

# Bush aides suppressed challenges to anti-democratic election plans

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Top officials of the Bush administration overrode the objections of career civil rights attorneys at the Department of Justice (DOJ) to approve changes in voting procedures and electoral districts that would reduce the electoral impact of minority voters and help Republican candidates, according to documents leaked to the *Washington Post*.

The first case, in Georgia, dealt with changes in state voter registration procedures that would have created disproportionate obstacles for black voters. The plan was later blocked by a federal judge. The second case, changing the boundaries of Texas congressional districts to dilute the influence of Hispanic voters, was ultimately approved by a federal district court and led to a five-seat gain by Republicans in the US House of Representatives in the 2004 election.

Both cases involved the Justice Department's authority, established under the 1965 Voting Rights Act, to carry out "pre-clearance" of any changes in the election practices of the southern states where suppression of minority voting was widespread during the Jim Crow era. The nine states affected have the burden of proof in these cases: that is, they must demonstrate that the changes they propose will not have a negative effect on minority voting.

These states routinely submit such changes to the staff of the Justice Department's Civil Rights Division, which makes recommendations to the senior officials of the department, all political appointees selected by Bush. It is rare for such recommendations to be overturned by the top officials, unless the career staff are sharply divided.

The new Georgia law stiffens requirements for voter identification. Only six forms of required photo ID would be acceptable at polls. Birth certificates, for example, would no longer be sufficient to allow a registered voter to cast a ballot. Prospective voters without a driver's license would have to obtain and pay for a special digital identification card from state department of motor vehicles offices, which exist in only about one third of the state's counties. There is not a single such office in the city of Atlanta, the state's largest and the jurisdiction with the largest black population.

A 50-page memo written by the Civil Rights Division staff team details fee requirements, documentation red tape and roadblocks, as well as lack of accessibility for the rural and

elderly population to simply obtain the new proper identification. No funds are to be allocated for education about the new requirements. The memo recommends rejecting the proposed changes on the basis of "retrogressive" racial impact, finding that African-American voters would be likely to suffer infringement of the voting franchise as a result of the proposed changes.

The legislation passed the Georgia House and Senate in March 2005. According to the Department of Justice memo, "Media accounts reflect that members of the Georgia Legislative Black Caucus expressed outrage at enactment of the revisions to the photographic identification provisions." Of 47 African-American legislators, 46 voted against the bill, which was also opposed by the Georgia secretary of state, the mayor of Atlanta, and the National Association for the Advancement of Colored People (NAACP) Legal Defense Fund.

Letters of support for the law from legislators and officials in Georgia are quoted in the DOJ memo. These are disingenuous, and the stated objective of reining in "voter fraud" is a transparent pretext for restricting the franchise and eliminating poor and minority working-class voters.

Moreover, the measure was a solution to a non-existent problem, since there is no evidence that fraudulent voting by individuals who go to the polls on election day is a significant factor in US elections. (Nearly all ballot fraud cases relate to the stuffing of the ballot boxes by election officials, or the abuse of absentee ballots by party organizations, not individuals presenting themselves at the polls who are ineligible.)

An August 25 staff memo obtained by the *Post* recommended blocking the Georgia law. Four of the five members of the staff team assigned to review the law signed the recommendation. They argued that the plan would be "retrogressive" in reducing the ability of blacks to vote. The staff memo noted that Georgia officials had made little effort to meet the burden of proof by researching the effect of the voter ID law on minority voters. It recommended several changes in the law, including allowing voters to continue to use such non-photo IDs as birth certificates and Social Security cards.

The next day, the head of the Justice Department unit, John Tanner, told Georgia officials they could go ahead. "The Attorney General does not interpose any objection to the

specified changes,” he said in a letter. Less than two months later, however, a federal district court judge issued an order blocking the new law, and his ruling was subsequently upheld by an appeals court panel.

The *Washington Post* published the internal Justice Department documents on the Georgia case November 17, after the courts already stepped in. Two weeks later, on December 2, the newspaper published even more explosive documents, tied directly to the campaign finance prosecution against Tom DeLay, the House majority leader who was forced to step down from his House post after he was indicted.

The charges against DeLay relate to his protracted and single-minded campaign to use campaign cash from corporate interests to shift the balance in the Texas state legislature and, ultimately, through redistricting, to gerrymander the boundaries of Texas congressional districts and ensure a top-heavy Republican majority in the state’s congressional delegation, the foundation of his power in the US House of Representatives.

Texas law bars direct corporate contributions to state legislative candidates, so DeLay arranged for \$190,000 to be sent to the Republican National Committee, which then returned the money to the selected candidates according to a prescription prepared by two DeLay political aides and approved by the congressman. All three are now facing charges of money laundering and conspiracy.

The conspiracy was effective, in that the selected candidates won their 2002 state legislative races, the Republicans took control of the legislature, and the legislature redrew the boundaries of Texas congressional districts, resulting in a five-seat gain for the Republicans in 2004—more than enough to insure Republican control of the House.

The 2004 redistricting had to receive pre-clearance from the Justice Department, and the career staff emphatically rejected the plan, with all seven members of a task force, as well as their supervisor, finding that the new boundaries would have the effect of reducing the ability of Hispanic voters to influence the outcome.

They cited two districts in particular where last-minute changes were made in the boundaries—dictated by DeLay aides to the state legislative committee that drafted the plan—to remove Hispanic voters from the district of Democratic Congressman Martin Frost and Republican Congressman Bonilla. Frost was defeated for re-election and Bonilla survived a strong challenge.

The 73-page memorandum analyzing the Texas redistricting concluded that the plan violated the Voting Rights Act. Six lawyers and two analysts in the voting rights section of the Justice Department said, “The State of Texas has not met its burden in showing that the proposed congressional redistricting plan does not have a discriminatory effect.” The group’s supervisor added, in a concurring opinion, “This result quite plainly indicates a reduction in minority voting strength. The state’s argument that it has increased minority voting

strength...simply does not stand up under careful analysis.”

The memo cited contemporaneous comments by Texas state officials and DeLay aides that indicated they were aware the redistricting might be blocked as discriminatory. James W. Ellis, one of the two DeLay aides now on trial with him, wrote in October 2003, “We need our map, which has been researched and vetted for months. The pre-clearance and political risks are the delegation’s and we are willing to assume those risks, but only with our map.” Ellis and DeLay personally participated in meetings in the state capital to redraw the lines, with most of these key discussions held behind closed doors.

The Georgia and Texas cases, far from being exceptions, are examples of a policy being imposed by the Bush administration nationwide. The Justice Department has barred staff attorneys from offering any recommendations in cases under the Voting Rights Act, so that the Bush administration can satisfy its ultra-right constituency, in which racist elements in the southern states are a major component.

The *Dallas Morning News* reported that the new policy was instituted by Tanner, chief of the voting section of DOJ. Tensions have escalated within the unit because of Tanner’s criticism of the work of staff attorneys and his suppression of their criticisms, to the point that many career employees boycotted the staff holiday party.

The Bush administration has engaged in what amounts to a purge of the Civil Rights Division, introducing a buyout for career employees that increased the turnover from the norm of 11 percent annually to 18 percent last year. This was part of a “concerted effort to rid the department of the experienced, longtime civil rights enforcement folks and to replace them with people who are more attuned to the ideology of the political leadership,” William Yeomans, a long-time Civil Rights Division attorney, told the *News*.

The Bush administration first came to power by trampling on the democratic rights of Florida voters, with the notorious 5-4 Supreme Court decision in *Bush v. Gore* that halted vote-counting and awarded that state’s electoral votes, and the White House, to the Republican candidate. Republican control of Congress has been sustained by systematic gerrymandering, particularly in large states like Pennsylvania, Ohio, Michigan and Texas, in which minority voters have been grouped into a few districts, leaving a larger number of relatively “minority-free” districts in which Republican candidates have predominated.



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