



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

October 18, 1993

Steven J. Dupuis, Esq.
Assistant Parish Attorney
P.O. Drawer 4425
Lafayette, Louisiana 70501

Jerry L. Mallet, Esq.
Assistant City Attorney
P.O. Drawer 4508
Lafayette, Louisiana 70502

Dear Messrs. Dupuis and Mallet:

This refers to the consolidation of city and parish councils, the districting plan, the reduction in the number of officials, the reduction in the length of residency required for candidacy, the limitation of terms of office to three consecutive terms, the method for filling vacancies, the procedures for initiative, referendum and recall elections, the procedures for amending or repealing the parish charter, and the implementation schedule therefor for the City and Parish of Lafayette, Louisiana, 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 submission on August 19, 1993; supplemental information was received on September 30, 1993.

We have considered carefully the information you have provided, 1990 Census data, information contained in the submission of the 1992 redistricting plan for the Lafayette Parish School District, and information and comments provided by other interested parties. According to the 1990 Census, black persons comprise 22.3 percent of the total population and 20.1 percent of the voting age population in Lafayette Parish. The existing parish council has seven members elected from single-member districts and a parish president, elected at-large. Under the existing election system for the parish council, black voters have consistently elected a candidate of choice from District C which is 71.2 percent black in total population. The

existing electoral system for the Lafayette City Council consists of five members elected from single-member districts and a mayor elected at-large. The current council has one black member elected from a district, District 2, in which 74.9 percent of the total population is black.

The Attorney General does not interpose any objection to the consolidation of city and parish councils, the reduction in the number of officials, the reduction of the length of residency required for candidacy, the limitation of terms of office to three consecutive terms, the method for filling vacancies, the procedures for initiative, referendum and recall elections and the procedures for amending or repealing the parish charter. However, we note that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

With regard to the districting plan for the consolidated parish government, we are unable to reach the same conclusion. The submitted districting plan is identical to the 1992 redistricting plan for the Lafayette Parish School District, which was the subject of a Section 5 objection interposed by the Attorney General on September 21, 1992. The plan has two districts in which black persons would comprise a majority of the total population; those districts, however, are only 49.7 percent and 50.1 percent black in voting age population. With regard to use of the plan for school board elections, we concluded that in light of the apparent patterns of racially polarized voting, the reduction in the black shares of the population in those two districts compared to the then-existing school board plan appeared unnecessarily to lessen the opportunity for black voters to elect candidates of their choice to the school board. In 1993, the school district obtained Section 5 preclearance for a revised redistricting plan in which the black share of the voting age population in the two districts at issue was 54.5 percent and 54.9 percent, respectively.

We have conducted our analysis of the use of the submitted districting plan for the consolidated parish government against this backdrop. Your submission does not provide any basis to conclude that the apparent patterns of polarized voting would not exist in elections for the consolidated parish government. Nor does your submission suggest that black voters would have a realistic opportunity to elect their chosen candidates in the two districts in which blacks comprise about half of the voting age population. Thus, the plan would appear to provide black voters less opportunity to elect representatives of their choice to the consolidated government than they currently have for both the city council and parish council. See, e.g., City of Rome v. United States, 446 U.S. 156, 186-187 (1980). Moreover, alternative districting plans were available that would satisfy

legitimate districting criteria without unnecessarily limiting black voting strength. No legitimate, non-racial explanation has been offered for the decision to reject these reasonable alternatives and instead submit for Section 5 review a districting plan that already had been found to violate the Voting Rights Act.

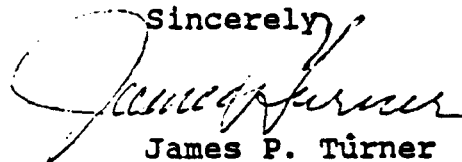
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 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 proposed districting plan for the Lafayette City-Parish Consolidated Government.

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 districting plan continues to be legally unenforceable. 28 C.F.R. 51.10 and 51.45.

Because the proposed implementation schedule is directly related to the objected-to districting plan, the Attorney General will make no determination regarding that change at this time. 28 C.F.R. 51.22(b).

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

Sincerely,



James P. Turner
Acting Assistant Attorney General
Civil Rights Division