



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

MAR 17 1992

Honorable Ray Holbrook
County Judge
Courthouse
Galveston, Texas 77550

Dear Judge Holbrook:

This refers to the 1991 redistricting plan for justice of the peace/constable districts in Galveston 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 your response to our request for additional information on January 17, 1992; supplemental information was received on February 24 and March 5, 1992.

We have carefully considered the information you have provided as well as 1990 Census data, and information from other interested parties. The county is divided into eight justice of the peace/constable districts, one of which elects two justices of the peace but only one constable. Although blacks and Hispanics comprise 31.4 percent of the county's population, none of the existing districts contains a majority of black and Hispanic residents.

Our analysis of the process which resulted in the submitted plan shows that minority residents repeatedly pressed for a redistricting that would produce districts in which minorities would have an equal opportunity to elect candidates of their choice. Included in these proposals were plans presented in late August and mid-September, 1991, that would have given District 3 a majority black and Hispanic population. The county rebuffed these efforts with general claims that the existing districts had served the county well and an apparent reluctance to make any significant changes in the districts. However, two weeks later, at the request of an Anglo justice of the peace and constable, the county changed course and adopted a major transfer of territory and population between Districts 3 and 4. The effect of this transfer was to fragment a significant minority community in the City of Hitchcock from nearby minority communities in the cities of La Marque and Texas City. At the same time the county refused to reopen consideration of the changes proposed for District 3 by the minority community.

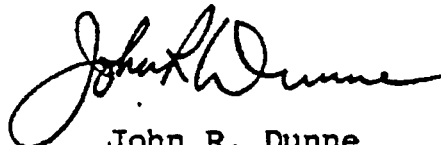
The reasons asserted by the county for its redistricting choices in this area do not withstand Section 5 scrutiny. Although convenience to the public is asserted to have been the principal reason for the change, it appears that persons in the area transferred will have further to travel to the justice court than before. Also, the county's statement that the redistricting will reduce a population disparity between the districts appears to be a post hoc justification, as the county was well aware of population disparities that existed (and will continue to exist under the proposed plan), but exhibited no interest in making any such adjustments in any other areas.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. Georgia v. United States, 411 U.S. 526 (1973); Procedures for the Administration of Section 5, 28 C.F.R. 51.52. In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that your burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the justice of the peace/constable redistricting plan.

We note that under Section 5 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the proposed change has neither a discriminatory purpose nor effect. 28 C.F.R. 51.44. In addition, you may request that the Attorney General reconsider the objection. See 28 C.F.R. 51.45. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the justice of the peace/constable redistricting plan continues to be legally unenforceable. See Clark v. Roemer, 111 S. Ct. 2096 (1991); 28 C.F.R. 51.10.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action Galveston County plans to take concerning this matter. If you have any questions, you should call George Schneider (202-307-3153), an attorney in the Voting Section.

Sincerely,



John R. Dunne
Assistant Attorney General
Civil Rights Division