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May 13, 2020

The Honorable Ruth Hughs
Texas Secretary of State
P.O. Box 12887
Austin, TX 78711
Email: secretary@sos.texas.gov

Sent via email and USPS

Re: Notice of Widespread Violations of the Texas Election Code

Dear Secretary Hughs,

Following the November 2018 General Election, the Texas Civil Rights Project (“TCRP”) undertook a statewide review of Texas counties’ compliance with certain provisions of the Texas Election Code. This revealed that dozens of Texas counties across the State—big and small, urban and rural—violated the Election Code in November 2018 by collectively providing hundreds of fewer polling places than required under state law. It also showed that absent remedial action, these counties will continue to violate the law in future elections. We contacted each of these counties with our findings, and many agreed to take action to prevent future violations. Others, however, have ignored our communications.

There is no doubt that these widespread, recurring, and readily apparent violations disenfranchised voters during the 2018 election. If not remedied, they will do so again in the future. This concern is even more salient now given the impact of the coronavirus. Additional polling places are necessary not only to comply with the law but also to permit socially responsible distancing to mitigate the spread of the virus. More polling places means shorter lines and fewer people at each polling place.

As the Texas Secretary of State, you bear the legal responsibility of ensuring that Texas counties comply with the Election Code, and other election laws, so that every citizen has an equal opportunity to cast their vote. You also bear the responsibility of ensuring that voting is as safe as practical—the bare minimum of which requires compliance with the law. Nonetheless, your office has yet to take any steps to curb these violations.

We therefore request that you review the violations detailed below and take immediate action to force Texas counties into compliance with the law. At the very least, this should include releasing a statewide advisory instructing Texas counties to be aware of and remedy any of the Election Code violations discussed in this letter. If a county refuses to do so, it is then your responsibility as the state’s chief elections officer to take additional steps, up to and including legal action, to enforce compliance. Finally, because our discovery of these violations makes it clear that your office is not fully monitoring county compliance with the election code, we request that you implement a monitoring and education program to ensure Texas’ counties do not repeat these violations.

A. Violations of the Texas Election Code During the 2018 General Election

Our investigation focused primarily on the provisions of the Election Code that govern how many polling places a county is required to provide during a general election. We applied these provisions to the data each Texas county supplied to the United States Election Assistance Commission for 2018. This allowed us to determine whether a county provided fewer than the minimum number of polling places required under the Election Code during the November 2018 election. The methodologies we employed,

and our findings, are presented below. We proceed in the following order: (1) the methodology used to assess non-countywide polling counties for compliance with the Election Code; (2) the methodology used to assess countywide polling counties for compliance with the Election Code; (3) the methodology used to assess countywide polling counties for compliance with the Voting Rights Act; and (4) the results of applying these methodologies to Texas counties' November 2018 practices.

1. Non-Countywide Polling Counties—Election Code Methodology

For counties that did not utilize the countywide polling program, we began with Section 43.001 of the Election Code, which mandates that “[e]ach election precinct established for an election shall be served by a single polling place located within the boundary of the precinct.” Tex. Elec. Code § 43.001. This established an initial number of polling places equal to the number of election precincts in the county.

We then applied Section 42.0051 of the Election Code, which permits counties, when “changes in county election precinct boundaries to give effect to a redistricting plan result in [certain smaller precincts],” to combine those smaller precincts with neighboring precincts in order to avoid unreasonable expenditures. Tex. Elec. Code § 42.0051(a). Counties with fewer than 250,000 people may only combine precincts if the smaller precincts have fewer than 500 registered voters, while counties with a population of 250,000 or more may only combine precincts if the smaller precincts have fewer than 750 registered voters. *Id.* at § 42.0051(a), (b).¹

We gave each county the benefit of the doubt and assumed that this provision would apply to each of their smaller precincts, and that each county would maximize its number of combined precincts by combining each combination-eligible smaller precinct with a *single* larger precinct—even if a county may have in fact been able to combine multiple neighboring smaller precincts with one another, or may not have been able to combine each smaller precinct with a neighboring larger precinct because the only available combinations would have exceeded the max-registered-voters-per precinct limit discussed immediately below. In other words, we calculated a “floor,” or “baseline” number of precincts that a county would have to provide under the Election Code if it combined its eligible precincts in a way that *minimized* the number of precinct polling places it would be required to provide under the one-polling-place-per-precinct and precinct-combining rules.²

We finally looked to whether a county had violated the max-registered-voters-per-precinct rule. The Election Code prohibits both standalone and combined election precincts from containing more than

¹ These “combined precinct” provisions apply to general, special, and primary elections. During special and primary elections, the Election Code also permits the “consolidation,” rather than “combining,” of election precincts, which implicates different limitations. *Compare* Tex. Elec. Code § 42.0051 *with id.* §§ 42.008–42.009.

² For example, imagine a county had 20 precincts, 5 of which were small enough to be eligible for combination. If the county combined each of those 5 smaller precincts with 1 larger precinct each, its total number of precincts would be 20 minus 5, or 15 precincts (10 larger precincts standing alone and 5 combined precincts). It would thus be required to provide 15 polling places under the one-polling-place-per-precinct rule. However, if the county instead chose to combine 3 of the 5 smaller precincts with one another, because they were geographically contiguous, the county would then have a total of 18 precincts (15 larger precincts standing alone, 2 smaller precincts standing alone, and 1 combined precinct)—and be required to provide 18 polling places, rather than 15. We thus gave counties the greatest leeway possible in assuming they could and would combine every combination-eligible smaller precinct with a *single* larger precinct.

5,000 registered voters, not counting suspense voters.³ Tex. Elec Code § 42.0051(c); *id.* at § 42.006(a), (e). Of note is the fact that every Texas county with an overly-large precinct for more than two years necessarily violated the Election Code by failing to execute its statutorily-mandated, non-discretionary duty to review its precincts every odd-numbered year for non-compliance with the law. *See* Tex. Elec. Code § 42.031(a).

Thus, when the floor number of polling places calculated for a county exceeded the number of polling places the county actually provided, it necessarily meant that the county had violated some aspect of the above provisions. For example, Denton County reported having 179 election precincts during the November 2018 election. As a county with 250,000 or more people, we assumed it was also eligible to combine any of its 21 precincts containing fewer than 750 registered voters. Thus, assuming the county was permitted to combine each of those 21 precincts with one larger neighboring precinct, it could have had *at most* reduced its number of total precincts from 179 to 158. Under the one-polling-place-per-precinct rule, then, it was required to have provided at least 158 polling places. Instead, Denton County provided 94 polling places.

This meant we needed to look more closely into Denton County. Upon doing so we found that the county had improperly combined precincts both by (1) combining precincts that were not eligible for combination because none contained fewer than 750 registered voters; and (2) combining precincts to create precincts containing substantially more than 5,000 registered voters.⁴ We also found that Denton County had at least 10 election precincts that individually, irrespective of any combination with others, contained more than 5,000 registered voters. The county therefore violated the Election Code during the November 2018 election in each of the possible ways discussed above.

After carrying out this sort of analysis on every non-countywide polling county in Texas, we sent letters to those we identified as having violated the Election Code. We admitted in these letters that some of the combined or individual precincts we identified as having more than 5,000 registered voters may have been in compliance with the Election Code because they would have had fewer than that number once the suspense voters were subtracted, but that we did not possess that data. Nevertheless, where precincts contained substantially more than 5,000 registered voters, it seemed very unlikely that even the subtraction of suspense voters would bring them into compliance. For instance, 37 of the combined

³ Certain events trigger a county registrar to place a voter “on suspense.” This typically indicates that the registrar is unsure of the voter’s residential address. For example, if the voter’s registration certificate is returned as non-deliverable, the registrar will send a Notice of Address Confirmation to the voter and place the voter “on suspense” in the interim. A “suspense voter” may still vote in elections for which they are eligible, provided they complete certain steps such as filling out a Statement of Residence while at the polls. *See* <https://www.votetexas.gov/faq/> (accessed May 12, 2020); *see also* Tex. Elec. Code § 15.081.

⁴ An example of the first type of violation is demonstrated by Denton County’s combination of Precincts 1004, 1026, 1027, and 1041. Precinct 1004 had close to 4,000 registered voters; Precinct 1026 had close to 5,500 registered voters; Precinct 1027 had under 750 registered voters, and Precinct 1041 had close to 3,000 registered voters. Thus, while Precinct 1027 was eligible to be combined with any of the other three precincts, Precincts 1026, 1027, and 1041 could not be combined with one another. Similarly, the county combined Precincts 2013, 2014, 2015, and 2016. Those precincts had around 1,700, 2,700, 3,600, and 3,800 registered voters respectively. None were therefore eligible for combination under TEC § 42.0051. These two examples represent a non-exhaustive sampling of the improperly combined precincts Denton County used during the November 2018 election.

The above two examples of improperly-combined precincts also demonstrate the second type of violation. The combined precinct of Precincts 1004, 1026, 1027, and 1041 contained over 12,500 registered voters, and the combined precinct of Precincts 2013, 2014, 2015, and 2016 contained over 11,500 registered voters.



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precincts that Denton County used during the November 2018 election contained more than 5,000 registered voters, and 27 of those 37 contained more than 6,000 registered voters, with some as high as 10,000 or more. It is extraordinarily unlikely that subtracting the number of suspense voters from these combined precincts would have brought their number of registered voters under 5,000.

We also noted in our letters that the way in which the county chose to redraw any overly-large standalone precincts we identified might correspondingly increase the number of polling places it would be required to provide. For example, if the county chose to split a standalone precinct containing 6,000 registered voters into two precincts containing 3,000 registered voters, that would mean it would need to provide an additional polling place for the new precinct. However, if it were able to redraw the overly-large precinct and its neighboring precincts in a way that did not increase its number of election precincts, then the baseline number of required polling places would not change.

Finally, we did not send letters to several counties we identified as containing overly-large precincts either because they had already redrawn their overly large precincts (e.g., Hays County), or because the overage in their too-large precincts was not substantial (e.g., Webb County, with one precinct containing ~5,100 registered voters).

2. Countywide Polling Counties—Election Code Methodology

We also analyzed Texas counties that participated in the countywide polling program during the November 2018 election. This program, which is permitted by section 43.007 of the Election Code, enables voters to cast their ballot at any polling place irrespective of the election precinct in which they reside. For clarity, this letter will refer to polling places provided during countywide polling elections as “vote centers.”

Section 43.007 requires that “for an election held in the first year in which the county participates in the [countywide polling place] program,” “[t]he total number of [voter centers] may not be less than . . . 65 percent of the number of precinct polling places that would otherwise be located in the county for that election.” Tex. Elec. Code § 43.007(f). And for elections held after the first year of participation, a county must provide “not less than . . . 50 percent of the number of precinct polling places that would otherwise be located in the county for that election.” *Id.*

Thus, to determine whether a county utilizing the countywide polling program had violated the Election Code during the November 2018 election, we began by performing the calculations already discussed with respect to the one-polling-place-per-precinct, combined precincts, and registered-voter-limits. This yielded the baseline number of polling places that “would [have] otherwise be[en] located in the county for the election” if it had *not* utilized countywide polling. *See id.* We then applied either the 50 percent or 65 percent rule to that baseline number, depending on whether the November 2018 election fell within the county’s “first year of participation” in the program. *Id.* Whenever this calculation yielded a non-integer result, we rounded up, because a county cannot provide a fraction of a vote center and because rounding down would fail to satisfy the percentage requirement. For example, if a county was not in its first year of the program and would have been required to provide 197 polling places if not using countywide polling, that meant it was required to provide 50 percent of 197, or 98.5, vote centers. This would then be rounded up to 99 vote centers because rounding down to 98 vote centers would fail to satisfy the 50 percent requirement.

While the question of improperly combined precincts plays no role in assessing whether counties using countywide polling violated the Election Code, the maximum-registered-voters-per-precinct rule does. This is, as already discussed, because how the county would choose to remedy these precincts may affect its baseline number of precincts, which would in turn affect the 50 or 65 percent calculation. Thus, as a simple example, a county in its fourth year of participation in the program and which contained a baseline number of 60 precincts would be required to provide 30 vote centers in a countywide polling election (50 percent of 60). But if 10 of that county's 60 election precincts contained more than 5,000 registered voters, it is highly unlikely that if the county had properly redrawn those precincts prior to the election—as required by the Election Code—that its baseline would have in fact been 60. More likely, it would have split some of those precincts into two or more, while absorbing others into neighboring precincts, thereby increasing its baseline and, in turn, the number of polling places required to comply with the 50 percent rule.

Of course, we could only speculate as to how counties would redraw their precinct lines to remedy this issue. Thus, in determining whether to contact a countywide polling county about overly-large precincts, we assumed that a county would split each into two non-combinable precincts. If, even accounting for that increase in the number of required polling places, the county's number of vote centers would have still been adequate, then we did not contact the county. For instance, if a county past its first year of participation in the countywide polling program had a baseline number of 40 election precincts, but also had 10 election precincts containing more than 5,000 registered voters, we assumed that its real baseline number was 50 precincts (30 + 10 times 2). This yielded a requirement of 50 divided by 2, or 25 vote centers. So, if the county had provided 25 or more vote centers, we did not contact them. As seen in the results section below, the only county that we sent a letter to on the basis of this sort of analysis was Galveston County, because assuming it split each excessively-large precinct in two, it would not have provided 50 percent of its otherwise required number of polling places. This does not mean, however, that these countywide polling counties with excessively large precincts are *not* violating the Election Code; we simply chose to focus our efforts elsewhere for now. The results section lists those countywide polling counties having excessively large precincts but to whom we did not send a letter.

Finally, we checked countywide polling counties for compliance with the rule that each commissioners precinct must contain at least one vote center. *See* Tex. Elec. Code § 43.007(m). The only county in violation of this rule was Aransas County, which ignored our attempts at communication.

3. Countywide Polling Counties—Voting Rights Act Methodology

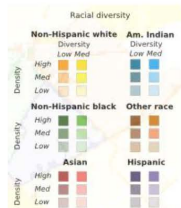
Lastly, we superimposed countywide polling counties' vote center locations over a census-based map displaying each county's block-by-block demographic makeup in order to visualize any racially disparate impact in the provision of vote centers, implicating a violation of the Voting Rights Act. We contacted McLennan and Smith County because both failed to provide a vote center in heavily minority-majority areas in their largest cities—Waco and Tyler, respectively—during the November 2018 election. After receipt of our letter and as captured in the results section below, both counties committed to opening a vote center in those areas for the November 2020 General Election.

Below is a map depicting the potential violation of the Voting Rights Act that we identified in Waco, in McLennan County. The potential violation in Tyler, in Smith County, was very similar.

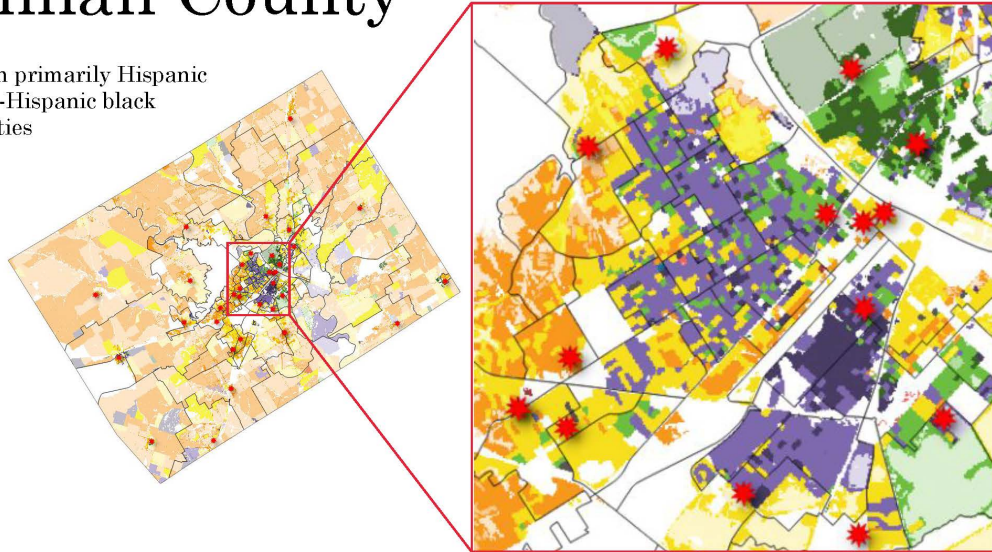


McLennan County

No Vote Center in primarily Hispanic (purple) and Non-Hispanic black (green) communities



Vote Center Location



4. The Results of Applying the Above Methodologies

As mentioned previously, we identified dozens of counties that violated the Election Code during the November 2018 election for the reasons discussed above. The following are two charts setting out our findings as well as each county's response after we informed them of our conclusions.

a. Non-Countywide Polling Counties

Key: "ICP-1"—county improperly combined precincts exceeding 500/750 registered voters
 "ICP-2"—county improperly combined precincts in excess of 5,000 registered voters
 "5k+ precincts"—county had standalone precincts in excess of 5,000 registered voters

<u>County</u>	<u>Type of Violation</u>	<u>Number of Polling Places in 2018</u>	<u>Legally Required Number of Polling Places in 2018</u>	<u>Month Notified</u>	<u>Result</u>
Angelina	ICP-1	27	32	September 2019	Committed to remedying issues
Bastrop	ICP-1, ICP-2, 1x 5k+ precinct	20	21+ depending on redrawing of too-large precincts	September 2019	Committed to remedying issues



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Bell	ICP-1, ICP-2, 18x 5k+ precincts	46	45+ depending on redrawing of too-large precincts	September 2019	Moving to countywide polling program for March 2020 and beyond and will be providing 41 vote centers
Bowie	ICP-1	32	33	October 2019	Responded but did not commit to remedying issues
Caldwell	ICP-1	12	16	October 2019	Ignored certified mail and attempted follow-up communication
Cameron	ICP-1, ICP-2, 1x 5k+ precinct	76	80+ depending on redrawing of too-large precincts	October 2019	Responded requesting time to formulate response but has ignored all attempted follow-up communication
Coke	ICP-1	2	3	October 2019	Responded initially but did not commit to remedying issues and has ignored all attempted follow-up communication
Comal	ICP-1, ICP-2, 5x 5k+ precincts	25	28+ depending on redrawing of too-large precincts	October 2019	Ignored certified mail and attempted follow-up communication
Cooke	ICP-1	16	25	October 2019	Responded initially but did not commit to remedying issues and has ignored all attempted follow-up communication
Dallam	ICP-1	2	3	October 2019	Committed to remedying issues
Denton	ICP-1, ICP-2, 10x 5k+ precincts	94	158+ depending on redrawing of too-large precincts	September 2019	Responded in November 2019 agreeing with our analysis and committing to look into issues, but have ignored attempted follow-up



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					communications to confirm
El Paso	ICP-1, ICP-2, 10x 5k+ precincts	151	172+ depending on redrawing of too-large precincts	September 2019	Moving to countywide polling program for November 2020 and will provide as many vote centers as polling places
Hardin	2x 5k+ Precincts	19	19+ depending on redrawing of too-large precincts	October 2019	After back-and-forth from November 2019 to late January 2020, informed us that the county will not remedy the issue prior to 2021
Johnson	ICP-1, 5x 5k+ precincts	28	34+ depending on redrawing of too-large precincts	October 2019	Agreed to remedy the improperly combined precincts, but refuses to redraw too-large precincts until after the 2020 census
Maverick	ICP-1	13	14	February 2020	Has not yet responded, but not enough time has passed to definitively conclude the county is ignoring the problem
Montgomery	ICP-1, 10x 5k+ precincts	95	95+ depending on redrawing of too-large precincts	October 2019	Responded initially but did not commit to remedying issues and has ignored all attempted follow-up communication
Nacogdoches	ICP-1	17	20	October 2019	Committed to remedying issues
Presidio	ICP-1	2	4	October 2019	Committed to remedying issues
Rockwall	4x 5k+ precincts	17	17+ depending on redrawing of too-large precincts	October 2019	Ignored certified mail and attempted follow-up communication

Somervell	ICP-1, ICP-2	1	4	October 2019	Committed to remedying issues
Starr	2x 5k+ precincts	10	10+ depending on redrawing of too-large precincts	February 2020	Has not yet responded, but not enough time has passed to definitively conclude the county is ignoring the problem
Washington	ICP-1	15	17	October 2019	Ignored certified mail and attempted follow-up communication
Wilbarger	ICP-1	4	6	October 2019	Ignored certified mail and attempted follow-up communication

Caldwell County, Cooke County, Montgomery County, and Denton County are particularly egregious offenders among those which have either ignored our communications or otherwise failed to fully commit to remedying their violations. Caldwell County needs to provide a full 33% more polling places than it currently does; Cooke County, almost 60% more. And Montgomery County has **ten (10) precincts** containing more than 5,000 registered voters—more than 10% of its 96 precincts total. Finally, Denton County initially responded positively to our finding that it needs to add **sixty (60) or more** polling places to comply with the Election Code, admitting that it could not disagree with our conclusions and that it planned to look into the issues we identified. However, it has ignored all further attempts at communication and has yet to confirm the number of polling places it intends to provide for the November 2020 General Election.

Other counties have also ignored our communications or responded requesting more time to formulate a response but then ignored further attempts at correspondence. At least Hardin and Johnson County, despite receiving our demands in October 2019 and responding in November 2019—and thus having ample time to redraw their overly-populated precincts—have made it clear they intend to continue violating the Election Code until after the 2020 census and the accompanying redistricting.

Hays, Hunt, Kaufman, Midland, Polk, Taylor, and Webb Counties all had at least one precinct containing more than 5,000 registered voters. However, either because these counties have already redrawn their overly large precincts, or because the overage in their too-large precincts was not substantial, we did not send these counties a letter about their past noncompliance.

Note also that both Bell County and El Paso County responded to us by stating that they are moving to the countywide polling program for future elections. This move will bring both counties into a sort of “general compliance” with the Election Code, even if technical violations remain. We use the term “general compliance” here to describe the situation in which a county which has in previous years seriously violated the Election Code by failing to provide the statutorily-required number of polling places

nevertheless provides a number of vote centers under the countywide polling program that likely meets the 65 percent and 50 percent requirements, even accounting for the fact that the county still needs to redraw their overly-large precincts. In other words, even assuming that a county in this position were to split each of its overly-large precincts in two, it is likely that the number of vote centers it is providing would still be adequate under the law.

Thus, because El Paso has pledged to provide the same number of vote centers as it has polling places in the past, it will be in “general compliance” for the November 2020 election notwithstanding its overly large precincts. El Paso had ~191 election precincts in November 2018, with ~19 having fewer than 750 registered voters, so the minimum polling places it could have provided was 172 polling places. Instead, it provided 151 polling places. It also had 10 precincts with over 5,000 registered voters. But even assuming it splits each of those 10 precincts in two, the provision of 191 vote centers will exceed the 65 percent and later the 50 percent requirement for countywide polling.

The same is true for Bell County, which has pledged to provide 41 vote centers in comparison to its previous baseline number of 45 polling places during the November 2018 election. This move permits Bell County—which still has *eighteen (18)* election precincts containing more than 5,000 registered voters—to escape any sort of consequence for its previous violations.

Although these counties will now be in “general compliance” with the Election Code, the above still serves to highlight just how severely and blatantly they and others have violated the law during past elections without any oversight from the office of the Secretary of State.

b. Countywide Polling Counties

Key: “VC%”—county did not provide enough vote centers to meet the percentage requirements
“5k+ precincts”—county had standalone precincts in excess of 5,000 registered voters

County	Type of Violation	Vote Centers in 2018	Legally Required Number of Vote Centers in 2018	Month Notified	Result
Aransas	Fewer than one vote center per commissioners precinct	3	4	September 2019	Ignored certified mail and attempted follow-up communication
Brazoria	VC%, 9x 5k+ precincts	27	33	January 2020	Committed to remedying issues
Collin	VC%, 11x 5k+ precincts	68	99+, depending on redrawing of too-large precincts	September 2019	Committed to remedying issues

Galveston	7x 5k+ precincts	35	36, assuming each 5k+ precinct is split in two	September 2019	Ignored certified mail and attempted follow-up communication
Hidalgo	VC%, 2x 5k+ precincts	74	80+, depending on redrawing of too-large precincts	January 2020	Ignored attempted communication
Howard	VC%	4	8	September 2019	Committed to remedying issues
Lubbock	VC%	37	40	January 2020	Responded requesting time to formulate response but has yet to do so despite attempted follow-up communications
McLennan	No vote center in minority-majority area	n/a	n/a	September 2019	Committed to remedying issues
San Patricio	VC%	8	10	September 2019	Committed to remedying issues
Smith	No vote center in minority-majority area	n/a	n/a	September 2019	Committed to remedying issues

Additionally, our investigation revealed that many countywide polling counties other than those listed above had a substantial number of election precincts containing more than 5,000 registered voters in November 2018. We did not send these counties letters for the reason already discussed in the methodology section above—that the county’s number of vote centers would have been sufficient even if each overlarge precinct had been split in two. Among the worst offenders were Fort Bend County and Williamson Counties, each with 15 excessively large election precincts, and Travis County, with 43 excessively large election precincts.

B. The Texas Secretary of State’s Powers and Duties Under the Election Code

The Election Code names you, the Texas Secretary of State, as the “chief election officer of the state” and orders that you “shall obtain and maintain uniformity in the application, operation, and interpretation of this code and of the election laws outside this code. . . . shall prepare detailed and comprehensive written directives and instructions relating to and based on this code and the election laws outside this code. . . . [and] shall distribute these materials to the appropriate state and local authorities having duties in the administration of these laws.” Tex. Elec. Code §§ 31.001(a), 31.003.

To accomplish these goals, the Election Code empowers you to “take appropriate action to protect the voting rights of the citizens of this state from abuse by the authorities administering the state’s electoral processes,” to order those authorities “to correct the offending conduct,” and to “seek enforcement” of



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that command “by a temporary restraining order or a writ of injunction or mandamus obtained through the attorney general.” *Id.* at § 31.005; see *Voting for Am., Inc. v. Andrade*, 888 F. Supp. 2d 816, 831 (S.D. Tex. 2012) *rev’d on other grounds*, sub nom. *Voting for Am., Inc. v. Steen*, 732 F.3d 382 (5th Cir. 2013) (“[T]he Secretary [of State] admitted in this Court that—through the Texas Attorney General—she can . . . bring a suit in her name to obtain a writ of mandamus against any county official who refuses to follow her interpretations of the voting laws.”).

It is apparent from the widespread and blatant nature of the violations discussed above that the office of the Secretary of State has neglected these duties under the Election Code. It is further apparent that in the absence of this oversight, Texas counties feel empowered to continue deliberately disobeying the law, as demonstrated by the numerous counties that have ignored our specific notices or outright refused to come into compliance.

The result of this obstructionism is that at least some of the counties we contacted may now justify their refusal to redraw their overly-large precincts on the fact that the March 2020 Primary Election has now finished. This is because the Election Code prohibits “[a] change in a county election precinct boundary . . . on a date occurring between the date of the general primary election and the date of the general election.” Tex. Elec. Code § 42.033(c). But this is a problem of these counties’ own making; we sent the vast majority of our letters in the fall or winter of 2019 and these counties had ample time to redraw their precincts. Moreover, the Election Code contains an explicit exception to this rule: a county may redraw precinct boundaries during this time period to “comply with a court order.” *Id.* § 42.033(c)(3). Accordingly, your office retains the power to force these counties to come into compliance with the law after the primary election through your power to seek enforcement of the Election Code by a writ of mandamus, even if they have deliberately delayed redrawing their precincts to avoid coming into compliance for the November 2020 election.

There is no similar excuse for those counties which have violated and will continue to violate the Election Code by improperly combining precincts and failing to provide the number of polling places required under the law. That sort of violation does not implicate the redrawing of any precincts and there is no ostensible restriction on a county remedying any such issue.

C. Conclusion

As described in detail above, our investigation revealed that counties all across Texas—big and small, urban and rural—have flouted the requirements of the Election Code in past elections and will continue to do so in future elections. This was the case *even though* our analysis gave Texas counties the benefit of the doubt at every juncture.

Though we gave notice of these violations to counties across the state, only a fraction have agreed to remedy their respective violations. Others have made it clear, either by ignoring these notices or by responding and directly saying so, that they intend to continue willfully violating the Election Code.

These widespread violations have affected voters all across the state, and will only continue in the absence of any meaningful oversight from your office. As the Texas Secretary of State, you are explicitly entrusted with the duty to ensure that Texas counties comply with the Election Code, and are empowered by law to command that compliance. It is also your responsibility to minimize the coronavirus’ potential impact on the November election—the bare minimum of which requires instructing Texas counties to



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open more polling places in compliance with the law. To ensure that every citizen has an equal, safe opportunity to cast their vote, we ask that you utilize your authority to:

1. Issue a statewide election advisory to every Texas county explaining the provisions of the Election Code set out in this letter and mandating that each county review its election precincts and polling places or vote center numbers for compliance with the law.
2. Monitor the counties that responded to our violation notices by pledging to come into compliance by November 2020 to confirm that they in fact do so. This includes Angelina, Bastrop, Brazoria, Collin, Denton, Dallam, Howard, McLennan, Nacogdoches, Presidio, San Patricio, Smith, and Somervell Counties.
3. Take action to ensure that those counties that did not adequately respond to our notices and are likely to continue to violate the Election Code are brought into compliance with the law. This includes Aransas, Bowie, Caldwell, Cameron, Coke, Comal, Cooke, Galveston, Hardin, Hidalgo, Johnson, Lubbock, Montgomery, Rockwall, Washington, and Wilbarger Counties.
4. Additionally ensure that those counties we most recently contacted, which may not have yet had adequate time to respond, come into compliance with the Election Code. This includes Maverick and Starr Counties.
5. Take further steps, including legal action when needed, if any of the above counties refuse to come into compliance with the Election Code before the next general election.
6. Oversee Texas counties' election practices to ensure that these violations, and others, do not occur in future elections.

We are happy to help in any way we can with this process and to meet with you either in person or by phone to discuss the contents of this letter.

We look forward to your prompt response.

Sincerely,

Zachary Dolling
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A handwritten signature in blue ink that reads "R. Stevens".

Beth Stevens
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