

UNITED STATES COMMISSION ON CIVIL RIGHTS

SOUTHWESTERN REGIONAL OFFICE  
NEW MOORE BUILDING, ROOM 231  
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• October 18, 1977

Dr. Denzer Burke  
523 W. 3rd Street  
Texarkana TX 75501

Dear Dr. Burke,

Enclosed please find the original and one copy for your files of the comment letter which I have prepared for your signature as acting Chairperson of the Texas SAC. This is the letter I read to you over the phone on Tuesday, October 11. As we discussed previously, a copy of the letter, unsigned, has already been forwarded to the Department of Justice.

Thank you for your cooperation and considerations in this matter.

  
GEORGE KORBEL *FKR*

Equal Opportunity Specialist

Enclosures

cc Texas SAC Members

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Mr. Drew S. Days, III  
Assistant Attorney General  
Civil Rights Division  
U.S. Department of Justice  
Constitution Ave., & 12th Street, NW  
Washington, D.C., 20530

Dear Mr. Days:

The Texas Advisory Committee to the U.S. Commission on Civil Rights has long been concerned about the situation of Mexican Americans and blacks living in Houston. Numerous cases of police brutality, unequal provision of public accommodations, housing discrimination, disparate provision of municipal services, and the like, have come to our attention. In addition, we are particularly aware of the electoral problems faced by minority Houstonians.

While Mexican Americans and blacks comprise almost 40 percent of the city's population, only one black has ever served on the seven-member Houston city council. We believe that while most overt instances of electoral discrimination may have ended, the at-large structure coupled with the majority requirement under which the Houston city council persons are elected present an extreme burden on potential minority candidates. This is particularly true when one considers the size of Houston. There are currently 1.5 million Houstonians living in a 510 square

mile area. In terms of land area, Houston alone is larger than the combined land areas of Philadelphia (128.5 sq. mi.); Detroit (138.0 sq. mi.); Baltimore (78.3 sq. mi.); Washington, D.C. (61.4 sq. mi.); and Cleveland (175.9 sq. mi.). Stated another way, Houston is larger than the combined areas of five of the ten most populated cities in the United States.<sup>1</sup> In terms of population, Houston now ranks as the fifth largest city in the United States - larger in population than 16 entire states.<sup>2</sup> Almost one-third of the United States Senate is elected from constituencies smaller than a Houston city council.

The community development target area is generally considered the minority section of Houston. It is an hourglass shaped area of 121 square miles lying generally north and south of the city's downtown. Fully 91 percent of Houston's black and 72 percent of its Mexican American population reside there. Indeed, Houston, by all estimates, is one of the most segregated of American cities,<sup>3</sup> and the degree of racial separation has increased substantially in the last 30 years.<sup>4</sup>

The quality of life in this massive ghetto is seriously lacking. While only 30 percent of Houston's population lives in the community development area, it contains over two-thirds of the city unemployment. Fully 20 percent of the families live at or below the poverty level - an astounding 55 percent of the streets in the area have open ditches for drainages. Sixty percent (60%) of the major community facilities and neighborhood node points in the area presently lack side walks for pedestrian accessibility. Almost 12,000 dwelling units are estimated by the city itself to be beyond renovation. Almost four times that many dwelling units in the area are rated as substandard.

The State Advisory Committee is aware that the Department of Justice is currently considering a request by Houston to preclear annexations of an area referred to as the business district of Clearlake City. As we understand it, the annexation involves approximately 2,000 persons. In addition, we are aware that Houston is in the process of embarking on an extremely ambitious number of additional annexations which will add as many as 100,000 more residents to the city. We also are aware that this area is up to 90 percent Anglo and is located in zones which city growth patterns indicate will continue to be so as they expand.

The Texas Advisory Committee believes that such disproportionately Anglo populated annexations will present increasing problems to minority Houstonians as they attempt to compete in the at-large system. We have arrived at our opinion by an examination of the city council election returns from the last 20 years with a particular emphasis on those from 1969, 1971, 1973, and 1975. Our findings are as follows:

1. Since 1955, there have been 86 contested races run for the positions of mayor and city council.
  - .19 races were decided by less than 20,000 votes
  - .13 races were decided by less than 10,000 votes
  - .10 races were decided by less than 7,500 votes
  - .6 races were decided by less than 5,000 votes
  - .4 races were decided by less than 2,500 votes
  - .2 races were decided by less than 1,000 votes
2. Since 1969, there have been 28 contested races but at least 21 were decided by margins which indicate that there was no question about the outcome. Stated another way, in 15 of the contests, the winner's margin of victory exceeded 50,000 votes while in six others, the margin of victory was more than 35,000 votes.

•If you examine the remaining races:

1969: In the contest for Place A, McKaskle defeated Love in a runoff by 2,138 votes. An examination of the precinct-by-precinct returns shows that McKaskle carried the black precincts by better than a 4-1 margin, taking a 13,970 vote plurality there.

In the contest for Place B, Robinson, a black was in a two-person race against Miller. There were a total of 148,014 votes cast with Robinson losing by a margin of only 9,032 votes but carrying the black precincts with margins of 10-1 and more.

In the race for Place 1 between Webb and Gotlieb, there was a runoff required in which 102,365 votes were cast. Gotlieb carried the black precincts by a margin of 3-1 and took a 10,830 vote plurality from them. The election was decided by a mere 1,957 votes.

1971: In the contest for Place B, Robinson, the black, ran again against Miller, the white. Out of a total of 181,906 votes cast, Robinson, the only black ever elected to the Houston city council, won and avoided a runoff by only 213 votes.

1973: In the contest for mayor, Hofheinz was elected in a runoff by only 2,806 of 244,000 votes cast. He carried the black precincts by margins of 8-1 and higher.

1975: In the contest for mayor, Hofheinz defeated Briscoe by 33,104 out of a total of over 245,000 votes. Hofheinz again carried the black precincts by the overwhelming margin he had in 1973 again. The Hofheinz plurality in black boxes was his margin of victory.

The race for Place C on the city council between Macey and Elliott was decided in a runoff election by 30,321 votes out of a total of almost 200,000. Macey carried the black precincts by more than 3-2 and received 14,392 plurality there.

For the convenience of the Department of Justice, we attach Exhibit A which is a yearly breakdown on the electoral totals.

As can easily be seen from the data, the great size of the city of Houston and the at-large majority requirement operates to favor incumbents and minimize real contests. In the few instances where blacks and Mexican Americans are able to operate in coalition with other groups to elect candidates of their choice, the races are very close. Thus, annexations which are disproportionately Anglo present a potential danger of dilution.

The State Advisory Committee is aware of a suit which was tried a few months ago in which the constitutionality of the at-large city council elections was upheld. Houston H.C.C.O. v. Mann, \_\_\_ F. Supp. \_\_\_ (S.D. Tex., Houston Div., March 8, 1977), 73-H-1650. The case is currently on appeal. We have examined the lengthy record in that case and paying careful attention to the analysis of election returns as well as the other factors relied upon by the Supreme Court in White v. Regester, 412 U.S. 753 (1973), we believe that the Houston at-large system in this situation, if constitutional, operates close to the limits of unconstitutionality. Annexations, such as those proposed by Houston, have the clear likelihood of diluting the vote of blacks and Mexican Americans.

We will not detail the analysis of the so-called White factors but direct the Department's attention to the copies of the trial briefs filed by the Civil Rights Litigation Center in H.C.C.O. v. Mann. Of particular note, please find the electoral analysis, the extensive data on poor performance, as well as the size and cost factors.

Recommendation

The State Advisory Committee has considered the Houston situation in detail. Based upon our study and consideration, we believe there is a substantial danger of dilution when disproportionately White or Anglo areas are annexed. We believe, and the electoral analysis demonstrates that as few as 1,500 people could present the issue.

The annexations proposed by Houston impose a substantial burden on the city under Section 5 of the Voting Rights Act. Houston must demonstrate that there is no dilutive effect on the minority vote. The Committee believes that the data presented here belies any such attempt Houston may have made.

The current proposed annexations cannot be said to have a neutral effect. Based upon our study and consideration, we believe that any disproportionately Anglo populated annexations amount to a violation of the Voting Rights Act of 1965 (as amended), and ought to be objected to.

Sincerely,

DR. DENZER BURKE, VICE CHAIRPERSON  
Texas Advisory Committee

Enclosures (4)

## F O O T N O T E S

1. Readers Digest Almanac and Year Book, W.W. Norton and Co., 1976 at 101.
2. Id., The States and their respective census populations are: Idaho (713,008); Nevada (488,738); Utah (1,059,273); Alaska (302,173); Delaware (548,104); Hawaii (769,913); Maine (993,663); Montana (694,409); New Hampshire (737,681); New Mexico (1,016,000); North Dakota (617,761); Rhode Island (949,723); South Dakota (666,257); Vermont (444,732); and Wyoming (332,416).
3. Municipal Performance Report 1:2, November 1973, The Council on Municipal Performance (COMP) at 6-18. This is based upon an update of the classic study of Karl and Alma Tauber (1965). It indicates that of the 30 largest cities in the United States, Houston is the second most segregated. Stated another way, Houston is more segregated than even New Orleans, Detroit, Boston, or Atlanta.
4. Id. In 1940 Houston ranked 11th among the 30 cities referred to in note 3.

