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FAX COVER SHEET

6/2/94

2:15 p.m.

DATE

TIME

CHRIS HERREN, ESQ.  
JUSTICE DEPARTMENT  
VOTING SECTION: CIVIL RIGHTS DIVISION

TO:

202-307-3961 (tel: 202-514-1416)

FAX NUMBER:

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FROM: Elena Ruth Sassower, Coordinator

MESSAGE:

Dear Mr. Herren:

Thought you'd like to see the article about the Justice Department's May 31st letter to the New York State Board of Elections, appearing in the most preeminent place of today's New York Law Journal: front-page, center, at the top.

At your convenience, please do send us a copy of that letter.

Keep up the good work!

*Elena*

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## Judicial Election Inquiry Widened

### *Justice Department Seeks Data On Acting Justices' Designation*

BY MATTHEW GOLDSTEIN

AN ONGOING federal inquiry into the judicial election process in three New York City boroughs has widened to include the state court system's long-standing policy of assigning judges from other courts to serve as acting justices in State Supreme Court.

The U.S. Department of Justice, in a letter sent Tuesday to the State Board of Elections, has asked for information regarding the acting justice designation process to determine if the policy violates the federal Voting Rights Act of 1965.

For nearly a year, the Justice Department has been examining whether a number of legislative and procedural changes in the way judges are elected in the Bronx, Brooklyn and Manhattan have resulted in a dilution of minority voting power.

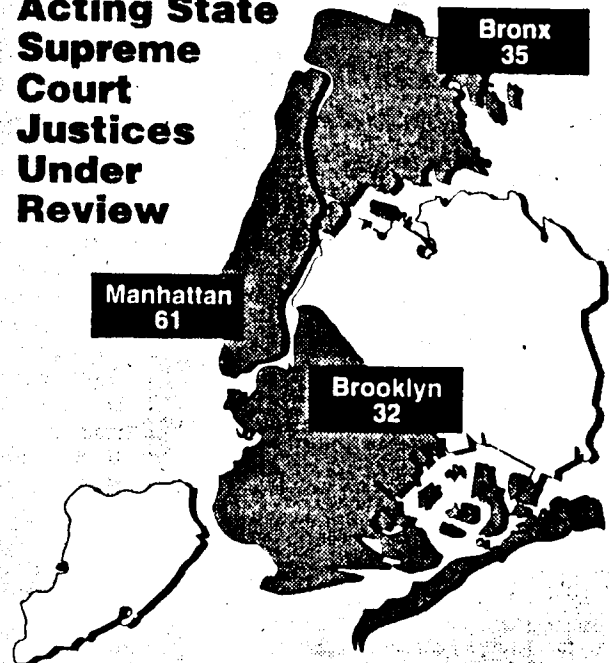
Since 1968, the Justice Department, pursuant to its mandate under the Voting Rights Act, has monitored election activity in the Bronx, Brooklyn and Manhattan and required state officials to "pre-clear" any changes in election law that could affect minority voters in those boroughs.

Until now, the federal inquiry has largely focused on the State Legislature's creation of 14 additional State Supreme Court judgeships in the Second Judicial District, which encompasses Brooklyn and Staten Island.

However, the Justice Department's move to broaden its inquiry could have even greater ramifications for the state courts, since 128 judges in the Bronx, Manhattan, Brooklyn are currently designated as acting Supreme Court justices.

For years, court administrators have assigned judges from the Court of Claims and from the New York City civil and criminal courts to serve as acting State Supreme Court justices in order to ease the caseload in the courts in New York City. While the appointments are called temporary, it

### Acting State Supreme Court Justices Under Review



**TOTAL: 128**

SOURCE: Office of Court Administration

is not uncommon for acting justices to preside in State Supreme Court for a decade or more.

But unlike most State Supreme Court justices, who are elected to 14-year terms, acting justices do not run in elections for Supreme Court. By appointing acting justices, the State Legislature has avoided the politically-charged issue of creating new judgeships.

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## Election Inquiry

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Chief Administrative Judge E. Leo Milonas, who is authorized by the State Constitution to make the temporary appointments, expressed surprise at the Justice Department's latest inquiry and said he was "not sure precisely what they're looking at."

David Flanagan, a spokesman for the State Board of Elections, said since election officials were still reviewing the Justice Department's letter, he could not comment.

### Failure to Comply

In its May 31 letter, the Justice Department also chided state election officials for failing to fully comply with its earlier request for information about the 14 additional judgeships.

Federal officials gave the state officials another 60 days to provide detailed information about the input obtained from minority residents and politicians in expanding the Second Judicial District, as well as on the nomination of candidates to run for the additional judgeships.

Meanwhile, Pace University Law Professor Randolph Scott-McLaughlin, a longtime critic of the state court's method of electing judges, who has filed a lawsuit claiming the state's judicial election process discriminates against minority lawyers, said the Justice Department's latest action signals that federal officials are "giving New York City a hard look."

The Justice Department, in this week's letter, also reiterated a request that state officials turn over all discovery and deposition material gathered during the course of that litigation.

Attorneys familiar with the Voting Rights Act have said the Justice Department, if it finds a fatal flaw in the state's judicial election process, could enjoin any future elections in the three boroughs, file its own lawsuit against the state, or force the state to rewrite its election laws.