

**The Deterrent Effect of Section 5 of the Voting Rights Act:  
The Role of More Information Requests**

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It is impossible to assess the impact of the Voting Rights Act (VRA) without a thorough consideration of the role of the Section 5 Preclearance Provision. This subdivision of the law transformed the traditional relationship between national and state governments in that it gave the Department of Justice (DOJ) and the United States District Court for the District of Columbia<sup>1</sup> the capacity to directly review the potential impact of a broad range of proposed changes in electoral procedures and practices to determine if they might be discriminatory. This *ex ante* intervention was specifically designed to expand voting rights to African Americans, and later identified language minorities, by limiting their need to seek legal remedies in the federal courts after jurisdictions had already held elections in which discrimination was alleged. Section 5 was designed to overcome the need for plaintiffs to first file lawsuits in federal district courts within covered jurisdictions<sup>2</sup> where local judges might be inclined to make decisions in favor of traditional political interests.

The logic of Section 5 assumed that African Americans and language minorities were much more likely to have their interests fully considered by the Department of Justice (DOJ) or the DC Court than by a local federal district judge.<sup>3</sup> When the constitutionality of the entire VRA, including Section 5 specifically, was upheld by the Supreme Court in *South Carolina v. Katzenbach*,<sup>4</sup> the DOJ and the DC Court were given the capacity to become significant participants in the determining the impact of the Voting Rights Act. The capacity was expanded

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<sup>1</sup> Because so few changes are submitted to the DC District Court, we will refer to submission to the DOJ as the primary arena within which Section 5 is administered. We fully acknowledge that a jurisdiction can, at any time, choose to submit their change to the DC District Court for review.

<sup>2</sup> Explain the trigger formulas for covered jurisdictions.

<sup>3</sup> Roman argues that the inclusion of the Department of Justice in Section 5 review was an afterthought by the Congress. They expected most of the reviews to occur under the DC District Court. See John J. Roman, "Section Five of the VRA: The Formation of an Extraordinary Federal Remedy," *American University Law Review* 22 (2), 1972, p. 124.

<sup>4</sup> 383 U.S. 301 (1966).

even further in *Allen v. State Board of Elections*<sup>5</sup> in which the Supreme Court enlarged the scope of the VRA to prohibit practices and procedures that led to vote dilution.<sup>6</sup> Vote dilution could now be considered in preclearance reviews under Section 5.

The realization of the goals of the VRA, and perhaps especially those of Section 5, has always depended on both effective enforcement of its various sections and provisions by the federal courts and the Department of Justice and on voluntary compliance by covered jurisdictions. The number of personnel and other resources necessary to constantly monitor the hundreds of thousands of decisions and actions taken by state and local governments in the process of conducting elections has been a perennial issue challenging the federal government, and especially the DOJ, in the exercise of their responsibilities under the VRA. Ironically, despite the principled position taken by the Congress in 1965, and by the Supreme Court in 1966 and 1969, to promote the full and effective participation of African Americans in all aspects of elections, neither body has distributed or mandated the amount of money necessary to make sure that full enforcement of all provisions of VRA could occur.

Not surprisingly, a debate on the effectiveness of DOJ actions regarding Section 5 has always existed.<sup>7</sup> Two main criticisms have been levied against the DOJ. First, it is argued that the DOJ has no comprehensive way of knowing whether or not all covered jurisdictions have submitted all relevant election related changes to the DOJ for review. Second, because of the dependence of the DOJ on this voluntary submission, it has tended to engage in negotiations with covered jurisdictions that have not been as forceful or demanding as necessary to maximize the protection of voting rights. These two criticisms are outlined most clearly by Ball, Crane, and

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<sup>5</sup> 393 U.S. 544 (1969).

<sup>6</sup> Definition of vote dilution from Davidson, 1992.

<sup>7</sup> The question of whether Section 5 should exist at all given its impact on only certain sections of the country and whether vote dilution is protected under its provisions are also debated. Our focus in this essay, however, is on the debate regarding implementation, not the debate on its legality or scope.

Lauth, where they refer to these limits in the implementation of Section 5 as leading to “compromised compliance.”<sup>8</sup> Department of Justice officials, not surprisingly, argue that they do all that they can with the resources that they are given. Reliance on voluntary compliance is acknowledged, as is awareness that in some instances “second-best results” or the making of decisions largely on “political considerations” can occur.<sup>9</sup> These officials, however, are confident that the DOJ has most often promoted “high levels of compliance” by covered jurisdictions nonetheless.<sup>10</sup>

The DOJ has consistently issued objections to submitted changes. Ball, Crane, and Lauth report that from 1965 to 1981, a total of 35,000 changes were submitted for preclearance. The DOJ objected to 815, or 2.3%, of these changes.<sup>11</sup> From 1990 through July 29, 2005, 261,388 changes were submitted. A total of 792 objections to these changes were made by the DOJ. This represents 0.3% of all changes during this period of time.<sup>12</sup> Only 48 of objections were issued between 2001 and 2005.

Interestingly, both the critics and the supporters of DOJ enforcement of Section 5 make arguments with little systematic analysis of longitudinal data regarding DOJ internal review of submissions and the ultimate disposition of submitted changes. Using the number of objections to assess DOJ actions regarding Section 5 is useful, but it may miss other ways that the DOJ influences jurisdictions to comply with the VRA. Relatedly, interpreting the recent decrease in

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<sup>8</sup> Howard Ball, Dale Crane, and Thomas P. Lauth, *Compromised Compliance: Implementation of the 1965 Voting Rights Act*, Westport, CT: Greenwood Press, 1982, p. 57.

<sup>9</sup> Drew S. Days III, “Section 5 and the Role of the Justice Department,” in *Controversies in Minority Voting: The Voting Rights Act in Perspective*, Bernard Grofman and Chandler Davidson, eds., Washington: DC: The Brookings Institution, 1992, p. 61. From 1990 through June 23, 2005, a total of 792 objections to proposed changes have been issued by the DOJ.<sup>9</sup> However, only 44 of these objections were issued between 2000 and 2005.

<sup>10</sup> *Ibid.*

<sup>11</sup> Ball, Crane, Lauth, 1982, p. 137.

<sup>12</sup> US Department of Justice. “Section 5 Objection Determinations.” [http://www.usdoj.gov/crt/voting/sec\\_5/obj-activ.htm](http://www.usdoj.gov/crt/voting/sec_5/obj-activ.htm).

the number of objections issued by the DOJ as an indicator that jurisdictions are now more prone to make electoral changes that comply with the VRA may underestimate the critical role that the DOJ can play in directing jurisdictions to comply. A systematic assessment of a fuller range of DOJ practices and decisions in the area of compliance fills a critical need in understanding the impact and continued need for Section 5 of the Voting Rights Act.

This essay is comprised of three parts. First, we develop a model of compliance to reexamine the debate regarding the impact of Section 5. In this model of compliance we specify the major players, their primary goals and strategies, and the final outcomes that structure the process of preclearance. Second, we specify the role of **more information requests (MIRs)** issued by the Department of Justice as part of their work in reviewing submitted changes. An MIR is a formal letter from an official within the DOJ to a submitting jurisdiction for additional information to evaluate a proposed change.<sup>13</sup> The purpose of an MIR is to make sure that the DOJ has the information it needs to comprehensively review a proposed change. In doing so, it can also send signals to submitting jurisdictions about the assessment of their proposed change.<sup>14</sup> Third, we provide the first-ever analysis of the actual issuance of MIRs by the DOJ for the period 1990-2005.<sup>15</sup> We analyze the frequency of MIRs and their distribution by type of electoral change and state from which changes were submitted. We also analyze the relationship of MIRs to the ultimate outcome of changes submitted to the DOJ when an MIR was issued.

In the end, we use our model of compliance and our analysis of DOJ generated data to specify the critical role that MIRs can play in promoting compliance by covered jurisdictions.

MIRs are far more frequently issued than are objection letters, and may be a much needed added

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<sup>13</sup> Department of Justice, 28 C.F.R. Part 51, §51.37, Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, as Amended.

<sup>14</sup> An example of an MIR appears in Appendix A.

<sup>15</sup> Only partial data are presently available from the Department of Justice for 2005. The full data for 2005 will be added when the data become available.

measure to assess both compliance with and the continued need for Section 5 of the Voting Rights Act. MIRs are among the mechanisms used by the DOJ to promote submission, facilitate full review, and develop arenas of understanding with all relevant players in the preclearance process. MIRs may, ultimately, be a better indicator of how much compromised compliance actually occurs in the process of Section 5 preclearance.

### **Modeling Compliance**

We define compliance as the submission to the DOJ,<sup>16</sup> with full information, of all changes in voting procedures or practices that may have the purpose or effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group, and the acceptance by the submitting jurisdiction of the determination made by the DOJ or DC District Court. We posit that there are three primary actors<sup>17</sup> in the process of compliance with Section 5 of the Voting Rights Act. The first actor is the covered jurisdiction and those officials within a jurisdiction with direct responsibility for overseeing elections and voting. Under the VRA in 1965, a number of states, largely in the South, were subject to the Section 5 Preclearance Provision. They were identified on the basis of the trigger formula that was initially stated in this legislation. The trigger formula was modified in 1970 and especially in 1975 when the VRA was expanded to include language minorities. At present nine entire states are included under Section 5, as are fifty-four additional counties and twelve individual townships in selected other states.<sup>18</sup> All governmental subdivisions within a specified

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<sup>16</sup> Or the District Court of the District of Columbia. See fn. 1.

<sup>17</sup> We do not include federal judges, members of Congress, or the President as primary actors. Clearly they have affected the evolution of Section 5 through court decisions and modifications of the legislation. We suggest that these players are better understood as decision-makers who sporadically affect interpretations of Section 5, but do not consistent participants in the implementation of Section 5.

<sup>18</sup> The states are: Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, and Virginia (six counties and three cities in Virginia have successfully bailed out of coverage). The number of covered counties in states not covered as a whole are: California-4, Florida-5, New York-3, North Carolina-40, South Dakota-2. The

jurisdiction are also covered under the Section 5 provision. The second major actor is comprised of subsets of African American and language minority voters. African Americans in specified jurisdictions were the original anticipated beneficiaries of the VRA. Likewise, language minorities, especially Latinos, certain Asian subgroups, and some Native American tribes, are now similarly positioned to benefit from the VRA. We place advocacy groups such as the Lawyer's Committee for Civil Rights (LCCR), the NAACP Legal Defense Fund, and the Mexican American Legal Defense and Education Fund (MALDEF) and private attorneys who represent African Americans and language minorities within this set of actors as well. The final actor in the preclearance process is the Department of Justice. Among the most important decision-makers within the DOJ affecting Section 5 is the Attorney General, the Assistant Attorney General for the Civil Rights Division, the attorneys in the Voting Rights Section, and the analysts or paraprofessionals who are generally the first to initially review a submission.

Each of these actors has a distinct set of goals in Section 5 Preclearance. Covered jurisdictions have as their primary goal to implement a proposed change. Whatever the nature of the change and whatever its purpose, our model posits that the interests that govern the jurisdiction have come to the decision to make the change consistent with the distribution of political influence currently operating in the jurisdiction. By comparison, the primary goal of African Americans, language minorities, and their advocates is to maximize their respective rates of voting participation and their related election of first choice candidates to public office. Lastly, the primary purpose of the DOJ is to guarantee that proposed changes in electoral procedures, practices, and effects comply with current legal standards of the Voting Rights Act.

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number of townships in states not covered as a whole are: Michigan-2, New Hampshire-10. The entire list of covered jurisdictions can be found at:

[http://www.usdoj.gov/crt/voting/sec\\_5/covered.htm](http://www.usdoj.gov/crt/voting/sec_5/covered.htm).

What becomes immediately apparent is that the goals of each of these actors need not be consistent with one another, although it is theoretically possible. The logic of Section 5 is to push the DOJ to object to any proposed changes where their purpose or effect is identifiably inconsistent with that of the protected group, given current standards of law.

What strategies and related actions, then, are pursued by each of the actors in their attempts to attain the goals specified above? It is here where we begin to see the critical role that MIRs can play in affecting any assessment of Section 5. There are four primary strategies that a covered jurisdiction can pursue to implement a desired change: 1) not submit the change to the DOJ, 2) submit the change for preclearance with limited or biased information in anticipation that the DOJ might not preclear a full submission, or 3) provide a full submission with all relevant information to the DOJ.<sup>19</sup> Clearly the first two strategies are not in compliance with the spirit or letter of the VRA. There are two primary strategies pursued by African Americans, language minorities, and those acting on their behalf. They can: 1) monitor changes in election procedures or practices occurring within jurisdictions, and 2) assess these changes to determine if they are discriminatory or not. Lastly, the DOJ has four strategies it can pursue in assessing submissions it has received. It can: 1) rely upon the information provided by the covered jurisdiction and included within its original submission, 2) rely upon the information provided by African Americans and language minorities in their assessments of proposed changes, 3) secure their own information based upon their independent research, or 4) secure additional information from the submitting jurisdiction through the issuance of a more information request (MIR) in a formal letter from the DOJ. There is variation in the extent that some actors can pursue multiple

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<sup>19</sup>Guidelines for jurisdictions submitting changes to the DOJ are located at: [http://www.usdoj.gov/crt/voting/sec\\_5/guidelines.htm](http://www.usdoj.gov/crt/voting/sec_5/guidelines.htm).

strategies simultaneously. Submitting jurisdictions are limited to one strategy, however targeted groups and the DOJ can pursue several of the identified strategies at the same time.

The outcomes that can result from the process of compliance comprise the last component of our model. The primary ways that the outcomes of preclearance have been conceptualized is through determining whether or not the DOJ approves a proposed change or issues an objection. The issuance of the objection is the ultimate sanction that the DOJ can impose under Section 5 and is the clearest indication that a jurisdiction is proposing a change that has a discriminatory purpose or is likely to have a discriminatory effect. It is the lack of the issuance of objections that is the primary criticism levied against the DOJ. Rarely, however, is it also acknowledged that the covered jurisdictions can also take four distinct actions resulting from the issuance of an MIR. The actions also have clear consequences for affecting compliance. One, a jurisdiction can respond to the MIR by supplying the requested information. Two, it can withdraw the proposed change that led to the MIR. Three, it can submit another change that supersedes the original proposed change in response to the questions raised in the MIR. Four, it can choose not to respond to the MIR. In each of these last three circumstances, the covered jurisdiction, if it is complying with the law, is not implementing the original proposed change. Actions of withdrawal, superseded change, and no response can be understood as having the same ultimate impact as the issuance of an objection. Finally, African Americans and language minorities can take the actions of either accepting the decisions of the covered jurisdiction and the DOJ or litigating respective decisions in a court of law. It is, of course, likely that the chances such litigation will be successful are less if the proposed change is approved by the DOJ. We are also fully aware that pursuing such a strategy requires considerable financial and other resources.

This model of compliance is outlined in Figure 1. This model serves three purposes. First, it places any assessment of the impact of Section 5 within the appropriate context of understanding the range of actors, goals, strategies, and potential consequences that comprise the complex and interdependent relationships required under the Voting Rights Act. Second, it allows us to fully appreciate the critical role that can be played by MIRs in promoting compliance with Section 5 of the VRA. Objections are an appropriate indicator of DOJ actions. The issuance and consequences of the issuance of MIRs are also important, and previously little examined indicators of the impact of Section 5. Third, any possible revision in the structure and implementation of Section 5 that may be considered as it approaches renewal in 2007 can be informed by the interdependencies of interest and interaction outlined in our model. By specifying actors, goals, strategies, and consequences, we are in a better position to assess the likely impact of any proposed changes in the structure and operation of Section 5.

### **MIRs in the Process of Compliance**

The critical role of MIRs is evident. MIRs serve as a means through which the DOJ enhances the information that it has available to assess a proposed change. It cannot issue an MIR when there is no submission provided. However, it can do so as a way of limiting the likelihood that jurisdictions will submit limited or biased information. It can also issue an MIR to further supplement the information provided by a jurisdiction when it has attempted to provide full information in good faith. Moreover, MIRs can signal to jurisdictions that a proposed change might have a discriminatory impact that the jurisdiction had not anticipated. It can also serve to help the DOJ better understand what a jurisdiction is attempting to do.

**The Role of MIRs in Section 5 Compliance, 1990-2005**

**Sources of Data.** The subsequent analysis utilizes data provided by the Department of Justice. We requested any combination of reports that showed changes, objections, and more information requests by year, jurisdiction, and change type for years 1982-2005. Additionally, we requested any reports showing MIRs since 1982 that resulted in a submission being withdrawn and then subsequently resubmitted. We also requested copies of all letters including MIRs since 1982. We received Submission Tracking and Processing System (STAPS) Statistic Reports for Changes and Objections by year and state, and by year and change type. No statistics report combining both state and change type for submissions and objections was available. No statistics report was available for More Information Requests which showed change type and/or state, and no statistics report was available for withdrawals. One MIR report was available that listed total MIRs by submission number. We received Submission Listing Report: Followup and Study Report for the Action ASK for all states. Initially, we received this information for each state, but in the process of making information requests the records software was updated and the report was able to include all states. This report gave us summary information for everything that happened within a submission that received a MIR. This 3,483 page document provides a summary of everything that happened within a submitted change receiving a MIR; therefore, it is more telling of MIRs than the reports that solely summarize changes and objections. In the end, we coded the following information for each submitted change receiving a MIR: state, county, subjurisdiction, submission number, change type, number of MIRs, more information followups, and the final outcomes of the original change submitted for the period 1990-2005. Summary reports with this information are not maintained by the

DOJ. We generated all of these summary statistics based on the detailed information on each submissions maintained by the DOJ.

We also received copies of each letter containing one or more MIRs from 2000-2005.<sup>20</sup> We entertained the idea of requesting a whole submission file to study the substantive changes that occurred throughout the process of preclearance. We were informed that securing this information would take a great deal of time and require redacting information.<sup>21</sup>

MIRs do not encompass all information requested from the jurisdiction. MIRs only encompass that information that was requested through a formal letter. Other information requests that might occur from conversations DOJ officials have with submitting jurisdictions are not a part of our analysis. The data we use includes only the requests for information made through formal letters sent by the DOJ to submitting jurisdictions.

The MIR data were coded into fifteen change types to mirror the categories used by the DOJ. These categories were: redistricting, annexation, polling place, precinct, re-registration or voter purge, incorporation, bilingual procedures, method of election, form of government, consolidation or division of political units, special election, voting methods, candidate qualifications, voter registration procedures, and miscellaneous.<sup>22</sup>

Outcomes of the issuance of MIRs were initially coded into twenty-seven categories. These were further reduced to fourteen categories for purposes of consistency. We focus our analysis on three specific outcome categories: objections, no objection, and the sum of

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<sup>20</sup> We initially requested copies of each letter containing at least one MIR since 1982. We were informed that the cost of producing these letters would be in the thousands of dollars and that it would take a considerable period of time to complete.

<sup>21</sup> We plan to code the content of a sample of these letters to further understand the influence MIRs can have on submitting jurisdictions.

<sup>22</sup> A listing of all categories of change type appears in Appendix B.

withdrawals, no determination (ND)/superseded, and no response.<sup>23</sup> Objections refer to the issuance of a formal objection letter by the DOJ. No objection refers to an approval in the process of preclearance. The withdraw category contains all submitted changes that ended in withdrawal or no determination/withdrawal. In such circumstances the jurisdiction withdrew the proposed change initially submitted. Changes that ended in ND/superseded occur when the jurisdiction has decided to submit another proposed change to replace the change initially submitted. Finally, the no response category includes changes initially submitted that elicited a MIR or a more information follow-up. A more information follow-up is when an additional request for even more information provided from an initial MIR. In each of the circumstances we coded as a withdrawal, no determination superseded, and no response, the initial change has no legal approval to be implemented. As such, we argue that the impact of each of these outcomes can be understood as similar to the outcome that results from the issuance of a letter of objection. That is, the submitted change has no legal standing to be implemented.<sup>24</sup>

**The Context of Compliance.** Tables 1-6 provide longitudinal descriptive data for the years 1990-2005<sup>25</sup> on the total number of changes submitted for preclearance, objections issued to changes submitted, and number of MIRs sent. These data are subdivided by change type and by state from which the change was submitted. Several patterns appear in these data.

Overall, the total number of changes submitted is about the same for each of the years examined as revealed in Table 1. In 1990 a total of 17,900 changes were submitted for preclearance to the DOJ and in 2004 the number was 17,037. The smallest number of changes submitted was in 1995 at 14,149 and the largest number was in 1992 at 22,763. The numbers do

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<sup>23</sup> A complete listing of coding categories for the impact of MIRs is provided in Appendix C.

<sup>24</sup> We are fully aware that the DOJ does not have the capacity to monitor whether or not any of these changes are subsequently implemented. We note that this is the same position for the DOJ even when it issues an objection letter.

<sup>25</sup> We only have data up through July for 2005.

go up in 1992 and 2002, years after which reapportionment and related redistricting have their greatest impact as a result of new population data provided by a decennial Census. A grand total of 261,390 changes were submitted between 1990 and June of 2005.

Within the categories provided by the DOJ, the largest number of changes, 59,002 (22.6%) were submitted for approval to modify polling places, followed by annexations at 54,760 (20.9%), precincts at 36,253 (13.9), and voter registration procedures at 22,002 (8.4%). These four types of changes accounted for a total of 65.8% of all changes submitted. The overall category of miscellaneous accounted for 41,340 (15.8%) of all submissions. The main categories of submitted changes do not change dramatically across the seventeen years examined, although the number of changes submitted regarding redistricting, polling places and precincts does increase in the first two years after a decennial Census.

More submissions consistently come from the states of Texas and Georgia relative to any other states, as revealed in Table 2. Texas surpasses all of the other states by far with a total of 112,261 submitted changes from 1990-2005. It is followed by Georgia with a total of 34,733 submissions, just under one-third the number from Texas. Louisiana, Arizona, Alabama, Virginia, and South Carolina comprise a third major group with 17,765, 17,612, 17,129, 16,697, and 15,358 submitted changes respectively. The number of submitted changes drops significantly to 8,229 from North Carolina and 7,411 from Mississippi.

Tables 3 and 4 display the number of objections issued through the DOJ by change type and by state. The number of objections has gone down dramatically since 1995. For the years 1990-1994, an average of 131.4 were issued as compared to the period 1995-2004 when the average was only 13.4. This is a dramatic reduction. It is evident from Table 3 that three types of changes account for the largest bulk of objections: method of election, redistricting, and

annexation. Together these three types of changes account for 82.3% of all objections issued. Interestingly, the top three states with the largest number of objections in rank order are Louisiana with 158, Georgia with 139, and Texas with 120. Together these three states account for over half of all objections, 52.7%. Recall that these three states also submitted the largest number of changes for preclearance. These states are followed by Alabama (84), Mississippi (77), South Carolina (66), California (60), North Carolina (35), Arizona (16), New York (14), Virginia (12), Florida (7), Alaska (2), New Mexico (1), and South Dakota (1). Covered jurisdictions in Arkansas, Michigan, and New Hampshire have never been issued an objection letter.

**Patterns in the Issuance of More Information Requests.** Following the analysis above, in Tables 5 and 6 we display the issuance of MIRs by year, change type, and state for 1990-2005. What becomes immediately apparent is that the number of MIRs, 6,717, far exceeds the number of objections. MIRs exceed objections by a factor of eight. However, similar to the decrease in the number of objections after 1994, there is a decrease in the number of MIRs. From 1990-1994 an average of 935.4 MIRs were issued per year, whereas the annual average for the period 1995 to 2004 was only 203.3.

The top six categories in which MIRs were issued are method of election, annexation, polling place, precinct, redistricting, and voter registration. Similar to the issuance of objection letters the categories of method of election, redistricting, and annexation account for a substantial portion, 49.5%, of all MIRs. However, a much wider range of types of change receive MIRs than was the case with objections. Table 6 reveals that the same three states of Texas, Georgia, and Louisiana are again the top three states to receive MIRs. Together they account for 56.9% of all MIRs issued between 1990 and 2005. Noticeably, South Carolina is the state that ranks

fourth in the receipt of MIRs although it ranks seventh in the total number of submissions and sixth in the total number of objections.

In Table 7 we reveal the distribution of MIRs by type of change for each state. There are several interesting patterns in the data. As previously stated, Texas was issued the largest number of MIRs, a total of 1,512. Within the categories specified by DOJ, most MIRs were issued regarding polling places (394), closely followed by method of election (381), precincts (184), redistricting (174), and annexation (105). The second highest number of MIRs, 1,325, was issued in Georgia. In contrast to Texas, however, the largest grouping of these by far was related to annexation (564), followed by method of election (342), and redistricting (108). Louisiana received the third highest number of MIRs, 983. The largest grouping of MIRs was for precincts (355), annexation (186), polling places (185), and redistricting (147). States are prone to receive MIRs clustered in distinct subsets of types of changes submitted.

**Assessing the Outcomes of MIRs.** The above analysis suggests that MIRs can play a significant role in the overall process of preclearance leading to compliance with the Voting Rights Act. They are issued with considerable frequency. Their focus can be consistent with that of objections; however, they also focus on a broader range of voting procedures and practices than do objections. Moreover, there is considerable variation in the number of MIRs made to submitting jurisdictions across states and variation in the focus of the MIRs by state. In this section, we assess the impact of MIRs on the documented outcomes of voting procedures and practices as determined by the DOJ. We pay special attention to comparing these documented outcomes to the issuance of formal objection letters by the DOJ.

Examination of Table 8 reveals that not every submitted change that ultimately results in an objection letter was preceded by the making of an MIR. A total of 792 objections were

made to proposed changes during 1990-2005, however only 365 of these objections contained the issuance of a MIR at some point in the process of review. However, the sum of the outcomes of withdrawals, superseded changes, and no responses, resulting from an MIR, is 855. This means that MIRs have resulted in directly affecting 855 additional changes, making their implementation illegal, in addition to the 792 changes that resulted in objections. MIRs increased the impact of the DOJ on submitted changes by 110%, i.e., doubling the number of changes that were not precleared by the DOJ. We calculated the ratio of MIR outcomes to objections for all change types and these ratios appear in the last column of Table 8.

There is considerable variation in the impact of MIRs, relative to objections, by change type. As stated earlier, during the period examined the DOJ issued 272 objections, its largest number, regarding changes related to method of election. MIRs had an equal impact in this area; 278 changes did not receive approved status as a result of an MIR. Two change types where the DOJ issued its second and third highest numbers of objections, redistricting (n=236) and annexations (n=144), did not result in nearly as many MIR affected outcomes. The ratio of MIR outcomes to objections was 0.6 for redistricting and a small 0.2 for annexations. However, in every other type of change type MIR outcomes very nearly equaled or surpassed the number of changes affected by an objection. The impact of MIRs on change outcomes, relative to objections, was greatest in the area of polling places where they affected just under eleven more times the number of changes that received objections. The other areas in which there were a considerable number of objections and where MIRs also affected submitted changes were precincts, special elections, voter registration procedures, and candidate qualifications. The respective MIR impact to objections ratios were 3.5, 1.3, 0.8, and 0.9 respectively.

Table 9 displays state comparisons of the impact of MIRs relative to objections. The rank ordering of states where MIRs have affected the most changes is as follows: Texas (290), Alabama (148), Georgia (97), South Carolina (79), Mississippi (65), New York (53), and Louisiana (52). In the two states that had the highest number of objections, Louisiana and Georgia, MIRs led to noticeably fewer outcomes; comparison ratios were 0.3 and 0.7 respectively. However, in Texas and Alabama, the states with next two highest number of objections, MIRs affected outcomes at much higher ratios; 2.4 for Texas and 1.8 for Alabama.

In Table 10 we provide longitudinal data of the impact of MIRs relative to objections. It is noteworthy that the number of submissions remains within the same general range from 13,000 to 17,000 throughout the entire period, with the exception of 1992 and 2002 when more submissions are made soon after new Census data are available. Nonetheless, our analysis reveals that beginning in 1999, the number of submitted changes affected by MIRs was consistently greater than the number of changes affected by objections. The ratio of MIR affected outcomes was 22.4 in 1999, 12.5 in 2000, and 8.8 in 2001. It drops noticeably lower in 2002, but MIRs still affect more than two times the number of changes than those affected by objections.

Finally, we present a comparison of the impact of MIRs to objections organized by presidential administration in Table 11. Interestingly, the impact of MIRs exceeds the impact of objections in both the George H.W. Bush administration, ratio is 1.7, and the current administration of his son George W. Bush, where the ratio of MIRs to objections is 3.8. The lowest relative impact of MIRs to objections occurs during the Clinton administration where the ratio across the entire eight years of the administration is only 0.8.

### **MIRs, Compliance, and the Deterrent Effect of Section Five**

We began our analysis of more information requests by developing a model of compliance that outlined the primary actors, goals, strategies, and consequences that serve to structure the process of preclearance that operates under Section 5. This was done to better inform our understanding of the varied and oftentimes competing interests that determine the extent to which compliance with the Voting Rights Act is likely to occur. We also developed the model to better position the role that more information requests (MIRs) have in the overall process of preclearance. Although rarely studied as a critical part of assessing the impact of Section 5, we hypothesized that MIRs could be another major way that the DOJ could affect the extent that covered jurisdictions comply with their obligations to pursue and implement electoral procedures and practices that did not deny or abridge the right to vote and to cast a meaningful vote for African Americans and identified language minorities.

Our analysis of data provided by the DOJ for the period 1990-2005 allows us to reach two significant conclusions regarding the critical role of MIRs in the larger processes of preclearance and compliance under Section 5. First, MIRs are issued at far higher rates than are letters of objection. As such, they have the potential to affect a wider range and larger number of changes, relative to objections, submitted to the DOJ for review. The pattern in the number of MIRs issued does follow a similar decline to that seen in the making of objections. Moreover, the frequency of MIRs varies by change type, and especially by state. Second, our measure of the impact of MIRs that were likely to serve as deterrents to the pursuit of procedures and practices that could have a discriminatory effect on African Americans and language minorities demonstrates that MIRs double the number of changes that did not have legal standing to be

implemented under Section 5. Interestingly, MIRs do not have their greatest impact on submitting jurisdictions through their linkage to the ultimate issuance of objection letters. Less than half of all objections also contained an MIR. Rather, MIRs can have an impact entirely separate from whether an objection is issued. We also find that there is variation in this impact across change types and by state. Finally, we found that there is variation across each of the years examined and when MIR impact is aggregated across presidential administrations.

Our research has direct implications for the further consideration of the need to maintain Section 5 in the reauthorization of the Voting Rights Act. First, any assessment of the impact of Section 5 and the need for maintaining Section 5 that does systematically consider more information requests will be incomplete. We have clearly demonstrated that MIRs can be studied and their impact can be specified. Scholars and other analysts run the risk of underestimating the impact of Section 5 and underestimating the need for continuing Section 5 if they do not fully consider the role of MIRs in the larger processes of preclearance and compliance. Second, in the next phase of our research we will code the explicit content of a random sample of MIRs to gauge the extent that they provide specific guidance, and especially warning, to jurisdictions that proposed changes may have the purpose or effect of being in violation of the Voting Rights Act. Unfortunately, the DOJ does not code the content of MIRs beyond the general categories noted in our analysis. We must determine if variation in the content of MIRs has a systematic impact on the likelihood that a jurisdiction will withdraw a submitted change, submit a different change that compensates for the directives provided by the DOJ in an MIR, or is more likely to lead to a jurisdiction simply acquiescing to a perceived DOJ concern and thus not responding to the initial MIR or a follow up. Lastly, our analysis provides empirical evidence that can be used to more richly gauge how changes in case law regarding

Section 5, preclearance, and retrogression, affect the way that officials within the DOJ attempt to promote compliance with the Voting Rights Act. What is the relationship between the frequency and content of MIRs and significant changes in the scope and implementation of Section 5 when new law is established through court decision?<sup>26</sup> If the reauthorization of the VRA leads to considerable changes in Section 5 such as through a rewriting of the current trigger formula or the bailout provisions, how might the issuance of MIRs be affected and how might the full impact of Section 5 be changed?

It has always been understood by both critics and supporters of Section 5 that this provision of the Voting Rights Act simultaneously represented both the great promise of full and effective voter enfranchisement regardless of race, color, or language minority status, and was among the clearest examples in our federal law of selective enforcement targeting specific areas of the country for greater scrutiny and oversight by the DOJ. We are confident that our analysis of MIRs brings additional insight to both interpretations. We hope that with greater insight can come more opportunities to anticipate, clearly debate, and ultimately be more confident that any proposed changes or renewal of Section 5 will lead to consequences that can be predicted with high confidence. Undoubtedly, whose interests are likely to benefit most from these consequences will result much more from power politics and legislative compromise than from principled commitments to expand voting and representation fully. The consequences for segments of the population who have for so many years been kept at the margins of voting, representation, and the ultimate prize of benefiting from resulting public policy will be considerable. So will the consequences for the entire nation.

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<sup>26</sup> For example, in *Reno v. Bossier Parish School Bd. II* 528 U.S. 320 (2000) the Court held that “a voting change with a discriminatory but nonretrogressive purpose or effect does not violate Section 5.”

**Table 1**  
**Changes by Type of Change and Year, 1990-2005**

Type/Year	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	Totals
<b>Redistricting</b>	164	916	974	512	325	213	116	105	65	67	49	985	1138	400	242	60	6331
<b>Annexation</b>	4409	2870	2297	2229	3480	3283	3409	3302	3236	3453	4500	3123	4466	4338	4515	1850	54760
<b>Polling Place</b>	3639	4326	5258	4252	4562	2713	5152	3754	4741	2859	4263	2669	4195	2819	3060	740	59002
<b>Precinct</b>	1618	3214	5331	3188	2517	1736	2327	3320	1900	1673	1763	1556	2674	1790	1296	350	36253
<b>Reregistration or Voter Purge</b>	16	18	10	12	17	5	1	9	5	8	6	8	11	2	2	2	132
<b>Incorporation</b>	162	115	202	136	98	193	119	187	179	197	133	250	149	136	153	62	2471
<b>Bilingual Procedures</b>	96	103	112	144	91	106	97	105	75	69	80	99	114	207	292	49	1839
<b>Method of Election</b>	915	973	1113	1283	738	722	468	541	487	583	434	816	495	475	344	139	10526
<b>Form of Government</b>	211	84	28	21	11	20	28	38	34	45	35	19	22	18	23	7	644
<b>Consolidation or Division of Political Units</b>	34	91	79	65	25	54	61	55	60	105	53	115	47	51	66	39	1000
<b>Special Election</b>	1247	946	1286	1269	1152	1101	1118	1329	1216	1215	1254	1226	1477	1232	1386	596	19050
<b>Voting Methods</b>	187	141	134	122	136	214	260	172	143	188	187	133	211	424	293	172	3117
<b>Candidate Qualifications</b>	167	204	223	256	187	228	147	225	160	209	208	237	156	171	112	33	2923
<b>Voter Registration Procedures</b>	3074	3554	3294	2050	2568	1625	1862	466	269	353	518	345	359	557	1014	94	22002
<b>Miscellaneous</b>	1961	1698	2422	2319	2315	1936	3427	2246	2256	2618	3075	2916	3050	3675	4239	1187	41340
<b>Totals</b>	17900	19253	22763	17858	18222	14149	18592	15854	14826	13642	16558	14497	18564	16295	17037	5380	261390

**Table 2**  
**Changes by States and Year, 1990-2005**

State/Year	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	Totals
ALABAMA 0/	1002	902	1302	693	919	691	1411	746	883	1041	1921	905	1277	1352	1659	425	17129
ALASKA 1/	251	219	298	174	287	119	227	137	300	167	182	297	244	201	225	36	3364
ARIZONA 2/	1042	571	1634	891	1498	1733	1248	1121	920	1152	1526	717	1201	1016	931	411	17612
ARKANSAS 5/	0	2	0	1	0	0	0	1	0	1	0	1	1	0	0	0	7
CALIFORNIA 8/	50	145	399	347	440	147	179	127	211	123	201	141	131	159	148	101	3049
FLORIDA 3/	103	109	186	151	304	134	172	70	298	114	162	122	181	119	178	6	2409
GEORGIA 0/	4444	2243	3270	2797	3099	1644	1390	1703	1320	1428	1533	1472	2505	2496	2650	739	34733
ILLINOIS 7/	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
LOUISIANA 0/	1148	2300	1473	1113	1037	878	1054	956	972	1184	635	441	1731	1377	1090	376	17765
MICHIGAN 4/	0	5	10	4	5	27	5	0	0	6	18	5	41	220	13	2	361
MISSISSIPPI 0/	499	1741	654	429	437	381	307	249	276	366	311	183	633	397	406	142	7411
NEW HAMPSHIRE 4/	0	0	13	0	1	0	0	0	0	0	0	0	8	0	186	15	223
NEW MEXICO 6/	14	96	8	13	2	3	0	10	3	4	1	0	18	3	4	0	179
NEW YORK 3/	159	269	583	248	108	102	147	150	213	96	51	151	99	126	68	41	2611
NORTH CAROLINA 3/	508	673	315	435	419	337	392	529	585	594	768	603	599	647	550	275	8229
SOUTH CAROLINA 0/	1068	705	1596	990	1013	1103	1078	940	894	805	1102	680	1085	923	1041	335	15358
SOUTH DAKOTA 3/	0	0	9	0	21	2	7	0	1	0	0	20	8	757	1032	132	1989
TEXAS 0/	6001	6983	9038	8044	7014	5320	9239	8557	7674	6177	7703	7688	8200	6055	6428	2140	112261
VIRGINIA 0/	1610	2290	1975	1528	1618	1528	1736	558	276	384	444	1071	602	447	426	204	16697
<b>Totals</b>	17900	19253	22763	17858	18222	14149	18592	15854	14826	13642	16558	14497	18564	16295	17035	5380	261388

**Table 3**  
**Objections by Type of Change and Year, 1990-2005**

Type/Year	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	Totals
Redistricting	6	66	67	40	10	7	3	2	3	1	1	4	19	5	1	1	236
Annexation	8	1	1	90	21	12	2	5	1	1	0	0	0	2	0	0	144
Polling Place	3	5	1	0	2	1	0	0	0	2	0	0	0	0	0	0	14
Precinct	0	0	0	24	0	0	0	0	1	0	0	0	0	0	0	0	25
Reregistration or Voter Purge	3	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	5
Incorporation	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Bilingual Procedures	0	0	0	3	0	0	0	0	0	0	0	0	0	0	0	0	3
Method of Election	73	52	18	25	73	7	1	2	3	1	4	5	2	2	4	0	272
Form of Government	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	2
Consolidation or Division of Political Units	1	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	3
Special Election	1	1	0	2	12	0	0	1	0	0	0	0	0	0	0	0	17
Voting Methods	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Candidate Qualifications	2	1	0	3	4	1	0	0	0	0	0	0	0	0	0	0	11
Voter Registration Procedures	1	0	3	1	1	2	1	8	0	0	0	0	0	0	0	0	17
Miscellaneous	11	2	2	4	8	0	1	0	9	0	1	1	2	0	0	0	41
<b>Totals</b>	<b>110</b>	<b>129</b>	<b>92</b>	<b>193</b>	<b>133</b>	<b>32</b>	<b>9</b>	<b>18</b>	<b>17</b>	<b>5</b>	<b>6</b>	<b>10</b>	<b>23</b>	<b>9</b>	<b>5</b>	<b>1</b>	<b>792</b>

**Table 4**  
**Objections by State and Year, 1990-2005**

State/Year	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	Totals
ALABAMA 0/	12	33	6	3	28	0	0	0	1	0	1	0	0	0	0	0	84
ALASKA 1/	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	2
ARIZONA 2/	0	1	8	1	4	0	0	0	0	0	0	0	1	1	0	0	16
ARKANSAS 5/	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
CALIFORNIA 8/	0	0	1	58	0	0	0	0	0	0	0	0	1	0	0	0	60
FLORIDA 3/	0	0	1	0	0	0	0	0	5	0	0	0	1	0	0	0	7
GEORGIA 0/	20	15	17	52	19	4	2	0	0	0	4	2	4	0	0	0	139
LOUISIANA 0/	24	22	16	45	19	14	3	5	1	1	0	0	3	3	1	1	158
MICHIGAN 4/	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
MISSISSIPPI 0/	9	27	7	9	5	6	0	9	3	1	0	1	0	0	0	0	77
NEW HAMPSHIRE 4/	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NEW MEXICO 6/	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
NEW YORK 3/	0	1	1	4	6	0	1	0	0	1	0	0	0	0	0	0	14
NORTH CAROLINA 3/	11	8	1	1	9	0	1	2	0	0	0	0	2	0	0	0	35
SOUTH CAROLINA 3/	9	0	5	6	28	2	1	1	1	0	0	2	4	3	4	0	66
SOUTH DAKOTA 3/	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1
TEXAS 0/	25	19	29	11	14	5	1	1	6	1	1	3	4	0	0	0	120
VIRGINIA 0/	0	2	0	1	1	0	0	0	0	1	0	2	3	2	0	0	12
<b>Totals</b>	110	129	92	193	133	32	9	18	17	5	6	10	23	9	5	1	792

**Table 5**  
**MIRs by Change Type and Year, 1990-2005**

Type	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000*	2001	2002	2003	2004	2005	Totals
<b>Redistricting</b>	54	181	115	83	51	26	9	14	6	8	8	66	79	22	15	0	737
<b>Annexation</b>	561	35	87	154	60	13	30	46	7	6	104	58	8	1	0	1	1171
<b>Polling Place</b>	58	325	221	36	131	61	6	45	3	1	33	111	31	4	2	0	1068
<b>Precinct</b>	42	458	204	59	12	47	6	26	3	58	31	18	13	2	4	0	983
<b>Reregistration or Voter Purge</b>	2	8	1	7	6	0	0	0	1	0	2	0	3	0	0	0	30
<b>Incorporation</b>	6	0	2	3	1	3	2	1	1	13	5	0	0	0	0	0	37
<b>Bilingual Procedures</b>	11	3	20	5	1	5	2	1	3	0	2	1	1	2	0	0	57
<b>Method of Election</b>	266	96	204	283	136	56	56	36	25	121	56	23	32	8	11	5	1414
<b>Form of Government</b>	16	2	2	2	0	4	2	3	1	1	2	0	1	0	0	0	36
<b>Consolidation or Division of Political Units</b>	2	0	5	1	2	5	2	12	1	2	12	0	0	0	0	0	44
<b>Special Election</b>	19	5	29	11	17	8	6	1	6	18	4	2	1	0	3	0	130
<b>Voting Methods</b>	3	0	1	0	1	2	2	0	1	0	1	0	1	0	0	0	12
<b>Candidate Qualifications</b>	16	6	21	48	13	19	4	10	2	7	5	2	4	0	0	0	157
<b>Voter Registration Procedures</b>	1	32	11	3	190	11	11	6	5	1	4	8	0	2	1	0	286
<b>Miscellaneous</b>	51	32	57	57	33	63	42	22	42	38	27	15	13	31	31	1	555
<b>Totals</b>	1108	1183	980	752	654	323	180	223	107	274	296	304	187	72	67	7	6717

**Table 6**  
**MIRs by State and Year, 1990-2005**

State	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	Totals
ALABAMA 0/	218	10	28	52	37	4	24	42	2	0	66	9	9	0	6	2	509
ALASKA 1/	0	5	0	0	3	0	1	0	0	13	0	0	0	0	0	0	22
ARIZONA 2/	63	17	90	15	12	77	5	9	1	4	5	0	5	1	0	0	304
ARKANSAS 5/											0	1	0	0	0	0	1
CALIFORNIA 8/	11	5	87	8	12	7	3	3	9	0	33	0	0	0	0	0	178
FLORIDA 3/	1	1	22	75	31	0	0	0	19	13	2	9	3	0	0	0	176
GEORGIA 0/	450	80	163	297	75	35	28	41	2	28	36	21	34	9	26	0	1325
LOUISIANA 0/	143	486	78	44	77	19	16	21	1	22	6	10	39	15	5	1	983
MICHIGAN 4/	0	1	0	0	1	0	0	0	0	0	0	0	4	19	0	0	25
MISSISSIPPI 0/	24	131	27	54	124	14	11	28	4	1	21	6	21	3	5	0	474
NEW HAMPSHIRE 4/											0	0	0	0	0	0	0
NEW MEXICO 6/	0	55	1	0	1	0	0	2	0	0	0	0	0	0	0	0	59
NEW YORK 3/	2	1	5	24	15	0	9	1	7	0	0	47	1	1	0	0	113
NORTH CAROLINA 3/	24	20	14	66	26	7	16	20	4	3	11	13	6	2	0	0	232
SOUTH CAROLINA 0/	25	10	274	38	31	12	15	3	25	55	53	4	26	5	3	0	579
SOUTH DAKOTA 3/	0	0	6	0	21	2	0	0	0	0	0	0	0	9	11	0	49
TEXAS 0/	147	301	158	74	188	119	52	51	32	134	46	157	38	6	8	1	1512
VIRGINIA 0/	0	60	27	5	0	27	0	2	1	1	17	27	1	2	3	3	176
<b>Totals</b>	1108	1183	980	752	654	323	180	223	107	274	296	304	187	72	67	7	6717

**Table 7**  
**MIRs By State and Type, 1990-2005**

	1. Redistricting	2. Annexation	3. Polling Place	4. Precinct	5. Reregistration or Voter Purge	6. Incorporation	7. Bilingual Procedures	8. Method of Election	9. Form of Government	10. Consolidation or Division of Political Units	11. Special Election	12. Voting Methods	13. Candidate Qualifications	14. Voter Registration Procedures	15. Miscellaneous	Totals		
ALABAMA 0/	56	135	32	5	2	2	0	201	7	2	6	0	12	0	49	509		
ALASKA 1/	4	0	0	0	0	0	0	2	0	0	0	1	1	2	12	22		
ARIZONA 2/	14	12	68	74	3	1	26	26	0	0	5	1	6	26	42	304		
ARKANSAS 5/	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1		
CALIFORNIA 8/	8	79	0	0	0	2	1	37	2	9	5	0	6	15	14	178		
FLORIDA 3/	6	0	0	0	4	0	0	100	0	1	4	0	18	7	36	176		
GEORGIA 0/	108	564	25	23	5	1	0	342	5	11	39	2	58	23	119	1325		
LOUISIANA 0/	147	186	185	355	0	0	0	53	2	0	8	0	5	24	18	983		
MICHIGAN 4/	1	0	0	0	0	0	0	0	0	0	0	0	0	1	23	25		
MISSISSIPPI 0/	102	12	80	77	13	4	0	28	4	2	10	2	7	112	21	474		
NEW HAMPSHIRE 4/	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
NEW MEXICO 6/	1	0	24	30	0	0	0	0	0	0	2	0	0	0	2	59		
NEW YORK 3/	1	0	47	0	1	0	6	9	1	0	0	1	4	25	18	113		
NORTH CAROLINA 3/	28	30	13	11	2	1	0	112	0	2	3	0	2	10	18	232		
SOUTH CAROLINA 0/	55	46	157	177	0	0	0	80	4	2	7	0	19	1	31	579		
SOUTH DAKOTA 3/	1	0	0	5	0	0	2	0	0	0	0	0	0	22	19	49		
TEXAS 0/	174	105	394	184	0	26	22	381	11	15	39	5	17	15	124	1512		
VIRGINIA 0/	31	2	43	42	0	0	0	42	0	0	2	0	2	3	9	176		
Totals	737	117	106	8	983	30	37	57	1414	36	44	13	0	12	157	286	555	6717

**Table 8**  
**Outcome of MIRs Compared to All Changes and Objections by Change Type, 1990-2005**

	All Submissions		Changes Receiving a MIR		Outcomes for Changes Receiving a MIR						
	Changes	Objections	# of MIR	More info Foll	No Objection	Objection	Withdraw	Superseded	No Response	Total MIR Outcome (W,S, NR)	MIR Outcome/All Objections
<b>Redistricting</b>	6331	236	737	148	380	152	109	17	24	150	0.6
<b>Annexation</b>	54760	144	1171	259	1007	10	30	0	4	34	0.2
<b>Polling Place</b>	59002	14	1068	117	648	15	113	1	38	152	10.9
<b>Precinct</b>	36253	25	983	99	682	31	54	3	31	88	3.5
<b>Reregistration or Voter Purge</b>	132	5	30	6	19	1	5	0	1	6	1.2
<b>Incorporation</b>	2471	1	37	22	32	0	1	0	3	4	4.0
<b>Bilingual Procedures</b>	1839	3	57	15	42	3	6	0	2	8	2.7
<b>Method of Election</b>	10526	272	1414	577	838	122	103	100	75	278	1.0
<b>Form of Government</b>	644	2	36	11	25	1	1	0	6	7	3.5
<b>Consolidation or Division of Political Units</b>	1000	3	44	7	37	0	3	0	2	5	1.7
<b>Special Election</b>	19050	17	130	36	90	3	4	11	7	22	1.3
<b>Voting Methods</b>	3117	1	12	3	7	1	1	0	2	3	3.0
<b>Candidate Qualifications</b>	2923	11	157	60	132	4	5	0	5	10	0.9
<b>Voter Registration Procedures</b>	22002	17	286	12	263	3	11	0	3	14	0.8
<b>Miscellaneous</b>	41340	41	555	153	402	19	30	15	29	74	1.8
<b>Totals</b>	261390	792	6717	1525	4604	365	476	147	232	855	1.1

**Table 9**  
**Outcome of MIRs Compared to All Changes and Objections by State, 1990-2005**

	All Submissions		Changes Receiving a MIR		Outcomes for Changes Receiving a MIR							
	Changes	Objections	# of MIR	More info Foll	No Objection	Objection	Withdraw	Superseded	No Response	Total MIR Outcome (W,S, NR)	MIR Outcome/All Objections	
<b>ALABAMA 0/</b>	17129	84	509	146	259	44	41	22	85	148	1.8	
<b>ALASKA 1/</b>	3364	2	22	1	18	0	3	0	1	4	2.0	
<b>ARIZONA 2/</b>	17612	16	304	23	249	7	8	2	8	18	1.1	
<b>ARKANSAS 5/</b>	7	0	1	1	0	0	0	0	0	0	-	
<b>CALIFORNIA 8/</b>	3049	60	178	9	106	2	4	1	0	5	0.1	
<b>FLORIDA 3/</b>	2409	7	176	235	170	3	3	0	0	3	0.4	
<b>GEORGIA 0/</b>	34733	139	1325	159	1055	44	90	2	5	97	0.7	
<b>ILLINOIS 7/</b>	1	0	0	0	0	0	0	0	0	0	-	
<b>LOUISIANA 0/</b>	17765	158	983	202	667	81	38	7	7	52	0.3	
<b>MICHIGAN 4/</b>	361	0	25	1	20	0	5	0	0	5	-	
<b>MISSISSIPPI 0/</b>	7411	77	474	90	284	55	44	2	19	65	0.8	
<b>NEW HAMPSHIRE 4/</b>	223	0	0	0	0	0	0	0	0	0	-	
<b>NEW MEXICO 6/</b>	179	1	59	57	55	0	0	1	3	4	4.0	
<b>NEW YORK 3/</b>	2611	14	113	71	28	4	51	0	2	53	3.8	
<b>NORTH CAROLINA 3/</b>	8229	35	232	11	169	22	21	1	1	23	0.7	
<b>SOUTH CAROLINA 0/</b>	15358	66	579	94	432	37	26	2	51	79	1.2	
<b>SOUTH DAKOTA 3/</b>	1989	1	49	0	49	0	0	0	0	0	0.0	
<b>TEXAS 0/</b>	112261	120	1512	416	897	58	140	107	43	290	2.4	
<b>VIRGINIA 0/</b>	16697	12	176	9	146	8	2	0	7	9	0.8	
<b>Totals</b>	261388	792	6717	1525	4604	365	476	147	232	855	1.1	

Table 10

## Outcome of MIRs Compared to All Changes and Objections by Year, 1990-2005

	All Submissions		Changes Receiving a MIR		Outcomes for Changes Receiving a MIR						
	Changes	Objections	# of MIR	More info Foll	No Objection	Objection	Withdraw	Superseded	No Response	Total MIR Outcome (W,S, NR)	MIR Outcome/All Objections
1990	17900	110	1108	303	755	71	60	18	92	170	1.5
1991	19253	129	1183	122	772	86	77	5	1	83	0.6
1992	22763	92	980	69	706	45	64	9	9	82	0.9
1993	17858	193	752	315	496	56	56	1	11	68	0.4
1994	18222	133	654	194	419	31	25	0	10	35	0.3
1995	14149	32	323	41	297	5	7	1	3	11	0.3
1996	18592	9	180	20	151	6	11	0	3	14	1.6
1997	15854	18	223	58	198	5	4	3	4	11	0.6
1998	14826	17	107	42	74	10	11	0	3	14	0.8
1999	13642	5	274	147	151	6	8	104	0	112	22.4
2000	16558	6	296	68	197	5	12	1	62	75	12.5
2001	14497	10	304	95	187	14	72	1	15	88	8.8
2002	18564	23	187	39	99	19	50	3	2	55	2.4
2003	16295	9	72	7	49	6	11	1	6	18	2.0
2004	17035	5	67	5	52	0	8	0	5	13	2.6
2005	5380	1	7	0	1	0	0	0	6	6	6.0
<b>Total</b>	261388	792	6717	1525	4604	365	476	147	232	855	1.1

**Table 11**  
**Outcome of MIRs Compared to All Changes and Objections by Presidential Administration, 1990-2005**

	All Submissions		Changes Receiving a MIR		Outcomes for Changes Receiving a MIR						
	Changes	Objections	# of MIR	More info Foll	No Objection	Objection	Withdraw	Superseded	No Response	Total MIR Outcome (W,S, NR)	MIR Outcome/All Objections
<b>Bush I</b>	59916	331	3271	494	2233	202	201	32	335	568	1.7
<b>Clinton</b>	129701	413	2809	885	1983	124	134	110	96	340	0.8
<b>Bush II</b>	71771	48	637	146	388	39	141	5	34	180	3.8
<b>Total</b>	261388	792	6717	1525	4604	365	476	147	232	855	1.1

Figure 1. Modeling Compliance Under Section 5

ACTORS	GOALS	STRATEGIES	OUTCOMES
Covered Jurisdiction	Implement proposed change	Not Submit Selectively Submit Submit with limited/ biased information	Respond to MIR No response Superseded change Withdrawal
Affected Groups African Americans Language Minorities Advocacy Groups	Maximizing voting and representation	Monitor changes Assess changes	Accept Litigate
Dept. of Justice Attorney General Asst. AG Civil Rights Chief Voting Section Attorneys Voting Section Analysts/Paraprofessionals	Guarantee that proposed electoral procedures, practices, and effects comply with VRA	Rely upon information from covered jurisdiction Rely upon assessment of Af. Ams., language minorities Secure own information (FBI) <b>Secure additional information through more information requests (MIRs)</b>	Preclear Object More Information Follow-up

## Appendix A. Sample More Information Letter



U.S. Department of Justice

Civil Rights Division

JDR:JBG:DCM:par  
DJ 166-012-3  
2000-0031

Voting Section  
P.O. Box 66128  
Washington, DC 20035-6128

April 17, 2000

Wilbur T. Gamble III, Esq.  
Collier & Gamble  
P.O. Box 577  
Dawson, Georgia 31742

Dear Mr. Gamble:

This refers to the voter registration list maintenance and purge procedures for Webster County, Georgia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on February 15, 2000; supplemental information was received on April 13, 2000.

Our analysis indicates that the information sent is insufficient to enable us to determine that the proposed change does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group, as required under Section 5. The following information is necessary so that we may complete our review of your submission:

1. A detailed, chronological description of the process leading to the adoption of the procedures used between 1997 and 1999 to update the voter registration rolls and purge or remove the names of ineligible registrants. Include a description of the criteria used by the county to determine that a purge was necessary, and to identify which voters to target regarding their continued eligibility to remain on the voter registration list.

2. The name and race of each person removed from voter registration rolls since January 1, 1997, by reason of: a) death; b) felony conviction; c) request of the voter; d) change of residency outside the county; or e) any other reason. With regard to those registrants removed from the rolls for change of residency or a reason other than death, felony conviction or voter request, include a statement as to the factual basis for each removal and any supporting information or documentation available to the county at the time of the removal.

-2-

Additionally, please indicate which persons were mailed a notice regarding their residency or continuing eligibility to vote, and provide further indication for each person of whether or not their notice was returned with a confirming statement or reply regarding their ineligibility to vote in Webster County, whether their notice was returned by the United States Postal Service as undeliverable, or whether the notice received no response.

3. The name and race of each person for whom a hearing was conducted by the county board of elections regarding their eligibility to remain registered, including the date of the hearing, the name, race, and telephone number of each person present, the basis for questioning the voter's continued eligibility and the outcome of each hearing for each voter. In each instance where a determination was made following such a hearing to remove a voter from the registration list, indicate the reason for the removal and provide copies of any documentation available to the county that would support this determination, and/or a written description of any statements provided by any member of the community to support the ultimate removal determination. In addition, please explain the reason for removing the voter from the registration list altogether rather than placing the voter on an "inactive" list, pursuant to Section 8(d) of the National Voter Registration Act of 1993 ("NVRA"), 42 U.S.C. 1973gg to 1973gg-10. Include the name, race, and telephone number of any person who offered such a statement to the county.

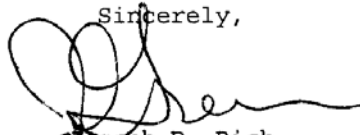
Concerns have been raised that the procedures utilized by the Webster County Board of Elections appear to differ from the voter list maintenance provisions adopted by the State of Georgia and precleared under Section 5 in October 1994 and July 1997, in that the registrants identified as potentially having moved were not placed on the inactive voter registration list, but rather were purged immediately and with little notice, which may have adversely affected minority voters. Additionally, concerns have been raised that the procedures utilized by the county may violate Section 8(d) of the National Voter Registration Act of 1993 in that persons who may have moved are removed from the rolls immediately rather than being placed on an inactive voter registration list, which would allow the voter to confirm their current residence at the polls through the next two general elections for federal office and vote once they have done so. Any response you may have to these concerns would assist us in our review of your submission.

-3-

The Attorney General has sixty days to consider a completed submission pursuant to Section 5. This sixty-day review period will begin when we receive the information specified above. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.37). However, if no response is received within sixty days of this request, the Attorney General may object to the proposed change consistent with the burden of proof placed upon the submitting authority. See 28 C.F.R. 51.40 and 51.52(a) and (c). Changes which affect voting are legally unenforceable unless Section 5 preclearance has been obtained. Clark v. Roemer, 500 U.S. 646 (1991); 28 C.F.R. 51.10. Therefore, please inform us of the action Webster County plans to take to comply with this request.

If you have any questions concerning this letter or if we can assist you in obtaining the requested information, you should call Ms. Diana Mayer (202-307-2244) of our staff. Refer to File No. 2000-0031 in any response to this letter so that your correspondence will be channeled properly.

Sincerely,



Joseph D. Rich  
Acting Chief  
Voting Section

**Appendix B. Coding Categories for Change Type**

Redistricting	Limited redistricting
	Redistricting plan
	Districting plan
Annexation	Annexation
	Deannexation
Polling Place	Polling place
Precinct	Precinct
Reregistration or Voter Purge	Purge/reidentification of voters
Incorporation	Creation of special district
	Incorporation
Bilingual Procedures	Bilingual procedures
Method of Election	Forty percent plurality requirement
	Abolishment of elected office
	Anti-single shot requirement adopted
	Anti-single shot requirement eliminated
	Concurrent terms
	Establishment of elected office
	Implementation schedule
	Majority vote requirement
	Method of staggering terms
	Method of selection
	Method of election
	Nominating procedures
	Nonpartisan elections
	Number of officials
	Numbered positions adopted
	Numbered positions eliminated
	Open primary
	Partisan elections
	Plurality vote requirement
	Residency districts adopted
Residency districts eliminated	
Staggered terms	
Term of office	
Form of Government	Form of government
	Powers and duties
	Transfer of powers
Consolidation or Division of Political Units	Boundary changes
	Consolidation of jurisdictions
	Consolidation or division of jurisdictions
	Dissolution of jurisdiction
	Division of jurisdictions
Special Election	Special election procedures
Voting Methods	Voting method
Candidate Qualifications	Candidate qualifications to serve in office
	Candidate qualification procedures

Voter Registration Procedures	Voter registration
	Voting qualifications/eligibility
Miscellaneous	Absentee Voting
	Designation of annexed area to election district
	Bailout
	Ballot format
	Campaign financing provisions
	Compensation
	Creation of judicial district
	Election administration
	Full vote on elected body
	General election
	Initiative, referendum, recall procedures
	Joint election procedures
	Other
	Political activity
	Primary election
	Redistricting procedures
	Referendum requirement
	Runoff election
Tiebreaking vote	
Procedures for filling vacancies	
Voter assistance procedures	

**Appendix C. Coding Categories for MIR Outcomes**

<b>Outcome Categories</b>	<b>All Coded Outcomes</b>	<b>Description of Coded Outcomes</b>
No Objection	No Objection	No objection
Objection	Objection	Objection
		Objection continued
Withdraw	Withdraw	Notice of withdrawal
	ND/wd	No determination--change withdrawn
	ND/rel ch	No determination--related change unprecleared
ND/Superseded	ND/Superseded	No determination--change superseded
	ND/not final	No determination--change not finally adopted
	ND/not cov	No determination--not covered by Section 5
	ND	No determination
	Admin Close	Administratively closed
No Response	More info request	Additional information requested
	More info foll	Additional information request follow-up
	Add info recd	Additional information received
Other		Declaratory judgment denied
		Declaratory judgment action dismissed
		Declaratory judgment filed
		Declaratory judgment granted
		Improper submission--substantively deficient
		Interim response
		N/A
		No determination--declar. Judgmt. Action filed
		No determination--court ordered change
		No determination--improper submitting auth.
		Notice of objection reconsideration by A.G.
		Objection withdrawn
	Reconsideration of objection requested	