait for that analysis or  
4 something like that. Do I even remember correctly?

5 MR. ADELSON: As you know, and as I mentioned  
6 earlier, Dr. Handley is doing additional analysis. We  
7 will get an update as quickly as possible. That's  
8 something that will be discussed in open session. It is a  
9 Voting Rights Act related -- it's related analysis. And  
10 as she continues to perform her analysis, we'll have a  
11 greater understanding of where she is and when she will  
12 be -- when the analysis will be completed. That is a VRA  
13 analysis.

14 I wanted to -- in closing, I wanted to mention one  
15 issue that's connected with both memos, particularly --  
16 well, not particularly. It's connected to both memos.  
17 The Voting Rights Act, as I had said earlier, as you know,  
18 was passed in 1965 in response to the march in Selma, the  
19 march to Montgomery, Alabama, the injuries that occurred  
20 that day, the violence was on national television, got a  
21 lot of attention and really was seen as a galvanizing  
22 moment in American history. This law is about, as I said  
23 earlier, the opportunity and ability to elect, regardless  
24 of race, color or membership in a language minority group.  
25 That's enshrined in the Voting Rights Act. It's also

1           enshrined in the 14th Amendment to the U.S. Constitution  
2           which is related to the Voting Rights Act.

3           And the last point I wanted to make, along with the  
4           opportunity and ability to elect, and in looking at the  
5           next eight days and, frankly, your legacy certainly from  
6           my standpoint; you have the opportunity to create more  
7           opportunities than have been created in the 200 years of  
8           Michigan history. More opportunities to elect, abilities  
9           to elect. And again, no guarantees, no requirement that  
10          a certain person of a certain race must be guaranteed  
11          success. That's not what the Voting Rights Act says.

12          But in thinking about the memos, as I was writing  
13          both of them, one of the issues that came up to me was  
14          legacy. Because we really are at the legacy stage in a  
15          sense that, to me, being able to say and do that, to  
16          create the opportunities and abilities to elect that the  
17          Voting Rights Act was intended for, speaks to, is  
18          significant. And we don't always get to do that, but  
19          that's something that I wanted to convey and that's based  
20          on my work enforcing the VRA for the United States and  
21          also the work that I've done since then. That's an  
22          incredibly powerful opportunity. That's what the Voting  
23          Rights Act says. That's our opinion. That's our advice  
24          and that will be our advice going forward. Thank you.

25                   FEMALE SPEAKER: Commissioner Eid and then

1 Commissioner Orton.

2 COMMISSIONER EID: Just one more quick thing,  
3 kind of a different topic. We also heard comments from  
4 Dearborn as it regards to VRA and Arab-Americans. I think  
5 we've done a pretty good data-driven process looking at  
6 that, but do you guys have anything more for us in that  
7 regard?

8 MR. ADELSON: Well, that's also a great point  
9 that I want to address and I think, Commissioner, you had  
10 asked us a while ago and I saw a couple of misstatements  
11 about this in the public sphere. The Voting Rights Act  
12 does protect Arab-Americans. The Voting Rights Act  
13 protects people based on race, color, national origin.

14 As you know, there was -- the United States sued the  
15 City of Hamtramck about 20 years ago for discrimination  
16 against Arab-Americans. The United States and the consent  
17 decree signed by a federal judge claimed -- not claimed,  
18 stated that there were violations of the Voting Rights Act  
19 against Arab-Americans based on race and color.

20 So to be clear, the Voting Rights Act does apply to  
21 Arab-Americans. They are a protected category under the  
22 statute. I did see a couple comments over the last couple  
23 of days, I think there was one from Flint actually, or  
24 maybe while we were in Flint, that said to the contrary.  
25 That is incorrect. The Arab-Americans are protected under

1 the Voting Rights Act.

2 FEMALE SPEAKER: Commissioner Orton.

3 COMMISSIONER ORTON: So I just have a comment.

4 I just wanted to remind us all that -- so we need to do  
5 this work. It was set up so that we hear from citizens,  
6 but I think at this point, we need to kind of shut out all  
7 of the criticisms that are coming and all the pressure,  
8 because these are all motivated, and we need to do our  
9 work using the VRA and communities of interest.

10 FEMALE SPEAKER: And I would just like to  
11 remind everybody that we are running out of daylight.

12 FEMALE SPEAKER: Go ahead, Commissioner Clark.

13 COMMISSIONER CLARK: Yeah. And to add on to  
14 what Cynthia just mentioned --

15 FEMALE SPEAKER: Is it directly related to the  
16 VRA?

17 COMMISSIONER CLARK: No. Anything discussed  
18 in this room today should stay in this room. Period.

19 MS. PASTULA: This is a confidential  
20 discussion.

21 COMMISSIONER CLARK: Not discussed with  
22 anybody.

23 MS. PASTULA: This is a confidential  
24 discussion. Again, as we started, if you have your  
25 Confidentiality Agreements, you can return them to Sue Ann

1 or myself. It is a confidential discussion unless the  
2 court orders it open, that's why we have the recording.  
3 That's why we have the basis and we'll move forward.

4 COMMISSIONER LETT: I move we adjourn the  
5 closed session and go back into open session.

6 COMMISSIONER WITJES: Second. Sorry, second.

7 CHAIR SZETELA: Motion by Commissioner Lett,  
8 seconded by Commissioner Witjes to conclude the closed  
9 session.

10 FEMALE SPEAKER: Before the vote, Madam Chair,  
11 I just want to indicate to everyone joining remotely.  
12 What this means, after the vote to adjourn if it passes,  
13 you will leave this Zoom meeting and re-join the Zoom  
14 webinar. So the meeting that we were on right before  
15 this. You can use the same link and you will be able to  
16 join that one again. Thank you.

17 CHAIR: All right. All in favor of adjourning  
18 the closed session, raise your hand and say aye.

19 MULTIPLE SPEAKERS: Aye.

20 CHAIR: All opposed, raise your hand and say  
21 nay. I can't see them.

22 MALE SPEAKER: Juanita raised her hand. I  
23 didn't hear from Erin and Rhonda.

24 CHAIR: Erin and Rhonda, could you verbally  
25 indicate your vote?

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COMMISSIONER LANGE: Aye.

COMMISSIONER WAGNER: Aye.

CHAIR: All right. The ayes prevail. It's  
unanimous, the closed session is adjourned at 5:19.





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