



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

James P. Allison, Esq.
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815 Brazos, Suite 204
Austin, Texas 78701

JUN 14 1988

Dear Mr. Allison:

This refers to the reduction in the number of justice of the peace and constable precincts, and the redistricting of such precincts in San Patricio County, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C.1973c. We received the information to complete your submission on April 15, 1988. Although we noted your request for expedited consideration, we have been unable to respond until this time.

We have considered carefully the information you have provided, as well as comments and information received from other interested parties. At the outset, we note that almost half the county's population is Hispanic, and that the western and north-central portions of the county are predominantly Hispanic. Under the existing justice of the peace election system, four justice of the peace ("J.P.") districts are located in these predominantly Hispanic areas of the county while two such districts are located in the eastern portion of the county which is predominantly Anglo. Under the proposed system, the existing six districts would be reduced to four in that the four districts now existing in the predominantly Hispanic areas of the county would be consolidated into two districts. Thus, two justice of the peace positions (and two constable positions) would be eliminated and, given the pattern of polarized voting which appears to exist in the county, the opportunity presently enjoyed by Hispanics for electing candidates of their choice to the office of justice of the peace (and constable) would be significantly diminished, leading to a retrogression in their

ability to elect candidates of their choice to these offices. See Beer v. United States, 425 U.S. 130 (1976). We find this conclusion inescapable even though we recognize that the plan proposed for implementing this new districting concept is identical to the plan for the commissioners court which previously was granted Section 5 preclearance in a different context.

We have duly noted the county's explanation that these changes were adopted to equalize the workloads of the justices of the peace and to reduce the cost of operating the county's J.P. system. While these generally would appear to be appropriate concerns for the county to consider in evaluating the need for judicial-type offices of this nature, our information is that the commissioners made no comparative study of the workloads or the economic status of the J.P. offices before adopting the changes. As we understand it, they did not consult the J.P. reports (although such reports apparently were readily available) which would have informed them of the workload actually being handled by each justice and the revenue being returned to the county by each J.P. office. As a consequence, it appears that the proposed changes would in fact assign a substantial amount of additional work to the two J.P. offices (both located in the predominantly Hispanic area of the county) which already are the busiest while making no change with respect to the J.P. office (located in an Anglo majority district) which appears to have the least amount of work (and produces the smallest amount of revenue).

We also are not unmindful of the procedural concerns that attach to these changes. Thus, we understand that the commissioners at first sought to adopt these changes (at the July 13, 1987, meeting) without notifying or seeking any input from the affected justices of the peace or the affected communities. Indeed, the agenda notice for the July 13th meeting indicated only that minor changes were slated for adoption to realign the J.P. districts with election precinct boundaries (though no such change was proposed or needed for the J.P. districts located in the predominantly Hispanic portions of the county), and we understand that the county attorney subsequently advised that the agenda notice violated the Texas Open Meetings Act. One reason advanced at the meeting for approaching this issue in this manner was that the changes should be adopted promptly to avoid having members of the affected communities

present to oppose them. When, after the July 13th meeting, Hispanic residents of the county did express strong opposition to the changes, this led simply to a pro forma reconsideration of the prior action with no change in result.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.52(c)). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that that burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the reduction in the number of justice of the peace and constable precincts and the districting plan adopted for its implementation.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that these changes have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. In addition, Section 51.45 of the guidelines permits you to request that the Attorney General reconsider the objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the submitted changes legally unenforceable. 28 C.F.R. 51.10.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action San Patricio County plans to take with respect to this matter. If you have any questions, feel free to call Mark A. Posner (202-724-8388), Deputy Director of the Section 5 Unit of the Voting Section.

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division