

Department of Justice
Washington, D.C. 20530

MAR 5 1976

Mr. Joe Resweber
County Attorney
Office of the County Attorney
Harris County Courthouse
Houston, Texas 77002

Dear Mr. Resweber:

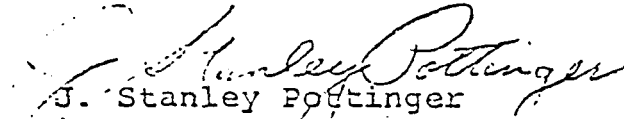
This is in reference to the 1973, 1974 and 1975 changes in the method of selecting precinct election judges in Harris County, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on January 5, 1976.

The Attorney General does not interpose any objection to the 1973 and 1974 changes. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes.

After careful consideration of the submitted changes, of supporting information and of comments from interested parties, we are unable to conclude, as we must under the Voting Rights Act, that the December 8, 1975 Commissioners' Court Order, as amended by the December 29, 1975 Order has not had and will not have a racially discriminatory purpose or effect. In the absence of information indicating that minorities are fairly represented among the precinct polling staff we are unable to conclude that the qualification that "the racial make-up of the precinct polling staff will not be affected" will not discriminatorily limit the opportunities of minorities to serve as precinct polling staff. I must, therefore, on behalf of the Attorney General, interpose an objection to this Order.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the District Court for the District of Columbia that these changes neither have the purpose nor the effect of denying or abridging the right to vote on account of race or color. However, until and unless such a judgment is obtained, the provisions objected to are unenforceable.

Sincerely,


J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

MAR 11 1976

Honorable Jon Lindsay
County Judge
Harris County
Family Law Center
Houston, Texas 77002

Dear Judge Lindsay:

This is in reference to your letter of March 9, 1976, in which you requested reconsideration by the Attorney General of his March 5, 1976, objection to the change in the method of selecting precinct election judges in Harris County, as prescribed in the Commissioners' Court Orders of December 8, 1975, and December 29, 1975. Your request for reconsideration was presented to us on March 10, 1976.

Pursuant to 28 C.F.R. Section 51.23, and in light of information provided by you in your March 9, 1976, letter and during a telephone conversation on that same date with Ms. Polly A. Dammann, a member of my staff, we have made a reevaluation of the 1975 Orders relating to the selection of precinct election judges. Based upon your March 9, 1976, letter, we understand that the 1975 Orders prescribe the method of selecting precinct election judges for only one term, and that for the term in question they have, in actuality, only affected the selection procedure in Commissioner Precinct No. 3. Given your written assurance that the phrase included in the December 29, 1975, Order, which reads ". . . the racial make-up of the precinct polling staff

will not be affected," was intended to reflect that no discrimination would occur by the adoption of the new policy, given your additional information that the 1975 procedure did not, in fact, adversely affect the selection of any of the three incumbent black precinct election judges in Commissioner Precinct No. 3, and given our finding that minorities are fairly represented among precinct polling staff in Commissioner Precinct No. 3, the Attorney General will not impose any further objection to your submission of January 5, 1976. The objection to your submission in my letter of March 5, 1976, is hereby withdrawn. We note, however, that should the Commissioners' Court pass an order in any subsequent years establishing the procedure for selecting precinct election judges, such order must have Section 5 preclearance prior to implementation; at the time of such a submission we must examine the purpose and the effect of the change in all commissioner's precincts.

Finally, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such change. We should further point out that the Attorney General has no authority to waive the 60-day period for considering a submission and, as our guidelines indicate (see 28 C.F.R. Section 51.22), we may reexamine our position on your submission should we receive additional information concerning the change in voting procedure prior to expiration of the 60-day period. Should such information warrant a change in the Attorney General's determination, you will be so advised.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division