From: **Brian Lawson** [redacted]
Date: Fri, Feb 18, 2011 at 2:05 AM
Subject: Has Prop 14 been Precleared by DOJ?
[redacted]

Dear Ms. Anderson:

I have been following the new Citizens Redistricting Commission in California. One thing which is likely to make the job of the Commission difficult is determining the influence of proposition 14 (the new "top-two" primary system passed in June 2010) on elections in California.

On February 13, 2011, I emailed the US Department of Justice, requesting whether or not the Attorney General had interposed any objections to proposition 14 passed in 2010. On February 14, 2011, the Civil Rights Division, Voting Section, made available a copy of a letter dated October 25, 2010, from the Chief of the Voting Section to you stating that additional information was needed to assess whether or not the U. S. Attorney General would interpose any objections to proposition 14.

The October 25, 2010 letter described considerable additional information requested by the Chief of the Voting Section before the Attorney General could make a determination as to whether or not to interpose any objections to proposition 14. The penultimate paragraph of this letter ends as follows:

"Changes that effect voting are legally unenforceable unless and until the appropriate Section 5 determination has been obtained. … Therefore, please inform us of the action state plans to take to comply with this request."

Could you tell me if the additional material requested has been submitted to the Attorney General? And if so, when was this information submitted?

If the material has not yet been submitted to the Attorney General's office I would encourage you to consider the possibility that a provision in proposition 14 may hinder the ability of groups covered by Section 5 of the Voting Rights Act to elect the candidate of their choice.

The provision which I am concerned about is the provision allowing candidates to appear on the ballot with the designation "No Party

Preference" when a candidate is, in fact, a registered member of a party.

The statewide general election November 2010 for Lt. Governor and Secretary of State (both elections included Kings, Merced, Monterey and Yuba counties) provide possible example of how, if proposition 14 had been in place, Hispanics and African-Americans may not have been able to elect the candidate of their choice.

The Democratic candidate for Lt. Governor was Gavin Newsom and the Republican candidate for Lt. Governor was Abel Maldonado, a Hispanic. It is possible that if the Republican candidate had been able to remove his party affiliation from the ballot enough Hispanic voters may have voted for him, resulting in the election of the Republican candidate which was not the candidate preferred by Hispanics when party labels were available to the voters.

In the race for Secretary of State the Democratic candidate Debra Bowen ran against Republican candidate Damon Dunn, an African-American. Similar to the case above, if the Republican candidate had removed his party designation enough African-Americans may have voted for him to result in the election of the Republican candidate, the candidate who was not the preference of African-Americans when party labels were available.

What would have happened with the removal of party affiliation is merely speculation on my part, but I believe these are the types of concerns which should be addressed before this portion of proposition 14 is allowed to be put into practice.

As you collect the material to provide the U. S. Attorney General with the information requested in the letter of October 25, 2010, I encourage you to solicit input from groups within the state of California which are likely to be concerned about these issues.

In the interest of prudence, I encourage you to refrain from allowing candidates to remove their partisan affiliation from the ballot until the U. S. Attorney General has been provided with sufficient information to determine whether or not to interpose any objections against proposition 14.

Sincerely,

Brian Lawson

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