



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

April 18, 1994

James P. Finstrom, Esq.
Marion County District Attorney
P. O. Box 276
Jefferson, Texas 75657

Dear Mr. Finstrom:

This refers to the polling place change for Voting Box 12 from the Jefferson Community Center to the Jefferson Volunteer Fire Department Building in Marion 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 February 17, 1994.

We have carefully considered the information you have provided, as well as information and comments from other interested persons. According to the 1990 Census, black persons represent 31 percent of Marion County's total population and 28 percent of its voting age population. The county is governed by a five-member county commission, four of whom are elected from single-member districts. District 3, with a black population of 62 percent, is the only black-majority district of the four. Voting Box 12 is one of two black-majority precincts located in District 3.

The location of the polling place for Voting Box 12 has been an issue that has divided the county along racial lines for some years, with black voters generally supporting the location of a polling place in the western portion of the precinct. In 1988, the first black county commissioner was elected to District 3. Under his leadership, the change in the location of the existing polling place for Voting Box 12 from a temporary building to the Jefferson Community Center occurred in 1991. After his defeat by a white candidate in 1992, in an election that appears to have been characterized by racially polarized voting, the proposed polling place change was initiated.

Information made available to us indicates that in late 1993, the Marion County Commission made the decision to change the polling place location for Voting Box 12 without any meaningful input from the black community regarding the possible effects of the proposed change. Our examination of your submission shows that the Jefferson Community Center is located in a heavily black portion of the precinct, and the proposed site for the new polling place, the Jefferson Volunteer Fire Department Building, is one to two miles away in a heavily white portion of the precinct. In a county with limited public transportation, this proposed location would appear to make it more difficult for black voters to exercise their right to vote.

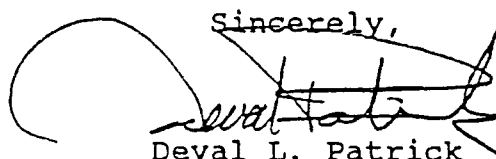
The county suggests that the polling place change was motivated by concerns of voter safety at the community center. We understand, however, that there have been no incidents identified warranting this concern while the community center was being used as a voting location and that citizens in the county, both black and white, regularly use the community center for activities not related to voting apparently without similar safety concerns. In addition, other options to ensure voter safety would appear to be available short of moving the polling place. Under these circumstances, the county's proffered explanation for the polling place change appears to be pretextual, as the change appears to be designed, in part, to thwart recent black political participation.

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. 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). 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 polling place change for Voting Box 12 from the Jefferson Community Center to the Jefferson Volunteer Fire Department Building.

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 the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, you may 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 polling place change for Voting Box 12 from the Jefferson Community Center to the Jefferson Volunteer Fire Department Building continues to be legally unenforceable. Clark v. Roemer, 111 S.Ct. 2096 (1991); 28 C.F.R. 51.10 and 51.45.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action Marion County plans to take concerning this matter. If you have any questions, you should call Ms. Colleen Kane (202-514-6336), an attorney in the Voting Section.

Sincerely,

A handwritten signature in black ink, appearing to read "Deval Patrick", with a large, sweeping flourish on the left side.

Deval L. Patrick
Assistant Attorney General
Civil Rights Division