

From: **Brian Lawson** [REDACTED]
Date: Thu, Feb 17, 2011 at 4:50 PM
Subject: US DOJ Section 5 Guidance
To: votersfirstact@crc.ca.gov

Dear Citizens Redistricting Commission Staff and Members:

By now you are probably aware of the notice issued by the Civil Rights Division of the US Department of Justice in the Federal Register February 9, 2011 as "Guidance Concerning Redistricting Under Section 5 of the Voting Rights Act".

This five page document can be viewed at the DOJ website here:
http://www.justice.gov/crt/about/vot/sec_5/sec5guidance2011.pdf

More guidance from DOJ is here:
http://www.justice.gov/crt/about/vot/Policy_Guidance.php

This notice provides an important road map of the minimum steps that must be taken to carry out the most complex part of drawing the maps: submitting a map to DOJ for preclearance.

I am not an expert in this area, but reading over the notice leads me to make the following observations and suggestions.

- 1) Constructing a map which will meet the requirements in the notice will be expensive. To develop an acceptable map requires, at an absolute minimum, a VRA lawyer working with technical experts (the commission, of course, will go well beyond that and collect extensive public input). Among other things, constructing a viable map requires developing a "benchmark" and then showing that the proposed map does not retrogress with respect to that benchmark (or if retrogression takes place showing why it is unavoidable).
- 2) Expense is a problem, not just for the CRC, but for any group that wishes to submit a viable map. Because of these requirements there are probably only a handful of groups in the state of California that have the resources to submit a

viable map.

3) The following groups may have the resources to carry out this process (either separately or in combination): groups covered by section 5 of the Voting Rights Act and the major political parties. Different groupings of party members (The Democratic and Republican caucuses of the Assembly and Senate and the Democratic and Republican delegations in the U.S. House) may have the resources and desire to submit separate maps. There may be other groups, but these are likely to be the main ones.

4) One thing which might benefit all groups (including the CRC) would be if all the interested groups could agree on a common benchmark. You might ask groups presenting at the February meeting in Sacramento to address this issue. It might be helpful to hear from as many groups as possible as to whether or not they would be inclined to use a common benchmark.

5) Obviously any group is free to submit a map with their own benchmark. I believe there are experts who testify in court in favor of different methodologies which will result in different benchmarks (I do not provide those services, although I do have facility with statistics which will likely lead me to express an opinion on proposed methodologies).

6) I would encourage the staff of the commission to actively reach out to all groups which are likely to have the resources and desire to submit viable maps and encourage them to make a presentation at the February meeting in Sacramento. Among the many things it would be helpful to hear from the groups would be a brief statement of their intended level of participation in the process with respect to the commission (in other words: Do they plan to submit a map to the commission? Do they plan to submit a map independently to DOJ? Do they know what circumstances would make them more or less likely to submit a map, either to the commission or DOJ?).

Sincerely,

Brian Lawson



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