

7 JUL 1976

Mr. Lucius D. Bunton  
Shafer, Gilliland, Davis,  
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P. O. Drawer 1552  
Odessa, Texas 79760

Dear Mr. Bunton:

This is in reference to the reapportionment of Commissioners' Court precincts in Crockett County, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed on May 8, 1976.

We have considered the submitted changes and supporting materials as well as information and comments received from other interested parties. The reapportionment in question was based on voter registration data. To determine whether this reapportionment would have the effect of abridging the vote of Mexican Americans in Crockett County this Department needs to know the population by race and ethnic group of the Commissioners' precincts established by the new plan. This information has not been provided to us, although we requested it.

Our experience indicates that Mexican Americans generally have a lower rate of voter registration than do Anglos. Thus an apportionment based on registration data is likely to have a dilutive effect on the vote of Mexican Americans. See *Ely v. Klahr*, 403 U.S. 108, 118-19 (1971) (Douglas, J., concurring). Because of the uncertainty extant in this redistricting plan due to the absence of reliable population statistics, we cannot conclude, as we must under the Voting Rights Act, that this reapportionment does not have the purpose or the effect of abridging the right to vote of Mexican Americans in Crockett County.

cc: Public File ✓  
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Therefore, I must, on behalf of the Attorney General, interpose an objection to the 1975 reapportionment of Crockett County.

Please be advised that the Attorney General will reconsider this determination if relevant statistical information is provided, or on the basis of other information showing that the apportionment does not have the proscribed discriminatory effect. However, until and unless the objection is withdrawn, the 1975 reapportionment plan is legally unenforceable.

Sincerely,

J. Stanley Pottinger  
Assistant Attorney General  
Civil Rights Division

D.J. 166-012-3  
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Dear Mr. Bunton:

This is in reference to your request for reconsideration of the objection interposed by the Attorney General on July 7, 1976, to the 1975 redistricting plan for Crockett County, Texas. Additional information which you furnished in support of that request was received on August 16 and September 2 and 22, 1977.

As the July 7, 1976, letter indicated, the Attorney General's objection was based on the absence of reliable population statistics that would facilitate an appropriate evaluation of the redistricting plan. You now have supplied data from the results of a 1977 special census survey undertaken for Crockett County which has enabled us to make an analysis of the redistricting plan in accordance with the requirements of Section 5 of the Voting Rights Act.

In our reconsideration of this submission we have given careful consideration to the 1977 census data provided, the information furnished in connection with the initial submission, and comments and information provided by other interested parties. Population statistics from the special census show that Crockett County has a population which is 41.5%

Mexican American. Our analysis shows that under the old apportionment plan the concentration of Mexican American population was divided between adjoining commissioner precincts 1 and 4, each of which had more than enough population for an ideal district and each of which was slightly over 68% Mexican American. During the 1974 elections in precincts 2 and 4 of this plan a Mexican American was elected in precinct 4.

Our analysis further shows that, according to the 1977 census data, under the plan adopted in 1975 the Mexican American majority in precinct 4, where a Mexican American candidate had already been successful in 1974, was increased to 84% while the Mexican American majority in precinct 1 was reduced to 58%. In a subsequent election in precinct 1 in 1976 a Mexican American candidate was defeated by an Anglo candidate in a runoff. The county has provided no compelling reason, and we have not been able otherwise to discover one, for the seeming overloading of Mexican Americans into precinct 4, with the inevitable and concomitant reduction of the Mexican American percentage in precinct 1, especially when one effect of that configuration is to increase to 4.2% the deviation in precinct 1 which previously had been 2.9%.

Under these circumstances, therefore, we are unable to conclude that the redistricting before us does not discriminate against Mexican Americans. Accordingly, in view of our analysis and recent court decisions to which we feel obligated to give great weight, e.g., White v. Regester, 412 U.S. 755 (1973); Robinson v. Commissioners Court, Anderson County, 505 F.2d 674 (1974); Moore v. Lerlore County Board of Election Commissioners, 502 F.2d 621 (1974), the Attorney General must decline to withdraw the objection interposed to the 1975 redistricting in Crockett County.

Of course, as provided by Section 5 of the Voting Rights Act, you have the alternative of instituting an action in the United States District Court for the District of Columbia seeking a declaratory judgment that the redistricting does not have the prohibited purpose or effect. However, until and unless such a judgment is obtained, the 1975 Crockett County redistricting plan is legally unenforceable.

With regard to the polling place changes undertaken in conjunction with the 1975 reapportionment plan, the Attorney General does not interpose any objection. 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 and our determination in no way seeks to address the question of the validity of the change in polling places under state law, in view of the legal unenforceability of the new districting.

Sincerely,

Drew S. Days III  
Assistant Attorney General  
Civil Rights Division