U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

April 27, 1999

Mr. Hollis A. Stafford, III
Chairperson
Washington Parish Council
909 Pearl Street
Franklinton, Louisiana 70438

Dear Mr. Stafford:

This refers to the reduction in the number of parish council members from 14 to 7 and the redistricting plan for Washington Parish, Louisiana, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your response to our January 22, 1999, request for additional information regarding the redistricting plan and your resubmission of the reduction in the number of parish councilmembers on February 26, 1999.

We have given careful consideration to the information in your submissions and previous submissions from the parish, data from the United States Census, and information and comments from other interested parties.

According to the 1990 Census, black residents of Washington Parish constitute 31 percent of the total population and 28 percent of the voting age population. As of October 3, 1998, 27 percent of the registered voters in the parish were black. Currently, the governance of the parish is in a transitional period between the former police jury system and a parish council system as a result of the adoption of a home rule charter in 1997. Section 5 preclearance has been granted to the establishment of a parish president, elected at large, and that office has been filled in a special election. The other changes affecting voting in the new charter have also received Section 5 preclearance with the exception of the reduction in the number of councilmembers elected from districts. Under the former form of government 14 police jurors were elected from single-member districts. If fully implemented, the parish council system provided by the charter would elect seven parish councilmembers

from single-member districts, in addition to the parish president. The 14 police jurors, last elected in the 1995 general election, are serving the remainder of their four-year terms as councilmembers.

The system of electing 14 police jurors from single-member districts was the result of litigation brought, in significant part, to remedy the historical dilution of the black vote in Washington Parish. See Bailey v. Washington Parish Police Jury, No. 70-2861 (E.D. La. 1972) and Dawson v. Washington Parish Police Jury, No. 82-3575 (E.D. La. 1983).

Under the current 14-member plan, according to 1990 Census figures, four districts are majority black in total population, ranging from 52.5 to 78.5 percent. Three of these districts are also majority black in voting age population and voter registration. The one exception is District 8, which has a 47.9 percent black voting age population, and, as of October 1998, is 47.7 percent black in voter registration. In two elections held under the existing districting plan black voters were able to elect candidates of their choice in all four districts, thereby affording black citizens representation fairly reflecting their voting strength in the parish.

The proposed redistricting plan for a seven-member council contains two districts with a majority black total population, but only District 4 is also majority black in voting age population and voter registration. In proposed District 6 black residents account for 52.2 percent of the total population, 47.7 percent of the voting age population, and 46.2 percent of the registered voters. Our analysis indicates that elections in the parish are characterized by racially polarized voting. Also, socioeconomic disparities traceable to a history of discrimination experienced by black persons in Louisiana, and Washington Parish in particular, continue to exist. Disparities in the participation rates of black and white voters also exist, with white voters in the parish generally turning out to vote on election day at higher rates than black voters. These circumstances raise concerns about whether black voters residing in districts, such as proposed District 6, where they do not constitute a majority of the voting age population or registered voters will have an opportunity to elect their candidates of choice.

Our analysis of existing demographics in Washington Parish indicates that it is possible to draw a redistricting plan containing two districts where black residents constitute a majority of the voting age population and voter registration. Indeed, proposed District 6 splits the black population in the northwest area of the parish.

While we are aware that minority voters have been able to elect a candidate of their choice in existing District 8, which is similar in black population and voting age population percentages to proposed District 6 (but has a higher black registration percentage), the available information indicates that under the proposed seven-member plan the existence of polarized voting and disparate political participation rates is likely to make it more difficult for black voters to continue to elect a share of representation on the parish council commensurate with the opportunity they have under the existing plan.

Under the redistricting plan implemented by the parish from 1983 to 1991, minority voters in District 8 (which was 45 percent black in total population) were unable to elect their preferred candidate. In 1992, following the 1991 redistricting in which the black percentage in the district was increased to 52.5 percent, black voters in District 8 elected a candidate of choice in a special election. The available information indicates that the black candidate in that election was particularly strong, and was opposed by two white candidates, one of whom was reportedly a weak incumbent, in an election with uncharacteristically low white voter participation and high levels of minority voter participation.

In 1995, the black incumbent in District 8 was reelected despite white opposition in a contest in which he, as an incumbent and former deputy sheriff, garnered some white voter support, as well as the overwhelming support of black voters. The parish has not provided sufficient information, however, to demonstrate that black voters in proposed District 6 are likely to experience the same electoral opportunity enjoyed by black voters in existing District 8 or in any of the other three districts that have elected minority-preferred representatives under the existing plan. We note that existing District 8 is located in the northeast part of the parish around the towns of Angie and Varnado, none of this territory is included in proposed District 6, and the black registration percentage in proposed District 6 is lower than that of existing District 8.

As noted above, the potential diminution in minority electoral opportunity that appears likely under the proposed plan is easily avoidable, as districting configurations exist that would remedy the fragmentation of minority population concentrations between proposed Districts 5 and 6 in the northwest area of the parish and provide for two districts in which black voters constitute a majority of the voting age population, as well as registered voters.

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); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.52). With regard to the issue of discriminatory effect, the submitting authority must show that the proposed change will not result in a retrogression in the ability of minority voters to elect candidates of their choice to the parish council. In light of the considerations discussed above, I cannot conclude that your burden of showing the absence of retrogression has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the proposed 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 changes neither have 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. See 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 redistricting plan continues to be legally unenforceable. Clark v. Roemer, 500 U.S. 646 (1991); 28 C.F.R. 51.10.

Our January 22, 1999, letter noted that the proposed reduction in the size of the parish council is directly related to a redistricting plan and must be reviewed simultaneously. Because we have interposed an objection to the proposed redistricting plan, we are unable to make a determination on the proposed reduction in the size of the council at this time. See 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 Washington Parish plans to take concerning this matter. If you have any questions, you should call George Schneider (202-307-3153), Special Section 5 Counsel in the Voting Section.

Sincerely,

Anita Hodgkiss for

Bill Lann Lee
Acting Assistant
Attorney General
Civil Rights Division