







United States Congress House Committee on the Judiciary  
" Subcommittee on Civil and Constitutional Rights "

# GAO REPORT ON THE VOTING RIGHTS ACT

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**HEARINGS**  
BEFORE THE  
SUBCOMMITTEE ON  
CIVIL AND CONSTITUTIONAL RIGHTS  
OF THE  
COMMITTEE ON THE JUDICIARY  
HOUSE OF REPRESENTATIVES  
NINETY-FIFTH CONGRESS  
SECOND SESSION  
ON  
GAO REPORT ON THE VOTING RIGHTS ACT

—————  
FEBRUARY 6 AND JUNE 15, 1978  
—————

**Serial No. 65**



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# GAO REPORT ON THE VOTING RIGHTS ACT

MONDAY, FEBRUARY 6, 1978

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON CIVIL AND CONSTITUTIONAL RIGHTS,  
COMMITTEE ON THE JUDICIARY,  
*Washington, D.C.*

The subcommittee met, at 1:50 p.m., in room 2237, of the Rayburn House Office Building; Hon. Don Edwards (chairman of the subcommittee) presiding.

Present: Representatives Edwards, Drinan, Beilenson, and McClory.  
Staff present: Thomas B. Breen, counsel; Ivy L. Davis, assistant counsel; and Roscoe B. Starek III, associate counsel.

Mr. EDWARDS. The subcommittee will come to order.

In 1971, this subcommittee began its first public hearings. At that time, we were designated the "Civil Rights Oversight Subcommittee" of the House Judiciary; we were charged with oversight of the enforcement of the various civil rights laws.

I noted at that time that as part of the traditional system of "checks and balances" established by the Constitution, Congress has the responsibility not only to enact laws but to "oversee" their enforcement.

In those early hearings, we looked at the enforcement and administration of the Voting Rights Act, and today, we will continue that review of the Voting Rights Act of 1965, as amended.

Many consider the act the most important of the civil rights statutes because access to the electoral process is so fundamental to our notion of equal rights.

On August 26, 1976, I asked the General Accounting Office to evaluate the implementation of the Voting Rights Act with a special emphasis on the Department of Justice's enforcement of the special and minority language provisions.

In addition, other Members of Congress, Senator Inouye of Hawaii and Congressman Ketchum of California, requested the GAO conduct a cost effectiveness analysis of the bilingual provisions of the 1975 amendments to the act.

The 1965 Voting Rights Act differs in purpose and effect from voting rights provisions in the Civil Rights Acts of 1957, 1960, and 1964 in that it provides both judicial and administrative remedies. These remedies have been more effective than previous provisions in providing greater voting access to minorities. These earlier provisions provided for a more limited case-by-case judicial remedy to what we have learned was and is a systemic problem.

The conclusion of the GAO study is that:

The Department of Justice's program for enforcing the act has contributed toward fuller participation by language and racial minorities in the political process. However, the act's objectives could be more fully realized if certain improvements were made.

Although the Voting Rights Act has been in effect since 1965, this is the first GAO evaluation of its implementation. Frequently, GAO studies contain comment from the evaluated agency. This report does not contain such comments from the Department of Justice.

I have requested such a response from the Attorney General and look forward to his testimony before this subcommittee in early March.

The GAO report is a first step in understanding the impact of the Voting Rights Act of 1965, as amended.

Additional information regarding the implementation of the bilingual provisions is being evaluated by the Federal Elections Commission and the League of Women Voters. These reports will be available some time this year.

I now recognize the gentleman from Illinois, Mr. McClory.

Mr. McCLORY. Thank you very much, Mr. Chairman.

As the chairman knows, I am virtually alone in expressing sharp opposition to the amendments which the Congress added to the Voting Rights Act in 1975.

And I agree with you entirely, Mr. Chairman, when you state that the 1975 amendments marked a significant departure from the purpose and effect of the original Voting Rights Act.

Mr. Chairman, I would like to join with you in welcoming our witnesses here this afternoon.

Most of you know that I have been a longstanding supporter of the original Voting Rights Act. I supported the legislation when Congress first enacted it in 1965.

This legislation has contributed significantly to opening the polling places and enfranchising millions of citizens who previously were denied the right to vote.

However, the objective of this landmark legislation was circumvented when the Congress added the 1975 amendments, which were completely unrelated to the purpose of the 1965 law.

Now the act requires the elaborate procedures for providing bilingual ballots, multilingual ballots, and multilingual election materials at thousands of polling places around the country.

Last week I introduced H.R. 10546 to repeal those portions of the 1975 act, which relate to the minority language group provisions which we inserted in 1975.

These amendments which I referred to, discourage a bilingual society where English is the primary language. Proficiency in English for all Americans should be encouraged by the Congress.

I had hoped that the authors of the report would have included in the scope of their inquiry, a study as to whether or not this complicated statute will ever work, much less become enforceable.

As the chairman has stated, there have been subsequent requests for additional GAO analysis by Mr. Inouye and Mr. Ketchum.

It is important for us to learn whether we need more people and more money to insure compliance, or whether we should simply scratch the whole idea.

Mr. Chairman, in case I neglect to make the request later, I do want to request a minority day with regard to this subject. I have had requests from several Members of the House who want to testify in support of my legislation and on the subject of the effect and the implications of the minority group provisions of this statute.

Thank you very much, Mr. Chairman.

Mr. EDWARDS. I am sure the gentleman from Illinois knows that whatever date we can agree on we will look forward to having a minority day.

Mr. McCLORY. Thank you very much, Mr. Chairman.

Mr. EDWARDS. The gentleman from Massachusetts?

Mr. DRINAN. Thank you, Mr. Chairman.

I, too, welcome the GAO, and it is a very, very important study. I am anxious to have information about what a Congressman says on the record, that exorbitant costs of printing have been required to put ballots into Tagalog.

I have several questions also, when we come to it, beyond the survey here, about the use of examiners and observers in connection with the Voting Rights Act and that is probably more properly directed to the Justice Department.

But I want to thank the GAO for this study, and I think it is the beginning of many needed studies like this, to make certain that that monumental law which we enacted and reenacted in 1975, is having the effect that the Congress intended.

Thank you.

Mr. EDWARDS. The gentleman from California, Mr. Beilenson?

Mr. BEILENSEN. Mr. Chairman, I came to hear Mr. Lowe, not myself. So if it is all right, I won't say anything right now.

Mr. EDWARDS. Thank you.

We are delighted to have Mr. Victor L. Lowe, Director of the General Government Division, of the General Accounting Office.

And with him is Ms. Nakamura and Mr. Ols.

**TESTIMONY OF VICTOR L. LOWE, DIRECTOR, GENERAL GOVERNMENT DIVISION, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY EMI NAKAMURA AND JOHN OLS**

Mr. EDWARDS. Mr. Lowe, you may proceed.

Mr. LOWE. Thank you, Mr. Chairman.

I have a 15-page statement and a 5-page summary, and it is my understanding that preference is to go with the full statement, is that correct?

Mr. EDWARDS. I leave that up to you, if you would like to go ahead and read it.

Mr. LOWE. Well, I am here for whatever you wish, Mr. Chairman.

Mr. EDWARDS. Let's read the whole thing.

Mr. LOWE. All right.

Mr. Chairman and members of the subcommittee, we are pleased to discuss our work in the voting rights area which was performed at the request of Chairman Edwards.

Our review was directed toward assessing the implementation and impact of the Voting Rights Act of 1965, as amended, with particular emphasis in the Department of Justice's enforcement of the special and minority language provisions.

As you know, the Voting Rights Act was designed to alleviate racial and language discrimination in voting and enable racial and minority language citizens to have the same electoral rights and opportunities afforded other Americans.

The act, as amended, contains general provisions which apply throughout the United States and special provisions that provide for direct Federal action in the electoral process of certain States and localities covered by statutory formulas.

The act's 1975 amendments added minority language provisions which apply in certain covered States and localities. The Attorney General has primary responsibility for enforcing the act with the U.S. Civil Service Commission and the Bureau of the Census of the Department of Commerce having support functions.

Today we are issuing our report entitled, "Voting Rights Act—Enforcement Needs Strengthening," to you, as well as Senator Daniel Inouye and Congressman William Ketchum. As you know, they requested that we review the implementation of the minority language provisions.

Our review showed that the Department of Justice's program for enforcing the act has contributed toward fuller participation by language and racial minorities in the political process.

However, the act's objectives could be more fully realized if certain improvements were made. We would now like to summarize the findings, conclusions, and recommendations contained in our report.

#### PROGRAM IMPROVEMENTS NEEDED TO STRENGTHEN ENFORCEMENT

The act's preclearance provision provides for Federal review of changes in the electoral process, such as voter qualifications, and voting practices or procedures. This is possibly the most important means of protecting the voting rights of minorities.

The provision's chief purpose is to make sure that State and local officials do not change election laws and practices to discriminate against racial and language minorities.

Even though the Voting Rights Act has been in effect for over 12 years, there is little assurance that all covered States and localities are fully complying with the act's preclearance provision.

Our review showed that the Department of Justice:

Had no formal procedures for determining whether all voting changes were being submitted for review by the 927 covered jurisdictions or for determining whether jurisdictions implemented changes over the Department's objectives;

Made decisions on the appropriateness of voting changes without States and jurisdictions submitting all the data required by Federal regulation—we found this to be the case for 59 percent of the changes we sampled;

Should make its review of submitted voting changes more timely. Although only 3 percent of the sampled changes exceeded the 60-day time limit, some of these were ultimately objected to. Timely decisions are necessary to prevent implementation of improper changes by submitting jurisdictions.

#### COMPREHENSIVE EVALUATION OF THE EXAMINER OBSERVER PROGRAM HAS NOT BEEN PERFORMED

The Voting Rights Act deals directly with voter registration problems and the conduct of elections through the provisions establishing the examiner and observer programs. Because these programs are critical to the act's enforcement, provisions should have been

made for a comprehensive evaluation of their operation. This was not done. Neither the Department of Justice nor the Civil Service Commission had provided for the accumulation of the cost and impact information which are needed for such an evaluation.

Because of the limited documentary data available, we contacted representatives of minority interest groups and individuals who have served as examiners and observers to gain their perspectives of the programs.

The observations of minority interest group members convinced us that a comprehensive evaluation of the program is needed. In particular, their observations showed concern regarding publicity of observer activities, participation of minorities in the programs, adequacy of observers' functions and feedback on voting complaints.

Department of Justice officials acknowledged the need to obtain more detailed data in order to perform a comprehensive evaluation of the examiner and observer programs. They were unable to explain why such efforts had not been made in the past.

#### LITIGATIVE ACTIVITY IS LIMITED

The Voting Rights Act strengthened the Attorney General's authority to bring suits to protect voting rights. The litigative authority is not only essential in enforcing the preclearance provisions, but also for protecting voting rights in jurisdictions that are not covered by the act's special provisions and for otherwise challenging discriminatory laws and practices.

The Department of Justice's litigative efforts have, however, been limited. We found that the Department has been unable to litigate all matters related to the act's special provisions nor to develop and initiate litigation against jurisdictions not covered by the special provisions.

Our review showed that 177 cases have been litigated since 1965, and in 90 of these the Department was acting as a defendant or as a friend of the court, rather than as the plaintiff.

Department of Justice officials said litigation, particularly in matters other than the special provisions of the act, has been limited because of other demands on attorney resources for handling non-litigative functions, such as preclearance reviews and election coverage activities.

We noted that paraprofessionals are performing most of the preclearance functions. If they were given more responsibility for election coverage and followup on minor complaints from citizens, additional attorney resources could be freed to handle litigative matters.

The Department, as the primary organization for enforcing Federal voting rights laws, has a difficult task because of the potential volume of voting violations.

Department attorneys said no formal procedures existed for identifying private litigation in the voting rights area. They agreed that there was a need for such monitoring.

#### CENSUS BUREAU'S BIENNIAL SURVEY MAY HAVE LIMITED USEFULNESS

Under the Voting Rights Act, the Bureau of the Census has responsibility for conducting biennial surveys, concurrent with congressional election years, of jurisdictions covered under the act's pre-

clearance requirements to assist the Department of Justice in identifying jurisdictions with voting problems and to provide the Congress with data to measure the impact of the act.

Although the surveys will provide the Congress with some impact data, they are costly and are of limited use in assisting the Department of Justice in identifying potential litigative matters.

The Bureau of the Census surveyed the 1976 elections to obtain participation data. According to Census officials, differing interpretations of the legislative requirements for the survey and insufficient leadtime resulted in an inadequate survey costing approximately \$4 million.

The Census Bureau has estimated that the more detailed survey required by the act would cost about \$44 million to perform. To avoid such a cost every 2 years, the Census Bureau in February 1977, developed a legislative proposal which recommended the survey be performed every 4 years rather than every 2 years.

The proposal stated that registration and voting participation rates differ significantly between Presidential and non-Presidential election years and that biennial surveys would result in statistics that have the potential for misleading conclusions. The proposal was never forwarded to the Congress.

Department of Justice officials said that, based on conversations with Census Bureau officials, the survey statistics will only provide indications of voting problems. They believe that the litigative staff would still have to investigate alleged voting improprieties for actual verification, and noted in this regard that funds have not been provided for such an increased workload.

Although the survey may provide useful information to the Congress for assessing the need for voting rights enforcement, the Department's voting section officials said that if the ultimate goal is to identify and eliminate voting improprieties, consideration should be given to budgeting the \$44 million for investigation and litigation rather than for an election survey.

#### MINORITY LANGUAGE PROVISIONS COULD BE MORE EFFECTIVE COVERAGE FORMULAS INHIBITING EFFECTIVE IMPLEMENTATION

Election officials and minority groups representatives we contacted told us that the coverage formulas used to subject jurisdictions to the language provisions of the act are a major fact inhibiting effective implementation. They said that in some cases the formulas did not identify the minority population needing assistance.

The minority group representatives also told us that formulas provided minimal authority for Department of Justice enforcement in jurisdictions covered by the minority language provisions, but not subject to the preclearance of compliance plans.

The formulas under which a jurisdiction is covered, determine to a great extent the type of enforcement activity performed by the Department of Justice. For instance, only jurisdictions covered by the formula which subjects them to the special provisions as well as the minority language provisions must submit election law changes and bilingual plans to the Attorney General for preclearance before implementation. Through the preclearance review process, the Department can determine the adequacy of implementation plans.

Conversely, jurisdictions covered by the formula which subjects them only to the minority language provisions are not required to submit voting law changes or minority language compliance measures for preclearance.

Most minority persons contacted believed that this lack of preclearance authority limits Justice's capability to monitor and enforce the act's minority language provisions.

#### MINORITY POPULATION NEEDING ASSISTANCE MAY NOT BE IDENTIFIED

The act's formulas provide for minority language assistance in jurisdictions with a single language minority group constituting more than 5 percent of the voting-age citizens.

Because of varied population sizes, therefore a jurisdiction with a voting population size of 100 would require only 5 minority language voting-age citizens to fall under the act's requirements, whereas a jurisdiction with a voting population of 100,000 could have up to 5,000 potential minority voters, but not be covered because of the 5-percent provision.

For example, in 1976, the Korean population in Honolulu, Hawaii, was 5,762, or 1.3 percent of Honolulu County's population.

On the other hand, the Filipino population in Hawaii County was covered because it met the 5-percent formula, even though its population, 5,466, was less than the Korean population in Honolulu County.

Hawaii's election officials told us that Koreans who may need assistance would therefore, not receive it under the act's formula requirements.

We interviewed 6 of the 43 U.S. attorneys given enforcement responsibility in jurisdictions subject only to the minority language provisions, and headquarters officials in the Department of Justice.

#### COVERAGE DETERMINATION ENFORCEMENT

All six attorneys said that no formal monitoring efforts of the minority language plans had been initiated. Three of the six were unaware of their responsibilities and only two had performed any type of enforcement activity.

Each U.S. attorney contacted indicated that the monitoring of the language compliance was of low priority in his office and should probably be handled at Department headquarters.

Department headquarters officials said they were unaware of any formally developed plans by the U.S. attorneys to enforce the language provisions. They also said that the Department's monitoring authority is limited in jurisdictions subject only to the language provisions due to the absence of the preclearance requirement.

These officials told us that in the case of these jurisdictions a change in the law would be necessary to have the Attorney General require preclearance of minority language measures.

#### STATE AND LOCAL ELECTION OFFICIALS NEED ASSISTANCE FROM THE DEPARTMENT OF JUSTICE

Many election officials that we contacted indicated that they were unsure as to what actions were needed to meet the act's language requirements. They said that existing Department of Justice guidelines

are vague and that the Department needed to give more assistance in developing compliance approaches.

Our analysis of the information obtained from election officials showed that:

One: Some jurisdictions had developed costly compliance plans while others had made limited or no attempts to develop a plan;

Two: Different methods were used to assess language minority needs, including several of a questionable nature, and;

Three: Varying degrees of assistance were provided to minority language voters.

Department officials said that they had developed broad guidelines, but had provided only limited technical assistance because of the potential conflict which could arise if they were to litigate to enforce compliance.

#### VARYING APPROACHES IN COVERED JURISDICTIONS

Since a jurisdiction intending to comply with the language provisions should have some type of planned approach, we contacted the 30 covered States to determine whether they had developed a formal compliance plan, and to ascertain their progress and problems related to implementing the language provisions.

Not only did 24 of the 30 States report they had not developed a plan, but most State officials were even unsure what the Department might, and might not, accept as complying with the act.

According to most election officials contacted, the guidelines should have been more specific, especially regarding minority language implementation plans, methods of performing needs assessments, and types of registration and voting assistance required.

Furthermore, they said that the Department provided minimal guidance for developing and implementing methods for meeting the act's requirements.

Of the 149 local jurisdictions contacted, 133 offered some assistance; oral, written, or both, but used different approaches.

Jurisdictions used either:

One: A blanket approach by making language minority materials and/or other assistance available to the entire population of registered voters, or;

Two: A target approach, making language minority materials and/or assistance available on a selected coverage basis. Many States and jurisdiction officials said that providing language assistance caused financial hardship.

#### LACK OF DATA TO EVALUATE PROVISIONS' IMPACT AND EFFECTIVENESS

The act's minority language provisions do not require jurisdictions to accumulate cost or impact statistics. Consequently, a proper analysis of the provisions' implementation was precluded by the lack of information on the size of language group assisted, and the cost of the coverage approaches used, which included various types of voting materials as well as other assistance.

Where States and local jurisdictions did keep statistics, their differing compliance approaches and data-gathering procedures did not allow for comparisons between jurisdictions.

Our review showed 16 of the 30 States and 124 of the 149 local jurisdictions had developed some cost information. However, this was of varying completeness and uniformity. A variety of assistance was reported available in various States and local jurisdictions, but they did not identify what, or how much, nor did they indicate how, if at all, needs were determined.

Our survey also showed that States political subdivisions used differing election procedures, making cost comparisons meaningless.

Only a few States and local jurisdictions reported having performed a cost impact study on the minority language provisions. As a result, most were unable to provide information on requests for, or use of, the available minority language material and assistance.

Additional data needed for analysis, such as the quality and effectiveness of the jurisdictions' outreach in publicizing availability of language minority materials and assistance were not available.

In addition, the population sizes to which this infraction was given, and how it had been made available were unknown.

Most critical, however, is whether the assistance or material made available was needed. There is evidence that, in some instances, it was not.

These are the basic conclusions we had in our report, Mr. Chairman.

#### CONCLUSIONS

The act's objectives could be more fully realized if the Attorney General:

Improved compliance by developing procedures for:

One: Informing States and localities periodically of their responsibilities under the act;

Two: Identifying systematically States and localities not submitting voting changes;

Three: Conducting followup reviews to make sure voting changes are not implemented over the Department's objection; and

Four: Soliciting the views of interest groups and individuals;

Reassessed current Department guidelines to determine what documentation States and localities should submit with voting law changes;

Developed cost, minority participation, and other data on the examiner and observer programs and performed a thorough evaluation of their operation, giving due regard to minority viewpoints on needed program improvements;

Expanded the voting section paraprofessionals' responsibilities, where possible, to allow attorneys greater opportunity for involvement in litigative matters;

Developed and initiated a systematic approach to more extensively identify litigative matters in the voting rights area;

Considered placing responsibility for enforcing compliance in jurisdictions subject only to the minority language provisions with the Department's Civil Rights Division at headquarters, rather than at U.S. attorneys' offices;

Provided more assistance to election officials in developing plans for complying with the act's minority language provisions and in assessing the needs of the minority population;

Would seek the establishment of an information system which would include cost, dissemination, and usage data, to evaluate the cost effectiveness of various methods of providing language assistance, and to give proper feedback to election administrators to assist them in providing effective minority language assistance. At a minimum, he should attempt to seek periodic collection of this information for analysis purposes;

Assessed the extent of financial hardships incurred in implementing the language provisions to determine if Federal funds are necessary to assist States and jurisdictions in effectively implementing these provisions.

To complement the actions taken by the Attorney General we believe the Congress should:

One: Consider amending the minority language provisions of the act to establish a coverage requirement based on a jurisdiction's needs rather than a percentage-of-population basis, and require all States and localities covered by the minority language provisions to preclear minority language measures;

Two: Reassess the requirement that the Bureau of Census collect voting statistics in covered States and localities, because the mandated biennial survey will cost an estimated \$44 million and result in statistics that will be of limited use to the Department of Justice.

Mr. Chairman and members of the subcommittee, this concludes our statement.

We will be happy to respond to any questions you have.

And Mr. John Ols, here, is in charge of our work in the Justice Department, and Miss Emi Nakamura, here, has worked extensively on this particular assignment, and she made quite a few visits to the field. She was in California, Arizona, New Mexico, and a few other places, particularly in connection with the language provisions.

Mr. EDWARDS. Thank you, Mr. Lowe. We all have some questions, but we have a vote on the floor of the House.

We will recess for 10 minutes.

[Recess.]

Mr. EDWARDS. The subcommittee will come to order. We will operate now under the 5-minute rule, according to House rules.

The gentleman from Illinois, Mr. McClory, is recognized.

Mr. McCLORY. Thank you, Mr. Chairman.

I wish to address the \$44 million that is projected by the Census Bureau to conduct the biennial survey. How many people are included in that survey?

Mr. LOWE. Do you mean how many Census Bureau employees?

Mr. McCLORY. How many minority language persons are involved in this \$44 million expenditure?

Ms. NAKAMURA. We don't have the statistics right now, but we do know that there is over 1,000 jurisdictions that would be covered under that survey.

Mr. McCLORY. We do not know how many people. There may be 1 million people, or even 10 million?

Mr. LOWE. Now, it is my understanding, Mr. McClory, that the census covers voting statistics across the board, not just the language provisions; such things as how many people are registered, how many are of voting age, and how many vote.

Mr. McCLORY. If we are going to consider implementing this survey at a cost of \$44 million, we should have some estimate of the number of people involved in this project. This survey would take place every 2 years; would it not?

Ms. NAKAMURA. Yes. I am sure the Bureau of Census could supply you those figures.

Mr. McCLORY. I see. Whether we are going to enable 1 million more people to vote or 10 million, it does sound to me as though we are talking about spending somewhere between \$4 and \$40 million per voter.

In connection with the implementation of the Voting Rights Act under the 1975 amendments, is there any indication that the teaching of English is being included? Are we reconciling ourselves to the fact that some of the voters—the potential voters—do not understand English?

Mr. LOWE. I think it is the latter, Mr. McClory. I don't think there is any effort at teaching English involved in this particular thing. I think there is a lot of recognition that there are some people, citizens, who do not speak or understand the written English, at least.

Mr. McCLORY. I have had a number of communications from California. A large part of my family lives there. As I was mentioning to Ms. Nakamura, my daughter-in-law is Chinese. She has learned our language. She is an American citizen who can understand, read, and write English. She uses the English language ballot.

Nevertheless, she and my other relatives in the San Francisco area are provided the ballot information printed in four or five different languages, including two dialects of Chinese and Spanish, and I believe some ballots in Tagalog, a Filipino language.

Which language requires printing the largest number of ballot information materials? Do you recall?

Ms. NAKAMURA. It would probably be the State of Hawaii.

Mr. McCLORY. In Hawaiian.

Ms. NAKAMURA. Chinese, Japanese, Filipino.

Mr. McCLORY. In how many languages are the ballots and ballot information printed in Hawaii?

Ms. NAKAMURA. At least four.

Mr. McCLORY. At least four?

Ms. NAKAMURA. It differs with the counties.

Mr. McCLORY. Now, what I would like to know is this:

How do we determine true members of a language minority group? Did your studies indicate that there was any effort to find out who members of a language minority group by the sound of their name? Or do we administer literacy tests to learn whether or not people understand and read and write English?

But did you find any measure or tests that were being applied to determine who were and who were not truly members of a language minority group?

Ms. NAKAMURA. There was a wide range of measures that were used; a postcard method, that you are apparently aware of in California if you have some contacts there.

Also, some minority group representatives were contacted and asked what they think is the extent of the language needs in their communi-

ties. Some just used intuition. In some jurisdictions, they actually tried to do a door-to-door survey. There are just all different types of ways that people have tried to identify minority language needs.

Mr. McCLORY. There is no standard?

Ms. NAKAMURA. No, and I don't think the Department of Justice has really come down, either, in saying what is the best way to try and measure the extent of language assistance needed.

Mr. McCLORY. Wou'd you, as a result of your extensive studies, be able to determine whether or not there is any way to judge this percentage, other than by giving a literacy test?

Ms. NAKAMURA. Not at this point in time; I don't believe so.

Mr. LOWE. That is probably the biggest problem in the whole thing, Mr. McClory. Some of the States that we mentioned in the statement use a blanket approach. If your name is Spanish sounding, you get the literature. Some try to be a little more selective.

I am not sure we really know what the answer is.

Mr. McCLORY. There is one community in my congressional district, where if I wanted to communicate with the residents there, I used to have to speak in Italian, which I can speak. Now, 15 years later, I go there and speak Italian, and they resent my speaking to them in Italian.

I think that there must be some resentment on the part of some of these American citizens who are qualified to vote, but feel that they have to be communicated with in their native tongue.

Did you study the impact of the 1975 amendments in Alaska? Did Congress provide that election information be printed in the Native Alaskan languages? As I understand it, some of those languages are not in written form, and the ones who do understand the written language are professors who are not even part of that Native American group.

Did we do any studies on Alaska to find out how——

Ms. NAKAMURA. We contacted State officials in Alaska to determine how they made these assessments. And they advised us that they do meet with the Native Alaskan groups to try and determine what their needs are.

The law provides if the language is not written, they are only required to provide oral assistance.

Mr. McCLORY. The only people who know how to write it are university professors who are not Native Alaskans; isn't that right? Do you know?

Mr. LOWE. I have read articles to that effect, yes.

Mr. McCLORY. So that the election information that is provided in Alaska to the Native Alaskans is oral?

Ms. NAKAMURA. If it is not historically a written language; yes, it is oral.

Mr. McCLORY. Have you discovered any of the Native Alaskan languages that are not oral?

Ms. NAKAMURA. That I don't know.

Mr. McCLORY. For the ballots——

Mr. LOWE. Some of the languages are written.

Mr. McCLORY. They have written ballots; don't they?

Mr. LOWE. Some of the Indian languages are written. But I am no certain about the Alaskan ones.

Mr. McCLORY. Was anything done with regard to any of the Indian languages in this country? Are any ballots or election information being produced in Indian languages?

Ms. NAKAMURA. As I recall, there was only one jurisdiction that indicated that the Indian language, was written. But all others were unwritten, and, therefore, they receive only oral assistance.

Mr. McCLORY. In general, what your studies and your report indicate is that this is virtually an impossible statutory provision to enforce at the present time unless there is an increase in funds or personnel?

Mr. LOWE. It is sort of a tough area.

I think if I could say in my own words what I think our report said, too:

That the Department of Justice ought to be a little more outgoing; it ought to have an outreach program to reach some understanding with these jurisdictions as to what is acceptable and what isn't rather than sitting back and waiting for the jurisdictions to act.

Mr. McCLORY. Perhaps the Congress ought to be a bit more understanding of what the ramifications are of its enactments before it involves States and local jurisdictions in legislation, which imposes tremendous financial and other burdens on the States and localities.

You do not have to answer that if you do not wish to.

Mr. LOWE. Thank, you. [Laughter.]

Mr. McCLORY. I will reserve the balance of my time. [Laughter.] Perhaps we will go around again?

Mr. EDWARDS. Sure, we will.

Mr. Drinan?

Mr. DRINAN. Thank you, Mr. Chairman.

I wonder if one of the witnesses could explain a bit more what is on page 15. It says there that a systematic compliance procedure was being developed by the Department of Justice.

I wonder: Do they give you any clues as to what that compliance procedure might be?

Mr. LOWE. This is on page 15 of the report?

Mr. DRINAN. It said that:

The officials acknowledged the need for a formal system for compliance followup on objection decisions and said such a system was being developed but no implementation date had been set.

Mr. OLS. Father Drinan, as far as we know, they didn't give us any indication of what it was.

Mr. DRINAN. Well, all right.

Mr. OLS. They haven't gotten that far yet.

Mr. DRINAN. All right.

On the basis of your findings and so on, what would you recommend should be the elements in that procedure?

Mr. OLS. Now, on the followup, what we recommended is they also use the—and it was in our recommendation—use the computer to help them monitor as a followup, to give them targets, to have them spit out exceptions, when the submissions are coming in, and when they are due for a response.

They have no way of managing the data that they get in from the jurisdictions; who reported—who gave their objections, who submitted submissions, who made changes that they didn't submit.

And we think that if they use their management information system better they can keep on top of it.

Mr. DRINAN. Well, when you say that procedures are being developed, that is in this administration, I take it, rather than the previous administration?

Mr. OLS. Yes.

Mr. DRINAN. And the previous administration didn't quite get to this, I take it?

Mr. OLS. No, they didn't.

As a matter of fact, Father Drinan, I was a little amazed, and while we were going over this information this morning, appendix XII to the report here has a listing of voting section litigation.

And just for illustration, our staff had to develop that list. No place in the Department of Justice was there such a list compiled or anything like that.

So a lot of the information is available if it was just managed a little better, a little bit more systematically. We think they could do a little better job.

Mr. DRINAN. Well, on another point. I don't seem to see evidence here anywhere that exorbitant costs were required at the local level to print bilingual ballots.

Have I missed something?

Mr. OLS. Appendix XIV, Father Drinan, shows cost information reported.

Mr. LOWE. Page 76.

Mr. OLS. Now these costs which we show here, which comes out to about \$3.5 million for total State and local jurisdictions is what the State and local officials provided to us. We have no way of verifying this cost information.

Hawaii, for example, you will notice has \$381,000 for State and \$100,000 for local jurisdictions, which they say is their cost. We have no way of verifying that information.

Mr. DRINAN. All right.

But Texas and California are roughly \$2.4 to \$2.5 million out of \$3.6 million. \$1.3 and \$960,000, respectively.

Mr. OLS. Yes.

Mr. DRINAN. Well, that was intended by the law, as I recall the enactment of the statute. There are large Spanish-speaking groups in those areas. We made an estimate that, if we put in the 5 percent figure, the majority of the counties or voting districts would in fact be covered where lack of knowledge of English was a problem.

Of the \$3.6 million cost estimate, two-thirds of that, roughly, has gone to the two States that were targeted.

Can we really say that exorbitant sums were required of the States?

Ms. NAKAMURA. For some of the local jurisdictions, in comparison to their total budget, they felt that it was exorbitant.

Mr. DRINAN. Who thought it was?

Ms. NAKAMURA. Some of the local jurisdictions.

Mr. DRINAN. Well, they think every expense is exorbitant if they don't initiate it themselves.

Ms. NAKAMURA. Well, as Mr. Ols said, we didn't verify their figures. But some of them did indicate that in comparison to their total budget, it increased it substantially. And, therefore, they felt that it was a burden.

Mr. OLS. If you are talking only about a small county or a city or an area like that, their cost may be \$10,000, and for them that would be very exorbitant.

Mr. DRINAN. Especially when they don't want to do it, anyway.

But I guess the bottom line is this. You suggest toward the end of your report that the Congress, rather than have this fixed formula, should designate areas on the basis of the need of the people in that area.

Well, we tried to do that and in order to get a law that would be national we adopted the 5 percent.

Do you have something that would tell us how to judge needs, aside from statistics?

Mr. OLS. No, we don't. The only thing we have, Father, is that the 5-percent factor, and as Congressman McClory said, some people don't even want this, don't even need it. And if they are very obsessed with getting that information—there may be a lot lower percentages of minority language groups that really need bilingual information that we are not getting it. And because they don't meet the 5-percent factor, in fact, nothing is given to them.

Mr. DRINAN. Well, we realize that, but we could have put it at 1 percent.

Mr. OLS. Sure.

Mr. DRINAN. But that would have brought about expenses that even we might have said were exorbitant.

Mr. OLS. What we are suggesting is that the Department of Justice or the State and local officials together, go out and try to get an out-reach program to find out where the need is really at, what needs to be provided. Is it only oral assistance? Is it written? Is it ballots? What is the nature of that? Nobody knows right now.

Mr. DRINAN. Well, we had extensive hearings for weeks on end, and everybody who knows anything about voting procedures came into this room and told us all they knew.

So we got to know almost everything that is knowable, but you say that there are other people who can tell us things that we don't know.

Mr. McCLORY. Would the gentleman yield?

Mr. DRINAN. Yes, I would be happy to yield.

Mr. McCLORY. There were no hearings on the minority language group legislation, as I understand it. There was only one witness who appeared. He was from the Civil Rights Commission. He was the only one.

There was no response from Indians, Chinese, or Filipinos, with regard to this subject. At least that is my best recollection.

I believe there should be a hearing on the problem, to determine whether or not there is a demand for the minority language group ballots. I know that there was, for instance, an amendment offered by Mr. Biaggi, to include Italian as a minority language group. Italian was not included.

Some of the States already have a requirement, I believe, to print ballots in the Spanish language; in Texas for example. That makes some real sense. To me, Tagalog and Mandarin and similar languages are a great departure from what I felt Congress was supporting when it enacted the Voting Rights Act of 1965.

Thank you.

Mr. DRINAN. If the gentleman would yield.

It is my recollection—and this is 2 or 3 years ago now—that we recognized that the 11 or 13 million Spanish-speaking were the prime problem. But we couldn't just put Spanish there, and in order to avoid precisely what the gentleman suggests about Mandarin and Tagalog, we put the minimum at 5 percent. We thought that we were avoiding the problem of multiplying ballots in esoteric languages.

Mr. McCLORY. Apparently, we did not.

Mr. DRINAN. Well, I still don't find in this material—and maybe I have missed here—exactly how many esoteric languages we use in what communities. Is that here in the information?

Mr. LOWE. No. We do have that information. But, for example, there were four or five in Hawaii. I don't have the thing in front of me.

Mr. DRINAN. Well, I have it right here, sir, and you said that the Koreans did not get a bilingual ballot, whereas the Filipinos did, the bottom of page 9. I don't quite understand that paragraph, incidentally, and I have read it three times now. It is a snowy Monday afternoon, but you say that the Korean population in Honolulu was only 1.3 percent. And therefore, you would not cover them.

On the other hand, the Filipino population in Hawaii County was covered because it met the 5-percent formula, even though its population was less than the Korean. Oh, I see it now.

Mr. LOWE. Two different counties, yes.

Mr. DRINAN. But now, I take it that in Hawaii they publish ballots in Filipino but not in Korean.

Mr. OLS. Right.

Mr. DRINAN. Well, give us a better formula. If these 5,762 Koreans need Korean ballots, I feel badly they don't have them. But how can we change the formula so that we can reach them?

Mr. OLS. Father, that's why I can't give you a magic number, but what we are saying there, and what we were told by local officials and minority groups we talked to, is the Japanese, the Filipino, and the Chinese, populations that are getting the ballots now, basically, they are saying they do not need those ballots because they can read the English language.

But the one language that they aren't providing which the State could, if they so desired, is the Korean language. But that is nowhere covered by the provisions of the bilingual amendment. That is because because it is less than 5 percent, so therefore, they don't have to do that.

And that is what we are trying to draw out. Hearings would probably have to be held to bring out these other views. We couldn't get to everybody to come up with the right answers.

Mr. EDWARDS. Would the gentleman yield?

Mr. DRINAN. Yes.

Mr. EDWARDS. Mr. Ols, are you saying that you spoke to representatives of minority language groups in Hawaii, and they told the General Accounting Office that they don't need the bilingual provisions?

Mr. OLS. Well, they said they don't need it, they know the English language.

Ms. NAKAMURA. We didn't talk to minority language group representatives in Hawaii. Was that your question?

Mr. EDWARDS. Yes; that is my question.

Ms. NAKAMURA. No.

Mr. EDWARDS. You got that information from Anglos?

Ms. NAKAMURA. From the election official the administrator in the State.

Mr. EDWARDS. The election official, who as Father Drinan pointed out, aren't very crazy about this additional work, anyway, isn't that correct?

Mr. LOWE. That could be.

Mr. EDWARDS. Well, election officials just generally don't like the provisions of this act, because it is more work. Well, there are quite a number of reasons why they like the old system better.

And so Congress says, to increase the participation—

Ms. NAKAMURA. I don't think the election administrators were against the minority language provisions at all, in Hawaii, as we got their response.

They were in concurrence with the spirit of the minority language provisions. However, they felt that the coverage formula presented a burden, in that it was not identifying the right population that needed assistance.

Mr. EDWARDS. Well, there is a certain amount of hearsay in what you are saying. You are telling us a fact as said, as related to you, by the election officials who are relating what somebody told them. You did not go to the direct source?

Ms. NAKAMURA. No.

Mr. McCLORY. Will the chairman yield?

I do not think, Mr. Chairman, that we can say that most election officials in Hawaii are Anglos, if by that you mean that they are not orientals. I have the strong feeling that the majority of the election officials there are of oriental descent.

They would be as knowledgeable and understanding of the need for—

Mr. EDWARDS. If the gentleman would yield.

That wasn't my point. My point was that this information did not come from the language minority groups.

Mr. DRINAN. I think, Mr. Chairman, that is stated in the testimony of the witness. He said that these unnamed Hawaiian elected officials told us that Koreans who may need assistance would therefore not receive it under the act's formula.

But as I recall, the formula also includes a definition, a very careful definition, of the people whose first language is Spanish or Korean. We could not make a statistical analysis of how many of these Korean people in Honolulu actually didn't need help. But we said that they are the ones to determine what language problems they have.

We did it as carefully as we could, saying that we are not going to prejudice and give to every Korean, or a child of a Korean, this ballot. But that the individual who needs assistance may get it in his or her language.

So what is a better formula? Now, the GAO has said, in effect, that you have made a recommendation, tearing up the script that we wrote. That's the way it comes out to me. You say on the last page:

Consider amending the minority language provisions of the act to establish a coverage requirement based on a jurisdiction's needs rather than a percentage of population basis.

Well, we did that. So unless you have a better formula, then I don't think it is appropriate for you people just to throw it back to us. We went through those things. We said that this 5 percent who say, or who are deemed to have a foreign language, a language other than English as their mother tongue, then we will give them the opportunity.

So we are not foisting it on them just by numbers.

Mr. LOWE. I think part of the problem comes from determining just that, though; how many people do have a foreign language as their primary language.

I don't think there has been a real determination of that in most of the jurisdictions. It is sort of on a shotgun basis, that if there are a lot of Spanish speaking people then it is assumed that they have to get out the Spanish language ballots. In some cases that is not true. They may not need all of those.

Mr. DRINAN. But we mandated that the Bureau of Census along with other agencies, should, in fact, come up with the most accurate statistic available, as to that number of people whose mother tongue is a language other than English.

I know that I have 28 percent French speaking, or Canadian origin, in my congressional district. But they speak English, so that this bill is not needed in Massachusetts at all.

I recall well 3 years ago going into this as carefully as we could. We want the GAO to criticize what we have done. But at the same time, maybe you could suggest that we should have followed option A instead of option B.

Mr. LOWE. Yes.

Mr. DRINAN. So what is the option that we neglected, or is there an option that we never even considered?

Ms. NAKAMURA. The Bureau of Census statistics identify the minority population groups by surname. And that doesn't necessarily mean that that individual with a Spanish surname, or a Japanese surname, Chinese surname, cannot speak, write, read, English. Some have been rooted here for generations and know only English.

Our point is that the coverage formula, the way the jurisdictions are brought under coverage by the surname identification, is not an accurate measure of determining their language assistance needs.

Mr. DRINAN. Well, Mr. Chairman, certainly my 5 minutes have expired.

Let me refresh my recollection here, and maybe go back to something that is more clear.

Thank you.

Mr. EDWARDS. Thank you, Mr. Drinan.

Well, we have on page 76, costs provided in one way or another, by certain States and 625 jurisdictions within those 30 States, as to the cost of the minority language provisions. So we have about \$3.5 million for 30 States and 625 jurisdictions. That is not very much money.

Mr. LOWE. Not when you consider the budget expenditures in total, it isn't. I am sure it is partially true, in talking on the side here with Ms. Nakamura, she has indicated that most of the election officials that they talked to were not particularly in favor of this language provision, but most of the minority people that they talked to were in favor of it.

I think what we have been talking about is the machinery to make it work at the minimum cost, but at maximum use.

Mr. EDWARDS. Well, so are we. We are very interested in making it work. The majority of both Houses and the President thought that this was a needed law.

Mr. LOWE. I personally believe that if the Department of Justice would go at this thing with sort of an outreach outlook, and sit down with a minority group, and with the local jurisdiction, or the State jurisdictions, and try to work out what would be acceptable and reasonable, I think it would probably work a little better.

I think they are trying to hold their cards a little too close to their chest, and there ought to be an outreach program and reach some understanding as to what they will accept, and what is good enough for the minority group.

Mr. EDWARDS. Thank you.

As Mr. McClory pointed out, there are a number of jurisdictions in the United States where minority language provisions were mandated by Federal district courts.

Now, of the \$3.5 million that was spent last year by the 625 jurisdictions in 30 States, how much of that money was spent in connection with the court directed minority language provisions, and how much of it was attributable to the law passed by Congress?

Ms. NAKAMURA. When we contacted the States and local jurisdiction officials we requested that they supply us information on their costs to implement the minority language provisions under the Voting Rights Act in 1976.

We did not verify their statistics, so what is reported here on this chart is all the information that we have. In some cases, they indicated that it might have just been primary election costs; it might have been general election costs; it could have been both. Some jurisdictions even indicated that they held more than one primary.

So in terms of costs, this is all of the information that we have, or that we were able to get in the 149 jurisdictions contacted.

Mr. EDWARDS. Thank you.

On page 2 of your statement, you stated that:

Our review showed that the Justice Department's program for enforcing the act has contributed toward fuller participation by language and racial minorities in the political process.

Therefore, you have found that there is a greater participation of racial and language minorities because of this law.

Mr. LOWE. Certainly.

As a matter of fact, Mr. Chairman, we were just talking while you were at recess. And Ms. Nakamura here is a prime example of the language provisions. She used to do the interpretation of the ballot for her father in California.

I think some of the numbers that we have in the early part of the report indicate that over the past 12 or 15 years, that the registration in minorities has increased substantially throughout the country, particularly in those covered by the special provisions.

Mr. EDWARDS. On page 13:

Only a few states and local jurisdictions reported having performed a cost/impact study on the minority language provisions.

If they have objections to these provisions and if they feel that there should be some change in the law, wouldn't you think that it is their responsibility to make these studies and provide us or you with the cost impact studies?

Mr. LOWE. Yes.

Mr. EDWARDS. Do they plan to?

Mr. OLS. Well, California, I know, has made some studies. I have seen some of those that were provided to Congressman Ketchum, because they provided those to us. There have been studies showing their amount of cost that they have incurred. And that is where we picked up a lot of our cost data.

But the biggest problem is the cost effectiveness relationship; how many people actually used them, were they beneficial. That's something that nobody really knows yet.

They know what they spent on printing and ballots and so forth, but they don't know what the effectiveness is.

Mr. EDWARDS. As you point out, the Department of Justice has been reluctant to provide more specific guidelines because they might be litigating those guidelines in subsequent suits. Is that correct?

Mr. LOWE. That's correct.

Mr. EDWARDS. They have not explicitly told these jurisdictions how they should comply; is that correct?

Mr. OLS. That's true.

Mr. EDWARDS. You recommend they provide more explicit guidelines. Is that correct?

Mr. OLS. Yes; I agree.

Mr. EDWARDS. How are these jurisdictions attempting to comply with the act? Are they, for example, making use of the return post card system? In California, officials send out preelection information to all registered voters, one can then rip off the post card if the materials are needed in another language. Is that procedure less costly?

Ms. NAKAMURA. Yes.

And they are also attempting to survey people as they register to vote, whether they feel that they would like material in another language.

Mr. EDWARDS. Wouldn't that be a lot cheaper than just printing a whole bunch of ballots in Tagalog? How do we know that any of the people who speak Tagalog need or want a ballot in Tagalog? Why don't they ask these people, the registered voters? I am sure they have some kind of preelection voting material sent to them.

Ms. NAKAMURA. That's true; I agree with you. I don't know why particular jurisdictions chose to blanket or target in the method that they did. But California, we do know, did try to determine who needs that information.

Mr. EDWARDS. Yes; there was quite a furor for the few months in California. The secretary of state said it was going to cost all kinds of money and made speeches all over the State and almost ran for Governor on this issue.

And then the election came along and it really didn't amount to very much. Since that time, the complaints in the one county that I represent that is covered by the language minority—as a matter of fact, both counties are covered—the complaints have just died down and we are not hearing very much about it any more.

The last question I have is that of the \$3.5 million that was spent last year—and perhaps a lot more was spent for all we know, but they haven't reported it to us or to you—what percent of that money was used in providing the languages other than Spanish, materials in languages other than Spanish?

Mr. OLS. We don't have anything on that.

Mr. EDWARDS. Do you have any estimates; 1 percent, 5 percent, 10 percent?

Ms. NAKAMURA. No.

Mr. DRINAN. If the gentleman would yield.

I think this is a key question. I don't think we can sustain the contention that a lot of money has been spent if you people don't know of any non-Spanish language that has had any significant input.

I mean, you have to know something besides—

Mr. OLS. There isn't any cost, Father Drinan. That is the problem, we have no data or quantitative information to deal with on what that cost was.

Mr. DRINAN. At least you must have information as to how many jurisdictions did in fact publish a ballot in a language other than Spanish.

Ms. NAKAMURA. We did get some indications from some jurisdictions in their responses. But we didn't analyze it as such. We didn't make a cost determination on how much was spent on ballots by language types.

Mr. DRINAN. Well, but can you give us the number of how many non-Spanish ballots were issued by how many communities?

Mr. LOWE. No, I don't think so, Father Drinan. If you look back there on page 79, there are a couple of maps there indicating that we contacted certain jurisdictions in some States.

In California, I guess we covered most of them either by questionnaire or by talking to the people. And in some of the other States we covered, you know, 1 out of 5 or 1 out of 4, or something like that.

We do have a lot of data but it is not uniformly put together. It is really impossible for us to deal with that.

I would guess just off the top of my head, looking at page 76, that a very large percentage of expenditures were for Spanish language ballots, California and Texas being the two biggest and most obvious, but also New Mexico, and—

Mr. OLS. We could review our data, Father Drinan, and see if we can come up with a figure that would tell you how many ballots. We didn't try to compute that.

Mr. DRINAN. All right.

You can estimate the figure, but I am just anxious to know what if any other languages besides Spanish were, in fact, used.

There is no evidence that you are giving us that supports the contention at all that exorbitant sums were spent for Mandarin and Tagalog.

I just want to lay this to rest and say the GAO has not a shred of evidence to suggest that a dime was wasted on Tagalog.

Mr. LOWE. I don't think we said that, either, Father Drinan.

Mr. DRINAN. Well, by your silence, you say you have no knowledge of any ballot ever issued in any language besides Spanish.

Ms. NAKAMURA. We do, but we don't have it analyzed to present to you.

Mr. DRINAN. I don't want it analyzed, I just want "it." What is the "it"?

Mr. LOWE. This is Hawaii.

Mr. DRINAN. Oh, good. Those Koreans got a ballot.

Mr. McCLORY. If the gentleman will yield.

The Koreans did not get a ballot. They were the ones who needed the ballot and they did not get it. They had the Chinese and the Japanese had ballots printed in their language but they didn't need it because they understand English.

Mr. EDWARDS. The gentleman from Illinois is recognized for 5 minutes.

Mr. McCLORY. I will yield, if they have an answer to Father Drinan's question; go ahead.

Mr. DRINAN. Tell us what you have now?

Ms. NAKAMURA. We don't have that right here. We only have what Hawaii indicated as the number of written material that was in question by certain language groups.

Mr. DRINAN. All right.

Well, Mr. Lowe, could you supply it?

Mr. LOWE. Yes; we will supply what we can, Father Drinan. But, for example, in the material we got from Hawaii, indicated by groups, by language groups, numbers of oral assistance they gave these language groups by county, and also the number of written assistance; that is, a facsimile ballot that has been printed in Cantonese, Ilocono, and Japanese.

And there are some others, but I am sure, relatively speaking, they are minor compared to the Spanish language ballot.

Mr. OLS. Well, in San Francisco, we know there were Chinese ballots. But I don't know of any other ones. That's all I know right now.

Mr. DRINAN. Chinese ballots in Hawaii?

Mr. OLS. No, in San Francisco.

Mr. DRINAN. The point is: Maybe when we set the 5 percent, we were much too rigid. Maybe it should be lower than 5 percent.

If, in other words, we had only the Spanish-speaking people, the act is wrongly written, because we intended to give every significant minority group the opportunity to have a bilingual ballot when the statistics and the formula indicated that that would be helpful to them. Maybe we have adopted a formula that is too ungenerous.

Thank you.

Mr. McCLORY. Let me just say as a followup that I think what would prove most helpful would be to provide instruction in English so they could understand an English ballot like every other minority group who came to this country in the past.

With respect to greater voter participation, which is a rather broad statement—you made the same statement in response to the chairman's question—do we have any evidence of greater voter participation except among the Spanish-speaking population?

Mr. LOWE. Yes, we do. On page 6 there are some figures there that we came up with from the U.S. Commission on Civil Rights study and a Bureau of Census study.

This has to do with white and black registration percent of registered voters in 1965, 1967, and 1974. And the States that are included in those numbers are slightly different. But the numbers themselves speak for themselves. Most of these are the covered States.

Mr. McCLORY. This is under the 1965 act.

Mr. DRINAN. That is for black; not bilingual.

Mr. LOWE. Yes.

Mr. McCLORY. Under the minority group provisions that were added in 1975, there isn't any evidence that we have greater voter participation on the part of Filipinos or——

Mr. LOWE. No; I don't think there would have been any numbers to show how many voted—registered prior to that or subsequent to that.

Mr. McCLORY. As a matter of fact, is there any way of finding out who is not part of a language minority group without going out and interrogating each and every voter?

Mr. LOWE. That is in effect what is being done in some places; yes.

Mr. McCLORY. I would assume, Ms. Nakamura, that a reason for printing the election information in all the languages in the jurisdiction which would have more than one language minority group, is that it is less costly than trying to identify each different member of a language minority group and then give the ballot to that person in his or her own language. That would be extremely cumbersome and terribly expensive; would it not?

Ms. NAKAMURA. In large jurisdictions, yes.

Mr. McCLORY. As I mentioned, my daughter-in-law is Chinese. I understand that she can not always tell who is Chinese and who is Japanese, or who is Korean, because orientals have a hard time distinguishing where other orientals come from; don't they? [Laughter.]

That is an unfair question to you. [Laughter.]

This example was one that concerned me. A special election was held on August 2, 1977, in San Francisco. All that was involved was voting on two items, two measures on a referenda. Both failed, but nevertheless, they had to send out the ballot information in several different languages.

Would you believe that there might be more significance in providing general information with respect to a national or State election as opposed to a local referendum?

Mr. LOWE. I don't know; some of those local ones hit awful close to home and you get pretty interested in some of those. They are generally money out of your pocket type things.

It seems to me that some of the jurisdictions, California is probably a prime example. They probably furnish more information to voters than most jurisdictions do. My own home State and the one I currently live in, if I didn't read the newspaper, I would not know what the ballot was going to look like. They don't mail me anything.

Currently, in California, they do try to give a lot of information to voters. And obviously, if you want to do it in more than one language, it is going to add something to that expense.

Mr. McCLORY. There is, of course, nothing to prevent the States and localities from providing voter information in any and all languages that they wish or using any means they desire to attract voters and to facilitate their voting on issues or candidates.

You found, I am sure, that in some States, especially in those States where there is a fairly large Hispanic population, that there are already State and local laws that provide for bilingual ballots. Am I correct?

Ms. NAKAMURA. We found that to be the case in New Mexico.

Mr. McCLORY. And Texas?

Ms. NAKAMURA. New Mexico, prior to the voting rights minority language provision, passed a State law, I think, that they no longer needed material that was bilingual, and then the Federal requirement brought them under coverage.

Mr. McCLORY. This law would apply in 30 States, would it not?

Mr. LOWE. In some jurisdictions, in 30 States; yes.

Mr. McCLORY. Do you suppose there would be any way of learning what the total additional cost these amendments have brought to the States and local governments. That would be an almost insurmountable task. They reported to you that it was expensive, but without taking testimony here, we really could not determine what the additional cost burden was as a result of our enactment of this legislation.

Mr. LOWE. I think it would be very difficult to determine that. Primarily, it would be, I think, printing and translation costs.

Mr. McCLORY. We are not really enforcing the law at the present time to enforce the law, as would require compliance with the letter and spirit of the law. This would impose large additional expenditures which are not currently covered according to the reports from the States and jurisdictions that do come under the law.

Ms. NAKAMURA. That may not be the case, because in some jurisdictions right now, they are doing a blanket type of assistance where material is made available to everyone, regardless of what their language need is.

If they target, it might actually reduce the cost. That we don't know. We only picked up the cost figures that they said were available.

Mr. McCLORY. You are not suggesting, are you, that—

Ms. NAKAMURA. I think there are two sides to the case.

Mr. McCLORY. You are not suggesting that because they send out the ballot in multiple languages in San Francisco, that they are doing it in a manner more expensive than necessary?

Ms. NAKAMURA. For San Francisco, I don't know, but I think there are some jurisdictions where perhaps by reducing targeting to that group that needs it, they may not have to expend as much money as they have in the past, and that they have reported in the past.

Mr. McCLORY. You are not suggesting that they are knowingly spending more taxpayer's money than they should in trying to comply with this law?

Mr. LOWE. They may have in some cases.

Mr. McCLORY. I yield back the balance of my time, Mr. Chairman.

Mr. EDWARDS. Mr. Drinan?

Mr. DRINAN. I wonder, Mr. Lowe and your colleagues, whether you have any other statements on another aspect of the law that ties in very closely with this literacy. The language reads:

No state shall provide registration \* \* \*

et cetera—

\* \* \* only in the English language, if the Director of the Census determines (1), that more than five percent of the citizens of voting age of such state are members of a single language minority, and—

in the conjunctive—

\* \* \* and that the illiteracy rate of such persons as a group is higher than the national illiteracy rate.

Now we add in a illiteracy factor, and at the time of the passage I had some question about that. We also made the finding of the Director of the Census nonrenewable, but we did give to the State or political subdivision, the opportunity to obtain a declaratory judgment from a Federal court that the illiteracy had dropped and thus could "bail out" from coverage under the act.

Do you have any conclusions or suggestions as to the very intimate tie-in with the national illiteracy rate among people of a special or single language minority?

Mr. LOWE. Father Drinan, I really can't give you anything on that. The basic determination we made was whether they were covered or not. We didn't really go into under which basis here.

I think the census studies, if they are going to be performed, are necessary for anything under that item 5. But I don't think we really have any knowledge about that.

Mr. DRINAN. Except that we put that in there to make certain that there was no waste of taxpayer's money, giving out bilingual ballots when it was not necessary.

The illiteracy was quite congenial to the bill because the prior law used illiteracy as a key element of the legislation.

Mr. Ols, do you have any comment?

Mr. OLS. Well, the only thing I would add is that we only went to those jurisdictions that it had already been determined that they met the requirements of the act, that they had to provide bilingual material. And we only looked at those. We didn't go back and look at how they actually became covered under that act.

And we are saying that Justice has determined with the Census Bureau that they are covered, and we went in from there. We didn't go into the other part.

And these are the comments that we have put in our report from the minority groups, from election officials, and are from those districts that are covered by the act. That is where the problems come up.

Mr. DRINAN. Well, one other point that you recommend here, and it sounds sensible to me:

That the enforcement of this act be taken away from the U.S. attorneys because they have done such a miserable job, and that it be put exclusively in the Civil Rights Division of the Department of Justice.

In the informal comments that you have in your possession from the Department of Justice, do they make any comment on that recommendation?

Ms. NAKAMURA. Yes, they do. They indicate that it is currently under study, and a decision has not been reached.

Mr. DRINAN. Like the whole subject of U.S. attorneys is under study. [Laughter.]

Mr. LOWE. Well, as a matter of fact, we do have a report on the U.S. attorneys that should be coming out in the next couple of weeks. And it does show the excessive workloads of U.S. attorneys.

Mr. DRINAN. Who initiated that, Mr. Marston? [Laughter]

Mr. LOWE. No, sir; this one was self-initiated. We decided we ought to take a look at it, since it is such a vital link in the whole Justice chain.

I guess it is well known that the U.S. attorneys are overworked and overbooked with cases, and there is a substantial number of cases that they never get to that are prosecutable. So you can see where this would come fairly low on the list if a guy had a lot of criminal cases he couldn't get to.

I think it would probably be a good move to move it back into the Civil Rights Division with the other enforcement activities, and where the people are concerned only with that item rather than the multitude of items that the U.S. attorney has to contend with.

Mr. DRINAN. All right.

Thank you very much.

Mr. McCLORY. Mr. Chairman?

Mr. EDWARDS. Mr. McClory?

Mr. McCLORY. You are making some very important recommendations to this subcommittee.

You feel, and I agree, that there should be some evaluation of the program that we established by the 1975 amendments.

We should consider, first of all, an amendment which would go beyond this formula basis for invoking the observers and the multiple languages, and get down to the question of what the actual need is in these voting districts.

Then we should reevaluate the question of the biennial census which the Census Bureau estimates would cost \$44 million every 2 years and determine if there isn't some more efficient or cost effective manner of determining to what extent, if any, we should have censuses and require these multiple language ballots.

That is basically what it gets down to, isn't it?

Mr. LOWE. Yes.

I think what we are saying on the 5 percent, is that that is OK as a triggering mechanism, but even under the 5 percent, there are cases where some assistance is needed, and we can't quite get the handle on how to do that, but it ought to be done.

Mr. McCLORY. We may discover instances in which they really are not needed, such as when we use the 5-percent formula in Hawaii.

Mr. LOWE. Yes; that is possible, yes.

Another thing I think we are seeing is that the census data is really not of much use to the Justice Department. It may very well be to Congress.

But the census experts feel that doing it in a Presidential election year will give them much better results for comparison purposes from year to year. Otherwise, you are comparing off-years with Presidential years with off-years, with Presidential years. Obviously, you would get the same numbers eventually, but it would be not half as expensive. to do it every 4 years and probably result in just as useful statistics.

Mr. McCLORY. I think we get down to the question of whether it is better for us to repeal the entire 1975 act, or to try to amend it in ways that will make it workable, and enforceable, equitable, cost effective, reasonable, and logical. [Laughter.]

Mr. EDWARDS. If the gentleman would yield.

I am sure the gentleman from Illinois would like first to have some kind of an accurate study made of the cost, and some analysis of whether or not it is working or not. I think that is the thrust of the testimony from the General Accounting Office; that it is just too soon to tell whether we are right or wrong.

Isn't that the thrust of your information?

Mr. OLS. There is no management information to make that final determination. What we think is that there has to be an analysis of the problem, we think it should be based on need. This observation is based on talking with people, talking with various election officials, and minority groups.

And there are a couple of other studies that you referred in your opening statement that are looking into this, also. And maybe bringing all of those together, will, in fact, draw a more complete picture of the situation.

Mr. EDWARDS. We have had one national election since the act was passed.

Mr. OLS. Yes; that's right.

Mr. McCLORY. We could repeal it and start over again.

Mr. LOWE. I think what we are saying as, far as the Department of Justice goes, is that, you know, they made an effort, but if they were a little more organized and a little bit more business like in their approach in gathering data, in finding out where litigation ought to be gone into, that they could probably be more effective, and they could make better use of their legal talent if they would use paraprofessional help to do some of the other work.

Mr. McCLORY. They are experiencing problems at the Department of Justice.

Mr. EDWARDS. Counsel, Ms. Davis?

Ms. DAVIS. In chapter 5 of the report, you recommend that Congress reassess the adequacy and need of the biennial surveys required by section 204 of the act.

Could you go into a little discussion, please, of what the purpose, your understanding of the purpose of those biennial surveys is, and whether that purpose would be met if we were to follow your recommendation?

Ms. NAKAMURA. We looked at it in terms of what value it had to the Department of Justice. It will just give some indications of who is registered to vote and who actually voted, in terms of race, color, and national origin, et cetera.

But in terms of enforcement, it is not going to identify problems where the Justice Department is going to have to go in and investigate.

So from that perspective, looking at it from the value to the Department of Justice, they say that it would be of very limited use.

Ms. DAVIS. What about the value to Congress in determining the impact of the Voting Rights Act?

Mr. LOWE. I think that the census people felt that the studies produced on the Presidential election year would be more valid and more comparable, more useful, and it would cost only about one-half as much rather than doing it every 2 years.

Of course, that is up to Congress to decide what you want to do, but I think the census people did speak very well to that, the people

who actually do these things and understand the scientific part of the statistical operation.

I don't see where you would lose anything except, obviously, you have to wait 2 years longer.

Ms. DAVIS. There was recognition that the 1976 survey is not very useful, both for the Congress and for the Justice Department.

In your discussions with the Census Bureau, was there any indication that these surveys will cost around the same amount every 2 years, or are there some one-time costs involved?

Mr. LOWE. I think the \$44 million is their current—if I am not mistaken and Mr. Ols can correct me—I think the \$44 million is their current budget estimate for carrying out the next one.

Ms. DAVIS. The 1980 survey would cost \$44 million, or would it cost substantially less?

Mr. LOWE. It would probably cost more because of inflation and salaries and other costs.

Mr. OLS. This is a recurring cost that they estimate every time they have to take that survey every 2 years, it will cost \$44 million.

And if costs keep rising, naturally that is going to go up, too. That is based on today's salary costs and everything else.

Ms. DAVIS. Would you agree with the Justice Department that that \$44 million would be better spent by giving it to the Justice Department?

Mr. OLS. On the benefits that the Justice Department would get out of it, yes, I would have to agree.

Now, as viewed from your question of Congress, well, that is a decision I think Congress would have to make, whether or not it is beneficial—but I think it should definitely, if anything at all, should go to the 4-year sample and study, rather than a 2-year. You would be done with one survey and start right away on the next survey.

It would take some time to put that data together, once you get it.

Mr. EDWARDS. Mr. Starek?

Mr. STAREK. Yes; thank you, Mr. Chairman.

I have a few questions for the panel. One of your recommendations on page 16 of your statement says that the Attorney General should consider implementing the preclearance provisions for the minority-languages measures.

I am wondering how you can recommend, in light of the Department's failure with regard to preclearance provisions for the original 1965 act, that the Department should assume this, also?

Mr. LOWE. Well, I think what we recommended in here—there are some recommendations prior to that, that in effect say we think the Department ought to get its act together to run the machinery a little better.

And if they do that, I think they could probably handle this. It might need another person or two on their staff.

But without this preclearance notification, there is really nothing to trigger any interest on the part of the Department of Justice. They don't even know about it one way or the other.

So, in effect, what we are saying is it ought to be made visible so they can at least have some input into it. That could probably be avoided if they did have some sort of an Outreach program to work with these people as to what would be acceptable and what would

not be acceptable under the general terms of the law. But so far, we have not done that.

Mr. STAREK. With respect to the recommendations to the Attorney General for reorganizing the voting section, which I believe begins on page 14, have you analyzed the costs which would incur if all of these suggestions were implemented?

Mr. LOWE. I don't think most of them would cost anything, only the ones where we say they ought to get some cost information and do some evaluation on it. Those would obviously cost some money, but I don't have any idea how much it would be; nothing astronomical, though.

It is more a matter of how you organize to get the data and to do something with it than cost. But, obviously, all these studies and cost-information gathering do involve some cost to the Government.

Mr. STAREK. One final question for the panel, and that concerns the recommendation to shift the authority for enforcement on the minority language provisions from the U.S. attorneys to the Civil Rights Division.

Simply by looking at your report and reviewing your contacts with the U.S. attorneys, I would gather that they would not be opposed to this kind of shift in jurisdiction.

I wonder if you inquired of the Civil Rights Division if they are ready to take this task on?

Ms. NAKAMURA. The Civil Rights Division is aware of it, and they are also aware that to their knowledge, none of the U.S. attorneys have prepared any kind of an enforcement plan. So, as we mentioned before, they are studying the situation. As of yet, we don't know of any decision that they have reached.

Mr. STAREK. Thank you very much.

Mr. EDWARDS. Ms. Davis?

Ms. DAVIS. One final question: Was it within the scope of your review to look to jurisdictions that have successfully implemented the language minority provisions?

Ms. NAKAMURA. What do you mean, "successfully implemented"?

Ms. DAVIS. Whether there are jurisdictions with effective Outreach programs where language minorities have been identified in the particular jurisdiction, and whether there is a good working relationship between them and election officials?

Ms. NAKAMURA. None were identified to us as being particularly successful.

Mr. OLS. We didn't have any identifications that we got to before we started out on this. We didn't have any predetermined cities that we wanted to go to. We tried to go to as many as we could, and we did not try to pick out those that were good, bad, or different. We had no knowledge.

Justice had no knowledge on which ones were doing a good job and which ones weren't, because they don't have that data.

Ms. NAKAMURA. We also have nothing to compare to. Justice did not have any kind of a criteria to say what was the best compliance plan, or implementation of the program. So we had nothing to really compare to.

Ms. DAVIS. Did you have any predisposition as to what would be an effective compliance plan?

Ms. NAKAMURA. No.

Mr. EDWARDS. Well, this has been very helpful testimony. And as always, we have been delighted to have the GAO with us. Time and again courts have ruled that Americans who speak another language must, when needed, be given assistance to exercise their right to vote.

In response to that need, the Congress enacted the 1975 amendments to the Voting Rights Act—thus, securing those rights and avoiding costly litigation. We attempted in that legislation to address only those in need of the act's special protections. It was our hope that the triggering formulas and methodology, such as targeting, would address the need issue.

There is no argument that these persons are entitled to such protections. But if the law is too broad, then perhaps somewhere down the line the law should be changed.

But certainly, we received no evidence to date, and I don't think that this report indicates that there is any strong evidence that the law should be changed. It is much too soon to make that assessment.

Mr. OLS. Mr. Chairman, that's why we didn't recommend, if you will, that the Congress definitely change the law, because there is nothing out there now. We can't make that final assessment.

All we can do is present to you the data we have obtained so far and hope that possibly further studies or analysis, either through additional hearings or other requested studies would identify the problem.

Right now nobody knows whether or not the money we are spending is really worth it and therefore, really getting to the people that need it.

All we know is that we are doing it for those 5-percent population factors, but we don't know if that is really doing any good to anyone, or if we are missing another group out here that should have it.

And as Father Duran said, maybe 1 percent was a better figure for some other groups. We are not sure on that.

Mr. EDWARDS. But also, it is possible that the courts might find that 1 percent is the figure the courts could use. If this law were repealed, after the experience that we have had with this law and with the added knowledge that minority groups have all over the United States that they have this particular right, then the Federal courts would be absolutely overwhelmed with lawsuits, I am sure.

Again, our thanks to the GAO.

And if there are no further questions, the subcommittee is adjourned.

[Whereupon, at 3:45 p.m., the hearing in the above-entitled matter was adjourned.]

# GAO REPORT ON THE VOTING RIGHTS ACT

THURSDAY, JUNE 15, 1978

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON CIVIL AND CONSTITUTIONAL RIGHTS,  
OF THE COMMITTEE ON THE JUDICIARY,  
*Washington, D.C.*

The subcommittee met at 9:35 a.m., in room 2237 of the Rayburn House Office Building, Hon. Don Edwards (chairman of the subcommittee) presiding.

Present: Representatives Edwards, Seiberling, Drinan, McClory, and Butler.

Staff present: Ivy L. Davis and Helen Gonzales, assistant counsel, and Roscoe B. Starek III, associate counsel.

Mr. EDWARDS. The subcommittee will come to order. Today marks the second in a series of oversight hearings on the enforcement of the Voting Rights Act of 1965. On February 6 of this year, we asked the GAO to present its findings on the evaluation of the enforcement of the Voting Rights Act, as requested by this subcommittee and other Members of Congress. The GAO made several recommendations for improved enforcement, especially to the U.S. Department of Justice.

This morning we will hear testimony from the Department of Justice as to its enforcement efforts and its responses to the GAO report.

The Voting Rights Act has been hailed by civil rights advocates as the single most significant and effective piece of civil rights legislation enacted by the Congress. The special provisions of the act were first extended in 1970 for 5 years. Then in 1975, these special provisions were extended for 7 years; in addition, the amendments made permanent the 1970 temporary ban on literacy tests and other devices, and expanded the act's coverage to new geographical areas to protect language minority citizens.

In March 1971, this then newly formed subcommittee began its first oversight responsibilities by reviewing enforcement of the Voting Rights Act. At those hearings, numerous civil rights advocates criticized the Department of Justice for failing to vigorously enforce the act.

I was indeed pleased to learn during the 1975 extension hearings that the issues brought out in the earlier oversight hearings made the difference in moving the Justice Department toward more vigorous enforcement.

I am encouraged by the present administration's publicly stated commitment to effective civil rights enforcement. The appointment of Drew Days as Assistant Attorney General of the Civil Rights Division, and who is responsible for enforcing this act, received wide

support from the civil rights community. I am thus hopeful the beneficiaries of this legislation, particularly the language minorities, will see improved and vigorous enforcement from now on.

Before we hear from Mr. Days and his colleagues, I would like to note that I am deeply troubled by the House Appropriations Committee's deletion of funds from the Census Bureau's budget to conduct the biennial surveys on registration and voting. These surveys, first mandated in 1975 by section 207 of the act, were designed to provide a benchmark to the Congress and others in assessing the impact of the act as we move toward reconsideration of the need to extend the special provisions beyond the current statutory time.

Apparently the deletion was based on a similar recommendation made by the General Accounting Office. Let the record show that this oversight committee is not yet prepared to accept that or any other recommendation until more data is presented. I am confident the record will show the need for this inclusion, and I am hopeful the Appropriations Committee will make the necessary adjustment.

Are there any further statements from subcommittee members?

Mr. Days, we welcome you, and will you please introduce your colleagues and proceed as you see fit.

**TESTIMONY OF DREW S. DAYS III, ASSISTANT ATTORNEY GENERAL, CIVIL RIGHTS DIVISION, DEPARTMENT OF JUSTICE, ACCOMPANIED BY JAMES P. TURNER, CHIEF DEPUTY; AND GERALD JONES, CHIEF, VOTING SECTION, CIVIL RIGHTS DIVISION**

Mr. DAYS. Good morning, Mr. Chairman and members of the subcommittee.

With me today are two members of my staff, James Turner, who is my Chief Deputy, and Gerald Jones, who is the Chief of the Voting Section of the Civil Rights Division.

This subcommittee and its chairman have always been at the forefront of efforts to strengthen voting rights enforcement, and I welcome this opportunity to appear before the subcommittee to discuss the findings and recommendations of the February 6 GAO report regarding activities of the Civil Rights Division in enforcement of the Voting Rights Act. We have prepared several tables to update the information in several of the appendixes to the report and to respond to your letter of February 8, and we will provide them to the members of the subcommittee and for the record.

At this time, I would like to point out that my statement does not constitute our formal response to the GAO report. Pursuant to section 236 of the Legislative Reorganization Act of 1970, that response was made to the appropriate committee on June 7, 1978. A copy of that report is being made available to this subcommittee with my prepared remarks.

It seems to me in light of the chairman's initial remarks that one comment is in order at the outset of my testimony with respect to our response to Senator Ribicoff, the chairman of the Committee on Governmental Affairs in the Senate, with respect to the GAO report on the question of the census study.

As you correctly point out, the House Appropriations Committee has removed the appropriation for the census that the Department of

Commerce felt would be appropriate in order to assist in evaluating the effectiveness of the Voting Rights Act.

In our response to Senator Ribicoff, the position that we took is essentially reflected in the Appropriation Committee report, namely, that we had some question about the wisdom of such a study insofar as our work was concerned; that we didn't have any present sense of how the results of that type of census would benefit the administration of the Voting Rights Act from our perspective.

Since the submission of that response to Senator Ribicoff, we have reviewed the matter. You perhaps understand that, given the detailed nature of the GAO report, there were other matters that we perhaps spent more time on than the question of the census.

But after rethinking and reevaluating our positions on this issue, we've come to the conclusion that the Civil Rights Division could benefit from information that might be acquired by the Bureau of the Census through the conducting of the study that it had in mind. And I am authorized to say to this subcommittee that the administration strongly supports the carrying out of this type of study.

To the extent that our response to Senator Ribicoff is contrary to that, I can commit the administration to advising Senator Ribicoff of this alteration in our position, so that the record is clear.

Mr. BUTLER. In the first place, you know, you changed your mind. Is that what you are saying?

Mr. DAYS. That's fair, yes. We've changed our minds, in the sense that we have addressed the issue with more thought and more thoroughness than we did initially, and have concluded that we could benefit from this information. I suppose that's technically a change of mind.

Mr. BUTLER. Yes. It is you yourself and no one else who decided to make this change, I judge. In order to make this a detailed analysis, I want to know is, there's a kind of a cost benefit.

Most information is helpful. There is no doubt about that. However, acquiring it is expensive. I don't know how exactly—what kind of an index you would use, but have you endeavored to arrive at some kind of a determination as to how the benefit justifies this cost? And what ratio did you arrive at?

Mr. DAYS. Well, I think one of the problems with our response to Senator Ribicoff was that we were addressing this question in a fashion that really goes beyond the competence of the Justice Department to do.

But it seems to us that it really is Congress that has to determine whether it wants to go beyond a certain point to get information that would be helpful only to Congress; and to determine whether the ordering of priorities justifies the inclusion of this type of expenditure.

My sense of the way we responded to this particular question was that we were a little piqued by the budgetary treatment that we've been receiving over the years with respect to the enforcement of the civil rights laws. And we looked at a large hunk of money and began to think that perhaps maybe we ought to have that and not the Census Bureau. But I think that's a fairly narrow and short-sighted view of what ought to be done.

Certainly Congress has a much broader interest than we do in this regard. So that essentially is part of the thinking behind our reevaluation and our reassessment of this particular question.

Mr. BUTLER. If it meant giving up this amount of money out of your enforcement budget, you would not view it with such enthusiasm. Is that a fair statement?

Mr. DAYS. We would be nonexistent, Mr. Butler, if \$37 million were taken out of our budget. We have only \$15 million, if we're lucky. We're operating on only \$13 million, right now.

Mr. BUTLER. And you still think that this \$37 million is going to appropriate expenditures?

Mr. DAYS. Well, I really think it's inappropriate, Mr. Butler, for me or for the Civil Rights Division to take a position on the amount of money. What we've tried to do in our response to the chairman's letter is to indicate that indeed, we could benefit from the receiving of this information.

But as I understand the proposal on the part of the Census Bureau, it is trying to respond to much broader concerns of Congress, and only Congress can determine whether that expenditure is appropriate, given the other types of problems the Congress wants to address.

Mr. BUTLER. That is fine. I accept that. But I understood you to say now that you think it ought to go forward. But you are not saying that. What you are saying is, while it would be nice to have, but you are not passing judgment on whether this is where all the funds should to go this year.

Mr. DAYS. It's not a question of whether we support it or oppose it. We support it.

The question of how much money should be spent, what the scope of the study should be, is really something that I would leave to wiser heads than mine.

Mr. BUTLER. While, that does not necessarily mean Congress, I understand what you are saying. Thank you.

Mr. EDWARDS. I think it's very nice for Mr. Butler to suggest what you want to say, Mr. Days. I know that we don't know enough about the effects and the needs of the Voting Rights Act. It's a massive piece of legislation. In 200 years of our history, we're never had a more important piece of civil rights legislation. I believe it covers something like 1,100 jurisdictions in this huge country.

Mr. DAYS. That's correct.

Mr. EDWARDS. And how do we know very much about this important subject unless somebody or some agency makes a careful study? How are we to know whether or not—I believe it's 1985—whether or not the matter should be extended?

I feel we are groping in the dark, unless we have up-to-date information, and I regret that such information is expensive. But I'm glad that you wrote us the letter and I'm pleased with your support.

As far as this member is concerned, we're going to do everything we can to get you that information.

Mr. DAYS. Mr. Chairman, what I'd like to do during the remainder of the time allotted to me is essentially summarize the testimony that I am submitting for the record, if there is no objection. It's a fairly lengthy report.

Mr. EDWARDS. Without objection, it will be made a part of the record.

[The complete statement follows:]

## STATEMENT OF DREW S. DAYS III, ASSISTANT ATTORNEY GENERAL, CIVIL RIGHTS DIVISION

Mr. Chairman and members of the subcommittee, this Subcommittee and its chairman have always been at the forefront of efforts to strengthen voting rights enforcement and I welcome this opportunity to appear before the Subcommittee to discuss the findings and recommendations of the February 6 GAO report regarding activities of the Civil Rights Division in enforcement of the Voting Rights Act. We have prepared several tables to update the information in several of the appendices to the report and to respond to your letter of February 8 and we will provide them to the Subcommittee for the record. At this time I would like to point out that my statement does not constitute our formal response to the GAO report. Pursuant to Section 236 of the Legislative Reorganization Act of 1970, that response was made to the appropriate committee on June 7, 1978. A copy of that report is being made available to this Subcommittee with my prepared remarks.

All of us here today are aware of the tremendous importance of the Voting Rights Act in providing minority citizens full opportunity to take part in the political process in this country. That Act—generally acknowledged as the most successful piece of civil rights legislation—is the keystone of our effort to bring minority groups into the mainstream of life in our country. We are all familiar with the record of achievement under the Act, and I need not dwell on that here. The point I would like to make, however, is that the Civil Rights Division of the Department of Justice is largely responsible for the enforcement of the Act. As Assistant Attorney General in charge of that Division, I am proud of the role we have played in the success of the Act.

At the outset I would like to explain how the Division views its role in enforcing the Voting Rights Act. We are an enforcement agency—that is, we are charged with the responsibility for enforcing the Voting Rights Act through preclearance procedures, litigation and examiner-observer activities. But we do not have sole responsibility for vindicating voting rights. Under the Voting Rights Act we share that responsibility with private litigants, as well as with the very jurisdictions subject to the Act.

As the Act is structured, it relies to a considerable extent on voluntary action by the covered jurisdictions in submitting voting changes and complying with the minority language provisions. It was never contemplated that an official of the federal government would be on hand in each jurisdiction to prevent violations of the Act. While we do have a substantial role in monitoring compliance, it is impossible for a unit which consists of 17 attorneys and 15 paralegals to be looking over the shoulder of officials in some 1,115 jurisdictions.

The same is true of our litigation activities. We cannot be expected to initiate or even participate in every lawsuit which is brought. The importance of private lawsuits to effective enforcement of the Act was recognized by Congress in the original Act which afforded a private cause of action to enforce Section 5 preclearance requirements and in the 1975 Amendments which provided for the availability of attorneys' fees. While we do not monitor all private litigation we do keep abreast of cases which reach the courts of appeals and the Supreme Court and often appear in those cases as *amicus curiae*. We have participated in every case involving interpretation and application of Section 5 which has reached the Supreme Court.

To the extent that the GAO report reflects the belief that we should be involved in all litigation or that we should be a constant presence in covered jurisdictions, we respectfully suggest that that would neither be the most efficient way to enforce the Act nor would it be even remotely possible with our present resources. We in the Division have been in the process of reviewing our activities and establishing priorities. Some of the GAO findings are, therefore, not surprising to us. As a result of that review, we have decided to undertake certain measures to strengthen our program and I would like to address some of the specific GAO findings in that context.

Our Section 5 preclearance activities have the highest priority not only because they are perhaps the most vital part of the Act but because of the unique role committed to us by statute. In recent years our workload has increased dramatically with the increase in submissions. As our attachment points out, in 1976 alone we received 7,470 submissions—more than all previous years combined. The 62 objections interposed in 1976 were considerably higher than the number of the

four previous years. The language minority provisions added 309 jurisdictions to the 618 already required to obtain preclearance of voting changes, and in 1976 there were 780 changes involving bilingual voting materials or procedures alone. The Division carried out these responsibilities without receiving a single additional authorized position from fiscal year 1974 through fiscal year 1977.

We take great pride in our record of administering the preclearance requirements within the short time frame provided by the statute. Although a federal court recently held that our objection in one case was not timely rendered because of the court's view of the rules relating to requests for additional information, with that exception to our knowledge, we have not, during the period covered by the GAO report, failed to interpose an objection within the statutory period. We believe the statement in the report, at pages 17-18, that in 3% of the cases reviewed objections were not interposed in a timely fashion requires clarification by GAO. Perhaps there is some lack of familiarity with the procedure for calculating the statutory period. Our regulations which were approved by the Supreme Court in *United States v. Georgia* provide that the period runs from the time full background information is given so that an informed judgment can be made regarding the change's purpose and effect. Since it is the jurisdiction's obligation to provide adequate information it must bear the burden of delays occasioned by failure to do so. Our regulations provide for expedited consideration and, in 1977, we entertained 582 requests for expedition.

We make every effort to promptly review all submissions consistent with our obligation to render an informed judgment. We must obtain sufficient information and provide adequate time for interested parties to comment. However, because we are sensitive to expediting consideration, an informal time limit of 40 days has been imposed upon the paralegal staff for reviewing a submission and presenting a recommendation for the first level of supervisory review. The staff has generally been meeting that deadline and, as a result, where there is insufficient information to form a judgment it should be discovered earlier in the process. The guidelines set out the information which should be included in each submission. But we must be flexible. Not every submission requires the same information to interpret its effect. A judgment is made by the initial paralegal reviewer that the information is complete enough. Thereafter, a supervisory reviewer may disagree and seek further information. I should point out, also, that we expedite matters by not requesting information which may be unnecessary in a given case and by making efforts to obtain information informally before sending a formal letter of request.

We do not believe our procedures for monitoring future compliance with our objections require revision. We have a registry of 408 organizations and individuals who are notified of submissions. Those who comment on a submission are then notified if we interpose an objection. These groups and individuals are in the best position to become aware of implementation of such changes and bring them to our attention.

We are taking steps to improve our recordkeeping and filing procedures. The Division has recently hired an administrator experienced in the use of computerized information retrieval systems and we intend to revise and modernize our system.

Our voting litigation program is our second major area of concentration. In recognition of that interest a reorganization of the Voting Section was undertaken in 1976 by which litigation was separated from Section 5 preclearance work and placed under the immediate direction of one of the Division's most experienced trial attorneys. At the same time the decision was made to use paralegals to process Section 5 submissions, thereby freeing attorneys for litigation. We believe this effort has already had dramatic results. In 1976 we more than doubled the number of lawsuits in which we initially participated and almost matched that figure in 1977. These results were achieved despite the fact that we had no increase in the number of attorneys assigned to the Voting Section.

It must be recognized that the results of an increased emphasis on the litigation program cannot be realized overnight. Lengthy investigations must be conducted. One case alone took approximately 100 days of staff travel time to develop, in addition to a massive FBI investigation. And often those investigations do not turn up violations. Moreover, litigation takes time to bring to completion. We have filed more than twenty lawsuits seeking to enforce Section 5 during the last two years and over half of those cases remain pending.

But we now have our litigation program well underway and, as a result, have serious investigations proceeding regarding two states, four cities, and over 20 counties in the South, as well as three northern cities.

The litigation of the Division falls into four basic categories: (1) plaintiff suits to enforce the preclearance requirements, (2) plaintiff suits to enforce the substantive provisions of the Act, (3) defendant suits in which the statute denominates the United States as defendant—that is, bailout suits and Section 5 declaratory judgment actions, and (4) defendant suits involving actions taken to enforce the preclearance requirements.

The Division handles all Voting Rights Act cases in which the United States is the statutory defendant or in which the Attorney General is sued. Of the 48 suits in which we participated in 1976 and 1977, 18 have been defendant suits. There have been more bailout suits in those two years than in the preceding nine years and more declaratory judgment actions than in all previous years combined. All of the bailout and declaratory judgment cases involve coverage questions central to the statute. Moreover, they require us to devote substantial resources. Just one declaratory judgment case has required full-time work of an attorney from November 1977 until May 1978. Section 5 defendant suits—like *Briscoe v. Bell*—often involve important questions of interpretation of the statute.

In litigation which we initiate, our first priority must be enforcement of the preclearance provisions if those provisions are to have real meaning. Section 5 cases—like *United States v. Board of Commissioners of Sheffield, Alabama*—in which the Supreme Court recently ruled in our favor—often involve complex issues of statutory construction. There have been 44 such suits since 1965. Nineteen of those were brought in the last two years. These three kinds of suits require devotion of a substantial part of our attorney resources which, as a result, cannot be used to develop the fourth category of cases—suits to enforce the substantive provisions of the Act (other than Section 5). It is in that area that we believe our efforts should be expanded and we have taken steps to do so.

Today, there are few cases involving outright denial of the right to vote. Instead abridgment of voting rights comes about in a more subtle fashion. For example, we have challenged a discriminatory vote buying scheme and a practice of applying stricter registration standards to students at an all-black college than are applied to students at other colleges.

Reapportionments and annexations which dilute minority voting strength account for over two-thirds of our section 5 objections. But Section 5 does not reach all jurisdictions or all changes and litigation is required to challenge many dilutive apportionment plans. We have been able to file only five dilution suits since 1976. However, we have some 16 more under serious investigation and several others under consideration for investigation. In addition, we have conducted a study of the northern and western states to uncover dilution problems and, as a result, have begun active investigations in several northern and western cities.

We are participating in the *Connor* litigation—the long-running litigation involving reapportionment of the Mississippi legislature. We have also participated as *amicus curiae* in a number of cases involving important issues in the development of the law of dilution, including *Kirksey v. Board of Supervisors of Hinds County*, in which the Fifth Circuit Court of Appeals, sitting en banc, held that a jurisdiction bears the burden of proving that a single-member districting plan does not perpetuate the effects of past discrimination, as well as dilution cases involving Mobile, Alabama, and Shreveport, Louisiana.

A dilution case typically involves lengthy investigation and preparation. The issues are complex and the relevant factual questions are considerable. For example, approximately 1,000 days of attorney and paralegal time were spent on the *Connor* litigation just since the United States intervened. *Connor* is a good example of how much time can be involved in a dilution case since it has been in litigation since 1965 and has been to the Supreme Court five times.

The '79 budget request for the Civil Rights Division asked for 11 additional positions for our voting enforcement. While proceedings before the House Appropriations Committee have resulted in no additional positions for the Division, if we are successful in getting added resources restored to our budget it is our intention to increase our efforts in the dilution area. We hope to concentrate on investigations of statewide and big city dilution problems. I hope it is clear from my remarks that we are committed to continuing and strengthening our litigation program to the extent possible.

Implementation of the language minority provisions of the 1975 Amendments is our third major area of concentration. To that end we promptly issued guidelines for enforcement which were designed to provide a guidance without being so specific that they would dictate the manner of holding local elections. Initially

the responsibility for monitoring § 203 compliance was assigned to the United States Attorneys in the belief that they would be in a better position to deal with the relevant considerations with knowledge of the local setting. We became aware, as did GAO, of the lapses in enforcement which may have resulted and we began to study the problem even before the GAO report was issued. The question has recently been resolved by allowing the United States Attorneys to retain primary responsibility with close and active coordination through our Voting Section.

We are also litigating two bailout suits under § 203 and are involved as *amicus curiae* in a case raising issues of the adequacy of San Francisco's trilingual program. We also have one active investigation of § 203 compliance.

The GAO report suggests two legislative changes in the language minority provisions of the Voting Rights Act. First, GAO recommends that Congress consider establishing a coverage formula based on a jurisdiction's needs rather than upon a mathematical formula. Second, GAO recommends requiring all states and jurisdictions covered by the language minority provisions of the Act to preclear minority language measures. We do not believe that either of these changes in the law is necessary. Although the five per cent trigger portion of the coverage formula may result in some jurisdictions in which there is no need for minority language assistance being covered, and may also result in some jurisdictions in which such assistance is needed not being covered, the Act provides remedies for both such circumstances. Jurisdictions may, under some circumstances, bail out from coverage under the Act. Some jurisdictions first covered by the Act in 1975 have taken advantage of the Act's bail out provisions. For example, Maui County, in Hawaii has bailed out of Section 203 Japanese language minority coverage. It is likely that more could successfully do so. Moreover, even if a jurisdiction does not bail out of Section 203 coverage, it is only required to do that which is necessary to aid minority language group members who need assistance. If all language minority persons in a given jurisdiction speak, read, and write English, the jurisdiction would be required to do nothing in order to comply with Section 203.

The Act also provides a mechanism for the coverage, through litigation, of jurisdictions which are not covered by operation of the formula, but which have a history of voting discrimination. We believe that these mechanisms contained in the statute are adequate to deal with the problems of over—as well as under—inclusiveness.

Although it might be desirable to develop a coverage mechanism which was based upon demonstrated need, rather than a trigger formula, no such coverage mechanism has been developed which could replace the present speedy system, and GAO suggests none. One attempt at such a coverage mechanism—the “Bellmon Amendment”—was first proposed, and rejected in 1975. Because that amendment would require a determination whether a given language minority group's dominant language was other than English, the trigger formula would be impossible to apply given the limits of present Census data regarding spoken language. I have attached to my prepared testimony a copy of our letter to Chairman Edwards regarding this amendment.

The other suggestion made by GAO—that the Act be amended to require all states and political subdivisions covered by the language minority provisions of the Act to preclear minority language measures—also appears to us to be unnecessary. Under the terms of the Act as presently written, jurisdictions covered by Section 4 of the Act, because of language minority populations, are subject to the stringent provisions of the Act, including that of preclearance of voting changes.

These jurisdictions therefore are presently required to submit for preclearance changes which are intended to aid language minority voters. Many other jurisdictions are subject to the less stringent provisions of Section 203 of the Act, which merely requires covered jurisdictions to provide elections materials and information in the language of the relevant language minority group, as well as in English. To require that those jurisdictions submit all changes relating to compliance with these provisions, would increase the supervisory burden on the Department of Justice without providing commensurate benefits. The preclearance provision contained in the Voting Rights Act is a stringent remedy which the Supreme Court found constitutional in the context of a showing of dramatic, longstanding denials of the right to vote. It is by no means certain that the courts would permit preclearance in the Section 203 context where there has been no such demonstration of longstanding abuses. In any event it is not clear that the preclearance mechanism is necessary in the Section 203 context. In the absence of a clear

demonstration of need we would recommend against the use of such drastic measures.

Turning to the GAO report's recommendation regarding the examiner-observer program, in my view, the Division procedures for implementing the provision of the Act relating to examiners and observers are fully adequate. The appointment of examiners for purposes of listing voters in lieu of state registration processes has not been necessary since 1975, but we have continued to make extensive use of observers—including the first use of § 3(a) court-appointed observers in a non-covered jurisdiction, Barthelme, Wisconsin, in February of this year. Where advance notice of the appointment of observers appears necessary to overcome fear of intimidation or interference at the polls, we provide such notice to the community. In addition, the Civil Service Commission publicizes the phone numbers of examiners, who may take complaints on election day. The Act does not authorize examiners or observers to advise voters or to take enforcement action at the polls. Instead, they report to the Department of Justice, and we systematically review all such reports in order to determine whether enforcement action is needed. In 1975 Assistant Attorney General Pottinger asked the Civil Service Commission to assign more minority group members as observers and to maintain racial statistics on federal examiners, and he told the Subcommittee we would record the racial distribution of observers at each election. I concur with the view that these are important steps to insure the effectiveness of the examiner/observer program and we intend to formalize our program in this respect.

In conclusion I would simply like to reiterate that the Civil Rights Division has and will continue to pursue its goals of effective enforcement of the Voting Rights Act. I will be happy to answer any questions that you may have.

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DEPARTMENT OF JUSTICE,  
Washington, D.C., January 9, 1978.

Hon. DON EDWARDS,  
Chairman, Subcommittee on Civil and Constitutional Rights,  
House Committee on the Judiciary, Washington, D.C.

DEAR MR. CHAIRMAN: The Attorney General has asked me to respond to your letter of October 12, 1977 requesting our views on the "Bellmon Amendment" to S. 926, now under consideration by the House Administration Committee.

Enclosed is a letter I sent to the House Administration Committee expressing the opposition of the Department of Justice to the Bellmon Amendment. Briefly, the amendment would change the definition of "language minorities" in sections 14(c)(3) and 203(e) of the Voting Rights Act to read: "\* \* \* persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage, and whose dominant language is other than English."

As we have indicated to the Administration Committee, this amendment, if adopted, would make implementation of the language minorities provision of the Voting Rights Amendments of 1975 virtually impossible until some time after 1980.

Coverage under sections 4 and 203 is determined, at present, by threshold census determinations that over 5 percent of the citizens of voting age in a jurisdiction belong to a "language minority." The Bureau of the Census does not have any present capability to determine whether, e.g., Chinese is in fact the dominant language of all or most of the Chinese-Americans in a given jurisdiction.

If the Bellmon Amendment is passed, the old coverage determinations would have to be abandoned, and no substitute would be available at least until the next decennial census.

If there is anything you would wish us to address in connection with the Bellmon Amendment that is not covered in the enclosed letter to the Administration Committee, please do not hesitate to contact us. We know that you are as concerned as we are that the efficacy of the Voting Rights Act not be impaired in any way.

Sincerely,

PATRICIA M. WALD,  
Assistant Attorney General.

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DEPARTMENT OF JUSTICE,  
Washington, D.C., January 9, 1978.

Hon. FRANK THOMPSON, Jr.,  
Chairman House Administration Committee,  
U.S. Capitol, Washington, D.C.

DEAR MR. CHAIRMAN: The Amendments to the Federal Election Campaign Act of 1971, S. 926, now under consideration by your committee, contain a section (§ 305) which is an amendment to the Voting Rights Act of 1965. Section 305, which was introduced on the floor of the Senate by Sen. Bellmon on August 3,

1977, changes the definition of the term "language minorities" in sections 14(c) (3) and 203(e) of the Voting Rights Act to read: "\* \* \* persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage, and whose dominant language is other than English."

Normally, legislation in the area of voting rights is considered and passed upon by the Subcommittee on Civil and Constitution Rights of the House Committee on the Judiciary. Since Chairman Edwards of that subcommittee has asked us to comment on this amendment, we assume that the Committee on the Judiciary will also consider the Bellmon Amendment and make its own recommendation. Accordingly, we are making the Department of Justice's position known to that Committee as well as to you.

The Department of Justice strongly opposes passage of the Bellmon Amendment because it would severely impair enforcement of the Voting Rights Act. Indeed, an identical amendment was offered by Sen. Bellmon in July 1975 and was defeated by the Senate as unworkable.

The Voting Rights Act Amendments of 1975 are designed to eliminate and prevent voting discrimination against members of language minority groups. Like the original 1965 Act, the amendments build in protections for these minority groups through the use of automatic trigger devices which are, in turn, based upon findings by the Bureau of the Census. Thus, for purposes of sections 4(f) and 203 of the Act, Census must determine whether 5 percent of the citizens of voting age in a state or political subdivision are members of a single language minority. The Act presently defines "language minorities" as persons who are "American Indian, Asian American, Alaskan Natives or of Spanish heritage." Department of Justice guidelines, consistent with the legislative history of the 1975 Act (28 C.F.R. 55.1(c)), have interpreted the Asian American category to include "Chinese Filipino, Japanese, and Korean Americans as separate language minorities." These categories are based squarely upon Census Bureau capabilities. Until sometime after 1980, the Census Bureau will not be able to measure the extent to which, *e.g.*, Chinese, is in fact the "dominant language" of the Chinese Americans who comprise 5 percent of the citizens of voting age in a particular jurisdiction. If the Bellmon Amendment were adopted, therefore, it would render implementation impossible.

We are informed that the Bureau of the Census has been experimenting with 20 percent sample questionnaires which attempt to determine the "usual" language used, or the language spoken "in the home," or the language used "most frequently" by the person responding. It appears that one or another of these questions will appear on the 1980 Decennial Census; however, it will take some time to evaluate the efficacy of the questionnaire and its usefulness for purposes of the Voting Rights Act. Perhaps it would be appropriate, in 1981 or after, to rethink the definitions of "language minorities." At this time, there is really no choice but to use the information which the Bureau of the Census is able to furnish.

Moreover, the exact meaning of the term "dominant language" could itself be the subject of extensive litigation in suits brought to remedy denials of the right to vote.

We question, in any event, the need for this amendment, the purpose of Sen. Bellmon's proposal is, presumably, to reduce the logistical and financial burden the Act is claimed to impose upon jurisdictions having an assortment of Indian tribes or a multilanguage minority such as the Filipinos who account for over 5 percent of the voting age citizen population. For example, the Senator complains that one county in Oklahoma is obliged, by virtue of section 203 coverage, to furnish 324 interpreters to accommodate 9 tribes in 36 precincts (see Aug. 3, 1977 Cong. Rec., daily ed., S13377). It seems unlikely, however, that this is a realistic description of the county's obligations. It is unlikely that members of all 9 tribes live in each of the 36 precincts. Existing Attorney General guidelines (see 28 C.F.R. 55.17) permit the covered county to "target" its resources. It may be that no American Indians live in 6 of the precincts, and that few of the precincts need assist Indians from more than one tribe. Similarly, the regulations explicitly permit jurisdictions having, *e.g.*, Filipinos, to furnish ballots in only of the various languages (other than English) used by that "language minority" (see 28 C.F.R. 55.12). We might note, in addition, that where the members of the language minority are, in fact, literate in English—as the Act defines literacy—the jurisdiction may "bail out" of section 203(c) coverage by the means set forth in section 203(d). We have reason to believe that fewer jurisdictions have taken advantage of the 203(d) "bail out" than might be successful in such a suit.

After the 1975 Voting Rights Amendments have been tested by adequate experience, it may be worthwhile to evaluate the degree to which the various trigger

mechanisms have served the purpose of the Act, namely to prevent American citizens from being excluded from the political process on the basis of their membership in language minorities. The Bellmon Amendment, however, promises only to impede, not advance, that purpose.

Thank you for considering our views in this matter.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

PATRICIA M. WALD,  
*Assistant Attorney General.*

Mr. DAYS. Thank you.

All of us here today are aware, as the chairman has just indicated, of the tremendous importance of the Voting Rights Act in providing minority citizens full opportunity to take part in the political process in this country. That act—generally acknowledged as the most successful piece of civil rights legislation—is the keystone of our efforts to bring minority groups into the mainstream of life in our country.

We are all familiar with the record of achievement under the act, and I need not dwell on it here. The point I would like to make, however, is that the Civil Rights Division of the Department of Justice is largely responsible for the enforcement of the act. As Assistant Attorney General in charge of that division, I'm proud of the role we have played in the success of the act.

At the outset, I would like to explain how the Division views its role in enforcing the Voting Rights Act. We are an enforcement agency—that is, we are charged with the responsibility for enforcing the Voting Rights Act through preclearance procedures, litigation, and examiner-observer activities.

But we do not have sole responsibility for vindicating voting rights. Under the Voting Rights Act, we share that responsibility with private litigants, as well as with the very jurisdictions subject to the act.

As the act is structured, it relies to a considerable extent on voluntary action by the covered jurisdictions in submitting voting changes and complying with the minority language provisions. It was never contemplated that an official of the Federal Government would be on hand in each jurisdiction to prevent violations of the act. While we do have a substantial role in monitoring compliance, it is impossible for a unit which consists of 17 attorneys and 15 paralegals to be looking over the shoulder of officials in some 1,115 jurisdictions.

The same is true of our litigation activities. We cannot be expected to initiate or even participate in every lawsuit that is brought. The importance of private lawsuits to effective enforcement of the act was recognized by Congress in the original act, which afforded a private cause of action to enforce section 5 preclearance requirements, and in the 1975 amendments, which provided for the availability of attorneys' fees.

While we do not monitor all private litigation, we do keep abreast of cases which reach the courts of appeals and the Supreme Court, and often appear in those cases as *amicus curiae*. We have participated in every case involving interpretation and application of section 5 which has reached the Supreme Court.

There was a reference—I don't have the exact page—in the GAO report as to our role in *amicus curiae*. And it seemed to belittle the time and energy we spent in carrying out that responsibility.

It certainly has been my impression that we spend a great deal of time acting as *amicus curiae*, and often have made the difference between a ruling that is supportive of section 5 and the spirit of the Voting Rights Act, and a decision that undercuts or cuts back on the extensions that have been developed in terms of enforcement of the Voting Rights Act. So I think that is not an insignificant part of our responsibility in carrying out our duties under the Voting Rights Act.

To the extent that the GAO report reflects the belief that we should be involved in all litigation, or that we should be a constant presence in covered jurisdictions, we respectfully suggest that that would neither be the most effective way to enforce the act nor would it be even remotely possible with our present resources.

We in the Division have been in the process of reviewing our activities and establishing priorities. Some of the GAO findings are, therefore, not surprising to us. As a result of that review, we have decided to undertake certain measures to strengthen our program, and I would like to address some of the specific GAO findings in that context.

Our section 5 preclearance activities have the highest priority, not only because they are perhaps the most vital part of the act, but because of the unique role committed to us by statute. We take great pride in our record of administering the preclearance requirements within the short timeframe provided by the statute. Although, a Federal court recently held that our objection in one case was not timely rendered because of the court's view of the rules relating to requests for additional information, with that exception, to our knowledge, we have not, during the period covered by the GAO report, failed to interpose an objection within the statutory period.

I might say, with respect to that unfavorable decision to which I just made reference, a decision involving Uvalde County in Texas, it is not a final decision in the sense that it's gone through the appellate process. We are reviewing it to determine whether an appeal is appropriate. And of course, whatever action we take, we continue to believe that the result that the court reached was incorrect.

We believe that the statement in the GAO report at pages 17 and 18, that in 3 percent of the cases reviewed, objections were not interposed in a timely fashion, requires clarification by GAO. Perhaps there is some lack of familiarity with the procedure for calculating the statutory period.

Our regulations, which were approved by the Supreme Court in *United States v. Georgia*, provide that the period runs from the time full background information is given, so that an informed judgment can be made regarding the change's purpose and effect. Since it is the jurisdiction's obligation to provide adequate information, it must bear the burden of delays occasioned by failure to do so. Our regulations provide for expedited consideration and, in 1977, we entertained 582 requests for expedition.

I might point out that our guidelines are presently being revised and we hope to publish them for comment within the next few weeks. It's just a matter of getting the Attorney General's signature on those guidelines. And we think as revised, they will make it even more likely that jurisdictions will submit on time and will understand better their duties and responsibilities under the Voting Rights Act.

Mr. BUTLER. Excuse me. Do I understand that you are preparing to promulgate additional guidelines?

Mr. DAYS. No. Those are revisions of the existing guidelines. We've had, of course, a great deal of experience since the original guidelines were promulgated, and there have been intervening court decisions. What we want to do is bring the guidelines up to date, so the jurisdictions cannot claim that they are operating on inadequate information; so that private parties know what procedures they should follow to bring the case for preclearance to our attention, how they may provide us with information so we can evaluate submissions, and so forth and so on.

I think the fact that we are doing this is an adequate response to much of the criticism that is found in the GAO report: that we're not reviewing; what we're doing, we're not trying to provide better guidance to jurisdictions; we're not trying to incorporate community sentiments, and so forth. Those concerns are at the highest level in terms of our priorities.

Mr. BUTLER. Not to be critical, but am I supposed to know about this? Has this escaped me, or have we been advised of what is under consideration? Is this going to be an accomplished fact?

Mr. DAYS. No, it wouldn't be an accomplished fact, because we will certainly, the minute the guidelines are approved by the Attorney General, provide this subcommittee with a copy so that it can review it and it's published for comment, so that there will be ample opportunity for us to get feedback from interested parties before these guidelines become final.

Mr. BUTLER. You do not think it is within our oversight responsibility to be advised of these before the Attorney General signs them?

Mr. DAYS. Well, it depends on what you mean by advise. Certainly we want the committee to be aware of what we're doing, and that's why I announced this before the subcommittee.

In terms of preclearance, no, I don't think so. I think that we have to make certain that the departmental procedures have been satisfied, the Attorney General is aware of what we're doing, and we can make adequate changes before they're released in a formal way for comments.

Mr. EDWARDS. You publish them in the Federal Register and then we have opportunity for comment?

Mr. DAYS. Absolutely. And what I was suggesting is that we want to wait on your having to read these proposed guidelines in the Federal Register. We'll provide the subcommittee with copies of the revised guidelines so that you'll have an immediate opportunity to review them and provide us with your reaction and comment.

Mr. BUTLER. Thank you.

Mr. DAYS. There is quite a lot of discussion in the GAO report with respect to our procedures for monitoring compliance with the objections that we make to certain types of voting changes. There's a suggestion that there's a need for revision of the procedure that we do follow.

We do not believe that there is any need for a revision, as such. We have a registry of 408 organizations and individuals who are notified of submissions that we receive. Those who comment on a submission are then notified when we interpose an objection. These groups and individuals are in the best position to become aware of implementation of such changes and bring them to our attention.

We are, of course, taking steps to improve our recordkeeping and filing procedures. The Division has recently hired an administrator experienced in the use of computerized information retrieval systems, and we intend to revise and modernize our system.

That information has been a problem for us, and I recently hired, as my executive officer, a person very skilled in this computerized information process, who was working at the Federal Trade Commission for several years; and along with him a lawyer who is not only knowledgeable about the legal procedure that we follow, but I have to say is a genius in the way he handles information and provides that type of information for computer storage and retrieval.

In addition to that, we have been meeting with interested groups to try and be more responsive to their concerns for adequate information and for a better sense of what we're doing in dealing with submissions of voting changes. For example, only a few weeks ago we met with representatives of the Mexican-American Defense and Education Fund and, as a result of that meeting, perhaps 1 week or 10 days after that meeting, we changed our weekly report of submissions to indicate where we had made requests for further information.

We were told that it was fine to get a report on a weekly basis that we had received submissions from certain jurisdictions for preclearance. But MALDEF indicated that it will be helpful for them to know when we will be seeking additional information, so that they could contact their community representatives and provide us with another sense of what was going on in that community.

Our voting litigation program is our second major area of concentration. The litigation of the Division falls into four basic categories:

First: Plaintiff suits to enforce the preclearance requirements;

Second: Plaintiff suits to enforce the substantive provisions of the act;

Third: Defendants suits in which the statute denominates the United States as defendant—that is, bailout suits and section 5 declaratory judgment actions and;

Four: Suits involving actions to enforce the preclearance requirements.

The Division handles all Voting Rights Act cases in which the United States is the statutory defendant or in which the Attorney General is sued.

And, also, where the Assistant Attorney General is sued, I might add.

In the litigation which we initiate, our first priority has to be the enforcement of preclearance provisions, if those provisions are to have real meaning. Section 5 enforcement suits, bailout suits, and declaratory judgment suits, require devotion of a substantial part of our attorney resources which, as a result, cannot be used to develop the fourth category of cases, that is, suits to enforce the substantive provisions of the act other than section 5. It is in that area that we believe our efforts should be expanded, and we have taken steps to do so.

Reapportionments and annexations, which dilute minority voting strength, account for over two-thirds of our section 5 objections. But section 5 does not reach all jurisdictions or all changes, and litigation is required to challenge many dilutive apportionment plans.

We have been able to file only five dilution suits since 1976. However, we have some 16 more under serious investigation and several others under consideration for investigation. In addition, we have conducted a study of the Northern and Western States to cover dilution problems, and as a result have begun active investigations in several Northern and Western cities.

I might add that I have assigned major responsibility for this project to one of the most experienced litigators in the Division. I did so, because I felt that if we were going to deal with these dilution problems in jurisdictions that were not covered by section 5 under the case law, we needed a lawyer who understood what I call the mosaic of discrimination, which often causes courts to find that an at-large electoral scheme has, in fact, a dilutive effect on the ability of minorities to have an effective voice. We are going about this investigation in a systematic fashion. We have identified jurisdictions where we think there might be problems. We are sending observers and investigators to those communities, talking with minority representatives, talking to elected officials, to pinpoint those jurisdictions where perhaps we can make our most effective cases.

The fiscal year 1979 budget request for the Civil Rights Division asked for 11 additional positions for our voting enforcement. And this brings me again to the point I made earlier about our tendency to be a little piqued by the treatment we've received in our appropriations over the years. While proceedings before the House Appropriations Committee have resulted in no additional positions for the Division, if we are successful in getting our added resources restored to our budget, it is our intention to increase our efforts in the dilution area. We hope to concentrate on investigations of statewide and big city dilution problems.

The implementation of the language minority provisions of the 1975 amendments is our third major area of concentration. To that end, we promptly issued guidelines for enforcement which were designed to provide guidance without being so specific that they would dictate the manner of holding local elections.

Initially, the responsibility for monitoring section 203 compliance was assigned to the U.S. attorneys in the belief that they would be in a better position to deal with it, to deal with relevant considerations without going into details.

In my prepared testimony, I have dealt with this, so what I'd like to do is simply announce to the subcommittee that we have resolved this matter in a fashion that I think is really going to produce a vast change in the way we go about enforcing the minority language provisions of the act.

I have, for the subcommittee's benefit, copies of a memorandum sent to all effected U.S. attorneys on May 17, by Gerald W. Jones, who is sitting at my left, which includes a cover memorandum from Benjamin R. Civiletti, the Deputy Attorney General, that I think puts this Department on record as having a strong commitment for enforcing the language minority provisions of the Voting Rights Act.

What that arrangement does is put, for the first time, the U.S. attorneys on notice that the whole Department is behind the active investigating and dealing with violations of the language minority provisions.

It provides a coordinating role for the Civil Rights Division and, of course, there is a fail-safe mechanism that will bring the Civil Rights Division into play where there appears to be some inability on the part of a U.S. attorney to deal with the problem.

As I say, this is a support at the highest level, although the Attorney General did not sign the document. It is clear to me and to my colleagues, the Associate Attorney General and Benjamin Civiletti, that our actions have the full support of the Attorney General.

Mr. McCLORY. May I ask a question?

Mr. EDWARDS. I recognize Mr. McClory.

Mr. McCLORY. Is there anything in the guidelines that indicates whether or not the language minority groups know how to speak English, and whether or not English is, or is not, the dominant language?

Mr. DAYS. Well, I think in answer to your question, Mr. McClory, that what we tried to do in the guidelines, is indicated that we don't want jurisdictions to go through frivolous or trifling actions where there appears to be no necessity for doing so.

In other words, if there is this triggering mechanism that causes a jurisdiction to fall under there, for example, preclearance, what we want to see is a meaningful response to real needs within that jurisdiction.

We take the same position with respect to those jurisdictions covered only by section 203.

Mr. McCLORY. Is there anything that relates to whether or not the minority groups speak, or do not speak, English, or whether English is, or is not, their dominant language?

Mr. DAYS. It is addressed, but, of course, within the spirit, but what is strongly implied in everything that is associated with the amendments having to do with language minorities, is that steps need to be taken by jurisdictions to meet real needs, not imagined needs. The fact that there is a triggering mechanism doesn't mean the jurisdiction had to go through elaborate steps where the language minorities can, in fact, function in English.

Mr. EDWARDS. Will the gentleman yield?

In parts of California, some of the jurisdictions went through elaborate steps on purpose. They did not like the act, and so they over-spent, and then reported to us and to other Members of Congress, that this bill required them to spend all of this money when we don't think that the bill was intended to do that.

I'm glad that finally regulations will be developed to really target. Is that correct?

Mr. DAYS. Yes.

Mr. EDWARDS. The special provisions of the act do not apply to covered jurisdictions where the facts do not support such application.

Mr. DAYS. As I indicated in my testimony, there are ways in which these jurisdictions can bail out or address the fact that there are really no problems, that they have looked at the situation in terms of access of language minorities to the ballot box, and have found that they function very well without this minority language assistance.

And I think the courts can deal with that. But, I just want to underscore that we are not urging jurisdictions to go through the motions and through all of the steps where there is no need for that.

Mr. EDWARDS. Those members who want to make the quorum, may go.

We're going to continue through the quorum call.

Proceed, Mr. Days.

Mr. DAYS. As I was saying, we have taken the position that the responsibility for enforcement of 203 should remain with the U.S. attorneys, with some wrinkles which I think would be evidenced in the document I would like to submit as part of my testimony.

As a followup to the memorandum of May 17, members of my staff have already met with affected U.S. attorneys to provide them with onsite guidance and advice to deal with specific problems that they have in their jurisdiction, instead of trying to deal with it in a broad, and perhaps, superficial way.

I might say that we also, in addition to our amicus curiae activity in this area, have one active investigation of section 203 compliance going on in Ventura County, Calif. And we expect that there will be a number more as a result of this increased emphasis given to enforcement.

The GAO report suggests two legislative changes in the Voting Rights Act. First, it recommends that Congress consider establishing a coverage formula based on a jurisdiction's needs rather than upon a mathematical formula. Second, it recommends requiring all States and jurisdictions covered by the language minority provisions of the act to preclear minority language measures.

We do not believe that either of these changes in the law is necessary. Although the 5-percent figure portion of the coverage formula might result in some jurisdictions in which there is no need for minority language assistance being covered, and may also result in some jurisdictions in which such assistance is needed not being covered, the act provides remedies for both such circumstances. First, jurisdictions may, under some circumstances, bail out from coverage under the act. And even if they are not engaged in a bailout process, because they're covered only by section 203, they are only required to do that which is necessary. And I stress "necessary" to the minority language group members who need assistance.

The act also provides a mechanism for the coverage, through litigation, of jurisdictions which are not covered by operation of the formula, but which have a history of voting discrimination. We believe that these mechanisms contained in the statute are adequate to deal with the problem of over—as well as under—inclusiveness.

Although it might be desirable to develop a coverage mechanism which is more finely honed to reach demonstrated need, we know of no such mechanism in existence, we know of none that could replace the present speedy system, and certainly GA has suggested none at this point.

The other suggestion made by GAO—that the act be amended to require all States and political subdivisions covered by the language minority provisions of the act to preclear minority language measures—also appears to us to be unnecessary. Without going into the details of how the preclearance mechanism was included in the original act and in the amended act, history, which this subcommittee knows well, let me simply say that the preclearance provision is a stringent remedy which the Supreme Court found constitutional in the context of a showing of dramatic, longstanding denials of the right to vote.

As Mr. Justice Black pointed out in *South Carolina v. Katzenbach*, the preclearance provision was a gross departure from normal rules of federalism and comity.

And I think while he did not hold sway in that particular case, it is an important consideration: One that we should be mindful of. And we think that unless there is a clear showing of a need for the preclearance provision being applied to all of the jurisdictions, it should not be made a requirement.

GAO also made recommendations regarding the examiner-observer program. In my view, based upon our analysis, the Division's procedures for implementing the provisions of the act relating to examiners and observers are fully adequate. The appointment of examiners for the purpose of listing voters in lieu of State registration processes has not been necessary since 1975, but we have continued to make extensive use of observers—including the first use of section 3(a) court appointed observers in a noncovered jurisdiction, Barthelme, Wis., in February of this year. That was a decision, if I may depart for just a moment, because I think it's such a curious set of circumstances—that involves the rights of Indians to vote. But, it had such a close parallel to *Coomillion v. Lightfoot*, if you remember the Tuskegee, Ala., case, in which all kinds of strange lines were drawn to carve blacks out of the Tuskegee city electoral district.

In the way that that was done, the Indians in Barthelme, Wis., were treated in the same fashion. We went into that situation, and I think made a successful impact upon the way the court viewed those problems and got relief immediately. Those are the types of things that we want to do in the next few years.

In conclusion, I would simply like to reiterate that the Civil Rights Division has pursued and will continue to pursue its goals of effective enforcement of the Voting Rights Act, including the use of Federal observers and examiners. The statistics that we've provided to the committee take us up to the end of 1977. But let me say that in 1978, we have surveyed 162 counties in 5 States regarding the need for Federal examiners. And that effort has resulted in Federal observers being used in all of the surveyed States, except South Carolina. One hundred observers were sent into seven counties for six elections and, of course, we had staff members from the Civil Rights Division involved as well.

I know I told you I was going to give you a summary of my testimony. Perhaps I went beyond a summary. But I'd be happy to entertain any questions that the subcommittee may have at this point.

Mr. EDWARDS. Thank you, Mr. Days, for very helpful testimony and we will have some questions from the gentleman from Virginia.

Mr. BUTLER. Thank you. I am fascinated by the reference on page 11 to a discriminatory vote buying scheme.

Does that mean we are paying more for black votes than for white votes? What exactly is that?

Mr. DAYS. They bought out the black vote.

Mr. BUTLER. They bought it out entirely?

Mr. DAYS. Well, bought it out in a way that tipped the balance against the candidate that we think would have had or had the support of the black community.

This was in St. Landry Parish, La.

Mr. BUTLER. Is this a civil rights problem or a criminal problem?

Mr. DAYS. Well, this is a matter that, of course, we are litigating. And we think it does represent a civil rights violation, given the unique circumstances of the case.

Ordinarily, a vote buying scheme would not warrant our attention in the Civil Rights Division. It might be and would be handled by the Criminal Division. But we thought that the intent behind this scheme and the impact that it had was directed toward purposeful dilution and corruption of the minority voting process in St. Landry Parish. It is a close question. I won't deny that. We looked at it long and hard.

But, as I indicated in my prepared testimony, we are often dealing with subtle forms of discrimination now in the voting area, and I think we cannot be blind to new techniques that might well be the same old practices in a different guise. That is, the same attempt to dilute and subvert the black voting power in a community may take different forms, and we have to be alert to that.

That's what we're trying to do.

Mr. BUTLER. I am not critical of that. Was the problem pursued by the Criminal Division, also?

Mr. DAYS. I'll have to defer to Gerald Jones. I'm not aware that it was.

Mr. JONES. No, it was not, not that I'm aware of, anyway.

I might add that this case was decided against us in the district court. We were dismissed there, and it is now pending appeal in the fifth circuit.

Mr. BUTLER. You lost that point because you could not relate the purchase of the bribing of voters to a discriminatory scheme, I judge. Still, buying votes is against the law, and it seems to me that you are outside of your jurisdiction.

This is a criminal matter, and it should have been pursued along those lines. I am a bit disturbed to find that you did not think so, at least enough to find out if this matter was pursued from that end.

It seems to me, that if this was a discriminatory scheme putting them in jail would have stopped it.

Mr. DAYS. I disagree with your first statement and agree with your second.

I disagree that, one, it's not within our domain. And, yet, I think the point that you raise about it perhaps constituting violation of other provisions outside of the civil rights area warrants our discussing this matter with the Criminal Division, to see what action can be taken.

We lost. It was not a Federal election. But, we lost at the district court level, and we contend because the court missed the thrust of our argument, which should have been compelling.

Mr. BUTLER. I have had the same experience with the courts. Many of them are generally shortcoming.

I take note of the statement that preclearance is a pretty extreme enforcement method.

You are saying to us that there should be a clear showing of the need for preclearance. Is this not a change in policy?

This has always been the view of the Department, has it not?

Mr. DAYS. That preclearance is a serious matter?

Mr. BUTLER. That you insist upon preclearance.

It has always been recognized as a fairly substantial imposition on the sovereignty of the States.

Mr. DAYS. Absolutely.

Mr. BUTLER. The practice that is beginning to discourage me now has to do with triggering devices. We get further and further away from the triggering incidents which require preclearance, particularly in my State of Virginia, which began with the 1964 elections.

Have you some opinion as to when we passed the point where the triggering device is no longer related to the current event, and therefore we should look for some other kind of triggering device?

Mr. DAYS. I really don't have a view on that. I can simply say that it always surprises me to find that so many years after the Voting Rights Act was passed, there are jurisdictions that continue to play games with peoples rights, to vote without interference based upon their race or the language they happen to speak.

I think we have ample evidence that problems of a serious nature continue in the voting rights area, and I think it really is the responsibility of Congress to do a thorough review at some point to determine whether the act needs to be continued.

But I'm very comfortable with the preclearance requirements at this point. I see no indication of their being ready for a littering away, if you will, and some other mechanism developed to deal with these problems.

To give you an example of how problematic some of these situations are, I argued a case before the Supreme Court involving Sheffield, Ala. And the question was essentially whether Sheffield, Ala., which was an entity, a governmental entity, that did not register voters, had to preclear under section 5.

We argued successfully before the Supreme Court that indeed it did, but the minute the decision of the three-judge court came down saying that jurisdictions like Sheffield, Ala., didn't have to preclear, we had jurisdiction after jurisdiction making all kinds of changes and refusing to preclear.

And we had to take them to court. And what that demonstrated to me was that the minute a breach is identified by some of these jurisdictions, they're going to try and drive bulldozers through it.

And we have to be very vigilant to make certain that we remain on top of some of the jurisdictions that have demonstrated, from the outset, bad faith, or a lack of concern for the preclearance provisions of the Voting Rights Act.

Mr. BUTLER. Of course, I agree with you entirely that given a free hand, there are areas which would still endeavor to avoid the constitutional rights of many people.

But I still hope that you will come up with something that gives both States and communities who are demonstrating that this is no longer necessary—both in their attitude as well as in their legislation—some hope that the time will come when they will have the right to make a simple decision about magisterial district voting lines.

Mr. DAYS. Certainly the act provides for that through the bailout process and there are jurisdictions that have availed themselves of that process and have been allowed to bailout.

Mr. BUTLER. What is the most recent jurisdiction that has bailed out under the 1964 mechanism?

Mr. DAYS. We have an appendix to my testimony. I can give you that in just a second.

I'm told that the most recent bailout was New York in 1971. New York had three counties covered under the Voting Rights Act. It bailed out, but it was brought back in, since and it was determined that there were continuing violations in 1973, and continues to be covered.

There are, however, jurisdictions that are covered under the later mechanisms that have bailed out. For example, in 1976 the counties of Choctaw and McCurtain, in the State of Oklahoma.

Mr. BUTLER. They were minority language?

Mr. DAYS. That's right.

Mr. BUTLER. Under the provisions of the initial Voting Rights Act of 1965, and I have particular reference to the Southern States that were triggered in by that device:

Have any of them been able to bail out?

Mr. DAYS. No. Virginia filed a suit in 1973, and was unsuccessful.

There were some counties in North Carolina that were originally covered that were able to bail out.

Mr. BUTLER. Yes. I do not believe they ever got in, did they?

Mr. DAYS. They were in. Parts of North Carolina.

Mr. BUTLER. Yes. That is correct.

Mr. DAYS. For the entire State.

Mr. EDWARDS. Have there been some problems with Virginia in the preclearance?

Mr. BUTLER. Just their pride.

We have had no problem with preclearance as far as Virginia is concerned. I judge that you've had no problem clearing all the submissions that have come to you. That has been my understanding.

Mr. DAYS. We did go around a bit, but I read about it—Richmond, Va., the annexation area.

I've been in Petersburg, but that's been worked out, and I'm happy to say the very fine mayor of Richmond, named Henry Marsh, that I think was a beneficiary, along with the people of Richmond, of some of the things that we did in terms of the annexation problem.

Mr. EDWARDS. Have there been some jurisdictions in Virginia that have made changes and haven't submitted for preclearance, that you found about and have had to go to them and remind them?

Mr. JONES. Not that we're aware of. Virginia has been very good at making submissions.

That hasn't been one of the problems we had.

Mr. BUTLER. Since we're talking about Virginia, I would like to followup. Not only have they been very good about submissions other than those annexation proceedings, but the submissions—and I'm anxious to know if this is true—you have received from Virginia have not been rejected—at least any of them that I know of.

Mr. JONES. According to our statistics, through the end of 1977, there have been only 11 objections since the act was passed. So, that's pretty good.

Mr. BUTLER. Yes. You have got to object to a few, anyway.

Thank you.

I yield back to the chairman.

Mr. EDWARDS. I'd like to discuss the minority language provisions for a moment.

We welcome the news that you have already taken steps to meet the suggestion by the General Accounting Office that there is a need for more specific guidance regarding compliance plans determining need, and suggesting different types of registration and voting assistance.

You've moved ahead in that area, is that correct, Mr. Days, and you're going to provide more assistance to these countries who have complained in the past that they haven't had enough help, is that correct?

MR. DAYS. Yes. What we don't want to do, is be put in the position of providing binding advisory opinions to every jurisdiction that may be affected by section 203.

There's a fine line that we hope we can maintain between being helpful and in some way stopping ourselves by information or direction that we gave to these jurisdictions.

They know their problems better than we do, and there has not been a judicial evolution, if you will, of law, except two to three on the language minority provisions.

And we think there's still a need for interpretation and individual differences, if you will, in dealing with the problems presented by section 203 and the other language minority provisions.

I certainly agree, it would be a big mistake, if within a month or two after the bill became law, that you immediately issued guidelines to cover the entire obligation of covered jurisdictions and then be stuck with them.

Which was something that a lot of jurisdictions would have wanted you to do, so you do all of the interpretation of the act and they wouldn't have had to do any.

That's really the experience under the earlier provisions of the Voting Rights Act.

We'd gotten a feel for the types of problems that were arising, what information was necessary, and then the guidelines were promulgated.

MR. EDWARDS. Can you give us some examples of how the targeting mechanism works?

MR. DAYS. Well, we've gone into some detail in a letter to Senator Ribicoff, but, essentially, what we're trying to do is develop a common sense approach into implementing language minority provisions.

We don't want jurisdictions to feel that they have to go through a blunderbust process to comply with the law. They ought to look seriously at their situation, try to identify those groups that may be in need of the greatest assistance, and try to develop provisions to deal with those groups.

And while I don't want to call it a piecemeal approach, it's a measured approach to try to deal with the problems. We've had jurisdictions that have not come back to us to tell us about their problems. I think I remember correctly an experience we had in North Carolina with an Indian group. And we had felt that there was failure to comply with the language minority provisions. It turned out after some investigations, and some nasty calls and letters from officials in North Carolina, the Indian group doesn't have a language. Or if it has a language, the language has 50 words. So, trying to put that language to use in the electoral process on ballots, and so forth, would have been ridiculous.

We don't want jurisdictions to go through that process. We want to be notified. We want them to act rationally and responsibly to carry out these provisions.

That's essentially what we mean by targeting. And again, since the situations would vary from jurisdiction to jurisdiction, it's hard for me to give hard and fast examples of what that would mean.

We're trying to communicate with the jurisdictions.

Mr. EDWARDS. For example, in California, where there are areas with heavy concentrations of Spanish speaking people, I believe the Secretary of State sends out the original election material in English and then puts a return postcard in Spanish on the material which says: "If you would like to have this information in Spanish, return the postcard."

Now, is that an appropriate device that you have found satisfactory?

Mr. DAYS. Well, it is one technique.

Of course, there are problems. If the language group, in fact, is not literate or there are substantial numbers of people who are not literate, then the postcard might not do the trick.

Or if postcards do not have any cultural significance in terms of making one's views known, then perhaps that's not the best way to do it.

But, it's certainly an approach that ought to be attempted. And I think if the jurisdiction tries something like that and gets a very poor response, much lower than it should get, given the population, given some of the problems that are identified, then I think it has to turn to another mechanism.

And through this targeting, through this filtering out process, it can ultimately come to a focused approach to providing a type of assistance that's needed.

Mr. EDWARDS. You certainly don't have the staff to review each of these jurisdictions—is this when local-based organizations provide assistance to the Civil Rights Division? Is this where you use these organizations to assist you?

Mr. DAYS. That's right. And certainly, the census report would help us in that regard.

If we knew that only 200 postcards were sent back and the census reflects that there's a substantial number of people of a language minority group, then that might cause us to look more closely at what that jurisdiction is doing to assist minority language voters.

We think the U.S. attorneys, of course, can be extremely helpful in that regard. They're on the scene. They have contact on a day-to-day basis with the elected officials, community groups, and so forth.

And that's why apart from a number of other considerations, we felt that the responsibility ought to be given to the U.S. attorneys.

We're confident that they're going to respond in a competent and vigorous fashion to the new mandate.

Mr. EDWARDS. Well, the GAO found that the U.S. attorneys generally put this work at the bottom of their priority list. Is it your view that recent communications from the Justice Department to the U.S. attorneys will result in better enforcement by them?

Mr. DAYS. Well, I would certainly hope so. I won't be so naive as to maintain that when confronted with issues such as the speedy

trial act and a very heavy criminal docket, a U.S. attorney is not going to say we're going to put that to one side and deal with minority language.

Across the board, I think what the Department is trying to do is integrate the work of the U.S. attorneys. I'm not here to testify on the entire Department's function.

I certainly know, from the civil rights standpoint, we have been making a concerted effort across the board to involve U.S. attorneys in what we're doing.

And one of my other deputies, John Huerta, has been specifically designated by me to maintain liaison with U.S. attorneys around the country, with the executive office.

We went to their conference when they met in November here in Washington. We have had a special program on the Voting Rights Act and in order to deal with that, many U.S. attorneys have been setting up civil rights units. Tony Canales in Houston has done this. I've been discussing it with a number of other U.S. attorneys. So, I think we're really moving along to the point where civil rights is not going to take a back seat in the U.S. attorneys' offices priorities.

Ms. DAVIS. Can you explain the rationale for giving enforcement of section 203 to the U.S. attorneys? As you know, initially the enforcement of that section remained with the Department itself.

Mr. DAYS. I cannot, because it was done in a way that was least likely to cause the U.S. attorneys to feel that it was an important responsibility, and cause them to understand that, indeed, it was a matter that the Department as a whole would want to take care of.

It was done, and I think you will see from the document that I'm submitting from my full testimony, something of the history of this problem.

Essentially, the responsibility was given over to the U.S. attorneys, but they were the last people to be told about it. And it was only through kind of a self-help in the Civil Rights Division that the U.S. attorneys became aware of it. But, there was never a departmental focus on this. The message was never gotten across to the U.S. attorney that this was serious.

What the GAO says about U.S. attorneys not knowing about their responsibility, or not having done anything about their responsibility, the necessity to press really hard in this administration to get that responsibility into the hands of the U.S. attorneys, but with the firm commitment of the highest level of the Department.

Ms. DAVIS. As to other civil rights issues, it is my understanding that the Department has generally taken the position that because of the Civil Rights Division's particular expertise in civil rights matters all primary enforcement of civil rights should be with the Department and not the U.S. attorneys. Does that same rationale apply to section 203 enforcement?

Mr. DAYS. I'm told that part of the original—excuse me—part of the original rationale was, I think, budgetary in the sense that the Civil Rights Division desired to have further staff to deal with 203, was felt to be unreasonable, apparently.

And by the fact that there were U.S. attorneys out there that could do the job, I think that that was really a shortsighted analysis at the time, given the fact that the Department did not press fully to make certain that the U.S. attorneys carried out the responsibility.

But, we are, as I was suggesting to the chairman, confident that the U.S. attorneys in office now are going to do the job, that they are responsive to our leadership. They are developing expertise.

And we think that we enhance our effectiveness by involvement of U.S. attorneys in our work, much more than we did in the past.

Clearly, there was a time that U.S. attorneys didn't want to say the word civil rights, and wanted to have the Civil Rights Division do everything associated with civil rights in jurisdictions. They would kind of wash their hands of whatever had to be done. That's no longer true.

I think it's remarkable that U.S. attorneys are really taking the initiative in dealing with civil rights issues.

Two quick examples. In Birmingham, Ala., a new U.S. attorney as one of his first acts—tried a criminal civil rights prosecution against the sheriff in his home county and convicted that defendant for the beating of two black men.

Another example is the court of appeals argument by Robert Fisk in New York in behalf of the Civil Rights Division supporting the minority set-aside provision of the Public Works Act of 1977.

So, we just see a responsiveness that's very heartening.

And, I'm doing everything I can to encourage that. You can be assured where a U.S. attorney falls down, is not doing the job, we're going to be in there to pick up the slack.

But, I hope that doesn't happen.

Mr. EDWARDS. I hope they get to work and provide the leadership and file the actions in Houston in those civil rights cases.

Mr. DAYS. That was a joint effort, in the best sense of the word, I might add, between the Civil Rights Division and the U.S. attorney's office down there.

Tony Canales, who I think has done an excellent job, set up a civil rights section in his office: He has four or five attorneys doing civil rights work.

He assigned the head of that section to work with one of the top trial lawyers from the Civil Rights Division in trying that case and working on the appellate brief, we shared information, advice.

I have met with him on a number of occasions about our coordination. It's working very well.

Ms. DAVIS. I have another point I'd like to raise.

Congresswoman's Jordan's office has provided us with a list of cities and counties in Texas. This list, apparently goes back to December 1977, and are jurisdictions which have not submitted voting changes. Would you notify this subcommittee in writing as to what voting changes have occurred in these jurisdictions?

Mr. DAYS. Can I have them?

Ms. DAVIS. Let me point out that one of the cities listed here is Nagadoches and if you recall during the 1975 extension hearings, Nagadoches was cited as a flagrant violator of the voting rights of minorities.

Mr. BUTLER. May I interrupt here?

What do you do, as a practical matter, when you find that a jurisdiction has declined to preclear?

A strict reading of the statute would indicate that what has taken place has been void. I'm sure that this doesn't work out that way.

But, what do you do? How do you make them preclear?

Mr. DAYS. Well, we let them know that they haven't precleared and sometimes it's apparent that it's just based on ignorance.

And we try to educate. We indicate that if they don't submit them for preclearance, they are null and void.

And if they continue to implement them without preclearance, they're going to get sued and we sue.

Mr. BUTLER. What is the relief you ask for when you sue?

Mr. DAYS. To essentially void any actions that have been taken pursuant to the provision that has not been precleared.

But again, we try to use a commonsense rule. If the matter that wasn't precleared was de minimus, that is, we can't, even though it hasn't been precleared, see any discriminatory purpose or effect or impact, then, we notify the jurisdiction that it hasn't precleared.

We will look at it and simply say that we don't find any problem.

But, in those situations where there is a substantial question, we take very strenuous measures to deal with that problem.

Mr. BUTLER. Well, I just do not have the understanding how 37 jurisdictions in the State of Texas have been able to get away with this.

Mr. DAYS. I don't have that list, but I'm sure we can respond.

And I'm confident that we can indicate that we've dealt with those jurisdictions. We've really not had any problems where we found a failure to preclear.

The jurisdictions have submitted with the understanding that they're functioning at their own peril if they do something pursuant to a provision that has not been precleared.

Mr. BUTLER. What you are saying is that you no not run into a lot of defiance as such, as far as preclearance, is concerned?

Mr. DAYS. Not in submission. When we object to certain kinds of changes, we have run into defiance; and that caused us to go to court.

I might say, you've talked about those jurisdictions in Texas that have not submitted.

We have received 6,678 submissions from the State of Texas.

Ms. DAVIS. Since when?

Mr. DAYS. Since it became subject to coverage. Since 1975.

I'm just saying that we'll respond specifically to those jurisdictions that you have listed there.

Ms. DAVIS. Well, for example, a city like Nagadoches, since it was cited during the 1975 extension hearings, don't you have a formal procedure for flagging jurisdictions which have to submit required changes?

Don't you worry whether there have been any changes made?

Mr. DAYS. I'm not aware that we have any such procedure. We have not flagged that accurately in the past to make certain that they're not implementing any changes without preclearance.

We have found that the local mechanisms are pretty good in letting us know whether there has been a change that has significant impact or appears to have an extreme design or effect.

And we try to deal with that. But I'm not aware that we have a formal mechanism for flagging.

There are some places where we have had continual problems of failure to submit. And we have gone back and looked at that.

But, we don't have an enemies list that we keep as a matter of course.

Mr. EDWARDS. Well, your computer would help you a lot there by reminding you with some regularity of some of these jurisdictions.

Mr. DAYS. We have found MALDEF's activities in this regard very helpful. It's targeted many communities in Texas and appears to have a good local network.

I am told by Gerald Jones that we have sent attorneys to Nagaloches to determine whether there are any particular problems, but let me, rather than going on and speculating, just respond.

Ms. DAVIS. One other question. Do you anticipate, because you personally have brought out more, that your computer will at some point be able to indicate to you that changes have not been submitted?

Mr. DAYS. Absolutely. That would be a very simple thing to develop.

Ms. DAVIS. When do you anticipate this will be in place?

Mr. DAYS. I can't tell you, except that we have initiated two computer procedures in the Civil Rights Division.

One has to do with our document system. I was surprised when I came to the Division that we didn't have an automated docket system.

That is on line, as I said, in the computer language. And we are also engaged in what's called case weighting, to determine how much time we spend on what types of cases, how well our resources are being spent.

We are, at the present time, collecting information for feeding into the computer. And these are some of the forms that show the work of paralegals and attorneys on various voting cases.

And I can only tell you that the voting section has a very high priority in terms of our developing computer capabilities.

I would think that in a few months, we'd be able to have something vastly improved over the present situation.

Mr. EDWARDS. Mr. Drinan.

Mr. DRINAN. Thank you, Mr. Chairman. I'm sorry that I had to attend to other business.

Perhaps this point has come up before, but you indicate on page 13 of your letter that the fiscal year 1979 budget required for the Civil Rights Division asked for 11 additional positions for your voting enforcement.

Has this point been brought up on what this committee might do to acquire those 11 positions?

Mr. DAYS. The point has come up, Mr. Drinan.

I've mentioned a concern that we have for the treatment of the Civil Rights Division in the past, in terms of budgetary requests.

And we're certainly hopeful that the positions requested for the voting section will be restored in some fashion.

I think they're critical to our success in dealing with some of these more complex problems, particularly in jurisdictions not covered by section 5.

Mr. DRINAN. Well, as you know, the whole budget for the Department of Justice was stricken yesterday on a point of order, so that it's possible that we could try to add these 11 positions to the authorization, unless they're included there.

Are they?

Well, I'll find out these points later.

Mr. DAYS. In the House?

Mr. DRINAN. I'm very sympathetic to this request. They're in the authorization that came forth through the House Judiciary Committee. So, I'd hope that we'd be able to rectify that.

I thank you for your testimony. You and your colleagues are always very impressive and I'm grateful.

Mr. DAYS. Thank you.

Mr. STAREK. Mr. Days, as we discussed briefly this morning, there are a number of local and State officials who have complained about the financial business, particularly with respect to the minority language provisions.

I wonder if you have any suggestions as to how we can alleviate some of this burden, particularly the printing.

I think this is the major complaint for these local officials.

Mr. DAYS. Well, as I said earlier, we're not asking jurisdictions to go through the motions, unnecessary actions, simply to say that they're in some paper compliance with the language minority provisions.

What we're interested in is response, in fact, to the needs of persons who are unable to function effectively in the English language, insofar as the electoral process is concerned.

And I think there may well be jurisdictions where oral assistance is the key to effective proceedings, as opposed to having a number of ballots printed in 16 languages or whatever has to be done.

To pick up something that the chairman said about this, we do get a sense that there's a crying of wolf in some jurisdictions about the cost associated with the language minority provisions, or perhaps just a mindless response to something that was not supposed to necessarily create an enormous mechanism for compliance.

We hope that there will be more targeting, more sensitivity and that jurisdictions will be courageous enough, if you will, to determine what they think should be done and stick by their guns and not assume that we're going to expect the last pound of flesh from these jurisdictions because they haven't gone through some step.

We're in the learning process with the language minority provisions, and I think they can really assist us and other jurisdictions in coming to the most effective means of making the provisions a reality.

I think there has to be much more sensitivity and commitment in these jurisdictions to deal with the problem.

There's a tendency to throw up one's hands, I found with quite a few of these officials before they have really sat down and thought through what would do the job and how they could go about identifying where the real need exists.

Of course, civil rights compliance is a cross that this society has agreed to bear. And I think that to the extent that true compliance costs money, it's a very small price for this society to pay.

Mr. STAREK. I would like to return to a discussion of the pre-clearance submissions.

I am concerned about the jurisdictions which GAO referred to, which ignore you after you have issued an objection to a preclearance submission?

I am interested in a number, if you have any statistics available how often that does happen.

And then, what is your recourse? Is it discussion? How often do you go into court?

Mr. DAYS. Well, again, what we try to do is determine, given the resources that we have and given the commitment that we have to maintain the integrity of the act, we try to determine how significant the noncompliance is.

Again, if it's an insignificant provision or if there hasn't been preclearance or, there has been implementation over our objection, we try to determine what the most effective tool is going to be.

We found that the most effective tool in general is litigation. We will go in and sue.

There may be objections however, sometimes, because we lack additional information. And even though there's been implementation over an objection, we get information that causes us to believe that it really wasn't so bad after all.

But, we don't want to have these jurisdictions feel that they can ignore their responsibilities to submit, have their changes precleared and if there is an objection, not implement these provisions, unless they go to the three judge district court in the District of Columbia and try and get that matter resolved.

But, they cannot continue to violate the law and we just recently filed suit against four counties in South Carolina to make clear that we mean what we say when we enter an objection.

Mr. STAREK. Do you have now or can you provide for the record, a list of the number of objections that have been made by the Department in specific States? What you have done with those cases? Have they been implemented over your objection?

I am interested in how often you do go to court.

Mr. DAYS. We can submit those to you.

Mr. STAREK. OK, thank you.

Ms. GONZALES. Mr. Days, returning to the minority language provisions, the GAO noted that a lot of jurisdictions felt very frustrated because they would turn to the Department for assistance in helping to develop compliance plans and found the Department not very helpful on the informal basis.

Exactly how does the Department respond to a request by a jurisdiction for assistance in developing these kinds of plans?

Mr. DAYS. Well, we have the guidelines that we had hoped would provide jurisdictions with a general sense of what needed to be done. The commonsense principle, the reality principle. But we are not in a position to provide advisory opinions, as I said earlier, to get a request from X county on how it should comply with the language minority provisions and respond by saying: What you should do is X, Y, and Z.

What we can do is suggest what other jurisdictions have done, what approaches they might try, but not bind them or us to any particular approach.

Again, it's a learning process, and we want these jurisdictions to do their homework, go around and actually find out what the problems are, not get from us some type of boilerplate or automatic solution to problems that differ from jurisdiction to jurisdiction.

But I think we have been responsive. We have provided advice. We have tried to educate some U.S. attorneys as to how that might be done.

We have, as a member of our staff, Barry Weinberg, who is a deputy in the voting section, who I believe is here in the room, who has spent a great deal of his time providing this type of guidance.

I think we may have fallen down in some respects, but I have the distinct feeling that jurisdictions are not concerned that we reject any requests that they make to us for guidance, but that we don't provide the type of legal opinion that they would like to have and show to their officials as to what will comply with the provisions of the act. We simply are not in a position to do that.

Ms. GONZALES. I understand, that the preliminary guidelines would have required jurisdictions to submit their compliance plans, but such a requirement was omitted from the guidelines as drafted. Is the reason for that change that you did not want to issue an "advisory opinion" on such plans.

Mr. DAYS. Well, I wasn't here when that process took place, but my sense is that we were too ignorant as to what would do the job.

And there had to be this learning process. There had to be a testing out. I think we're still going through that process.

And the regulations themselves, the guidelines would probably go beyond the act itself to the extent that they demanded these compliance plans. And it wasn't felt that that would be appropriate.

Ms. GONZALES. Thank you, Mr. Days.

Thank you, Mr. Chairman.

Ms. DAVIS. I just have some questions regarding the tables which you have just submitted. I'm not quite clear what kind of information you have provided us.

Are the cases listed, for example, bailouts under section 203: Are they pending, or are they cases with a final decree?

Mr. DAYS. I must admit I have the same problem as to what the final resolution was.

Certainly, we can explain it, but perhaps the best way would be to just provide you with another column and give you the status of these cases, rather than taking the time here. We'd be happy to do that.

Ms. DAVIS. Has the Department ever prosecuted anyone under section 12 of the act? I believe that section 12 provides for criminal penalties.

Mr. DAYS. We have not.

Ms. DAVIS. Is there some reason why not? I mean, has there been a determination by the Department that there has been no case which merits such prosecution?

Mr. DAYS. I have not been confronted with that choice, as yet. I don't know how to resolve it, but I'm told that we have found that in most cases the equitable relief we have gained is adequate to indicate rights under the 15th amendment or under the Voting Rights Act itself.

Ms. DAVIS. For example, the vote-buying case which you cited earlier would that not be an appropriate case to apply section 12?

Mr. DAYS. Well, if we could have the election voided and essentially go through another process without that attained, that might serve to meet the responsibilities. I just don't know.

The use of the criminal process is always an awesome matter, and there are questions of intent that one has to address in using the criminal process.

That, of course, we don't confront when we're using the civil process, but I would not rule it out. I suppose it could be put to the trust. I can envision situations where the criminal alternative would be quite appropriate.

So, I'm not ruling that out. I don't think that that's a bad letter under the Voting Rights Act.

Ms. DAVIS. I have no further questions, Mr. Chairman.

Mr. EDWARDS. 408 organizations, Mr. Days, are these private organizations such as MALDEF and NAACP?

Mr. DAYS. Yes, that's correct. I'm told that it's a fluid number in the sense that groups are being added all the time, depending upon their level of interest or their participation in particular areas or their request to be advised of submissions.

What I found in my short period with the Division is that the organizations really are in the best positions to: One, know when certain changes have not been submitted for preclearance; and to know when a change has been implemented, even though there was an objection.

A lot of these matters are such that an average voter may not be sensitive to the fact that a shift in a district line is something that has to be precleared or was objected to and now, it's being carried out, anyway. They can't see the lines. And it takes, regrettably, in some situations, a great deal of sophistication to understand that there has been this lack of compliance. We have found it to be very helpful in that regard.

Mr. EDWARDS. These community organizations are very sensitive to subtle forms of discrimination?

Mr. DAYS. Certainly, And they serve to educate people in the communities as to what the process is and what they ought to look for and the mechanism for notifying the Department of noncompliance.

Mr. EDWARDS. When local organizations makes compliance or report to you about what they think might be violations of the act, do you respond and let them know that you're conducting an investigation, and do you give notice of your investigation to all of the local groups in that jurisdiction?

Mr. DAYS. We do let them know that we're following up on the report.

Generally, I don't know we always make a formal response and say we have received your complaint and we are investigating it.

But I think it's very apparent to the people in the community; when we start calling or sending an attorney or asking for additional documents, that we have been responsive to the complaint.

And certainly, there are some groups that spend a lot of time with my staff in the voting sections, so that there's a very fluid relationship established with some of these organizations in an ongoing way, exchanging information and reporting back as to our investigation of these bits of information.

Mr. EDWARDS. Well, I must say that relatively speaking, the subcommittee has not received many complaints with regard to the voting rights section of the Department. We do hear about Department delays in responding to certain criminal matters.

We ourselves, look forward to responses to certain criminal matters. Delay is something which infuriates some people, and I don't blame them, especially where there are allegations of criminal conduct.

Ms. GONZALES. Mr. Days, I'd like to turn to another issue—there was some indication in the GAO report that minority groups have felt that Federal examiners have not really served as helpful a function as they could.

Under the Department guidelines, what is the role of the Federal examiners?

Mr. DAYS. Well, they play different functions. The examiners, the listing examiners, of course, would be involved in the registering of persons. But we have not used examiners for that purpose since 1975.

The role of the parties that are designated by the Civil Service Commission at our request is to be on hand, demonstrate a Federal presence, a Federal interest, to see how the process works and to report to the Department attorneys any violations or misconduct or irregularities that come to their attention. This is their integral function. They are not supposed to play any active role on the scene in dealing immediately with what they perceive to be a violation or assisting voters in some way, when they think that inadequate systems are there, and so forth.

That's why we use our attorneys a great deal in this regard, and have found that the observer reports have been critical to our successful challenge of certain elections which we allege have had a great deal of irregularities. They provide that type of immediate presence on the scene that makes a request more effective.

Ms. GONZALES. Do you feel that they could serve a little better role if somebody goes to a poll and for some reason is not allowed to vote, would it be possible or should it be possible for them to see if there is some means of providing immediate relief in that situation, something that may be an obvious violation? Thus, allowing that person at the poll to immediately cast their vote.

Mr. DAYS. I suppose one could see situations which are so terrible in terms of overall objectives of the Voting Rights Act, after the fact, one might say that the observer's intervention was appropriate.

But I hate to institutionalize that.

We're dealing with a very volatile and sensitive situation when an election is going on, and I think it would be unfortunate for an observer who was not really trained to identify violations, who is not really familiar with local custom and practice, to inject himself or herself in that process.

It's much more appropriate for the observers to see what's going on, and if they think there's a serious and immediate problem, to contact attorneys from the Department, provide them with the information, and then leave it to us to deal with it as quickly as we can.

Ms. GONZALES. One last question in this area.

I think it was mentioned in your reported testimony to us that the Department has asked the Civil Service Commission to provide more minority observers.

Is that the case?

Mr. DAYS. Well, a request was made by my predecessor. I have not taken any action in that regard since I've been in office. However, the voting section staff has been in contact with the Civil Service Commission on this.

It seems to be appropriate for us to intensify discussions with the Civil Service Commission about this in terms of what has been done, what the roster looks like, and to encourage the Commission to do whatever it can within its authority to increase their representation of minorities and women in the observer program.

But I have not done anything formal along those lines as yet. It is, I think, a significant concern that ought to be addressed.

Mr. EDWARDS. Mr. Days, do you use FBI agents in your civil rights investigations?

Mr. DAYS. Yes, we do.

Mr. EDWARDS. U.S. attorneys ask the local office for assistance?

Mr. DAYS. It can be done either in that fashion, or we in Washington can make a request through the FBI, Washington.

Mr. EDWARDS. And do they respond affirmatively and with energy?

Mr. DAYS. My experience has been, by and large, positive in dealing with the Bureau.

I think that we have a responsibility to make clear requests and manageable requests of the FBI. And I think where we do our job correctly, where we identify the types of information that we need, particularly documentary evidence or interviews of certain types of witnesses, the Bureau responds very well.

There have been some problems, but I think not the Bureau's problems. They're our problems in asking the Bureau to do interpretive work, if you will, in some areas that really is, in my estimation, something that we ought to be doing.

But in general, I've been very pleased with the support of the Bureau.

Mr. EDWARDS. The statistics that the FBI provides us indicates that many, many thousands of hours of personnel are expended every year in these investigations. Is that true?

Mr. DAYS. Certainly. One of the emphases that I have identified in terms of my handling of the Civil Rights Division is making certain that our relationship with the FBI is as smooth and as supportive a relationship as possible.

For example, I have worked out with the Bureau a series of lectures at the Quantico FBI Academy to police officials through the country, to make them aware of our role in enforcing the criminal civil rights statutes.

The FBI has been very helpful in assisting us, and if we can get some of the brighter up-and-coming police executives around the country to understand what it is we do and to understand their responsibilities to control their subordinates, there would be less work for the Bureau and less work, perhaps, for some of the lawyers in the criminal section of the Civil Rights Division to do. And we're doing this in some other areas.

Mr. EDWARDS. Do they lack special agents that might assist you in areas of the country where the population is predominantly black?

Mr. DAYS. I can't answer that. I assume there are, but I also know the number of black FBI agents is quite low. And I think Judge Webster has publicly acknowledged that a great deal needs to be done to include representation of minorities in the Bureau.

Mr. EDWARDS. The Bureau has not been very effective in its recruitment of Spanish-speaking personnel. I know they had problems in Bakersfield during the farmworkers agricultural strike; there were complaints that the agents who were doing the interviews couldn't speak Spanish.

Mr. DAYS. We do a lot of work in Puerto Rico, particularly in the criminal area, and we have received assistance from some Spanish-speaking agents. But I think we recognize, and the Bureau recognizes, that they have to have many more if the Department's going to do the job.

Ms. GONZALES. Another issue that bothered me when I was reading the GAO report was an indication that several of the paraprofessionals in the voting section, particularly those who are reviewing submissions, felt that they didn't have the adequate training or didn't really know exactly what they were supposed to be looking for.

Are you aware of this? And if so, are you taking steps to correct this?

Mr. DAYS. I am aware of this. I don't know the magnitude of the problem. I know that it's something that's been brought to our attention, and we're trying to deal with it.

One of the issues has to do with the wide range of experience reflected by our paralegal staff. There are some paralegals who have had so much experience with submissions that they can spot a good one or a bad one in about 5 minutes. There are others who are new and don't have the same type of feel.

What we're trying to do is make the review of a file more systematic, and again, as a result of our discussions with MALDEF, we are developing a checklist or form that would be used by every paralegal, no matter how experienced, so they all know what steps are to be followed, so there are no skipping of steps on the part of the paralegals.

There is a need for more assistance in this regard, in removing that.

Ms. GONZALES. Thank you.

Mr. EDWARDS. Thank you very much, Mr. Days, and gentlemen.

This subcommittee is very interested in your work. We want you to do an effective job and will do all we can to help. We want to keep all lines of communication open. It's a very important responsibility you have. I can't think of anything more important, and we want to cooperate with you.

Thank you.

Mr. DAYS. Thank you very much.

[Whereupon, at 11:25 a.m., the hearing was adjourned.]

## APPENDIX 1



*REPORT OF THE  
COMPTROLLER GENERAL  
OF THE UNITED STATES*

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**Voting Rights Act--  
Enforcement Needs Strengthening**

Limited Federal efforts preclude assurance that all States and localities are complying with the Voting Rights Act, which is designed to include citizens of all races in the electoral process. To strengthen enforcement, the Department of Justice needs to

- initiate procedures to improve compliance efforts;
- identify, systematically, potential court action to enforce the law; and
- provide more assistance to election officials to meet minority language requirements.

GAO identifies three issues that the Congress needs to consider to strengthen the act further.



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-130961

The Honorable Don Edwards, Chairman  
Subcommittee on Civil  
and Constitutional Rights  
Committee on the Judiciary  
House of Representatives

The Honorable Daniel Inouye  
United States Senate

The Honorable William Ketchum  
House of Representatives

This report discusses progress, problems, and impact related to the enforcement of the Voting Rights Act's special and minority language provisions by the Department of Justice.

The report was initiated at the request of the Chairman of the Subcommittee on Civil and Constitutional Rights, House Committee on the Judiciary, and later expanded to address the minority language provision as a result of special interest from Senator Inouye and Congressman Ketchum. As arranged with your offices, we are sending copies of this report to other interested parties.

The Departments of Justice and Commerce and the Civil Service Commission have been given an opportunity to comment on this report. Their formal responses, however, were not received in time to be included in the final report. We considered their informal comments in preparing the report.

A handwritten signature in cursive script that reads "Luther B. Staudt".

Comptroller General  
of the United States

REPORT OF THE  
COMPTROLLER GENERAL  
OF THE UNITED STATES

VOTING RIGHTS ACT--ENFORCEMENT  
NEEDS STRENGTHENING

D I G E S T

The Attorney General has primary responsibility for enforcing the 1965 Voting Rights Act, with the U.S. Civil Service Commission and the Bureau of the Census having support functions. (See p. 2.)

The act was designed to alleviate racial and language discrimination in voting and to secure the voting franchise for citizens of all races. (See p. 1.)

The Department of Justice's program for enforcing the act has contributed toward fuller political participation by all races in the political process. At the same time, the act's purposes have not been fully realized because

- the Department has not adequately monitored jurisdictions covered by the special provisions to determine whether these jurisdictions submit, as required, their proposed election law changes for review (see p. 10);
- sufficient data is lacking at the Department and Civil Service Commission to adequately assess the effectiveness of the act's examiner and observer programs (see p. 21);
- the Department's litigative efforts have been limited (see p. 26);
- the act's minority language provisions do not cover all language minorities needing assistance (see pp. 35 and 36);
- implementation of the minority language provisions is hampered by vague guidelines and lack of Department assistance (see pp. 37 and 38); and

--the Bureau of the Census has a congressional mandate to perform biennial minority voter participation surveys which are very costly and of limited use in the Department's enforcement of the act. (See p. 30.)

The act's general provisions apply throughout the United States; special provisions apply in States and localities that meet certain conditions. The act's 1975 amendments added minority language provisions, which apply in some States and localities. (See pp. 1 and 2.)

To strengthen the enforcement of the act's provisions, the Attorney General should:

- Improve compliance by developing procedures for (1) informing States and localities periodically of their responsibilities under the act, (2) identifying systematically States and localities not submitting voting law changes, (3) monitoring whether States and localities are implementing election law changes over the Department's objection, and (4) soliciting the views of interest groups and individuals.
- Reassess current Department guidelines to determine what documentation States and localities should submit with voting law changes.
- Develop cost, minority participation, and other data on the examiner and observer programs and perform a thorough evaluation of their operation, particularly the various minority viewpoints on needed program improvements.
- Expand the Voting Section paraprofessionals' responsibilities, where possible, to allow attorneys greater opportunity for involvement in litigative matters.
- Develop and initiate a systematic approach to more extensively identify litigative matters in the voting rights area.
- Consider placing responsibility for enforcing compliance in jurisdictions subject only to the minority language provisions with the

Department's Civil Rights Division at headquarters rather than U.S. attorneys' offices.

- Provide more assistance to election officials in developing plans for complying with the act's minority language provisions and in assessing the needs of the minority population.
- Seek the establishment of an information system which would include cost, dissemination, and usage data to evaluate the cost effectiveness of various methods of providing language assistance and to give proper feedback to election administrators to assist them in providing effective minority language assistance. At a minimum he should attempt to seek periodic collection of this information for analysis purposes.
- Assess the extent of financial hardships incurred in implementing the language provisions to determine if Federal funds are necessary to assist States and jurisdictions in effectively implementing these provisions.

The Congress should consider amending the act to establish a coverage requirement based on a jurisdiction's needs rather than just a percentage coverage formula, and require all States and localities covered by the minority language provisions to preclear minority language measures.

The Congress should reassess the adequacy and need for the Bureau of the Census to collect voting statistics in covered States and localities because the mandated biennial survey will cost an estimated \$44 million, and result in statistics that will be of limited use to the Department of Justice.

The Departments of Justice and Commerce and the Civil Service Commission have been given an opportunity to comment on this report. Their formal responses, however, were not received in time to be included in the final report. GAO considered their informal comments in preparing the report.

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ABBREVIATIONS

CSC	Civil Service Commission
GAO	General Accounting Office

CHAPTER 1INTRODUCTION

The 1965 Voting Rights Act, as amended (42 U.S.C. 1973 et seq.), has been hailed as one of the most significant pieces of civil rights legislation ever enacted. The Congress designed the act to alleviate racial and language discrimination in voting, thereby securing the franchise for U.S. citizens of all races. One purpose was to enable racial and minority language citizens to have the same rights and opportunities to participate effectively in the electoral process as other Americans.

Previous voting rights provisions in civil rights laws relied chiefly on litigation to remove barriers to voting. They were not entirely successful in eliminating the means used to disenfranchise minorities. By contrast, the Voting Rights Act provides for direct Federal action in the electoral processes of certain States and localities.

In response to a request from the Chairman of the Subcommittee on Civil and Constitutional Rights, House Committee on the Judiciary (see app. I), we reviewed the progress, problems, and impact related to the act's implementation, with particular emphasis on the Department of Justice's enforcement of provisions generally referred to as the special provisions. We expanded our review to focus on the minority language provisions in response to subsequent requests from Congressman William Ketchum and Senator Daniel Inouye. (See apps. II and III.) In addition to reviewing the Department's enforcement activity, we contacted State and local election officials and minority interest group representatives to obtain their views on the requirements and impact of the act. (See ch. 7.)

PROVISIONS FOR FEDERAL INVOLVEMENT  
IN POLITICAL PROCESS

The act contains general provisions which apply throughout the United States and special provisions which apply in States and localities meeting certain conditions. The general provisions (1) prohibit the use of racially discriminatory voter qualifications, and any standard, practice, or procedure with respect to voting, including discrimination against members of language minority groups, (2) authorize suits in Federal courts to have the special provisions of the Voting Rights Act apply to States or local jurisdictions not already covered, and (3) establish penalties for certain violations of the Voting Rights Act.

The special provisions contain the act's strongest enforcement mechanisms. These provisions authorize three forms of direct Federal involvement in the electoral processes of covered States and localities: (1) requirement for Federal clearance of election law changes, (2) authority to use examiners to list eligible voters on voting registers and/or handle complaints during elections, and (3) authority to use observers to watch election processes at polling places. In 1975 minority language provisions were added that require some States and localities to use one or more languages in addition to English in the electoral process.

#### ENFORCEMENT RESPONSIBILITIES

The Attorney General has primary responsibility for enforcing the act, with the U.S. Civil Service Commission (CSC) and the Bureau of the Census of the Department of Commerce having support functions. (See app. IV.) The Voting Section of the Department of Justice's Civil Rights Division is responsible for reviewing election law changes submitted by States and localities, administering the examiner and observer programs, and performing voting-related litigation. The Voting Section and U.S. attorneys are responsible for monitoring minority language compliance activity in covered States and localities.

CSC is involved by appointing persons to serve as examiners and/or observers when the Attorney General concludes that they are needed.

Finally, the Bureau of the Census is responsible for identifying the States and localities meeting the conditions for coverage and for conducting biennial surveys of registration and voting in States and localities subject to the special provisions.

#### DETERMINATION OF COVERED STATES AND LOCALITIES

The Attorney General determines, in conjunction with the Director, Bureau of the Census, which States and localities will be subject to or covered by the statutory special and minority language provisions. Four different statutory formulas are used in making the determinations:

1. The jurisdiction maintained on November 1, 1964, a test or device as a condition for

- registering or voting, and less than 50 percent of its total voting age population voted in the 1964 Presidential election.
2. The jurisdiction maintained on November 1, 1968, a test or device as a condition for registering or voting, and less than 50 percent of the total voting age population voted in the 1968 Presidential election.
  3. More than 5 percent of the citizens of voting age in the jurisdiction were members of a single language minority group on November 1, 1972, and the jurisdiction provided registration and election materials only in English on November 1, 1972 (that is, maintained a test or device as defined in the 1975 amendments), and less than 50 percent of the citizens of voting age voted in the Presidential election.
  4. More than 5 percent of the citizens of voting age in the jurisdiction are members of a single language minority group, and the illiteracy rate of such persons as a group is higher than the national illiteracy rate. (See app. V for the States covered by the special and/or minority language provisions.)

Once a jurisdiction has met the conditions in one or more of the formulas, the coverage is automatic. A jurisdiction may be exempted from coverage, however, by showing for reasons specified in the act that it should not be covered.

Jurisdictions covered by the first or second formula are subject only to the special provisions (preclearance of election law changes and examiner and observer activity) of the Voting Rights Act. Jurisdictions covered by the fourth formula are subject only to the minority language provisions. Jurisdictions covered by the third formula must comply with both the special provisions and the minority language provisions.

#### FUNDING

During fiscal years 1965-77, estimated Federal budget outlays in connection with the act were \$21.9 million. While State and local jurisdictions incurred costs in administering

their responsibilities under the act, these costs were not available. The table below summarizes the Federal budget outlays.

Federal Budget Outlays--Fiscal Years 1965-77

<u>Fiscal year</u>	<u>Department of Justice</u>	<u>CSC</u>	<u>Census Bureau</u>	<u>Total</u>
------(000 omitted)-----				
1965-70 (note a)	\$2,229	\$4,556	\$ 509	\$ 7,294
1971	560	372	-	932
1972	600	890	-	1,490
1973	670	448	-	1,118
1974	750	236	-	986
1975	777	325	105	1,207
1976 (note b)	1,443	1,196	557	3,196
1977	<u>1,458</u>	<u>232</u>	<u>3,938</u>	<u>5,628</u>
<b>Total</b>	<b><u>\$8,487</u></b>	<b><u>\$8,255</u></b>	<b><u>\$5,109</u></b>	<b><u>\$21,851</u></b>

a/Prior to fiscal year 1971, detailed budget outlay estimates by year for each agency were not available.

b/Includes budget outlays for 15 months because of the change in the Federal Government's fiscal year.

CHAPTER 2PROGRESS AND IMPACT OF VOTING RIGHTS ACT

Since the enactment of the Voting Rights Act in 1965, its enforcement by the Department of Justice has contributed toward fuller minority participation in the political process in jurisdictions covered by the act. Published statistics show that using Federal examiners to list eligible minority voters has reduced the disparities in minority and white registration rates. Federal observers were assigned as poll watchers, and minority language assistance was made available to non-English speaking groups to encourage their political participation. Most importantly, through enforcing the preclearance provision and litigation, the Department has prevented the implementation of many discriminatory voting laws and practices. Notwithstanding these positive achievements, as discussed in succeeding chapters, the act's objectives could be more fully realized.

EFFECTS ON MINORITY REGISTRATION,  
VOTING, AND REPRESENTATION

The Voting Rights Act was designed not only to enable minority citizens to gain access to the political process through registration, but also to make sure that increased registration will be meaningful. Most analyses of the act show that it has been largely responsible for the dramatic increase in Black registration in covered States (i.e., Alabama, Georgia, Louisiana, Mississippi, and South Carolina). The effects may also be seen in increased Black voting and election of Black officials.

A Civil Service Commission report showed that since the act's passage (August 6, 1965) to June 30, 1977, listing examiners have served in 61 jurisdictions in the covered southern States and had listed as eligible to vote an estimated 146,175 persons. In addition, CSC officials estimated that through June 30, 1977, over 10,000 persons had been assigned to observe 91 elections.

A July 1975 report by the Senate Committee on the Judiciary 1/ stated that registration rates for Blacks in the

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1/Report of the Senate Committee on the Judiciary on Voting Rights Act Extension, S. Rep. No. 94-295, 94th Cong., 1st sess., p. 13 (1975).

covered southern jurisdictions have continued to increase since the passage of the act. The report stated that, while only 6.7 percent of the Black voting age population in Mississippi was registered before 1965, 63.2 percent registered in 1971-72. Similar dramatic increases in Black registration occurred in Alabama, Georgia, Louisiana, and Virginia.

The following table shows the increases in Black voter registration.

<u>Percent of registered voters</u>					
<u>Pre-act (1965)</u> <u>estimate</u> <u>(note a)</u>		<u>Post-act (1967)</u> <u>estimate</u> <u>(note a)</u>		<u>1974</u> <u>estimate</u> <u>(note b)</u>	
<u>White</u>	<u>Black</u>	<u>White</u>	<u>Black</u>	<u>White</u>	<u>Black</u>
73.4	29.3	79.5	52.1	61.0	55.5

a/U.S. Commission on Civil Rights, "The Voting Rights Act: Ten Years After," January 1975. Estimates include Alabama, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Virginia.

b/U.S. Department of Commerce, Bureau of the Census, Current Population Reports, P-20, No. 293, "Voting and Registration in the Election of November 1974." Estimates include States shown in note a and Arkansas, Delaware, District of Columbia, Florida, Kentucky, Maryland, Oklahoma, Tennessee, Texas, and West Virginia. Estimates for the pre- and post-act period were not available for these States.

An analysis by the Joint Center for Political Studies 1/ showed that Black participation in electoral politics over a 5-year period, from 1970 to 1975, increased 138 percent. In 1970, 1,469 Blacks were elected officials in the Nation, whereas in 1975, there were 3,503. In addition, according to surveys made by the Voter Education Project 2/ the

1/The Joint Center for Political Studies, "Black Political Participation: A Look at the Numbers," Washington, D.C., December 1975.

2/Voter Education Project, Atlanta, Georgia, is a nonprofit organization which conducts independent surveys of voter registration and participation of minorities throughout the South.

growing minority political power was evidenced in 420 Blacks being elected to public office in the South in 1976. The results show that Black candidates were successful in over half of their attempts to win Federal, State, municipal, and county elections in the 11 southern States.

While these figures show an increase in the number of Blacks registering, voting, and being elected to public office, and the gains from implementation of the Voting Rights Act, statistics show that Black elected officials still represent less than 1 percent 1/ of all elected officials in the Nation; Blacks comprise about 11.1 percent of the total U.S. population.

REVIEW OF VOTING LAW CHANGES  
SUSTAINS PROGRESS TOWARD  
MINORITY POLITICAL GAINS

The Voting Rights Act requires review of voting changes--qualifications, standards, practices, or procedures--before jurisdictions covered under the special provisions can implement them. In recent years, this provision has become widely recognized as an important means of preserving minority political gains.

When the Voting Rights Act was under consideration, evidence was presented in congressional hearings on how certain jurisdictions attempt to circumvent the 15th amendment. 2/ To make sure that future practices of these jurisdictions would not be discriminatory, the preclearance requirements were adopted.

Voting change submissions increased from 1 in 1965 to 1,118 in 1971. By November 1976, the total number of submissions reviewed was 13,433; the Attorney General objected to 257. The objections related to voting changes submitted from jurisdictions in 11 States (Alabama, Arizona,

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 1/Joint Center for Political Studies, Washington, D.C.,  
 "National Roster of Black Elected Officials," 1975.

2/Section 1 of the 15th amendment provides "the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." Congress is authorized to enforce this amendment by appropriate legislation.

California, Georgia, Louisiana, Mississippi, New York, North Carolina, South Carolina, Texas, and Virginia).

A July 1975 report by the Senate Committee on the Judiciary stated that

"as registration and voting by minority citizens increases, other measures may be resorted to which would dilute increasing minority voting strength. Such other measures may include switching to at-large elections, annexations of predominantly white areas, or the adoption of discriminatory redistricting plans." <sup>1/</sup>

Some of the Attorney General's more recent objections demonstrate the importance and need for the preclearance provisions. Our review of Department records showed that the Attorney General has entered objections to allegedly discriminatory measures at State and local levels. Overall, approximately two-third of the Department's objections have related to at-large elections, annexations, reapportionments, and redistricting plans.

NON-ENGLISH SPEAKING POPULATION  
HAS ALSO RECEIVED ASSISTANCE

In August 1975 the Voting Rights Act was again amended. The primary objective of the 1975 amendments was to make sure that members of non-English speaking groups are given the opportunity to participate effectively in the electoral process.

Subsequent to the passage of the 1975 amendments, the Department published guidelines for implementing the act's minority language provisions and sent attorneys to several covered States to speak to State and local election officials regarding their responsibilities under the law.

Although it is difficult to demonstrate substantive impact at this time because of the limited cost and usage data available regarding the language provisions, some

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<sup>1/</sup>Report of the Senate Committee on the Judiciary on Voting Rights Act Extension, S. Rep. No. 94-295, 94th Cong., 1st sess., p. 17-18 (1975).

observations can be made based on comments received from State and local election officials and persons representing minority language groups.

Nearly all of the 30 State and 149 local election officials that we contacted said that registration and voting materials were available in English and the appropriate minority language in 1976, and that verbal assistance was also available at registration and polling places. However, about 85 percent of the officials stated that, because of minority language requirements, election costs had increased.

Minority language persons informed us that registration and voting materials were now available in a bilingual form, which were not available before the 1975 Voting Rights Act Amendments. In fact, most minority language persons contacted said they received little or no assistance before 1976.

#### CONCLUSIONS

Progress has been made toward fuller minority political participation and the Department of Justice has contributed by enforcing the Voting Rights Act. Notwithstanding these positive achievements, the act's objectives could be more fully realized.

CHAPTER 3PROGRAM IMPROVEMENTS NEEDED TO STRENGTHEN ENFORCEMENT

The preclearance provision which provides for Federal review of election changes in voting qualifications, standards, practices, or procedures in covered jurisdictions is possibly the most important means of protecting the voting rights of minorities. The provision's chief purpose is to make sure that State and local officials do not change election laws and practices to discriminate against racial and language minorities.

The Voting Rights Act has been in effect for over 12 years, yet there is little assurance that covered States and localities are complying with the act's preclearance provision. We found that the Department of Justice had limited formal procedures for determining that voting changes were submitted for review as required by the act or for determining whether jurisdictions implemented changes over the Department's objection. Additionally, (1) some Department decisions have been made without covered jurisdictions submitting all data required by Federal regulations, (2) the review process could be more timely, and (3) administrative problems have inhibited the election change review process.

ORGANIZATION FOR ENFORCING  
PRECLEARANCE REQUIREMENTS

The act requires covered States and jurisdictions (see app. V) to submit all election law changes (that pertain to voter qualifications and to voting standards, practices, or procedures) to either the Attorney General or the U.S. District Court for the District of Columbia for a determination of whether the change would be discriminatory. Jurisdictions almost always submit changes to the Attorney General rather than to the court. Covered jurisdictions are responsible for demonstrating that submitted changes are not discriminatory. Some examples of the more significant types of changes which must be submitted, as specified by Department of Justice regulations, 28 C.F.R. § 51.4, follow:

--Annexations.

--Changes in boundaries of a voting unit.

--Changes in candidate eligibility requirements or terms of offices.

--Changes in polling place.

--Alterations in methods for counting votes.

The Department's Voting Section has direct responsibility for reviewing submitted changes and making sure they comply with the Attorney General's determinations. The Voting Section is headed by a Chief and Deputy Chief and is functionally divided into two units--the Submission Unit and the Litigative Staff.

The Submission Unit is responsible for processing and reviewing voting change submissions and performing related duties, while the Litigative Staff is responsible for litigation-related activities as well as handling the observer and examiner functions. (See app. VI.)

Before the 1975 amendments to the act were passed, Department of Justice attorneys were responsible for processing and reviewing voting change submissions with assistance from a paraprofessional staff of less than five persons. With the anticipated increase in submissions and added election coverage responsibilities resulting from the act's 1975 amendments, in February 1976 the Department adopted its present functional organization with paraprofessionals responsible for reviewing submissions. (See app. VII.)

#### DEPARTMENT OF JUSTICE COMPLIANCE EFFORTS HAVE BEEN LIMITED

As of May 17, 1977, 927 jurisdictions in 23 different States were subject to submission requirements, including 9 States covered entirely. (See app. V.) However, the Department had no formal process for (1) identifying unsubmitted changes, (2) periodically informing jurisdictions of their preclearance responsibilities, (3) identifying changes implemented over the Department's objection, and (4) soliciting the views of interest groups and individuals.

#### Limited assurances that covered jurisdictions are submitting all required voting changes

Department of Justice and minority interest group officials stated that some covered jurisdictions were not

submitting voting changes and were implementing changes despite the Department's objections.

Department regulations require that changes affecting voting be submitted even though the change may appear to be minor or indirect. However, we found that as of November 1976, covered jurisdictions in five States 1/ had made no submissions and seven other States 2/ with covered jurisdictions had made less than 12 submissions each. All of these jurisdictions had been covered by the preclearance procedures for several years. Department officials told us that changes have obviously been implemented in these jurisdictions without preclearance. They said no formal efforts have been made to identify and obtain these changes because the jurisdictions do not have a history of voting problems.

Minority interest group officials in selected jurisdictions told us of instances where they believed changes were implemented without preclearance. For example, they said that during a review of local legislation in Georgia, the Voter Education Project identified 44 allegedly unsubmitted election law changes made between August 1965 and March 1976. As reported by the Project the changes identified represented only the most obvious and serious election law changes and omitted other changes which the Voter Education Project felt were not significant.

A former Assistant Attorney General, in testimony before the Senate Judiciary Committee on April 29, 1975, acknowledged covered jurisdictions' noncompliance in submitting all required voting changes and in implementing some voting changes despite the Department's objection. The Department's limited efforts have also disclosed unsubmitted changes from several States.

No systematic efforts to identify  
and obtain unsubmitted changes

The Department of Justice has tried to identify and obtain unsubmitted changes. Although these efforts have

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1/Connecticut, Idaho, Michigan, New Hampshire, and South Dakota.

2/Alaska, Colorado, Hawaii, Maine, Massachusetts, Oklahoma, and Wyoming. The State of Maine successfully filed for exemption from the provision in September 1976.

been productive, they have been sporadic and fall far short of formal systematic procedures to make sure that changes affecting voting are submitted.

Session laws are laws passed during an assembly of a State legislature. In 1972 the Department reviewed State session laws passed between 1965 and 1972 in Louisiana. This review resulted in 149 changes being submitted. In 1974 a similar review was performed in Alabama involving session laws passed during 1971 which disclosed 161 unsubmitted changes.

As a prelude to the 1975 hearings on the extension of the act, the Department conducted similar reviews of State session laws passed between 1970 and 1974 for nine States. The reviews identified unsubmitted changes in eight of the States as shown below.

<u>State</u>	<u>Number of unsubmitted changes</u>	<u>State</u>	<u>Number of unsubmitted changes</u>
Alabama	70	Mississippi	14
Arizona	9	North Carolina	15
Georgia	158	South Carolina	33
Louisiana	15	Virginia	2

The Department also identified local jurisdictions which had never made submissions and requested the Federal Bureau of Investigation to conduct investigations to identify unsubmitted voting changes. Our review of Department records showed that the Federal Bureau of Investigation identified unsubmitted changes in jurisdictions in Alabama, Georgia, Louisiana, Mississippi, North Carolina, and South Carolina.

When specific unsubmitted changes are identified, letters are sent to the responsible jurisdictions requesting submission of the change. The Department's policy allows jurisdictions 30 days to submit the change identified, after which time an investigation by the Federal Bureau of Investigation may be requested.

Department of Justice officials stated that no formal reports were prepared summarizing the results of their various compliance efforts. However, the Department's records showed that responses to submission requests were often not received within 30 days and, in fact, some requests have been

pending for at least 2 years. We found, for example, that the Federal Bureau of Investigation identified 102 unsubmitted changes, of which 60 were still unsubmitted as of October 1976. Voting Section officials responsible for the file of unsubmitted changes and Federal Bureau of Investigation officials informed us that they did not record the number of times Federal Bureau of Investigation requests were made in response to this noncompliance.

Minority individuals were critical of the Department's unresponsiveness to alleged noncompliance activity. For example, the Mexican American Legal Defense and Education Fund provided us with a listing of 14 Arizona jurisdictions in which they said voter registration files had been purged without preclearance. The Assistant Attorney General for the Civil Rights Division, in commenting on our draft report, stated that he was aware of and was taking steps to deal with the matter.

Department of Justice officials acknowledged the need for more compliance activity.

Limited formal efforts to inform jurisdictions of submission requirements

The alleged noncompliance cited by election officials, Department of Justice officials, and other groups is partly attributable to jurisdiction officials' lack of knowledge of the requirements for submitting voting changes. While the Department informed most jurisdictions of their responsibilities when they came under the act's coverage, the Department made no attempt to periodically remind jurisdictions of submission requirements to insure that newly elected officials were aware of these responsibilities.

Department of Justice officials stated that jurisdictions were provided copies of the preclearance guidelines when they were first brought under the act's coverage. They added that guidelines were also provided to jurisdictions upon request and in any instance where it was determined necessary to describe compliance requirements, such as when the Department requested additional information on a submission.

Our interviews with election officials in selected covered jurisdictions revealed that election officials were not fully aware of their responsibilities under the act. Department officials said that, historically, election

officials have had problems in interpreting Federal regulations. However, some election officials may not have copies of the regulations. Some election officials we attempted to contact from the Department's list of contacts were no longer in office.

No followup on submission objections

The Attorney General objected to 257 of the reported 13,433 submissions reviewed between August 6, 1965, and November 1, 1976. (See apps. VIII and IX.) However, the Department has not initiated formal monitoring procedures for making sure that jurisdictions do not implement a voting change over the Department's objection.

Department of Justice officials stated that in the past litigation has been initiated against jurisdictions to force their compliance with objection decisions; however, data was not readily available on the number of such occurrences. The officials acknowledged the need for a formal system for compliance followup on objection decisions and said such a system was being developed but no implementation date had been set.

Efforts to solicit  
the views of interested parties  
on voting changes are inadequate

Department of Justice officials stated that they rely heavily on input from minority interest groups and individuals as a compliance mechanism. We found, however, that the Department lacks adequate procedures for informing minority interest groups and individuals of submission decisions rendered.

The Department of Justice maintains a weekly listing of submissions which is regularly mailed to anyone upon request. The listing informs minority contacts of submissions under review at the Department in order that they may comment on the potential discriminatory or nondiscriminatory impact of the submissions. Department officials also cited this listing as one mechanism for informing minority interest groups of the Department's activity for compliance purposes. However, the weekly listing does not include the names of most individuals and groups which the Department identified as its primary contacts in specific jurisdictions.

Additionally, the weekly listing does not provide information which would assist minority contacts in detecting situations where a voting change has been implemented despite

the Department's objection. It only provides the date the submission was received, the submitting jurisdiction's name, and a description of the change, but does not show the Department official reviewing the submission or the decision rendered.

Any individual or group may send to the Attorney General comments on a change affecting voting. Federal regulations require that the Department inform individuals or groups commenting on the submission of the review decision. Our review of 271 randomly selected submissions which the Department had reached decisions on, disclosed that individuals or groups commented on 55 percent of the submissions; however, the Department's records showed that individuals or groups commenting were informed of the review decision in less than 1 percent of the cases sampled. Consequently, minority groups and individuals may not have adequate information to detect changes implemented despite the Department's objections.

In commenting on our draft report, the Assistant Attorney General for the Civil Rights Division stated that they interpret the Federal regulations to require that they notify only those persons whose comments are included in data provided by submitting jurisdictions. Persons contacted by the Department for information and views are not notified of the decision unless they so request.

NEED TO REASSESS DATA REQUIREMENTS FOR  
SUBMISSION AND TO IMPROVE REVIEW TIMELINESS

Department of Justice regulations require that certain information be included on all changes submitted for Department review. Information required includes such items as a certified copy of the legislative or administrative enactment or order containing a change affecting voting. Additionally, the regulations urge jurisdictions to submit other supporting data that may facilitate the Department's review of the submission and permit the Department to require additional information needed for its review.

The Department has 60 days after receiving complete data to object to a submitted voting change. Failure to do so allows the submitting jurisdiction to implement the submitted change. But neither the Attorney General's affirmative response that no objection be made nor his failure to object will in itself bar subsequent action to enjoin enforcement of the change.

We randomly selected and reviewed 341 voting change submissions processed in the Voting Section from February

through September 1976. Our analysis of these change submissions showed that some data required by Federal regulations was not consistently submitted by jurisdictions with their voting change, and that preclearance reviews were not always completed within 60 days after the first submission of the voting change.

Reviews performed without complete and pertinent data

The Department decided on some voting changes that had been submitted by States and localities without some data required by Federal regulations. We also identified instances where optional data was omitted despite its apparent significance for a complete analysis. Our analysis of the sampled change submission files showed that 59 percent of the 271 changes decided did not have all data required by Federal regulations.

Assessing the completeness of submissions with respect to information that is optional and not specifically required by Federal regulations was difficult. In reviewing changes involving annexation and redistricting, the Department of Justice did not consistently require jurisdictions to submit information about boundaries and racial distribution of existing and proposed voting units. In addition, other non-required information, such as the reason for and anticipated effects of changes, would appear to be relevant to all voting change reviews. Yet, jurisdictions did not consistently include this information in their submissions.

Several of the Voting Section's paraprofessional submission reviewers said they needed more guidance on what data to consider in reviewing various types of submissions. Department of Justice officials said that the data needed to render a decision varies and that they were revising the submission data requirements.

Review process could be more timely

It is important that the Department's review process be timely. Timely reviews facilitate the election process in submitting jurisdictions. We found that the Department has had problems in promptly reviewing submissions.

The Department of Justice has developed procedures to make sure that the 60-day time frame is met in reviewing submissions. Although the procedures have generally been successful, some submission reviews exceeded 60 days while other reviews appeared unnecessarily lengthy. In all but 3 percent of the 271 voting changes reviewed, the Department completed

its review within the 60-day time frame. In a few cases, we found objections had been made and the changes could have implemented by the submitting jurisdictions.

The 60-day review limit is suspended, however, when the Department requests additional information and begins another full cycle when the information is received. Consequently, a review may be within the prescribed time limits but still may not be completed within 60 consecutive days following the voting changes' initial submission. We found that in about 6.8 percent of the submissions reviewed, a Department decision was not rendered until at least 100 days from the initial receipt of the submission.

Despite Federal regulations requiring the Department to make prompt requests for additional information to complete submissions, over 50 percent of the requests were made on the 60th day after receipt of the initial submissions, over 70 percent were made at least 55 days after receipt, and only 2 percent were made within 30 days.

In over 50 percent of the cases reviewed, the Department did not notify jurisdictions of its decision until at least 56 days after it had complete information. Notification was given within 30 days for fewer than one out of every six changes.

Department officials said they have instituted additional procedures to achieve overall timeliness in the review process. Additionally, the officials said the problems in the timely completion of submission reviews were partially attributable to the large submission workload the Submission Unit encountered during our review. However, we believe the Department had adequate time to prepare for this increased volume of submissions.

#### OTHER PROBLEMS HAVE INHIBITED THE PRECLEARANCE REVIEW PROCESS

Our review of the preclearance review procedures (see app. VII) also showed that some submission files could not be located and data inaccuracies had limited the use of the Department's computer system which maintains data on identified changes. Federal regulations require the Department to maintain files on each submission reviewed and make these files available to the public upon request. We found that the Department has had difficulty locating submission files. Of 341 voting change submissions randomly selected, the Department was unable to locate files for 24.

Accurate accounting of submission information is important in order for the Department to provide meaningful data to the Congress and the public on the number and

types of changes being reviewed and for the Department's use as a data base for managing the submission review process. Our analysis showed, however, that inaccuracies in the counting of incoming submissions and the absence of computer data checks have limited the usefulness of the computer as an aid in managing the preclearance process.

Department of Justice officials attributed the difficulty in locating files to poor recordkeeping. The Department changed personnel in the file room and initiated a procedure requiring persons to sign for any files they remove. However, this has not completely remedied the problem because on several occasions when our analysis required followup data on a submission file, the file could not be located.

Department of Justice officials acknowledged these problems and stated that efforts were underway to correct the computer data base and to develop plans for increased computer use.

### CONCLUSIONS

The Department of Justice's preclearance reviews of proposed voting changes have precluded the implementation of many discriminatory voting changes. Yet, studies by the Department and others report that many covered jurisdictions are not complying with the act's preclearance requirement and that some covered jurisdictions may be implementing changes despite the Department's objection.

The Department, however, does not have a formal process for (1) identifying unsubmitted changes, (2) periodically informing election officials about their preclearance responsibilities, (3) making sure that covered jurisdictions do not implement changes over the Department's objection, and (4) soliciting the views of others. Although the Department has tried to identify and obtain unsubmitted changes, compliance efforts have been limited and sporadic.

In addition, some Department decisions have been made (1) without covered jurisdictions submitting all data required by regulations and (2) after the required time limit for review. The Department needs to improve its efficiency in managing and maintaining voting change submission data.

### RECOMMENDATIONS

We recommend that the Attorney General:

- Improve compliance activity by developing procedures for (1) informing jurisdictions periodically of their submission responsibilities, (2) identifying systematically jurisdictions not submitting voting changes, (3) monitoring whether States and localities are implementing election law changes over the Department's objection, and (4) soliciting the views of interest groups and individuals.
- Improve the preclearance review process by (1) reassessing submission guidelines to determine data needs for the review of various types of change submissions and (2) implementing procedures for achieving more timely submission reviews.
- Improve the Department's efforts to maintain submission information by (1) implementing procedures for locating submission files and (2) making necessary corrections to the computer data base and developing procedures for increased computer utilization in managing the election law review process.

CHAPTER 4  
COMPREHENSIVE EVALUATION OF THE EXAMINER  
AND OBSERVER PROGRAMS HAS NOT BEEN PERFORMED

The Voting Rights Act deals directly with voter registration problems and conduct of elections through the provisions establishing the examiner and observer programs. These programs are among the act's strongest enforcement mechanisms. However, no comprehensive evaluation of these programs has been performed. Neither the Department of Justice nor the Civil Service Commission has provided for the accumulation of cost and impact information which would facilitate such an evaluation.

Because of the limited data available, we contacted representatives of minority interest groups and individuals who have served as examiners and observers to gain their perspective of the programs. Minority interest group observations showed that the programs need a comprehensive evaluation. In particular, their observations showed concern regarding publicity of observer activities, participation of minorities in the programs, observers' functions, and feedback on voting complaints.

ADMINISTRATION OF EXAMINER  
AND OBSERVER PROGRAMS

Federal examiners and observers may be sent, at the direction of the Attorney General, to covered jurisdictions if the Attorney General has received 20 meritorious written complaints from residents of the locality charging voter discrimination or if he believes that their appointment is necessary to enforce voting rights protected by the 14th and 15th amendments. CSC appoints Federal examiners and observers. Persons serving as examiners or observers must volunteer for the assignment and are compensated for their time and travel expenses. According to CSC officials, persons who have served as examiners and/or observers have been retired military and Government employees, schoolteachers, and current CSC and other Federal agency personnel.

There are two types of examiners--the listing examiner and the complaints examiner. Listing examiners declare persons as eligible and entitled to vote based on State qualifications that are consistent with Federal law.

Complaints examiners receive complaints during elections from persons who are registered or listed as eligible to vote and who allege voting discrimination. The examiner files the complaints received with the Attorney General. If warranted, the Attorney General may seek a Federal court order suspending the election results until eligible persons have been allowed to vote.

The Attorney General may use Federal observers in covered jurisdictions that have been designated by the Department for examiner activity. Observers act as poll watchers at local polling places to see if all eligible voters are allowed to vote and all ballots are accurately counted. They may also observe the way assistance is provided to voters.

#### Determining need for examiners and observers

Assuming the Attorney General has not received 20 meritorious complaints from a jurisdiction, the primary method used by the Department for determining the need for examiners and observers is a preelection survey. Preelection surveys are performed primarily by Department attorneys with assistance from paraprofessionals and are limited to covered jurisdictions. The decision as to the type of preelection survey to be conducted and the information to be obtained is made by the Voting Section's Deputy Chief, with the Section Chief's concurrence. The Department considers such factors as past election practices, whether minority candidates suffered discrimination or encountered racial problems in campaigning for office, and the views of local residents on whether fair elections can be expected without Federal involvement.

Department of Justice officials told us that to identify potential voting problems in a small county or district election, a survey may be limited to telephone calls to local election officials or minority interest group representatives.

On the other hand, a general election may require a more comprehensive survey which would generally consist of three phases: initial telephone calls, followup telephone calls, and onsite visits to selected covered jurisdictions (See app. X.)

The Department of Justice uses the information obtained from surveys and attorney reports to make final decisions

on locations where examiners and observers should be sent and the number needed.

#### Program cost and statistics

According to CSC records, from August 6, 19<sup>6</sup>75, to June 30, 1977, listing examiners were sent to 61 designated jurisdictions to list individuals eligible to vote. Since September 1975 the Department of Justice has not identified any instances where listing examiners were needed.

CSC officials stated that from the passage of the act to 1975, examiners have been used in every election occurring in designated jurisdictions. Since 1975 examiners have been assigned to all jurisdictions selected for observer coverage; toll-free telephone numbers for complaints have been available in all other designated jurisdictions.

In addition, CSC officials stated that over 10,000 individuals have observed 91 elections from August 6, 1965, to June 30, 1977. CSC estimated its budget outlays for the listing and complaints examiner and observer programs from August 6, 1976<sup>5</sup> to October 1, 1976, to be \$7.1 million, which includes \$1.7 million for listing examiner activity, \$0.4 million for complaints examiner activity, and \$5 million for observer activity. (See app. XI.)

#### EXAMINER AND OBSERVER PROGRAMS NEED EVALUATION

Evaluation is intended by the Congress to be an integral part of Federal programs. Program data is necessary to provide a basis for evaluation. Department of Justice officials said they had performed a limited evaluation of the examiner and observer programs and had identified no problems. The Department of Justice and CSC, however, do not maintain necessary data conducive to performing a comprehensive evaluation of the programs, such as detailed cost information, a record of minority participation in each program, and impact statistics on complaints examiners' and observers' activities.

Through discussions with representatives of minority interest groups and program officials we identified several aspects of the programs which may warrant particular reassessment.

- According to a Civil Rights Commission report, most minorities it contacted believed the presence of observers, if known in advance, encourages minorities to vote. Several minorities believed the publicity of observer activity was inadequate and therefore minorities who may have voted, did not. CSC officials stated that the Department and CSC have decided not to give prior notice of observer assignments to a political subdivision to insure the personnel safety of observer personnel and government property. They also stated that publicity surrounding assignment of observers to a particular political subdivision could permit practices which the act seeks to eliminate in jurisdictions without observers.
- Many minority individuals expressed dissatisfaction with the performance of the observers. Their complaints centered on the inadequacy of observers in regard to matters such as (1) informing persons denied the right to vote that they could complain to Federal examiners, (2) answering questions at the polls, and (3) the level of interest and concern shown toward minority voting problems. CSC officials stated that the role of observers is not to answer questions. The observers' function is to watch what happens at the polls and report what they have seen to the Department of Justice.
- Most minorities believed the problems of observer performance could be overcome if more minorities were appointed as observers. Department of Justice and CSC officials said that no program exists to make certain that more minorities participate in the programs. According to CSC officials, they are somewhat limited in trying to appoint minorities because (1) they must consider volunteers from various Federal agencies and (2) equal employment opportunity requirements prohibit any special recruiting and selection efforts that would give preferential treatment to a particular minority group. CSC officials stated they encouraged recruiting individuals who are representative of the supplying agency's population, including women and minorities, but no formal attempt has been made to make sure that minorities and women do participate nor do they know the number of minorities and women which have participated in the program.

--Several minority persons stated they had informed complaints examiners of either registration or voting problems. Although the complaints may have been resolved at the local level, no feedback on the examiners' findings was provided to the individuals registering the complaints. Most of the complaints examiners contacted stated they had received various voting complaints and had either reported them to the Department of Justice attorney in the jurisdiction during the election or had filed a report with Department headquarters. All of them believed their responsibilities ended when the report was filed and none of them had performed any followup on the complaints received. Department officials stated that limited review of examiner reports was performed. They believed that, for the most part, problems identified in the reports were resolved by the examiner during the election so followup by them was not warranted.

Department officials acknowledged the need to maintain more detailed data in order to perform a comprehensive evaluation of the examiner and observer programs. However, the officials were unable to explain why efforts had not been made to perform such an evaluation.

#### CONCLUSIONS

Although the examiner and observer programs are among the act's strongest enforcement mechanisms, no comprehensive evaluation of these programs has been performed. Cost and impact data, necessary for such an evaluation, were not being accumulated. Minority interest group representatives' observations showed that a comprehensive program evaluation was needed. Their observations showed that such an evaluation should give special attention to improving procedures for publicizing observer activities, assessing the adequacy of observers' functions, enhancing minority participation, and improving the procedures for following up and providing feedback on voting complaints.

#### RECOMMENDATIONS

We recommend that the Attorney General, in cooperation with CSC, develop data on cost, minority participation, and impact for evaluating the examiner and observer programs, and perform a thorough evaluation of these programs, paying particular attention to the various minority viewpoints on needed program improvements.

CHAPTER 5LITIGATIVE ACTIVITY IS LIMITED

The Voting Rights Act strengthened the Attorney General's authority to bring suits to protect voting rights. This litigative authority is not only essential in enforcing the preclearance provisions but also for protecting voting rights in jurisdictions that are not covered by the act's special provisions and for challenging discriminatory laws and practices.

The Department of Justice's litigative efforts have been limited. We found that the Department has been unable to litigate all matters related to the act's special provisions and to develop and initiate litigation against jurisdictions not covered by the special provisions.

Department officials noted in their 1977 budget request that their capacity to perform litigative activity has been hampered because much of the attorneys' time is consumed with nonlitigative activities and requested additional attorney resources to increase their litigative activity. Our review showed, however, that certain actions could enhance the Department's litigative impact and capacity without the need for additional resources. These include

- more effective use of the paraprofessional staff and
- development and implementation of a systematic approach for identifying potential litigative activity.

Additionally, we found that Bureau of the Census surveys mandated by the Congress to assist the Department's enforcement of the Voting Rights Act and the Congress evaluation of the act's impact are costly and of limited use in identifying potential litigative matters.

LITIGATION AND STAFFING

Under the Voting Rights Act, the Attorney General has the authority to bring lawsuits in Federal courts to enjoin denials of the right to vote through, for example, the use of poll taxes, literacy tests, English-only elections in jurisdictions with language minority group members, and certain age and residency restrictions.

The Attorney General has delegated this litigative responsibility to the Voting Section. As of July 1977 the

section had 13 attorneys responsible to the Assistant for Litigation who in turn reports to the Deputy Chief and Chief of the Voting Section. The staff attorneys are divided into three teams. Each team is assigned States in which it has primary responsibility for litigative activity and examiner and observer program activity.

The Voting Section did not maintain a complete list of litigative involvement. However, we were able to develop a reasonably comprehensive list through the Department and other sources. This list shows that the litigative staff has litigated 177 cases since August 6, 1965. (See app. XII.)

More litigation desired but management of present workload hampers these efforts

The Voting Rights Act authorizes the Department to file suit against jurisdictions not covered by the act's formulas in order to impose the special provision remedies where the jurisdiction involved is found to have denied the voting guarantees secured by the U.S. Constitution. As of July 1977, no such litigation had begun. Department attorneys expressed a desire to initiate this type litigation; however, the Department lacks the litigative capacity to manage its present litigative workload of citizen complaints and potential litigative matters.

When the litigative staff receives citizens' complaints, identification numbers are assigned and files are started to maintain data on the status of the complaints. Our review of these complaint files showed that 432 complaints had not been officially closed. In 157 of these, the last status update was made approximately 3-1/2 years before our review. We also found 217 complaints which were, according to the files, assigned to attorneys no longer employed by the Voting Section.

We further identified instances where, according to minority contacts, the Department had knowledge of violations; however, litigation was not always pursued. We interviewed 98 minority contacts in covered jurisdictions; 21 of these persons identified cases which they believed the Department should have litigated.

Analysis of the Department's litigative involvement since 1965 further revealed limited litigative efforts. We found that, of the 177 cases litigated, in 90 cases the Department was acting as a defendant or as an amicus curiae (friend of the court) rather than the plaintiff. Amicus activity, according to attorneys interviewed, involves minimal time and effort on the Department's part. Of the remaining 87 cases when the Department of Justice was the plaintiff, 42 cases involved enforcing the preclearance provisions. Our analysis of Department records further showed that only 1 of the 13 staff attorneys has represented the Department in court on more than six cases in spite of the fact that seven of the remaining attorneys have been in the Voting Section from 1 to 3 years.

Department officials said that a lack of administrative procedures to make sure complaint files were closed was primarily the cause of the 432 outstanding complaints and the complaints were near completion, but lacked such things as a memorandum closing the file. They added that paraprofessionals were being used to close these outstanding complaint files. The Department attributed the large number of outstanding complaints and their inability to perform more litigation to the attorneys involvement in nonlitigative activity.

BETTER USE OF PARAPROFESSIONAL STAFF  
COULD INCREASE LITIGATIVE CAPACITY

Department of Justice officials said litigation, particularly in areas other than the special provisions of the act, has been limited because of priority demands on attorney resources for handling nonlitigative functions such as preclearance reviews and election coverage activities. However, paraprofessionals have assumed most of the preclearance review functions and, if they were given other responsibilities related to election coverage and followup to minor complaints from citizens, additional attorney resources could be freed to handle more litigative matters.

Prior to February 1976, Voting Section attorneys were primarily responsible for preclearance of voting change submissions with paraprofessionals assisting them in tasks such as gathering statistics and making followup contacts with persons in the submitting jurisdictions. In an effort to involve attorneys in more litigative activity, the Voting Section expanded its paraprofessional staff and transferred responsibility for preclearance reviews to them. These efforts to increase litigative activity were hampered by

increased demands for the litigative staff to cover elections in jurisdictions brought under coverage through the act's 1975 amendments.

The passage of the 1975 amendments also increased paraprofessionals' submission workload but, by the end of May 1977, their workload had diminished substantially. Paraprofessionals informed us that their weekly submission workload averaged 5 to 10 submissions during May 1977 while it averaged 40 to 60 during the first 6 months of 1976. They further said that they could assume additional tasks.

Paraprofessionals could perform election coverage and assist attorneys in litigative activities

Paraprofessionals now have limited responsibility and involvement in election coverage activity; however, Department of Justice attorneys said that the paraprofessionals could handle substantially more responsibility for this activity. For example, preelection field visits are generally performed only by attorneys, requiring a large amount of their time. Department attorneys believed paraprofessionals could perform this task and, in fact, some paraprofessionals have assisted attorneys in preelection survey field visits. Attorneys believed the only assistance that paraprofessionals might need during field visits would be in resolving legal issues. They believed this assistance could be provided over the telephone.

Additionally, during examiner and observer election coverage, the Voting Section assigns one and sometimes two attorneys to monitor programs. Paraprofessionals and some attorneys interviewed believed that instead of using two attorneys, paraprofessionals could be used to assist attorneys.

Most attorneys interviewed believed that the paraprofessionals could also assist them in preparing law suits. As of July 1977, we were informed that two paraprofessionals were providing this type of assistance.

Department of Justice officials were receptive to the idea of increased use of paraprofessionals and said that plans are being made to expand their responsibilities.

NEED FOR SYSTEMATIC APPROACH FOR  
IDENTIFYING LITIGATION

The Department has not developed a systematic method for identifying potential litigative activity. Although the Department is the primary organization for enforcing Federal voting rights laws, the potential volume of voting violations makes this task difficult for the Department to perform alone. Enforcement of the special provisions of the Voting Rights Act is given priority in the Voting Section in order to meet the act's various statutory requirements. However, Department officials stated that this priority and the increasing number of voting rights suits filed against the Department has limited their efforts to identify and pursue litigation. Department attorneys stated that between 10 and 25 percent of their time is spent on nonlitigative matters related to enforcing the special provisions.

Department attorneys said that no formal procedures existed for identifying private litigation in the voting rights area. Monitoring the existence of private voting rights litigation may be useful in determining where the Department might best direct a litigative effort under the Voting Rights Act. Attorneys acknowledged a need for such monitoring, but said they were generally made aware of all significant private litigation in their jurisdictions through their minority contacts. However, our analysis showed that the Department does not have contacts in all covered jurisdictions. Consequently, the Department may not be aware of all significant private litigation.

CENSUS BUREAU'S BIENNIAL SURVEY  
MAY HAVE LIMITED USEFULNESS

Under the Voting Rights Act, the Bureau of the Census has responsibility for conducting biennial surveys (concurrent with congressional election years) of jurisdictions covered under the act's preclearance requirements to assist the Department of Justice in identifying those jurisdictions with voting problems and to provide the Congress with data to measure the impact of the act. Although the surveys will provide the Congress with some impact data, they are costly and are of limited use in assisting the Department of Justice in identifying potential litigative matters.

The Bureau of the Census surveyed the 1976 elections to obtain participation data. Differing interpretations of the legislative requirements for the survey and insufficient leadtime, according to Census Bureau officials, resulted in an inadequate survey costing approximately \$4 million.

The Census Bureau has estimated that the more detailed, legislatively required survey would cost \$44 million. To avoid such a cost every 2 years, the Census Bureau, in February 1977, developed a legislative proposal which recommended the surveys be performed every 4 years rather than every 2 years. The proposal stated further that registration and voting participation rates differ significantly between Presidential and non-Presidential election years and that biennial surveys would result in statistics that have the potential for misleading conclusions. The proposal was never forwarded to the Congress.

Department of Justice officials said that, based on conversations with Census Bureau officials, the survey statistics will only provide indications of voting problems. They believe that the litigative staff would have to investigate the alleged voting improprieties for actual verification; yet no funds have been provided for this increased workload. Nevertheless, the Department's Voting Section officials believe the surveys may be useful to the Congress for assessing the need for voting rights enforcement efforts. However, they pointed out that if the ultimate goal is to identify and eliminate voting improprieties, consideration should be given to budgeting the \$44 million for investigation and litigation rather than for an election survey.

#### CONCLUSIONS

The Voting Rights Act strengthened the Attorney General's authority to sue to protect individuals' voting rights. Not only is litigative authority essential to enforce the act's preclearance provisions, it is also essential for challenging discriminatory laws and practices in jurisdictions not covered by the special provisions.

The litigative capacity of the Voting Section has been hampered, however, by the staff attorneys' involvement in nonlitigative matters, such as monitoring the examiner and observer programs and the limited use of paraprofessionals to assist in litigative activities. Additionally, the Voting Section lacks a systematic approach for identifying litigative matters beyond their present limited capabilities.

Although the Congress has legislatively mandated the Bureau of the Census to perform biennial surveys to identify voting problems, the initial survey was inadequate and of limited use to the Department in identifying potential litigative matters. The estimated \$44 million that a useful survey would cost may be too expensive in light of the Department of Justice's ability to use its results for litigation.

RECOMMENDATIONS

We recommend that the Attorney General, before reassessing staff requirements for the Voting Section,

- expand the Voting Section paraprofessionals' responsibilities to allow attorneys more time to be involved in litigative matters and
- develop and initiate a systematic approach to more extensively identify litigative matters in the voting rights area.

MATTER FOR CONSIDERATION BY THE CONGRESS

We believe the Congress should reassess the adequacy and need for the biennial survey mandated by the Voting Rights Act in light of its limited usefulness and substantial costs.

CHAPTER 6MINORITY LANGUAGE PROVISIONS COULD BE MORE EFFECTIVE

To assess the implementation, status, and impact of the Voting Rights Act minority language provisions, information was obtained from State and local election officials in the 30 States affected by these provisions. Minority group representatives were interviewed in many of the covered jurisdictions.

Most of the persons contacted indicated that language minority voter assistance is needed but stated that several factors have inhibited the provisions' full implementation. Their observations frequently included comments that

- formulas for determining language minority group coverage have, in some cases, not identified the minority population needing assistance;
- little authority exists for enforcement of the minority language provisions in jurisdictions not subject to preclearance of minority language compliance plans;
- the Department's implementation guidelines are difficult to interpret and the Department gives little guidance for developing and implementing compliance plans and approaches for providing minority language assistance; and
- comprehensive evaluation of the language provisions cannot be made because cost, dissemination, and usage data have not been maintained.

MINORITY LANGUAGE PROVISIONS

On August 6, 1975, the Voting Rights Act was again amended to expand coverage of its special provisions and to require bilingual elections in certain areas with language minorities.

Implementation guidelines for minority language provisions

The Department's Voting Section has the primary responsibility for enforcing the minority language provisions in jurisdictions that are also subject to the special provisions. Additionally, the U.S. attorney's offices have been

assigned responsibility by the Deputy Attorney General for monitoring minority language compliance in covered jurisdictions not subject to the act's special provisions. (See app. V.)

The Department published interim implementation guidelines in October 1975, proposed final guidelines in April 1976, and the final guidelines in July 1976. According to the Department's final implementation guidelines, the objective of the act's language provisions are to enable members of language minority groups to participate effectively in the electoral process. A language minority or a language minority group is defined as American Indian; Asian American, which includes Chinese, Filipino, Japanese, and Korean American citizens; Alaskan Natives; or persons of Spanish heritage. The language provisions apply to registration for and voting in any type of election, whether it is a primary, general, or special election. Federal, State, and local elections are covered as are elections of special districts, such as school board elections.

While the guidelines state that each jurisdiction is responsible for determining what is required for compliance, they do offer some guidance and interpretation of the act for jurisdictions to follow. The guidelines state that the act's requirements should be

" \* \* \* broadly construed to apply to all stages of the electoral process from voter registration through activities related to conducting elections \* \* \* ."

Concerning the conduct of elections, the guidelines state that whenever a covered jurisdiction provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable language minority group as well as in English. If the predominant language is historically unwritten, for example, for the Alaskan Natives and some American Indians, the jurisdiction is only required to furnish oral instructions, assistance, or other information relating to registration and voting.

The guidelines further state that in planning compliance, a jurisdiction may (1) where alternative methods of compliance are available, use less costly methods if they are equivalent to more costly methods in their effectiveness and (2) use a targeting system (a system which provides materials and assistance to less than all persons) if it meets the needs of the applicable language minority group.

COVERAGE FORMULAS INHIBIT  
EFFECTIVE IMPLEMENTATION

According to many election officials and minority representatives contacted, the coverage formulas used to subject jurisdictions to the language provisions of the act were one of the major factors inhibiting effective implementation. They stated that, in some cases, the formulas did not identify the minority population needing assistance. The minority representatives also indicated the formulas provided for minimal authority for Department of Justice enforcement in jurisdictions covered by the minority language provisions but not subject to the preclearance of compliance plans.

As discussed in chapter 1, there are two different coverage formulas for determining when the minority language provisions of the act may be applied to jurisdictions throughout the country. Jurisdictions are covered automatically if they meet one or both of the following formulas:

- More than 5 percent of the citizens of voting age in the jurisdiction were members of a single language minority group on November 1, 1972, and the jurisdiction provided registration and election materials only in English on November 1, 1972 (that is, maintained a test or device as defined in the 1975 amendments), and less than 50 percent of the citizens of voting age voted in the 1972 Presidential election;
- More than 5 percent of the citizens of voting age in the jurisdiction are members of a single language minority group, and the illiteracy rate of such persons as a group is higher than the national illiteracy rate.

Jurisdictions covered by the latter formula are subject only to minority language provisions while those covered by the other formula are subject to both the special provisions (i.e., preclearance of changes affecting voting, etc.) and the minority language provisions. (See app. V.)

Minority populations needing  
assistance may not be identified

The act's formulas provide assistance in jurisdictions with a single language minority group constituting more than 5 percent of the voting age citizens. Because of the varied population sizes, however, a jurisdiction having a voting population size of 100 would require only five minority

language voting age citizens to fall under the act's requirements. In a jurisdiction with a large population (e.g., 100,000) there may be substantial need for coverage but the jurisdiction may not meet the 5-percent provision.

For example, Honolulu County, Hawaii, is covered because its Japanese, Filipino, and Chinese populations satisfy the 5-percent formula. Its Korean population in 1976 was 5,762 but because it made up only 1.3 percent of the county's total population, the Korean language was not covered. Hawaii County is covered by the 5-percent formula for the Japanese and Filipino populations. Its Filipino population (5,466), however, was less than the Korean population in Honolulu County. According to the Lieutenant Governor of Hawaii, Japanese and Chinese do receive assistance although they may not need it; conversely, Koreans who may need assistance would not receive it under the formula requirements.

We believe that the coverage formula should be modified to reflect language group needs and not necessarily be limited to a percentage formula.

#### Coverage determination affects enforcement

The formula under which a jurisdiction is covered determines, to a great extent, the type of enforcement activity performed by the Department of Justice. For instance, only jurisdictions subject to the special provisions as well as the minority language provisions must submit election law changes and bilingual plans to the Attorney General for preclearance before implementation. Through the preclearance review process, the Department can determine the adequacy of targeting systems and implementation plans.

Conversely, jurisdictions subject only to the minority language provisions are not required to submit voting law changes or minority language compliance measures for preclearance. Most minority persons contacted believed that this weakens the Department of Justice's enforcement authority.

In assessing the Department's enforcement activity in jurisdictions subject only to the minority language provisions, we interviewed in April 1977, 6 of the 43 U.S. attorneys having enforcement responsibility for jurisdictions only subject to the minority language provisions as well as officials in Department headquarters. We also reviewed the

Department's files to obtain correspondence from U.S. attorneys regarding their monitoring activity. Our review revealed little activity in this enforcement area.

All the attorneys contacted stated that no formal monitoring efforts had been initiated. Three of the six attorneys interviewed were unaware of their responsibilities under the act and only two had performed any type of enforcement activity. One of these had requested the Federal Bureau of Investigation to perform investigations in the affected jurisdictions, but he had not received a report or any information back at the time of our interview. The other attorney had contacted county clerks and registrars in the covered jurisdictions to obtain available information regarding minority language implementation but also had not received any responses. Both attorneys stated they did not know whether the information requested would be sufficient to adequately monitor compliance with the provisions. Most of the attorneys contacted indicated that the monitoring of the language provisions was of low priority in their office and should probably be handled by the Voting Section.

Department headquarters officials stated they were unaware of any formally developed plans by the U.S. attorneys to enforce the language provisions. They also noted that the Department's monitoring authority is limited in jurisdictions subject only to the language provisions due to the absence of the preclearance requirement. The officials further stated that in the case of these jurisdictions a change in the law would be necessary to have the Attorney General require preclearance of minority language measures.

STATE AND LOCAL ELECTION OFFICIALS  
NEED ASSISTANCE FROM THE DEPARTMENT  
OF JUSTICE

Many election officials contacted indicated that they were unsure as to what would meet the act's language requirements. They felt that existing guidelines were vague and that the Department needed to give more assistance on developing compliance approaches.

For example, the guidelines indicated that plans which provide language assistance to less than all persons might meet compliance requirements, but it does not specify how language needs could be determined nor does it explain what an effective alternative method might be. Additionally, while the interim guidelines suggested development of a compliance plan, the final guidelines did not. Department

officials said this requirement was deleted from the final guidelines because a consensus could not be reached on what to include in a compliance plan.

Our analysis of the information obtained from election officials also showed that (1) some jurisdictions had developed costly compliance plans while others had made limited or no attempts to develop a plan, (2) different methods were used to assess language minority needs, of which several were very questionable, and (3) varying degrees of assistance were provided to minority language voters.

Department officials said that they had developed broad guidelines and had provided limited technical assistance to jurisdictions because of potential conflict which may arise if they litigate to enforce compliance.

#### Varying approaches in covered jurisdictions

Recognizing that a jurisdiction intending to comply with the language provisions would have some type of planned approach, we contacted the 30 covered States to determine whether they had developed a formal compliance plan and to ascertain their progress and problems related to implementing the language provisions. (See app. XIII.)

According to most election officials contacted, the guidelines should have been more specific, especially regarding compliance plans, methods of performing needs assessments, and types of registration and voting assistance required. Furthermore, they indicated that the Department provided minimal guidance for developing and implementing methods for meeting the act's requirements.

Not only did 24 of 30 States report they had not developed a plan, most State officials were unsure what the Department might and might not accept as complying with the act. For example, California State officials stated that they contacted Department officials to obtain interpretations of the guidelines, but the Department provided little guidance. California officials subsequently outlined a general approach for compliance and submitted it to the Department of Justice for approval. The Department did not, however, formally approve or comment on whether the approach was in compliance with the law.

Hawaii was also not sure how to comply with the act. State officials said they requested the Department to approve the use of facsimile ballots in areas

identified as having large minority populations to avoid using more expensive composite multilingual ballots. While the Department concurred with the State that the facsimile ballots seemed like the logical approach, they stated that Department of Justice approval would in no way shield the State from future litigation.

Of the six States that responded as having a plan, only Hawaii and Alaska specified their approach. Hawaii made a statewide population survey to determine target areas for concentration on multilingual efforts and Alaska developed its plan based on discussions with native groups to determine how to meet the groups' needs as well as fulfill the minority language provisions.

Varying methods used for assessing minority language needs

Of the 149 local jurisdictions contacted, 133 offered some assistance--oral, written, or both--but they used different approaches to offering assistance. Jurisdictions used either a blanket approach, making language minority materials and/or assistance available to the entire population of registered voters or a target approach, making language minority materials and/or assistance available on a selected coverage basis. When targeting was used, the jurisdiction selected coverage based on a needs assessment performed through any number of means such as (1) census data, (2) precinct official assessment, (3) index of registered voters, (4) preference indicated by voters on return postcards or sign-in rosters, (5) intuition, and (6) minority group representative assessment.

A recent study, funded by California to report on statewide voting rights activities assessed the disadvantages of each method. The report noted:

- Census data was collected in 1969 and, since that time, California's population has increased 8 percent, with the Spanish origin population increasing 25 percent. Also, Spanish surnames do not necessarily identify those who need assistance because they cannot read or speak English.
- Precinct official assessment is imprecise because many precinct officials do not speak the language and are therefore not qualified to make abstract assessments of language assistance needs.

Additionally, the information generated by this survey is suspect because it is mainly subjective and generally lacks verification.

- The index of registered voters method considers only registered voters, thus ignoring possible needs of unregistered persons.
- Language preference postcard method does not accurately measure language need because voters illiterate in English or reared in the oral tradition of their mother tongue may simply not understand the postcard's significance and fail to return it.
- Intuition is arbitrary unless guided by other tools of need estimation (census or registration files).

The report stated that language minority community group assistance in locating and determining language needs is the most effective method of targeting assistance.

Varying amounts of written assistance provided to voters

The act requires that whenever a covered jurisdiction provides any registration or voting notices, forms, instructions, assistance, or other materials or information, including ballots, it shall provide them in the language of the applicable language minority group as well as in English. Department guidelines do not, however, instruct jurisdictions to provide only that which is considered necessary. Depending on what the jurisdiction normally offered in English, written material, for example, could range from providing only minority language ballots to including all types of election material. Examples are: registration information; notices and instructions on voting; absentee, sample, and official ballots; and voter information booklets explaining propositions or constitutional amendments.

Most jurisdictions, although complying with the written requirements, said that many problems existed in providing written assistance: (1) increase in cost due to printing and translating, (2) lack of flexibility in giving immediate assistance, (3) problems in accommodating differences in language dialects, (4) waste because of materials being overprinted or underused, and (5) voter confusion because of different languages on the same ballot. These jurisdictions said that these problems could be reduced by providing only oral assistance. Many States and jurisdictions stated that

providing language assistance caused financial hardship. The 16 States and 124 jurisdictions that were able to identify some cost said that the minority language provisions increased their 1976 primary and/or general election costs by over \$3.5 million. (See app. XIV.)

LACK OF DATA TO EVALUATE PROVISIONS'  
IMPACT AND EFFECTIVENESS

The act's minority language provisions do not require jurisdictions to accumulate cost, dissemination, or impact statistics which could be used to evaluate the efficiency and effectiveness of minority language assistance. Consequently, an effective cost/impact analysis was precluded by the lack of information on size of minority language group assisted, type and cost of the coverage approaches used, and the wide-ranging types of material and/or assistance offered. When States and local jurisdictions kept statistics, the differing plans for compliance resulted in varying cost accounting systems and accumulation of impact data that could not be compared.

Our survey showed 16 of the 30 States and 124 of the 149 local jurisdictions contacted maintained some cost information. (See app. XIV.) Information ranged from primary to general election costs and sometimes both but it was not uniform for all States or local jurisdictions. A variety of assistance was reported available from many States and local jurisdictions but they did not identify what or how much was available, nor did they indicate how, if at all, needs were determined. Our survey also showed that States' political subdivisions used different election procedures, making comparisons of State and local jurisdictions costs impossible.

Usage data was limited

Only a few States and local jurisdictions reported having performed a cost/impact study on the minority language provisions. As a result, most jurisdictions contacted were unable to provide information on requests for or use of the minority language material and assistance provided. Additional data needed for analysis, such as the quality and effectiveness of the jurisdiction's outreach in publicizing availability of language minority materials and assistance were not available. In addition, the population sizes to which this information was given and how it had been made available were unknown.

Most critical, however, is whether the assistance or material made available was needed. Only limited information

was available among the 149 local jurisdictions we contacted. (See app. XV.) Six jurisdictions reported they were providing no oral assistance. Fifty-one jurisdictions did not report whether oral assistance was offered. Of the 92 jurisdictions reporting that oral assistance was offered, 45 indicated oral assistance was requested in less than 10 instances and 9 indicated anywhere from 10 to 12,039 requests had been made. The remaining 38 did not know or keep information on requests for oral assistance.

Use of written materials was determined by the number of minority language ballots requested. Of the 104 covered local jurisdictions contacted that were subject to the written assistance provisions, 6 reported they were not providing written assistance, 10 did not report whether written assistance was offered, and 63 did not have usage data primarily because bilingual single-form ballots or machines were used. Of the 25 jurisdictions that did maintain statistics on the use of minority language ballots, 15 reported that less than 10 ballots were requested and 10 reported that anywhere from 11 to 726 minority language ballots were used in their jurisdiction.

#### CONCLUSIONS

Implementing the minority language provisions could be more effective if the Department of Justice would (1) further delineate what constitutes an effective compliance approach and provide more assistance to State and local officials and (2) seek the establishment of an information system on cost, dissemination, and usage statistics to evaluate the cost effectiveness of providing language assistance and to give proper feedback to election administrators on implementing the language provisions.

Many States and jurisdictions stated they incurred funding problems in meeting the additional election requirements placed on them by the language provisions.

In addition, the act's formula method for determining coverage resulted in some language groups receiving unneeded assistance with others in need not receiving help. Also, the formula limits the Federal Government's monitoring ability by not requiring all jurisdictions to preclear minority language compliance measures.

U.S. attorneys are responsible for monitoring minority language compliance in covered jurisdictions not subject to the act's special provisions. Our review has shown that their

monitoring efforts have been minimal and ineffective. Most of the attorneys contacted said that the monitoring of the language provision was a low priority and should probably be handled at the Department headquarters by the Voting Section. Because the Voting Section has primary voting rights responsibilities and is familiar with minority voting problems, it may be in a better position to monitor the language provision. This approach would increase the overall effectiveness of monitoring operations because it would allow for needed overview on the problems and progress experienced by the various jurisdictions.

In commenting on our draft report, the Assistant Attorney General for the Civil Rights Division stated that they are currently studying this matter; however, a decision has not yet been reached.

#### RECOMMENDATIONS

To improve the effectiveness of the act's implementation, we recommend that the Attorney General:

- Consider placing responsibility for enforcing compliance in jurisdictions subject only to the language provisions with the Department of Justice's Civil Rights Division at headquarters rather than U.S. attorney's offices.
- Assist election administrators in developing compliance plans and performing needs assessments; determine what clarifications are needed to the implementation guidelines; and, if necessary, modify them accordingly.
- Seek the establishment of an information system which would include cost, dissemination, and usage data to evaluate the cost effectiveness of various methods of providing language assistance and to give proper feedback to election administrators to assist them in providing effective minority language assistance. At a minimum, he should attempt to seek periodic collection of this information for analysis purposes.
- Assess to what extent financial hardships are incurred in implementing the language provisions to determine if Federal funds are necessary to assist States and jurisdictions in effectively implementing these provisions.

MATERS FOR CONSIDERATION  
BY THE CONGRESS

The Congress should consider (1) establishing a coverage requirement based on a jurisdiction's needs rather than just a percentage coverage formula and (2) requiring all States and jurisdictions covered by the language provisions to preclear minority language measures.

CHAPTER 7SCOPE OF REVIEW

Our review was directed toward assessing the implementation and impact of the Voting Rights Act of 1965, as amended, with particular emphasis on the Department of Justice's enforcement of the special and minority language provisions.

Policies, regulations, practices, and procedures for administering the Voting Rights Act program were reviewed at the Department of Justice in Washington, D.C. A stratified statistical sample of election law changes, submitted to the Department during the period February through September 1976, was also analyzed. (See app. XVI.) Officials were interviewed at Department of Justice headquarters and at U.S. attorney's offices in Arizona, California, New Mexico, and Texas.

Additionally, we interviewed officials and reviewed related activities of the Civil Service Commission in Washington, D.C., and at its field offices in Georgia and Texas. We also interviewed persons appointed by CSC who had served as examiners and observers. Further, Bureau of the Census officials in Washington, D.C., were also interviewed.

To obtain State and local election officials' views on the requirements and implementation of the act's provisions, we mailed and/or administered questionnaires to State election officials in the 30 States covered by the bilingual provisions of the act. Local election officials in 149 of the 505 covered bilingual jurisdictions were questioned by mail, telephone, or field visit. (See app. XVII.)

We also interviewed 112 election officials in the 11 States with jurisdictions subject to the election law pre-clearance provisions and, in most instances, designated for examiner activity; 11 officials were at the State level and 101 represented local jurisdictions. (See app. XVIII.)

To obtain the perspective of those directly affected by the act, we interviewed 31 minority organization officials and 67 private citizens with expressed interest in minority voting rights in covered jurisdictions in 11 States. We also interviewed individuals representing the following groups: U.S. Commission on Civil Rights, U.S. Federal Election Commission, Mexican American Legal Defense and Educational Fund, Chinese for Affirmative Action, Mexican American

Equal Rights Project, the Southwest Voter Registration Education Project, the Joint Center for Political Studies, and the Voter Education Project.



APPENDIX I

APPENDIX I

## NINETY-FOURTH CONGRESS

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Congress of the United States  
 Committee on the Judiciary  
 House of Representatives  
 Washington, D.C. 20515  
 Telephone: 202-225-1051

RONALD REAGAN, R.  
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 THOMAS H. BIRD

August 26, 1976

The Honorable Elmer B. Staats  
 Comptroller General of the  
 United States  
 General Accounting Office  
 441 G Street, N.W.  
 Washington, D.C. 20548

Dear Mr. Staats:

The Voting Rights Act of 1965 has been hailed by many to be the most effective civil rights legislation ever passed. In 1975, my Subcommittee on Civil and Constitutional Rights of the House Judiciary Committee was responsible for the successful legislation which extended the Act's special provisions for an additional seven years, made permanent the 1970 temporary ban on literacy tests and other devices, and expanded the coverage of the Act to new geographical areas to protect language minority citizens.

Under the provisions of the Voting Rights Act, covered states and political subdivisions are subject to a series of special statutory remedies. Included among these remedies are:

(1) Section 5 of the Act requires review of all voting changes prior to implementation by the covered jurisdictions. The review may be conducted by either the United States District Court for the District of Columbia or by the Attorney General of the United States.

The Honorable Elmer B. Staats  
August 26, 1976  
Page 2

(2) Jurisdictions covered by the statutory formula are subject to the appointment of Federal examiners (Section 6). However, the appointment of examiners is not automatic. The Attorney General must determine into which localities examiners should be sent, and Section 6(b) sets standards to guide the exercise of his discretion. Examiners prepare lists of applicants eligible to vote whom state officials are required to register.

(3) Under Section 8 of the Act, whenever Federal examiners are serving in a particular area, the Attorney General may request the Civil Service Commission to assign one or more persons to observe the conduct of an election. These Federal observers monitor the casting and counting of ballots.

My Subcommittee continues to exercise oversight jurisdiction for the enforcement of the Voting Rights Act by the Department of Justice, and plans to carefully monitor the progress of the Act in removing the barriers to full electoral participation by minority citizens. To assist in our study, we would like to request that the General Accounting Office conduct a study of the implementation of the Voting Rights Act's special provisions.

The focus of the study should analyze, evaluate and make recommendations on the major issues described in the attached outline as agreed to by representatives of my Subcommittee staff and GAO. Since many areas of concern to the Subcommittee deal with the perception of the minority communities protected by the Act, the inquiry should include contact with minority community organizations and interested parties involved in the area of voting rights.

APPENDIX I

APPENDIX I

The Honorable Elmer B. Staats  
August 26, 1976  
Page 3

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If I can be of any assistance in this project, I hope you will contact me. Thank you for your continued cooperation.

Sincerely,



Don Edwards  
Chairman  
Subcommittee on Civil  
and Constitutional Rights

DE:vs

Enclosure

APPENDIX II

APPENDIX II

DANIEL K. INOUE  
HAWAII

*United States Senate*

WASHINGTON, D.C. 20510

March 8, 1977

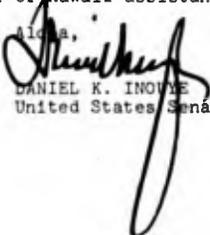
Mr. Elmer B. Staats  
Comptroller General of the United  
States  
General Accounting Office  
Washington, D. C. 20548

Dear Mr. Staats:

I am informed that the State of Hawaii and its political subdivisions expended some \$500,000 in implementing the provisions of the Voting Rights Act Amendments of 1975 in conducting the special language assistance programs in Cantonese, Ilocano and Japanese. As a result of these expenditures, some 17 foreign language ballots were utilized in the primary and some 174 in the general election in these three languages. Additionally, some 2,100 received oral assistance in these languages.

Because of the high cost and the small number of individuals utilizing the foreign language ballots, I would appreciate action by GAO to survey the affected jurisdictions to determine the cost to those jurisdictions of implementing the 1975 Amendments and the number of individuals assisted with written and oral techniques.

The summary of the State of Hawaii assistance record is attached.

  
DANIEL K. INOUE  
United States Senator

DKI:bhm  
Enclosure

APPENDIX III

APPENDIX III

WILLIAM M. KETCHUM

19th District, California

412 Cannon House Office Building  
Washington, D.C. 20515  
(202) 225-2915ADMINISTRATIVE ASSISTANT  
CHRISTOPHER C. BEESERDISTRICT REPRESENTATIVE  
WILLIAM H. DEAYER

## Congress of the United States

House of Representatives

Washington, D.C. 20515

COMMITTEE ON WAYS AND MEANS

March 8, 1977

FIRM, 50th, TOLSON AND  
LOS ANGELES OFFICESDISTRICT OFFICE:  
800 TOWER AVENUE, F 802  
SUNLAND, CALIFORNIA 92586  
(818) 353-8822827 W. LINCOLN BLDG. #1000  
LANCASTER, CALIFORNIA 93301  
(805) 948-2834100 B.E. LINE STREET  
BREA, CALIFORNIA 92614  
(714) 973-7222

Honorable Elmer B. Staats  
Comptroller General of the United States  
General Accounting Office  
441 G Street, N.W.  
Washington, D.C. 20548

Dear Mr. Staats:

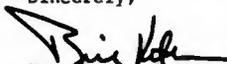
I am writing to request that the General Accounting Office undertake a study of the cost effectiveness of the bilingual provisions of the 1975 Voting Rights Act Amendments.

While I am aware that the GAO is currently looking into the Voting Rights Act as a whole at the request of Don Edwards, Chairman of the Subcommittee on Civil and Constitutional Rights, I believe that the bilingual provisions merit special attention. It has been my experience with the covered counties in California that thousands of additional tax dollars have been spent to comply with the provisions of the law while less than 1% of the voting population in a given area have made use of bilingual ballots or election material.

We must find out, as quickly as possible, if this is the trend nation-wide. Congress needs to have this information so it may properly evaluate the worthiness of the law and act to remedy any undue regulation and expense it has imposed on the American people. I ask the GAO's assistance in promptly carrying out this task.

Thank you for your attention to this matter and I look forward to hearing from you at your earliest convenience.

Sincerely,

  
WILLIAM M. KETCHUM  
Member of Congress

WMK:jm

FUNCTIONS OF FEDERAL AGENCIES  
RESPONSIBLE FOR ADMINISTERING THE  
VOTING RIGHTS ACT, AS AMENDED

Department of Justice

- Determination of covered States and jurisdictions.
- Preclearance of election law changes, including bilingual plans.
- Administration of examiner and observer program
- Litigation.
- Monitor compliance activities of jurisdictions required to provide minority language assistance.

Civil Service Commission

- Selection and provision of examiner and observers upon Department of Justice request.
- Report on examiner and observer activity to the Department of Justice.

Bureau of the Census

- Development of statistics for coverage determinations.
- Special studies upon request from Civil Rights Commission.
- Biennial surveys of registration and voting in every State or jurisdiction covered by the special provisions.

## APPENDIX V

## APPENDIX V

JURISDICTIONS COVERED UNDER THE SPECIAL AND/ORMINORITY LANGUAGE PROVISIONS

<u>State</u>	<u>Formulas 1/2 special provisions (note a)</u>	<u>Formula 3 special/ minority language provisions (note b)</u>	<u>Formula 4 minority language provisions (note c)</u>	<u>Total number covered</u>
Alabama (note d)	67	0	0	67
Alaska (note e)	0	22	0	22
Arizona (note e)	0	14	0	14
California	1 (1)	3	35	39
Colorado	0	1	33	34
Connecticut	3	0	1	4
Florida	0	5	2	7
Georgia (note d)	159	0	0	159
Hawaii	1 (1)	0	3	4
Idaho	1	0	2	3
Kansas	0	0	3	3
Louisiana (note d)	64 (1)	0	0	64
Maine	0	0	1	1
Massachusetts	9	0	0	9
Michigan	0	3	6	9
Minnesota	0	0	2	2
Mississippi (note d)	82 (1)	0	0	82
Montana	0	0	7	7
Nebraska	0	0	2	2
Nevada	0	0	4	4
New Hampshire	10	0	0	10
New Mexico	0	0	32	32
New York	1 (1)	2	0	3
North Carolina	39 (2)	1	1	41
North Dakota	0	0	5	5
Oklahoma	0	2	23	25
Oregon	0	0	2	2
South Carolina (note d)	46	0	0	46
South Dakota	0	2	6	8
Texas (note e)	0	254	0	254
Utah	0	0	4	4
Virginia (note d)	134 (1)	0	0	134
Washington	0	0	5	5
Wisconsin	0	0	4	4
Wyoming	1	0	5	6
<b>Total</b>	<b>618 (8)</b>	<b>309</b>	<b>188</b>	<b>1,115</b>

a/Parenthetical number(s) indicates jurisdictions that were later brought under formula 4--minority language provisions coverage because of the 1975 amendments.

b/Jurisdictions previously covered by formula 1 or 2 and were later covered by formula 3 are included only in this column.

c/Jurisdictions identified in note a are not included in this column. Jurisdictions are not subject to the special provisions.

d/All jurisdictions in State covered under the special provisions.

e/All jurisdictions in State covered under the special and minority language provisions.

VOTING SECTION PROFESSIONAL ANDPARAPROFESSIONAL STAFFINGAS OF JULY 1977Chief

Deputy Chief (note a)

Submission UnitLitigative Staff

1 Senior Attorney Adviser (note b)	1 Assistant for Litigation
1 Paraprofessional Director	13 Attorneys
11 Paraprofessionals	2 Paraprofessionals

a/Responsible for administration of the Voting Section and election coverage activity.

b/Also performs litigative activity.

DESCRIPTION OF THE ELECTIONLAW REVIEW PROCESSLOGGING SUBMISSIONS

Responsibility for logging in submissions received in the Voting Section is assigned to paraprofessionals on a rotating basis. The procedure involves completing a card in triplicate for use as (1) a label for the submission file to be maintained, (2) input data for computer listings, and (3) a control card for compliance followup. Each completed card provides the type of change(s) in the submission, the identification number (change number) assigned each change in the submission, the date of submission receipt in the Submission Unit, the estimated review completion date, description of submitting jurisdiction, and the name of the paraprofessional assigned the submission.

ASSIGNING CHANGE

Paraprofessional director assigns the submission to a paraprofessional giving consideration to the geographical origin and complexity of the change and to the experience of the paraprofessional.

REVIEWING SUBMISSIONS

Under the supervision of the paraprofessional director and the attorney advisor, the paraprofessional reviews the submission. He or she determines what changes affecting voting are included in the submission, whether they are reviewable under Section 5 at the time, and what information is needed for a determination under Section 5. He or she then conducts demographic research, contacts minorities in the affected area and officials of the submitting authority, and conducts other research, as needed. On the basis of this research and analysis a letter that incorporates the disposition recommended by the paraprofessional, with a supporting memorandum, is prepared. The recommendation will be that the submission cannot be reviewed under Section 5 at the time, that additional information should be requested, that no objection should be interposed, or that an objection should be interposed. The submission is then reviewed by the paraprofessional director and by the attorney advisor. The attorney advisor makes the final decision except with respect to recommended objections and other submissions presenting unresolved issues of policy or other unusual problems. In those instances the final

## APPENDIX VII

## APPENDIX VII

decision is made by the Chief of the Voting Section or the Assistant Attorney General with the advice of the Deputy Assistant Attorney General. In rare cases the Attorney General or his deputy makes the final decision.

APPENDIX VIII

APPENDIX VIII

<u>NUMBER OF SUBMISSION OBJECTIONS BY STATE</u>								
<u>FROM AUGUST 6, 1965, TO NOVEMBER 1, 1976</u>								
<u>State</u>	<u>1965-70</u>	<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>Total</u>
Alabama	11	2	6	1	2	5	9	36
Arizona (note a)	0	0	0	1	0	1	1	3
California (note a)	0	0	0	0	0	0	1	1
Georgia	4	5	11	8	9	12	6	55
Louisiana	2	19	8	6	2	3	2	42
Mississippi	4	16	4	7	2	9	4	46
New York (note a)	0	0	0	0	1	0	0	1
North Carolina (note a)	0	6	0	0	0	3	0	9
South Carolina	0	0	4	3	14	1	3	25
Texas	0	0	0	0	0	2	26	28
Virginia	<u>1</u>	<u>5</u>	<u>1</u>	<u>0</u>	<u>3</u>	<u>1</u>	<u>0</u>	<u>11</u>
Total	<u>22</u>	<u>53</u>	<u>34</u>	<u>26</u>	<u>33</u>	<u>37</u>	<u>52</u>	<u>257</u>

a/Selected county(ies) covered rather than entire State.

APPENDIX IX

APPENDIX IX

NUMBER OF CHANGES BY TYPE SUBMITTED  
AND REVIEWED BY THE DEPARTMENT OF JUSTICE  
FROM AUGUST 6, 1965, TO NOVEMBER 1, 1976

<u>Change</u>	<u>1965- 1970</u>	<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>Total</u>
Redistricting	43	201	97	47	55	53	238	734
Annexation	11	256	272	242	244	571	1,340	2,936
Polling place	45	174	127	131	154	408	1,905	2,944
Precinct	51	144	69	55	81	82	554	1,036
Reregistration	3	52	15	6	4	46	136	262
Incorporation	1	4	1	3	1	5	13	28
Election law	311	226	332	258	422	620	1,718	3,887
Miscellaneous	25	15	26	99	12	65	162	404
Erroneous submission	88	46	3	9	15	206	92	459
Bilingual ✓	-	-	-	-	-	22	721	743
Total	<u>578</u>	<u>1,118</u>	<u>942</u>	<u>850</u>	<u>988</u>	<u>2,078</u>	<u>6,879</u>	<u>13,433</u>

DESCRIPTION OF THE THREE PHASESINVOLVED IN A COMPREHENSIVE PREELECTION SURVEY

1. The attorney assigned to coordinate and execute a particular preelection survey modifies a standardized sheet of questions. These questions are reviewed by the Deputy Chief of the Voting Section and then distributed to paraprofessionals to make initial phone calls to selected jurisdictions.
2. Followup phone calls by attorneys to jurisdictions selected by the Deputy Chief of the Voting Section and attorneys generally based on information obtained in phase 1.
3. Onsite visits by attorneys to jurisdictions selected by the Deputy Chief of the Voting Section and the attorneys generally based on information obtained in phase 2. Visits are made just prior to the election to obtain information on election procedures to be followed, the location of polling places, and the assistance to be provided illiterates. The attorneys then file formal reports which include recommendations as to the need for and number of observers and their placement.

CSC ESTIMATED BUDGET OUTLAYEXAMINER/OBSERVER PROGRAMS

Fiscal year	Examiner		Observers	Total
	Listing	Complaints (note a)		
----- (000s omitted) -----				
1966(note b)	\$ 444	\$ 42	\$ 495	\$ 981
1967	204	-	505	709
1968	119	-	842	961
1969	219	48	410	677
1970	94	65	165	324
1971	110	33	229	372
1972	133	10	747	890
1973	125	71	252	448
1974	90	50	96	236
1975	134	52	139	325
1976(note c)	<u>63</u>	<u>40</u>	<u>1,093</u>	<u>1,196</u>
Total	<u>\$1,735</u>	<u>\$411</u>	<u>\$4,973</u>	<u>\$7,119</u>

a/Except for fiscal year 1966, complaints examiner costs for all regional offices by fiscal year were not available at CSC headquarters. The cost data shown from fiscal years 1967-76 reflects only complaints examiner costs incurred by CSC, Atlanta regional office, based on informal records. No other data was available for those years at other regional offices.

b/Beginning August 6, 1965.

c/Includes budget outlays for 15 months because of change in the U.S. Government's fiscal year.

NUMBER AND DETAILED LISTING  
OF VOTING SECTION LITIGATION CASES (note a)

<u>Calendar year</u>	<u>Total number of cases (note b)</u>	<u>Party status</u>		<u>Amicus Curiae (note c)</u>
		<u>Plaintiff</u>	<u>Defendent</u>	
1965-70 (note d)	70 (13)	37 (7)	21 (2)	12 (4)
1971	14 ( 7)	6 (4)	5 (1)	3 (2)
1972	13 (13)	5 (5)	4 (4)	4 (4)
1973	12 ( 7)	7 (5)	4 (2)	1
1974	12 ( 7)	8 (5)	4 (2)	0
1975	13 ( 5)	6 (3)	6 (1)	1 (1)
1976	28 (18)	10 (7)	10 (5)	8 (6)
1977 (note e)	<u>15 (12)</u>	<u>8 (7)</u>	<u>3 (2)</u>	<u>4 (3)</u>
Total (note f)	<u>177 (82)</u>	<u>87 (43)</u>	<u>57 (19)</u>	<u>33 (20)</u>

a/A voting section devoted to enforcement of civil rights voting laws was not created until 1969. At that time the Voting and Public Accommodations Section was created. In 1974 the Voting Section became a separate section in the Civil Rights Division.

b/Parentheses represent the number of preclearance cases.

c/Friend of the court, volunteers information upon some matter of law. Some of these case were handled by the Division's Appellate Section with contributions made by the Voting Section.

d/Beginning August 6, 1965.

e/Through June 8, 1977.

f/In commenting on our draft report, the Attorney General for the Civil Rights Division stated that some cases were counted twice or were part of the same case. He stated, however, that the listing gives a fair approximation of the Division's Voting-connected litigation volume and a time-consuming effort designed to produce a verifiably accurate master list would not alter the conclusions to be drawn or be productive to present enforcement efforts.

LISTING OF VOTING SECTION LITIGATION (note a)CASES WHERE DEPARTMENT OF JUSTICE  
WAS PLAINTIFF (87 cases)

<u>Case title</u>	<u>Date filed</u>	<u>Political jurisdiction</u>
U.S. v. Mississippi	8-07-65	Mississippi
U.S. v. Commonwealth of Virginia	8-10-65	Virginia
U.S. v. Alabama	8-10-65	Alabama
U.S. v. Texas	8-10-65	Texas
U.S. v. Ward (Madison Parish, Louisiana)	8- -65 (note e)	Madison Parish, Louisiana
U.S. v. Board of Elections of Monroe County, New York	10-06-65	Monroe County, New York
U.S. v. Louisiana	10-15-65	Louisiana
U.S. v. Harvey	12-17-65	Louisiana (note b)
U.S. v. Ramsey	-65 (note e)	Clark County, Mississippi
U.S. v. Lynd	-65 (note e)	Mississippi
U.S. v. Mississippi, et al.	1-10-66	Mississippi
U.S. v. Crook et al. (Bullock County) (note c)	3-22-66	Bullock County, Alabama
U.S. v. Democratic Committee, Dallas County et al.	5-05-66	Dallas County, Alabama
U.S. v. Executive Democratic Party of Marengo County	5-18-66	Marengo County, Alabama

## APPENDIX XII

## APPENDIX XII

<u>Case title</u>	<u>Date filed</u>	<u>Political jurisdiction</u>
U.S. v. Executive Committee of the Democratic Party of Green and Sumter Counties, Alabama	5-18-66	Green and Sumter Counties, Alabama
U.S. v. Executive Committee of Democratic Party of Clarendon County, et al.	6-27-66	Clarendon County, South Carolina
U.S. v. Attaway	-66 (note e)	Georgia (note b)
U.S. v. Brantly	-66 (note e)	Georgia (note b)
U.S. v. Clement	-66 (note e)	Louisiana (note b)
U.S. v. Palmer	-66 (note e)	Louisiana (note b)
U.S. v. Post (Madison Parish)	1-09-67	Madison Parish, Louisiana
U.S. v. Bowers (note c)	10- -67 (note e)	Mississippi (note b)
U.S. v. Lake County, Indiana Board of Elections	11-06-67	Lake County, Indiana
U.S. v. Executive Committee of Democratic Party of LeFlore County	12-11-67	(note d)
U.S. v. Homes County, Mississippi	-67 (note e)	Mississippi (note b)
U.S. v. Post (Madison Parish)	2-23-67	Tallulah, Madison Parish, Louisiana
U.S. v. Dfmoctratic Executive Committee of Wilcox County (note f)	5-02-68	Wilcox County, Alabama
In Re Herndon	11-19-68	Greene County, Alabama
Zeigler and U.S. v. Catahoula Parish Police Jury (note c)	12-11-68	Catahoula Parish, Louisiana

## APPENDIX XII

## APPENDIX XII

<u>Case title</u>	<u>Date filed</u>	<u>Political jurisdiction</u>
U.S. v. Shannon (Coahoma) (note c)	5-17-69	Friars Point, Coahoma, Mississippi
U.S. v. Democratic Executive Committee of Wilcox County, Alabama (note c)	6-03-70	Wilcox County, Alabama
U.S. v. Bishop, et al. (Madison Parish)	6-08-70	Madison Parish, Louisiana
U.S. v. Arizona	8-17-70	Arizona
U.S. v. Idaho	8-17-70	Idaho
U.S. v. New Hampshire	8-19-70	New Hampshire
U.S. v. North Carolina	8-19-70	North Carolina
U.S. v. Board of Election Commission of Leake County (note c)	10-28-70	Leake County, Mississippi
U.S. v. Board of Super- visors of Hinds County (note c)	9-17-71	Hinds County, Mississippi
U.S. v. Pointe Coupee Parish Police Jury (note c)	10-18-71	Pointe Coupee Parish, Louisiana
U.S. v. Board of Election Commissioners of Marshall County, Mississippi	10-19-71	Marshall County, Mississippi
U.S. v. Cohan, Municipal Superintendent of Hinesville, Georgia (note c)	10-22-71	Hinesville, Liberty County, Georgia
U.S. v. Board of Election Commissioners of Leake County, Mississippi (note c)	10-28-71	Leake County, Mississippi

## APPENDIX XII

## APPENDIX XII

<u>Case title</u>	<u>Date filed</u>	<u>Political jurisdiction</u>
U.S. v. Humphreys County Board of Election Commission	12-28-71	Humphreys County, Mississippi
U.S. v. St. James Parish Police Jury, et al., Louisiana (note c)	1-28-72	St. James Parish, Louisiana
U.S. v. State of Georgia, et al. (note c)	3-27-72	State of Georgia
Zeagler v. Catahoula Parish Police Jury (note c)	5-04-72	Catahoula Parish, Louisiana
U.S. v. St. Mary Parish School Board, et al. (note c)	8-15-72	St. Mary Parish, Louisiana
U.S. v. Garner (note c)	8-21-72	Jonesboro, Georgia
U.S. v. Twiggs County, Georgia (note c)	1-24-73	Twiggs County, Georgia
U.S. v. Marshall County, Mississippi (note c)	1-26-73	Marshall County, Mississippi
U.S. v. Callicutt	4- 6-73	Marshall County, Mississippi
U.S. v. Fort Valley, Georgia (note c)	6-29-73	Fort Valley, Georgia
U.S. v. Rapides Parish, Louisiana (note c)	7-24-73	Rapides Parish, Louisiana
Stewart v. Waller	8- 6-73	State of Mississippi
U.S. v. Warren County, Mississippi (note c)	10-31-73	Warren County, Mississippi
Perry v. City of Opelousas (note c)	1-07-74	Opelousas, Louisiana
Ferguson v. Winn Parish, Louisiana	1-14-74	Winn Parish, Louisiana

## APPENDIX XII

## APPENDIX XII

<u>Case title</u>	<u>Date filed</u>	<u>Political jurisdiction</u>
U.S. v. Apache County, Arizona	1-23-74	Apache County, Arizona
U.S. v. Meriwether County, Georgia (note c)	8-09-74	Meriwether County, Georgia
U.S. v. Lancaster County, South Carolina (note c)	10-09-74	Lancaster County, South Carolina
U.S. v. Kemper County, Mississippi (note c)	11-01-74	Kemper County, Mississippi
U.S. v. Dallas County, Alabama	11-01-74	Dallas County, Alabama
Connor v. Coleman (note c)	-74 (note e)	Mississippi
U.S. v. Grenada County, Mississippi (note c)	5-14-75	Grenada County, Mississippi
U.S. v. Bolivar County, Mississippi (note c)	6-04-75	Bolivar County, Mississippi
Connor v. Waller	6-11-75	State of Mississippi
U.S. v. City of Albany, Georgia, et al.	7-21-75	City of Albany, Georgia
U.S. v. The Board of Supervisors of Forrest County, Mississippi, et al. (note c)	7-21-75	Forrest County, Mississippi
U.S. v. The Democratic Executive Committee of Noxubee County, Mississippi, et al.	7-29-75	Noxubee County, Mississippi
U.S. v. The Board of Commissioners of Bessemer, Alabama, et al. (note c)	4-02-76	Bessemer, Alabama
U.S. v. County Commission of Hale County, Alabama, et al. (note c)	7-29-76	Hale County, Alabama

## APPENDIX XII

## APPENDIX XII

<u>Case title</u>	<u>Date filed</u>	<u>Political jurisdiction</u>
U.S. v. Board of Commissioners of Sheffield, Alabama, et al. (note c)	8-09-76	City of Sheffield, Alabama
U.S. v. East Baton Rouge Parish School Board, et al.	8-16-76	East Baton Rouge Parish, Louisiana
U.S. v. The State of Georgia (note c)	9-17-76	State of Georgia
U.S. v. St. Landry Parish School Board (note c)	10-06-76	St. Landry Parish, Louisiana
U.S. v. State of Texas, et al.	10-14-76	State of Texas
U.S. v. The New York State Board of Elections, et al. (Overseas voting rights case)	10-30-76	State of New York
Garcia & U.S. v. Uvalde County, Texas (note c)	12-09-76	Uvalde County, Texas
DeHoyos, et al v. Crockett County, Texas, et al. (note c)	12-13-76	Crockett County, Texas
U.S. v. Interim Board of Trustees of the Westheimer ISD, Texas (note c)	1-20-77	Westheimer ISD, Texas
U.S. v. Board of Trustees of Midland Independent School District, et al. (note c)	3-24-77	Midland ISD, Texas
U.S. v. Hawkins ISD, et al. (note c)	3-26-77	Hawkins ISD, Texas
U.S. v. Trinity ISD, et al. (note c)	3-28-77	Trinity ISD, Texas
U.S. v. City of Kosciusko, Mississippi (note c)	4-09-77	City of Kosciusko, Mississippi

## APPENDIX XII

## APPENDIX XII

<u>Case title</u>	<u>Date filed</u>	<u>Political jurisdiction</u>
U.S. v. Board of Trustees of the Chapel Hill ISD (note c)	5-06-77	Chapel Hill ISD, Texas
U.S. v. City Commission of Texas City, Texas	5-13-77	City of Texas City, Texas
McCray v. Hucks (Horry County, South Carolina) (note c)	7-26-77	Horry County, South Carolina

CASES WHERE DEPARTMENT OF JUSTICE WAS DEFENDANT (57 cases)

Gallinghouse v. Katzenbach	8-11-65	Louisiana (note b)
Perez v. Rhiddlehoover	8-31-65	Louisiana (note b)
South Carolina v. Katzenbach	9-29-65	South Carolina
McCann v. Paris	-65 (note e)	Virginia (note b)
Reynolds' v. Katzenbach	-65 (note e)	Alabama (note b)
State Ex Rel Gremillion v. Roosa	-65 (note e)	Louisiana (note b)
Apache, Navajo, and Coconino Counties, Arizona v. U.S.	2-04-66	Apache, Navajo, and Coconino Counties, Arizona
Elmore County, Idaho v. U.S.	2-09-66	Elmore County, Idaho
Wake County, North Carolina v. U.S.	2-09-66	Wake County, North Carolina
Alaska v. U.S.	4-28-66	Alaska
Nash County, North Carolina v. U.S.	6-27-66	Nash County, North Carolina
Gaston County, North Carolina v. U.S.	8-11-66	Gaston County, North Carolina
Morgan v. Katzenbach	-66 (note e)	(note d)

## APPENDIX XII

## APPENDIX XII

<u>Case title</u>	<u>Date filed</u>	<u>Political jurisdiction</u>
State Ex Rel Mirhell v. Moore	4-12-67	Louisiana (note b)
Christopher v. Mitchell	6-23-70	(note d)
Perkins v. Kleindienst (note c)	6-30-70	Canton, Mississippi
Puishes v. Mann	7-27-70	California
Oregon v. Mitchell	8-03-70	Oregon
Texas v. Mitchell	8-03-70	Texas
Tartesona v. Mitchell	8-17-70	(note d)
Bifallis v. Mitchell	9-29-70	Florida
Scott v. Burkes	2-19-71	Leake County, Mississippi
Jefferson v. Cook	9-16-71	Madison County, Mississippi
Alaska v. U.S.	10-26-71	Four Alaska Election Districts
Common Cause v. Mitchell (note c)	11-23-71	State of Arizona
New York v. U.S.	12-03-71	Bronx, Kings & New York Counties, New York
City of Petersburg v. U.S. (note c)	3-17-72	Petersburg, Virginia
City of Richmond v. U.S. (note c)	8-25-72	Richmond, Virginia
Vance v. U.S. (note c)	7-31-72	State of Alabama
Harper v. Levi (note c)	8-10-72	State of South Carolina
Virginia v. U.S.	6-05-73	State of Virginia
Beer v. U.S. (note c)	7-25-73	New Orleans, Louisiana

## APPENDIX XII

## APPENDIX XII

<u>Case title</u>	<u>Date filed</u>	<u>Political jurisdiction</u>
New York v. U.S. (reopened)	11-05-73	Bronx, New York
Harper v. Kleindeist (note c)	-73 (note e)	South Carolina
Robinson v. Pottinger (note c)	2-20-74	Montgomery, Alabama
Griffith v. U.S.	4-26-74	Kings & New York Counties, New York
United Jewish Organiza- tion of Williamsburg, Inv. v. Saxbe (note c)	6-11-74	Kings Co., New York
Reppa v. Bainbridge, Saxbe, et al.	12-04-74	State of Indiana
Harris, et al v. Levi, et al. (note c)	7-18-75	Meriwether County, Georgia
Dolph Briscoe, et al. v. Levi, et al.	9-08-75	State of Texas
State of Maine v. U.S.	11-25-75	Maine
Chinese for Affirmative Action, et al. v. Lawrence J. Leguennec, et al., and United States	12-23-75	San Francisco, California
Yuba County, California v. U.S.	12-30-75	Yuba County, California
Jackson v. State of New Hampshire and U.S.	12-30-75	New Hampshire
Glynn County, Georgia v. U.S. (note c)	1-12-76	Glynn County, Georgia
State of New Mexico, Curry, McKinley & Otero Counties v. U.S.	1-12-76	Curry, McKinley & Otero Counties, New Mexico

## APPENDIX XII

## APPENDIX XII

<u>Case title</u>	<u>Date filed</u>	<u>Political jurisdiction</u>
Chinese for Affirmative Action, et al. v. Patterson, et al., and Levi, et al.	5-06-76	San Francisco, California
Wilkes County School District, et al. v. U.S. (note c)	6-14-76	Wilkes County, Georgia
Helen R. Simenson; Roosevelt County, Montana v. Levi, et al.	6-22-76	Roosevelt County, Montana
Counties of Choctaw, McCurtain, State of Oklahoma v. U.S.	7-06-76	Choctaw and McCurtain Counties, Oklahoma
Charles Whitfield v. U.S. (note c)	9-01-76	Grenada County, Mississippi
Benton Frost et al. v. Ouachita Parish, Levi, et al. (note c)	11-10-76	Ouachita Parish, Louisiana School Board
Independent School District No. 1 of Tulsa County, et al. v. Levi, et al.	11-12-76	Tulsa, Oklahoma ISD No. 1
City of Rome, et al. v. Levi, et al. (note c)	11-24-76	City of Rome, Georgia
Hereford Independent School District v. Levi (note c)	1-28-77	Hereford ISD, Texas
Board of County Commissioners of El Paso County, Colorado v. U.S.	2-01-77	El Paso County, Colorado
Hale County, et al. v. U.S. (note c)	2-16-77	Hale County, Alabama
<u>CASES WHERE DEPARTMENT OF JUSTICE WAS AMICUS (33 cases)</u>		
Simms v. Amos (note c)	9-11-65	State of Alabama

## APPENDIX XII

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<u>Case title</u>	<u>Date filed</u>	<u>Political jurisdiction</u>
Harper v. Virginia Board of Elections	1-25-66	Virginia
Dent v. Duncan	3-29-66	(note d)
Miles v. Dickson	6-15-66	(note d)
Gray v. Main	7-05-66	Alabama
Avery v. Midland County	-67 (note e)	Midland, Texas
Payne v. Lee	-67 (note e)	(note d)
Allen v. State Board of Elections (note c)	10-15-68	Virginia
Fairley v. Patterson (note c)	10-15-68	Mississippi
Hadnott v. Amos (note c)	11- -68 (note e)	Greene County, Alabama
Evans v. Cornman	12- -69 (note e)	Baltimore, Maryland
Sheffield v. Robinson	11-16-70	Itawamba County, Mississippi
Cousins v. City Council of Chicago	3- -71 (note e)	Chicago, Illinois
Hall v. Issaquena County, Mississippi (note c)	6-18-71	Issaquena County, Mississippi
Howell v. Mahan (note c)	-71 (note e)	Virginia
Evers v. State Board of Election Commissioners (note c)	2- -72 (note e)	State of Mississippi
Holt v. City of Richmond (note c)	3-31-72	Richmond, Virginia
Hearn v. Vernon Parish Polity Jury (note c)	3- -72 (note e)	Vernon Parish, Louisiana
Murrel v. McKeithen (note c)	3- -72 (note e)	(note d)
White v. Register	-73 (note e)	Bexar and Dallas Counties, Texas

## APPENDIX XII

## APPENDIX XII

<u>Case title</u>	<u>Date filed</u>	<u>Political jurisdiction</u>
Kirksey v. Board of Supervisors of Hinds County, Mississippi (note c)	9-24-75	Hinds County, Mississippi
Morris, et al. v. Gressette, et al. (note c)	1-28-76	State of South Carolina
East Carroll Parish, Louisiana v. Marshall (note c)	1- -76 (note e)	East Carroll Parish, Louisiana
Graves, et al v. Barnes, et al. (note c)	2-03-76	Jefferson, Nueces, and Tarrant Counties, Texas
Town of Sorrento v. Reine (note c)	4-09-76	Sorrento, Louisiana
Broussard, et al. v. Perez et al. (note c)	4-23-76	Plaquemine Parish, Louisiana
Parnell, et al. v. Rapides Parish School Board, et al.	5-10-76	Rapides Parish, Louisiana
DeHoyos, et al. v. Crockett County, Texas, et al (note c)	10-01-76	Crockett County, Texas
Hechinger v. Martin	11-24-76	Washington, D.C.
Perkins v. Matthews	1- -71 (note e)	Canton, Mississippi
McCray v. Hucks (Horry County, South Carolina (note c)	1-20-77	Horry County, South Carolina
Arturo Gomez, et al v. John W. Galloway, et al (note d)	3-21-77	Beeville, Texas
Blacks United for Lasting Leadership v. Shreveport	6-08-77	Shreveport, Louisiana

a/According to Department officials, no complete listing of Voting Section litigation exists. The Voting Section initiated a listing of litigation in 1971. However, our efforts to compile a complete listing of Voting Section litigation from calendar years 1965-77 required we use, in addition to the Voting Section's listing, the following sources: (1) pp. 596, 613-631 of the April and May Hearings before the Senate Subcommittee on Constitutional Rights; (2) pp. 457-462 of "The Voting Rights Act: Ten Years After;" (3) pp. 73 and 74 of "Federal Review of Voting Changes;" and (4) Department of Justice's Juris System listing. Department of Justice officials agreed that this compilation represents the best available data.

b/The Department was unable to identify the specific jurisdiction involved.

c/Case involving enforcement of preclearance provisions.

d/The Department was unable to provide any information.

e/Specific date was not available from Department of Justice records.

STATUS OF COMPLIANCE PLANS FOR THEMINORITY LANGUAGE PROVISIONS

<u>State</u>	<u>Plan</u>	<u>No plan</u>	<u>Unaware of coverage</u>
Alaska	X		
Arizona		X	
California		X	
Colorado		X	
Connecticut		X	
Florida		X	
Hawaii	X		
Idaho		X	
Kansas		X	
Louisiana	X		
Maine		X	
Michigan		X	
Minnesota		X	
Mississippi			X
Montana		X	
Nebraska	X		
Nevada		X	
New Mexico	X		
New York		X	
North Carolina			X
North Dakota		X	
Oklahoma		X	
Oregon		X	
South Dakota	X		
Texas		X	
Utah		X	
Virginia			X
Washington		X	
Wisconsin		X	
Wyoming		X	
Total	<u>6</u>	<u>21</u>	<u>3</u>

## APPENDIX XIV

## APPENDIX XIV

STATES/JURISDICTIONS COVERED BY MINORITY  
LANGUAGE PROVISIONS, REPORTING COST  
STATISTICS (note a)

States	States			Jurisdictions reporting cost (note b)		
	No. of jurisdictions covered	Minority population (note c)	Costs (note d)	No. of juris- dictions	Minority population (note c)	Costs (note d)
Alaska	22	23,947	\$ 5,000	4	10,175	\$ 200
Arizona	14	189,348	(e)	1	9,088	6,000
California	39	1,360,129	159,326	34	1,323,313	2,127,290
Colorado	34	147,571	135,000	3	15,393	21,882
Connecticut	1	5,779	12,544	1	5,779	4,800
Florida	7	98,151	(e)	0	-	-
Hawaii	4	101,217	381,000	4	101,217	100,000
Idaho	2	1,454	(a)	1	590	1,095
Kansas	3	1,096	738	3	1,096	8,744
Louisiana	1	2,642	(e)	1	2,642	2,000
Maine	1	158	(a)	0	-	-
Michigan	9	5,251	6,567	6	5,037	7,948
Minnesota	2	1,989	(a)	2	1,989	300
Mississippi	1	819	(a)	1	819	100
Montana	7	7,357	(e)	1	2,103	0
Nebraska	2	2,322	1,000	1	1,354	13,000
Nevada	4	2,425	(a)	1	1,241	8,439
New Mexico	32	246,888	220,352	15	133,716	40,239
New York	3	430,267	5,000	3	430,267	30,000
North Carolina	4	16,057	(a)	1	973	500
North Dakota	5	3,838	(a)	1	246	0
Oklahoma	25	26,097	3,964	25	26,097	10,590
Oregon	2	1,494	36,025	1	884	4,867
South Dakota	8	8,062	(a)	7	7,797	3,000
Texas	254	962,024	320,577	2	8,329	3,621
Utah	4	4,386	6,700	1	2,001	292
Virginia	1	283	(a)	0	-	-
Washington	5	8,717	2,750	3	7,149	12,084
Wisconsin	4	519	(e)	0	-	-
Wyoming	5	6,762	100	1	2,647	5,729
Total	<u>505</u>	<u>3,667,049</u>	<u>\$1,296,643</u>	<u>124</u>	<u>2,101,942</u>	<u>\$2,412,720</u>

a/Statistics not verified by GAO

b/Of the 149 local jurisdictions contacted, only 124 reported any cost information (see note d).

c/Source: Population Estimates and Projections, Bureau of the Census, June 1976, Series P-23, No. 627.

d/Cost reported may be for either primary or general elections or both. Cost may also be for either oral or written assistance or both.

e/No activity or no cost information reported.

## APPENDIX XV

## APPENDIX XV

USAGE STATISTICS REPORTED BY JURISDICTIONS  
 COVERED BY MINORITY LANGUAGE PROVISIONS (note e)  
 (Statistics not verified by GAO)

State	Jurisdictions reporting oral assistance (note b)	Oral assistance requested		Unknown/not available (note c)	Jurisdictions reporting written assistance (note d)	Written material requested		Unknown/not available (note c)
		10 or less	Greater than 10			10 or less	Greater than 10	
Alaska	4	-	-	4	-	-	-	-
Arizona	3	-	1	2	3	1	-	2
California	5	1	-	4	38	-	3	35
Colorado	3	3	-	-	3	1	-	2
Connecticut	1	-	-	1	1	-	-	1
Florida	1	-	1	-	1	-	-	1
Hawaii	4	-	4	-	4	1	3	-
Idaho	1	-	-	1	1	-	1	-
Kansas	-	-	-	-	3	3	-	-
Louisiana	-	-	-	-	1	1	-	-
Maine	-	-	-	-	-	-	-	-
Michigan	8	4	1	3	8	6	2	-
Minnesota	2	-	-	2	-	-	-	-
Mississippi	1	-	-	1	-	-	-	-
Montana	1	1	-	-	-	-	-	-
Nebraska	1	1	-	-	1	1	-	1
Nevada	1	1	-	-	1	-	-	-
New Mexico	6	-	-	6	6	-	-	6
New York	3	-	-	3	3	-	-	3
North Carolina	1	-	-	1	1	-	-	1
North Dakota	1	-	-	1	-	-	-	-
Oklahoma	25	9/23	-	2	2	-	-	2
Oregon	1	1	-	-	1	-	1	-
South Dakota	7	7	-	-	-	-	-	-
Texas	7	1	2	4	7	-	-	7
Utah	1	-	-	1	-	-	-	-
Virginia	-	-	-	-	-	-	-	-
Washington	1	1	-	-	2	1	-	1
Wisconsin	-	-	-	-	-	-	-	-
Wyoming	3	1	-	2	1	-	-	1
Total	92	45	9	38	88	15	10	63

a/Usage reported was recorded either on primary election day, general day, or both.

b/Of the 149 jurisdictions contacted, 92 jurisdictions reported that oral assistance was offered, 6 jurisdictions were not complying, and 51 jurisdictions did not report whether oral assistance was offered.

c/In many cases, jurisdictions did not have usage data because oral assistance was not distinguishable in communities where conversing in minority languages was performed daily. Also bilingual single-form ballots or machines were used which made written material usage indistinguishable.

d/Of the 149 jurisdictions contacted, 88 reported written assistance was offered, 45 were not required to provide written assistance because they had Aleaskan Native or American Indian whose language is historically unwritten, 6 did not comply, and 10 did not report whether written assistance was offered.

e/Only one total was provided for aggregate of 23 counties. Average was less than 10.

SAMPLING PLAN FOR REVIEW OF CHANGES  
SUBMITTED FOR PRECLEARANCE REVIEW

As part of our review of the Voting Rights Act, we evaluated a random sample of changes submitted to the Department of Justice for preclearance review during the period from February 2, 1976, through September 30, 1976.

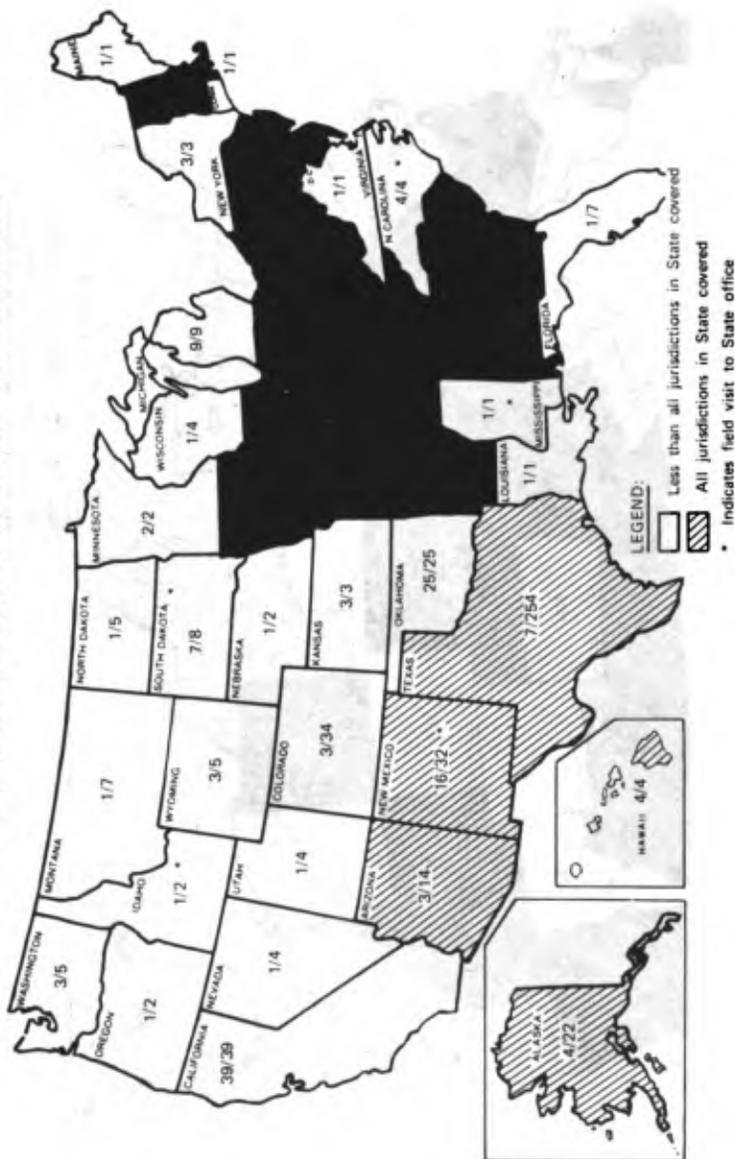
The universe from which this sample was drawn was supplied by the Department's Voting Section. According to Department officials this information was the most current and complete data available pertaining to voting change submissions.

To assure statistical reliability and obtain maximum coverage, we grouped all changes by the State from which the change was submitted and randomly selected

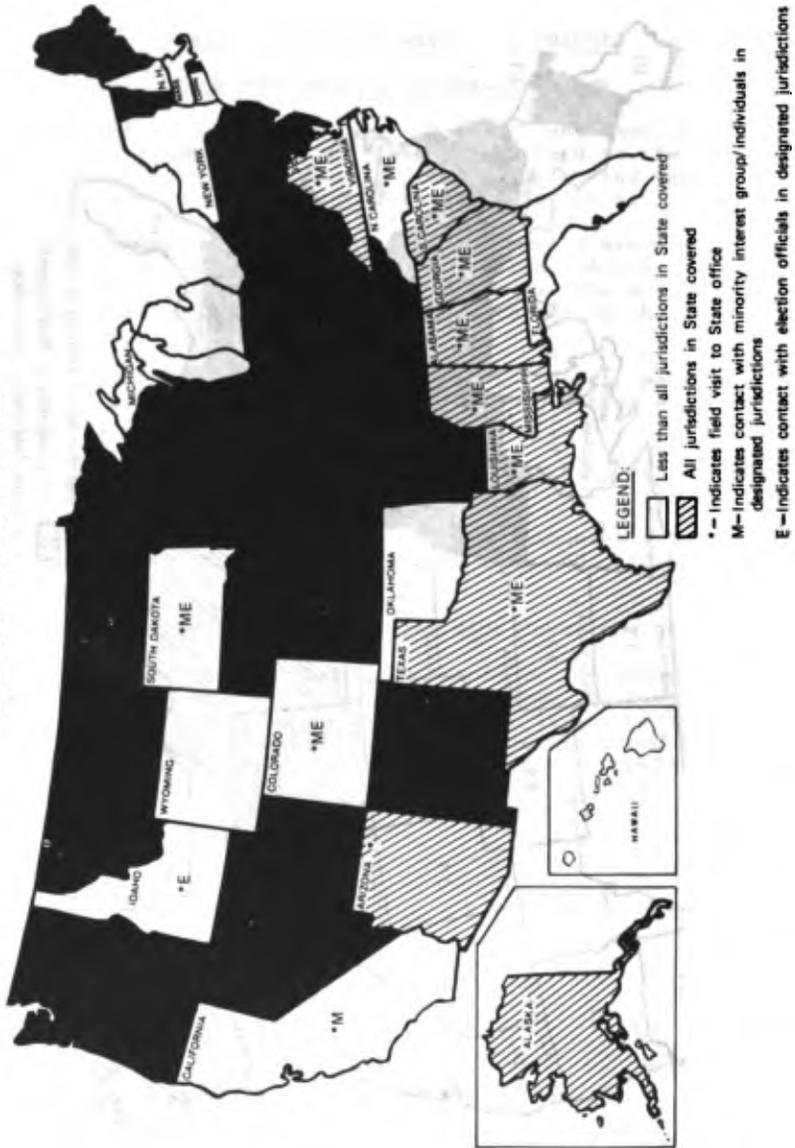
- a 5-percent sample from States submitting 200 or more changes;
- a 10-percent sample or 5 changes, whichever was greater, from States with less than 200 changes but more than 4 changes; and
- all changes from States with 4 or fewer changes.

This procedure resulted in a sample of 341 changes from the universe of about 5,300. Since the sampling plan called for a nonproportional, stratified sample, it was necessary to apply appropriate weights to the changes selected for review when analysis was focused on the entire population rather than changes from an individual State.

**JURISDICTIONS CONTACTED BY GAO IN RELATION TO TOTAL NUMBER OF JURISDICTIONS COVERED BY THE MINORITY LANGUAGE PROVISIONS**



STATES CONTACTED BY GAO IN RELATION TO ALL STATES  
AFFECTED BY THE SPECIAL PROVISIONS



APPENDIX XIX

APPENDIX XIX

PRINCIPAL OFFICIALS RESPONSIBLE FOR  
ADMINISTERING ACTIVITIES DISCUSSED

IN THIS REPORT

Tenure of office  
From To

DEPARTMENT OF JUSTICE

ATTORNEY GENERAL OF THE UNITED STATES:

Griffin Bell	Jan. 1977	Present
Edward H. Levi	Feb. 1975	Jan. 1977
William B. Saxbe	Jan. 1974	Feb. 1975
Robert H. Bork, Jr. (acting)	Oct. 1973	Jan. 1974
Elliot L. Richardson	May 1973	Oct. 1973
Richard G. Kleindienst	June 1972	May 1973
Richard G. Kleindienst (acting)	Mar. 1972	June 1972
John N. Mitchell	Jan. 1969	Mar. 1972
Ramsey Clark	Mar. 1967	Jan. 1969
Ramsey Clark (acting)	Oct. 1966	Mar. 1967
Nicholas deB. Katzenbach	Feb. 1965	Oct. 1966

ASSISTANT ATTORNEY GENERAL,  
CIVIL RIGHTS DIVISION:

Drew S. Days, III	Mar. 1977	Present
J. Stanley Pottinger	Feb. 1973	Feb. 1977
David L. Norman (note a)	1971	Jan. 1973
Jerris Leonard (note a)	1969	1971
Stephen Pollack (note a)	1968	1969
John Doar (note a)	1965	1967

CHIEF, VOTING RIGHTS  
SECTION (note b):

Gerald Jones	Oct. 1969	Present
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a/More specific dates were not available.

b/Prior to October 1969, enforcement of the Voting Rights Act was the jurisdictional responsibility of various geographical section heads.

(18152)

## APPENDIX 2

U.S. DEPARTMENT OF JUSTICE,  
Washington, D.C., June 7, 1978.

Hon. ABRAHAM RIBICOFF,  
Chairman, Committee on Governmental Affairs,  
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In compliance with Section 236 of the Legislative Reorganization Act of 1970, the following comments are provided to your Committee in response to the Comptroller General's report dated February 6, 1978, entitled "Voting Rights Act—Enforcement Needs Strengthening" (GGD-78-19).

The report is a fairly thorough critique of the Department's voting rights enforcement program and contains several appropriate recommendations to the Attorney General towards improving the effectiveness of our compliance efforts.

Due to GAO's time constraints in getting the report issued, we were not able to respond formally to the issues raised in the draft report. However, we did provide GAO with an informal response indicating erroneous or misleading factual statements and our perception as to the aims and purposes of the Voting Rights Act and the proper role of the Attorney General. Although some of the inaccuracies of the draft report were corrected in the final version, the report still contains a number of inaccurate or misleading statements. Some of the "problems" found are not in fact problems in our enforcement program. In many instances, examples are not given to illustrate the criticism being made, and it still appears that an adequate perception of the aims or purposes of the Voting Rights Act and of the proper role of the Attorney General is lacking.

As a prelude to this response, it might be appropriate that we explain, generally, how we view the role of the Civil Rights Division in enforcing the Voting Rights Act. We are an enforcement agency—that is, we are charged with the responsibility for enforcing the Voting Rights Act through preclearance procedures, litigation, and examiner-observer activities—but we do not have sole responsibility for vindicating voting rights. Under the Voting Rights Act we share that responsibility with private litigants, as well as with the very jurisdictions subject to the Act.

As the Act is structured, it relies to a considerable extent on voluntary action by the covered jurisdictions in submitting voting changes and complying with the minority language provisions. It was never contemplated that an official of the Federal government would be on hand in each jurisdiction to prevent violations of the Act. While we do play a substantial role in monitoring compliance, it is impossible for a unit which consists of 17 attorneys and 15 paralegals to be looking over the shoulder of officials in some 1,115 jurisdictions.

The same is true of our litigation activities. We cannot be expected to initiate or even participate in every lawsuit which is brought. The importance of private lawsuits to effective enforcement of the Act was recognized by Congress in the original Act, which afforded a private cause of action to enforce Section 5 preclearance requirements, and in the 1975 Amendments, which provided for the availability of attorneys' fees. While we do not monitor all private litigation, we do keep abreast of cases which reach the courts of appeals and the Supreme Court and often appear in those cases as *amicus curiae*. We have participated in every case involving interpretation and application of section 5 that has reached the Supreme Court.

To the extent the GAP report reflects the belief that we should be involved in all litigation or that we should be a constant presence in covered jurisdictions, we respectfully suggest that it would neither be the most efficient way to enforce the Act nor would it be even remotely possible with our present resources. The Civil Rights Division has been in the process of reviewing its activities and establishing priorities. Some of the GAO findings are, therefore, not surprising to us.

All of our earlier comments and suggestions to GAO with respect to Chapter 1, *Introduction*, and Chapter 2, *Progress and Impact of Voting Rights Act*, were adopted and incorporated into its final report, therefore no further comment is required on those chapters. We agree with GAO's general conclusion at the end of Chapter 2 that, notwithstanding the progress that has been made by the Department in enforcing the Voting Rights Act, the Act's objectives could be more fully realized. We believe this fact is attested to by our continuing efforts to expand and improve our enforcement activities as is discussed in detail below.

## CHAPTER 3: PROGRAM IMPROVEMENTS NEEDED TO STRENGTHEN ENFORCEMENT

This chapter of the GAO report makes many generalizations to which it is difficult to respond. However, insofar as the report concludes that improvements could be made in our efforts to assure Section 5 preclearance of voting changes and assure compliance with objections, we agree. Both of these are problems that we have recognized, discussed with GAO's auditors during their review, and are attempting to deal with on a continuing basis within the framework of the Voting Section's limited resources. However, we offer the following observations and comments with respect to GAO's report and the Department's Section 5 preclearance program.

Our Section 5 preclearance activities have the highest priority not only because they are perhaps the most vital part of the Act, but because of the unique role committed to us by statute. In recent years, our workload has increased dramatically with the increase in submissions. In 1976 alone, we received 7,470 submissions—more than all previous years combined. The 62 objections interposed in 1976 were considerably higher than the number for any previous year. The language minority provisions added 309 jurisdictions to the 618 already required to obtain preclearance of voting changes, and in 1976 there were 780 changes involving bilingual voting materials or procedures alone.<sup>1</sup>

The report notes the absence of a "formal" process for identifying unsubmitted voting changes. While it does not describe or define what is meant by a formal program, it does review the steps which the Department has taken to locate and obtain submissions of voting changes. There is no indication of the extent, if any, to which the approach taken by the Department has not been successful. Indeed the report acknowledges on pages 12-13 that "The Department of Justice has tried to identify and obtain unsubmitted changes. . . . These efforts have been productive. . . ." However, one of the valid criticisms in the report is the one dealing with our follow-up procedures with respect to objections, requests for more information, and requests for submissions. This is a problem that our Voting Section has recognized and is attempting to resolve.

The report further suggests on pages 15 and 16 that the Department's efforts to obtain the views of interested parties on voting changes are inadequate. In its discussion of this topic, however, the report confuses the process of securing input from interested parties to aid in the evaluation and analysis of voting changes with the process of obtaining feedback from the affected community as to whether objections are complied with after interposed by the Attorney General. Thus, the report discusses our weekly notice of Section 5 submissions as providing inadequate information to the recipients with respect to actions taken by the Attorney General on previous submissions—for which it was never designed—and concludes that the Department has no "formal process for . . . soliciting the views of others."

Since the Section 5 guidelines were published in September 1971, the Department has maintained a registry of interested individuals and groups who are notified regularly of the receipt and nature of changes submitted and their comments are invited. Presently, our weekly notice of submissions received go to 408 different organizations and individuals.

The Section 5 guidelines (28 CFR 51, *et seq.*), on the other hand, set forth the procedure by which interested persons may comment on voting changes (See 28 CFR 51.12), indicating that such comments may be sent at any time. The guidelines go on to specify that persons so commenting shall be sent a copy of the Attorney General's decisions as will any other person requesting a copy of the decisions (See 28 CFR 20 (c)). Such persons are routinely notified of our decisions. When, during the course of our evaluation, we contact persons for information and/or views, we do not send them a copy of the decision unless they so request.

We do not believe our procedures for monitoring future compliance with our objections require revision. We have a registry of 408 organizations and individuals who are notified of submissions. Those who comment on a submission are then notified if we interpose an objection. These groups and persons are in the best position

<sup>1</sup> These statistics differ from those used by GAO since they reported 1976 statistics only up to Nov. 1, 1976. Compilations of submissions received and objections interposed through Dec. 31, 1977 are attached as Exhibit A.

<sup>2</sup> In addition to the special projects described on page 13 of the report, our practice of specifically requesting submissions from jurisdictions, once we learn of unsubmitted changes from any source, resulted in the sending out of 75 such letters in 1977.

to become aware of implementation of such changes and bring them to our attention.

We are taking steps to improve our recordkeeping and filing procedures. The Division has recently hired an administrator experienced in the use of computerized information retrieval systems and we intent to revise and modernize our system.

The GAO report finds that Justice Department reviews of voting changes are performed without complete and pertinent data. Our experience with the evaluation and analysis of submitted voting changes, however, does not support any conclusion that the Department has made any improper decisions, as would seem to be suggested by the report, on the basis of insufficient information. Rather, our experience and research show that, when significant information is lacking, an objection to the implementation of the change is interposed, which is a procedure specifically provided for in our Section 5 guidelines (See 28 CFR 51. 19).

With respect to the report's observation on page 17 that some decisions were found to have been made "without some data required by Federal regulations," the report does not cite examples of such instances. In the next succeeding paragraph on page 17, however, the report does provide some insight into GAO's thinking by stating that "In reviewing changes involving annexation and redistricting, the Department of Justice did not consistently require jurisdictions to submit information about boundaries and racial distribution of existing and proposed voting units."

Insofar as annexations are concerned, we do not insist on the provision of racial distribution or other racially significant data in instances where the annexation consisted of concededly nonvoting related commercial, school attendance, or recreation property (and these have been many). Likewise, with respect to redistricting, we do not insist on the submission of racially oriented data where, from Census published or other reliable sources, including other Departmental files, we are able to ascertain that there could be no prohibited discriminatory purpose or effect irrespective of how the boundary lines are drawn. This condition is true in any number of jurisdictions, for example, in which the minority population is such that the impact on the minority would be *de minimus* no matter how the jurisdiction is divided. In our view, any other approach evidences a lack of perception of the aims and purposes of Section 5, and we believe that our insistence on technically required information under such circumstances would unnecessarily and unjustifiably delay the preclearance process, impose undue burdens on the Federal-state relationship, and be unwarranted under the process envisioned by Section 5.

Another subject discussed in the GAO report is timeliness. This is an area which has caused the Civil Rights Division continued concern. However, our concerns are different from those advanced by GAO. Our primary concern has been that, in some instances involving difficult decisions, the ultimate decision-maker has not been given comfortable leadtime in which to make the decision. Although it has been a concern of ours, it has not resulted in any improper decision and is a problem we are seeking to deal with internally.<sup>3</sup>

On the other hand, the GAO report makes the very general allegation that decisions are not made during the 60-day period. The report says on page 17 that the Department did not make its decision within the 60-day statutory time limit in 3 percent of the voting changes sampled.<sup>4</sup> The report further says that we later objected to some of them.

We are not aware of a single instance in recent years<sup>5</sup> where an objection was interposed after the 60-day period expired, nor are we aware of any prevalence of other late responses even remotely approaching the volume claimed by the report. Perhaps GAO's perception of what constitutes the 60-day period is different from ours because of some confusion in calculating the statutory period. This is somewhat evident from a subsequent statement on page 18 of the report concerning a finding that "in about 6.8 percent of the submissions reviewed, a Department decision was not rendered until at least 100 days from the *initial* receipt

<sup>3</sup> In our efforts to generally improve our enforcement of the preclearance provisions of the Voting Rights Act, we have undertaken a revision of our Section 5 guidelines. These revisions seek to incorporate into the guidelines the results of our practical experience since the initial guidelines were promulgated in 1971, as well as judicial developments affecting Section 5 enforcement since that time.

<sup>4</sup> On the basis of this sampling, it would mean that of the 3,115 voting changes received in 1977, for example, we would have failed to respond to 93 within the 60-day period. Our records discount this as fact.

<sup>5</sup> Such claims have been made in various litigation but successfully only in one instance, in 1971. (See *United States v. Pointe Coupee Parish Police Jury*, CA. No. 71-336 (E.D. La., Oct. 18, 1971), where Judge West ruled that our objection had not been timely.)

of the submission" (emphasis added). However, our "more information" procedure (adopted by our guidelines and approved by the Supreme Court in *Georgia v. United States*, 411 U.S. 526 (1973)), specifically allows for a tolling of the 60-day period when additional information is necessary to a proper analysis of the change.

The report also notes that in over 50 percent of the submissions reviewed by GAO "the Department did not notify jurisdictions of its decision until at least 56 days after it had complete information." In that regard, we would observe that one of our conscious considerations during the process of analyzing voting changes is to allow time for notifying interested parties and giving them a reasonable opportunity for commenting and providing information they feel we should consider in our evaluation. In fact, the notice we send on the receipt of submission allows 30 days from the date of the notice for submission of comments and information (See Exhibit B attached). Accordingly, a decision within 56 days of receipt of a submission is not only appropriate but, in many cases, necessary for a full and adequate analysis. However, our guidelines provide for expedited consideration of submissions and in 1977 we entertained 582 such requests.

Finally, GAO's comments on the matter of missing files are well taken and our Voting Section staff is seriously seeking to resolve that problem.

#### CHAPTER 4: COMPREHENSIVE EVALUATION OF THE EXAMINER AND OBSERVER PROGRAMS HAS NOT BEEN PERFORMED

We are always happy to receive the views of minority interest group representatives regarding the examiner and observer programs. Such views provide valuable information which we add to the direct information and views of our personnel and Civil Service Commission personnel in our continuing evaluation of the programs. To the extent that the GAO report conveys those concerns to us, we welcome them and will endeavor to incorporate them, as far as possible, into our enforcement program.

We believe the proper role of Federal examiners and observers to be as stated in our prior informal comments to GAO on their draft of this report:

The statements in the report indicating that examiners or observers can actively intercede in the election process to protect the rights of federally registered voters or to make sure that votes are correctly cast and counted are incorrect. Neither examiners nor observers have any authority to issue orders or instructions to local election officials. Intercession with local election officials on such matters must be based on legal judgments regarding the circumstances. For that reason, and because the most effective protection of minorities' voting rights is achieved when denials of those rights are avoided or immediately corrected, Departmental attorneys are always present with examiners and observers during an election to receive their information (and information obtained by them or by the attorneys from minorities, with whom we are in constant contact), and to contact local officials regarding this information in order to avoid or correct circumstances to which the Act applies.

In addition, these programs are under continuous review and evaluation. Each decision regarding the need for examiners and observers is based on written memoranda showing the need for such Federal action, and the specific extent to which such action should be taken.

The standards for determining the need for Federal observers were set out by then Assistant Attorney General Pottinger before the Subcommittee on Civil and Constitutional Rights on March 5, 1975, (Hearings on Extension of the Voting Rights Act, House Committee on the Judiciary, Subcommittee on Civil and Constitutional Rights, 94th Cong., 1st Sess. (1975) V. 1 at pp. 283-285), as were our views regarding the need for minorities to serve as observers and the propriety of advance publicity of observers' presence. In addition, we have continued our assessment of this issue, and on June 25, 1976, the Civil Rights Division forwarded to the Attorney General a memorandum reviewing our policy and criteria regarding Federal observer coverage. A copy of this memorandum is attached as Exhibit C. (Attachment G to the memorandum, the standard observer report form, has been omitted since it appears as Exhibit 16 to Mr. Pottinger's March 5, 1975, prepared statement, Hearings, V. 1 at pages 222-241). We particularly call attention to pages 9-10 of the memorandum regarding our action on the need for more minority observers, and the discussion on pages 14-17 showing our recent extensive review and evaluation of the observer program. We are also submitting with this response as Exhibit D a copy of a reply which we drafted to questions regarding Federal examiner listing activity since 1972 and the need for

Federal examiners posed on May 2, 1977, by the Senate Committee on Appropriations' Subcommittee on Departments of State, Justice, Commerce and the Judiciary and Related Agencies following its April 26, 1977, hearing on the Civil Rights Division's fiscal year 1978 budget.

We believe the above material constitutes a "comprehensive program evaluation," addressed to the substance and economics of the complaints examiners and observer programs. This material also addresses, directly or indirectly, the points raised on pages 23-25 of the GAO report under the subheading "Examiner and Observer Programs Need Evaluation."

As we indicated to GAO in commenting on their draft report:

Impact statistics on complaints examiners' and observers' activities do not appear to be amenable to the kind of measure contemplated by the report because the impact of such activities is most often realized in the absence of anticipated problem situations, which are not measurable (unless one assumes that every observed election during which no litigable problems arise is equal to a 100 percent effective impact). Evaluation of these programs has been and continues to be conducted and steps have been successfully taken to minimize costs without damaging the program activities.

We acknowledged to GAO that the maintenance of more detailed data would be necessary for the kind of evaluation that GAO seems to want to make. Insofar as an evaluation of minority participation as observers is concerned, we did not know whether such an evaluation had been made. Moreover, if it had not, we could not explain why efforts had not been made to perform the evaluation, because the answers to those questions are in the province of the Civil Service Commission, the agency responsible for providing personnel for this aspect of the Voting Rights Act enforcement program. Likewise, we could not explain why efforts had not been made to evaluate the observer program on the basis of impact data, since we were unable to ascertain what GAO had in mind.

Finally, with regard to Chapter 4, we are vitally interested in implementing any meritorious suggestions for improving the examiner and observer programs. Accordingly, we have read GAO's comments on the examiner and observer programs with great interest, and we will include them in our continuing evaluations of these programs.

#### CHAPTER 5: LITIGATIVE ACTIVITY IS LIMITED

We agree with the recommendations that paraprofessionals' responsibilities should be expanded and that programs should be developed to achieve a more systematic approach to voting rights litigation. In fact, these are two areas in which we are making a concentrated effort on the Division level to benefit all of the Civil Rights Division's litigating sections.

Regarding the Voting Section, the steps taken and the gains made thus far will facilitate future improvement. In 1976, a reorganization of the Voting Section was undertaken by which litigation was placed under the immediate direction of one of the Division's most experienced trial attorneys. At the same time, the decision was made to use paralegals to process Section 5 submissions, thereby freeing attorneys for more litigation. This effort already has had dramatic results—our caseload increased from 10 cases in 1973, 11 cases in 1974, and 12 cases in 1975 to 26 cases in 1976, and 19 cases in 1977. These results were achieved despite the fact that we had no increase in the number of attorneys assigned to the Voting Section.

We would emphasize that numbers of cases do not, of themselves, necessarily reflect the effectiveness of law enforcement efforts in civil rights, especially with regard to voting. Some cases are incredibly involved and take an enormous amount of time. For instance, our participation in *Connor and United States v. Finch*, the Mississippi State legislative reapportionment case which involves significant issues of dilution of black voting strength, has required approximately 1,000 workdays of attorney and paralegal time—the equivalent of 4 work years since our involvement in the case in June 1975—and the litigation is still underway. In addition, the fact that restructuring of the Voting Section has permitted the devotion of more attorney-time to litigation does not mean that attorneys in the Voting Section now can devote their energies solely to litigation pursuits. The nonlitigative voting rights enforcement programs provided for in the Voting Rights Act are important and meaningful stratagems for the accomplishment of effective minority participation in the electoral process, and the absence of a litigative setting does not mean it is unnecessary for the work to be done by lawyers. As is indicated by the earlier quoted excerpt from our comments to GAO on the draft of their report,

the task of monitoring elections is one that often requires skill and experience in making and communicating legal judgments involving the application of State, local, and Federal law to discrete and sometimes sensitive fact situations. As a matter of standard procedure, attorneys in the field during monitored elections are in regular communication with a supervisory attorney at a central location, and it is not unusual for the supervisory attorney to counsel the field attorney regarding matters of policy or law. Similar considerations apply to pre-election field survey work. Thus, while paralegals may assist in such field work, we would hesitate to have paralegals supplant field attorneys.

Moreover, it appears that some attorney activity devoted to the initial investigation and to consideration of complaints we receive is designated as "non-litigative" because, on some matters, we must ultimately conclude that the circumstances in question are not violations of statutes we enforce. On occasion we find we disagree with minority group representatives who strongly believe that a violation of Federal law exists and that we should sue those seen as offenders. But it is our policy to carefully consider all such complaints, some of which involve complicated fact situations and difficult legal questions. While we use paralegal assistance in much of our fact gathering and data analysis, in the end an attorney must devote the time and effort necessary to direct these activities and to reach our conclusions. Again, the non-litigative function is an important part of our enforcement program, and while paralegal involvement can and will be expanded, paralegals cannot supplant attorneys.

The Voting Section paralegal staff has been expanded and there are now four paraprofessionals assisting attorneys in preparing lawsuits, which is two more than were assigned when the GAO report was written. Additionally, we are developing a procedure by which paralegals assigned to Section 5 analysis may be able to carry their work one step further and prepare litigation recommendations for attorney review with regard to jurisdictions that are not in compliance with outstanding Section 5 objections.<sup>6</sup>

In considering the overall question of the proper use of paraprofessionals in the management of our voting enforcement responsibilities, it is important to remain cognizant of the fact that we are a law enforcement agency and that paralegals are not licensed to practice law. Accordingly, in attempting to achieve the most efficient and effective workload distribution between attorneys and paralegals, we must be certain that those functions that require legal judgments and conclusions be reserved to attorneys. Even the paralegal analysis of Section 5 submissions is reviewed by an attorney, and all preclearance decisions are made by an attorney.

In our voting rights litigative activity, priority has been given to litigation to enforce the special provisions of the Act, and these cases, many of which we litigate as defendant and some of which we participate in as *amicus*, form the basic framework within which we attend to other types of cases. We believe that our litigation of these cases is crucially important to the structure of the Voting Rights Act. Nearly all suits we defend are those that the Act requires be brought against the United States, i.e., suits to preclear voting changes and suits to terminate coverage. We are designated by statute to defend these suits and we have no control over the filing of such suits.

Of the 45 suits in which the Voting Section initially participated in 1976 and 1977, 20 were defendant suits. There had been more bailout suits in those 2 years than in the preceding 9 years and more declaratory judgment actions than in all previous years combined. All of the bailout and declaratory judgment cases involve coverage questions central to the statute. Moreover, they require the use of substantial resources. Just one declaratory judgment case has required the full-time work of an attorney since November 1977. Section 5 defendant suits—like *Eriscoos v. Bell*—often involve important questions of interpretation of the statute.

In litigation which we initiate, our first priority must be enforcement of the preclearance provisions if those provisions are to have real meaning. Section 5

<sup>6</sup> While we believe that the use of paralegal time can be made more effective, and we are working to that end with respect to the Section 5 analysis process, GAO's apparent assessment of the amount of time paralegals in the Section have to devote to other pursuits is unfounded. As we told GAO in our comments on their draft report:

The comparison of paraprofessional workloads between 1976 and 1977 is misleading. Our records show that during the 6-month period in 1976 cited by the report paraprofessionals had a total workload of 40 to 60 submissions but the weekly submission workload, i.e., those to which responses were due in a single week, was 6 to 12. This latter figure compares to the average of 5 to 10 submissions per paralegal for the May 1977 week used.

eases—like *United States v. Board of Commissioners of Sheffield, Alabama*, recently decided—often involve complex issues of statutory construction. There have been 38 such suits since 1965. Twenty of those were brought in the last 2 years. These three kinds of suits require devotion of a substantial part of our attorney resources which, as a result, cannot be used to develop another significant category of cases—suits to enforce the substantive provisions of the Act. It is in the latter area that we believe our efforts should be expanded and we have taken steps to do so.

Today, there are few cases involving outright denial of the right to vote. Instead, abridgment of voting rights comes about in a more subtle fashion. For example, we have challenged a discriminatory vote buying scheme and a practice of applying stricter registration standards to students at an all-black college in an otherwise black majority country than are applied to students at other colleges.

Reapportionments and annexations which dilute minority voting strength account for over two-thirds of our Section 5 objections. But Section 5 does not reach all jurisdictions or all changes and litigation is required to challenge many dilutive apportionment plans. We have been able to file four such dilution suits since 1976. However, we have some 16 more under serious investigation and several others under consideration for investigation. In addition, we have completed a study of 40 northern and western states to uncover dilution problems and, as a result, have planned active investigations in three northern cities and will undertake other investigations soon. A complete breakdown of our voting rights litigation activity by type is attached as Exhibit E.

We should note too that as a result of cooperation between the Voting Section and the Division's Office of Indian Rights we have been able to effectively use the provisions of Section 3 of the Act which provides for a court, rather than the Attorney General, to initially engage the Act's mechanisms leading to the use of Federal observers. The case allowed residents of the Stockbridge-Muncee Reservation to vote in a February 21, 1978, election in Shawano County, Wisconsin, a jurisdiction that is not covered under the Act's special provisions, and Federal observers were present during the balloting.

As case management techniques are refined we believe more lawyers will have the opportunity for court appearances. Lawyers have not appeared in court as frequently in voting cases as in cases regarding some of the Division's other subject matter areas because of our ability to submit many voting cases to courts on briefs with depositions, affidavits and stipulations as to the facts. Although "litigation" is not synonymous with "courtroom appearances," we believe courtroom experience is important to an attorney's development and we are attempting to provide our attorneys as much courtroom exposure as our cases will allow.

With regard to the biennial surveys by the Bureau of the Census required under Section 207 of the Act, we believe that the cost of these surveys is disproportionately high when compared to expenditures for enforcement of the Act's provisions. One survey will cost double the entire amount GAO reports was spent on all Voting Rights Act enforcement since 1965, and it is doubtful that the results of such surveys will so dramatically contribute to the Department's ability to effectively enforce the Act as to justify the expense as an aid to enforcement. Under these circumstances, Congress may desire to reassess its need for such surveys.

#### CHAPTER 6: MINORITY LANGUAGE PROVISIONS COULD BE MORE EFFECTIVE

The GAO report finds that the coverage formulas of the Act's language minority provisions apply the Act's requirements to areas where they may not be needed and miss areas where they may be needed. The report suggests that Congress consider establishing a coverage requirement based on need rather than percentages. However, the kinds of substantive problems that could be occasioned by any gaps in the coverage formulas do not exist in fact and, in any case, such a revision of the coverage formulas is not possible at this time.

Under the Department's implementation guidelines, covered jurisdictions need to provide minority language materials or assistance only when and to the extent that such actions will benefit a language minority group. Thus, covered jurisdictions need not take unnecessary action. This approach is directly based on the legislative history of these provisions. Unless there is a definitive judicial decision contrary to this interpretation, no further legislation would be needed to assist jurisdictions in this regard.

The converse concern is that minority language materials and assistance may be needed in jurisdictions not covered by the formulas. However, in such jurisdic-

tions, circumstances where the right to vote is denied or abridged because of a lack of language minority information are subject to litigation and correction under Section 4(f)(2) of the Act. Thus, no further legislation would be needed in this regard unless there was a showing, which has not been made to date, that this existing legislation is inadequate.

In any case, it does not appear possible at this time for Congress to enact legislation regarding coverage formulas as suggested by GAO. Simply put, the kind of information necessary so such revisions does not exist. There is a pending bill that seeks to accomplish this, the "Bellmon Amendment" to S. 926, and our views on this proposed legislation are set out in Assistant Attorney General Wald's January 9, 1978, letter to Chairman Edwards, a copy of which we are submitting with this response as Exhibit F. We believe serious problems could be created by the enactment of the Bellmon Amendment, and we urge the Subcommittee to give this proposed legislation its careful attention.

The existence of Section 4(f)(2) of the Voting Rights Act also brings into question the GAO finding that "little authority exists for enforcement of the minority language provisions in jurisdictions not subject to preclearance of minority language compliance plans." Although, by definition, such jurisdictions are not subject to the Act's preclearance requirements, there is certainly full authority for remedying language-based discrimination through court action in those jurisdictions. In fact, any compliance plan adopted by such a jurisdiction pursuant to a Federal court order would be supported by the most stringent available enforcement authority: the power of the Federal courts to assure compliance with their orders. In addition, the Act's special provisions can be applied to such a jurisdiction by a court under Section 3 of the Act.

In short, we are not aware of any facts that could constitute a record sufficient for Congress to modify either the coverage formulas or the preclearance requirements.

We are aware that questions exist in the minds of election officials about what they ought to do, when, and how, to comply with the language minority requirements, and we understand the desire of officials for step-by-step instructions as to what is needed for total compliance. The process of guaranteeing minorities' voting rights is not, however, one that is reducible to a manual or mechanical procedures, nor is compliance with the written law a matter that can be rigidly defined in all its particulars for all time and all circumstances.

The Federal Rules of Civil Procedure require courts to enter findings of fact and conclusions of law in deciding cases. Facts vary from case to case, and courts must evaluate the legal import of the facts of a particular case in the light of legal principles developed in cases with similar facts. This is a procedure which we have in common with the courts, since we must make similar judgments every time we decide whether a jurisdiction is in compliance with or in violation of the law.

In our interpretative guidelines, we have attempted to enunciate the principles that apply to this particular area of law, and to set out the kinds of facts that we consider relevant to decisions under those principles. We explained to GAO during their investigation why the guidelines are written as they are. Also, in our comments to GAO on their draft report we said:

The present guidelines set out our best judgment of the kinds of factors that should be considered by any jurisdiction in complying with the Act, and are based on expertise derived from our overall voting litigation experience and our reading of the Act's legislative history. To delineate further than is done in the guidelines what all jurisdictions must do to comply with the Act's language minority provisions is not feasible primarily because linguistic capabilities, geographical locations, and communication patterns of language minority groups differ among jurisdictions and between different groups. Practices and procedures that effectively reach minority group members in one county well may be ineffective in another county. In addition, the precise measures of what constitutes effective compliance are ultimately in the domain of the Federal courts; the judgments of this Department regarding any given set of circumstances are formed in the capacity of a potential litigant and the authority of those judgments are subject to our ability to prevail in a subsequent lawsuit. Given the presently undefined state of the law, more precise measures, even if feasible, would be inappropriate at this time. For purposes of comparison, the Section 5 guidelines, which deal primarily with internal procedures, were not adopted until 6 years after Section 5 was enacted and 2 years after the leading Supreme Court case, which addressed the application of the law, had been decided.

The GAO report recommends that we determine what clarifications are needed to the guidelines, and suggests we modify the guidelines if necessary. During the GAO study upon which their report is based, we discussed the guidelines with GAO representatives and requested that they provide to us suggestions on how to better the guidelines while avoiding the problems we foresee in making the guidelines more detailed. We received no response during or subsequent to those conversations, and the GAO report itself provides none. However, we welcome any and all constructive comments regarding the guidelines, and we will consider any suggestions we may receive in this regard.

GAO's findings regarding problems in the enforcement of Section 203 are similar to ours, but we do not necessarily endorse their recommendation. Improvement is clearly needed, but the statement of our actions which appears in the GAO report, "they are currently studying this matter," should be amplified in view of the extensive discussion by GAO about the problem. In our comments to GAO on their draft report we stated:

The Department is in the final stages of an evaluation of its program for assigning to the U.S. Attorneys the primary responsibility for the enforcement of the Act's language minority provisions in jurisdictions subject to only those portions of the Act's special coverage. On July 15, 1977, a report was made by the Voting Section to the Assistant Attorney General, Civil Rights Division, in this regard. That report and the views of the Assistant Attorney General were sent to the Deputy and Associate Attorneys General, and were circulated among the U.S. Attorneys. On November 16, 1977, a conference on this matter was attended by the affected U.S. Attorneys and the Voting Section Chief and Deputy Chief. United States Attorneys' written responses to the July report have been received in Washington. All of this information, and the recent enforcement activities of the U.S. Attorneys in this regard, will form the basis of the Department's final decision in this matter.

The GAO study reflects the reported experience of some jurisdictions where written material and oral assistance were little used, but there is no indication of the extent to which language minorities in those jurisdictions knew that these aids were available. Nor is there any indication of whether the members of the language minority groups in question were registered to vote prior to the enactment of the language minority provisions. If they were, and they registered when the English language was used exclusively, presumably they would not need the minority language aids. In fact, there appears to be little effort, if any, by GAO to determine the extent to which the use of minority languages was incorporated and publicized in voter registration procedures—the initial step at which the Act would benefit language minority persons previously frozen out of the electoral process because of language barriers.

GAO recommends that we accumulate information to evaluate the "cost effectiveness of various methods of providing language assistance" to give "proper feedback to election administrators." In our comments to GAO on their draft report we said:

With respect to the report's observations about an information system on cost, dissemination, and usage statistics, the Federal Election Commission's Clearinghouse on Election Administration is now implementing an information system on cost, dissemination, and usage statistics to evaluate the cost effectiveness in providing language assistance and to give proper feedback to election administrators. Such a program is in keeping with their statutory charge and is more appropriately the responsibility of such an administrative commission than of an agency, such as the Department of Justice, whose primary statutory responsibility is litigation and, with respect to the Act's special provisions, performing quasi-judicial functions. The information reported under this program will be useful to the Department as well as to election administrators, but the adoption of any similar program by the Department would be duplicative of the Commission's efforts.

GAO retained their recommendation in this regard and we can find no suggestion by GAO as to why they did so in view of our comment.

Finally, we believe that the task of assessing any financial "hardship" incurred in implementing the language minority provisions in order to determine whether Federal funds ought to be made available to assist jurisdictions is a function more appropriately performed by Congress with, perhaps, the assistance of GAO. We would only observe in this connection that the expense of adopting procedures designed to allow persons to register and vote without discrimination should not appear to be properly characterized as a "hardship."

We appreciate the opportunity given us to comment on the report. Should you have any further questions, please feel free to contact us.

Sincerely,

KEVIN D. ROONEY,  
*Assistant Attorney General for Administration.*

EXHIBIT A

SUBMISSION OBJECTIONS BY STATE FROM AUG. 6, 1965, TO DEC. 31, 1977

State	1965-70	1971	1972	1973	1974	1975	1976	1977	Total
Alabama.....	11	2	6	1	2	5	10	1	38
Arizona <sup>1</sup> .....	0	0	0	1	0	1	1	0	3
California <sup>1</sup> .....	0	0	0	0	0	0	1	1	2
Georgia.....	4	5	11	8	9	12	7	7	63
Louisiana.....	2	19	8	6	2	3	2	1	43
Mississippi.....	4	16	4	7	2	9	5	6	53
New York <sup>1</sup> .....	0	0	0	0	1	0	0	0	1
North Carolina <sup>1</sup> .....	0	6	0	0	0	3	0	2	11
South Carolina.....	0	0	4	3	14	1	8	5	35
Texas.....	0	0	0	0	0	2	28	12	42
Virginia.....	1	5	1	0	3	1	0	0	11
Total.....	22	53	34	26	33	37	62	35	302

<sup>1</sup> Selected county (counties) covered rather than entire State.

## CHANGES SUBMITTED UNDER SEC. 5 AND REVIEWED BY THE DEPARTMENT OF JUSTICE, BY TYPE AND YEAR, 1965 DEC. 31, 1977

Type of change	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	Total
Redistricting.....		2	4		12	25	201	97	47	55	53	335	79	908
Annexation.....		1	2		2	6	256	272	242	244	571	1,499	939	4,015
Polling place.....		2	4	4	7	20	174	127	131	154	408	1,983	844	3,869
Precinct.....		2	9	7	11	22	144	69	55	81	82	608	256	1,338
Registration.....			1			2	52	15	6	4	46	146	366	632
Incorporation.....			1				4	1	3	1	5	15	12	44
Election law <sup>1</sup> .....	1	18	24	96	67	105	226	332	258	422	620	1,831	1,094	5,096
Miscellaneous <sup>2</sup> .....				3	14	8	15	26	99	12	65	168	150	563
Not within the scope of sec. 5.....		1	7		21	59	46	3	9	15	206	105	86	558
Bilingual.....											22	780	171	972
Total.....	1	26	52	110	134	255	1,118	942	850	988	2,078	7,470	4,007	18,000

<sup>1</sup> Ordinance or other legislation affecting election laws.<sup>2</sup> Miscellaneous change not included in the above classifications.

Note: These figures are based on computer tabulations. The computer program is limited to above general classifications.

## CHANGES SUBMITTED UNDER SEC. 5 AND REVIEWED BY THE DEPARTMENT OF JUSTICE, BY STATE AND YEAR, 1965 TO DEC. 31, 1977

State	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	Total
Alabama.....	1	0	0	0	13	2	86	111	60	58	299	349	153	1,132
Alaska <sup>1</sup> .....	0	0	0	0	0	0	0	0	0	0	0	3	0	3
Arizona <sup>2</sup> .....	0	0	0	0	0	0	19	62	33	28	52	238	190	603
California <sup>3</sup> .....	0	0	0	0	0	0	0	6	1	5	0	382	99	493
Colorado <sup>3</sup> .....	0	0	0	0	0	0	0	0	0	0	0	12	4	16
Connecticut <sup>4</sup> .....	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Florida <sup>3</sup> .....	0	1	0	62	35	60	138	226	114	173	284	57	8	69
Georgia.....	0	0	0	0	0	0	0	0	0	0	0	252	242	1,587
Hawaii <sup>3</sup> .....	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Idaho <sup>3</sup> .....	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Louisiana.....	0	0	0	0	2	3	71	136	283	137	255	303	460	1,652
Maine <sup>4</sup> .....	0	0	0	0	0	0	0	0	0	0	0	3	0	3
Massachusetts <sup>4</sup> .....	0	0	0	0	0	0	0	0	0	0	0	11	0	11
Michigan <sup>4</sup> .....	0	0	0	0	4	28	221	68	66	41	107	152	114	801
Mississippi.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0
New Hampshire <sup>4</sup> .....	0	0	0	0	0	0	0	0	0	0	0	65	0	65
New Mexico <sup>3</sup> .....	0	0	0	0	0	0	0	0	0	0	0	0	0	0
New York <sup>3</sup> .....	0	0	0	0	0	0	4	0	0	0	78	106	96	368
Oklahoma <sup>3</sup> .....	0	0	0	0	0	2	75	28	35	54	293	125	183	795
North Carolina <sup>3</sup> .....	0	25	52	37	80	114	160	117	135	221	201	419	299	1,824
South Carolina.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0
South Dakota.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Texas.....	0	0	0	11	0	46	344	181	123	186	249	4,694	1,735	6,678
Virginia.....	0	0	0	0	0	0	0	0	0	0	259	301	434	1,885
Wyoming <sup>3</sup> .....	0	0	0	0	0	0	0	0	0	1	0	0	0	1
Total.....	1	26	52	110	134	255	1,118	942	850	988	2,078	7,470	4,007	18,000

<sup>1</sup> Entire State covered 1965-68; selected election districts covered 1970-72; since 1975 entire State covered.

<sup>2</sup> Selected county (counties) covered rather than entire State.

<sup>3</sup> Selected town (towns) covered rather than entire State.

<sup>4</sup> Selected county (counties) covered rather than entire State.

## [EXHIBIT B]

U.S. DEPARTMENT OF JUSTICE,  
Washington, D.C., February 14, 1978.

## NOTICE

The following submissions to the Attorney General pursuant to Section 5 of the Voting Rights Act were received through February 3, 1978. The Attorney General has 60 days from the date of receipt to respond to each submission. In order to assure that comments and information from interested parties may be considered in reaching our determination, such comments and information should be received by this Department no later than 30 days from the date of this notice.

*January 23*

Tempe (Maricopa County), Ariz.—4 annexations.  
Burluson (Johnson County), Tex.—Annexation.  
Richardson Independent School District (Dallas County), Tex.—Creation of 3 precincts; 2 polling places established.  
Sweeny Independent School District (Brazoria County), Tex.—Polling place; vote-o-matic machines; bilingual procedures.  
Angleton (Brazoria County), Tex.—Annexation.  
Laneaster (Dallas County), Tex.—Annexation.

*January 24*

Pecos Public Schools (Reeves County), Tex.—Polling place.

*January 26*

Cameron (Calhoun County), S.C.—Ordinance adopting non-partisan, plurality method of election.  
Municipal Utility District No. 33 (Harris County), Tex.—Director's election; annexation. Expedited consideration requested.  
Corsicana (Navarro County), Tex.—Annexation.

*January 27*

Sundown Independent School District (Hockley County), Tex.—Numbered posts; polling place. Expedited consideration requested.

*January 28*

Columbia (Richland County), S.C.—4 annexations.  
Texarkana (Bowie County), Tex.—Voting precincts.

*January 30*

Pima County, Ariz.—Creation of 17 voting precincts; elimination of 2 voting precincts; establishment of 31 new polling places.  
Flowing Wells Irrigation District (Pima County), Ariz.—Bond election.  
DeKalb County, Ga.—Precinct change. Expedited Consideration requested.  
N. Myrtle Beach (Horry County), S.C.—Nonpartisan, plurality elections.  
Edgewood Independent School District (Bexar County), Tex.—Trustee election; establishment of 2 precincts; terms of office for members of school board.  
Harlandale (Bexar County), Tex.—8 polling places. Expedited consideration requested.

*January 30*

Brazos County, Tex.—Voting precinct boundaries reduced & creating 5; reapportionment of county commissioner precinct lines; boundary lines for county commissioners.

Odessa (Ector County), Tex.—Precinct boundary lines; 23 polling places.  
Marlin (Falls County), Tex.—Precinct lines.  
Big Springs (Howard County), Tex.—Annexation.  
Jones County, Tex.—Creation of polling place.  
Lampasas Independent School District (Lampasas County), Tex.—Election precinct line changes.  
McLennan County Junior College, Tex.—Bilingual procedures; creation of polling places and precincts.  
Magnolia (Montgomery County), Tex.—Bond election.  
Blue Mound (Tarrant County), Tex.—Bilingual procedures.  
Blacksburg (Montgomery County), Va.—Creation of polling place.

*January 31*

Carrollton (Carroll County), Ga.—4 annexations.  
 Upson County, Ga.—Creation of new voting district.  
 Harrison County, Miss.—Division of 3 districts; creation of polling place.  
 Manhattan County, N.Y.—Polling place.

*January 31*

Manhattan County, N.Y.—2 polling places.  
 Alvin (Brazoria County), Tex.—City election; 9 annexations.  
 San Antonio Union Junior College District (Bexar County), Tex.—7 polling places; location of absentee polling place; composition of absentee ballots canvassing board; pay rates for election judges and clerks.  
 Allen (Collin County), Tex.—Referendum election regarding Home Rule adoption.  
 Mesquite Independent School District (Dallas County), Tex.—Revision of 4 precincts.  
 Copperas Cove Independent School District (Coryell County), Tex.—Bilingual procedures.  
 Harris County Water Control and Improvement District No. 110, Tex.—Bond election; polling place; absentee voting; voting machines.  
 Municipal Utility District No. 24 (Harris County), Tex.—Director's election date.  
 Lee County, Tex.—Polling place.  
 Lubbock Independent School District (Lubbock County), Tex.—Bilingual procedures; joint election; change to punch card system.  
 Newton County, Tex.—Appointment of election officials; polling place.

*January 31*

Corpus Christi Independent School District (Nueces County), Tex.—Voting precinct boundary changes; 3 polling place changes.  
 Arlington Independent School District (Tarrant County), Tex.—Polling place; creation of 11 voting precincts; bilingual procedures.  
 Tarrant County Municipal Utility District No. 1, Tex.—Director's election; bilingual procedures.  
 Chesapeake, Va.—Establishment of a central absentee voter election district. Expedited consideration requested.  
 Henry County, Va.—Additional registration hours.  
 West Point (King William County), Va.—Additional registration hours.

*February 1*

Northside Independent School District (Bandera/Bexar/Medina Counties), Tex.—Bilingual procedures; voting precinct boundaries.  
 Rice Consolidated Independent School District (Colorado County), Tex.—Polling place. Expedited consideration requested.  
 Ector County Independent School District, Tex.—Precinct boundaries; polling places; numbered post; absentee voting.  
 Calallen Independent School District (Nueces County), Tex.—Bond election; bilingual procedures.

*February 2*

Madison Parish, La.—Polling place.  
 Cumberland County, N.C.—Polling place.  
 Denton (Donton County), Tex.—Polling place. Expedited consideration requested.  
 Clear Creek Basin Authority (Harris County), Tex.—Ordinance 1-78; director's election; creation of absentee and polling place.  
 Sulphur Springs (Hopkins County), Tex.—Bond election; bilingual procedures.  
 Jefferson Independent School District (Marion County), Tex.—2 polling place changes.  
 Martinsville, Va.—Absentee ballot counting location.

*February 3*

Port Royal (Beaufort County), S.C.—Plurality vote requirement.  
 College Station (Brazos County), Tex.—Annexation.  
 White Settlement (Ft. Worth County), Tex.—Polling place.  
 Webster (Harris County), Tex.—Annexation.

San Marcos Consolidated Independent School District (Hays County), Tex.—Common ballot; central absentee polling place; combination of three precincts.

Charlottesville, Va.—Establishment of a central absentee voter election district. Expedited consideration requested.

Pittsylvania, Va.—Alteration of voting precincts.

GERALD W. JONES,  
Chief, Voting Section.

### EXHIBIT C

June 25, 1978.

From: John L. Buekley, Jr., Special Assistant to the Attorney General.

To: J. Stanley Pottinger, Assistant Attorney General, Civil Rights Division.

About: Voting rights enforcement.

This is in reply to your memorandum of June 1, 1976, requesting that a statement and materials be prepared for the Attorney General with respect to the present policy and criteria regarding requests for the Civil Service Commission to arrange for federal observer coverage in the Voting Rights Act.

**1. The statutory basis for the Attorney General's authority to request federal observer coverage**

The use of federal observers at local elections is authorized by Section 8 of the Voting Rights Act, 42 U.S.C. 1973f, which states:

"Whenever an examiner is serving under this Act in any political subdivision, the Civil Service Commission may assign, at the request of the Attorney General, one or more persons, who may be officers of the United States, (1) to enter and attend at any place for holding an election in such subdivision for the purpose of observing whether persons who are entitled to vote are being permitted to vote, and (2) to enter and attend at any place for tabulating the votes cast at any election held in such subdivision for the purpose of observing whether votes cast by persons entitled to vote are being properly tabulated. Such persons so assigned shall report to an examiner appointed for such political subdivision, to the Attorney General, and if the appointment of examiners has been authorized pursuant to section 3(a), to the court."

As set out in Section 8 of the Act, federal observer coverage is authorized only in those political subdivisions (counties)<sup>1</sup> in which a federal examiner is serving. The appointment of federal examiners is authorized by Section 6 of the Act, 42 U.S.C. 1973d which states:

"Whenever . . . the Attorney General certifies with respect to any political subdivision named in, or included within the scope of, determinations made under section 4(b) that (1) he has received complaints in writing from twenty or more residents of such political subdivision alleging that they have been denied the right to vote under color of law on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2), and that he believes such complaints to be meritorious, or (2) that in his judgment (considering, among other factors, whether the ratio of nonwhite persons to white persons registered to vote within such subdivision appears to him to be reasonably attributable to violations of the fourteenth or fifteenth amendment or whether substantial evidence exists that bona fide efforts are being made within such subdivision to comply with the fourteenth or fifteenth amendment), the appointment of examiners is otherwise necessary to enforce the guarantees of the fourteenth or fifteenth amendment, the Civil Service Commission shall appoint as many examiners for such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. . . ."

The political subdivisions named in determinations made under Section 4 (b) of the Act, 42 U.S.C. 1973b(b), are those in which the Director of the Bureau of the Census determined that less than 50 percent of the voting age population voted in the 1964 or 1968 presidential elections or that less than 50 percent of the voting age citizens voted in the 1972 presidential election, and in which the Attorney General determined that a literacy test or its equivalent was maintained on November 1 in the respective year of each of those elections.

The language of the Section 4(b) coverage formula applies to states or counties<sup>2</sup>

<sup>1</sup> The term political subdivision is defined in Section 14(c)(2) of the Act, 42 U.S.C. 19731(c)(2):

The term "political subdivision" shall mean any county or parish, except that where registration for voting is not conducted under the supervision of a county or parish, the term shall include any other subdivision of a State which conducts registration for voting.

<sup>2</sup> The provisions of subsection (a) shall apply in any State or in any political subdivision of a State . . . 42 U.S.C. 1973b(b).

Therefore, when the coverage determination is made with respect to an entire state, each county in the state is automatically covered, as is every other political unit that conducts election activities in the state and each county. At the present time coverage extends to the States of Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas and Virginia. In addition, 97 individual counties are covered in a total of 13 other states.<sup>1</sup> With respect to these covered jurisdictions, 78 counties, as listed in Attachment A, have been certified by the Attorney General for the appointment of federal examiners and, therefore, for the use of federal observers.

Finally, Section 13 of the Act, 42 U.S.C. 1973k, provides that where the Attorney General has certified a particular county for the appointment of federal examiners the service or appointment of federal examiners in that county may be terminated by the Attorney General.

*2. The legislative history of the Attorney General's authority to request federal observer coverage*

There was no provision for federal observers in the bill that the Administration drafted prior to the Congressional hearings that culminated in the Voting Rights Act of 1965. After hearings on the Administration bill the Executive Committee of the House Judiciary Committee added the provision authorizing the use of observers at the request of the Attorney General. The Senate Judiciary Committee also included an observer provision, but further allowed for courts to authorize the appointment of observers by the Civil Service Commission. In conference the Senate provision was brought in line with the House version. The House report states only that the observer provision "was deemed an appropriate means of assuring compliance with the Federal registration system envisioned by the Act." H. Rept. No. 439, 89th Cong., 1st Sess. (1965) p. 7.

In 1970, Congressional hearings were held to determine whether to extend the Act's special provisions which, in addition to Sections 6 and 8, include in Section 5 the provisions for federal preclearance of voting changes in covered jurisdictions. The Administration drafted a bill that would have substantially decreased the effectiveness of Section 5 and substantially increased the scope of Sections 6 and 8 by authorizing the Attorney General to request examiners and observers to any county in the country in which he deemed their presence necessary to guarantee equal access to the polls. Attorney General Mitchell, in his statement before the Senate Judiciary Committee, reported favorably on the observer program:

"Our use of voting observers in the South has provided information to the Department of Justice which has enabled us frequently to ward off infractions of the 15th Amendment."

Hearings on Amendments to the Voting Rights Act of 1965, Senate Committee on the Judiciary, Subcommittee on Constitutional Rights, 91st Cong., 1st and 2nd Sess. (1970) V. 6 at p. 188.

The legislation that eventually passed in 1970 with regard to the Act's special provisions did not incorporate the Administration's recommendations, but simply extended those provisions. In this regard, the House report called the observer provision "an invaluable enforcement mechanism," H. Rept. No. 91-397, 91st Cong., 2nd Sess. (1970) p. 6, and cited, as two of its functions, encouraging exercise of the franchise and overseeing enforcement of the Act.

In 1975 Congress again held hearings to determine whether to extend the Act's special provisions. In this regard, on March 5, 1975, I testified before the House Judiciary Committee's Subcommittee on Civil Rights and Constitutional Rights, and on April 29, 1975, I testified before the Senate Judiciary Committee's Subcommittee on Constitutional Rights. My statements before both of the subcommittees were nearly identical regarding the need for, and our criteria for requesting, federal observers. Before the House Subcommittee I said:

"In making the determination that Federal observers are needed, the Attorney General considers three basic areas; (1) the extent to which those who will run an election are prepared, so that there are sufficient voting hours and facilities, procedural rules for voting have been adequately publicized, and polling officials, nondiscriminatorily selected, are instructed in election procedures; (2) the confidence of the black community in the electoral process and the individuals conducting the election, including the extent to which black persons are allowed to be poll officials, and (3) the possibility of forces outside the official election machinery,

<sup>1</sup> California (4), Colorado (1), Connecticut (3), Florida (3), Hawaii (1), North Carolina (40), New Hampshire (10), New Mexico (3), Maine (18), Massachusetts (9), Oklahoma (2), South Dakota (2), Wyoming (1);

such as racial violence or a history of discrimination in other areas, such as schools and public accommodations, interfering with the election. Such factors are particularly important in an election where a black candidate or a candidate who has the support of black voters has a good chance of winning the election. Federal observers provide a calming, objective presence in an otherwise charged political atmosphere, and serve to prevent intimidation of black voters at the polls and to assure that illiterate voters are provided with noncoercive assistance in voting. For instance, when the local polling place is located in a white-owned store, the presence of Federal observers can alleviate apprehension by black voters that informal voting procedures or other improprieties will be used which will enable poll officials to know how they voted.

"Attached as exhibit 13<sup>4</sup> is a group of representative examples of specific situations in which observers were authorized in response to local conditions surrounding elections in 1974 which had a potential for discriminatory practices. These narratives indicate that the use of Federal observers is still warranted and necessary not only to assure a fair election but to lend the appearance of fairness which is essential to the maintenance of confidence in the election process."

Hearings on Extension of the Voting Rights Act, House Committee on the Judiciary, Subcommittee on Civil and Constitutional Rights, 94th Cong., 1st Sess. (1975) V. 1 at p. 283.

Using nearly identical language, the reports of the House and Senate Judiciary Committees stated:

"[t]he Subcommittee's record reveals that the need for such Federal election observers continues. Many minority voters in the covered jurisdictions have frequently found that their names have been left off precinct lists and that other problems and abuses exist with respect to aid to be provided to illiterate voters. Also, polls in these areas continue to be located in all-white clubs and lodges where minority persons are otherwise not allowed to go, with such locations representing an extremely hostile atmosphere for the nonwhite voter (TYA 97-130). Under such circumstances, the role of Federal observers can be critical in that they provide a calming and objective presence which can serve to deter any abuse which might occur. Federal observers can also still serve to prevent or diminish the intimidation frequently experienced by minority voters at the polls.

"Thus, based upon the record developed in hearings and the report of the U.S. Commission on Civil Rights, The Voting Rights Act: Ten Years After, the Committee concludes that it is essential to continue for an additional ten years all the special temporary provisions of the Act in full force and effect in order to safeguard the gains thus far achieved in minority political participation, and to prevent future infringements of voting rights."

H. Rept. No. 94-196, 94th Cong., 1st Sess. (1975) p. 12; S. Rept. No. 94-295, 94th Cong., 1st Sess. (1975) pgs. 20-21.

Further, during the 1975 hearings members of both subcommittees inquired into the complaint in the Civil Rights Commission's report that too few of the observers were minorities. To Rep. Drinan I responded:

"[w]ith regard to the need for more minority observers—I concur fully—and I do not wish to be passing the buck unfairly, but I think we all have to inquire of the Civil Service Commission as to why that is not the case."

Hearings on Extension of the Voting Rights Act, House Committee on the Judiciary, Subcommittee on Civil and Constitutional Rights, 94th Cong., 1st Sess. (1975) V. 1 at p. 284.

After the House Subcommittee hearings I sent a letter, dated March 25, 1975, to the appropriate official of the Civil Service Commission noting that the Commission may wish to consider adopting an affirmative program designed to produce a more representative number of minority and female observers (see Attachment C).

On April 29, 1975, during the Senate Subcommittee hearings, Sen. Tunney asked, "Do you have any plans to have more minority observers in the future?" I replied:

"Yes. I am aware of this complaint. We were concerned about it and have been for some time. We do not have direct control over it because it is the Civil Service Commission of the United States which employs the observers, and therefore determines who goes and who does not go.

But we have taken steps already, Senator, as a result of our examination of the question, to communicate with the Civil Service Commission our concern that we believe, and share, with the Civil Rights Commission that there need to be a

<sup>4</sup> See Attachment B.

greater number of black and other minority observers employed by the Civil Service Commission so that they can lawfully be sent as observers into the jurisdictions we designate. We do agree with that."

Hearings on Extension of the Voting Rights Act, Senate Committee on the Judiciary, Subcommittee on Constitutional Rights, 94th Cong., 1st Sess. (1975) at pgs. 558-559.

The 1975 Amendments to the Voting Rights Act made no alteration to Section 8, although Section 6 was amended to allow inclusion of Fourteenth Amendment violations and guarantees to be considered by the Attorney General, in addition to the preexisting Fifteenth Amendment factors, in certifying a county for the appointment of federal examiner.

### 3. Judicial decisions regarding the Attorney General's authority to request Federal observers

In *South Carolina v. Katzenbach*, 383 U.S. 301 (1966), the Supreme Court specifically reserved the question of the constitutionality of § 8. In *United States v. Executive Committee of Democratic Party of Greene County, Alabama*, 254 F. Supp. 543 (H.D. Ala. 1958), the court held that § 8 did not violate a state provision for secret balloting. In *United States v. State of Louisiana*, 265 F. Supp. 703 *aff'd* 566 S.S. 270 (H.D. La. 1956), a 3-judge court held that a federal judge could not enjoin federal observers from being sent into polling places because the appointment of observers under the Act is an executive function, not subject to judicial review.

In addition, federal observers have testified as witnesses in court actions, most recently in *James v. Humphreys County Board of Election Commissioners*, 384 F. Supp. II (H.D. Miss. 1974), where Federal observers' testimony was heavily relied upon by the court in finding that no violation of the Act had occurred at the polling places during a county election.

### 4. The discharge of the Attorney General's authority to request federal observer coverage

(a) *Pre-election determinations of the need for federal carryover coverage.*—The criteria we use to determine whether observer coverage will be necessary for a particular election and, if so, the polling places at which observers will be necessary and number of observers that will be necessary at each polling place, are set out in my statement to the House subcommittee, at pages 6 and 7, *supra*. Specific examples of situations in which these criteria have been met are set out in Attachment B, which was submitted as Exhibit 13 to my prepared statement before the subcommittee.

In order to determine whether these criteria are met we conduct surveys prior to scheduled elections in specially covered jurisdictions. These standard pre-election surveys consist of three steps, and are designed to occur close enough to the time of election to assure that we will be likely to be informed of problems that exist, but far enough before the election to allow the Civil Service Commission to prepare for observer coverage. In practical terms, we have found that the kinds of problems that can be effectively met by use of observers are, by their nature, likely to be manifest only in the weeks immediately before an election.

The first step in a pre-election survey occurs after candidate qualifying deadlines have passed and usually no sooner than 6 weeks before an election. We make telephone contact with the appropriate official of each of the state's counties where the 1970 Census shows there is a significant minority population (usually 25% or more of the country's population) in order to determine where and for what offices there will be minority candidates, whether polling place officials have been selected and their racial make-up, and other empirical information regarding the election, such as dates on which run-off elections would occur, the racial make-up of various local election boards and committees, and whether any candidate qualification applications or petitions have been denied. These telephone contacts are also made to counties that would not have been included for our survey based on population, but about which we have received complaints from minorities regarding the pending election.

For those counties where we find minority candidacies and about which we have received complaints we make telephone contact with two or three minority or other persons knowledgeable about minority affairs to determine whether any problems have occurred or are expected with respect to all phases of the election process. In these conversations we discuss the candidates, the conduct of campaigns, the responsiveness and attitude of election officials, the persons who have been selected as poll officials, and the plans of minority candidates for election

day with respect to poll watchers. We also attempt to determine whether any non-election connected racially based incidents, *e.g.*, Klan meetings, school demonstrations, have occurred recently, and whether any other racially involved circumstances obtain in the county. These telephone contacts usually occur during the fifth week prior to an election.

Based on the results of these conversations and our knowledge of the racial history of the county, we send our attorneys to those particular counties where the facts indicate the criteria for assignment of observers may be met. This field survey usually occurs in the third and fourth weeks prior to an election.

Our attorneys personally contact the official in charge of conducting the county's election in order to obtain lists of polling place locations and statements of specific procedures that will be followed for election day activities that our experience shows are likely areas for discriminatory treatment of voters, such as assistance to illiterate voters, voting challenged ballots and handling voters who appear at their non-assigned polling place. Other officials are also contacted as appropriate to particular circumstances about which we have knowledge, *e.g.*, political party committee members may be contacted regarding the recommendation of persons to serve as, or the appointment of, poll officials, and proper authorities may be contacted regarding their decision to disqualify minority candidates from running in the election.

In addition, our attorneys interview as many persons as may be necessary to obtain detailed factual accounts of existing or anticipated problems about which we have been informed, and to determine facts with respect to any other circumstances that may bear upon the necessity for a federal presence at the election. These persons are most often minorities. Officials are often recontacted during the course of a field survey so we may obtain a complete picture of past and planned activities in the light of information furnished by minority contacts. When necessary, county and state legal officials are freely contacted by our attorneys in the field in an attempt to resolve particular questions of state election procedure that arise.

During the field surveys our attorneys are in twice-daily contact, at a minimum, with the Deputy Chief of our Voting Section to discuss the progress of the survey and the facts obtained. A single attorney will usually cover two to three counties during a single field survey.

These pre-election procedures were communicated to the Texas Secretary of State by my letter of April 2, 1976 (see Attachment D). In addition, our reasons for requesting federal observers for a particular election are sometimes mentioned in the press release that is routinely issued prior to federal observer coverage (see Attachments E and F).

(b) *Pre-election determinations of the number of observers needed.*—Attorney pre-election field surveys are completed not later than the end of the third week prior to an election. The attorneys return to their offices with completed drafts of detailed pre-election survey reports that include the attorneys' recommendations with regard to the need for observers. The attorneys' reports specify the polling places for which observers are recommended and the reasons for each such recommendation, *i.e.*, a discussion of how the standard criteria for observer coverage is met, and the number of observers needed.

Prior to the 1976 elections, decisions regarding number of observers per polling place were based on the number of voting boxes or machines to be used within each polling place. In all covered states, except Texas, two observers were customarily assigned to each box, one to watch general activities in the polling place and to complete that portion of the observer report form that required a list of each voter's name and race be kept, and one to watch assistance rendered to voters (see Attachment G for a copy of a standard observer report form). In Texas the normal observer complement is four per box, two of whom function as just described, and two of whom watch the vote tally which by state law is continuous throughout election day (one observer watches the ballot being read and the other keeps an independent vote tally and watches the official tally).

In early 1976 we reviewed the necessity for completing the voter name/race listing portion of the observer report forms as part of an overall study to determine whether we could reduce the number of observers we request by reorganizing or eliminating portions of the observer tasks required by the observer report forms. As a result, we determined that a listing of voters' names is not necessary under all circumstances, and we have accordingly modified our criteria for determining the number of observers requested. In general, for states other than Texas these criteria are:

i. One observer is requested in order to list voters' names where it is necessary to determine from observer reports whether voters who erroneously appeared at one polling place and were directed to their proper polling place, later voted at their correct polling place. This information is beneficial where there pre-election allegations of discriminatory treatment of voters who made such a mistake, e.g., blacks are sent to the registrar to determine their correct polling place while whites are told to which correct polling place they should go, or allegations of voter confusion regarding correct polling places in minority areas due to inadequate publicity of polling place (or precinct or district line) changes. Recording voters' names is also appropriate where it is alleged or feared that nonresident voters will be improperly allowed to cast ballots on election day. While names of voters generally need not be recorded, it is helpful to know the total number of voters by race in later analyzing election day procedures. Since such totals are desired for general comparative and analytical purposes, it is not harmful if observers are unable to keep a complete tally or if they make occasional errors in the tally. Therefore, it is unnecessary to assign an observer solely to record voters' race.

ii. Only one observer per box is necessary where the alleged irregularity pertains to a procedure at a single site within a polling place. Thus, a single observer will be assigned to a box where the alleged irregularity involves assistance to illiterates, or where assistance to illiterates is not a particular problem and it is alleged that election officials discriminatorily direct voters to other polling places or discriminatorily apply challenged ballot procedures (spot checking of voter assistance is used to generally monitor assistance procedures).

When the supervisory lawyers of our Voting Section determine that they will recommend that federal observers be requested for particular counties, the Voting Section Chief or Deputy Chief telephones Mr. Dullea to alert him to the probable number and location of observers that will be requested for the election. This telephone call usually occurs about two weeks before an election, after our attorneys have completed their field surveys, Commission's Office of Hearing Examiners, who is the Commission official in Washington, D.C., responsible for the observer and examiner program coordination between the Department and the Commission's regional offices, which actually assign and are responsible for the activities of observers and examiners.

During the two-month period before a given state's elections our telephone conversations with Mr. Dullea become frequent. During our pre-election surveys we discuss with him any general observations we can make regarding the possibility that observers may be used, and information or inquiries he receives from the Commission's regional offices regarding observer assignment procedures.<sup>5</sup>

iii. Normal two-person observer teams generally are used where our presence is predicated on alleged irregularities regarding procedures that may occur at more than one site within a polling place, or during vote tally procedures, or in remote polling place sites where there is some reason to anticipate hostility toward the observers or between election officials or between officials and voters.

iv. When only one observer is assigned to a box in a polling place it is unnecessary to assign an additional observer to the polling place solely for the purpose of spelling the single observer. Single observers can be relieved, when necessary, by reserve observers assigned to the county. Numbers of such reserves are affected by factors such as the number of multi-box and single-box polling places in a county, distances between polling places, and the projected need for reserves to be available for assignment to observe problems that may arise at noncovered polling places on election day.

Since we have only monitored the use of observers in one election (May 1, 1976), in the State of Texas, and then only in four counties, we are not yet familiar enough with election day practices in the state to conclude that a similarly flexible standard will succeed as the basis for determining the number of observers to be requested for each Texas polling place. We may be able to reach a conclusion in this regard after the November 1976 elections, when we can again examine polling place activities as described in observer reports.

<sup>5</sup> For example, prior to the May 1976 Texas and Alabama primaries we responded affirmatively to a suggestion that, as far as possible, federal observer personnel be persons who live in close proximity to jurisdictions where observer coverage is requested. Prior practice was to avoid using local personnel as observers in order to avoid the possibility of local retaliation against, and bias on the part of, federal observers. We agreed to try the change in procedure since we believed that the reasons for the former policy were probably no longer valid. The Commission was interested in making the change in order to reduce overall expenses incurred in the observer program by reducing travel, lodging and per diem expenses. The new procedure worked very well during the 1976 Texas and Alabama primaries.

(c) *Procedures for notifying the Civil Service Commission of the number of observers named.*—The Chief and Deputy Chief of our Voting Section are in contact regarding various matters throughout the year with Charles Dullea, the Director of the Civil Service but before the attorneys' analytical memoranda and recommendations have been finally prepared and reviewed. The information we give to the Commission at that time is our estimate based on the attorneys' oral recommendations. The purpose of this alerting call is to allow the Commission to begin its observer staffing preparations for the election.

The Voting Section attorneys' pre-election survey memoranda are reviewed within the Voting Section, then by my deputy and me, and a final decision is made as to the number and location of the observers we will request. This information is communicated by telephone to Mr. Dullea. The number of observers we request includes an observer captain and one or two co-captains for each covered county.<sup>6</sup> Mr. Dullea then relays the information to the appropriate regional office.

Included with this memorandum as Attachment II is a record of the number of observers that have been assigned pursuant to our requests since 1966.

#### ATTACHMENT A

##### COUNTIES DESIGNATED AS EXAMINER COUNTIES (78)

Alabama: Autauga, Choctaw, Elmore, Greene, Dallas, Hale, Jefferson, Lowndes, Marengo, Montgomery, Perry, Sumter, Talladega, Wilcox.

Georgia: Baker, Hancock, Lee, Peach, Screven, Taliaferro, Terrell, Twiggs.

Louisiana: Bossier, Caddo, De Sota East Carroll, East Feliciana, Madison, Ouachita, Plaquemines, Sabine, St. Helena, West Feliciana.

Mississippi: Amite, Benton, Bolivar, Carroll, Claiborne, Clay, Coahoma, De sota, Forrest, Franklin, Grenada, Hinds, Holmes, Humphreys, Issaquena, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Leflore, Madison, Marshall, Neshoba, Newton, Noxubee, Oktibbeha, Pearl River, Rankin, Sharkey, Simpson, Sunflower, Tallahatchie, Tunica, Walthall, Warren, Wilkinson, Winston, Yazoo.

South Carolina: Clarendon, Dorchester.

Texas: Fort Bend, Medina, Wilson, Uvalde.

#### ATTACHMENT B

##### EXAMPLES OF SITUATIONS IN WHICH OBSERVERS WERE AUTHORIZED

###### I. TALLULAH, LOUISIANA, MARCH 23, 1974, ELECTION

In this city primary elections are being held to fill the offices of mayor, three aldermen, the chief of police and the three positions on the Democratic Executive Committee. There are black and white candidates for each office. According to 1970 Census figures, the city's population was 9,643 with blacks representing 66.5% of that total. Voter registration figures by race fairly accurately reflect the raw population percentage.

The city has a history of racially inspired election difficulties and, through this year's campaign has been "quiet" thus far, it has simultaneously been characterized as intense.

Contacts in both the black and white communities have acknowledged that given the campaign's intensity and the prevalent racial atmosphere in the city, allegations of misconduct will be made by leaders of the losing "side". Federal observers would provide both a calmative and objective presence in such a charged political atmosphere.

###### II. LAKE PROVIDENCE, LOUISIANA, MARCH 23, 1974, ELECTION

In this city primary elections are being held to elect a mayor, chief of police, five aldermen and three members of the city's Democratic Executive Committee. There are black and white candidates for each of these offices.

According to the 1970 Census the city had a population of 6,183, with blacks representing 67.3% of that total. Voter registration statistics as current as Febru-

<sup>6</sup> These persons are directly responsible for the Commission's county observer activities, and work in tandem with our attorneys in the field with respect to coverage activities. We always assign at least one Departmental lawyer to be present in each county while observers are present.

ary 20, 1974 indicate a total registration of 3,555 with 2,101 or 59.09% of that figure representing black registrants.

The city has a long history of discriminatory treatment of blacks. There prevails an atmosphere of distrust with the intimation of dishonesty and intimidation on the part of some individuals currently scheduled to serve as election commissioners at some election precincts.

### III. GREENE COUNTY, ALABAMA, NOVEMBER 5, 1974, ELECTION

This county contains 10,650 people of which 8,027 are black; voter registration is comparable. Races in which black candidates (NDPA) are opposed by white candidates (Dem) are district attorney, State Senate, and House of Representatives. In addition, NDPA candidates, black, are opposed by black independent candidates in races for sheriff and board of education. In the primary, only election officials provided assistance, but in the general election, friends may assist. All the officials contacted (black and white) expect persons providing assistance, including black high school students, to thrust themselves on illiterate voters when the illiterate voters go in the booth. The officials in the county recognize that this pressure by persons supporting candidates exists and the probate judge, sheriff, and city attorney all requested observers. The atmosphere has been tense since the primary election in May and includes disruption of the NDPA convention by high school students. Observers should exert a calming influence.

### IV. LOWNDES COUNTY, ALABAMA, NOVEMBER 5, 1974, ELECTION

This county has a population of 12,897 of which 9,930 (77%) is black. Blacks comprise 55.5% of registered voters. There are five black candidates (sheriff, coroner, and three for board of education) who won in the primary and who are being opposed by the whites they defeated and who are running as Conservative Party candidates. In spite of the strong showing that blacks made in the primary and in spite of their majority in voters and population, very few were initially appointed to be polling officials for the November election. It was only after intervention by State Democratic Committee that a few more blacks were appointed to be poll officials and the probate judge expects this to be challenged in court. The probate judge, who is white, has requested federal observers because he believes that the white slate will do anything to win and he credits the smooth elections in the past to federal presence.

### V. WILCOX COUNTY, ALABAMA, NOVEMBER 5, 1974, ELECTION

This county has a total population of 16,303, of which 68.5% are black; blacks have run for several offices for several years and with the exception of winning races for constable and Democratic Executive Committee, they have not been successful. None of the black candidates for county office in the primary won; blacks are running on the NDPA ticket in November. In addition, the NDPA slate contains two white candidates. Because of a variety of difficulties in previous elections, we have usually had some of the polling places covered. Local officials have in past elections devised a variety of techniques to frustrate blacks' attempts to elect candidates for each election. In the past, there has been a paucity of black election officials, restrictions on black poll watchers, voting in white stores without secret ballots (ballots must be left out of the box and pens could not be used to mark the ballot), and some officials not allowing illiterate blacks to bring in friends to assist. In addition, during the recent primary, several polling officials in rural boxes intimidated blacks in the voting area by their talking with candidates, conferring when blacks come in, and by general confusion.

### VI. KEMPER COUNTY, MISSISSIPPI, NOVEMBER 5, 1974, ELECTION

In this county there are two blacks running for school board offices, the first black candidates since Reconstruction. Both are opposed by whites. The county contains 10,223 people, including 5,612 blacks. Blacks comprise 48.7% of the voting age population.

There is reluctance on the part of registration officials to advise the black community of the opportunity to register and full compliance with the 1965 Act was not accomplished for several months after its enactment. Our recent survey indicates that this county is operated, vis a vis blacks, the way the typical Mississippi County was operated in the early 1960's.

The need for federal observers is demonstrated by the manner in which the election is to be conducted. Until this election, the officials appointed 10-15 blacks to work at the polls; now only 2 out of 90 were appointed, both of whom had not worked previously, until the black community protested and an additional 20 were appointed. However, there was no reduction in the number of white poll workers and the exact authority or function of the additional 20 is unknown. This is significant because black poll workers at previous elections indicate that white poll workers would insist on aiding black illiterates and would mark the ballots incorrectly. While the county clerk said that illiterates could have a friend assist, the practice in recent elections has been for poll officials to assist and there is no indication that the Clerk will require local poll officials to allow friends to assist. The other aspect of the election which deserves attention is the fact that 17 of the 29 polling places are in stores owned by white persons and in 11 of the 17, the store owner or his wife are polling officials. In 7 of 11 the, two or three of the poll managers are related to the owner of the store. In addition to the failure of election officials to vote correctly for illiterates, this election should have a record high number of illiterates voting. The black voters are apprehensive about voting in the white owned stores because of fear of not being able to vote the way they want and because the poll workers will find out how they voted due to the informal voting.

## ATTACHMENT C

MARCH 25, 1975.

Mr. CHARLES J. DULLEA,  
*Director, Office of Hearing Examiners, Civil Service Commission, Washington, D.C.*

DEAR MR. DULLEA: This is in reference to our dual responsibilities pursuant to 42 U.S.C. 1973f of the Voting Rights Act of 1965, the observation of elections by federal officials who are assigned by the Civil Service Commission at the request of the Attorney General.

As you know, Congress is presently conducting hearings with respect to the extension of certain parts of the Voting Rights Act of 1965 as amended in 1970, specifically 42 U.S.C. 1973 (b) and (c). On February 26, 1975, Dr. Arthur S. Flemming, Chairman of the United States Commission on Civil Rights, testified before the Subcommittee on Civil Rights and Constitutional Rights of the Committee on the Judiciary of the House of Representatives. During his testimony, Dr. Arthur S. Flemming introduced into the Congressional Record the January, 1975, Report of the Commission on Civil Rights, *The Voting Rights Act: Ten Years After*. The Commission's report discusses, *inter alia* the use of federal observers in conjunction with the advantages and some specific problems in the utilization of federal observers, pages 31-38, and thereafter makes recommendations with respect to its findings, pages 348-349.

One of the problems cited which has caused some concern amongst the Congressional Committee is the Commission's finding that "black residents of observer jurisdictions . . . expressed some dissatisfaction with the [observer] program. They complain that most observers are white southerners from nearby states and often indistinguishable from the local election officials." The Commission on Civil Rights has "recommended" [I]ncreasing the proportion of minority observers." A copy of the report is enclosed for your ready reference.

The Voting Rights Act has been one of the most successful of all of the federal civil rights laws and a substantial contributing factor has been the dedication and professionalism of those selected to serve in the federal observer program. Moreover, we want to acknowledge that recently the Civil Service Commission made affirmative efforts to assign more minority representatives and a significant number of women to the federal observer program. However, in light of the above cited concerns, you may wish to consider adoption of a specific recruitment and selection program designed to produce a more representative number of minority and female observers.

Of course, assistance from the Civil Rights Division which would facilitate the implementation of such a plan can and should be discussed. I would appreciate your advising us of your views and any way in which we can contribute to your deliberations.

Sincerely,

J. STANLEY POTTINGER,  
*Assistant Attorney General, Civil Rights Division.*

## ATTACHMENT D

Attention: Lee Couch.

APRIL 2, 1976.

HON. MARK WHITE,  
*Secretary of State of Texas,*  
*Capitol Station,*  
*Austin, Tex.*

DEAR MR. SECRETARY: This is in reference to your telephone conversation of February 26, 1976, with Barry Weinberg, Deputy Chief of our Voting Section in which you requested empirical data that the Department of Justice has compiled from information we received from Texas County Democratic Executive Committee Chairmen during our survey prior to the first elections scheduled this year in Texas.

As Mr. Weinberg explained to you, it is our standard practice to conduct a pre-election survey in areas covered by Section 4 of the Voting Rights Act. This survey is normally done in three steps, and is designed to enable us to discharge our responsibilities under the Act by obtaining information upon which we may determine the need for Departmental attorneys, federal observers, 42 U.S.C. 1973f, and federal examiners, 42 U.S.C. 1973j(e), at local elections (where appropriate, Departmental attorneys may be present on election day in local jurisdictions where federal observers have not been assigned, but in jurisdictions where federal observers are assigned it is our practice to always have a Departmental attorney present).

Our standard pre-election survey consists of three basic steps. First, for counties with a significant minority population, election officials are contacted by telephone so we may determine the offices for which there will be minority candidates, if any, the minority candidates' opposition, and information regarding the appointment of minority poll officials and other matters bearing upon preparations for the election. On the basis of this information we then make telephone contact with minorities and other knowledgeable persons in selected counties to obtain information regarding past and present participation of minorities in the local electoral processes. Based on information thus gathered we then select counties to which Departmental attorneys are sent to obtain further information regarding preparations for elections and the participation of minorities in the electoral process.

Following the field survey and on the basis of all information we receive a final decision is made, under the standards set out in the Act, 42 U.S.C. 1973d, as to the designation of particular counties for the appointment of federal examiners, and as to where and to what extent federal observers and examiners will be assigned for local elections. The designation of a county for the appointment of federal examiners is not necessary for the assignment of Departmental attorneys to a county on election day, since the attorneys do not perform the unique statutory functions allowed to federal observers and examiners. Decisions regarding the election day presence of federal observers result from a continuing fact gathering process and often cannot be made until shortly before the election in question.

I should emphasize that areas contacted under the described pre-election survey procedure are in addition to areas which we contact based on communications we routinely receive from local officials and minority representatives requesting a federal presence in a particular jurisdiction, or reflecting a situation for which our presence may be appropriate.

I have explained these matters at length because this is our first opportunity to write to your office regarding our pre-election survey procedures, and because I believe you should view the information we are sending to you in a full contextual setting.

Enclosed is a chart setting out the counties we contacted in the first phase of our pre-election survey in Texas. The chart indicates empirical information we obtained with respect to the existence of minority candidacies. The information reflected on the chart is simply a compilation of information volunteered to us by local election officials and should not be taken to reflect any conclusions or prejudgments of this Department.

Sincerely,

J. STANLEY POTTINGER,  
*Assistant Attorney General, Civil Rights Division.*

Minority candidates				
County	Name	Unopposed	Opposed by minority	Opposed by whita/anglo
Aransas				Spanish.
Anderson				Black.
Atascosa		Spanish		
Bailey	X			
Bastrop	X			
Bee			Spanish	Spanish.
Bexar				Spanish.
Brewster				Spanish.
Brooks			Spanish	Spanish.
Burleson		Black		
Caldwall		Black		Spanish.
Calhoun		Black, Spanish		Spanish.
Cameron		Spanish	Spanish	
Camp		Black		
Cass				
Castro	X			
Cochran	X			
Comal	X			Spanish.
Crockett				Spanish.
Crosby				Spanish.
Culberson				Spanish.
Dawson	X			
Daaf Smith	X			
Dimmit		Spanish		Spanish.
Duval			Spanish	
Edwards	X			
El Paso		Spanish	Spanish	
Falls	X			
Fort Bend		Spanish		Spanish.
Freestona	X			
Frio			Spanish	Spanish.
Gaines	X			
Goliad		Spanish		Spanish.
Gonzales	X			
Grimas	X			
Guadalupe	X			
Harris		Black, Spanish	Black, Spanish	Black, Spanish.
Harrison	X			
Hays		Spanish		Spanish.
Hidalgo		Spanish	Spanish	
Houston				Black.
Hudspeth				Spanish.
Irion	X			
Jeff Davis		Spanish		
Jefferson		Black		
Jim Hogg		Spanish	Spanish	
Jim Wells			Spanish	
Karnes		Black		Spanish.
Kaufman	X			
Kanedy		Spanish		
Kinney				Spanish.
Klberg			Spanish	Spanish.
Lamb	X			
LaSalla				Spanish.
Leon	X			
Live Oak		Spanish		
Loving	X			
Lubbock				Black.
Lynn	X			
Madison	X			
Marion				Black.
Martin	X			
Maverick			Spanish	Spanish.
McMullan	X			
Madina				Spanish.
Manard	X			
Morris	X			
Newton	X			
Nuecas				Spanish.
Panola	X			
Pacos		Spanish		Spanish.
Polk	X			
Prasidio		Spanish		Spanish.
Reevas		Spanish		Spanish.
Rafugio				Spanish.
Robertson	X			
Rusk				Black.
Sarr Augustina	X			
San Jacinto				Black.
San Patricio			Spanish	Spanish.
Schlaicher				Spanish.
Starr		Spanish	Spanish	

County	Minority candidates			
	Name	Unopposed	Opposed by minority	Opposed by white/anglo
Sutton	X			
Terrell	X			
Tom Green	X			
Travis		Black, Spanish	Black, Spanish	Black, Spanish.
Trinity	X			
Uvalde				Spanish.
Val Verde			Spanish	Spanish.
Victoria				Spanish.
Walker		Black		Black.
Waller				Black.
Ward	X			
Washington	X			
Webb		Spanish	Spanish	
Willacy				Spanish.
Wilson		Spanish		
Zapata		Spanish	Spanish	Spanish.
Zapala		Spanish	Spanish	

## ATTACHMENT E

DEPARTMENT OF JUSTICE,  
July 25, 1969.

The Attorney General has requested the Civil Service Commission to assign federal observers to the special election scheduled for Greene County, Alabama on July 29, 1969.

The special election was ordered by the federal district court in Montgomery, Alabama to implement the mandate of the United States Supreme Court in the case of *Hadnott v. Amos* decided on March 25, 1969. This case involved the question of whether candidates of the National Democratic Party of Alabama were entitled to a place on the ballot in the November 1968 general election.

The Supreme Court held that provisions of the Alabama law under which local officials denied six Negro candidates a place on the ballot in Greene County were subject to the provisions of the Voting Rights Act of 1965 and therefore, could not be enforced without prior approval either by the Attorney General or the federal district court for the District of Columbia.

The special election July 29 will involve four places on the county commission and two places on the school board. The six Negro candidates of the National Democratic Party of Alabama will be opposed by six white candidates of the regular Democratic Party.

According to the 1960 Census, the voting age white population in Greene County is 1,649 and the voting age Negro population is 5,000. There are about 2,000 more Negroes than white registered to vote in the county.

## ATTACHMENT F

DEPARTMENT OF JUSTICE,  
April 30, 1976.

Attorney General Edward H. Levi announced today that 112 federal observers and four federal examiners will be stationed in four counties in Texas tomorrow for the primary election.

The counties are Fort Bend, Medina, Uvalde, and Wilson.

Observers will be stationed in designated polling places to observe election procedures and tabulation of the votes.

One examiner will be assigned to each county to receive complaints on election day and for 48 hours after polls close. They will be stationed at Agricultural Stabilization and Conservation Service offices.

Both observers and examiners are Civil Service Commission personnel assigned at the request of the Attorney General.

Acting under the provisions of the Voting Rights Act of 1965 as amended, Mr. Levi certified the counties for appointment of examiners to enforce the guarantees of the Fourteenth and Fifteenth Amendments that all citizens have an equal opportunity to vote.

The certification was published today in the Federal Register.

Mr. Levi also requested the assignment of observers to the same counties.

Assistant Attorney General J. Stanley Pottinger, head of the Civil Rights

Division, said the assignment of observers and examiners was based on the results of the Department's customary pre-election survey of areas covered by the Voting Rights Act.

He said the four counties were selected because they have substantial Mexican-American populations and Mexican-American candidates on the ballots, and because of significant allegations of potential problems on election day.

In addition, he said eight Civil Rights Division attorneys will be on duty in the four counties and in LaSalle and Marion Counties.

"Our presence will help protect all persons—Mexican-Americans and non-Mexican-Americans—by serving to insure confidence in the fairness and integrity of the elections, regardless of the outcome," Mr. Pottinger said.

He noted that the primary is the first Texas election of state and federal officials for which bilingual ballots are required under the 1975 Amendments to the Voting Rights Act.

## OBSERVER COVERAGE

[1966-June 1, 1976]

Year	Alabama	Georgia	Louisiana	Mississippi	South Carolina	Texas	Total
1966	823	22	397	480	158		1,880
1967			251	1,114			1,365
1968	252	138	125	575	152		1,242
1969	44		20	267			331
1970	403	6	16	124	19		568
1971			54	960			1,014
1972	140	44	60	146	105		495
1973							
1974	244	64	56	100			464
1975		11	112	1,293			1,416
1976 to June 1, 1976	120					117	237
Total	2,026	285	1,091	5,059	434	117	9,012

## [EXHIBIT D]

Based upon information obtained from the Civil Service Commission, which administers the federal examiner program, since 1972 federal examiner listing (registration) activity has been as follows:

Year and dates	County	State	Number persons listed
1972: September 20-23	Madison	Mississippi	273
1973: None			
1974: June 8, 10-15	Pear River	Mississippi	181
1975:			
May 2, 3, 9, 10, 16, 17, 23, 24, 30, 31; June 7	Madison	Mississippi	404
September 5, 6, 11-13, 18-20	Humphreys	Mississippi	261
1976: None			
1977 (to April 29): None			

The Department of Justice requests the appointment of federal examiners for listing purposes whenever we believe a need for federal listing activity exists. No such need has been found since September 1975. However, the resources of the Civil Rights Division's Voting Section have been severely impacted by the need to monitor elections, preclear voting changes and conduct litigation relating to jurisdictions newly covered by the Voting Rights Act's special provisions by the operation of the 1975 Amendments to the Act. Accordingly, field survey investigations which could, among other things, uncover situations where listing activity would be needed, have not been conducted.

Federal examiners are crucial, however, in the Division's highly important program of monitoring elections where the use of federal observers is found necessary under the Voting Rights Act, a program to which resources have continued to be dedicated for vigorous administration since 1972. First, the Act allows the use of federal observers only in jurisdictions for which the Attorney General has certified the need for federal examiners. The following chart indicates the extent of our federal observer activity:

Fiscal year and State	Number observers	Number elections
<b>1973:</b>		
Alabama.....	120	2
Georgia.....	44	3
Louisiana.....	60	3
Mississippi.....	146	3
South Carolina.....	105	1
<b>Total.....</b>	<b>475</b>	<b>12</b>
<b>1974:</b>		
Alabama.....	134	2
Louisiana.....	44	2
Mississippi.....	28	2
<b>Total.....</b>	<b>206</b>	<b>6</b>
<b>1975:</b>		
Alabama.....	110	1
Georgia.....	64	2
Louisiana.....	12	1
Mississippi.....	72	2
<b>Total.....</b>	<b>258</b>	<b>6</b>
<b>1976:</b>		
Alabama.....	120	2
Georgia.....	11	1
Louisiana.....	112	2
Mississippi.....	1,293	3
Texas.....	117	1
<b>Total.....</b>	<b>1,653</b>	<b>9</b>

The Voting Rights Act also allows persons to communicate election-connected complaints to federal examiners within 48 hours after the closing of the polls in counties that the Attorney General has certified for the use of federal examiners. Prior to January 1, 1976, federal examiners were stationed in every certified county for each election. For each election since January 1, 1976, federal examiners have been stationed in each certified county when federal observers have also been present, and a centralized toll-free telephone number for contacting federal examiners was announced for use by persons in counties in which no federal observers were stationed.

The following table shows the number of counties certified for federal examiners by 1972, and the certification since 1972:

	Alabama	Georgia	Louisiana	Mississippi	South Carolina	Texas
<b>Fiscal year:</b>						
1973.....	13 of 67.....	6 of 159.....	10 of 64.....	36 of 82.....	2 of 46.....	
1974.....	13 of 67.....	7 of 159.....	10 of 64.....	37 of 82.....	2 of 46.....	
1975.....	14 of 67.....	7 of 159.....	11 of 64.....	38 of 82.....	2 of 46.....	
1976.....	14 of 67.....	10 of 159.....	11 of 64.....	39 of 82.....	2 of 46.....	4 of 254.
Post-fiscal year 1976.....	14 of 67.....	10 of 159.....	11 of 64.....	39 of 82.....	2 of 46.....	7 of 254.

In addition to allowing receipt of information regarding election-connected irregularities, the presence of federal examiners during elections when federal observer activity is conducted provides a much needed centralized official federal communication link in each observer country. The examiner, stationed in a single office in each observer county, serves as an information collection center for the use of federal observers at disparate polling place locations, Division attorneys (who are present at each election in each county where federal observers are stationed), local officials, local citizens, and the Division supervisory attorney monitoring federal election day activities in several counties in several states. Without the activities of the federal examiners Division attorneys and federal observer captains (who are responsible for the actions of observers) stationed in each observer county could not adequately learn of or respond to election day activities and, therefore, could not responsibly perform the statutory monitoring activities.

## EXHIBIT E

## DEPARTMENT OF JUSTICE—VOTING RIGHTS LITIGATION 1965-77

Bailout suits (Section 4).  
 Bailout suits (Section 203).  
 Section 5 declaratory judgment actions.  
 Defendant lawsuits involving Section 5 enforcement.  
 Other defendant lawsuits.  
 Suits brought to enforce Section 5.  
 Other suits brought by the Department.  
 Amicus cases involving Section 5 enforcement.  
 Amicus cases involving dilution of minority voting strength.  
 Miscellaneous Amicus cases.

## BAILOUT SUITS—SEC. 4 VRA

Case title	Date filed	Political jurisdiction
Apeche, Nevejo, end Coconino Counties, Arizona v. U.S.	Feb. 4, 1966	Apeche, Nevejo, end Coconino Counties, Ariz.
Elmore County, Idaho v. U.S.	Feb. 9, 1966	Elmore County, Idaho.
Wake County, North Caroline v. U.S.	do.	Wake County, N.C.
Alaske v. U.S.	Apr. 28, 1966	Alaske.
Nash County, North Caroline v. U.S.	June 27, 1966	Nash County, N.C.
Geston County, North Carolina v. U.S.	Aug. 11, 1966	Geston County, N.C.
Alaske v. U.S.	Oct. 26, 1971	Four Alaska election districts.
New York v. U.S.	Dec. 3, 1971	Bronx, Kings end New York Counties, N.Y.
Virginia v. U.S.	June 5, 1973	State of Virginia.
New York v. U.S. (reopened)	Nov. 5, 1973	Bronx, N.Y.
State of Maine v. U.S.	Nov. 25, 1975	Maine.
State of New Mexico, Curry, McKinley and Otero Counties v. U.S.	Jan. 12, 1976	Curry, McKinley end Otero Counties, N. Mex.
*Wilkes County School District, et al. v. U.S. <sup>1</sup>	June 14, 1976	Wilkes County, Ga.
*Wilkes County, Georgia v. U.S. <sup>1</sup>	do.	Wilkes County, Ge.
Counties of Choctaw, McCurtain, State of Dklehoma v. U.S.	July 6, 1976	Choctaw and McCurtain Counties, Dkhe.
Board of County Commissioners of El Paso County, Colorado v. U.S.	Feb. 1, 1977	El Paso County, Colo.
City of Rome, et al. v. Levi, et al. <sup>1</sup>	Nov. 24, 1976	City of Rome, Ge.
Hefen R. Simenson; Roosevelt County Montana v. Levi, et al	June 22, 1976	Roosevelt County, Mont.
Doi v. Bell	July 14, 1977	Hawaii.

Bailout claim included in a basic sec. 5 declaratory judgment action.

## SEC. 5 DECLARATORY JUDGMENT ACTIONS (DISTRICT COURT FOR DISTRICT OF COLUMBIA)

Case title	Date filed	Political jurisdiction
City of Petersburg, v. U.S.	Mer. 17, 1972	Petersburg, Va.
City of Richmond v. U.S.	Aug. 25, 1972	Richmond, Va.
Vence v. U.S.	July 31, 1972	State of Alabama.
Bear v. U.S.	July 25, 1973	New Orleans, La.
Griffith v. U.S.	Apr. 26, 1974	Kings end New York Counties, N.Y.
Yuba County, California v. U.S.	Dec. 30, 1975	Yuba County, Calif.
Glynn County, Georgia v. U.S.	Jan. 12, 1976	Glynn County, Ga.
Wilkes County School District, et al. v. U.S.	June 14, 1976	Wilkes County, Ga.
Wilkes County, Georgia v. U.S.	do.	Do.
Charles Whitfield v. U.S.	Sept. 1, 1976	Grenada County, Miss.
City of Rome, et al. v. Levi, et al.	Nov. 24, 1976	City of Rome, Ge.
Hele County, et al. v. U.S.	Feb. 16, 1977	Hele County, Ale.
Horry County, South Carolina v. U.S.	Sept. 27, 1977	Horry County, S.C.
Apeche County H.S.D. v. U.S.	Oct. 20, 1977	Apeche County, Ariz.

## DEFENDANT LAWSUITS INVOLVING ENFORCEMENT OF SEC. 5

Case title	Date filed	Political jurisdiction
South Caroline v. Ketzenbeck	Sept. 29, 1965	South Carolina.
Perkins v. Kleindienst	June 30, 1970	Centon, Miss.
Scott v. Burkes	Feb. 19, 1971	Leeke County, Miss.
Common Cause v. Mitchell	Nov. 23, 1971	State of Arizona.
Herper v. Levi (Kleindienst)	Aug. 10, 1972	State of South Carolina.
Robinson v. Pottinger	Feb. 20, 1974	Montgomery, Ale.
United Jewish Organization of Williamsburg, Inc. v. Saxbe	June 11, 1974	Kings County, N.Y.
Harris, et al. v. Levi, et al.	July 18, 1975	Meriwether County, Ga.
Benton Frost, et al. v. Duechite Parish, Levi, et al.	Nov. 10, 1976	Duechita Parish, Louisiana School Board.
Hereford Independent School District v. Levi	Jan. 28, 1977	Hereford ISD, Tex.
Rosso v. Henigen, et al.	Oct. 11, 1977	Yolo County, Calif.

## OTHER DEFENDANT LAWSUITS

Case title	Date filed	Political jurisdiction
Gallinghouse v. Katzenbach	Aug. 11, 1965	Louisiana.
Perez v. Rhiddlehoover	Aug. 31, 1965	Do.
McCann v. Paris	1965	Virginia.
Raynolds v. Katzenbach	1965	Alabama.
Stata Ex Rel Gremillion v. Roose	1965	Louisiana.
Morgan v. Katzenbach	1966	
Stata Ex Rel Mirhall v. Moora	April 12, 1967	Louisiana.
Christopher v. Mitchell	June 23, 1970	
Puishes v. Mann	July 27, 1970	California.
Oregon v. Mitchell	Aug. 3, 1970	Oregon.
Texas v. Mitchell	do	Texas.
Tartesona v. Mitchell	Aug. 17, 1970	
Bifallis v. Mitchell	Sept. 29, 1970	Florida.
Jefferson v. Cook	Sept. 16, 1971	Madison County, Miss.
Reppa v. Beinbridge, Saxbe, et al.	Dec. 4, 1974	Stata of Indiana.
Dolph Briscoe, et al. v. Lavi, et al.	Sept. 8, 1975	State of Texas.
Chinese for Affirmative Action, et al. v. Lawrence J. Leguennec, et al., and United States.	Dec. 23, 1975	San Francisco, Calif.
Jackson v. Stata of New Hempshira and U.S.	Dec. 30, 1975	New Hampshire.
Chinese for Affirmative Action, et al. v. Patterson, et al., and Levi, et al.	May 6, 1976	San Francisco, Calif.
Independent School District No. 1 of Tulsa County, et al. v. Levi, et al.	Nov. 12, 1976	Tulsa, Oklahoma ISD No. 1.

## SUITS INITIATED TO ENFORCE SEC. 5

Case title	Data filed	Political jurisdiction
U.S. v. Ward (Medison Parish, Louisiana)	Aug. — 1965	Medison Parish, La.
U.S. v. Bowers	Oct. — 1967	Mississippi.
U.S. v. Shannon (Coahoma)	May 17, 1969	Friers Point, Coahoma, Miss.
U.S. v. Democratic Executive Committee of Wilcox County, Alabama	June 3, 1970	Wilcox County, Ala.
U.S. v. Board of Election Commission of Laaka County	Oct. 28, 1970	Leake County, Miss.
U.S. v. Board of Supervisors of Hinds County	Sept. 17, 1971	Hinds County, Miss.
U.S. v. Pointa Coupae Parish Polica Jury	Oct. 18, 1971	Pointe Couepae Parish, La.
U.S. v. Cohan, Municipal Superintendent of Hinasvilla, Georgie	Oct. 22, 1971	Hinesville, Liberty County, Ga.
U.S. v. St. James Parish Police Jury, et al., Louisiana	Jan. 28, 1972	St. James, Parish, La.
U.S. v. Stete of Georgia, et al.	Mar. 27, 1972	State of Georgie.
Zaagler and U.S. v. Catahoula Parish Police Jury	May 4, 1972	Cetehoula Parish, La.
U.S. v. St. Mary Parish School Board, et al.	Aug. 15, 1972	St. Mary Parish, La.
U.S. v. Garner	Aug. 21, 1972	Jonesboro, Ga.
U.S. v. Twiggs County, Georgia	Jan. 24, 1973	Twiggs County, Ge.
U.S. v. Marshall County, Mississippi	Jan. 26, 1973	Marshall County, Miss.
U.S. v. Rapides Parish, Louisiana	July 24, 1973	Rapides Parish, La.
U.S. v. Warran County, Mississippi	Oct. 31, 1973	Warran County, Miss.
Parry v. City of Opelousas	Jan. 7, 1974	Opelousas, La.
U.S. v. Meriwether County, Georgia	Aug. 9, 1974	Meriwether County, Ga.
U.S. v. Lancaster County, South Carolina	Oct. 9, 1974	Lancaster County, S. C.
U.S. v. Kempar County, Mississippi	Nov. 1, 1974	Kemper County, Miss.
Connor v. Coleman	1974	Mississippi.
U.S. v. Granada County, Mississippi	May 14, 1975	Granada County Miss.
U.S. v. Bollivar County, Mississippi	June 4, 1975	Bolliver County, Miss.
U.S. v. The Board of Supervisors of Forrest County, Mississippi, et al.	July 21, 1975	Forrast County, Miss.
U.S. v. The Board of Commissioners of Bessemar, Alabama, et al.	Apr. 2, 1976	Bassemer, Ala.
U.S. v. County Commission of Hala County, Alabama, et al.	July 29, 1976	Hala County, Ala.
U.S. v. Board of Commissioners of Shaffield, Alabama, et al.	Aug. 9, 1976	City of Shaffield, Ala.
U.S. v. the Stata of Georgia	Sept. 17, 1976	State of Georgia.
U.S. v. St. Landry Parish School Board	Oct. 6, 1976	St. Landry Parish, La.
Garcia & U.S. v. Uvalde County, Texas	Dec. 9, 1976	Uvalde County, Tex.
DeHoyos, et al. v. Crockett County, Texas, et al.	Dec. 13, 1976	Crockett County, Tex.
U.S. v. Interim Board of Trustees of the Westheimer ISD, Texas	Jan. 20, 1977	Westheimer ISD, Tex.
U.S. v. Boerd of Trustees of Midlend Indapandant School District, et al.	Mar. 24, 1977	Midland ISD, Tex.
U.S. v. Hawkins ISD, et al.	Mar. 26, 1977	Hawkins ISD, Tex.
U.S. v. Trlnity ISD, et al.	Mar. 28, 1977	Trinity ISD, Tex.
U.S. v. City of Kosciusko, Mississippi	Apr. 9, 1977	City of Kosciusko, Miss.
U.S. v. Board of Trustees of the Chapel Hill ISD	May 6, 1977	Chapal Hill ISD, Tex.

## OTHER SUITS INITIATED BY THE DEPARTMENT

Case title	Date filed	Political Jurisdiction
U.S. v. Mississippi	Aug. 7, 1965	Mississippi.
U.S. v. Commonwealth of Virginia	Aug. 10, 1965	Virginia.
U.S. v. Alabama	do	Alabama.
U.S. v. Texas	do	Texas.
U.S. v. Board of Elections of Monroe County, New York	Oct. 6, 1965	Monroe County, N.Y.
U.S. v. Louisiana	Oct. 15, 1965	Louisiana.
U.S. v. Harvey	Dec. 17, 1965	Do.
U.S. v. Ramsay	1965	Clarka County, Miss.
U.S. v. Lynd	1965	Mississippi.
U.S. v. Mississippi, et al.	Jan. 10, 1966	Do.
U.S. v. Crook, et al. (Bullock County)	Mar. 22, 1966	Bullock County, Ala.
U.S. v. Democratic Committee, Dallas County, et al.	May 5, 1966	Dalla County, Ala.
U.S. v. Executiva Democratic Party of Marengo County	May 18, 1966	Marengo County, Ala.
U.S. v. Executive Committee of the Democratic Party of Graene and Sumter Counties, Alabama.	May 18, 1966	Green and Sumter Counties, Ala.
U.S. v. Executiva Committee of Oamocratic Party of Clarendon County, at al.	June 27, 1966	Clarendon County. S.C.
U.S. v. Attaway	1966	Georgia.
U.S. v. Brantly	1966	Do.
U.S. v. Clemant	1966	Louisiana.
U.S. v. Palmer	1966	Do.
U.S. v. Post (Madison Parish)	Jan. 9, 1967	Madison Parish, La.
U.S. v. Lake County, Indiana Board of El7ctions	Nov. 6, 1967	Lake County, Ind.
U.S. v. Executive Committee of Democratic Party of LeFlora County.	Dec. 11, 1967	Mississippi.
U.S. v. Holmes County, Mississippi	1967	Mississippi.
U.S. v. Post (Madison Parish)	Feb. 23, 1967	Tallulah, Madison Parish, La.
U.S. v. Democratic Executive Committee of Wilcox County	May 2, 1968	Wilcox County, Ala.
In Ra Herndon	Nov. 19, 1968	Graen County, Ala.
U.S. v. Bishop, at al. (Madison Parish)	Juna 8, 1970	Madison Parish, La.
U.S. v. Arizona	Aug. 17, 1970	Arizona.
U.S. v. Idaho	Aug. 17, 1970	Idaho.
U.S. v. New Hampshire	Aug. 19, 1970	New Hampshire.
U.S. v. North Carolina	do	North Carolina.
U.S. v. Board of Election Commissioners of Marshall County, Mississippi.	Oct. 19, 1971	Marshall County, Miss.
U.S. v. Humphreys County Board of Election Commission	Dec. 28, 1971	Humphreys County, Miss.
U.S. v. Cellicut	Apr. 6, 1973	Marshall County, Miss.
U.S. v. Anthonc, et al.	Juna 29, 1973	Fort Valley, Ga.
Ferguson v. Winn Parish, Louisiana	Jan. 14, 1974	Winn Parish, La.
U.S. v. Apache County, Arizona	Jan. 23, 1974	Apache County, Ariz.
U.S. v. Oallas County, Alabama	Nov. 1, 1974	Dallas County, Ala.
Connor v. Waller	Juna 11, 1975	States of Miss.
U.S. v. City of Albany, Georgia, at al.	July 21, 1975	City of Albany, Ga.
U.S. v. The Democratic Executive Committee of Noxubee County, Mississippi, at al.	July 29, 1975	Noxubee County, Miss.
U.S. v. East Baton Rouge Parish School Board, et al.	Aug. 16, 1976	East Baton Rouge Parish, La.
U.S. v. Stata of Texas, at al.	Oct. 14, 1976	Stata of Texas.
U.S. v. The New York Stata Board of Elections, et al. (Dverseas voting rights casa).	Oct. 30, 1976	Stata of New York.
U.S. v. City Commission of Texas City, Texas	May 13, 1977	City of Texas City, Tex.
U.S. v. Uvalda Consolidated I.S.D.	Sept. 19, 1977	Uvalde County, Tex.

## AMICUS PARTICIPATION INVOLVING SECTION 5 ENFORCEMENT

Case title	Date filed	Political Jurisdiction
Allen v. State Board of Elections	Oct. 15, 1968	Virginia.
Feirley v. Patterson	do	Mississippi.
Hadnott v. Amos	Nov. —, 1968	Greens County, Ale.
Sheffield v. Robinson	Nov. 16, 1970	Itawamba County, Miss.
Perkins v. Matthews	Jan. —, 1971	Canton, Miss.
Hall v. Issaquena County, Mississippi	Juna 18, 1971	Issaquena County, Miss.
Howell v. Mahan	May 21, 1971	Virginia.
Evers v. State Board of Election Commissioners	Feb. —, 1972	Stata of Mississippi.
Holt v. City of Richmond	Mar. 31, 1972	Richmond, Va.
Haarn v. Vernon Parish Police Jury	Mar. —, 1972	Varnon Parish, La.
Murrel v. McKeithan	do	do.
Morris, et al. v. Gressette, et al.	Jan. 28, 1976	Stata of South Carolina.
East Carroll Parish, Louisiana v. Marshall	Jan. —, 1976	East Carroll Parish, La.
Gravas, at al. v. Barnas, et al.	Fab. 3, 1976	Jafferson, Nuoces, and Tarrant Counties, Tex.
Town of Sorrento v. Reina	Apr. 9, 1976	Sorrento, La.
Broussard, at al. v. Paraz	Apr. 23, 1976	Plaquemine Parish, La.
DeHoyos, et al. v. Crockett County, Texas, at al.	Oct. 1, 1976	Crockett County, Tex.
McCray v. Hucks, Horry County, S.C.	Jan. 20, 1977	Horry County, S.C.
Arturo Gomez, at al. v. John W. Galloway, et al.	Mar. 21, 1977	Beeville, Tex.

## AMICUS PARTICIPATION INVOLVING DILUTION OF MINORITY VOTING STRENGTH

Case title	Date filed	Political jurisdiction
Simms v. Amos.....	Sept. 11, 1965	State of Alabama.
Cousins v. City Council of Chicago.....	Mar. 1, 1971	Chicago, Ill.
White v. Register.....	1973	Bexar and Delles Counties, Tex.
Kirksey v. Board of Supervisors of Hinds County, Miss.....	Sept. 24, 1975	Hinds County, Miss.
Parnell, et al. v. Rapides Parish School Board, et al.....	May 10, 1976	Repides Parish, La.
Blacks United for Lasting Leadership v. Shreveport.....	June 8, 1977	Shreveport, La.
Bolden, et al. v. City of Mobile, Ala.....	do.	Mobile, Ala.

## MISCELLANEOUS AMICUS PARTICIPATION

Case title	Date filed	Political jurisdiction
Harper v. Virginia Board of Elections.....	Jan. 25, 1966	Virgine.
Dent v. Duncan.....	Mer. 29, 1966	
Miles v. Dickson.....	June 13, 1966	
Gray v. Mein.....	July 5, 1966	Alabama.
Avery v. Midland County.....	1967	Midland, Tex.
Payne v. Lee.....	1967	
Evans v. Cornman.....	Dec. 1969	Baltimore, Md.
Hechinger v. Martin.....	Nov. 24, 1976	Washington, D.C.

## [EXHIBIT F]

DEPARTMENT OF JUSTICE,  
Washington, D.C., January 9, 1978.

Hon. DON EDWARDS,  
*Chairman, Subcommittee on Civil and Constitutional Rights,  
House Committee on the Judiciary, Rayburn House Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: The Attorney General has asked me to respond to your letter of October 12, 1977 requesting our views on the "Bellmon Amendment" to S. 926, now under consideration by the House Administration Committee.

Enclosed is a letter I sent to the House Administration Committee expressing the opposition of the Department of Justice to the Bellmon Amendment. Briefly, the amendment would change the definition of "language minorities" in sections 14(c)(3) and 203(e) of the Voting Rights Act to read: ". . . persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage, and whose dominant language is other than English."

As we have indicated to the Administration Committee, this amendment, if adopted, would make implementation of the language minorities provision of the Voting Rights Amendments of 1975 virtually impossible until some time after 1980.

Coverage under sections 4 and 203 is determined, at present, by threshold census determinations that over 5 percent of the citizens of voting age in a jurisdiction belong to a "language minority". The Bureau of the Census does not have any present capability to determine whether, *e.g.*, Chinese is in fact the dominant language of all or most of the Chinese-Americans in a given jurisdiction. If the Bellmon Amendment is passed, the old coverage determinations would have to be abandoned, and no substitute would be available at least until the next decennial census.

If there is anything you would wish us to address in connection with the Bellmon Amendment that is not covered in the enclosed letter to the Administration Committee, please do not hesitate to contact us. We know that you are as concerned as we are that the efficacy of the Voting Rights Act not be impaired in any way.

Sincerely,

PATRICIA M. WALD,  
*Assistant Attorney General.*

DEPARTMENT OF JUSTICE,  
Washington, D.C., January 9, 1978.

Hon. FRANK THOMPSON, JR.,  
*Chairman, House Administration Committee,  
U.S. Capitol,  
Washington, D.C.*

DEAR MR. CHAIRMAN: The Amendments to the Federal Election Campaign Act of 1971, S.926, now under consideration by your committee, contain a section (§ 305) which is an amendment to the Voting Rights Act of 1965. Section 305,

which was introduced on the floor of the Senate by Sen. Bellmon on August 3 1977, changes the definition of the term "language minorities" in sections 14(c)(3, and 203(c) of the Voting Rights Act to read: "\* \* \* persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage, and whose dominant language is other than English."

Normally, legislation in the area of voting rights is considered and passed upon by the Subcommittee on Civil and Constitution Rights of the House Committee on the Judiciary. Since Chairman Edwards of that subcommittee has asked us to comment on this amendment, we assume that the Committee on the Judiciary will also consider the Bellmon Amendment and make its own recommendation. Accordingly, we are making the Department of Justice's position known to that Committee as well as to you.

The Department of Justice strongly opposes passage of the Bellmon Amendment because it would severely impair enforcement of the Voting Rights Act. Indeed, an identical amendment was offered by Sen. Bellmon in July 1975 and was defeated by the Senate as unworkable.

The voting Rights Act Amendments of 1975 are designed to eliminate and prevent voting discrimination against members of language minority groups. Like the original 1965 Act, the amendments build in protections for these minority groups through the use of automatic trigger devices which are, in turn, based upon findings by the Bureau of the Census. Thus, for purposes of sections 4(f) and 203 of the Act, Census must determine whether 5 percent of the citizens of voting age in a state or political subdivision are members of a single language minority. The Act presently defines "language minorities" as persons who are "American Indian, Asian American, Alaskan Natives or of Spanish heritage." Department of Justice guidelines, consistent with the legislative history of the 1975 Act (28 C.F.R. 55.1 (c)), have interpreted the Asian American category to include "Chinese, Filipino, Japanese, and Korean Americans as separate language minorities." These categories are based squarely upon Census Bureau capabilities. Until sometime after 1980, the Census Bureau will not be able to measure the extent to which, e.g., Chinese, is in fact the "dominant language" of the Chinese Americans who comprise 5 percent of the citizens of voting age in a particular jurisdiction. If the Bellmon Amendment were adopted, therefore, it would render implementation impossible.

We are informed that the Bureau of the Census has been experimenting with 20 percent sample questionnaires which attempt to determine the "usual" language use, or the language spoken "in the home," or the language used "most frequently" by the person responding. It appears that one or another of these questions will appear on the 1980 Decennial Census; however, it will take some time to evaluate the efficacy of the questionnaire and its usefulness for purposes of the Voting Rights Act. Perhaps it would be appropriate, in 1981 or after, to rethink the definitions of "language minorities." At this time, there is really no choice but to use the information which the Bureau of the Census is able to furnish.

Moreover, the exact meaning of the term "dominant language" could itself be the subject of extensive litigation in suits brought to remedy denials of the right to vote.

We question, in any event, the need for this amendment. The purpose of Sen. Bellmon's proposal is, presumably, to reduce the logistical and financial burden the Act is claimed to impose upon jurisdictions having an assortment of Indian tribes or a multilanguage minority such as the Filipinos who account for over 5 percent of the voting age citizen population. For example, the Senator complains that one county in Oklahoma is obliged, by virtue of section 203 coverage, to furnish 324 interpreters to accommodate 9 tribes in 36 precincts (see Aug. 3, 1977 Cong. Rec., daily ed., S13377). It seems unlikely, however, that this is a realistic description of the county's obligations. It is unlikely that members of all 9 tribes live in each of the 36 precincts. Existing Attorney General guidelines (see 28 C.F.R. 55.17) permit the covered county to "target" its resources. It may be that no American Indians live in 6 of the precincts, and that few of the precincts need assist Indians from more than one tribe. Similarly, the regulations explicitly permit jurisdictions having, e.g., Filipinos, to furnish ballots in only one of the various languages (other than English) used by that "language minority" (see 28 C.F.R. 55.12). We might note, in addition, that where the members of the language minority are, in fact, literate in English—as the Act defines literacy—the jurisdiction may "bail out" of section 203(c) coverage by the means set forth in section 203(d). We have reason to believe that fewer jurisdictions have taken advantage of the 203(d) "bail out" than might be successful in such a suit.

After the 1975 Voting Rights Amendments have been tested by adequate experience, it may be worthwhile to evaluate the degree to which the various trigger mechanisms have served the purpose of the Act, namely, to prevent American citizens from being excluded from the political process on the basis of their membership in language minorities. The Bellmon Amendment, however, promises only to impede, not advance, that purpose.

Thank you for considering our views in this matter.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

PATRICIA M. WALD,  
*Assistant Attorney General.*

### APPENDIX 3

#### SUBMITTED BY CONGRESSWOMAN JORAN

Texas § 5 jurisdictions which have not submitted changes to the Department of Justice as required by law.

#### COUNTIES (60)

Andrews	Hall	Palo Pinto
Armstrong	Hardeman	Parmer
Blanco	Henderson	Rains
Brooks	Hill	Runnels
Coryell	Hopkins	San Jacinto
Cottle	Hudspeth	San Saba
Crane	Jack	Scheicher
Delta	Jasper	Scurry
Dickens	Jim Hogg	Shelby
Dawson	Jones	Somervell
Dimmit	Kimble	Stephens
Ellis	King	Stonewall
Falls	Kleberg	Swisher
Fannin	Lamar	Terrell
Fisher	Limestone	Titus
Floyd	Llano	Tyler
Foard	McCulloch	Wilbarger
Franklin	McMullen	Zapata
Gonzales	Madison	
Gregg	Menard	
Hale	Motley	

#### CITIES (170)

Alamo Heights	Center	Ennis
Anson	Childress	Eules
Arkansas Pass	Clarendon	Fabens
Azle	Clarksville	Falfurrias
Ballinger	Cleveland	Farmers Branch
Barrett	Cockrell Hill	Floresville
Bellmead	Coleman	Forest Hill
Benvides	Colleyville	Fort Bliss
Biggs	Columbus	Fort Hood
Big Lake	Cooper	Fort Sam Houston
Bishop	Copperas Cove	Fort Stockton
Bonham	Crane	Fort Wolters
Bowie	Crockett	Friena
Brackettville	Denver City	Galena Park
Brady	Devine	Gatesville
Bridgeport	Dickinson	Giddings
Bunker Hill Village	Donna	Gilmer
Calvert	Dublin	Gonzales
Cameron	Eagle Lake	Goose Creek
Canyon	Edcouch	Groves
Carrizo Springs	Electra	Hamilton
Castle Hills	Elsa	Hamlin

## CITIES (170)—continued

Harlingen	Mineola	San Juan
Haskell	Mineral Wells	San Pedro
Hearne	Missouri City	Seagraves
Hebbronville	Morton	Seminole
Hedwig Village	Muleshoe	Seymour
Highlands	Nacogdoches	Snyder
Hillsboro	New Boston	South San Antonio
Hondo	Nocona	South San Pedro
Hooks	Olney	Stamford
Humble	Ozona	Stinnett
Hunters Creek Village	Paducah	Sweeny
Huntsville	Palacios	Sweetwater
Iowa Park	Pampa	Tahoka
Jacinto City	Pelly	Taylor
Jackboro	Perryton	Teague
Jasper	Pharr	Terrell Hills
Junction	Phillips	Texarkana
Kaufman	Piney Point Village	Tomball
Kermit	Pittsburg	Trinity
Kilgore	Pleasanton	Tulia
Kirby	Port Lavaca	Van Horn
Lackland	Poteet	Vernon
Lacy-Lakeview	Prairie View	Wellington
La Feria	Premont	Welaco
La Grange	Quanah	West Orange
Laughlin	Randolph	West University Place
Liberty	Ranger	Westworth
Llano	Reese	Whitesboro
McCamey	Rio Grande City	Wills Point
Madisonville	River Oaks	Wink
Mansfield	Robinson	Winnsboro
Marfa	Rockdale	Winters
Mart	Rotan	Woodway
Memphis	San Augustine	Yorktown
Mexia	San Diego	

## APPENDIX 4

U.S. DEPARTMENT OF JUSTICE,  
Washington, D.C., October 2, 1978.

HON. DON EDWARDS,  
Chairman, Subcommittee on Civil and Constitutional Rights,  
Committee on the Judiciary,  
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reference to your letter of August 15, 1978, setting out the additional information or responses you desire with regard to my June 15, 1978, testimony on our enforcement of the Voting Rights Act. Our responses are set out serially below.

1. We are unsure whether Senator Ribicoff has been informed of the Department's position on biennial registration and voting surveys. Accordingly, we have written to the Senator in this regard, and a copy of the letter is attached.

2. The proposed revised Section 5 guidelines have been submitted to the Attorney General for his consideration. As soon as he approves them, I shall send you a copy.

3. Since May 18, 1978, requests for additional information have been included in our weekly notice of submissions under Section 5 of the Voting Rights Act.

4. Our review of the list of 60 Texas counties provided to us by Counsel, and of our own records, revealed that 52 Texas counties had made no submission under Section 5 of the Voting Rights Act. All of these counties were sent letters in July reminding them of their duty to comply with Section 5. A copy of one of the letters we sent and a list of the counties involved are attached. We have had responses from 36 of the 52 counties. Of the 36 counties 23 have submitted changes and of those, three submissions have been precleared and the decisions on the remaining 20 are still pending. In addition, seven counties have informed us that their changes will be submitted in the near future, and we are following up on responses we received from six counties that informed us, erroneously we believe,

that they have made no changes affecting voting since November 1, 1972. We are preparing to use the Federal Bureau of Investigation to determine whether the remaining 16 counties have made changes that are subject to Section 5 and, if so, when such changes will be submitted. We are considering what steps should be taken with respect to cities, school districts, and other political units in Texas and, of course, with respect to counties, cities, school districts, and other political units in the other states subject to Section 5 that may have made unprecleared changes. Publicity attendant to the publication, and the distribution, of the proposed revised Section 5 guidelines may well serve to generate submissions from a number of these jurisdictions. If this occurs we will then be better able to determine the kind of action that would be involved with respect to any remaining jurisdictions.

I should note that these steps are in addition to our continuing program to request submissions from jurisdictions when we have information that indicates unprecleared changes have, in fact, been made. For example, we have sent letters to 56 jurisdictions in Georgia this year requesting that such changes be submitted, and the FBI will conduct an investigation in each of the jurisdictions that has not responded to our letter. Under normal circumstances, we request the FBI to conduct such an investigation if after 30 days we have received no response to our letter requesting a submission or to our letter requesting more information about a submitted change.

5. Information that we routinely put into our computer shows whether we have received Section 5 submissions from jurisdictions to which we have written to request such submissions, and whether we have received additional information we have requested on submitted changes. These computer procedures have existed since 1971 when we began using the computer in connection with our Section 5 activities. In fact, we are now completing a review of this portion of our computer information to insure its accuracy. Any older requests for additional information or unsubmitted changes that are discovered in this review will be included in our present procedures for investigating matters that are over 30 days old.

I also want to follow up on the Division computer procedures that I spoke about during the June 15, 1978, hearing that are not directly related to Section 5 procedures. The first phase of the Civil Rights Division's Docket and Correspondence System (DCS) was completed August 1, 1978, at which time we established a data base regarding the Division's cases and matters, and a capability of variously combining, retrieving and reporting the data. We expect the second phase of the DCS to be completed in October 1978, at which time data reporting and retrieving methods will be refined and additional system capabilities will be introduced by combining information in the DCS with information in the Division's Workload Measurement System and our Workload Analysis Program, the latter of which became functional on April 1, 1978, and provided an immediate tool to aid in budgeting decisions. The final phase of the projected DCS, which we anticipate will occur after January 1, 1979, will incorporate direct access terminals in the Division's sections and will introduce further program refinements.

The case weighting system which I mentioned in my testimony contemplated an array of coefficients or factors that could be quantitatively applied to all cases as a tool for litigation management. However, we have found that many of our initial concepts and assumptions regarding quantitative case weighting were incorrect and that further practical consideration of any such system should await our present attempts to establish a case prioritization system, a system that would provide a qualitative method of determining the resources that will be assigned to cases based primarily on the nature and scope of the litigation.

6. Attached is a list of all objections interposed under Section 5 through June 30, 1978. We do not now have a list indicating those instances in which the jurisdictions involved implemented the changes to which we objected, but we are now attempting to create such a record and we will be happy to forward the results of our efforts to you when we are done.

Although the list you requested is not ready yet we are able to indicate those situations where we have been involved in litigation concerning changes to which we have objected, including litigation we initiated against jurisdictions that attempted to implement changes to which we objected. Litigation with respect to the objections is indicated on the enclosed list of objections according to the following code: (1) Section 5 declaratory judgment actions, in the District Court for the District of Columbia; (2) other defendant lawsuits involving enforcement of Section 5; (3) suits initiated to enforce Section 5; (4) amicus participation involving Section 5 enforcement. While this list indicates those instances where

we determined it was necessary for us to bring a lawsuit to stop jurisdictions from implementing changes to which an objection was interposed under Section 5, it does not, of course, represent all of our litigation under Section 5 (for example, lawsuits in which we successfully sought to enjoin the use of unsubmitted changes are not reflected), nor does it reflect those instances where a lawsuit may have been litigated by private parties.

Sincerely,

DREW S. DAYS III,  
*Assistant Attorney General,  
Civil Rights Division.*

SEPTEMBER 29, 1978.

HON. ABRAHAM RIBICOFF,  
*Chairman, Committee on Governmental Affairs,  
U.S. Senate, Washington, D.C.*

DEAR Mr. Chairman: This is in reference to the June 7, 1978, letter to you from Mr. Kevin D. Rooney, Assistant Attorney General for Administration, setting forth comments in response to the Comptroller General's report dated February 6, 1978, entitled "Voting Rights Act—Enforcement Needs Strengthening" (GGD-78-19).

The second full paragraph on page 16 of Mr. Rooney's letter addresses biennial surveys by the Bureau of the Census required under Section 207 of the Act. That paragraph states, in part, "[W]e believe that the cost of these surveys is disproportionately high when compared to expenditures for enforcement of the Act's provisions . . . Under these circumstances, Congress may desire to reassess its need for such surveys." The position on the Section 207 surveys as reflected in Mr. Rooney's letter constituted our best judgment at that time with regard to the value of such surveys to our enforcement programs. However, our consideration of the matter was continuing.

Following Mr. Rooney's letter to you we had occasion to correspond with Congressman Don Edwards, Chairman of the House Committee on the Judiciary's Subcommittee on Civil and Constitutional Rights, regarding the Section 207 surveys. Our letter to Congressman Edwards, a copy of which is attached, states our views at the conclusion of our analysis of this matter, views which differ from those set out in Mr. Rooney's letter. Our letter to Congressman Edwards concludes that "properly conducted surveys would provide valuable support in our enforcement efforts under the Voting Rights Act . . . Accordingly the Administration strongly believes that the funds for the surveys should be restored."

Sincerely,

DREW S. DAYS III,  
*Assistant Attorney General,  
Civil Rights Division.*

JULY 26, 1978.

HON. FRED D. BROCK,  
*Stonewall County Judge,  
Stonewall County Courthouse,  
Aspermont, Tex.*

DEAR JUDGE BROCK: This is in regard to compliance by Stonewall County, Texas, with Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c.

As a result of the 1975 Amendments to the Voting Rights Act of 1965 the State of Texas and all political units within it, including Stonewall County, are subject to the preclearance requirement of Section 5. Under that section no change with respect to voting may be lawfully implemented unless and until a declaratory judgment is obtained from the United States District Court for the District of Columbia determining that the change does not have the purpose and will not have the effect of discriminating on the basis of race, color, or membership in a language minority group, or the change is submitted to the Attorney General and he does not object within sixty days of the submission.

Examples of changes that are subject to the Section 5 preclearance requirement include changes in the location of polling places, changes in commissioner precinct or voting precinct boundaries, and use of the Spanish language in the electoral process. Any change affecting voting made since November 1, 1972 is covered.

Our records indicate that Stonewall County has made no submissions of voting changes pursuant to Section 5. Because a general election is scheduled for November 7, 1978, we would like to make sure that Stonewall County is in compliance with Section 5 as soon as possible. Therefore, please notify us, in writing, within ten days of your receipt of this letter, whether Stonewall County has made any such changes and, if it has, whether you intend to submit them to the Attorney General or to bring the declaratory judgment action described in Section 5, and, if a submission to the Attorney General is anticipated, by what date we can expect to receive it.

Enclosed for your assistance are a copy of the Voting Rights Act of 1965, as amended by the Voting Rights Act Amendments of 1975, a copy of the Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. Part 51, and a copy of the Interpretative Guidelines: Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups, 28 C.F.R. Part 55.

If you have any questions concerning the matters discussed in this letter, please do not hesitate to call Attorney David Hunter at 202/739-3849. Please refer to File A7028 in any written response to this letter so that your correspondence will be properly channelled.

Sincerely,

DREW S. DAYS III,  
*Assistant Attorney General,  
Civil Rights Division.*

**SOUTHERN DISTRICT**

Brooks (July 18, 1978)  
Jim Hogg (July 20, 1978)

McMullen (July 26, 1978)  
Madison (July 26, 1978)

**EASTERN DISTRICT**

Fannin (July 20, 1978)  
Franklin (July 20, 1978)  
Gregg (July 20, 1978)  
Henderson (July 20, 1978)  
Hopkins (July 20, 1978)  
Jasper (July 20, 1978)

Lamar (July 28, 1978)  
Rains (July 26, 1978)  
Shelby (July 26, 1978)  
Titus (July 26, 1978)  
Tyler (July 26, 1978)

**WESTERN DISTRICT**

Andrews (July 18, 1978)  
Blanco (July 18, 1978)  
Coryell (July 18, 1978)  
Crane (July 18, 1978)  
Dimmit (July 20, 1978)  
Falls (July 20, 1978)  
Gonzales (July 20, 1978)  
Hill (July 20, 1978)

Hudspeth (July 20, 1978)  
Kimble (July 20, 1978)  
Limestone (July 20, 1978)  
Llano (July 20, 1978)  
McCulloch (July 26, 1978)  
San Saba (July 26, 1978)  
Somervell (July 26, 1978)

**NORTHERN DISTRICT**

Armstrong (July 18, 1978)  
Cottle (July 18, 1978)  
Dawson (July 20, 1978)  
Dickens (July 18, 1978)  
Ellis (July 20, 1978)  
Fisher (July 20, 1978)  
Floyd (July 20, 1978)  
Foard (July 20, 1978)  
Hale (July 20, 1978)  
Hall (July 20, 1978)  
Hardeman (July 20, 1978)

Jaek (July 20, 1978)  
Jones (July 20, 1978)  
King (July 20, 1978)  
Menard (July 26, 1978)  
Palo Pinto (July 26, 1978)  
Runnels (July 26, 1978)  
Schleher (July 26, 1978)  
Scurry (July 26, 1978)  
Stephens (July 26, 1978)  
Stonewall (July 26, 1978)  
Wilbarger (July 28, 1978)

The date in parenthesis indicates the date the letter was sent to the county:

## COMPLETE LISTING OF SECTION 5 OBJECTIONS THROUGH JUNE 30, 1978

Subdivision	Objection	Date of objection
<b>ALABAMA</b>		
State	Independent candidate qualification deadline	Aug. 1, 1969
Baldwin County	Sign poll list	Nov. 13, 1969
Dele County	do	Do.
Morgen County	do	Do.
Montgomery County	do	Do.
Mobile County	do	Do.
Lee County	do	Do.
Escamble County	do	Do.
Russell County	do	Do.
Mobile County	do	Dec. 16, 1969
State	Absentee registration: no assistance	Mar. 13, 1970
City of Birmingham	City council: post requirement	July 9, 1971
City of Talldege	City council: antisingle shot	July 23, 1971
Auteuge County	School board: at large, residence requirement	Mar. 20, 1972
Do	County commissioners: at large, majority requirement, residence requirement	Do.
State	Assistance to illiterates	Apr. 4, 1972
Do	do	Do.
Do	Independent candidate petition signature requirement	Aug. 14, 1972
Do	Elective to appointive judges	Oct. 26, 1972
City of Mobile	City council: candidate qualification procedures	Aug. 3, 1973
Pike County	County commissioners: at large, majority requirement, residence requirement, staggered terms	Aug. 12, 1974
Sumter County	Democratic executive committee: multimember districts, antisingle shot	Oct. 28, 1974
City of Talldege	Ordinance 997, numbered posts	Mar. 14, 1975
Fairfield (Jefferson County)	Annexation	Apr. 10, 1975
Alabaster (Shelby County)	6 annexations	July 7, 1975
Bessemer (Jefferson County)	7 annexations	Sept. 12, 1975
Phenix City (Russell County)	Act 98 (1975), staggered terms	Dec. 12, 1975
State	Act 1196 sec. 5, 43, 44 primary date contested elections	Jan. 16, 1976
Pickens County	Reapportionment of Democratic Party Executive Committee	Feb. 18, 1976
State	Act 1205, combines 2 counties for judicial district	Feb. 20, 1976
City of Mobile	Act 823 (1965), sec. 2 and 12, form of city government and specified duties for commissioners	Mar. 2, 1976
Pickens County	Board of education reapportionment Act 72 (1975)	Mar. 5, 1976
State	Act 475 (1973) at-large nomination and election of county commissioners	Mar. 8, 1976
Chambers County	Act 843 (1975) at-large election of board of education and commissioners with numbered post and majority requirements and staggered terms	Mar. 10, 1976
Hate County	At-large election of commissioners	Apr. 23, 1976
Sheffield (Colbert County)	At-large election with residential wards	July 6, 1976
Hate County	Act Nos. 320 (1965), 2022 (1971) and 620 (1973) at-large election for county commissioners	Dec. 29, 1976
Alabaster (Shelby County)	Annexations	Dec. 27, 1977
<b>ARIZONA</b>		
Statewide	Method of circulating recall petitions	Oct. 9, 1973
Cochise County	School board, redistricting	Feb. 3, 1975
Do	Redistricting of college governing board	Do.
Apache County, School District No. 90	Bond election, lack of notification for Navejos	Oct. 4, 1976
<b>CALIFORNIA</b>		
Yuba County	Bilingual punch cards, ballots, candidate qualification requirements	May 26, 1976
Monterey County	Bilingual election and postcard registration procedures	Mar. 4, 1977
<b>GEORGIA</b>		
Statewide	Assistance to illiterates	June 19, 1978
Do	Assistance to illiterates; allows literacy tests; poll officials qualifications	July 11, 1968
Do	Literacy test for registration	Aug. 30, 1968
Webster County	Polling place consolidation for special election	Oct. 12, 1968
Clerke County	School board; size and election	Aug. 6, 1971
Hinesville City	Annexation; numbered seats and runoff; dates and times of elections; registration dates	Oct. 1, 1971
Newnan City	Numbered seats	Oct. 13, 1971
Albany City	Polling place changes	Nov. 16, 1971
Conyers City	City government; term of office, numbered seats; majority requirement	Dec. 2, 1971
Weynesboro City	City council numbered seats; majority requirement	Jan. 7, 1972
Albany City	City council elections, dates and places of elections	Do.
Jonesboro City	City council; numbered seats and majority requirement; election date	Feb. 4, 1972
Statewide	Congressional reapportionment	Feb. 11, 1972
Do	State senate and house districting	Mar. 3, 1972
Do	State house districting	Mar. 24, 1972
Newnan City	City council; numbered seats, majority requirement	July 31, 1972

See footnotes at end of table.

Subdivision	Objection	Date of objection
Twigg County	County commissioners; et-large and residency requirements	Aug. 7, 1972
Thomsville City	School board; et-large and numbered seats requirements	Aug. 24, 1972
Atlanta City	City polling places and precinct lines	Nov. 27, 1972
Harris County	Countywide; residential posts	* Dec. 5, 1972
Cochran City	City council; majority vote requirement	Jan. 29, 1973
Cuthbert City	City council, numbered seat requirement	April 9, 1973
Ocala City	City election; majority requirement and filing fee increase	June 22, 1973
Sumter County	School board; districting; et-large end residency requirements	July 13, 1973
Hogansville City	Board of education, numbered seats end et-large; council, majority vote and staggered terms	Aug. 2, 1973
Perry City	City elections; majority requirement	Aug. 14, 1973
Thomsville City	School board; majority vote and residency requirement	Aug. 27, 1973
Albany City	Municipal elections; notice of candidacy	Dec. 7, 1973
East Dublin City	City council; numbered seats, staggered terms, and increased filing fee	Mar. 4, 1974
Fort Valley City	City council and utility board; numbered seats and majority requirements	May 13, 1974
Fulton County	County commissioners; numbered posts and majority requirements	May 22, 1974
Clerke County	Board of education; reduction in size and elected members; majority requirement	May 30, 1974
Louisville City	Numbered seats, majority and staggered terms requirements	June 4, 1974
Meriwether County	Board of commissioners; at-large and designated seats	July 31, 1974
Jones County	County; polling place change	Aug. 12, 1974
Thomson City	City elections; numbered seats, staggered terms, expansion of council, extend terms, end majority requirement for mayor	Sept. 3, 1974
Wadley City	City elections; designated seat end majority requirements	Oct. 30, 1974
Stockbridge (Henry County)	Change in registration procedures	May 9, 1975
Nawnan (Coweta County)	Act 675 (1973), staggered terms	June 10, 1975
Macon (Bibb County)	Reapportionment/redistricting	June 13, 1975
Roma (Floyd County)	60 annexations	Aug. 1, 1975
Harris County Board of Education	Act 179 (1975) et-large elections with residential wards	Aug. 18, 1975
Roma (Floyd County)	Majority and numbered post requirements with staggered terms for board of education and city commissioners	Oct. 20, 1975
Covington (Newton County)	Act 514, city charter provisions for majority vote and numbered post requirements with staggered terms	Aug. 26, 1975
Ocala (Irwin County)	Increase in candidates' filing fees	Oct. 7, 1975
Crewsboro (Taliaferro County)	City charter, majority vote, numbered post requirements	Oct. 20, 1975
Athens (Clarke County)	Majority vote for mayor, aldermen and recorder	Oct. 23, 1975
Nawton County Board of Education	Act 163 and 332, staggered terms and majority vote	Nov. 3, 1975
Glynn County Board of Supervisors	Act 398 and 292, majority vote end staggered terms	Nov. 17, 1975
Newton County Board of Commissioners	Act 293 (1967) end Act 436 (1971) at-large, staggered terms, residential wards	Jan. 29, 1976
Sharon (Taliaferro County)	Act 409 (1975) residential wards	<sup>10</sup> Feb. 10, 1976
Wilkes County Board of Education and Commissioners	At-large elections with residential wards	June 4, 1976
Sociel Circle (Walton County)	Staggered terms Act 307	June 18, 1976
Long County Board of Education	Residential wards	July 16, 1976
Monroe (Walton County)	2 annexations	<sup>11</sup> Oct. 13, 1976
City of Rockmart	At-large elections with residential wards	Nov. 26, 1976
City of Palmetto (Fulton County)	Numbered posts for city council	Apr. 27, 1977
Beinbridge (Decatur County)	Majority vote end numbered post for mayor aldermen	June 3, 1977
Cheriton County	Act. No. 1222 (1974) sec. 2—numbered posts and secs. 3—staggered terms	June 21, 1977
Do	Act No. 360 (1975)—board of education secs. 2, 3 and 9 (at-large elections, residency districts, numbered posts and staggered terms)	Do.
Rockdale County	Act 119 (1977) at large, majority vote, designated posts and staggered terms	July 1, 1977
City of College Park (Fulton County)	Redistricting of wards and to 17 of 32 annexations	Dec. 9, 1977
Terrell County	At-large end staggered term method of election for the board of education	<sup>15</sup> Dec 16, 1977
City of Quitman (Quitman County)	Majority vote	June 16, 1978
City of Savannah (Chatham County)	Annexation and method of election	June 27, 1978
LOUISIANA		
State	Parish police jury at large elections	June 26, 1969
Do	Parish school board at large elections	Do.
St. Helena Parish	Police jury redistricting: at large	May 14, 1971
Jefferson Davis Parish	Police jury redistricting: multimember district	June 4, 1971
Franklin Parish	Police jury redistricting: et large	July 8, 1971
Lafayette Parish	Polling place	July 16, 1971
St. Charles Parish	Police jury redistricting: at large	July 22, 1971
Jefferson Davis Parish	School board redistricting	July 23, 1971
Ascension Parish	Police jury redistricting: multimember districts	Do.
Bossier Parish	School board redistricting	July 30, 1971
DeSoto Parish	Police jury redistricting: et large	Aug. 6, 1971
East Baton Rouge Parish	Parish council expansion	Do. <sup>13</sup>
Webster Parish	Police jury district consolidation	Do. <sup>14</sup>
Pointe Coupee Parish	Police jury redistricting	Aug. 9, 1971
State	Redistricting: House multimember districts, numbered seats, district lines	Aug. 20, 1971
Do	Redistricting: Senate multimember districts, numbered seats, district lines	Do.

See footnotes at end of table.

Subdivision	Objection	Date of objection
Natchitoches Parish	School board redistricting	Sept. 20, 1971
East Feliciana Parish	Police jury redistricting: at large	Do.
St. Helena Parish	do	Oct. 8, 1971
Caddo Parish	School board redistricting	Do.
St. James Parish	Police jury redistricting: district lines	Nov. 2, 1971
East Feliciana Parish	do	Dec. 28, 1971
St. Mary Parish	School board redistricting: legal authority multimember districts	Jan. 12, 1972
St. Helena Parish	School board redistricting: staggered terms	Mar. 17, 1972
Ascension Parish	School board redistricting: multimember districts	Apr. 20, 1972
East Feliciana Parish	do	Apr. 22, 1972
Pointe Coupee Parish	School board redistricting: district size, district lines	June 7, 1972
Lafayette Parish	School board redistricting: district lines	June 16, 1972
Town of Lake Providence	Annexation	Dec. 1, 1972
St. Landry Parish	Polling place	Dec. 6, 1972
City of New Orleans	City council redistricting: district lines	Jan. 1, 1973
State	Numbered posts on ell et large end multimember districts	April 20, 1973
Town of Newellton	Annexation	June 12, 1973
City of New Orleans	City council redistricting: district lines	July 9, 1973
Do.	Polling place	July 17, 1973
City of Bogalusa	City council residence requirement	Oct. 29, 1973
Evangelina Parish	School board and police jury redistricting: multimember districts, numbered seats, majority requirement, staggered terms, anti-single shot	June 25, 1974
Do.	do	July 26, 1974
Orleans Parish	Radistricting (executive committee) numbered posts, majority vote	Aug. 1, 1976
State	Act 432 full slate requirement for school board	Dec. 15, 1975
Rapides Parish	Reapportionment of police jury and school board	Dec. 14, 1975
Shravaport (Caddo Parish)	51 annexations	Mar. 31, 1976
Many (Sabine Parish)	Reapportionment plan "C"	April 13, 1976
Monroe (Ouachita Parish)	Louisiana constitution of 1974, article VIII, sec. 10(b) school board elections	Mar. 7, 1977
City of New Orleans (Orleans Parish)	Polling place	May 1, 1978
<b>MISSISSIPPI</b>		
Statewide	County superintendent of education; appointed	May 21, 1969
Do.	County board of education; optional at large	Do.
Do.	Repeal of assistance to illiterates	May 26, 1969
Copiah County	Board of supervisors; redistricting	Mar. 5, 1970
Leeke County	do	Jan. 8, 1971
Warran County	do	Apr. 4, 1971
Marion County	do	May 21, 1971
Attala County	Board of superavisors; numbered seats end at large requirements	June 30, 1971
Jasper County	Reeregistration	June 7, 1971
Grenada County	Board of supervisors; et large, multimember; post requirement	June 30, 1971
Hinds County	Board of supervisors; redistricting	July 14, 1971
Lafayette County	Polling piece location	July 16, 1971
Yezoo County	Redistricting	July 19, 1971
Werren County	Board of supervisors; redistricting	Aug. 23, 1971
Statewide	County supervisors; et large, posts	Sept. 10, 1971
Tate County	Redistricting	Dec. 3, 1971
Do.	Precinct lines	Do.
Do.	Polling pieces	Do.
Marshall County	Precinct places	Do.
Do.	Polling pieces	Do.
Grenada City	Councilmen; at large	Do.
Do.	Council; numbered posts	Do.
Do.	Council; majority vote	Do.
Tata County	Redistricting	Nov. 28, 1972
Warran County	Board of supervisors; redistricting	Feb. 13, 1973
Indianola City	Board of aiderman; posts	Apr. 20, 1973
McComb City	Annexation	May 30, 1973
Hollandale City	City clerk; appointment	July 9, 1973
Grenada County	Board of superavisors; redistricting	Aug. 9, 1973
Pearl City	City incorporation	Nov. 21, 1973
Shew City	City Clerk; appointment	Nov. 21, 1973
Statewide	Open primary	Apr. 26, 1974
Attale	Redistricting	Sept. 3, 1974
Grenada City	Annexation	Feb. 5, 1975
Grenada (Grenada Co.)	One annexation	Do.
Bolivar Co., Board of Education	District to et large	Apr. 8, 1975
Grenada (Grenada Co.)	Seven annexations	May 2, 1975
Stata	SB 218 (197) qualifying date for Independent candidates	June 4, 1975
Do.	SB 2976, HB 1290 redistricting, numbered posts, residential wards	June 10, 1975
Warren County	Polling place, District 5	June 16, 1975
Lowndes Co., Board of Education	Change from districts to at large	June 23, 1975
Cley County	Polling places, beats 1 and 2	July 25, 1975
State (Kemper, Werran, Marshall, Banton, and Laake Counties)	Sac. 37-5-13 (72 Code) board of aducation, district to at large	Dec. 1, 1975
State	Open primary HB 197, HB 114, etc.	Aug. 23, 1976
Kosciusko, Attala Co.	At large with numbered posts and majority	Oct. 1, 1976

See footnotes at end of table.

Subdivision	Objection	Date of objection
Vicksburg, Warren Co.....	Annexation.....	Do.
Jackson, Hinds Co.....	Annexation.....	Dec. 3, 1976
Grenada County.....	Redistricting.....	Mer. 30, 1976
Tunica County.....	Elective to appointive method for Superintendent of Education.....	Jan. 24, 1977
City of Lexington (Holmes Co.).....	At large with majority requirement.....	Feb. 25, 1977
Lee County.....	Re-registration.....	1 <sup>st</sup> Apr. 4, 1977
City of Canton (Madison Co.).....	Redistricting.....	Apr. 13, 1977
State.....	Sec. 37-5-15 (72 Code) board of education in certain counties be elected at large with residency districts.....	July 8, 1977
Sidon (Leflore Co.).....	Annexation.....	Oct. 28, 1977
<b>NEW YDRK</b>		
Kings, Bronx and New York Counties.....	Assembly, congressional, and Senate; Redistricting.....	Apr. 1, 1974
New York, N.Y.....	Polling place changes.....	1 <sup>st</sup> Sept. 3, 1974
<b>NORTH CAROLINA</b>		
Plymouth, Washington County.....	City council; at large elections.....	Mar. 17, 1971
State-wide.....	Test or device for registration.....	Mar. 16, 1971
Do.....	do.....	April 20, 1971
Do.....	Senate and house districts; numbered seats.....	July 30, 1971
Do.....	House districts; numbered seats.....	Sept. 27, 1971
Do.....	Senate districts; numbered seats.....	Do.
Lumberton, Robeson County.....	Three annexations, city school district.....	June 2, 1975
Craven County Board of Education.....	Redistricting, method elec.....	Sept. 23, 1975
Robeson County Board of Education.....	At large, steg., quel. to vote.....	Nov. 29, 1975
City of Williamston (Mertin County).....	Staggered terms for mayor and commissioners.....	Feb. 4, 1977
City of Rocky Mount (Edgecombe County).....	36 of 67 annexations.....	30 Dec. 9, 1977
Pasquotank County.....	Polling place for precinct 4-A.....	Jan. 3, 1978
<b>SOUTH CAROLINA</b>		
State.....	Senate redistricting: multimember districts, numbered seats, majority requirement.....	Mar. 6, 1972
Do.....	Numbered seats: all multimember offices.....	June 30, 1972
Aiken County.....	Boerd of commissions: numbered seats.....	Aug. 25, 1972
Salude County.....	School district: referendum.....	Nov. 13, 1972
State.....	Senate redistricting: multimember districts, numbered seats, majority requirement.....	July 20, 1973
City of Darlington.....	City council: majority requirement, residence requirement.....	Aug. 17, 1973
Clarendon County.....	Superintendent of education: office appointive.....	Nov. 3, 1973
State.....	House redistricting: multimember districts, numbered seats, majority requirement.....	Feb. 14, 1974
Dorchester County.....	County codcil: at large election.....	April 22, 1974
City of McClellanville.....	Annexation.....	2 <sup>nd</sup> May 6, 1974
City of Walterboro.....	City council: residence requirement.....	May 24, 1974
Lancaster County.....	School district boards of trustees: residence requirement, staggered terms.....	July 30, 1974
Calhoun County.....	School district boards of trustees: at large, staggered terms.....	Aug. 7, 1974
Town of Bishopville.....	Town council: staggered terms.....	Sept. 3, 1974
Bamberg County.....	Board of commissioners: residence requirement, staggered terms.....	Do
Bemberg County.....	Board of commissioners: at large.....	Sept. 20, 1974
City of Charleston.....	Annexation.....	Do.
Charleston County.....	Consolidation charter, at large, multimember numbered seats, majority requirement, residence requirement.....	Sept. 24, 1974
Lancaster County.....	Boerd of commissioners, numbered seats, majority requirement, staggered terms.....	Oct. 1, 1974
Charleston.....	Three plans, reapportionment (4 plans sub).....	Sept. 24, 1974
Bamberg County.....	Stag. reside., at large.....	Sept. 20, 1974
Clarendon County.....	County supervisor elected to appointed.....	Sept. 8, 1975
Bamberg County.....	Act R626 redistricting county council.....	22 July 30, 1976
Seneca, Oconee County.....	Majority requirement.....	Sept. 13, 1976
Sumter Co., Sumter School District No. 2.....	Election of trustees by district to at large, resid., 1 app.....	Dec. 1, 1976
Bishopville.....	Majority vote, staggered terms.....	Nov. 26, 1976
Cameron, Calhoun County.....	Majority vote.....	Nov. 15, 1976
Horry County.....	Act R546 majority vote, county council.....	Nov. 12, 1976
Sumter County.....	Act No. 371 at large election provision for county commission and 1976 ordinance for Home Rule Act.....	Dec. 3, 1976
Calhoun Falls, Abbeville County.....	Home Rule Act (majority req.).....	23 Dec. 13, 1976
Pegeland, Chesterfield County.....	do.....	Mar. 22, 1977
Hollywood, Charleston County.....	Majority vote requirement for town council.....	June 3, 1977
Charleston County.....	Home Rule Act (at large elections with residency requirements).....	June 14, 1977
Chester County.....	Act No. 823 (1966).....	Oct. 28, 1977
Affendale County.....	Act R329 elected 7-member board of education.....	Nov. 25, 1977
Colleton County.....	Home Rule Act which changed form of government to a council-supervisor form with 5 members and the supervisor being elected at large by majority vote.....	Feb. 6, 1978
City of Mullins (Marlon County).....	Majority vote.....	May 30 1978.

See footnotes at end of table.

Subdivision	Objection	Date of objection
<b>SUBDIVISION</b>		
<b>TEXAS</b>		
Texas	SB 300 purge of currently registered voters	Dec. 10, 1975
State (Jefferson and Tarrant County, single member district, Nueces County, included with above)	HB 1097 '71 reapport. 9 multimember State rep. district	Jan. 23, 1976
State	SB 11, restrict primary candidate	Jan. 26, 1976
Tyler, Smith County	Reapportionment	Feb. 25, 1976
Harris County	Precinct election judges	<sup>24</sup> Mar. 5, 1976
Forney, Kaufman County	ISD, numbered post, majority	Mar. 9, 1976
Texas City, Galveston County	Numbered post	Mar. 10, 1976
Monahans, Ward County	Numbered post city council	Mar. 11, 1976
Moore County, Dumas ISD	Numbered post, majority	Mar. 12, 1976
Jim Wells County, Drange Grove ISD	Numbered post	Mar. 19, 1976
Reeves County, Pecos City	do	Mar. 23, 1976
Smith County, Chapel Hill ISD	Majority vote	Mar. 24, 1976
Luling, Caldwell County	Numbered post	Mar. 29, 1976
Floyd County, Lockney ISD	Numbered post, majority	Mar. 30, 1976
San Antonio, Bexar County	13 Annexations	Apr. 2, 1976
Victoria County	Consolidate 2 school districts	<sup>28</sup> Apr. 2, 1976
Frio County	1973 redistricting commissioner precinct	Apr. 16, 1976
Liberty County, Liberty ISD	Numbered post, majority	Apr. 19, 1976
Bee County, Pettus ISD	Numbered post	May 5, 1976
Caldwell County, Lockhart	Majority	May 11, 1976
Rusk, Cherokee County	Numbered post	May 17, 1976
Trinity County, Trinity ISD	do	May 21, 1976
Castro, Deaf Smith and Palmer Counties, Hereford ISD	Numbered post, majority	May 24, 1976
Crockett County	Reapport Commissioner precinct	July 7, 1976
Waller County, Comm and JP	Redistricting	July 27, 1976
Harrison County, Marshall ISD	Majority	July 29, 1976
Midland ISD, Midland County	Numbered posts, majority vote	Aug. 6, 1976
Uvalde County	Redistricting	Oct. 13, 1976
Woodville	Numbered post city council	Nov. 12, 1976
Wood County, Hawkins ISD	Numbered posts provision for board of Trustees	Nov. 18, 1976
Westheimer ISD, Harris County	Special election implementing Westheimer ISD	Jan. 13, 1977
South Park ISD, Jefferson County	Numbered posts	Feb. 25, 1977
Somerset ISD, Atascosa and Bexar Counties	do	Mar. 17, 1977
Ralls ISD, Crosby County	Majority	Mar. 22, 1977
Lufkin ISD, Angelina County	Numbered posts and majority requirement	Mar. 24, 1977
Raymondville ISD, Willacy County	Polling place	Mer. 25, 1977
Comal ISD, Comal County	Numbered posts	<sup>26</sup> Apr. 4, 1977
Prairie Lea ISD, Caldwell County	do	<sup>27</sup> Apr. 11, 1977
Fort Bend County	Polling places	<sup>28</sup> May 2, 1977
City of Clute	Majority vote requirement	June 17, 1977
Caldwell County	Redistricting	Aug. 1, 1977
Lamar CISD, Fort Bend County	Bilingual oral assistance program	Oct. 3, 1977
Fort Worth ISD (Tarrant County)	At-large system to combination of et-large (2) seats and single-member (7) seats method of electing the board of trustees: Staggered method of electing representatives from (7) single-member district. <sup>29</sup>	Jan 16, 1978
Harris County	Polling place for precinct 55	Mar. 1, 1978
Waller Consolidated ISD (Waller County)	Election date for board of trustees	<sup>30</sup> Mer. 10, 1978
Nueces County	Reapportionment of county commissioner precincts	Mer. 24, 1978
Southwest Texas Junior College District (Zavala County)	Polling place location	Do.
City of Port Arthur	Consolidation of cities of Lakeview and Pear Ridge with the city of Port Arthur and to e proposed redistricting of residency districts.	Do.
Neches Independent School District (Neches County)	Numbered post and majority vote requirement for election of members of the board of trustees.	Apr. 7, 1978
Medine County	Reapportionment of commissioner precincts	Apr. 14, 1978
Edwards County	Redistricting of commissioner precincts	Apr. 26, 1978
Aransas County	do	Apr. 28, 1978
Corsicana ISD (Navarro County)	Numbered post and majority vote	Do.
Harris County (board of school trustees)	Election date for county board of school trustees	May 1, 1978
Brazos County	Reapportionment county commission	June 30, 1978
City of Portsmouth	City Council: vote margin to gain election	June 26, 1970
City of Richmond	Annexation	<sup>31</sup> May 7, 1971
State	Redistricting: House multimember districts	Do.
do	Redistricting: Senate multimember districts	Do.
Caroline County	Precinct boundaries, polling place	Sept. 10, 1971
Macklenburg County	Redistricting: multimember districts	Dec. 7, 1971
City of Petersburg	Annexation	Feb. 22, 1972

See footnotes at end of table.

Subdivision	Objection	Date of objection
City of Martinsville.....	Precincts.....	Apr. 17, 1974
City of Newport News.....	Polling place.....	May 17, 1974
City of Suffolk.....	do.....	Sept. 23, 1974
Lynchburg.....	Annexation.....	July 14, 1975

- 1 Withdrawn Oct. 10, 1973.
- 2 Withdrawn Oct. 18, 1976.
- 3 Withdrawn Mar. 15, 1974.
- 4 Withdrawn May 19, 1978.
- 5 Withdrawn Nov. 18, 1977.
- 6 Withdrawn Jan. 1, 1972.
- 7 Withdrawn Dec. 7, 1973.
- 8 Withdrawn Mar. 30, 1973.
- 9 Withdrawn Oct. 25, 1974.
- 10 Withdrawn July 21, 1977.
- 11 Withdrawn Nov. 25, 1977.
- 12 Withdrawn to annexations only May 1978.
- 13 Withdrawn Oct. 1, 1971.
- 14 Withdrawn Sept. 14, 1971.
- 15
- 16 Withdrawn Sept. 12, 1973.
- 17 Withdrawn Jan. 3, 1974.
- 18 Withdrawn Aug. 19, 1977.
- 19 Withdrawn Nov. 14, 1977.
- 20 Withdrawn June 9, 1978.
- 21 Withdrawn Oct. 21, 1974.
- 22 Withdrawn Nov. 1, 1976.
- 23 Withdrawn Nov. 21, 1977.
- 24 Withdrawn Mar. 11, 1976.
- 25 Withdrawn Aug. 16, 1976.
- 26 Withdrawn Dec. 27, 1977.
- 27 Withdrawn Mar. 3, 1978.
- 28 Withdrawn Nov. 15, 1977.
- 29 Partial withdrawn on Jan. 31, 1978; final withdrawn on Feb. 17, 1978.
- 30 Withdrawn May 15, 1978.
- 31 Withdrawn June 10, 1971.
- 32 Withdrawn Oct. 24, 1974.

## APPENDIX 5

## DEPARTMENT OF JUSTICE—VOTING RIGHTS LITIGATION, 1965-77

- Bailout suits (Section 4).
- Bailout suits (Section 203).
- Section 5 declaratory judgment actions.
- Defendant lawsuits involving Section 5 enforcement.
- Other defendant lawsuits.
- Suits brought to enforce Section 5.
- Other suits brought by the Department.
- Amicus cases involving Section 5 enforcement.
- Amicus cases involving dilution of minority voting strength.
- Miscellaneous Amicus cases.

## BAILOUT SUITS—SEC 4 VRA

Casa title	Date filed	Political jurisdiction
Apache, Navajo, and Coconino Counties, Arizona v. U.S. ....	Feb. 4, 1966	Apache, Navajo, and Coconino Counties Ariz.
Elmore County, Idaho v. U.S. ....	Feb. 9, 1966	Elmore County, Idaho.
Wake County, North Carolina v. U.S. ....	do.....	Wake County, N.C.
Alaska v. U.S. ....	Apr. 28, 1966	Alaska.
Nash County, North Carolina v. U.S. ....	June 27, 1966	Nash County, N.C.
Gaston County, North Carolina v. U.S. ....	Aug. 11, 1966	Gaston County, N.C.
Alaska v. U.S. ....	Oct. 26, 1971	4 Alaska election districts.
New York v. U.S. ....	Dec. 3, 1971	Bronx, Kings, and New York Counties, N.Y.
Virginia v. U.S. ....	June 5, 1973	State of Virginia.
New York v. U.S. (reopened).....	Nov. 5, 1973	Bronx, N.Y.
State of Maine v. U.S. ....	Nov. 25, 1975	Maine.
State of New Mexico, Curry, McKinley & Otero Counties v. U.S. ....	Jan. 12, 1976	Curry, McKinley and Otero Counties, N. Mex.
Wilkes County School District, et al. v. U.S. <sup>1</sup> .....	June 14, 1976	Wilkes County, Ga.
Wilkes County, Georgia v. U.S. <sup>1</sup> .....	do.....	Do.
Counties of Choctaw, McCurtain, State of Oklahoma v. U.S. ....	July 6, 1976	Choctaw and McCurtain Counties, Okla.
Board of County Commissioners of El Paso County, Colorado v. U.S. ....	Feb. 1, 1977	El Paso County, Colo.
City of Rome, et al. v. Levi, et al. <sup>1</sup> .....	Nov. 24, 1976	City of Rome, Ga.

See footnote at end of table.

## BAILOUT SUITS—SEC. 203

Case title	Date filed	Political Jurisdiction
Helen R. Simenson; Roosevelt County, Montana v. Levi, et al.	June 22, 1976	Roosevelt County, Mont.
Ool v. Bell	July 14, 1977	Hawaii.

## SEC. 5 DECLARATORY JUDGMENT ACTIONS (DISTRICT COURT FOR DISTRICT OF COLUMBIA)

City of Petersburg v. U.S.	Mar. 17, 1972	Petersburg, Va.
City of Richmond v. U.S.	Aug. 25, 1972	Richmond, Va.
Vence v. U.S.	July 31, 1972	State of Alabama.
Beer v. U.S.	July 25, 1973	New Orleans, La.
Griffith v. U.S.	April 26, 1974	Kings and New York Counties, N. Y.
Yuba County, California v. U.S.	Dec. 30, 1975	Yuba County, Calif.
Glynn County, Georgia v. U.S.	Jan. 12, 1976	Glynn County, Ga.
Wilkes County School District, et al. v. U.S.	June 14, 1976	Walkes County, Ga.
Wilkes County, Georgia v. U.S.	do.	Do.
Charles Whitfield v. U.S.	Sept. 1, 1976	Grenede County, Miss.
City of Rome, et al. v. Levi, et al.	Nov. 24, 1976	City of Rome, Ga.
Hale County, et al. v. U.S.	Feb. 16, 1977	Hale County, Ala.
Horry County, South Carolina v. U.S.	Sept. 27, 1977	Horry County, S.C.
Apache County H. S. D. v. U.S.	Oct. 20, 1977	Apache County, Ariz.

## DEFENDANT LAWSUITS INVOLVING ENFORCEMENT OF SEC. 5

South Carolina v. Katzenbach	Sept. 29, 1965	South Carolina.
Perkins v. Kleindienst	June 30, 1970	Canton, Miss.
Scott v. Burkes	Feb. 19, 1971	Leeke County, Miss.
Common Cause v. Mitchell	Nov. 23, 1971	State of Arizona.
Harper v. Levi (Kleindienst)	Aug. 10, 1972	State of South Carolina.
Robinson v. Pottinger	Feb. 20, 1974	Montgomery, Ala.
United Jewish Organization of Williamsburg, Inc. v. Sexbe.	June 11, 1974	Kings County, N.Y.
Harris, et al. v. Levi, et al.	July 18, 1975	Meriwether County, Ga.
Benton Frost, et al. v. Duachita Parish, Levi, et al.	Nov. 10, 1976	Duechita Parish, Louisiana School Board.
Hereford Independent School District v. Levi	Jan. 28, 1977	Hereford I.S.D., Tex.
Rosso v. Henigen et al.	Oct. 11, 1977	Yolo County, Calif.

## OTHER DEFENDANT LAWSUITS

Gellinghouse v. Katzenbach	Aug. 11, 1965	Louisiane.
Perez v. Rhiddlehoover	Aug. 31, 1965	Do.
McCann v. Peris	1965	Virginia.
Reynolds v. Katzenbach	1965	Alabama.
State Ex Rel Gremillion v. Roosa	1965	Louisiane.
Morgen v. Katzenbach	1966	
State Ex Rel Mirhell v. Moore	Apr. 12, 1967	Do.
Christopher v. Mitchell	June 23, 1970	
Puishes v. Mann	July 27, 1970	California.
Oregon v. Mitchell	Aug. 3, 1970	Oregon.
Texas v. Mitchell	do.	Texas.
Tertsona v. Mitchell	Aug. 17, 1970	
Bifellis v. Mitchell	Sept. 29, 1970	Florida.
Jefferson v. Cook	Sept. 16, 1971	Medison County, Miss.
Reppa v. Bainbridge, Saxbe, et al.	Dec. 4, 1974	State of Indiana.
Oolph Briscoe, et al. v. Levi, et al.	Sept. 8, 1975	State of Texas.
Chinese for Affirmative Action, et al. v. Lawrence J. Leguennec, et al., end United States.	Dec. 23, 1975	San Francisco, Calif.
Jackson v. State of New Hampshire end U.S.	Dec. 30, 1975	New Hampshire.
Chinese for Affirmative Action, et al. v. Petterson, et al., and Levi, et al.	May 6, 1976	San Francisco, Calif.
Independent School District No. 1 of Tulsa County, et al. v. Levi, et al.	Nov. 12, 1976	Tulsa, Okla., I.S.O. No. 1.

## SUITS INITIATED TO ENFORCE SEC. 5

U.S. v. Ward (Medison Parish, Louisiana)	Aug. 1965	Medison Parish, La.
U.S. v. Bowers	Oct. 1967	Mississippi.
U.S. v. Shennon (Coahoma)	May 17, 1969	Friars Point, Coahoma, Miss.
U.S. v. Democratic Executive Committee of Wilcox County, Alabama.	June 3, 1970	Wilcox County, Ala.
U.S. v. Board of Election Commission of Leake County	Oct. 28, 1970	Leeke County, Miss.
U.S. v. Board of Supervisors of Hinds County	Sept. 17, 1971	Hinds County, Miss.
U.S. v. Pointe Coupee Parish Police Jury	Oct. 18, 1971	Pointe Coupee Parish, La.
U.S. v. Cohan, Municipal Superintendent of Hinesville, Georgia.	Oct. 22, 1971	Hinesville, Liberty County, Ga.
U.S. v. St. James Parish Police Jury, et al., Louisiana	Jan. 28, 1972	St. James, Parish, La.
U.S. v. State of Georgia, et al.	Mar. 27, 1972	State of Georgia.
Ziegler and U.S. v. Catahoula Parish Police Jury	May 4, 1972	Catahoula Parish, La.

See footnota at end of table.

## SUITS INITIATED TO ENFORCE SEC. 5—Continued

Case title	Date filed	Political jurisdiction
U.S. v. St. Mary Parish School Board, et al.	Aug. 15, 1972	St. Mary Parish, La.
U.S. v. Garner	Aug. 21, 1972	Jonasboro, Ga.
U.S. v. Twiggs County, Georgia	Jan. 24, 1973	Twiggs County, Ga.
U.S. v. Marshall County, Mississippi	Jan. 26, 1973	Marshall County, Miss.
U.S. v. Rapides Parish, Louisiana	July 24, 1973	Rapides Parish, La.
U.S. v. Warren County, Mississippi	Oct. 31, 1973	Warren County, Miss.
Perry v. City of Opelousas	Jan. 7, 1974	Opelousas, La.
U.S. v. Meriwether County, Georgia	Aug. 9, 1974	Meriwether County, Ga.
U.S. v. Lancaster County, South Carolina	Oct. 9, 1974	Lancaster County, S.C.
U.S. v. Kemper County, Mississippi	Nov. 1, 1974	Kemper County, Miss.
Connor v. Coleman	1974	Mississippi.
U.S. v. Grenada County, Mississippi	May 14, 1975	Grenada County, Miss.
U.S. v. Bolivar County, Mississippi	June 4, 1975	Bolivar County, Miss.
U.S. v. The Board of Supervisors of Forrest County, Mississippi, et al.	July 21, 1975	Forrest County, Miss.
U.S. v. The Board of Commissioners of Bessemer, Alabama, et al.	Apr. 2, 1976	Bessemer, Ala.
U.S. v. County Commission of Hale County, Alabama, et al.	July 29, 1976	Hale County, Ala.
U.S. v. Board of Commissioners of Sheffield, Alabama, et al.	Aug. 9, 1976	City of Sheffield, Ala.
U.S. v. The State of Georgia	Sept. 17, 1976	State of Georgia.
U.S. v. St. Landry Parish School Board	Oct. 6, 1976	St. Landry Parish, La.
Garcia & U.S. v. Uvalde County, Texas	Dec. 9, 1976	Uvalde County Tex.
DeHoyos, et al. v. Crockett County, Texas, et al.	Dec. 13, 1976	Crockett County, Tex.
U.S. v. Interim Board of Trustees of the Wastheimer ISD, Texas.	Jan. 20, 1977	Wastheimer I.S.D., Tex.
U.S. v. Board of Trustees of Midland Independent School District, et al.	Mar. 24, 1977	Midland I.S.D., Tex.
U.S. v. Hawkins ISD, et al.	Mar. 26, 1977	Hawkins I.S.D., Tex.
U.S. v. Trinity ISD, et al.	Mar. 28, 1977	Trinity I.S.D., Tex.
U.S. v. City of Kosciusko, Mississippi	Apr. 9, 1977	City of Kosciusko, Miss.
U.S. v. Board of Trustees of the Chapel Hill ISD	May 6, 1977	Chapel Hill I.S.D., Tex.

## OTHER SUITS INITIATED BY THE DEPARTMENT

U.S. v. Mississippi	Aug. 7, 1965	Mississippi.
U.S. v. Commonwealth of Virginia	Aug. 10, 1965	Virginia.
U.S. v. Alabama	do	Alabama.
U.S. v. Texas	do	Texas.
U.S. v. Board of Elections of Monroe County, New York	Oct. 6, 1965	Monroe County, N.Y.
U.S. v. Louisiana	Oct. 15, 1965	Louisiana.
U.S. v. Harvey	Dec. 17, 1965	Do.
U.S. v. Ramsay	1965	Clark County, Miss.
U.S. v. Lynd	1965	Mississippi.
U.S. v. Mississippi, et al.	Jan. 10, 1966	Do.
U.S. v. Crook, et al. (Bullock County)	Mar. 22, 1966	Bullock County, Ala.
U.S. v. Democratic Committee, Dallas County, et al.	May 5, 1966	Dallas County, Ala.
U.S. v. Executive Democratic Party of Marango County	May 18, 1966	Marango County, Ala.
U.S. v. Executive Committee of the Democratic Party of Green and Sumter Counties, Alabama.	do	Green and Sumter Counties, Ala.
U.S. v. Executive Committee of Democratic Party of Clarendon County, et al.	June 27, 1966	Clarendon County, S.C.
U.S. v. Atteaway	1966	Georgia.
U.S. v. Brantly	1966	Do.
U.S. v. Clamant	1966	Louisiana.
U.S. v. Palmer	1966	Do.
U.S. v. Post (Madison Parish)	Jan. 9, 1967	Madison Parish, La.
U.S. v. Lake County, Indiana Board of Elections	Nov. 6, 1967	Lake County, Ind.
U.S. v. Executive Committee of Democratic Party of LeFlore County.	Dec. 11, 1967	Do.
U.S. v. Holmes County, Mississippi	1967	Mississippi.
U.S. v. Post (Madison Parish)	Feb. 23, 1967	Tallulah, Madison Parish, La.
U.S. v. Democratic Executive Committee of Wilcox County	May 2, 1968	Wilcox County, Ala.
In Re Hamdon	Nov. 19, 1968	Green County, Ala.
U.S. v. Bishop, et al. (Madison Parish)	June 8, 1970	Madison Parish, La.
U.S. v. Arizona	Aug. 17, 1970	Arizona.
U.S. v. Idaho	do	Idaho.
U.S. v. New Hampshire	Aug. 19, 1970	New Hampshire.
U.S. v. North Carolina	do	North Carolina.
U.S. v. Board of Election Commissioners of Marshall County, Mississippi	Oct. 19, 1971	Marshall County, Miss.
U.S. v. Humphreys County Board of Election Commission	Dec. 28, 1971	Humphreys County, Miss.
U.S. v. Callicut	April 6, 1973	Marshall County, Miss.
U.S. v. Anthony, et al.	June 29, 1973	Fort Valley, Ga.
Ferguson v. Winn Parish, Louisiana	Jan. 14, 1974	Winn Parish, La.
U.S. v. Apache County, Arizona	Jan. 23, 1974	Apache County, Ariz.
U.S. v. Dallas County, Alabama	Nov. 1, 1974	Dallas County, Ala.
Connor v. Waller	June 11, 1975	State of Mississippi.
U.S. v. City of Albany, Georgia, et al.	July 21, 1975	City of Albany, Ga.
U.S. v. The Democratic Executive Committee of Noxubee County, Mississippi, et al.	July 29, 1975	Noxubee County, Miss.

See footnota at end of table.

## OTHER SUITS INITIATED BY THE DEPARTMENT—Continued

Casa title	Date filed	Political jurisdiction
U.S. v. East Baton Rouge Parish School Board, et al. ....	Aug. 16, 1976	East Baton Rouge Parish, La.
U.S. v. State of Texas, et al. ....	Oct. 14, 1976	State of Texas.
U.S. v. The New York State Board of Elections, et al (Overseas voting rights case.)	Oct. 30, 1976	State of New York.
U.S. v. City Commission of Texas City, Texas. ....	May 13, 1977	City of Texas City, Tex.
U.S. v. Uvalde Consolidated I.S.D. ....	Sept. 19, 1977	Uvalde County, Tex.

## AMICUS PARTICIPATION INVOLVING SEC. 5 ENFORCEMENT

Allen v. State Board of Elections. ....	Oct. 15, 1968	Virginia.
Fairley v. Patterson. ....	Oct. 15, 1968	Mississippi.
Hednott v. Amos. ....	Nov. 1968	Greene County, Ala.
Sheffield v. Robinson. ....	Nov. 16, 1970	Itawamba County, Miss.
Parkins v. Matthews. ....	Jan. 1971	Canton, Miss.
Hall v. Issaquena County, Mississippi. ....	June 18, 1971	Issaquena County, Miss.
Howell v. Mahen. ....	May 21, 1971	Virginia.
Evers v. State Board of Election Commissioners. ....	Feb. 1972	State of Mississippi.
Holt v. City of Richmond. ....	Mer. 31, 1972	Richmond, Va.
Hearn v. Vernon Parish Police Jury. ....	Mer. 1972	Vernon Parish, La.
Murrel v. McKeithen. ....	do.	
Morris, et al. v. Grassetto, et al. ....	Jan. 28, 1976	State of South Carolina.
East Carroll Parish, Louisiana v. Marshall. ....	Jan. 1976	East Carroll Parish, La.
Gravas, et al. v. Barnas, et al. ....	Feb. 3, 1976	Jefferson, Nueces, and Terrant Counties, Tex.
Town of Sorrento v. Raina. ....	Apr. 9, 1976	Sorrento, La.
Broussard, et al. v. Peraz. ....	Apr. 23, 1976	Plaquemine Parish, La.
DeHoyos, et al. v. Crockett County, Texas, et al. ....	Oct. 1, 1976	Crockett County, Tex.
McCray v. Hucks (Horry County, South Carolina). ....	Jan. 20, 1977	Horry County, S.C.
Arturo Gomez, et al. v. John W. Galloway, et al. ....	Mar. 21, 1977	Beeville, Tex.

## AMICUS PARTICIPATION INVOLVING DILUTION OF MINORITY VOTING STRENGTH

Simms v. Amos. ....	Sept. 11, 1965	State of Alabama.
Cousins v. City Council of Chicago. ....	Mar. 1, 1971	Chicago, Ill.
White v. Ragestar. ....	1973	Bexar and Dallas Counties, Tex.
Kirksey v. Board of Supervisors of Hinds County, Mississippi. ....	Sept. 24, 1975	Hinds County, Miss.
Parnell, et al. v. Rapides Parish School Board, et al. ....	May 10, 1976	Rapides Parish, La.
Blocks United for Lasting Leadership v. Shreveport. ....	June 8, 1977	Shreveport, La.
Bolden, et al. v. City of Mobile, Alabama. ....	do.	Mobile, Ala.

## MISCELLANEOUS AMICUS PARTICIPATION

Harper v. Birglnie Board of Elections. ....	Jan. 25, 1966	Virginia.
Dent v. Duncan. ....	Mar. 29, 1966	
Miles v. Dickson. ....	June 15, 1966	
Grey v. Main. ....	July 5, 1966	Alabama.
Avery v. Midland County. ....	1967	Midland, Tex.
Payne v. Lee. ....	1967	
Evans v. Cornmen. ....	Dec. 1969	Baltimore, Md.
Hechinger v. Martin. ....	Nov. 24, 1976	Washington, O.C.

<sup>1</sup> Bailout claim included in e basic sec. 5 declaratory judgment action.

DEPARTMENT OF JUSTICE,  
Washington, D.C., January 9, 1978.

Hon. DON EDWARDS,  
Chairman, Subcommittee on Civil and Constitutional Rights,  
House Committee on the Judiciary, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The Attorney General has asked me to respond to your letter of October 12, 1977 requesting our views on the "Bellmon Amendment" to S. 926, now under consideration by the House Administration Committee.

Enclosed is a letter I sent to the House Administration Committee expressing the opposition of the Department of Justice to the Bellmon Amendment. Briefly, the amendment would change the definition of "language minorities" in sections 14(c)(3) and 203(e) of the Voting Rights Act to read: ". . . persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage, and whose dominant language is other than English."

As we have indicated to the Administration Committee, this amendment, if adopted, would make implementation of the language minorities provision of the Voting Rights Amendments of 1975 virtually impossible until some time after 1980.

Coverage under sections 4 and 203 is determined, at present, by threshold census determinations that over 5 percent of the citizens of voting age in a jurisdiction belong to a "language minority." The Bureau of the Census does not have any present capability to determine whether, *e.g.*, Chinese is in fact the dominant language of all or most of the Chinese-Americans in a given jurisdiction. If the Bellmon Amendment is passed, the old coverage determinations would have to be abandoned, and no substitute would be available at least until the next decennial census.

If there is anything you would wish us to address in connection with the Bellmon Amendment that is not covered in the enclosed letter to the Administration Committee, please do not hesitate to contact us. We know that you are as concerned as we are that the efficacy of the Voting Rights Act not be impaired in any way.

Sincerely,

PATRICIA M. WALD,  
*Assistant Attorney General.*

DEPARTMENT OF JUSTICE,  
*Washington, D.C., January 9, 1978.*

HON. FRANK THOMPSON, Jr.,  
*Chairman, House Administration Committee,*  
*U.S. Capitol,*  
*Washington, D.C.*

DEAR MR. CHAIRMAN: The Amendments to the Federal Election Campaign Act of 1971, S. 926 now under consideration by your committee, contain a section (§ 305) which is an amendment to the Voting Rights Act of 1965. Section 305, which was introduced on the floor of the Senate by Sen. Bellmon on August 3, 1977, changes the definition of the term "language minorities" in sections 14(c) (3) and 203(e) of the Voting Rights Act to read: ". . . persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage, and whose dominant language is other than English."

Normally, legislation in the area of voting rights is considered and passed upon by the Subcommittee on Civil and Constitution Rights of the House Committee on the Judiciary. Since Chairman Edwards of that subcommittee has asked us to comment on this amendment, we assume that the Committee on the Judiciary will also consider the Bellmon Amendment and make its own recommendation. Accordingly, we are making the Department of Justice's position known to that Committee as well as to you.

The Department of Justice strongly opposes passage of the Bellmon Amendment because it would severely impair enforcement of the Voting Rights Act. Indeed, an identical amendment was offered by Sen. Bellmon in July 1975 and was defeated by the Senate as unworkable.

The Voting Rights Act Amendments of 1975 are designed to eliminate and prevent voting discrimination against members of language minority groups. Like the original 1965 Act, the amendments build in protections for these minority groups through the use of automatic trigger devices which are, in turn, based upon findings by the Bureau of the Census. Thus, for purposes of sections 4(f) and 203 of the Act, Census must determine whether 5 percent of the citizens of voting age in a state or political subdivision are members of a single language minority. The Act presently defines "language minorities" as persons who are "American Indian, Asian American, Alaskan Natives or of Spanish heritage." Department of Justice guidelines, consistent with the legislative history of the 1975 Act (28 C.F.R. 55.1(c)), have interpreted the Asian American category to include "Chinese, Filipino, Japanese, and Korean Americans as separate language minorities." These categories are based squarely upon Census Bureau capabilities. Until sometime after 1980, the Census Bureau will not be able to measure the extent to which, *e.g.*, Chinese, is in fact the "dominant language" of the Chinese Americans who comprise 5 percent of the citizens of voting age in a particular jurisdiction. If the Bellmon Amendment were adopted, therefore, it would render implementation impossible.

We are informed that the Bureau of the Census has been experimenting with 20 percent sample questionnaires which attempt to determine the "usual" language used, or the language spoken "in the home," or the language used "most

frequently" by the person responding. It appears that one or another of these questions will appear on the 1980 Decennial Census; however, it will take some time to evaluate the efficacy of the questionnaire and its usefulness for purposes of the Voting Rights Act. Perhaps it would be appropriate, in 1981 or after, to rethink the definitions of "language minorities." At this time, there is really no choice but to use the information which the Bureau of the Census is able to furnish.

Moreover, the exact meaning of the term "dominant language" could itself be the subject of extensive litigation in suits brought to remedy denials of the right to vote.

We question, in any event, the need for this amendment. The purpose of Sen. Bellmon's proposal is, presumably, to reduce the logistical and financial burden the Act is claimed to impose upon jurisdictions having an assortment of Indian tribes or a multilanguage minority such as the Filipinos who account for over 5 percent of the voting age citizen population. For example, the Senator complains that one county in Oklahoma is obliged, by virtue of section 203 coverage, to furnish 324 interpreters to accommodate 9 tribes in 36 precincts (see Aug. 3, 1977, Cong. Rec., daily ed., S13377). It seems unlikely, however, that this is a realistic description of the county's obligations. It is unlikely that members of all 9 tribes live in each of the 36 precincts. Existing Attorney General guidelines (see 28 C.F.R. 55.17) permit the covered county to "target" its resources. It may be that no American Indians live in six of the precincts, and that few of the precincts need assist Indians from more than one tribe. Similarly, the regulations explicitly permit jurisdictions having, e.g., Filipinos, to furnish ballots in only one of the various languages (other than English) used by that "language minority" (see 28 C.F.R. 55.12). We might note, in addition, that where the members of the language minority are, in fact, literate in English—as the Act defines literacy—the jurisdiction may "bail out" of section 203(c) coverage by the means set forth in section 203(d). We have reason to believe that fewer jurisdictions have taken advantage of the 203(d) "bail out" than might be successful in such a suit.

After the 1975 Voting Rights Amendments have been tested by adequate experience, it may be worthwhile to evaluate the degree to which the various trigger mechanisms have served the purpose of the Act, namely, to prevent American citizens from being excluded from the political process on the basis of their membership in language minorities. The Bellmon Amendment, however, promises only to impede, not advance, that purpose.

Thank you for considering our views in this matter.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

PATRICIA M. WALD,  
Assistant Attorney General.

NUMBER OF SUBMISSION OBJECTIONS, BY STATE, FROM AUG. 6, 1965, TO DEC. 31, 1977

State	1965-70	1971	1972	1973	1974	1975	1976	1977	Total
Alabama.....	11	2	6	1	2	5	10	1	38
Arizona.....	0	0	0	1	0	1	1	0	3
California <sup>1</sup> .....	0	0	0	0	0	0	1	1	2
Georgia.....	4	5	11	8	9	12	7	7	63
Louisiana.....	2	19	8	6	2	3	2	1	43
Mississippi.....	4	16	4	7	2	9	5	6	53
New York.....	0	0	0	0	1	0	0	0	1
North Carolina <sup>1</sup> .....	0	6	0	0	0	3	0	2	11
South Carolina.....	0	0	4	3	14	1	8	5	35
Texas.....	0	0	0	0	0	2	28	12	42
Virginia.....	1	5	1	0	3	1	0	0	11
Total.....	22	53	34	26	33	37	62	35	302

<sup>1</sup>Selected counties covered rather than entire State.

## NUMBER OF CHANGES SUBMITTED UNDER SEC. 5 AND REVIEWED BY THE DEPARTMENT OF JUSTICE, BY TYPE AND YEAR, 1965-DEC. 31, 1977

Type of change	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	Total
Redistricting.....	2	4	4	.....	12	25	201	97	47	55	53	335	79	908
Annexation.....	1	2	2	.....	2	6	256	272	242	244	571	1,499	939	4,018
Polling place.....	2	4	4	4	7	28	174	127	131	154	408	1,983	844	3,865
Precinct.....	2	2	9	7	11	22	144	69	55	81	82	608	266	1,339
Reincorporation.....	1	1	1	.....	.....	2	52	15	6	4	46	146	366	638
Incorporation.....	.....	.....	1	.....	.....	.....	4	1	3	1	5	15	12	42
Election law 1.....	1	18	24	96	67	105	226	332	258	422	620	1,831	1,094	5,094
Miscellaneous 2.....	.....	.....	.....	3	14	8	15	26	99	12	65	168	150	566
Not within the scope of sec. 5.....	1	1	7	.....	21	59	46	3	9	15	206	105	86	558
Bilingual.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	22	780	171	972
Total.....	1	26	52	110	134	255	1,118	942	850	988	2,078	7,470	4,007	18,000

1 Ordinance or other legislation affecting election laws.

2 Miscellaneous change not included in the above classifications.

Note: These figures are based on computer tabulations. The computer program is limited to the above general classifications.

## NUMBER OF CHANGES SUBMITTED UNDER SEC. 5 AND REVIEWED BY THE DEPARTMENT OF JUSTICE, BY STATE AND YEAR, 1965-DEC. 31, 1977

State	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	Total
Alabama	1	0	0	0	13	2	86	111	60	58	299	349	153	1,132
Alaska <sup>1</sup>	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Arizona <sup>2</sup>	0	0	0	0	0	0	19	69	33	28	52	228	180	609
California <sup>2</sup>	0	0	0	0	0	0	0	6	1	5	0	382	99	483
Colorado <sup>3</sup>	0	0	0	0	0	0	0	0	0	0	0	12	0	12
Connecticut <sup>4</sup>	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Florida <sup>2</sup>	0	0	0	0	0	0	0	0	0	0	1	57	8	69
Georgia	0	1	0	62	35	60	138	226	114	173	284	252	242	1,587
Hawaii <sup>2</sup>	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Idaho <sup>2</sup>	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Iowa <sup>2</sup>	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Louisiana	0	0	0	0	2	3	71	136	283	137	255	303	460	1,652
Maine <sup>4</sup>	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Massachusetts <sup>4</sup>	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Michigan <sup>4</sup>	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Mississippi	0	0	0	0	4	28	221	68	66	41	107	152	114	801
New Hampshire <sup>4</sup>	0	0	0	0	0	0	0	0	0	0	0	0	0	0
New Mexico <sup>2</sup>	0	0	0	0	0	0	0	0	0	0	0	65	0	65
New York <sup>2</sup>	0	0	0	0	0	0	4	0	0	84	78	106	96	368
Daklahoma <sup>2</sup>	0	0	0	0	0	0	75	28	35	54	293	125	183	795
North Carolina <sup>2</sup>	0	25	52	37	80	114	160	117	135	221	201	419	299	1,824
South Carolina	0	0	0	0	0	0	0	0	0	0	0	0	0	0
South Dakota	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Texas	0	0	0	11	0	46	344	181	123	186	249	4,694	1,735	6,678
Virginia	0	0	0	0	0	0	0	0	0	0	259	4,301	434	1,885
Wyoming <sup>3</sup>	0	0	0	0	0	0	0	0	0	1	0	0	0	1
Total	1	26	52	110	134	255	1,118	942	850	988	2,078	7,470	4,007	18,000

<sup>1</sup> Entire State covered 1965-68; selected election districts covered 1970-72; since 1975 entire State covered.

<sup>2</sup> Selected county (counties) covered rather than entire State.

<sup>3</sup> Selected county (counties) until 1975; entire State now covered.

<sup>4</sup> Selected town (towns) covered rather than entire State.

## APPENDIX 6

Memorandum to: All Affected U.S. attorneys.

From: Gerald W. Jones, Chief, Voting Section, Civil Rights Division.

Subject: Department Policy for Enforcing, Section 203 of the Voting Rights Act.

Date: May 17, 1978.

Mr. Civiletti has requested that we forward to you his memorandum dated May 15, 1978, regarding the Department's policy for enforcing the language minority provisions of Section 203 of the Voting Rights Act. That memorandum is enclosed.

The federal civil rights voting laws enforced by the Department are discussed in Title 8 of the United States Attorneys' Manual, 8-2.280 through 8-2.284. Set out at 8-2.281 of the Manual are the basic provisions of the Voting Rights Act, the judicial and administrative enforcement actions available to us under the Act, and the division of responsibilities between your offices and mine for those enforcement actions. Please note, as addressed under the 8-2.281 subheading *Language Minority Groups*, that your offices have primary enforcement responsibility for jurisdictions covered solely by Section 203 while we have that responsibility for any jurisdiction covered jointly by Sections 4 and 203 or covered solely by Section 4.

Please feel free to call me (202-739-2167) or Voting Section Deputy Chief Barry Weinberg (202-739-3168) to talk about any aspect of this matter. With respect to the coordination procedures set out in 8-2.281 of the Manual, Barry and I would be happy to talk with you or the person in your office principally responsible for Section 203 enforcement regarding your compliance program plans and progress. Our phone numbers can be dialed through FTS or commercially.

Memorandum to: All Affected U.S. attorneys.

From: Benjamin R. Civiletti, Acting Deputy Attorney General.

Subject: Department Policy for Enforcing Section 203 of the Voting Rights Act.

Date: May 15, 1978.

This is in reference to the enforcement of the language minority provisions of Section 203 of the Voting Rights Act, 42 U.S.C. 1973aa-1a. As you know, the minority language provisions were included in the Act by Congress' adoption of the 1975 Amendments to the Act.

In November 1975 the Deputy Attorney General decided that the U.S. Attorneys would be primarily responsible for Section 203. Since that time a memorandum was sent by the Civil Rights Division to all affected U.S. Attorneys on October 22, 1976, regarding enforcement of Section 203; on August 26, 1977, New Mexico U.S. Attorney Victor Ortega distributed to you a copy of Civil Rights Division, Voting Section Deputy Chief Weinberg's July 15, 1977 report and Assistant Attorney General Days' August 5, 1977 memorandum regarding the Department's Section 203 enforcement activities; on November 16, 1977, nearly all affected U.S. Attorneys met about this matter with Mr. Weinberg and Gerald W. Jones, Chief of the Civil Rights Division's Voting Section; and on December 13 and 14, 1977, the responsibility for enforcing Section 203 was discussed at a meeting of the Attorney General's Advisory Committee of U.S. Attorneys.

It appears that the Weinberg report and Mr. Ortega's actions regarding the report have served as a catalyst, prompting most of you to become aware of and/or seriously focus on the Section 203 enforcement responsibility. As communicated in your responses to Mr. Ortega, copies of which have been furnished to me, and from your other contacts with us and our staffs, it further appears that some of you are able to and desire to dispatch this responsibility along the lines set out in the Weinberg report and the October 22, 1976, memorandum, while others believe that they are unable to do so because of resource limitations, believe that they should not do so because the recommended enforcement approach is inappropriate, or believe that the recommended enforcement efforts are not needed because a lack of complaints in their Districts is a conclusive showing that no problem exists.

Associate Attorney General Egan, Mr. Days and I have carefully considered the questions of what the Department's approach to the enforcement of Section 203 should be and whether the primary responsibility for enforcing Section 203 should remain with the U.S. Attorneys. Our conclusions and the basis for our determinations are as follows:

Section 203 must be vigorously enforced. The civil rights laws were enacted to eliminate pervasive societal deprivations of fundamental rights. The Department's responsibility to enforce those laws is also a responsibility to eliminate

those deprivations. We have found that we do not receive complaints about many of the civil rights law violations that exist, including discriminatory voting practices and procedures. Accordingly, it is our policy to seek out those violations and the enforcement approach previously addressed by the Civil Rights Division is necessary and appropriate.

The U.S. Attorneys will be primarily responsible for the Section 203 enforcement effort insofar as they dispatch that responsibility. This decision is in accordance with the Department's policy of decentralization where appropriate, and is based in large part on the present U.S. Attorneys' general support for the Department's civil rights programs and the reported actions of some U.S. Attorneys regarding Section 203 since the distribution of the Weinberg report.

Our performance of the Department's Section 203 enforcement responsibilities will not necessarily result in similar actions by all affected U.S. Attorneys. Given the different needs of particular language minority group members in different areas of the country or in different parts of a state, and the differing language needs of different language minority groups, the nature and extent of our enforcement efforts will differ among the affected Districts and sometimes among different counties in a single District.

Because of these differences, and since there are no court decisions yet regarding the provisions of this new law, our decisions about circumstances that may constitute violations of Section 203 will be based on our guidelines, 28 CFR Section 55 *et seq.*, a copy of which is enclosed. The Department's position as to the basic requirement of Section 203, and thus the basic measure of compliance, is set out in Section 55.2(b) of the guidelines: jurisdictions must furnish such minority language materials and assistance, including oral assistance where needed, as to allow language minorities "to be effectively informed of and participate effectively in voting-connected activities." Determinations of whether this requirement has been met can usually be made on the basis of the factors listed for consideration in Subpart D of the guidelines, Sections 55.14-55.21.

While your Section 203 enforcement inquiries, investigations and litigation decisions can be based on the considerations set out in the guidelines with the advice of the Civil Rights Division regarding specifically proposed actions, some of you and members of your offices have requested more precise initial advice about what constitutes a violation of Section 203, and more direction relating to procedures for investigating Section 203 matters. An attachment to this memorandum responds to these requests in some detail.

The Civil Rights Division will advise and, where necessary, assist the U.S. Attorneys, and will coordinate the Department's Section 203 activities. Coordination with the Civil Rights Division regarding your enforcement activities will be essential to uniform nationwide enforcement of Section 203. Enforcement approaches in one District must be shared with other Districts. Moreover, our communications with persons outside of the Department, each of our proposed lawsuits, and our positions on the issues of each defense to a coverage termination ("bailout") suit or suit challenging the provisions of Section 203 must reflect all of the Department's expertise regarding the facts and legal issues involved as well as positions taken by the Department in similar or related civil rights voting matters. Accordingly, the procedures set out in the U.S. Attorneys' Manual, under the heading "Language Minority Groups" in Section 8-2.281, must be followed.

In addition, the Civil Rights Division will assume primary responsibility for Section 203 enforcement in those Districts where the U.S. Attorney requests that the Division do so, where the U.S. Attorney and the Division agree that the Division should do so and where the Assistant Attorney General determines after consultation with the U.S. Attorney that enforcement of Section 203 will otherwise be lacking.

These policy decisions and directives settle the questions raised within the Department regarding our enforcement of Section 203 and provide you with a clearer picture of what our enforcement practices entail. Therefore, I believe that the procedures for coordination between your offices and the Civil Rights Division will now result in an effective continuing nationwide enforcement program. I feel especially confident in arriving at this conclusion because the coordination procedures set out above are nearly identical to those independently suggested by the Attorney General's Advisory Committee of United States Attorneys and the Civil Rights Division.

#### ATTACHMENT

Basically, the measure of whether a jurisdiction has done what it must under Section 203 is whether the jurisdiction has met the language needs of the *local* minority. Like most cases in equity, our ability to prove a violation depends on

our ability to demonstrate that the defendant is responsible for an injury to the plaintiff or protected class.

To demonstrate such an injury under Section 203, generally stated we must show that a jurisdiction has not issued minority language information in the form (written or oral) needed by the local minority, has not directed minority language information through channels (newspaper, radio, posted notices) that reach the local minorities, has not conveyed minority language information correctly (in written translation, oral communication) to the local minority, or any combination of those failures.

Thus, for example, if we address the effectiveness of a jurisdiction's compliance with Section 203 in the voter registration process we would first determine from state law and local officials the procedural steps and voter qualification requirements necessary for registration in the jurisdiction, and the actions of the jurisdiction in providing for the minority language in the registration process (Sections 55.18(c) and (e) of the guidelines indicate some of the actions about which we can inquire in this regard).

Then we would talk with local minorities. We would first determine from them, unless we already know, general information regarding the usual methods of communication to and among the local minority. This will allow us to determine the form in which minority language information is needed by the local minority and the information channels that reach local minorities. For example, we would determine from local minorities the manner in which information of interest to the minority group (about meetings, church events, etc.) are designed to reach the minority group (advertising, government program announcements) is normally conveyed, the extent to which particular individuals, groups or organizations (including churches) tend to have contact or communicate with a significant portion of the local minority community, where and when local minorities usually gather in significant number, the nature and frequency of usual contacts by minorities with local officials and offices, and the extent to which English and the minority language are actually used in the minority community. Then we would determine from minority contacts the extent to which the minority community knows about information regarding voter registration and knows how to find out about these matters.

In this connection, the failure of a jurisdiction to meet the basic measure of compliance can be shown either by what the minorities know or do not know. To illustrate the former, in one state where an ability to speak or read English was a past prerequisite to voter registration we found evidence that in one county many minorities thought the prerequisite still existed when, in fact, it had been eliminated six years earlier. As an example of the latter, in one county we found minorities were not aware registration materials were available in Spanish despite extensive discussion of bilingual procedures in English language newspapers of general circulation and the jurisdiction's action in having Spanish language postcard registration forms available in the minority community post office for a limited period.

Based on this information we would analyze what the jurisdiction has done in the light of the circumstances that apply to the local language minority, and determine whether the jurisdiction has met the basic measure of compliance with Section 203, as defined in Section 55.2(b) of the guidelines, and if not, why not. Based on this determination and subsequent investigation to obtain information that supports or documents our conclusions, we can request local officials to take appropriate action to comply with Section 203, and if they do not we can file suit.

There are several other points to bear in mind in pursuing violations of Section 203.

An initial approach to investigation of compliance with Section 203 should include researching available narrative and statistical material relating to the local language minority and to discrimination against language minorities generally. This material, which could include Census data (regarding size and age of population, income, etc.), legislative history, court decisions, and studies by agencies and groups (such as "The Voting Rights Act: Ten Years After, a report of the U.S. Civil Rights Commission, January 1975), enhances our knowledge and/or provides views different from ours about the attributes of the class protected by Section 203 and about the nature of discriminatory actions that affect the class.

Periodic inquiries of minority contacts are routinely made before elections and before the close of pre-election registration periods in problem or potential problem areas.

Inquiries and investigations under Section 203 can be conducted by paralegal personnel to the extent they are able to obtain and reliably report the necessary

information. However, some attorney contact with minority group representatives and persons generally knowledgeable about local minorities is necessary to provide the kind of overall understanding that must underlie our evaluation of whether a jurisdiction has met the basic requirement of Section 203. Particular minority persons or organizations are not to be avoided simply because they are considered to be more vocal than other persons or groups of the same minority group; as judges sitting without juries are prone to observe in the kinds of cases the Civil Rights Division litigates, we can accept the information and draw our own conclusions as to its reliability.

Once obtained, basic information about the local language minority as well as information about local voting-connected procedures will greatly facilitate future inquiries into Section 203 compliance and evaluations of possible violations of Section 203.

We have examined FBI reports of investigations conducted pursuant to the sample request attached to the Civil Rights Division's October 22, 1976, memorandum, and pursuant to more broadly worded requests that asked the FBI to determine whether information needed by language minorities is received and understood by those minorities. Based on this examination it appears that information contained in written FBI reports, without more, cannot be relied upon to determine whether violations of Section 203 exist.

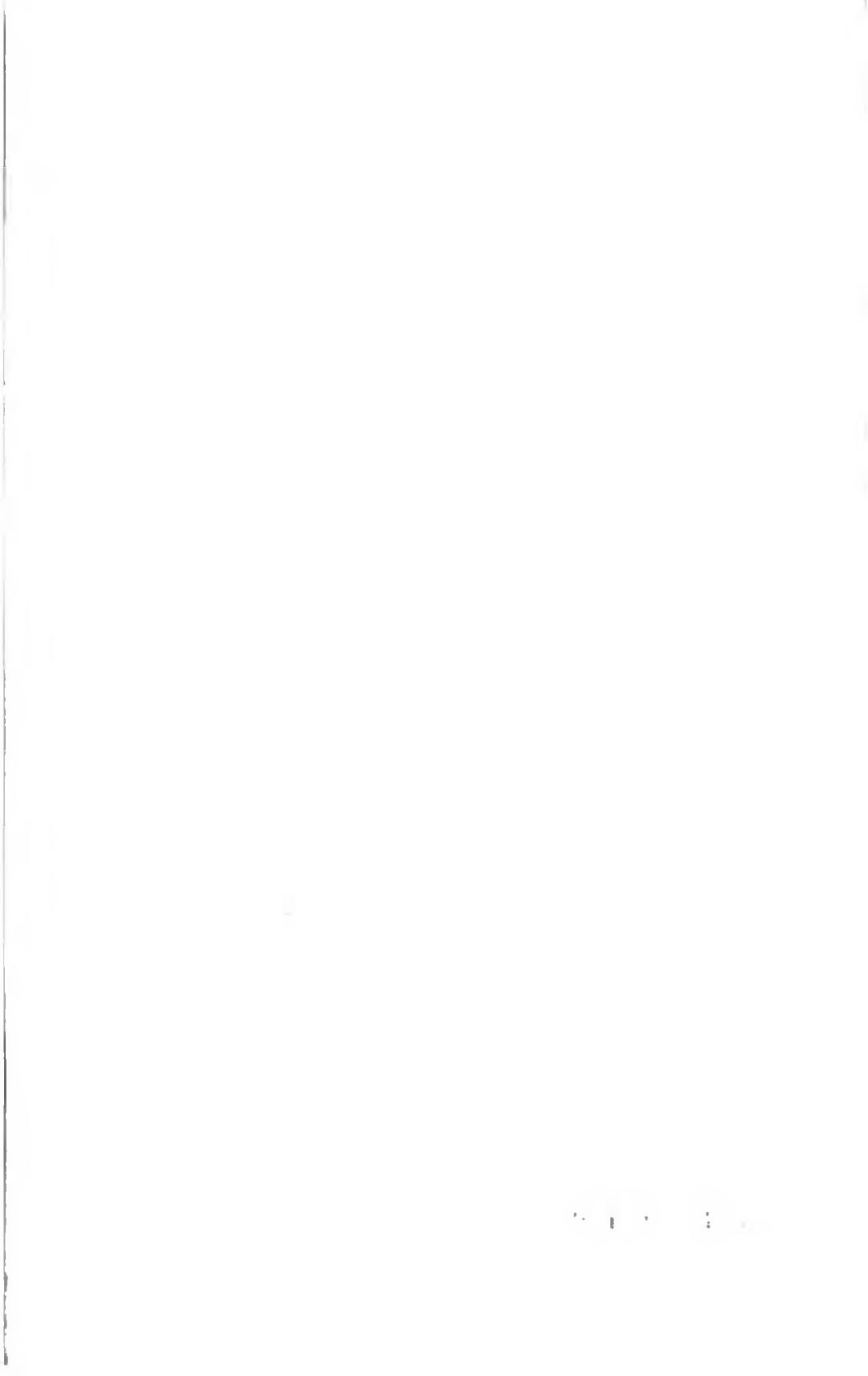
The central problem is that the FBI reports provide no basis for evaluating statements, observations and opinions of local minority interviewees, and thus do not allow us to gain an overall understanding of the relevant circumstances that apply to the local language minority. Assistant U.S. Attorneys who have received the FBI reports and have also spoken with local minorities and persons knowledgeable about local minorities have reached a similar conclusion about FBI investigations in this area of law.

However, the FBI can provide valuable discrete information by obtaining interviews with victims of or witnesses to particular known practices, interviews with subjects regarding specific standards, practices or procedures, and quantitative data, e.g., voter registration lists, numbers of voter applications received or election results by precinct, and names and addresses of poll officials. Moreover, some U.S. Attorneys' offices may find that broader investigations by the FBI will, in their District, yield the kind of information necessary to our overall determinations regarding compliance with Section 203, and in those Districts requests for such investigation by the FBI are encouraged.

Some Districts contain several counties covered by Section 203 while other Districts have very few covered counties. As is true of our other areas of law enforcement, in enforcing Section 203 we may proceed by attacking the most obvious or widespread violations first. This would be an especially good approach under Section 203 since each decided case will result in precedential decisions regarding the meaning, scope and application of the statute.

Thus, an office responsible for a number of Section 203 counties may determine which of those counties deserve the most immediate attention under Section 203, and conduct investigation and inquiries in the problem county or counties without conducting equally intensive activity in the other counties. Contact with persons knowledgeable about minority groups' voting-connected problems can be particularly helpful in pinpointing problem counties and should be consulted in this regard. However, an office should have a general knowledge of circumstances in all covered counties in the District in order to select problem counties and to allow us to evaluate the extent of the enforcement effort needed in the District and whether additional resources should be committed to that enforcement effort.

Finally, there are some jurisdictions for which an office need do very little once initial information is obtained. An example of this in the extreme is Charles City County, Virginia, where the local language minority is comprised of an American Indian tribe that has no language of its own—no language other than English exists. Under these circumstances the U.S. Attorney's office needed to do no more than initially determine the facts and obtain the concurrence of the Civil Rights Division that no further action was necessary since there is nothing the county could do to meet the basic requirement of Section 203. Although a situation such as this is rare, initial information regarding a local minority group that has a language other than English may demonstrate that because of particular circumstances pertaining to that minority group no further action by the Department under Section 203, or only minimal further action, is necessary. Such decisions should, of course, be made with the concurrence of the Civil Rights Division.



**CB - 21.2**











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