

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
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Via Fax and First-class mail

March 13, 2006

John K. Tanner, Esq.
Chief, Voting Section
Civil Rights Division
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Re: Request for Pre-clearance of procedures for New Orleans elections

Dear Mr. Tanner:

On behalf of the National Association for the Advancement of Colored People (NAACP), I am writing to formally object to the plans submitted by the State of Louisiana for the scheduled April 22 municipal elections in New Orleans, and to urge that the Department of Justice (DOJ) object to and decline to provide pre-clearance for them. As explained below, holding the April 22 election in accordance with the submitted plans would result in denying thousands of minority citizens of New Orleans, particularly those displaced temporarily to other states as a result of Hurricane Katrina, a meaningful opportunity to vote. The NAACP had earlier urged DOJ to seek to enhance and improve the plan for the April 22 election, but no significant improvements have occurred and it remains clear that the rights of African-American voters will be severely harmed if the election is held as planned and scheduled. I urge you to deny pre-clearance for what would be an illegal election and require that the election take place at a later date after the problems with the state's plans are adequately remedied.

Many of the reasons why DOJ should not pre-clear the proposed election procedures are summarized in the detailed letter to you last week by Louisiana State Senator Cleo Fields, which is incorporated by reference herein. If anything, the situation has worsened since last week. Holding the election on April 22 would harm minority voting rights and would be illegal for the following reasons.

First, as you well know, DOJ has not yet pre-cleared the proposed election procedures. Indeed, I understand that such details of those procedures as precinct locations have not yet even been

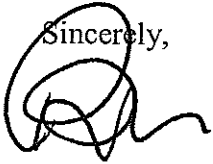
finalized and submitted to DOJ. Under Section 5 of the Voting Rights Act, pre-clearance must occur before a covered jurisdiction like Louisiana can hold elections when changes have been proposed. Yet the state has already begun to hold the election by declaring the election date and opening and closing of candidate qualifications, despite the recognition by state officials that an election with proposed changes could not legally be called and begun before the state received pre-clearance. See Letter from Senator Cleo Fields to John K. Tanner (March 9, 2006) (“Fields letter”) at 3-4. As Senator Fields has concluded, the state “has already begun holding an illegal election.” Id. at 7. Holding such an illegal election will inevitably lead to an election producing illegal results.

Second, holding the election on April 22 under the current plans would seriously harm the voting rights of hundreds of thousands of New Orleans citizens, most of whom are African-American, who have been displaced and are still residing temporarily outside the city and outside the state. It has been conservatively estimated that approximately 50% of the New Orleans African-American community has been forced to evacuate the city and now resides temporarily in one of the other 49 states. See Fields letter at 5. Although Louisiana has provided for satellite voting within the state for Louisiana voters, its plan refuses to do so for voters now outside the state in places like Georgia and Texas. Instead, in a period less than the 60 days provided for by Louisiana law, such voters must somehow obtain an application for an absentee ballot, have it received and processed by the registrar of voters, receive an absentee ballot from the registrar, and get it back to the registrar by election day. Even more serious barriers are faced by displaced New Orleans citizens who wish to register to vote, with a deadline of next week. Add to this the anticipated mail delays, the problem of evacuees being forced to move several times, the inability of evacuees to obtain information on the candidates and issues at stake in the election, and the fact that even some of the information mailed by the state to displaced voters about absentee ballots was recently found inaccurate and incomplete. See E. Anderson, “Voting rights groups criticize election mailings,” New Orleans Times-Picayune (March 10, 2006). Satellite voting was provided in the United States to Iraqi voters in that country’s recent election, even for voters who had not been in Iraq for many years. It is inexcusable that similar satellite voting has not been provided for New Orleans residents displaced out of state, and its absence is a recipe for disenfranchisement for thousands and thousands of African-American voters.

Finally, the voting rights of African-American voters who remain in New Orleans are also seriously threatened. Significant parts of predominantly African-American neighborhoods in the city lack electricity and are under demolition, and the customary polling places in those areas are unusable. The state submitted a list of proposed new polling places for pre-clearance in February, but even a number of these are unusable. See Fields letter at 2. Indeed, I understand that, as of the end of last week, new proposed polling sites had yet to be even submitted for pre-clearance. Yet changing polling locations this close to an election would clearly violate state law. Id. And there has been no information provided to city residents whatsoever about the massive changes that are underway, which can only lead to confusion and loss of a meaningful opportunity to vote.

In short, it is clear that allowing the proposed April 22 election to go forward would result in serious retrogression and dilution in minority voting strength, and effectively deprive many thousands of New Orleans African-Americans of the right to vote in the municipal elections. I urge that you object and deny pre-clearance to the proposed election procedures, make clear that the election cannot go forward on April 22, and work with state and local officials to remedy these problems so that elections can go forward in a manner that will protect New Orleans citizens' fundamental right to vote.

Sincerely,

A handwritten signature in black ink, appearing to be "B. Gordon", written over the word "Sincerely,".

Bruce S. Gordon
President & CEO

cc: President George W. Bush
Attorney General Alberto Gonzales