

JUN 1981

W. Dean Belk, Esq.
Clark, Davis & Belk
200 Second Street
Indianola, Mississippi 38751

Dear Mr. Belk:

This is in reference to the 1965, 1966 and 1967 annexations to the City of Indianola in Sunflower County, Mississippi, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed on May 1, 1981.

The Attorney General does not interpose any objections to the annexations involved in Cause No. 13,624 (May 4, 1966), Cause No. 13,708 (September 2, 1966) and Cause No. 13,952 (July 14, 1967). However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes.

With respect to the annexations accomplished by Cause No. 13,364 in 1965, however, we cannot reach a like conclusion. To determine that a change in the composition of a city's population resulting from annexation does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, the Attorney General must be satisfied either that the population percentage of the affected minority has not been appreciably reduced and that voting is not along racial lines, or that the city's electoral system nevertheless will afford representation to minority citizens which is reasonably equivalent to their political strength in the enlarged community. See City of Richmond v. United States, 422 U.S. 358 (1975), and City of Rome v. United States, 446 U.S. 156 (1980).

We have given careful consideration to the information provided on the 1965 annexation as well as to comments and information provided by other interested parties. Our analysis reveals that the 1965 annexation occurred when the city's population had become 55.3 percent black and that this annexation of 501 whites diluted the black voting strength at that time by 3.6 percent. The 1,991 whites now residing in those

annexed areas have caused a present dilution of 16.1 percent in the 1965 pre-annexation city and even when the post 1965 annexations of 1966 and 1967 are included within the city the present effects of the 1965 annexation amount to a 10.7 percent dilution of the black population. We also note that racial bloc voting exists in the city. With the exception of one black candidate, no black has been elected to the Indianola board of aldermen under the present at-large, majority vote and full-slate features of the city's electoral system even though a substantial number have sought election. Under these circumstances we are unable to conclude, as we must under Section 5, that the 1965 annexation did not have the proscribed discriminatory purpose or effect. Accordingly, I must, on behalf of the Attorney General, interpose an objection to the 1965 annexation.

In limiting our objection to the 1965 annexation, we are not unmindful of the city's request that we preclear none of the annexations here under submission unless we preclear them all. However, the Attorney General's responsibility and authority under Section 5 is to object to those voting changes which are not shown to be nondiscriminatory in purpose or effect. Since our analysis here has found that showing lacking only with respect to the 1965 annexation, that is the only annexation concerning which we have authority to object.

In this connection, should the city adopt an electoral system such as, for example, a fairly drawn single-member district plan, that would afford black voters a realistic opportunity to elect candidates of their choice, the Attorney General would withdraw the objection. Another alternative might be to offset the dilutive effect of the annexation in question by annexing the black residential areas adjacent to the city.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that this change has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, the Procedures for the Administration of Section 5 (Section 51.44, 46 Fed. Reg. 878) permit you to request the Attorney General to reconsider the objection. However, until the objection is withdrawn or the judgment from the District of Columbia Court is obtained, the effect of the objection by the

Attorney General is to make the 1965 annexation legally unenforceable, insofar as it affects voting.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us within twenty days of your receipt of this letter of the course of action the City of Indianola plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Carl W. Gabel (202-724-7439), Director of the Section 5 Unit of the Voting Section.

Sincerely,

James P. Turner
Acting Assistant Attorney General
Civil Rights Division