



When the People Draw the Lines

**AN EXAMINATION OF THE CALIFORNIA CITIZENS
REDISTRICTING COMMISSION**

Executive Summary

by Raphael J. Sonenshein

with Generous Support from The James Irvine Foundation



On November 8, 2008, a historic presidential election drove voter participation to unusually high levels. Californians cast more than 13.5 million votes for president. Much farther down their ballot, a smaller number of voters (just short of 12 million) voted on Prop 11, also known as the Voters First Act. By a margin of less than 1 percent,¹ voters transformed the way the state went about drawing districts for state offices. Instead of the state legislature and governor (and at times, the courts), an independent citizen commission—the California Citizens Redistricting Commission—would now accomplish the task. With little notice in the tidal wave of the presidential race, Californians had made a major change to their state's constitution.

Two years later, by a more comfortable margin,² the state's voters approved Prop 20, to include congressional seats in the citizen-led redrawing. On the same ballot, voters rejected Prop 27, which would have eliminated the entire citizen-driven redistricting process.³ A narrow popular mandate for citizen redistricting became a solid majority.

Of all the states that have experimented with alternatives to redistricting by elected officials, California was the most distinctive, dedicated to removing as completely as possible the role of incumbent politicians in drawing their own district lines.⁴ Arizona had the most comparable state system, but it provided a greater role than California for elected officials in selecting commissioners.⁵

This report analyzes California's citizen redistricting process, from design to implementation, presenting findings about what worked well and what did not. It also offers recommendations for improvement, in order to assist future California citizen commissions, in addition to any other jurisdiction looking to follow California's lead.



The League of Women Voters of California published this report, with funding from The James Irvine Foundation. It draws on the research of four consultants,⁶ examination of public records, including transcripts of commission meetings, and interviews with participants in the redistricting process. The author conducted interviews with each of the fourteen commissioners. Unless otherwise indicated, comments attributed to the commissioners are based on these interviews. Outside reviewers commented on drafts of the report.

The author is solely responsible for the findings and recommendations.

¹Prop 11 received 6,095,033 votes (50.90 percent), with 5,897,655 (49.10 percent) opposed. Although the margin of victory was less than 1 percent, the Yes side had almost 200,000 votes more than the No side.

²Prop 20 received 61.3 percent of the vote, with 38.7 percent opposed.

³Prop 27 received 40.5 percent of the vote, with 59.5 percent opposed.

⁴Justin Levitt, *A Guide to Redistricting* (New York: Brennan Center for Justice, 2010); Bruce Cain, "Redistricting Commissions: A Better Political Buffer?" *Yale Law Journal* 121 (2012): 1808–44.

⁵In November 2000, Arizona voters passed Measure 106 to take the power to draw districts away from the legislature and vest it in a citizen commission. The Independent Redistricting Commission is composed of five members. The first four are nominated from a pool selected by the Commission on Appellate Court Appointments. From this pool of twenty-five, party leaders in the legislature each select one, so that there are two of each party. These four members then select a fifth person to be chairperson, choosing from among those in the pool who do not belong to either of the two major parties.

⁶Research consultants for this report were Melina Abdullah, Acting Chair and Associate Professor of Pan-African Studies, California State University, Los Angeles; Mark Drayse, Associate Professor of Geography, California State University, Fullerton; Bonnie Glaser, Berkeley Law Center for Research and Administration, UC Berkeley; and Justin Levitt, Assistant Professor of Law, Loyola Law School, Los Angeles. The research associate was Nedda Black, graduate of the Hastings College of the Law. Anna Sonenshein researched media coverage of the commission.

Findings

Overall, the California citizen redistricting process was a success.

- Those who designed the ballot measures that created citizen redistricting overcame great historical odds. They were remarkably successful in winning voter support and in creating a commission that was largely independent of incumbent influence and generated a well-received redistricting (chapter 1).
- The designers of the redistricting process created a detailed and effective set of rules for commissioner selection that maximized deliberation, transparency, and independence (chapters 1, 2).
- The James Irvine Foundation contributed nearly \$3.5 million to facilitate wider outreach to the state's diverse geographic and demographic communities during the selection process by funding a number of community organizations to encourage applications to the commission and to provide special outreach and training (chapters 2, 7).
- The Bureau of State Audits (BSA),⁷ a California state agency, conducted a broad recruiting campaign that led more than 30,000 citizens to apply to become commissioners (chapter 2).
- Incumbent elected officials had little influence over the selection of commissioners (chapter 2).
- The BSA's selection process, operating in public view, yielded a diverse group of commissioners who met the requirements of service set out in Prop 11 (chapter 2).
- The commission sought and obtained a massive amount of public input, including testimony at public hearings, emails, draft maps, and other communications (chapter 4).
- The commission completed its work on time, issuing final maps by the mandated date of August 15, 2011 (chapter 3).



Photo Courtesy of CA Common Cause

- The commission earned majority votes for its final maps from all three required groups of commissioners: Democrats, Republicans, and those not aligned with either major party (chapter 8).
- The maps survived strenuous legal challenges in state and federal courts with no adverse judicial decisions (chapter 8).
- According to public-opinion polling, voters responded positively to the work of the commission (chapter 8).
- In a comparative study of transparency of state governing processes in which the state received a B- overall, the citizen redistricting process received an A, with a score of 100 percent⁸ (chapter 8).
- Four independent studies of the commission's final product, including two conducted for this project, found generally positive results in achieving the main substantive goals of Prop 11,⁹ in respecting Communities of Interest (COIs),¹⁰ in following accepted techniques and processes in mapping,¹¹ and in following a decision-making process that generally met accepted standards for addressing Voting Rights Act issues¹² (chapters 6–8).

⁸Center for Public Integrity, accessed August 25, 2012, http://www.stateintegrity.org/california_survey_redistricting.

⁹Vladimir Kogan and Eric McGhee, "Redistricting California: An Evaluation of the Citizens Commission's Final Plans," *California Journal of Politics and Policy* 4 (2012): 35–36.

¹⁰Nicholas O. Stephanopoulos, "Communities and the Commission," *Stanford Law and Policy Review* 23 (2012): 19.

¹¹Mark Drayse, research conducted for this report.

¹²Justin Levitt, research conducted for this report. See also Justin Levitt, "Democracy on the High Wire: Citizen Commission Implementation of the Voting Rights Act," *U.C. Davis Law Review* 46 (2013, forthcoming).

⁷The agency has since been renamed the California State Auditor.



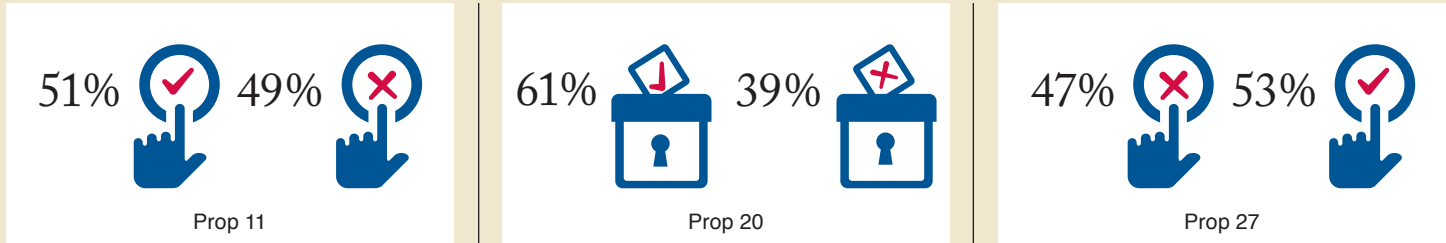
WHEN THE PEOPLE DRAW THE LINES

On November 8, 2008, Californians voted a major change into their state's constitution when they approved Proposition 11, the Voters First Act. This proposition took redistricting out of the hands of the state legislature and governor and put it squarely in the hands of an independent citizen's commission.



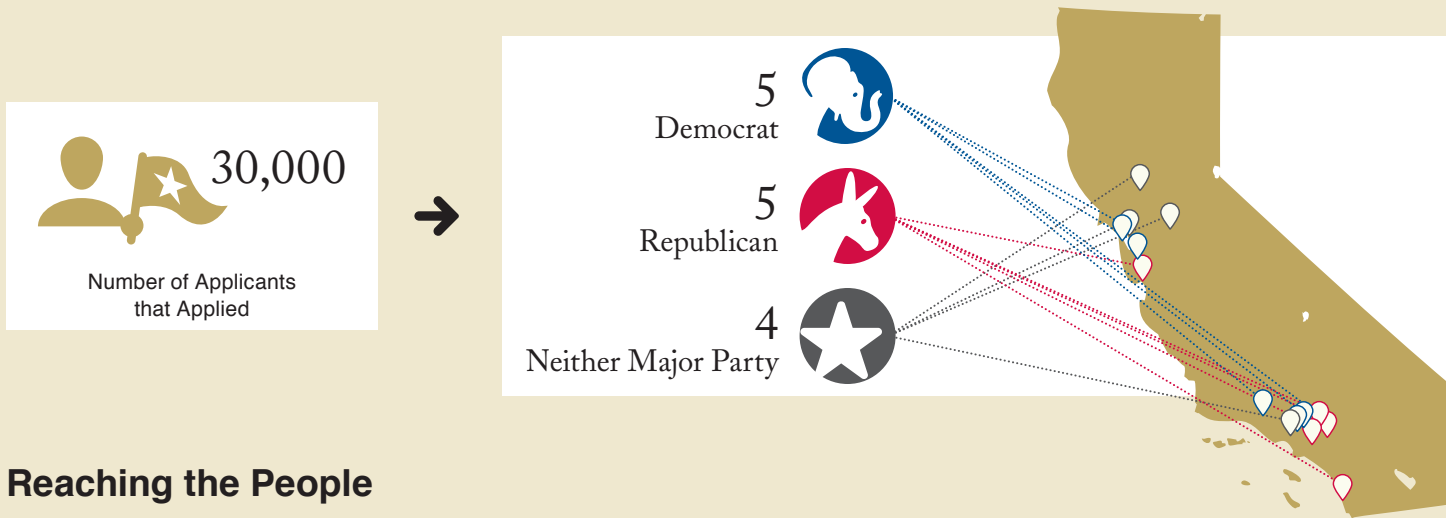
The Voters Ask for a New Process

Prop 11 won a narrow victory in 2008, but in 2010, voters expanded the scope of the measure to include congressional districts through Prop 20, and rejected an attempt to overturn the citizen-led process through Prop 27.



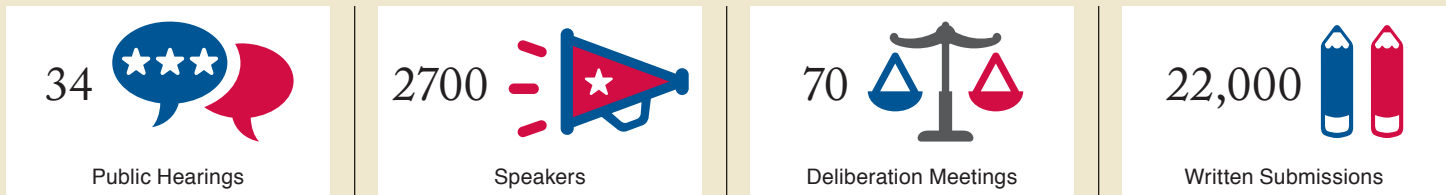
Selecting the Commissioners

California's Bureau of State Audits spent two years adopting new regulations and conducting a major statewide outreach process that led to a diverse, capable, and determined commission of fourteen members.



Reaching the People

Input from the public was a high priority for the commissioners, and they received a staggering amount of public response.

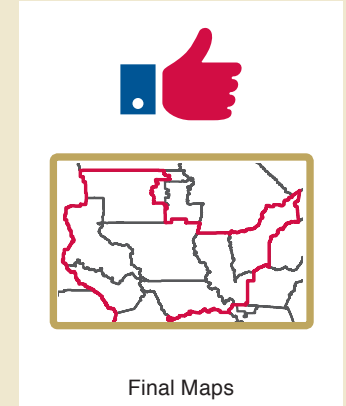


Mapping It Out

The commission was scrupulous in attempting to create maps around the six constitutional criteria. The mapping process included building draft maps, visualizations of districts, and a final set of maps, and was incredibly complex.

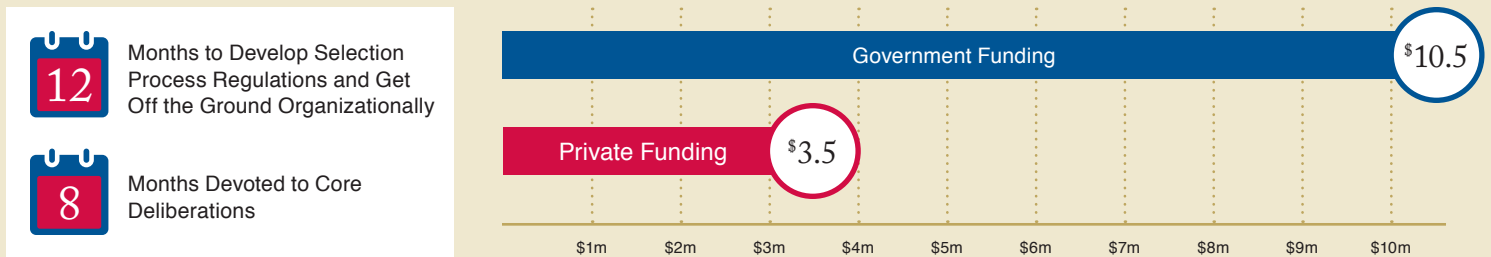
Criteria

- Population Equality
- The VRA and Minority Representation
- Geographic Contiguity
- Geographic Integrity of Communities of Interest
- Geographic Compactness
- Nesting



Timeline and Budget

The redistricting process devoted more attention to the selection of commissioners than to the preparation and deliberations of the commission, making time pressure a key issue for commissioners.




Checking the Commission's Work


The citizen redistricting process was largely successful in achieving a nonpartisan and transparent process. The final maps survived legal challenge, and the commission's work was regarded positively by a majority of the voters. The 2012 election results suggested that the new district lines caused significant turnover in elected offices.

2 to 1 

Voter Approval on Commission's Work

"A" 

Score Received in a Study of Transparency of Processes

7-0 


California Supreme Court Upholds the State Senate Maps



Praise from Independent Reviewers



Prop 11 took redistricting out of the hands of legislators and placed it in the hands of citizens. The primary duty of the independent citizen's commission's was to draw the lines of 177 districts.



Number of State and Federal Election District Lines Drawn

177

- A comparative analysis of the budget for a citizen commission in Arizona indicates that California's overall spending on the citizen redistricting commission was reasonable (chapter 7).
- In the 2012 elections, many incumbents faced significant challenges, in part due to redistricting, and some chose not to run for reelection. Turnover was high, and the new legislature had a large share of new members (chapter 8).



Photo Courtesy of CA Common Cause

Despite the commission's overall success, there were flaws in the redistricting process.

Design

- The commission's organization and operation received significantly less attention in time, planning, and funding than did the selection of commissioners (chapter 2).
- The transition from the BSA's role in selecting the commissioners to the Secretary of State's role in getting the commission up and running was not adequately planned (chapter 3).
- The decision to have the first eight commissioners select the next six commissioners created challenges in forming a unified, cohesive body (chapter 3).

Organizational Issues

- The commissioners had limited opportunity to design the expectations and job descriptions of staff and consultants. With tight timelines, commissioners increased their own workload in administrative matters (chapter 3).

- Although Prop 11 established a \$300 per diem rate of compensation for commissioners, the commissioners had to determine important details of the system of compensation themselves (chapter 3).
- State contracting rules hindered the commission's ability to operate in a timely manner, especially in the commission's early stages (chapter 3).
- The actual mapping process was compressed into a short timeframe, from late May 2011 through late July 2011 (chapter 5).
- Commissioners struggled to weigh public input because of its sheer volume (chapters 4–5).
- Although the commission was established to last ten years, no role was defined for the commission's work beyond drawing the lines and defending lawsuits (chapter 3).

Training

- Commissioner training, particularly in the application of the Voting Rights Act, was delayed and/or inadequate (chapter 3).
- Although Props 11 and 20 elevated Communities of Interest (COIs) to a high priority in redistricting, the commission lacked sufficient guidance in making decisions about COIs (chapter 5).

Information Access

- The commission did not have the opportunity to utilize social and economic data that would have complemented the census data that were released in April 2011 (chapters 4–6).
- The commission lacked timely research in the area of polarized voting, an essential aspect of compliance with the Voting Rights Act (chapter 6).
- The commission lacked sufficient help in digesting and utilizing public input (chapter 4).
- Some commissioners and members of the public found it difficult to track changes being made in the maps (chapter 5).

Budget

- The BSA issued a contract for media outreach that, though modest in cost relative to the size of California's population, consumed a significant portion of the overall budget of the redistricting process (chapter 2).
- The commission lacked a sufficient budget to hire an outreach firm to stimulate, collect, and organize public input outside the public hearings (chapter 4).

Recommendations

Design

- In future redistricting cycles, the greatest share of resources and time should be devoted to the preparation and deliberations of the commission, including how the commissioners are trained, how they gather information, and how they deliberate (chapter 3).
- Jurisdictions considering adopting citizen redistricting should select all commissioners at the same time rather than having one set of commissioners choose the others (chapter 3).
- The next commission should have maximum flexibility in contracting, especially in light of its short period of operation (chapter 3).
- A system of commissioner compensation should be in place before the commission takes office. The amount and nature of compensation should be chosen with reference to comparable boards and commissions within and outside the state of California. The salary or per diem should make it possible for people of moderate means to serve (chapter 3).
- The same state agency that selects commissioners should help organize the commission, providing logistical and other support to get the citizen body up and running¹³ (chapter 3).



Photo Courtesy of CA Common Cause

- The next commission should have more time to do its work,¹⁴ with the commission in place at least five months earlier in the process than the 2011 commission was (chapter 7).
- The next commission should begin the mapping process earlier (chapters 5, 7).

Organization

- An organizational support system for the operation of the commission should be in place before the commission convenes. This information should be offered by a single governmental agency or outside organization with relevant experience (chapter 3).
- The State Auditor, or a comparable office known for its impartiality and professional skill, such as the Legislative Analyst, should conduct the selection process in the next iteration (chapter 2).
- Outreach to potential applicants for commission positions should draw on scheduled efforts by the U.S. Census Bureau to contact California adults (chapter 2).
- The commissioners should delegate administrative tasks as much as possible to staff and consultants (chapter 3).
- Commissioners should set the criteria and job descriptions for staff and consultants, through a public process, and make hiring decisions from the widest array of qualified applicants. New staff models should be explored, including bipartisan teams (chapter 3).

¹³The state legislature adopted a recommendation from the commission to follow this approach.

¹⁴This report concurs with the commission's recommendation for an additional six months for its deliberations, an extension that the legislature shortened to four and a half months. Even the approved extension will be a major help.

- The state should assign a staff person to handle logistical matters for the commission (chapter 3).
- The commission should cast a wide net for staff from both inside and outside the state government with experience working with appointed or elected citizen bodies (chapter 3).
- The line-drawing team and VRA counsel should be hired earlier in the process (chapters 3, 5).
- The existing commission should help fill the gap in preparation that will precede the selection of state agencies and outside institutions to gather research and set the stage for the next redistricting process (chapter 3).



Photo Courtesy of CA Common Cause

Training

- The commission should receive extensive training as a unified group after all members have been appointed (chapters 3, 5, 6).

Information Access

- Before the commission convenes, demographic and geographic data should be collected to supplement public hearings for the purpose of assessing COIs (chapters 3, 5, 6).
- Research on historical polarized voting should be undertaken before the commission begins the deliberation process (chapter 6).
- In the next iteration, the commission should improve the tracking of revisions to maps in order to give greater opportunities for public input (chapter 5).

Budget

- The budget for the next commission should include funds for user-friendly tools and technology that give the public thorough access to data and proposals and easy opportunities to provide effective testimony and proposed maps (chapter 4).
- The commission budget should include funding for a consultant whose main task is to collect and analyze public input to the commission (chapter 4).
- Commissioner travel costs should be reduced by conducting some hearings using distance technology and in some cases not requiring all commissioners to attend¹⁵ (chapter 4).

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¹⁵Any such changes in public hearings must take into account the tradeoffs of reduced commissioner presence and the need for all commissioners to have the same base of information.



League of Women Voters of California,
1107 Ninth Street, Suite 300
Sacramento, CA 95814-3608
(888) 870-VOTE (8683)
lwvc.org