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JUSTICE NEWS

**Assistant Attorney General Thomas E. Perez Speaks at
the National Association of Latino Elected Officials
Luncheon on Redistricting**

Washington, D.C. ~ Tuesday, February 8, 2011

Thank you for that kind introduction. It is always a pleasure to come speak at NALEO – I would be remiss if I didn't thank you all, and particularly Arturo [Vargas], for your leadership on voting issues, and the critical role you played in ensuring an accurate count in the 2010 Census.

The timing of your conference is very apt. Last week, the Census Bureau began releasing the data to be used in redistricting, which means the official beginning of the redistricting cycle has arrived.

The Census Bureau starts with those states that hold elections this year (New Jersey, Mississippi, Louisiana and Virginia), and by April 1, if not before, the data for all the states will be released. This new data will be used not only for congressional and state legislative redistricting, but also in redrawing the districts used to elect members of your local governments, such as your county commissions, your city councils, and your school boards.

The importance of this process can not be overstated – our system of government relies upon giving everyone an equal voice – and the decennial redistricting process ensures integrity in our system.

And while any time is a good time to discuss what can be done to ensure that every individual has a full and equal voice in the political process, it is now particularly critical that we do so in context of redistricting.

Judicial decisions spanning over a century have identified the right to vote as “preservative of all rights;” this conclusion is as true today as when the Supreme Court made that pronouncement in 1888.

Yet, despite its undisputed clarity, we all know that in 1888, that right was not truly guaranteed to all citizens. In fact, it would be almost 75 years before this country saw movement toward true equal voting rights for all. The Justice Department, and especially the Civil Rights Division, was at the forefront of that movement, and continues today to carry forth its mission to protect access to the ballot.

Early in my tenure as the Assistant Attorney General, I learned that the Brookings Institution identified the federal government's 50 greatest accomplishments for the last half of the 20th century. The effort to guarantee the right to vote for all Americans came in at number two, surpassed only by the rebuilding of Europe following the devastation caused by the second World War.

Interestingly, the Institute later produced a second list, this one looking to the federal government's most important tasks for the next 50 years. On that list, item three was to “protect the right to vote.”

It is within the context of what we have done in the past, what we are doing now, and what we must do in the future that I want to talk with you today.

The Constitution requires that every ten years, we take a count of all persons within each state. The results of the 2010 Census show an increase of more than 27 million persons from the 2000 Census -- roughly ten percent.

That increase, a large proportion of whom are Latino, must be accounted for in the upcoming redistricting process.

In many states, this process has already begun, particularly with regard to state-wide bodies. Some states have held public hearings, some are just beginning that process.

And I encourage every person, regardless of point of view or party affiliation, to become involved in the process. Because it is only by becoming involved, by making your views known to those who will hold the pen, or rather the mouse, by proposing alternative districts, that you can ensure the process will be a success.

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Find out the schedule, attend the meetings, and learn. Seek out your elected officials; remind them that you want to be heard. Present your views.

At the same time, remember not everyone will agree on where each line is drawn. What is important is that the plan that emerges is one by which everyone can stand because they had the opportunity to be part of the process, and it is therefore their work too.

As I speak throughout the country, I consistently remind those in charge of the redistricting process in your towns, counties, and states that a successful redistricting plan starts with a successful process. The process should seek the views of all residents. It should be inclusive. It should be open. It should be receptive to everyone's views. Folks should feel that their participation is welcomed, even encouraged.

The Civil Rights Division's interest is simple: that the redistricting does not discriminate on the basis of race, color, or membership in a protected language minority group. In many ways, this narrow focus makes our task easier. To be successful, we need only be consistent in our application of the facts to the law. And we take the facts as we find them. In doing so, the facts will lead us to the right answer under our voting rights mandate.

On a national level, we will continue to be a resource for all those involved in the redistricting process: elected officials, private citizens, legislative staff, or public interest groups. We have designated voting section staff members to serve as points of contact for each of the 50 states. You can find that list on the voting section's website: www.justice.gov/crt.

Over the past ten years, as it has during every decade, the legal landscape of redistricting has changed. But the touchstones have not: compliance with the Constitution and the Voting Rights Act.

Any secondary factors must always give way to the primary concerns of compliance with the Constitution and the Voting Rights Act. In short, substantially unequal districts or vote dilution cannot be justified.

Some of you in the audience are from states subject to coverage by Section 5. Four years ago, Congress extended the protections of Section 5 for twenty five years. That extension was immediately challenged in court in the Northwest Austin case, and the department defended that case up to the Supreme Court.

Today, challenges to the constitutionality of Section 5 are being heard in the federal courts in Washington, D.C. We obtained a dismissal of one of those cases from North Carolina last month, which is on expedited appeal to the dc circuit, and oral argument was held in another case last week from Alabama. The Attorney General and I are committed to defending the constitutionality of Section 5, and we can continue to vigorously enforce this critical provision while we defend it in the courts.

Section 5 applies to sixteen states in full or in part. Our best estimate is that the department will receive more than 2,700 redistricting plans for administrative review. We review redistricting plans and other voting changes for a determination of whether they have the purpose or will have the effect of denying or abridging the right to vote on account of race, color or language minority status.

To do that, we look to gather as many facts as possible. We want to talk to as many people as possible. We are willing, in fact, we want, to meet with those who devised the plan, with those who support the plan, and with those who do not. And I want to emphasize that our willingness to meet also extends to all those external to the process who have views on the plan. We find it particularly helpful to talk to folks, such as those of you gathered in this room, who know the pulse of the community. You can provide us with a different, but critical, perspective on the real-life effect of the plan.

One of the steps we are taking to improve the Section 5 process is that we are revising the procedures that govern our Section 5 review work. It has been a while since that was last done – the last major revision was in 1987. The new revisions will incorporate the 2006 amendments to the act and reflect recent judicial decisions concerning Section 5.

In June, we published the proposed revisions for comments; the comment period for those revisions has closed, and we have reviewed all those comments and are nearing the time, hopefully this month, when we can publish the final revision in its final format.

In addition, we expect our 2011 redistricting guidance to be published tomorrow, and it will be available on our website. We had received a very positive reaction to our 2001 redistricting guidance and, for that reason, we have drafted an updated version for this round.

As many of you are aware, Section 203 of the Voting Rights Act provides that, in areas of our country determined by the Census Bureau to have significant numbers or percentages of language minority voters, a person who is a member of a language minority group can receive election language assistance in the language of their choice.

We have worked closely with the Census Bureau to have these Section 203 determinations made much earlier than we were able to do in the last cycle. I have personally met with the director of the Census Bureau to try to ensure that this happens. As a result, it is our hope that jurisdictions, and particularly



newly covered jurisdictions, will have ample time to make adequate preparations before the next round of elections.

Before I close, I would be remiss not to mention, at least in passing, some of our other voting-related activities. I know that this is a conference on redistricting, but a redistricting plan does not operate in vacuum. People have to be able to register to vote without hindrance, to enjoy expanded opportunities to cast a ballot, to be able to cast a meaningful ballot if they are more proficient in a language other than English, and to get a ballot in sufficient time to return it so that it can be counted if they are away from home, serving in the military or living overseas.

These are the rights guaranteed by the national Voter Registration Act, the Help America Vote Act, the language minority provisions of the Voting Rights Act, and the Uniformed and Overseas Citizens Absentee Voting Act. Vigorous enforcement of each of these statutes is a priority for us. I urge you to visit the voting section's website to review our work under each of these statutes.

I believe that together we can ensure that the coming round of redistricting will produce plans that provide the full measure of fairness to racial and language minorities required by the Constitution and the Voting Rights Act.

I know that for each of us, one of the most memorable events in our lives as Americans was the first time we cast a ballot – whether we were pulling a lever or punching a card or touching a screen, the seemingly simple act of exercising our right to vote instills us with pride.

That first venture into the voting booth is even more memorable when it occurs not when you are 18 or 21, having always known the right was yours by virtue of being born in this country, but, rather when you are 40 or 60 or even older, having worked long and hard for that right.

A couple of weeks ago, we celebrated the 50th anniversary of the swearing in of Robert Kennedy as Attorney General. A panel of distinguished civil rights leaders, including Congressman John Lewis and former Assistant Attorney General John Doar spoke. When asked to describe Kennedy's most enduring legacy as Attorney General, they said it was the Voting Rights Act of 1965 – a landmark law that, nearly a century after the 15th Amendment promised it in theory, truly guaranteed all Americans the right to vote.

As President Lyndon Johnson said when the Voting Rights Act was enacted forty-five years ago, discrimination in voting is a wrong which no American, in his heart, can justify. The right to vote is one which no American, true to our principles, can deny.

The enforcement of our nation's critical civil rights laws is a marathon relay race, where the baton gets passed from generation to generation to carry out the solemn duty of enforcement. It's our turn now – and we take our responsibility very seriously.

The Attorney General has made clear his commitment to civil rights, and under his leadership the division received a substantial infusion of resources for this critical work. We are ready, and we will tackle our responsibilities aggressively and evenhandedly.

I thank you for your attention and I look forward to working with you in the future.

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