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Department of Justice
Washington, D.C. 20530

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April 6, 1976

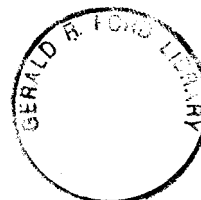
MEMORANDUM FOR: Philip W. Buchen
Counsel to the President
The White House

The Attorney General has asked me to provide you with a description of an objection entered under the Voting Rights Act dealing with annexations to the City of San Antonio, Texas, and a proposed response for questions on the subject which are anticipated during the President's visit there on April 8, 1976.

On February 2, 1976, the City of San Antonio completed submission of a group of 23 annexations for the Attorney General's consideration under the provisions of Section 5 of the Voting Rights Act. The Act was extended to cover Texas last year, and its coverage provisions were expanded to include protection for language minority groups. Any change affecting the electoral process enacted since November, 1972, may not be enforced under this Act until approved either by the Attorney General or the District Court for the District of Columbia.

Thirteen of the annexations in question were objected to on behalf of the Attorney General by my letter of April 2, 1976, a copy of which is attached. The reason for the objection is that the addition of over 50,000 persons to the city, most of them Anglo, had the effect* of reducing the percentage of Mexican-American population and therefore the electorate in a legally-significant manner. The effect of such annexations on the electoral system must be evaluated in light of

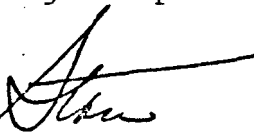
*The Act proscribes any change which has the "purpose or effect" of denying or abridging the right to vote on account of race. Our decision in this case was not based on purpose.



the other aspects of the system. In San Antonio, the nine-member council is elected at-large to numbered posts with a majority requirement. It presently is made up of two Mexican-Americans, one black, and six Anglo members. The population of San Antonio is slightly over 50 per cent Mexican-American, but among those registered Anglos predominate. A 1972 decision by a three-judge court ruled that at-large elections of the San Antonio delegation to the Texas General Assembly violated the voting rights of Mexican-Americans notwithstanding this bare population majority.

Under the Voting Rights Act, as a matter of law a submitting jurisdiction (not the government) must sustain the burden of proving that the change in question will not abridge or dilute the voting rights of the minority voters. The Attorney General cannot lawfully approve annexations which under all the electoral circumstances could have a decisive and dilutive effect on an electorate with a history of ethnic and racial bloc voting. However, the Justice Department's objection can be met merely by adopting a system of single-member districts to replace the at-large elections. If San Antonio can show that the facts are different from those we have been given by them, they can also seek reconsideration of the Attorney General's decision under the regulatory guidelines. If they believe that our view of the law is incorrect, they may challenge it in court. (Frankly, our view of the law has been moderate, so we usually win in court challenges, but this is not always so--cf. Beer v. U.S., involving New Orleans.) The adoption of single-member districts was chosen as an adequate remedy in similar circumstances by the cities of Petersburg, Virginia, and Charleston, South Carolina.

In our view, a fair application of the law compels this result, and a contrary ruling is almost certain to invite litigation against the Department. Indeed, a district court suit is already pending on this same issue, but the court has stayed litigation pending the Department's ruling.


J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division



APR 2 1976

Mr. James M. Parker
City Attorney
City of San Antonio
Post Office Box 9066
San Antonio, Texas 78285

Dear Mr. Parker:

This is in reference to the November, 1974, City Charter Amendments, changes in City designated polling places, and 23 annexations to the City of San Antonio, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed on February 2, 1976.

The Attorney General does not interpose any objections to the polling place changes or the City Charter Amendments. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of these changes.

In examining the annexations submitted under Section 5 of the Voting Rights Act, it is incumbent for the Attorney General to determine whether the annexations, either in purpose or effect, result in voting discrimination against racial or language minorities. Our proper concern is not with the validity of the annexations as such but with the changes in voting which proceed from them.



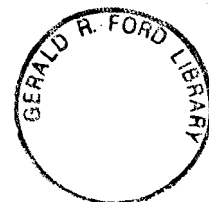
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1976

With respect to San Antonio specifically, we note that the population of the City prior to the annexations here under submission, in November, 1972, was 53.1% Mexican-American, 38% white-Anglo, and 8.8% black and other races. The City's nine-member governing council is elected at-large, with numbered posts and a majority requirement. In November of 1974, a proposition to amend the City Charter to provide for a system of ward representation was defeated by the City electorate. However, our examination of election results by precincts indicates the proposition was favored overwhelmingly in predominantly Mexican-American and black precincts.

Facts available to us show that the annexations under submission expanded the City by 65 square miles (a 25% increase) and 51,417 persons, approximately three-fourths of whom were white-Anglo. The enlarged City is 51.1% Mexican-American, 40.4% white-Anglo, and 8.5% black and other races. Thus, after the addition of the substantial and predominantly white-Anglo population involved in several of these 23 annexations the proportional strength of Mexican-Americans necessarily has been reduced, even though Mexican-Americans still are a bare majority of the population. It is our understanding that the present City Council is composed of two Mexican-American members, one black, and six white-Anglos.

We have considered carefully all the information submitted, along with pertinent Census data and information and comments from other interested parties. On the basis of our review, the Attorney General will not object to 10 of the annexations submitted. 1/ As to

1/Annexations nos. 224, 225, 233, 234, 235, 236, 238, 239, 240 and 242.



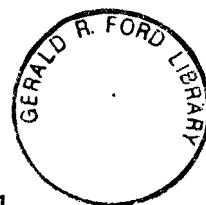
these our analysis shows that they involve uninhabited areas or populations the effect of which would be de minimus or not adverse to minority voting strength. However, with regard to the other 13 annexations 2/ we cannot conclude, as we must under the Voting Rights Act, that they, when coupled with an at-large, majority vote, numbered post system of City elections, in which racial-ethnic bloc voting exists, do not have the effect of abridging the right to vote of affected minorities in San Antonio. Cf. City of Richmond v. United States, 376 F. Supp. 1344 (D. D.C. 1974), 422 U.S. 358 (1965). City of Petersburg v. United States, 354 F. Supp. 1021 (D.D.C. 1972), aff'd 410 U.S. 962 (1973). Accordingly, I must, on behalf of the Attorney General, interpose an objection to those 13 annexations.

I would emphasize that this objection relates only to the voting changes occasioned by the annexations. As the Court in the Richmond and Petersburg cases, supra, have indicated, one way to remedy this situation would be to adopt a system of fairly drawn single-member wards. Should that occur the Attorney General will reconsider the matter upon receipt of that information.

Of course, as provided by Section 5, you have an alternative of instituting an action in the United States District Court for the District of Columbia for a declaratory judgment that the annexations do not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color or in contravention of the guarantees set forth in Section 4(f)(2) of the Voting Rights Act.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division



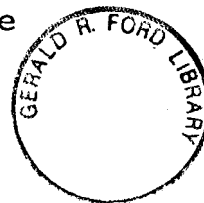
2/Annexations nos. 220, 221, 222, 223, 226, 227, 228, 229, 230, 231, 232, 237, and 241.

Suggested Response

I am aware that the Voting Rights Act has recently compelled the Attorney General to object to the effect on voting of certain annexations to San Antonio because of their effects on minority voters. The Department of Justice has assured me that its decision was not based on a finding of intentional discrimination, and I know that no such finding would be proper here. However, the Act also requires objection where there is a dilutive effect on language minority voting, and the applicable court decisions prescribe a fairly rigid test. I also understand that it is possible to meet the Justice Department's objections by modifying San Antonio's at-large system of electing its council members so that they are elected on a district-by-district basis. It is also possible for San Antonio to test the correctness of the Attorney General's ruling in court.

As I indicated when I signed the Voting Rights Act extension last year,* I believe that the Voting Rights Act has helped us guarantee the right to vote to all eligible

*The President's statement is attached in the event someone asks him about it.



citizens. I know all of us share that view, and I am sure that working together we can achieve this goal with as little disruption as possible to the San Antonio election system.



REMARKS OF THE PRESIDENT
AT THE SIGNING OF
THE VOTING RIGHTS ACT

THE ROSE GARDEN

AT 12:09 P.M. EDT

THE PRESIDENT: Mr. Vice President, distinguished members of the Congress, and other distinguished guests:

I am very pleased to sign today H.R. 6219, which extends, as well as broadens, the provisions of the Voting Rights Act of 1965.

The right to vote is at the very foundation of our American system and nothing must interfere with this very precious right. Today is the tenth anniversary of the signing by President Johnson of the Voting Rights Act of 1965, which I supported as a member of the House of Representatives.

In the past decade the voting rights of millions and millions of Americans have been protected and our system of government has been strengthened immeasurably. The bill I will sign today extends the temporary provisions of the Act for seven more years and broadens the provisions to bar discrimination against Spanish-speaking Americans, American Indians, Alaskan natives and Asian Americans.

Further, this bill will permit private citizens, as well as the Attorney General, to initiate suits to protect the voting rights of citizens in any State where discrimination occurs. There must be no question whatsoever about the right of each eligible American, each eligible citizen to participate in our elective process. The extension of this Act will help to insure that right.

I thank the members of the Congress, I thank their staffs and I thank all the others who have been helpful in making this signing possible.

END

(AT 12:12 P.M. EDT)

Gerald R. Ford



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NOTE: Mr. Buchen received only
Tab A.



Bee J. Turner

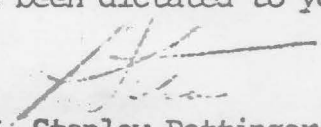
Department of Justice
Washington, D.C. 20530

April 8, 1976

MEMORANDUM FOR Gerry J. Jones
Special Assistant to the President
The White House

The material at Tab B was sent Wednesday to Phil Buchen for the President's benefit in responding to possible questions on a controversial Voting Rights Act ruling affecting San Antonio. This afternoon, in a meeting with Senators Tower and Bentsen, and with Congressmen Krueger and Casey from San Antonio, new information has been developed which the President may wish to have in the event of questions. (The San Antonio press was invited by the Senators to today's meeting, and will be writing about it for tomorrow, the day of the President's visit.)

A new suggested response for the President is attached at Tab A and has been dictated to your secretary.


J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

Attachments

CC: Philip W. Buchen

P.S.

Phil:

I was advised that you were out of town today and that this material was to go to Gerry Jones.

Stan

BCC: Doug Marvin (FYI) *(Tab A)*

JSP:slj

CC: File ✓
Chron



New Suggested Response

Thursday, April 8, 1976

I am aware that the Voting Rights Act has recently compelled the Attorney General to object to the effect on voting of certain annexations to San Antonio because of their effects on minority voters. The Department of Justice has assured me that its decision was not based on a finding of intentional discrimination, and I know that no such finding would be proper here. However, the Act also requires objection where there is a dilutive effect on language minority voting, and the applicable court decisions prescribe a fairly rigid test.

I also understand that it is possible to meet the Justice Department's objections by modifying San Antonio's at-large system of electing its council members so that they are elected on a district-by-district basis.

The Justice Department informs me that in a meeting with San Antonio officials and Senators Tower and Bentsen yesterday, the government learned that the City Council here strongly favors single-member districts, and that efforts are now under way to attempt to achieve them and remove the objection to the annexations. I have confidence that the Department will make every effort to make these negotiations successful.



Department of Justice
Washington, D.C. 20530

April 6, 1976

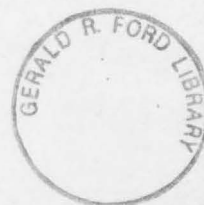
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Thirteen of the annexations in question were objected to on behalf of the Attorney General by my letter of April 2, 1976, a copy of which is attached. The reason for the objection is that the addition of over 50,000 persons to the city, most of them Anglo, had the effect* of reducing the percentage of Mexican-American population and therefore the electorate in a legally-significant manner. The effect of such annexations on the electoral system must be evaluated in light of

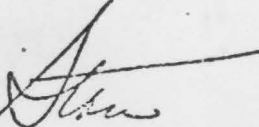
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J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division



APR 2 1976

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APR 2 1976

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under submitted on February 2, 1976.

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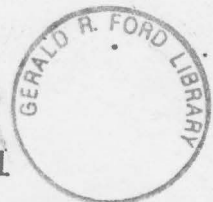
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Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division



Suggested Response

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As I indicated when I signed the Voting Rights Act extension last year,* I believe that the Voting Rights Act has helped us guarantee the right to vote to all eligible

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REMARKS OF THE PRESIDENT
AT THE SIGNING OF
THE VOTING RIGHTS ACT

THE ROSE GARDEN

AT 12:09 P.M. EDT

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Further, this bill will permit private citizens, as well as the Attorney General, to initiate suits to protect the voting rights of citizens in any State where discrimination occurs. There must be no question whatsoever about the right of each eligible American, each eligible citizen to participate in our elective process. The extension of this Act will help to insure that right.

I thank the members of the Congress, I thank their staffs and I thank all the others who have been helpful in making this signing possible.

END

(AT 12:12 P.M. EDT)



Gerald R. Ford

38423

Department of Justice
Washington, D.C. 20530

JSP:slj
CC: File
Chron

June 11, 1976

MEMORANDUM FOR THE ATTORNEY GENERAL

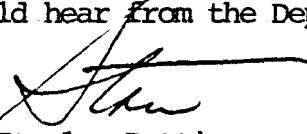
Re: San Antonio--Congressman Krueger

I returned Congressman Krueger's call. He said that he was wondering where the Department stood on the San Antonio reconsideration, and hoped that he could sit down with you again in the event that the Civil Rights Division does not recommend a reversal of the earlier decision. He said he then got word that Senator Tower had requested such a meeting also. (I have sent a note to that effect to you already.) He said that if such a meeting takes place, he could talk to you then.

I told him that we hoped to make a recommendation to you next week, that if we found a basis for reversing our decision, we would do so, and I assumed no meeting would be necessary. In the event we found no basis to recommend a reversal, I told him that I would recommend that a meeting with affected parties be scheduled, although I could not confirm such a meeting because that depended on your schedule. He said he understood.

He said that if a meeting is to go forward, he would agree not to notify the press or have them present, and hoped that in light of our discussion on press policy at the last meeting, that would enhance the possibilities for having a meeting. I told him that I thought it would, and thanked him for his cooperation.

It was a cordial conversation which ended by my telling him that he would hear from the Department next week.


J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division



CC: Jim Turner
BCC: Gerry Jones
Mike Corley



354
133

RECORD OF TELEPHONE COMMUNICATION

Calling Party: Michael Hebert (Senator Lloyd Bentsen's office)

Received by: Michael Corley, Attorney, Voting

Date & Time Received: June 21, 1976 4:10 P.M.

Place Involved: San Antonio Annexation - Objection

Date of Incident:

Details:

Mr. Hebert (who I know from previous meetings in this matter) called to find out why Senator Bentsen had been summoned to see the Attorney General tomorrow at 11:00 A.M. He wanted to know if the City of San Antonio had requested the meeting. I told him yes. [Hebert, and perhaps Bentsen, seemed to be in the dark about the entire matter]. Hebert wondered if Senator Bentsen would be allowed to speak in the City's behalf. I said the Attorney General would be conducting the meeting personally and I didn't know what procedures would be followed. He asked whether the Attorney General would make or announce a ruling at the meeting. I told him the Attorney General would make a final ruling but I couldn't speculate on what form or when it would be. Hebert advised he would be attending the meeting with the Senator.

Action Being Taken:

Additional Action Requested:

Distribution:

✓ Turner
Weinberg/Hunter/Hancock/Jones
Corley
Invest. File



*F San Antonio -
Voting - 1976*



PAUL THOMPSON



City goes to Pottinger

The Hon. Lila Cockrell and Dr. Jose San Martin let on amidst heavy media splashes that they're in the 1977 mayor's race but the real story is there may not be a city election next year.

So Lila and the Doc, in the sense that nobody needs candidates for a non-election, may be putting first things second.

It's even conceivable that Mayor Cockrell could find herself frozen in place as our First Lady for five or more years.

With guys like old Uncle Sam Rohde right there beside her at the City Council table throughout.

Blame this weird and almost incredible turn of events on the swamis, the gurus and assorted wet-behind-the-ears dum-dums of the U.S. Department of Justice.

IT ALL STARTED last year when San Antonio was put under the federal Voting Rights Act.

Now the Justice Dept. had a right to go back and review the city's massive annexations of 1972. Of course, San Antonio's main idea in '72 was to grab several outlying belts of real estate before they turned into autonomous bedroom burbs standing in the way of city expansion and progress.

It was also nice to add valuable properties to city tax rolls.

But predictably, dewy-eyed young libs under J. Stanley Pottinger of the Justice Dept. found deeper and more devious motives.

After "discovering" the '72 annexation had lowered the city ratio of Mexican-American to Anglo voters by a couple of percentiles, these dudes decided the whole thing was a stinking, lousy plot to strip the Mexican-American of his voting rights.

In short, the poor boobs took some abstract figures, and then -- with no real grasp of local background data -- parlayed them into a vicious indictment of the Anglo community here.

SINCE THEN, J. Stanley Pottinger of the Justice Dept. has dug his bureaucratic feet into the ground and refuses to back off his phony hypothesis by so much as one inch.

City officials trying to deal with this man describe him as arrogant, stuffy, cold, opinionated and "anything but the genius he seems to think he is."

They give him figures to correct screwed-up Justice Department records on local voters, but he does not change the records.

To Pottinger, the Anglos are remorselessly kicking around Mexicans here, and that's that.

He commands us now to do one of two things: go to single member districts in future city elections, or de-annex from 1972.

If we take the first option, the new districting plan will have to meet with Pottinger's approval to the last jot and tittle.

Otherwise, we'll go into federal district court and enjoin the San Antonio city election of 1977.

In other words, we've been bad, bad, bad -- and to purge ourselves now, we must let this Washington dim-bulb Pottinger write the full script on how to run future city electoral affairs.

And don't shrug off the threat as empty -- Richmond, Va., and the great city of New Orleans each has gone without elections for upwards of five years thanks to the U.S. Department of Justice.

MAYOR COCKRELL last week declared publicly that the City Council is ready to call a charter revision election here.

She said a large majority of council members favor single member districts.

But she indicated there will be no charter election unless the Justice Dept. quits breathing down the council's neck.

In effect she was saying, "Just leave us alone, please, to run our own business the way it should be run!"

Then she went a step further and suggested the city will drag J. Stanley Pottinger and disciples into court if they don't keep hands off.

Most City Hall insiders believe we'll be in court sooner or later against these meddling, all-pervasive and power hungry bureaucrats of the Justice Dept.

"They don't know what Texas election laws are, and they don't care," said City Atty. Jim Parker who added:

"Is it any wonder Jimmy Carter and Ronald Reagan -- the candidates most strongly against bureaucratic takeover in this country -- are so popular nowadays?"

384
133

8 JUL 1976

MEMORANDUM FOR THE ATTORNEY GENERAL

Subject: San Antonio

Please see the incoming letter from MALDEF (and my response). Should you decide to reverse our objection, it may be important to meet with Mr. Perez, given the number of meetings we have granted others. Of course, should you sustain our objection, I think a meeting is unnecessary.

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

Attachment

JSP:ng
File
Chron
FYI

cc: Jim Turner



T. 5/27/76

JUN 11 1976

JSP:MHC:mrk
DJ 166-012-3
X0567-0588

Mr. Al I. Perez
Associate Counsel
Mexican-American Legal Defense
and Educational Fund
1028 Connecticut Avenue
Suite 1007
Washington, D. C. 20036

Dear Al:

I am in receipt of your letter of May 24,
1976.

As you know my staff and I have presently
under consideration a request for reconsideration
of the Attorney General's objection by the City
of San Antonio. It is my understanding that you
as well as persons in the MALDEF office in San
Antonio have been promptly notified of any infor-
mation submitted by the city in support of its
request for reconsideration. You have personally
met with Mr. Michael Corley of my staff on several
occasions and your views and comments have been
made known. I am somewhat at a loss to understand
your complaining about not being afforded an
opportunity for input in this matter.

However, under our guidelines for the adminis-
tration of Section 5 of the Voting Rights Act, you,
or any other interested party, may request a formal

cc: Records
Chrono
~~Pottinger~~
Turner
Weinberg/Hunter/Jones
Corley
Inv. File
Public File



conference with me or my staff before a final decision is made on the city's request. If you would like a conference scheduled on this matter, please contact Mr. Gerald W. Jones, Chief of the Voting Section (739-2167) to arrange a time that is mutually convenient. Any request should be made promptly inasmuch as a final decision on the city's request for reconsideration will be made within a couple of weeks.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division



MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND

1028 CONNECTICUT AVENUE, SUITE 1007 / WASHINGTON, D. C. 20036 / (202) 659-5166

May 24, 1976

Mr. Stanley Pottinger
Assistant Attorney General
Civil Rights Division
U. S. Department of Justice
Washington, D.C.

Dear Stan:

I am writing to you on two issues of major concern to MALDEF and the Chicano community.

First, the Department is presently reconsidering its objection to the City of San Antonio annexations. Since the request for reconsideration, the City has been sending comments to the Department seeking to have the objection withdrawn. Every time new data is submitted, the Department looks toward MALDEF and the Mexican American Equal Rights Project for analysis of the data. Once the City's data is refuted, the City submits more data, etc., etc. The City has virtually unlimited resources to conjure up theories, models, projections which tend to support their position. There is no way that we can compete with the City in this numbers game; also, the Department* itself is not geared to examining complicated mathematical models and theories. Consequently, we are being left at the mercy of computers and theoreticians, both in the hands of a city that has been found by U. S. courts as having discriminated against Mexican Americans.

Under the law, the jurisdiction has the burden of proving that the electoral change is not discriminatory in intent or effect. Also, under the law the Department of Justice is the chief enforcement agency. To this date, we have carried the burden of showing discrimination; to this date we, not the Department, have supplied most of the data and analyses used in making the determination. As the City continues its attack, our



* To this date I know of no instance where the Department sought the assistance of demographic experts (e.g., Bureau of the Census) to deal with the statistical theories of the City.

orig to Perry Jones for draft response

*cc: JSP
JPT*

*JSP r'cvd.
5/26/76*

REGIONAL OFFICE
A. S. MARTINEZ
IDENT AND GENERAL COUNSEL
14TH STREET
SAN FRANCISCO, CA 94103
415-398-6200

REGIONAL OFFICES

1015 TIJERAS, N.W.
ALBUQUERQUE, NEW MEXICO 87101
(505) 247-1070
(505) 247-1072

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SUITE 200
DENVER, COLORADO 80202
(303) 692-1893

501 PETROLEUM COMMERCE BLDG.
201 NORTH ST. MARY'S STREET
SAN ANTONIO, TEXAS 78205
(512) 224-5770

1028 CONNECTICUT AVENUE
SUITE 1007
WASHINGTON, D. C. 20036
(202) 659-5166

May 24, 1976

resources are being stretched to the point where a decision adverse to the Chicano community might be made just because the community's resources could not match those of the City's. This is not what the enforcement of the Voting Rights Act is all about.

We understand that the final decision on the San Antonio submission will be made by the Attorney General. After the initial objection by the Department you had a widely publicized meeting with Texas Congressional persons and with representatives from the City of San Antonio. On April 12, 1976, I wrote you a letter asking for an opportunity to confer with the appropriate Department officials about San Antonio's request for reconsideration. To this day, I have received no response to my letter. Your own regulations state that organizations submitting comments (such as MALDEF) shall be given the opportunity to confer with the Department; this has not been done even though a conference has been held by the Department with the submitting jurisdiction.

I hereby repeat my request for an opportunity to confer with the appropriate Department official before a determination on the reconsideration is made. The appropriate Department official should be the person making the final decision on the San Antonio submission.

Secondly, MALDEF has been highly troubled by the way this complicated issue has been handled. No person is to be faulted; there are just certain deficiencies in the Department's overall procedures. Also, fear has been expressed by the Chicano community that the San Antonio issue has been politicized to the point where the final decision will be based on considerations other than the law; this is intolerable.

This is an important issue and I urge your most urgent attention to this matter.

Sincerely,



Al I. Perez
Associate Counsel



cc: Vilma Martinez
Senator John Tunney
Cong. Don Edwards

From
THE ATTORNEY GENERAL

7/9/76

Deputy Attorney General-----	
Solicitor General-----	
Director of Public Information-----	
Assistant Attorney General for Administration-----	
Assistant Attorney General, Antitrust-----	
Assistant Attorney General, Civil-----	
Assistant Attorney General, Civil Rights-----	XX
Assistant Attorney General, Criminal-----	
Assistant Attorney General, Land & Nat. Resources-----	
Assistant Attorney General, Legal Counsel-----	
Assistant Attorney General, OLA-----	
Assistant Attorney General, Tax-----	
Administrator, DEA-----	
Administrator, LEAA-----	
Chairman, Board of Immigration Appeals-----	
Chairman, Parole Board-----	
Commissioner, I&NS-----	
Director, Bureau of Prisons-----	
Director, Community Relations Service-----	
Director, FBI-----	
Pardon Attorney-----	
Records-----	



Attention _____

REMARKS:

I believe this note is out of date.

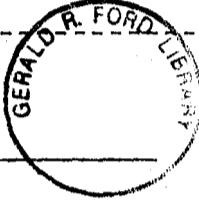
JSP r'evd.

7/12/76

From
THE ATTORNEY GENERAL

7/9/76

Deputy Attorney General-----	
Solicitor General-----	
Director of Public Information-----	
Assistant Attorney General for Administration-----	
Assistant Attorney General, Antitrust-----	
Assistant Attorney General, Civil-----	
Assistant Attorney General, Civil Rights-----	XX
Assistant Attorney General, Criminal-----	
Assistant Attorney General, Land & Nat. Resources-----	
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Assistant Attorney General, Tax-----	
Administrator, DEA-----	
Administrator, LEAA-----	
Chairman, Board of Immigration Appeals-----	
Chairman, Parole Board-----	
Commissioner, I&NS-----	
Director, Bureau of Prisons-----	
Director, Community Relations Service-----	
Director, FBI-----	
Pardon Attorney-----	
Records-----	



Attention _____

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JSP r'cvd.

7/12/76



Mr. Pottinger

7/9

*I believe this
note is out of date ~~and~~
~~and is not to be used~~*



Department of Justice
Washington, D.C. 20530

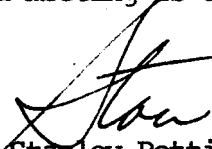
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OFFICE OF THE
ATTORNEY GENERAL
JUL 8 1976

8 JUL 1976

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J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

Attachment



W 11 1976

Mr. Al I. Perez
Associate Counsel
Mexican-American Legal Defense
and Educational Fund
1028 Connecticut Avenue
Suite 1007
Washington, D. C. 20036

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However, under our guidelines for the adminis-
tration of Section 5 of the Voting Rights Act, you,
or any other interested party, may request a formal



conference with me or my staff before a final decision is made on the city's request. If you would like a conference scheduled on this matter, please contact Mr. Gerald W. Jones, Chief of the Voting Section (739-2167) to arrange a time that is mutually convenient. Any request should be made promptly inasmuch as a final decision on the city's request for reconsideration will be made within a couple of weeks.

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J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division



MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND

1028 CONNECTICUT AVENUE, SUITE 1007 / WASHINGTON, D. C. 20036 / (202) 659-5166

May 24, 1976

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Assistant Attorney General
Civil Rights Division
U. S. Department of Justice
Washington, D.C.

Dear Stan:

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orig to Larry Jones for draft response
cc: JSP
JPT

JSP r'cvd.
5/26/76



ICE
562
GENERAL COUNSEL
JPT
CA 94103

REGIONAL OFFICES

5 TIERRAS, N.W.
BUQUEROS, NEW MEXICO 87101
51 247-1070
81-348-1000

209 - 16th STREET
SUITE 200
DENVER, COLORADO 80202

501 PETROLEUM COMMERCE BLDG.
201 NORTH ST. MARY'S STREET
SAN ANTONIO, TEXAS 78202

1028 CONNECTICUT AVENUE
SUITE 1007
WASHINGTON, D.C. 20036

May 24, 1976

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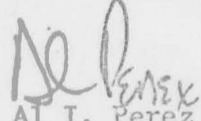
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Sincerely,


Al I. Perez
Associate Counsel



cc: Vilma Martinez
Senator John Tunney
Cong. Don Edwards



July 9, 1976

TO: The Attorney General
FROM: Stan Pottinger
SUBJECT: San Antonio

Attached is a draft letter as requested
at lunch Wednesday.

RECEIVED
OFFICE OF THE
ATTORNEY GENERAL
JUL 9 1976





July 9, 1976

TO: The Attorney General

FROM: *[Signature]* Stan Pottinger

SUBJECT: San Antonio

Attached is a draft letter as requested at lunch Wednesday.

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JUL 9 1976





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TO: The Attorney General

FROM: Stan Pottinger

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RECEIVED
OFFICE OF THE
ATTORNEY GENERAL
JUL 9 1976



384

ASSISTANT ATTORNEY GENERAL



July 9, 1976

To: Stan Pottinger

From: ^{JH} Jim Turner

Our best efforts to come up with what AG wants re San Antonio. Jones & Corley are familiar with issues. I will be out most of the day.

*Retype as
clean
draft*
double spaced

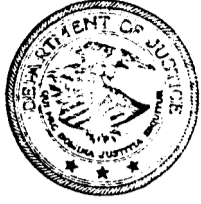
JSP r'cvd.

7/9/76



384 138

ASSISTANT ATTORNEY GENERAL



File

July 9, 1976

TO: The Attorney General
FROM: Stan Pottinger
SUBJECT: San Antonio

Attached is a draft letter as requested
at lunch Wednesday.

bcc: Jim Turner
Gerry Jones



Draft 7/9/76 ng

Mr. Seagal V. Wheatley
Oppenheimer, Rosenberg,
Kelleher & Wheatley
Attorneys at Law
Suite 620
711 Navarro
San Antonio, Texas 78205

Dear Mr. Wheatley:

This is in reference to the request of the City of San Antonio for reconsideration of the objections interposed on April 2, 1976, to 13 annexations, pursuant to Section 5 of the Voting Rights Act of 1965, as amended.

I have given careful and personal review to the materials provided by the city attorney and you in your letters and in our meeting with Mayor Cockrell, Congressman Krueger and others on June 22, 1976.

The Voting Rights Act, as interpreted by the Supreme Court, places on a covered jurisdiction such as San Antonio the special burden of proving that changes which affect voting do not have a discriminatory purpose or effect. I have found no basis for concluding that the annexations in question were purposefully dilutive of protected minority voting rights. However, I am not able to conclude that the annexations in question do not have the proscribed effect on the voting rights of Mexican-Americans in San Antonio. Were this a



standard constitutional challenge to the annexations, one might well reach a contrary conclusion. Because the burden of proof imposed by Congress in the Voting Rights Act, rests with the covered jurisdiction to show that there is no effect, and requires me to object in the absence of such showing, I am obliged to continue the objections previously interposed.

In establishing a method for prompt review of voting changes by the Attorney General, the Voting Rights Act recognized that there would be disagreements with the Attorney General's view of the law and provided that a jurisdiction may test its correctness in legal proceedings. I was most impressed by Mayor Cockrell's presentation of the significance of these annexations to the City of San Antonio and would, of course, understand if the city desired to contest this determination. Should you decide not to seek such review, however, I am sure that Assistant Attorney General Pottinger and his staff will assist the city in seeking the most sensible way to formulate a transitional remedy which meets the congressional purposes.

I earnestly hope that the matter can be resolved to the mutual satisfaction of all concerned.

Sincerely,



Stan:

Attached are copies of the San Antonio letters in case you get calls on them.

Gerry told me that everything went according to schedule this morning. Mr. Wheatley was not surprised at our continued objection and ~~xxxxxx~~ said he would inform Mayor Cockrell. Mr. Wheatley asked Gerry to give some thought to the problem of an election for a referendum on single member districts and who would be entitled to vote in it.

Nancy





Office of the Attorney General
Washington, D. C. 20530

July 15, 1976

Seagal V. Wheatley, Esq.
Oppenheimer, Rosenberg,
Kelleher & Wheatley
Attorneys at Law
Suite 620
711 Navarro
San Antonio, Texas 78205

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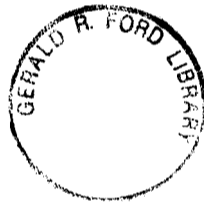
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I earnestly hope that the matter can be resolved to the mutual satisfaction of all concerned.

Sincerely,


Edward H. Levi
Attorney General



Office of the Attorney General
Washington, D. C. 20530

July 15, 1976

Honorable John Tower
United States Senate
Washington, D. C. 20510

Dear Senator Tower:

I am writing in response to your letter of June 29, 1976, concerning the application of Section 5 the Voting Rights Act to 13 annexations involving the City of San Antonio. On my behalf, the Civil Rights Division interposed an objection to the annexations on April 2, 1976, and the City later requested my reconsideration of the matter. After a personal review of the materials submitted, I have decided that I must affirm the Division's determination.

Section 5 of the Voting Rights Act requires the Attorney General to enter an objection to any electoral change, including an annexation, involving a jurisdiction covered by the Act, unless he determines that the change "does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color...." 42 U.S.C. § 1973c. The Supreme Court has held that the Act requires that an objection be entered if the electoral change has either a discriminatory purpose or effect and that the burden of proof on this issue rests with the covered jurisdiction.

There is no question in this case that the annexations were not enacted for the purpose of diluting the voting rights of Mexican-Americans in San Antonio. The issue, rather, is whether the annexations had the discriminatory effect prohibited by the Act. In making this determination, there has been a problem in obtaining accurate figures on overall population and voting age population in San Antonio at the time of the

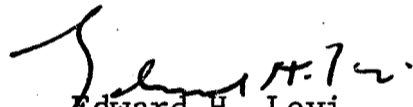


annexations. Using the most accurate figures, it would appear that there has in fact been a dilution of the voting rights of Mexican-Americans as a result of the annexations. In this connection, I have had to keep in mind the opinion of the Supreme Court in White v. Regester, 412 U.S. 755 (1973), which affirmed the 1972 three-judge District Court ruling invalidating multimember districts in Bexar County (consisting primarily of San Antonio) as discriminatory against Mexican-Americans and which refers to the District Court's assessment of the various factors involved, including the history of racial block voting. In view of these factors, I cannot conclude that the City of San Antonio has met its burden of proving that the annexations did not have the discriminatory effect proscribed by the Act.

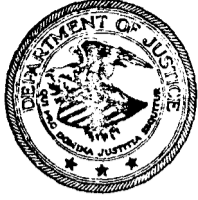
As the Department has explained to the City previously, the Supreme Court has held that a system of fairly drawn single member districts would cure the discriminatory effect of the annexations in question. Assistant Attorney General Pottinger and his staff stand ready to assist the City in seeking a sensible way to formulate a transitional remedy which meets the Congressional purposes. Of course, should the City disagree with my view of the law, the Voting Rights Act provides that it may file an action in the District Court for the District of Columbia Circuit for a determination that the annexations did not have a discriminatory effect.

It is my hope that this matter can be resolved in a manner satisfactory to all parties concerned.

Sincerely,


Edward H. Levi
Attorney General





July 22, 1976

TO: Attorney General
FROM: Stan Pottinger
SUBJECT: San Antonio - Voting Rights Act

Attached for your information.



The File

July 19, 1976

Gerald W. Jones
Chief, Voting Section

GWJ:rm

Telephone Conversations with
Seagal Wheatley, Attorney for
the City of San Antonio

D.J. 166-012-3
X0567-0588

On July 16, 1976, Mr. Wheatley called me in response to my call of the previous evening to his office in San Antonio. I explained that the Attorney General had made his ruling re San Antonio's annexation and inquired as to whether he could be reached in about an hour (at 11:45) so that I might relay that decision to him.

He said he would be reachable at the office of Mr. Lance, Brownsville Navigation District, Brownsville, Texas, at 512/831-4592.

I later called Mr. Wheatley on July 16, 1976, to report that the Attorney General's decision on the request for reconsideration from San Antonio on the objection to 13 annexations had been made. I read him the Attorney General's letter. Wheatley wanted to know what was meant by the letter's language about "a transitional remedy." I told him that that merely referred to devising some system or modification of a system that would remove or minimize the dilutive effect that we perceived in the annexations so that the city could continue to realize the benefits of those annexations.

Wheatley said he would call the mayor and advise her of the decision. Said that the City Council had met yesterday (July 15, 1976) to discuss what action they might take if the Attorney General declined to withdraw the objection. He has not been able to consult them since their meeting and won't know until

cc: Jones/Hunter/Hancock/Weinberg
Corley
Pottinger ✓
Turner



he gets back to San Antonio next week what they would propose. However, in any event, San Antonio will want to go to single-member districts or some combination of single-member and at-large. The important thing is that they will want the new form of government voted on by the electorate. Therefore, he would like us to give some thought to who will be able to vote in such an election. He has been thinking in terms of letting everyone vote but to count the votes only in the district in which the voter would fall if the districts were in effect. Thus, those majority Mexican-American districts could determine whether they want to have district or at-large elections and the majority Anglo could do the same thing. He asked that we think about the possibility and any others and that he would get back to us as soon as they have worked out something on their course of action. He thanked me for apprising him of the text of the determination.



I

thought
you might
like to read
this!

File
San Antonio
VRA
384

Sandoval, & Samples

ATTORNEYS AT LAW
523 S. MAIN AVE.
SAN ANTONIO, TEXAS 78204

RUBEN SANDOVAL
BENJAMIN N. SAMPLES
MARIA S. CHAVARRIA

OFFICE PHONES:
(512) 224-1061
(512) 224-6726
(512) 224-1416

Sandoval, & Samples

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Page 4-H

Nov. 28 1976

THE SUNDAY
EXPRESS-NEWS
EDITORIALS

Charles O. Kilpatrick
Editor and Publisher

William J. Reddell

Whatever became of J. Stanley Pottinger?

It's a bit hard to believe but the recent national election seems to have brought — momentarily no doubt — the blessings of democracy to Washington, D. C.

Travellers returning from the banks of the Potomac report that high level bureaucrats are actually treating humble citizens from the provinces with civility — even with a hint of sympathy.

Apparently the folks in the bureaus are busy winning friends as a result of aftershock from the Nov. 3 election.

Strained

There may be only some 2,000 cushy jobs up for grabs as a result of the change of administration but feelings of uncertainty go deeper. After all, Jimmy Carter has promised stern reorganization of the bureaucracy and when such talk is in the air, those in the upper levels of government service want all the friends out there that they can get.

All this may have a softening effect on San Antonio's relations with the U.

KEMPER DIEHL

The Politics beat



S. Justice Department.

These have been strained, to say the least, since J. Stanley Pottinger, the department's civil rights czar, ruled that San Antonio's big annexation of 1973 violated the Voting Rights Act.

It was a clearly questionable ruling, but Pottinger imperiously squelched protesting delegations of local officials. The result, of course, is the charter change election of Jan. 15 which is supposed to purge the city's purported sins.

Now, suddenly, the atmosphere at Justice has changed. Pottinger, it is reported, is on the way out. His high post was bestowed by the Nixon Administration and he is expected to give way to a Carter appointee.

The city's legal staffers find that

the Civil Rights Division people are all peaches and cream when discussing election preparations.

For those who have thought that San Antonio was a home rule city which could settle its own election affairs, it should be explained that under the Voting Rights Act city hall must now check the most minute details of an election with Washington.

Command performance

And that is especially true in the case of the Jan. 15 charter election which was practically ordered by Justice.

At any rate, the city now finds Justice staffers so amiable that they have found nothing to criticize in the plans for 10 council districts.

There was not even a murmur of protest when Justice was informed that the city council intends to allow citizens in the annexed area to vote — and also intends to count the votes for real.

Since Pottinger had ruled the an-

nexation illegal, it was feared that Justice would logically conclude the folks out there to the northwest could not vote — though it had illogically agreed that they could pay taxes.

Part of the improved climate at Justice may be due to the fact that the civil rights lawyers report they received word from Dr. Charles Cotrell, the St. Mary's University prof, clearing the city's plans.

After all, Cotrell was a prize witness at Congressional hearings on extending the Voting Rights Act to Texas. He testified at length on the sins of the present system which has council members running citywide.

The friendly recent talks with Justice have city staffers feeling that the local election may go off without a hitch.

Impartiality

Of course, the voters themselves may arch their backs and defeat the Justice-decreed charter scheme.

In that case, the gloves would be likely to come off.

But then, perhaps Pottinger's successor might read the Voting Rights law and the local situation the way most impartial lawyers do, and forget the whole thing.

The change of administrations, meanwhile, is creating pretty skimpy waves on the local job front, aside from the traditional rush of candidates for the posts of U. S. Attorney, U. S. Marshall and any judicial vacancies.

While the GOP administration produced top-level Washington posts for San Antonians Henry Catto, Art Troilo, Doug Harlan and Mary Lou Grier, local Democrats have no real prospects for the upper echelon of the Carter regime.

In line with the careful advance planning of the president-elect a canvass was made some time ago of outstanding local women for the so-called 51.3 Per cent Committee.

The results went into the Carter talent bank, but one of those who conducted the study reports that most Bexar County prospects simply were not interested in going to Washington!

