

SUBMISSION NO. 2011-2775:  
COMMENT UNDER SECTION 5 OF THE VOTING RIGHTS ACT



September 14, 2011

VIA E-MAIL & FIRST CLASS MAIL

T. Christian Herren, Jr.  
Chief, Voting Section  
Civil Rights Division  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Room 7254-NWB  
Washington, D.C. 20530

Re: Comment Under Section 5 of the Voting Rights Act on  
Submission No. 2011-2775 -- Texas's Photo Voter ID Law

Dear Mr. Herren:

We, the undersigned -- non-partisan, not-for-profit organizations that work across the country and in Texas to protect the voting rights of African-Americans, Latinos, and Asian Americans -- write to oppose the preclearance of Texas's Senate Photo Voter Identification law, Bill 14 ("SB14" or "Act"). The State of Texas has failed to meet the dual burden of proving (1) that SB14 was enacted for a non-discriminatory purpose, and (2) that SB14 does not have a discriminatory effect on minority voting strength. Accordingly, the Attorney General should interpose an objection to SB14.

SB14 goes beyond merely requiring a photo ID to vote; it changes the entire process for voting in the State. Specifically, the current law, the benchmark against which the proposed changes must be judged for purposes of Section 5, allows a voter to cast a regular ballot simply by showing his/her

voter registration certificate, which does not have a photograph. Additional identification is required only when the voter cannot present his/her certificate, and acceptable forms of additional identification include utility bills, paychecks, and other non-photo IDs. In sharp contrast, the proposed law, SB14, requires voters to present one of several very specific photo identification documents in order to cast a regular ballot, even if the voter has a voter registration certificate and appears on the precinct's voter registration list. These proposed changes -- both in the process and in the types of acceptable identification -- are unjustified and are unlawful under the Voting Rights Act.

Specifically, the State has failed to carry either of the burdens necessary to achieve preclearance for SB14. It has failed completely to proffer any evidence that SB14 was enacted for a non-discriminatory purpose, and the evidence demonstrates otherwise. The State has also failed to proffer any evidence that the Act will not have the effect of denying or abridging the minority vote, and all of the available data indicate that the Act will negatively and disproportionately impact the voting rights of minority citizens in the State of Texas. In light of this, preclearance must be denied. *See State of Georgia v. Ashcroft*, 195 F. Supp. 2d 25, 74 (D.D.C. 2002) (“[T]his rule mandates that preclearance be denied . . . if a new system places minority voters in a weaker position than the existing system.” (citation omitted)).

## I. SUMMARY OF THE CURRENT LAW AND THE PROPOSED CHANGES

Currently, a Texas voter may cast a regular ballot in any election in Texas upon the presentation of his/her voter registration certificate, which does not contain the voter's photograph. *See* Tex. Elec. Code Ann. § 63.0001 (Regular Procedure for Accepting Voters). If the voter's name appears on the precinct list of registered voters, the voter must be accepted for voting. *Id.* Only if a voter does not have his/her voter registration certificate is the voter required to present proof of identification if s/he wants to cast a regular ballot. *Id.* § 63.008 (a), § 63.009 (b). An “acceptable proof of identification,” under the benchmark plan, includes the following:

- (1) [A] driver's license or personal identification card issued to the person by the Department of Public Safety or a similar document issued to the person by an agency of another state, regardless of whether the license or card has expired;
- (2) [A] form of identification containing the person's photograph that establishes the person's identity;

- (3) [A] birth certificate or other document confirming birth that is admissible in a court of law and establishes the person's identity;
- (4) United States citizenship papers issued to the person;
- (5) [A] United States passport issued to the person;
- (6) [A]n official [piece of] mail addressed to the person by name from a governmental entity;
- (7) [A] copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; or
- (8) [A]ny other form of identification prescribed by the secretary of state.

Tex. Elec. Code Ann. § 63.0101.

A voter is required to vote provisionally only if s/he does not have his/her voter registration certificate and does not have one of the many forms of identification allowed under current law. *See* Tex. Elec. Code Ann. § 63.011.<sup>1</sup> In other words, a provisional ballot is used as an absolute last resort for voters whose identification cannot be verified at the polls.

On May 27, 2011, Gov. Rick Perry signed into law SB14, which amends relevant provisions of the Texas Election Code and the Texas Transportation Code so to require all voters to produce one of the following in order to vote by regular ballot:

- A Texas-issued driver's license, a Texas state identification card, a license to carry a concealed handgun, a U.S. military card, or a U.S.

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<sup>1</sup> This means that a voter who has his/her voter registration certificate, but is not on the list may still cast a regular ballot, without additional proof of identification. *See* Tex. Elec. Code Ann. § 63.006. It also means that even a voter with an incorrect voter registration certificate who is not on the list may still cast a regular ballot, after executing an affidavit attesting to certain facts about him- or herself, including information about residency. *See* Tex. Elec. Code Ann. § 63.007.

passport, each of which must be current or have expired no earlier than 60 days before the date of presentation; or

- A U.S. citizenship certificate that contains a photograph of the voter.

See Senate Bill 14, Charter 123, 82nd Legislature 2011, *available at* <http://www.sos.state.tx.us/statdoc/bills/sb/SB14.pdf>.

A voter who does not present a current or recently-expired form of photo identification when appearing to vote at the polling place and who does not fall within the scope of the Act's very narrow exemptions,<sup>2</sup> may vote provisionally. The Act permits election officials to count a voter's provisional ballot only if the voter presents an acceptable photo ID within six days of casting the provisional ballot.

The Act also requires, among other things, the Department of Public Safety to issue an election identification certificate free of charge to those who request it for voting purposes. The Secretary of State and local election officials also must develop voter education programs, create training programs for polling place officials, and revise election forms and postings, beginning on September 1, 2011.

Finally, the Act reclassifies the offenses of fraud and attempted fraud in voting and increases the penalties for these criminal acts, to as much as 20 years in prison and as much as \$10,000 in fines for those convicted of fraud. See Tex. Penal Code § 12.33 (Second Degree Felony Punishment).

On July 25, 2011, Texas submitted its request for preclearance of SB14 to the U.S. Department of Justice ("DoJ," "Justice," or "Department"). See Letter from Ann McGeehan, Director of Elections, Texas Secretary of State to T. Christian Herren, Jr., Chief Voting Section, Civil Rights Division, Department of Justice (July 25, 2011) ("Submission Letter").

For the reasons set forth below, the Attorney General must interpose an objection to SB14.

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<sup>2</sup> The Act exempts persons who cannot be photographed for religious reasons, those with disabilities, and those who can prove that they have been the victims of a natural disaster, which is defined very narrowly. See Submission Letter at 5 (disabilities), 8 (religious objection and natural disasters).

## II. SB14 WAS ENACTED FOR A DISCRIMINATORY PURPOSE.

In assessing whether a piece of legislation was enacted with a discriminatory purpose, the Department must undertake a “sensitive inquiry into such circumstantial and direct evidence of intent as may be available.” *Village of Arlington Heights v. Met. Housing Dev. Corp.*, 429 U.S. 252, 266 (1977). As the Supreme Court made clear in *Arlington Heights*, the “starting point” of this analysis is whether the “official action . . . bears more heavily on one race than another.” *Id.* (quotation & citation omitted). Other factors that should be considered include (1) the “historical background” of the jurisdiction’s decision; (2) “the specific sequence of events leading up to the challenged decision”; (3) whether there were any departures from the “normal procedural sequence”; and (4) the “legislative or administrative history.” *Id.* at 266-68.

Instead of providing any proof whatsoever that SB14 was enacted for a non-discriminatory reason, Texas relies solely on its self-serving claim that “[t]he Act does not have the intent and will not have the effect of diluting the voting strength of any racial or linguistic minority.” Submission Letter at 10. This statement is woefully inadequate to meet its burden of proof. And, as outlined below, it is inconsistent with the facts. Indeed, all five factors indicate that SB14 was enacted for a discriminatory purpose.

### A. The Act’s Discriminatory Impact Evidences Its Discriminatory Purpose.

As set forth in detail below, voters of color will suffer negatively and disproportionately if SB14 is allowed to proceed to implementation. Specifically, voters of color are disproportionately less likely to possess the required forms of identification and do not have the same access to those forms of identification (or to the “free” election identification certificate, for that matter) as their White counterparts. Under the benchmark plan, an elector may vote after presenting his/her voter registration certificate or, in lieu of that, another form of non-photographic identification. Because the Act prohibits a voter from voting unless s/he presents a photo ID, voters of color will not be able to exercise their franchise to the same degree as White voters and their voting strength will be diluted. This important *Arlington Heights* factor evidences discriminatory intent.

### B. Texas’s Long and Infamous History of Suppressing the Minority Vote Evidences the Act’s Discriminatory Purpose.

Texas’s history of suppressing the rights of voters of color is long and painful. As set forth in the declaration of Dr. F. Chandler Davidson (“Davidson Decl.”) (attached as Exhibit A), an expert on voting

discrimination in Texas, the State has employed simple-minded as well as sophisticated tactics to suppress the minority vote.

1. Voter Suppression in Texas 1845-65: Limiting the Latino Vote

Discriminatory voting practices in Texas date back to 1845, when the State achieved statehood. Davidson Decl. at ¶ 7. It began with the oppression of Mexican-Americans and expanded from there. *Id.* at ¶ 8. Early efforts focused on preventing citizens from organizing. *Id.*

2. Emancipation and Reconstruction

The emancipation of slaves in 1865 did little to improve the rights of Black and Brown voters when it came to electoral politics. *Id.* at ¶ 9. An all-White constitutional convention refused to grant suffrage to Blacks, even literate Blacks, and refused to ratify the Fourteenth Amendment forbidding states from depriving citizens equal protection of the law. *Id.*

During Reconstruction, Blacks achieved some level of political participation, with Blacks voting, serving on convention committees, and ultimately securing at least two state senatorial seats. *Id.* at ¶ 11-12. But that participation was short-lived.

3. Post-Reconstruction Backlash: Restrictions to the African-American Vote

The end of Reconstruction in 1873 brought about an end to the gains achieved by Blacks during Reconstruction. Gerrymandering cut the number of Black legislators sharply. *Id.* at ¶ 16. And intimidation and violence were used to suppress turnout among voters of color. *Id.*

Discriminatory practices by the State to disenfranchise voters of color continued into the 1900s. In 1902, the Texas Constitution was amended to impose the poll tax, and in 1903 and 1905, lawmakers passed restrictive registration laws. *Id.* By 1906, Blacks were not a force in electoral politics. *Id.* It was as though Reconstruction had never happened in Texas.

When the National Association for the Advancement of Colored People ("NAACP") was established in 1910, Blacks began participating more and more in civic groups and pressing their rights through litigation. *Id.* at ¶ 17. Until 1923, White primaries -- primaries in which only Whites could vote -- operated at the discretion of county executive committees.

That year, however, the legislature passed a law preventing Blacks from participating in any primary elections. *Id.* That law was challenged by a Black physician, and in 1927, the United States Supreme Court struck the law down, finding an equal protection violation. *See Nixon v. Herndon*, 273 U.S. 536 (1927). In response, the state legislature shifted authority so as to prohibit Black participation in state executive committees. *Id.* at ¶ 18. The same physician challenged this action, and the United States Supreme Court struck this law as well, finding that the committees lacked authority to act for the State and making clear that the State convention had such authority. *See Nixon v. Condon*, 286 U.S. 73 (1932).

Predictably, the State convention then adopted a rule excluding Blacks from its primaries. A Black Houstonian challenged this law. *Id.* The Supreme Court upheld this law, finding that political parties were voluntary associations and, thus, could restrict participation. *See Grovey v. Townsend*, 295 U.S. 45 (1935). In the 1940s, a Black woman named Lonnie Smith was prevented from voting in the Texas Democratic primary, and she challenged this treatment in a 1942 lawsuit. In this case, the Supreme Court found that because primaries are regulated by Texas law, the convention was an agency of the State, and the law violated the Fifteenth Amendment's protection against racial discrimination in voting. *See Smith v. Allwright*, 321 U.S. 649 (1944). This decision marked the end of the White primaries in Texas, once and for all. Davidson Decl. at ¶ 18.

After the *Smith* decision, Black and Brown voters began to emerge as a political force in Texas. *Id.* at ¶ 21. As a result of legislative reapportionment in 1966, Blacks were nominated to posts above the level of precinct chair for the first time since Reconstruction. *Id.* at ¶ 22. And, in that year, Barbara Jordan, a Black attorney, won a seat in the Texas legislature. *Id.*

In 1964, the Twenty-fourth Amendment abolished the poll tax in federal elections. *Id.* at ¶ 24. And, in 1966, the Supreme Court abolished its use in state and local elections. In order to prevent voters of color from electing candidates of their choice, Whites began voting in blocs. *Id.* at ¶ 25. This resulted in the dilution of the minority vote. *Id.* In 1973, the Supreme Court held this practice to be unconstitutional in the context of redistricting. Other vote dilution cases followed, which produced an increase in Black and Brown legislators in the 1970s. *Id.*

#### 4. The Voting Rights Act and Post-VRA Suppression Tactics in Texas

In 1975, recognizing Texas's long history of disenfranchising voters of color, Congress included Texas as the jurisdiction subject to Section 5 of the Voting Rights Act.<sup>3</sup> Since that time, Texas has been required to secure preclearance of any law, practice, or procedure that affects voting. This oversight, however, did not mark the end of voting discrimination in Texas. Since 1965, the State of Texas has engaged in at least two types of discriminatory practices against voters of color: (1) intimidation at polling sites, and (2) passage of laws designed to diminish minority voting strength. *Id.* at ¶ 31.

According to Dr. Davidson, the former practice has gotten very little media attention, at least not until his study in 2004. In this study, Dr. Davidson and three colleagues looked at four incidents in Texas in the 1980s involving efforts by White conservatives to purportedly prevent voter fraud in elections by intimidating voters. *Id.* at ¶ 32. Dr. Davidson provides a detailed account of one of these incidents that paints a disturbing picture of the desperate measures that White Texans had undertaken to keep minority voters from voting. *See id.* at ¶¶ 33-43.

Voter intimidation continued, but was implemented with even more fervor after the 2010 elections, when the country saw record turnouts of Black and Brown voters. In that year, a new Texas group, known as the King Street Patriots, was formed. *Id.* at ¶ 44. Its principal mission appears to be to harass voters in minority precincts, in the guise of preventing fraud. *Id.* at ¶ 44. This Texas group has now gone national. *Id.*

The other form of discriminatory practice is of the type at issue

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<sup>3</sup> In 1965, Asian Americans as a group were allowed to become citizens, with full voting rights. Asian Americans have historically been denied the right to vote through the group's legislative exclusion from citizenship at various points in history, starting in 1790 with the Naturalization Act of 1790, which limited naturalization to "free white persons." *See* Naturalization Act of 1790, ch.3, 1 Stat. 103. *See also* Tydings-McDuffie Act of 1934, ch. 84, 48 Stat. 456 (1934) (imposing annual quota of fifty Filipino immigrants); Immigration Act of 1917, ch. 29, 39 Stat. 874 (establishing an "Asiatic barred zone"); Chinese Exclusion Act of 1882, ch. 126, 22 Stat. 58, 58-61. It was not until the Immigration and Nationality Act Amendments of 1965, which eliminated the national origins quota system, that Asian Americans were finally allowed to become citizens, finally gaining the right to vote. *See* Immigration and Nationality Act Amendments of 1965, Pub. L. No. 89-236, 79 Stat. 911 (1965).



here -- -- that is, laws that are allegedly aimed at preventing fraud, but, in truth, are motivated by a discriminatory purpose and have a discriminatory effect. *Id.* at ¶ 45. Texas's photo ID law was first pressed by State lawmakers in 2006 and was reintroduced in the next two sessions, but it failed each time, *id.* -- as it should have been given that there was no evidence that in-person impersonation was a problem in the State of Texas. This was made clear by a study that Dr. Davidson conducted in 2008. This study was the results of an effort undertaken by the State's Attorney General's Office to crack down on so-called voter fraud. This effort was conceived by then Attorney General of the State, Greg Abbott, after the first photo ID bill failed to pass. At that time, he announced a "training initiative to identify, prosecute, [and] prevent voter fraud," claiming that voter fraud was an epidemic in the State. *Id.* at ¶ 46.

The Attorney General publicized the results of his initiative, which Dr. Davidson analyzed in 2008. Dr. Davidson's findings were clear: He found that out of the millions of people voting in the State of Texas, the Attorney General had indicted, convicted, or sentenced only 13 people in a two-year period. *Id.* at ¶ 48. By the date of his study, six of the 13 had not yet been found guilty of any crime. *Id.* More telling, however, is the fact that none of the 13 were accused or convicted of in-person impersonation; most involved "either political officials who were charged with engaging in illegal efforts to affect the election outcome, or persons who had helped elderly or disabled friends with their mail-in ballots, apparently unaware of a law passed in 2003 requiring them to sign the envelope containing the friend's ballot." *Id.* In other words, "none of the [13 matters] involved voter impersonation at the polls." *Id.* (emphasis original).

Despite this data, in 2009, Republicans pressed the photo ID law again, but it was again defeated. *Id.* at ¶ 49. It was not until 2011, after conservatives had gained control of the Legislature, that the restrictive photo ID law, SB14, passed.

As Dr. Davidson opines about SB14:

[O]ne major purpose of the recently passed photo ID law is to discriminate against citizens of color, particularly Black and Brown voters. In this respect, it is very much in the tradition of Texas' politically expressed racism that has been deeply imbedded in [the] state's history since statehood in 1845.

*Id.* at ¶ 52. Texas's troubling history evidences that SB14 was enacted for a discriminatory purpose.

C. The Legislative History of SB14 -- Both the Sequence of Events Leading Up to Its Enactment and the Departures from Normal Procedures -- Evidences Its Discriminatory Purpose.

Both the sequence of events and departures from the normal procedures surrounding the enactment of SB14 provide additional proof of the Act's discriminatory purpose.

First, Governor Rick Perry took the unusual and rare step of designating photo ID as a "legislative emergency," removing a standard procedural requirement barring legislators from taking a vote on legislation during the first 60 days of the session. *See, e.g., Dave Montgomery, Governor Gives Voter ID Bill Emergency Status in Legislative Session*, Star-Telegram, Jan. 20, 2011, available at <http://www.star-telegram.com/2011/01/20/2785084/governor-gives-voter-id-bill-emergency.html>. Perry designed the bill as a "legislative emergency" specifically to prevent opponents from using procedural rules, as they had done during debate of photo ID legislation in 2009, to delay vote on the legislation. *See, e.g., Reeve Hamilton, Perry Declares More Emergency Items, Including Voter ID*, Texas Tribune, Jan. 20, 2011, available at <http://www.texastribune.org/texas-legislature/texas-legislature/perry-emergency-items-including-voter-id/>.

A second departure from normal procedure was a vote taken by the Texas Senate exempting the photo ID bill from the rule requiring a supermajority vote for a bill to reach floor debate. *See, e.g., Gary Scharrer, Senate Minority Keeps Its Clout – Except for Voter ID. Voter ID Legislation Made an Exception as Tradition Otherwise Maintained*, San Antonio Express-News, Jan. 20, 2011, available at [http://www.mysanantonio.com/news/politics/texas\\_legislature/article/Senate-minority-keeps-its-clout-except-for-966981.php](http://www.mysanantonio.com/news/politics/texas_legislature/article/Senate-minority-keeps-its-clout-except-for-966981.php). The Senate voted 18-11 to keep this rule in place, but specifically exempted the photo ID bill. *Id.* According to Representative Todd Smith, chair of the House Elections Committee, the rule change was "designed to prevent a repeat of last year's stalling maneuvers" on photo ID. Dave Montgomery, *Governor Gives Voter ID Bill Emergency Status in Legislative Session*, Star-Telegram, Jan. 20, 2011, available at <http://www.star-telegram.com/2011/01/20/2785084/governor-gives-voter-id-bill-emergency.html>.

Finally, there were allegations of secret meetings among the bill's proponents related to adoption of a conference committee report on photo ID and final amendments to the legislation. During debate in the House, State Rep. Patricia Harless, the House sponsor of the legislation, introduced a last-minute resolution to "go outside the bounds" of the committee and amend the final version of the bill to include matters not raised in conference, related to provisions requiring the state to issue a free state ID to voters without acceptable ID and to exemptions from the ID requirement based on religious belief. *See, e.g., Julian Aguilar, House Adopts Voter ID Conference Report, Texas Tribune, May 16, 2011, available at <http://www.texastribune.org/texas-legislature/82nd-legislative-session/house-adopts-voter-id-conference-report/>.* During the debate regarding the free ID provision, the bill's opponents challenged the procedures, specifically charging that there had not been a public hearing or public notice on debate of the provisions.

Texas lawmakers have acknowledged, (and the legislative history reinforces), that proponents of SB14 took concerted measures to depart from normal procedure specifically to push forward passage of the photo ID bill without the usual level of legislative debate and scrutiny and the normal parliamentary procedures. And, they offered no substantive justifications for such departures. This sequence of events and these significant procedural departures -- without any justification -- further evidence the discriminatory purpose of SB14.

D. The Legislative Record -- Including Statements by Lawmakers --  
Evidences the Discriminatory Purpose of SB14.

The debate among lawmakers regarding SB14 shows that the "integrity of the voting process" is not the real purpose of the Act. While a supporter of the law referenced voter fraud during a debate on the Act, she was unable to point to any actual evidence that voter fraud is a problem and ignored completely the claims of disparate impact by opponents of the Act.

Specifically, after being reminded that this law would be subject to Section 5, when questioned about the fraud issue, Representative Patricia Harless, a sponsor of the Act, admitted that there was no evidence of this problem in Texas and that the law was being pressed because other states had done so:

Rep. Harless: We heard testimony in committee . . . of many people suggesting that that occurred and --

Rep. Marc Veasey: Suggesting that occurred and had producing [sic] evidence that that occurred are two different things.

Rep. Harless: And I understand that and I appreciate that and I appreciate in the vain that you're offering this but the whole purpose of having a photo ID is so that when you go to the polls you are showing proof of who you are. We've laid out the criteria and that's the bill basically because at that point you can just sign an affidavit and say you're who you're saying you are without proving that you are that person.

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Rep. Veasey: This is one of the thing [sic] that is [sic] we are not going to agree on but I want to make sure that we get the point for the record here because obviously with us being a Section 5 state people are going to be watching and we want to make sure that we do everything that we can to be sure that everyone can cast their suffrage. Help me understand someone – help me understand why this is okay because basically what you talked about earlier, one of the things you mentioned that we heard stories of voter fraud and voter impersonation. We heard stories but there was never any proof. Why should we pass such a stringent bill and stringent law based on rumor and innuendo? Basically rumor and innuendo that has circled around voting and African Americans since after – reconstruction. The same sort of silly resumers [sic] that are based on innuendo and things people hear in other communities without even going into an African-American community or Latino community and actually seeing what is going on. Just plain rumors.

Rep. Harless: You ready for an answer?

Rep. Veasey: Absolutely.

Rep. Harless: SB14 is similar to the case – the legislation that was passed in Indiana that was upheld by the U.S. Constitution. It is similar to the bill filed in Georgia that was approved by the Department of Justice.

Texas 82 Legislative Session, House Transcript (Mar. 23, 2011) (emphasis supplied), *available at* <http://www.texastribune.org/session/82R/transcripts/2011/3/23/house/>.

So knowing that the Act would be subject to Section 5 review and that certain lawmakers had serious questions about whether fraud was a real issue, Representative Harless had to admit that it was not. Her stated

justification for the law was that two other states had passed similar laws that were upheld. This was her sole answer as to why the State of Texas needed such a law.

In hindsight, that answer is not surprising. During the debate on SB14, the legislators received considerable credible data discrediting claims that the legislation was necessary to combat voter fraud. Specifically, the Texas House Research Organization analysis of SB14 provided to legislators noted that opponents made clear that:

little or no evidence of the voter fraud that the bill purports to address [exists]. No proof exists of organized, widespread voter fraud at the polls, and any recent individual cases of voter impersonation are anecdotal at best.

Fraser, Harless, et al., *House Research Organization SB 14 Bill Analysis*, S. 82, Reg. Sess., at 8-9 (Tex. 2011), *available at* <http://www.hro.house.state.tx.us/pdf/ba82r/sb0014.pdf#navpanes=0>.

This analysis cited a 2009 interim report by the Texas House Elections Committee finding no evidence of noncitizens abusing the electoral system. *Id.* Moreover, the Texas House Committee on Elections interim report to the 82<sup>nd</sup> legislature acknowledged that, based on testimony from the Texas Attorney General's Office, "evidence of voter fraud is lacking." *Id.* Legislators were also advised of a 2006 interim report by the Texas State Affairs Committee concluding that "almost all evidence of voter fraud involved mail-in ballots," which would not be addressed by the requirements of SB14. *Id.* Opponents cited other evidence as well making clear that in-person impersonation is not a problem in the State of Texas. *See generally id.* at 8-11. These lawmakers were urged to "examine empirical data," *id.* at 9, before taking this legislative action. Instead of examining such data, proponents in the Legislature ignored it entirely.<sup>4</sup>

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<sup>4</sup> This evidence is consistent with the findings of studies of the issue generally, concluding that voter impersonation, the only voting irregularity that could possibly be addressed by a strict photo ID requirement, is virtually non-existent. *See* Advancement Project, "What's Wrong With This Picture? New Photo ID Proposals Part of a National Push to Turn Back the Clock on Voting Rights" (April 2011) at 4-5 (listing studies finding no problems with voter impersonation), *available at* <http://www.advancementproject.org/sites/default/files/publications/Picture%20ID6%20low.pdf>; *see also* Lorraine C. Minnite, *The Myth of Voter Fraud*, Cornell Univ. Press (2010) (study of all 50 states and the Department of

(continued . . . )

These lawmakers also chose to ignore the concerns raised about the way this strict law would affect voters of color:

Rep. Dawnna Dukes: Well, many of us have been trying to do that prior to 1964. To make sure that it was fair and secure but this law is changing a whole lot of things that my ancestor[s] went through. It's changing it by making it more difficult for my ancestors and people who look like me to have the ability to go and vote. It's making it more difficult for people who are disenfranchised to have the ability to go down and get some form of ID because they'll be charged with an additional amount. . . . Don't try to make it more difficult for my people to have the ability to vote. . . .

Texas 82nd Legislative Session, House Transcript (Mar. 23, 2011), *available at* <http://www.texastribune.org/session/82R/transcripts/2011/3/23/house/>.

These concerns were voiced in the Senate as well. Citizens testified that the stringent photo ID requirement will have a disparate impact on voters of color and will prevent many minority Texans from being able to vote. *See, e.g.,* Video of the Hearing Before the Committee of the Whole Senate, *available at* <http://www.senate.state.tx.us/avarchive/?yr=2011&mo=01>. Indeed, Senator Leticia Van de Putte “predicted that [SB14] will face trouble because it will hamper voting by minorities and Texans with disabilities because there are not enough alternatives for Texans who cannot provide a photo ID.” Mike Ward, *Texas Senators Split on whether Voter ID Bill Constitutional*, *The Austin American-Statesman*, Jan. 26, 11 *available at* <http://www.statesman.com/news/texas-politics/texas-senators-split-on-whether-voter-id-bill-1210139.html> (quotations omitted).

This legislative history makes clear that avoiding fraud was not the real purpose of the Act and that the law makers were well aware of the

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(continued . . . )

Justice, finding that allegations of voter impersonation fraud at the polls are not supported by empirical evidence).

The evidence before the Legislature is also consistent with Dr. Davidson's study of the voter fraud fighting effort led by the Texas Attorney General office. As noted above, Dr. Davidson found that during an almost two year period, there were only thirteen indictments, convictions, and/or sentences pertaining to voter fraud (out of millions of votes), none of which involved in-person impersonation, the type of fraud allegedly addressed by SB14. *See* Davidson Decl. at ¶ 48.

concerns of disparate impact. A majority of the Legislature passed SB14 nonetheless, hoping, it seems, that they would be relieved of their burden to prove the law was not enacted for a non-discriminatory reason because of the Indiana and Georgia laws. The State simply cannot be relieved of this burden of proof, which it has clearly failed to meet.

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Under the *Arlington Heights* test -- which focuses on the discriminatory effect of the law and considers the history of the State and the legislative history and record of the new law -- it is clear that SB14 was enacted for a discriminatory purpose.

III. TEXAS HAS NOT PROVED -- AND CANNOT PROVE -- THAT SB14 WILL NOT HAVE A DISCRIMINATORY EFFECT VOTERS OF COLOR.

Texas offers absolutely nothing to show that SB14 will not have a discriminatory effect on minority voting strength. Instead, it relies on its bald and self-serving statement that “[t]he Act will not affect members of any racial or linguistic minority differently from the way the general public is affected.” Submission Letter at 10. Available data demonstrates otherwise.

A. PROTECTED GROUPS ARE LESS LIKELY THAN WHITES TO POSSESS THE TYPES OF IDENTIFICATION REQUIRED BY SB14.

Preclearance must be denied because the State has not even attempted to submit evidence as to key facts, such as the number of persons in Texas who possess the type of identification necessary to satisfy the Act, and whether voters of color are less likely than White voters to possess such identification. Without presenting such information, the State cannot satisfy its burden of demonstrating no discriminatory impact.

Indeed, available data demonstrates that, as a general matter, requirements for state-issued photo IDs have a more severe impact on voters of color than White voters. Several key studies examining this question in other states have established that voters of color are less likely to possess the identifications required by the Act.

Relying on three leading studies, Leland Beatty, a census and voting expert, assessed the level at which each racial group will be affected by the requirement for state-issued IDs. *See Declaration of Leland Beatty (“Beatty Decl.”) at ¶ 15 (attached as Exhibit B).* Those levels are revealing -- and disturbing:

**PERCENTAGE OF REGISTERED VOTERS WITHOUT STATE IDS**

ETHNICITY	HOOD STUDY	PASTOR STUDY	BARRETO STUDY
African-American	6.80%	2.20%	18.10%
Latino	7.30%	Not Calculated	Not Calculated
White	3.70%	.90%	11.50%
Other/Missing	4.90%	Not Calculated	Not Calculated

Although the studies do not agree in all respects concerning the level of disparity, they all show the existence of a marked disparity between the percentage of minority voters without state-issued IDs and percentage of White voters falling into that category. The Barreto study discovered that 18.1% of African-Americans do not possess the required ID, compared to 11.5% of Whites. *See* Beatty Decl. at ¶ 15. The Hood study shows that minority voters are twice as likely not to possess the required IDs -- that is, African-Americans at 6.80% and Latinos at 7.30%, while Whites are at 3.70%. *See id.* And, the Pastor study concluded that African-Americans voters do not possess the required IDs at a rate of almost 2.5 times as high for White voters. *Id.*

Mr. Beatty then applied those percentages to registered voters in Texas and found that hundred of thousands of minority voters do not possess the required identification and will be adversely affected as a result. *See* Beatty Decl. at ¶ 15.

From this data and analysis, Mr. Beatty concluded:

While studies differ over the full impact of requiring voters to produce state-issued photo identification, there is broad agreement that photo identification laws result in the disenfranchisement of some voters. Research also indicates a strong likelihood that minority voters will be disenfranchised at a significantly greater rate than white voters.

Beatty Decl. at ¶ 16.

This data makes clear that Black and Brown voters will suffer adversely and disproportionately as they are far less likely to possess a



driver's license or State ID card than their White counterparts.<sup>5</sup> In light of this discriminatory effect, an objection to the Act must be interposed.<sup>6</sup>

**B. PROTECTED GROUPS ARE LESS LIKELY THAN WHITES TO BE ABLE TO AFFORD THE TYPES OF IDENTIFICATION REQUIRED BY SB14.**

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The act's discriminatory effect is also evidenced by the fact that voters of color (registered and would-be) are less likely to be able to afford the types of identification required by the Act, compared to White voters.

As stated above, if allowed to be implemented, SB14 will place strict photo ID requirements on voters -- in sharp contrast to current law that allows a voter to vote with a number of different types of identification, most of which are not photo IDs. This will adversely and disproportionately affect citizens of color who do not have the financial wherewithal as their White counterparts to secure the documentation necessary to meet the Act's strict requirement.

Specifically, as the declaration of Mr. Beatty establishes that, by every measure, citizens of color fare worse financially than their White counterparts. For example:

- 8.8% of White Texans live below the federal poverty level of \$22,350, compared to African-Americans at 22.8% and Latinos at 25.8%. *See Beatty Decl. at ¶ 12.*
- Among voting age Texans, the poverty rate for Whites is 8.3%, while the poverty rate for African-Americans is 18.8% and for Latinos is 20.8%. *See Beatty Decl. at ¶ 13.*

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<sup>5</sup> As of this writing, the State has not provided the undersigned with the data necessary to calculate the exact numbers of voters in Texas without the State-issued IDs. If the State ever produces this data to the undersigned, or to Justice, the undersigned will analyze it and supplement this Comment Letter accordingly.

<sup>6</sup> The undersigned has been unable to find and secure racial breakdown data for holders of passports, handgun licenses, and citizenship certificates; *see Beatty Decl. at ¶ 7*, and, thus, it reserves the right to comment on any and/or all of the discriminatory effect(s) based on these forms of identification if such racial breakdown data becomes available.

- The median income for all White voters in Texas is \$56,587, yet it is only \$39,271 for African-American voters and \$39,153 for Brown voters -- 44% less than the median income for White voters. See Beatty Decl. at ¶ 14.

Because of these stark economic disparities, the cost of securing the required documents, the cost of the required documents themselves, and the time and cost associated with securing all necessary documents, will disproportionately affect voters of color. And, the effects will be quite adverse as these costs are not insubstantial. For example:<sup>7</sup>

- The cost of a driver's license, one of the required forms of identification, is \$25. There is also an \$11 fee for the driver's exam.
- The cost of a State ID card, one of the required forms of identification, is \$16.

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<sup>7</sup> All the costs reflected in this section of the Comment Letter were obtained from the following websites, last visited on August 30, 2011: "TxDPS – Driver License or ID Requirements," Texas Department of Public Safety, <http://www.txdps.state.tx.us/DriverLicense/identificationrequirements.html> (driver's licenses and state ID cards); "Where to Write for Vital Records – Texas," Centers for Disease Control and Prevention, <http://www.cdc.gov/nchs/w2w/texas.htm> (birth certificates); "Personal Records Fee Schedule," Harris County Clerk's Office, [http://www.cclerk.hctx.net/Personal\\_Rec/Fee\\_Schedule.aspx](http://www.cclerk.hctx.net/Personal_Rec/Fee_Schedule.aspx) (marriage licenses and divorce decrees); "DPS Concealed Handgun License Fee Schedule," Texas Department of Public Safety, [http://www.txdps.state.tx.us/administration/crime\\_records/chl/feesReqDocs.pdf](http://www.txdps.state.tx.us/administration/crime_records/chl/feesReqDocs.pdf) (handgun licenses); TxDPS – CHL Fingerprint Information, Texas department of Public Safety, [https://www.txdps.state.tx.us/administration/crime\\_records/chl/chlFingerrintInfo.htm](https://www.txdps.state.tx.us/administration/crime_records/chl/chlFingerrintInfo.htm) (cost of electronic fingerprints); "Customer Authentication | Concealed Handgun Licensing | Texas.gov," TexasOnLine, <https://www.texasonline.state.tx.us/txapp/txdps/chl/loginTexas.do> (electronic fingerprints requirement); "Passport Fees," Travel.State.Gov, [http://travel.state.gov/passport/fees/fees\\_837.html](http://travel.state.gov/passport/fees/fees_837.html) (passports); and "Instruction for N-600, Application for Certificate of Citizenship," Department of Homeland Security, <https://www.uscis.gov/files/form/n-600instr.pdf> (citizenship certificate).

- The cost of the documents necessary to secure a driver's license or a State ID includes the following:
  - The cost of birth certificate (original and copy) is \$22, and
  - The cost of a marriage license (original and copy) is \$71.
- The cost of the handgun license, one of the required forms of identification, is \$140, and the costs associated with securing this license are as follows:
  - The required driver's license or State ID card, which cost \$25 and \$16 respectively;
  - The required firearm training class unless s/he is a retired law enforcement officer, which costs \$70 to \$120 depending on the company offering the course; and
  - The required electronic fingerprints, which costs \$9.95.
- The cost of a U.S. passport, one of the required forms of identification, is \$110 (passbook style) and \$30 (card), and the cost of the required "execution fee" is \$25.
- The cost for a U.S. citizenship certificate, one of the required forms of identification, is \$600, and that does not include the costs of the documents needed in order to secure the certificate, which include:
  - A certified birth certificate at \$22; and
  - A marriage license or divorce decree at \$71.

These costs -- in addition to the cost of transportation to the various offices issuing these documents or providing the training (in the case of the firearms license) and the cost of lost wages that some voters will suffer -- are significant and burdensome, especially when one considers the current law, which allows voters to prove their identity without a government-issued card or a photograph. Because the new requirements of SB14 will fall more heavily on voters of color than on White voters, its effects will be discriminatory.

**C. PROTECTED GROUPS ARE LESS LIKELY TO HAVE ACCESS TO A TEXAS DEPARTMENT OF PUBLIC SAFETY OFFICE IN ORDER TO SECURE THE REQUIRED IDENTIFICATION DOCUMENTS.**

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The discriminatory effect of SB14 is further evidenced by the fact that a significant number of citizens of color live in counties where they do not have access to a Texas Department of Public Safety ("TDPS") office.

As noted above, SB14 requires voters to secure a driver's license, a State ID card, or, for those who do not possess one of the other required forms of photo identification, an election identification certificate. The request for such identifications must be made in person at a TDPS office. However, for those living in one of the 126 counties, approximately half of all of the counties in Texas, where the TDPS office is closed, temporarily closed, or has reduced business hours, this provision of the law is wholly inadequate.

A careful study of available data reveals that there are 34 counties in Texas that either have no TDPS office or the office has been closed. See TDPS Closed Offices Spreadsheet (attached as Exhibit C). Of those 34 counties, the following four counties have a Latino population well over 50%:<sup>8</sup>

COUNTY <sup>9</sup>	TOTAL POPULATION	LATINO POPULATION
Dimmit (No office)	9,996	86.2%
Kennedy (No office)	416	76.7%
La Salle (Office closed)	6,886	86.0%
Willacy (No office)	22,134	87.2%

In addition, there are 46 counties where the TDPS office has been temporarily closed, and the TDPS has not provided specific information as to when, if at all, these offices will be re-opened. See TDPS Temporarily Closed Offices Spreadsheet (attached as Exhibit D). Of these 46 counties, the following 16 counties either have a Latino population over 50% or a combined minority population of over 50%:

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<sup>8</sup> All of the data referenced in this section of the Comment Letter are available at <http://quickfacts.census.gov/qfd/states/48000.html>.

<sup>9</sup> Potter is another county in which the TDPS office is closed. While the county's Latino population is 35.3%, its total minority population is 53.4%, thus making it a predominately minority county.

<b>COUNTY</b>	<b>TOTAL POPULATION</b>	<b>LATINO POPULATION</b>	<b>REMAINING MINORITY POPULATION</b>
Caldwell	38,066	47.1%	11.0%
Cochran	3,127	52.9%	8.2%
Concho	4,087	53.2%	4.6%
Crockett	3,719	63.2%	3.8%
Duval	11,782	88.5%	3.2%
Edwards	2,002	51.3%	3.2%
Frio	17,217	77.8%	8.0%
Garza	6,461	47.1%	8.4%
Hudspeth	3,476	79.6%	5.2%
Jim Hogg	5,300	92.6%	2.6%
Karnes	14,824	49.8%	11.3%
Kinney	3,598	55.7%	4.6%
Lynn	5,915	46.4%	5.7%
Refugio	7,383	47.2%	9.5%
Terrell	984	47.5%	3.5%
Upton	3,355	49.0%	5.7%

To make matters worse, there are 46 counties where the TDPS office has reduced business hours, meaning that these offices are open only a few days a week, are open for less than eight hours a day, or a combination of both. *See* TDPS Reduced Hours Spreadsheet (attached as Exhibit E). Of those 46 counties, the following 14 have a Latino population over 50% or a combined minority population over 50%:

<b>COUNTY</b>	<b>TOTAL POPULATION</b>	<b>LATINO POPULATION</b>	<b>REMAINING MINORITY POPULATION</b>
Brooks	7,223	91.2%	2.5%
Castro	8,062	59.9%	4.5%
Crane	4,375	55.1%	6.6%
Culberson	2,398	76.2%	5.7%
Medina	46,006	49.7%	5.8%
Mitchell	9,403	37.0%	13.9%
Moore	21,904	52.7%	11.1%
Parmer	10,269	60.0%	4.7%
Reagan	3,367	60.9%	4.7%
Reeves	13,783	74.2%	7.9%
Sutton	4,128	59.6%	2.5%

Swisher	7,854	40.1%	10.1%
Ward	10,658	47.6%	9.4%
Winkler	7,110	53.8%	6.5%

The lack of regularly opened TDPS offices in these counties is further exacerbated by the fact that minorities in Texas, as a general matter, tend not to have access to transportation at higher rates than whites.<sup>10</sup> Therefore, the burden of having to drive to a TDPS office in another county creates an additional obstacle for voters, especially those of color, when it comes to obtaining one of the required IDs or the election identification certificate.

In short, SB14 will have a discriminatory effect on citizens of color because those citizens will have less access to TDPS offices than their White counterparts. An objection on this basis is in order.

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In the final analysis, the data makes clear that SB14 will have a discriminatory effect on citizens of color because of great disparities in the possession of the required IDs and/or access (financially and practically) to the required IDs. For any or all of these reasons, the Attorney General must interpose an objection to SB14.

#### IV. TEXAS'S PURPORTED "SAFEGUARDS" DO NOTHING TO ALLEVIATE THE DISCRIMINATORY EFFECTS OF SB14.

In its submission, the State contends that the "safeguards" it has included in SB14 -- that is, education and training requirements, the "free" election identification certificate, and the provisional voting requirements, including the "cure" provision, *see* Submission Letter at 11 -- will somehow mitigate all of the harm that will result from the new strict ID requirements. Nothing could be further from the truth.

##### A. The Training and Notice Requirements Will Do Nothing To Address the Adverse and Disparate Impact of the Act.

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<sup>10</sup> See U.S. Census Bureau, American Fact Finder, Texas, *available at* [http://factfinder.census.gov/servlet/STTable?\\_bm=y&-state=st&-context=st&-qr\\_name=ACS\\_2009\\_5YR\\_G00\\_S0802&-ds\\_name=ACS\\_2009\\_5YR\\_G00\\_&-tree\\_id=5309&-redoLog=false&-\\_caller=geoselect&-geo\\_id=04000US48&-format=&-\\_lang=en](http://factfinder.census.gov/servlet/STTable?_bm=y&-state=st&-context=st&-qr_name=ACS_2009_5YR_G00_S0802&-ds_name=ACS_2009_5YR_G00_&-tree_id=5309&-redoLog=false&-_caller=geoselect&-geo_id=04000US48&-format=&-_lang=en).

The so-called training and notice requirements will do absolutely nothing to increase the numbers of those citizens of color who possess the required forms of identification, as compared to Whites, or to assure that voters of color possess the required identification at the same level as Whites. And, it will do little to guarantee that there will not be disparities, as those noted above, in the difficulty in securing the required forms of identification. Training and education will do nothing to improve the accessibility of these forms of identification to voters of color, particularly those who live near or in poverty.<sup>11</sup> In short, training and education, no matter how elaborate, will do nothing to improve the disparities in the possession of and access to the forms of identification required by this law.<sup>12</sup>

B. The “Free” Election Identification Certificate Is Hardly Free of Charge.

Apparently recognizing the disparate impact of the Act, the State contends that one of the “safeguards” provided is “an entirely new identification document that the State must provide free of charge to voters who attest to their inability to pay for the State’s required forms of identification.” Submission Letter at 11. This so-called safeguard is anything but.

According to the State, an election identification certificate will be issued by the TDPS to any registered voter (or applicant for registration), free of charge, who attests that s/he is obtaining the certificate because s/he does not have one of the required forms of identification. The Act authorizes the TDPS to “require applicants [for the election identification certificate] to

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<sup>11</sup> The State may argue that knowing the locations will increase the chances of voters of color finding their local DPS offices, but such an argument would fail. The problems cited are not based upon voters not knowing where the offices are located. Instead, the problems relate to the number and hours of these offices and the issues related to transportation to these offices, all of which will continue to exist even if notified of office locations.

<sup>12</sup> Because of the scant information provided by the State on its notice and training efforts, including specifically the types of outreach it will employ and the timeline for such notice and training, the undersigned does not have sufficient information to assess whether this provision could have the effect of denying or abridging the right to vote on account of race, color, and/or membership in a language minority group, and reserves its right to comment on this provision further if and when the State provides additional information about it.

furnish the same information required for a driver's license." Submission Letter at 9.<sup>13</sup>

In order to secure a driver's license in the State of Texas, a driver must pay \$25 for the license and \$11 for the examination. Moreover, the driver must provide (i) one "primary" form of identification, (ii) two "secondary forms of identification," or (iii) one "secondary" form of identification and two "supporting" forms of identification. See "Identification Requirement for Texas Driver's License or Identification Card," <http://www.txdps.state.tx.us/driverlicense/identificationrequirements.htm>. Each of these categories of documents contains forms of identification that cost money to secure. For example:

- For a person who wants to use a current passport as his/her primary form of identification, that person will have to pay \$110 for passport book and a \$25 "execution fee" to simply secure the passport, on top of the costs for the license and the exam.<sup>14</sup>
- For a person needing to use a certificate of birth as a secondary form of identification, that person could pay anywhere from \$15 (for a birth certificate from Louisiana) to \$22 (for a birth certificate from the State of Texas) to \$50 (for a Consular Report of Birth Abroad), depending on one's place of birth, on top of the cost of the license and the exam.<sup>15</sup>

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<sup>13</sup> Because of the scant information provided by the State on the "free" election identification certificate, including the types of identification necessary to secure a "free" certificate, the undersigned does not have sufficient information to assess whether this specific provision could have the effect of denying or abridging the right to vote on account of race, color, and/or membership in a language minority group, and reserves its right to comment on this provision further if and when the State provides additional information about it.

<sup>14</sup> For driver's license information, see "TxDPS – Driver's License Fees," Texas Department of Public Safety, <http://txdps.state.tx.us/DriverLicense/dlfees/htm>, and for information on passport fees, see "Passport Fees," Travel.State.Gov, [http://travel.state.gov/passprt/fees/fees\\_837.html](http://travel.state.gov/passprt/fees/fees_837.html).

<sup>15</sup> See <http://www.dhh.state.la.us/offices/miscdocs/docs-252/Administration/Service%20Fees.pdf> (Louisiana); <http://www.cdc.gov/nchs/w2w/texas.htm> (Texas);

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- One needing to use a supporting form of identification (because s/he lacks a primary form, or two secondary forms, of identification) could use a marriage license or divorce decree, which would cost approximately \$71 above and beyond the cost of the license and the exam.<sup>16</sup>

Given these requirements, the State cannot support its claim that its election identification certificate is free of charge.

Finally, no matter what underlying documents are required, voters of color will suffer the same burdens in securing this certificate as they will in securing the required forms of photo IDs -- that is, the burden of locating an accessible TDPS office and the costs associated in getting to a TDPS office.

In short, the proposed election identification certificates will not be free and, thus, provide no safeguard for voters of color.

C. The So-Called Cure Period for Voters Voting Provisionally Will Not Cure the Discriminatory Effects of the Act.

In an attempt to secure preclearance, Texas amended a provision of its provisional ballot law to allow a provisional ballot to be counted if the voter presents one of the required IDs within six days of casting the provisional ballot. This is hardly a cure: The so-called “cure” period does nothing to address the burdens that voters of color will suffer in securing the required identification, as detailed above.

Moreover, given the high rate of provisional ballot rejections in Texas, this purported fail-safe provision in the law hardly ensures that a qualified voter’s ballot will be counted. While election officials may reject a provisional ballot for a variety of reasons,<sup>17</sup> the fact that the provisional ballot rejection

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[http://travel.state.gov/passport/get/first/first\\_825.html](http://travel.state.gov/passport/get/first/first_825.html)irif (Consular Report of Birth Abroad).

<sup>16</sup> “Personal Records: Fee Schedule,” Harris County Clerks Office, [http://www.cclerk.hctx.net/Personl\\_Rec/FeeSchedule.aspx](http://www.cclerk.hctx.net/Personl_Rec/FeeSchedule.aspx).

<sup>17</sup> Some of the reasons why a provisional ballot may not be counted include a voter’s failure to return within the “cure” period to present a valid form of identification; the provisional ballot form was not properly completed; or the voter is not registered to vote in the precinct in which the provisional ballot was cast. See DEMOS, *Provisional Ballots: Where to Watch 2008* (Oct. 2008), available at [www.demos.org/pubs/provisionalballot\\_brief.pdf](http://www.demos.org/pubs/provisionalballot_brief.pdf). Texas is  
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rate in some Texas counties is as high as 100% strongly suggests that there is a problem regarding implementation of the provisional ballot law in Texas. In the 2004 presidential election, for example, 78.6% of the provisional ballots cast in Texas were rejected.<sup>18</sup> Notably, several of those provisional ballot rejections occurred in counties with predominately minority populations. The following chart provides a breakdown of those majority-minority counties with some of the highest provisional ballot rejection rates:<sup>19</sup>

COUNTY	MINORITY POPULATION	NUMBER OF PROVISIONAL BALLOTS CAST	NUMBER OF PROVISIONAL BALLOTS COUNTED
Castro	64.4%	9	2
Cochran	61.1%	5	0
Concho	57.8%	5	0
Duval	91.7%	3	0
Frio	85.8%	10	5
Garza	55.5%	8	1
Hudspeth	84.8%	2	0
Karnes	61.1%	6	0

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one of several states that refuse even to partially count a provisional ballot if the ballot was cast in the wrong precinct. See Jon Sherman, *Provisional Ballot Counting Laws and Wrong Precinct Rejection* (May 2011), available at [http://www.aclu.org/files/assets/Provsional\\_Ballot\\_Counting\\_Rules.pdf](http://www.aclu.org/files/assets/Provsional_Ballot_Counting_Rules.pdf). This means that vote for statewide and federal elections also are rejected even though the elector remains qualified to vote for those particular elections based on where s/he lives regardless of the actual precinct in which the vote is cast.

<sup>18</sup> “Provisional Voting and Voter Identification,” Rutgers, Eagleton Institute of Politics, available at [http://www.eagleton.rutgers.edu/research/provisionalvoting\\_voterID.php](http://www.eagleton.rutgers.edu/research/provisionalvoting_voterID.php)  
<http://www.sos.state.tx.us/elections/historical/prov2004.shtml>.

<sup>19</sup> It is also worthy noting that the provisional ballot rejection rates are high in counties with a closed TDPS office that have a significant minority population even if that population does not comprise 50% of the population: Austin County (35.9% minority population; 35 provisional ballots cast, but only 4 were counted); Falls County (48.9% minority population; 34 provisional ballots cast, but only 12 counted).

La Salle	88.4%	12	0
Medina	55.5%	51	7
Moore	63.8%	15	0
Parmer	64.7%	20	5
Potter	53.4%	72	7
Swisher	50.2%	5	0
Willacy	92.0%	9	1
Winkler	60.3%	2	0

Those who voted provisional ballots in subsequent elections did not fare much better in terms of having their votes counted. In the 2006 elections, 70.1% of provisional ballots were rejected, and, in the 2008 presidential elections, the rejection rate was 77.6%.<sup>20</sup>

These figures suggest that Texas's provisional ballot counting process is severely flawed. To rely upon such a flawed system, especially when it comes to minority voters for purposes of Section 5 review, increases the likelihood that minority votes will be denied or abridged.

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In the final analysis, the State's so-called "safeguards" do nothing to address the discriminatory effects of SB14.

**V. THE SUPREME COURT'S DECISION ON INDIANA'S PHOTO LAW AND DOJ'S PRECLEARANCE OF THE GEORGIA PHOTO ID LAW DO NOT PROVE THAT SB14 WAS ENACTED FOR A NON-DISCRIMINATORY PURPOSE OR THAT SB14 WILL NOT HAVE A DISCRIMINATORY EFFECT ON VOTERS OF COLOR.**

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Instead of offering any proof that SB14 was enacted for a non-discriminatory purpose or that the Act will have non-discriminatory effect, the State relies on an Indiana photo ID law that was upheld by the United States Supreme Court and a Georgia photo ID law that was precleared by the Department of Justice. See Submission Letter at 10-14. Such reliance is completely misplaced. In a Section 5 review, the duty of the Attorney General is to assess whether the proposed changes were enacted for a

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<sup>20</sup> U.S. Election Assistance Commission, *The 2006 Election Administration and Voting Survey* (Dec. 2007), available at <http://www.usatoday.com/news/provisional-ballots.pdf>; DEMOS, *Provisional Ballots: Where to Watch in 2008* (Oct. 2008), available at [www.demos.org/pubs/provisionalballot\\_brief.pdf](http://www.demos.org/pubs/provisionalballot_brief.pdf).

discriminatory purpose and whether it will have a discriminatory effect, when compared to the benchmark plan, *see* 28 C.F.R. § 51.52, not whether the proposed changes are similar or dissimilar to any other state's laws. Even if the Department could consider these laws and these actions in this Section 5 review, it would quickly conclude that they are distinguishable in any event.

A. Indiana's Photo ID Law and the *Crawford* Decision are Inapposite.

In its submission, the State claims that "[t]he history of Indiana's photo-identification law is relevant to DOJ's Section 5 evaluation of the Act." Submission Letter at 12. But the history of that law, including the Supreme Court's decision in *Crawford v. Marion County Election Board*, 553 U.S. 181 (2008), is of no consequence here.

As an initial matter, the law at issue in *Crawford* -- Indiana's photo ID law -- is very different than the law being pressed here as the Indiana law allows for a broad range of acceptable documents. Specifically, the Indiana law defines "proof of identification" as a document that satisfies the following criteria:

- (1) The document shows the name of the individual to whom the document was issued, and the name conforms to the name in the voter's voter registration record.
- (2) The document shows a photograph of the individual to whom the document was issued.
- (3) The document includes an expiration date, and the document is not (A) expired or (B) expired after the date of the most recent general election.
- (4) The document was issued by the United States or the state of Indiana.

Ind. Code Ann. § 3-5-2-40.5 (2008). This definition includes employment cards, public assistance identification cards, expired documentation as old as two years old, and other types of identification disallowed under SB14. This is certainly broader than the limited types of identification required by SB14.

Moreover and perhaps more importantly, *Crawford* was not a Section 5 case and did not involve a claim of racial discrimination. It was a facial challenge to Indiana's photo ID brought by a handful of affected voters under the Fourteenth Amendment of the U.S. Constitution. That is very different than a Section 5 matter, which involves racial discrimination, which places the burden of proof on the covered jurisdiction (in this case, the State of

Texas), and which use a completely different test for lawfulness. For this reason, the State's reliance on *Crawford* is misplaced.

Finally, because the issue in *Crawford* did not address the discriminatory effects of Indiana's photo ID law, the Court's decision was not based on either Section 5 or Section 2 of the Voting Rights Act. Instead, under an equal protection analysis, the Court noted that (1) the State had proved that it had a legitimate interest (at least two) in prescribing the forms of allowable photo IDs, *id.* at 191-98; and (2) the plaintiffs had failed to proffer sufficient evidence of the burden that would be placed upon the "narrow class of voter." *id.* It is for these reasons that the Court rendered its very narrow holding: "We are persuaded that the [lower courts] correctly concluded that the evidence in the record is not sufficient to support a facial attack on the validity of the entire statute, and thus affirm." *Id.* at 188-89. The narrowly defined contours and holding of *Crawford* provide no guidance for assessing the claims and facts here, which show that the State has not proved, and cannot prove, that it has any legitimate reason for this invidious law or that the law does not have any discriminatory effect on voters of color.

In short, *Crawford* is inapposite and, thus, does not and cannot dictate any outcome here.<sup>21</sup>

B. The Department's Preclearance of the Georgia Law Is Immaterial to Its Section 5 Analysis of SB14.

In its submission, Texas also suggests that the Attorney General should preclear SB14 simply because the Department precleared Georgia's photo ID law. As noted above, however, the inquiry here is limited and clear -- that is, the purpose and discriminatory effect of SB14, as compared to the benchmark. It is not, as the State suggests, whether the Act is consistent with the laws of other states.

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<sup>21</sup> So too is the State's reliance on certain "studies" regarding voting behavior since the implementation of Indiana's law. Again and as noted above, Indiana's law is much broader than Texas's; thus, the fact that Indiana's law had little to no effect on voting behavior after its implementation is not surprising. Moreover, Indiana is quite different than Texas, racially, culturally, and geographically, and there is no evidence that the behavior of Texas voters would mirror those of Indiana voters. Finally, and perhaps most importantly, it is unclear how this data, if it is in fact correct, has any relevance whatsoever in the Department's analysis under Section 5, which is based solely on the Act's discriminatory purpose and its discriminatory effect, when compared to existing law.

Many of the undersigned groups also opposed Georgia's photo ID law, and a district court granted a preliminary injunction preventing enforcement of the law based on the state's original requirement that voters pay \$17 to secure a state-issued photo ID. *See Common Cause/Georgia v. Billups*, 406 F. Supp. 2d1326 (N.D. Ga. 2005). Following this ruling, Georgia amended the law not only to provide free photo IDs, but also had a mobile licensing unit (the Georgia Licensing On Wheels bus) that traveled the state to reach voters who lacked transportation or faced other difficulties with respect to obtaining the free ID. In addition, because Georgia's initial Section 5 submission lacked sufficient information regarding the legislative history behind the photo ID law, the Department requested such additional information before making any determinations regarding the law. Moreover, Georgia implemented a statewide voter education campaign that, while still insufficient in many respects in our opinion, at least provided the Department with some guidance as to how the State intended to educate voters on the new law. Texas's Section 5 submission, on the other hand, includes no such detailed information regarding voter outreach or any effective means that State plans to implement in order to assist voters in complying with the law.

Regardless, the Department's decision with respect to Georgia's photo ID law should have no bearing on how it analyzes Texas's Section 5 submission.<sup>22</sup>

## VI. CONCLUSION

Because the State of Texas has offered nothing to prove that SB14 was not enacted for a discriminatory purpose or that it will not have a discriminatory effect (and because the evidence shows otherwise), the Attorney General must interpose an objection to SB14.

If you have any questions about this Comment Letter or any other aspect of Submission 2011-2775, please contact Kumiki Gibson, on behalf of Advancement Project, at [kgibson@advancementproject.org](mailto:kgibson@advancementproject.org) or 202/258-6501 (Cell), or Nancy Abudu at the ACLU at [nabudu@aclu.org](mailto:nabudu@aclu.org) or 404/523-2721 ext. 218 (Direct).

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<sup>22</sup> Nor does the State's one-page document that allegedly shows that voting actually increased in the State of Georgia between 2004 and 2008 (Submission Letter, attachment), when photo IDs were first required in that State. That chart is wholly deficient in establishing that SB14 will not have a discriminatory effect if implemented in Texas.

We thank you in advance for your full and careful consideration of this matter.

Respectfully submitted,



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Attachments

# **EXHIBIT A**



## **DECLARATION OF F. CHANDLER DAVIDSON, PH.D.:**

### **REPORT ON THE HISTORY OF VOTE DISCRIMINATION AGAINST CITIZENS OF COLOR BY THE STATE OF TEXAS<sup>1</sup>**

I, F. Chandler Davidson, declare the following:

1. I am over the age of 18 years old and am a resident of Houston, Texas. I am a native Texan and a resident of Houston since 1966, when I came to Rice University from Princeton University, where I had been a graduate student. My entire teaching career was spent at Rice, where I was a founding member of the Sociology Department, a department chair for a number of years until my retirement in 2003, and the author of several articles and books, with a focus on the voting rights of minorities. I am a member of the American Political Science Association, the national professional organization of political scientists, whose Legislative Studies Section conferred on *Quiet Revolution in the South: The Impact of the Voting Rights Act, 1965-1990*, co-edited and partially written by Bernard Grofman and me, its Richard F. Fenno Prize awarded annually for the best book in legislative studies published the previous year. A copy of my curriculum vitae is attached.

2. I have consulted and/or appeared as an expert witness in a number of voting rights cases, including, most recently, the following:

- 1985      Sumbry v. Russell County, Alabama. Consultant to plaintiffs, who claimed dilution of their voting strength under Section 2 of the Voting Rights Act.
- 1985      Lee County Branch of the NAACP v. City of Opelika, Alabama. (Case No. 83-7275). Consultant to plaintiffs, who claimed dilution of their voting strength under Section 2 of the Voting Rights Act.
- 1985      Tallahassee NAACP v. Leon County, Florida. Consultant to plaintiffs alleging dilution of their votes in county commission elections.
- 1985      Harris v. Graddick, U.S. District Court, Birmingham (C.A. No. 84-T-595-N). Expert witness for plaintiffs alleging that the state of Alabama employed a system for appointing poll officials that denied blacks equal access to the political process.
- 1985-86   LULAC v. Midland Independent School District, U.S. District Court, Midland, Texas (MO-85-CA-001). Expert witness for plaintiffs alleging vote dilution.
- 1985-86   United States of America v. Dallas County (Alabama) Commission, U.S. District Court, Selma (C.A. No. 78-578-H). Expert witness for U.S.A. in case alleging the dilution of minority votes in Dallas County.

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<sup>1</sup> This declaration is taken largely from an article I wrote in the *Handbook of Texas Politics*. (See <http://www.tshaonline.org/handbook/online/articles/wmafr>.)

- 1986-87    Martin v. Allain, Governor of Mississippi, U.S. District Court, Jackson (C.A. No. J84-0708 (W)). Expert witness for plaintiffs alleging vote dilution.
- 1985-87    McNeil v. City of Springfield, U.S. District Court, Springfield, IL. (C.A. No. 85-2365). Expert witness for plaintiffs alleging minority vote dilution.
- 1987        Martin v. Allain (see above) consolidated with Kirksey v. Allain, U.S. District Court, Jackson (C.A. No. J85-0960 (W)). Expert witness for plaintiffs, alleging violation of their voting rights under the Constitution and the Voting Rights Act.
- 1987        Metropolitan Pittsburgh Crusade for Votes v. City of Pittsburgh (C.A. No. 86-173). Consultant to plaintiffs alleging vote dilution.
- 1988-89    Badillo v. City of Stockton, California (C.A. No. 87-1726 U. S. District Court, Eastern District of California). Consultant to plaintiffs alleging vote dilution.
- 1988-89    Russell Yarbrough v. City of Birmingham, Alabama (C.A. No. CV87-PT-1947-S). Consultant to defendants, a racially-mixed city council elected at large in a system white plaintiffs claimed diluted their votes.
- 1988-89    League of United Latin American Citizens (LULAC) v. Clements, U.S. District Court, Western District of Texas (No. 88-CA-154). Consultant to plaintiffs alleging vote dilution in multi-member district state judicial elections.
- 1994        Vera v. Richards, U.S. District Court, Southern District of Texas (C.A. No. H-94-0227). Expert for State of Texas, which was alleged to have violated the U.S. Constitution in creating majority-minority districts in the 1990s round of Congressional redistricting.
- 2009        Democratic National Committee, et al., v. Republican National Committee, et al., Civil Action No: 81-3876 (DRD), U.S. District Court: District of New Jersey. Expert for the DNC, which argued that a consent decree requiring the RNC to obtain permission from Federal Judge Dickinson Debevoise before engaging in any ballot security program should not be vacated, as requested by the RNC.

3. The primary academic focus of my career, beginning with my doctoral dissertation, has been the voting rights of racial and ethnic minorities, particularly in Texas and the South. I have written and lectured extensively on the subject in both academic and popular venues. Although my Ph.D. degree is in sociology, I am widely known among political scientists and historians whose focus is the modern voting rights of minorities, particularly blacks.

4. In 2005, in anticipation of Congressional hearings on whether to renew the non-permanent features of the Voting Rights Act of 1965, the Lawyers Committee for Civil Rights Under Law, a national civil rights organization, established an eight-member national committee, chaired by former U.S. Assistant Attorney General for Civil Rights Bill Lann Lee. I was asked both to serve

on the committee and to draft a report of the committee's hearings and to write a summary of the hearings for the organization. In my capacity as committee member, I attended nine of the ten hearings which were held in widely scattered cities across the nation and in which over 100 witnesses testified about voting rights problems in their areas. After drafting the Committee's report<sup>2</sup> and writing a summary of its findings,<sup>3</sup> I was invited by the Judiciary Committee of the U.S. Senate to appear as the lead-off witness in the committee's 2006 hearings regarding renewal of the non-permanent features of the Act.

5. Also since retiring I have done the following which are relevant to my declaration:

- Co-authored in 2004 a widely circulated report on vote suppression efforts carried out under the label of ballot-security measures;
- Drafted and signed in 2007 an amici brief signed by 29 historians and other scholars in support of petitioners in the Indiana photo ID case before the U.S. Supreme Court, *William Crawford, et al., v. Marion County Election Board, et al.*;
- Testified in 2009 as an expert in voting rights in *Democratic National Committee, et al., v. Republican National Committee, et al.*, in which the DNC argued that a consent decree requiring the RNC to obtain permission from Federal Judge Dickinson Debevoise before engaging in any ballot security program should not be vacated, as requested by the RNC.
- Co-authored an article, "Vote Caging as a Republican Ballot Security Technique" (with T. Dunlap, G. Kenney, and B. Wise), which appeared in the *William Mitchell Law Review* 34:2 (2008), 533-62.
- Wrote an article, "The Historical Context of Voter Photo ID Laws," for a journal published by the American Political Science Association, *PS: Political Science and Politics* (January 2009), 93-96.
- Testified in 2009 before the Texas Senate, meeting as a whole, regarding the photo ID bill then under consideration by that body.

6. I understand the issues before the Department of Justice in its Section 5 assessment of Texas's new photo ID law and offer the following history to provide context in which this law was enacted and opinions on the discriminatory practices utilized by the State of Texas throughout its history.

### **THE EARLY YEARS OF DISCRIMINATION IN TEXAS**

7. Racial discrimination is a basic feature of Texas history. From 1845, when Texas achieved statehood, to the present its primary political manifestation has been the struggle of

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<sup>2</sup> National Committee on the Voting Rights Act, *Protecting Minority Voters: The Voting Rights Act at Work 1982-2005* (Washington, D.C.: 2006).

<sup>3</sup> National Committee on the Voting Rights Act, *Highlights of Hearings of the National Commission on the Voting Rights Act 2005* (Washington, D.C.: 2006).

African Americans and Latinos to vote without hindrance in this former Confederate state, have their ballots fairly counted, have a fair chance to elect their preferred candidates, develop effective coalitions with other groups, and thereby achieve equality of political opportunity in a white-dominated society that, from its beginning, relegated people of color to the status of an inferior caste.

8. In 1845, Texas had in place laws that prohibited citizens of Mexican origins from using Spanish and organizing political rallies.<sup>4</sup> There were also laws in place that prevented Mexican Americans from serving as election judges.<sup>5</sup>

9. In 1860, on the eve of the Civil War, blacks made up 30 percent of the state's population. Most were slaves, and even the few who were free could not vote. Emancipation was announced in Texas on June 19, 1865, but the newly formed government withheld black and brown political rights. An all-white constitutional convention in 1866 refused to grant suffrage even to literate blacks. The all-white legislature then refused to ratify the Fourteenth Amendment forbidding states from depriving citizens of equal protection of the laws. Seeking to restore plantation discipline, it passed Black Codes that severely restricted freedmen's economic options. And it prohibited voting, office holding, jury service, and racial intermarriage by freedmen.

10. These actions by white lawmakers, similar to those in other Southern states, prompted the Republican-dominated Congress to respond with a series of statutes applicable to the former Confederacy, including one to enfranchise black males. The implementation of these statutes was known as Congressional Reconstruction. In Texas the Republican reformers, called radicals, entered into an uneasy alliance with the great majority of freedmen. Another Republican faction, the conservatives, sometimes joined with Democrats, who generally opposed most civil rights for black and brown people.

11. In July 1867, twenty whites and 150 blacks attended a Republican convention in Houston, where they endorsed free common schools and free homesteads from public lands for blacks and whites alike. Thus began a decades-long tradition of black Republicanism in the state. Despite widespread violence and intimidation by the Ku Klux Klan and Democrats, many black men registered for the first election in which they could participate—the 1868 referendum on whether to hold another constitutional convention and elect delegates. More blacks than whites cast ballots, and, with their white allies, they overcame the opposition of the majority of white voters and voted to hold another convention. The Convention of 1868–69, dominated by Republicans, included ten African-American delegates out of ninety. Among them was George T. Ruby of Galveston, a Northern journalist and teacher who had moved to Texas to work in freedmen's schools; he became a well-known Republican leader. All ten were active on committees and presented important resolutions. Though frustrated in attempts to secure certain constitutional safeguards for their people, they contributed to the accomplishments of the convention, which paved the way for the readmission of Texas to the Union in March 1870.

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<sup>4</sup> Nina Perales, Luis Figueroa, and Creselda G. Rivas, *Voting Rights in Texas: 1982-2006, A Report of RenewtheVRA.org*, San Antonio: 2006, p. 8.

<sup>5</sup> *Id.*

12. The election of Edmund J. Davis, a white radical (in the political parlance of the day), as governor in 1869 gave blacks additional influence, as did the election of two black state senators—G. T. Ruby and Matthew Gaines, a minister and former slave—and twelve representatives to the Twelfth Legislature. Dominated by reform-minded Republicans, this body ratified the Fourteenth and Fifteenth amendments and passed several important though controversial laws, including ones establishing a militia and the Texas State Police, open to blacks, to control lawlessness and violence in the state. The legislature also passed a homestead act, a measure protecting homesteads from forced sale, and a law establishing public schools.

13. Reconstruction ended in 1873 with the defeat of Davis, an event hailed by a former governor as "the restoration of white supremacy and Democratic rule." The number of blacks in the legislature dropped, and white Democrats began reestablishing control of Texas politics. This was accomplished primarily by the Constitutional Convention of 1875, which was accompanied by continuing violence and intimidation aimed at blacks. In a state now controlled by white Democrats, African Americans experimented with three options: involvement in the Republican party, alliance with factions of Democrats, and collaboration with third parties. None of these proved satisfactory, however, given blacks' worsening legal status and shrinking share of the state's population. (Black Texans declined from 31 to 20 percent of the population between 1870 and 1900.) African-American activity in the Republican party focused on preventing the conservative faction from gaining control and driving out blacks, who in the 1880s formed 90 percent of the party's membership. By attracting like-minded whites, conservative Republicans hoped to compete effectively with the Democrats. Norris Wright Cuney of Galveston, an early protégé of Senator Ruby, was the astute leader of the black Republicans from the death of E. J. Davis in 1883 to his own death in 1897. Black influence in the party of Lincoln was sharply curtailed at the turn of the century, when a combination of factors—mainly the struggle among black leaders over the inheritance of the late Cuney's mantle and the success of the conservatives' efforts to obtain control of federal patronage—led to the Lily White movement. The conservative Republicans, who now called themselves "Lily Whites," gained ascendancy over the Black and Tans, the black faction of the party.

14. Alliances with Democrats also offered limited prospects. Their party, after all, was the home of most white supremacists. For tactical reasons, however, blacks sometimes "fused" with a Democratic faction. Though he was a Republican national committeeman in 1892, Cuney, for example, urged blacks to support George Clark, the conservative Democratic candidate, against the economically progressive governor, James S. Hogg, in hopes of dividing the Democrats and increasing Cuney's influence. Only about half the black vote went to Clark, however, and Hogg was reelected.

15. Alliances with third parties proved alluring but were also unsuccessful. The Greenback party, addressing farmers' economic troubles, attracted black support in 1878, shortly before it collapsed. The People's party also garnered black support in statewide races—roughly 20, 35, and 50 percent of the black vote in 1892, 1894, and 1896, respectively. This upsurge came from the educational efforts of the Colored Farmers' Alliance, the organizing work and oratorical skills of such black Populists as John B. Rayner, a schoolteacher from Calvert, the Populists'

inclusion of platform planks addressing blacks' concerns, and election of blacks to party-leadership posts. Ironically, these actions probably contributed to the defeat of Populism and black disfranchisement soon thereafter.

## AFTER RECONSTRUCTION TO MODERN TIMES

16. Disfranchisement, however, had been under way since the end of Reconstruction. Intimidation, harassment of black and brown leaders, violence (including the lynching of 300 to 500 blacks late in the century), the growth of Jim Crow institutions, repeated efforts by conservative legislators to pass a poll-tax law from 1875 onward, and Democrats' fear of the third parties' biracial appeal culminated in the effective removal of blacks from the electorate. The last of forty-two black Reconstruction-era legislators, Robert L. Smith of Colorado County, attended his final sessions in 1897, offering an impassioned resolution on May 4 against lynching. Gerrymandering had cut the numbers of black legislators sharply. Violence had taken a toll on black voter turnout even before the constitution was amended in 1902 to impose the poll tax. But the tax, which fell hardest on those least able to pay, had an independent effect, as did restrictive registration laws mandated in 1903 and 1905, and county Democratic leaders' widespread adoption of the white primary. As nomination by the Democratic party was tantamount to election, the white primary denied most blacks the ballot in state contests. By 1906 African Americans were no longer a significant force in most elections.

17. Black Texans nonetheless continued to pursue their rights through such institutions as the National Association for the Advancement of Colored People, established in 1910; black civic, political, religious, business, and professional groups; a few interracial groups; the urban black press, a source of information and an instrument of social protest; and the courts, a somewhat more promising avenue for progress than the other branches of government. The NAACP was especially important. Until 1923 the white primary operated at the discretion of county executive committees, and blacks in some areas could still vote in Democratic contests. That year, however, the legislature passed a law preventing blacks from participating in any Democratic primary election. Lawrence A. Nixon, a black El Paso physician, challenged the law with the help of NAACP legal assistance and funding. The United States Supreme Court, in *Nixon v. Herndon* (1927), invalidated the statute as violating the equal-protection clause.

18. The state legislature then shifted authority to prohibit black participation in political parties' state executive committees. The Democratic committee limited primary participation to "white Democrats . . . and none other." Dr. Nixon sued and won again in the Supreme Court, which held in *Nixon v. Condon* (1932) that the new law was just an extension of the earlier one. The Democratic committee, the court reasoned, lacked authority to act for the party and was acting for the state. But the party's state convention had such authority, the court said. Predictably, the state convention adopted a rule excluding blacks from its primaries. Houstonian Richard Randolph Grovey, against the advice of the national NAACP, attacked this rule in *Grovey v. Townsend* (1935), arguing that the Democratic party was an instrument of the state, not a voluntary association. This time the Court, quoting a Texas Supreme Court opinion holding that political parties were voluntary associations, let the law stand.

19. A major upswing in black Texans' involvement in the NAACP occurred in the 1930s. At the initiative of Antonio Maceo Smith, a black Dallas businessman, the State Conference of NAACP Branches was formed in 1937. Mobilizing civic leaders and lawyers in black communities, the conference revived the five state branches and before long had more than 170 local chapters. It cooperated with the national office to finance and execute successful legal attacks on the Texas white primary and racial segregation at the University of Texas law school and to file legal actions throughout the state attacking segregated municipal facilities, juries, and schools. Leaders in the state conference during this period, in addition to Smith, were Juanita Craft of Dallas, William J. Durham of Sherman, and Carter Wesley, Lulu White, and Christia Adair of Houston. White and Craft were effective fieldworkers who helped revive dormant local chapters, raise money, and develop strategy. Conference activity declined sharply after 1956 when the state, in reaction to the conference's many achievements, temporarily enjoined the NAACP from doing business in Texas and charged it with violating the state's barratry statutes.

20. But in the 1940s the state NAACP was boldly advancing. Lonnie Smith, a Houston dentist, was prevented from voting in the Democratic primary. Represented by local and national attorneys, including Texan W. J. Durham and Thurgood Marshall, general counsel of the newly formed NAACP Legal Defense Fund, Smith filed suit in 1942. In *Smith v. Allwright* (1944) the Supreme Court overrode its prior reasoning in *Grovey*, holding that the Democratic primary, because regulated by Texas law, was an agency of the state and violated the Fifteenth Amendment's protection against racial discrimination in voting. The white primary, by then the major Texas disfranchising barrier, was dead. By 1946 75,000-100,000 blacks—at a maximum, 20 percent of those eligible—voted in the primary, compared to 33 percent of whites.

### THE 1960s TO THE PRESENT

21. In earlier years, while still locked out of the Democratic organization, blacks and browns had also been marginalized in the Republican party by the dominant Lily Whites. In 1932, Texas black precincts began to vote for the national Democratic ticket, initiating a trend encouraged by the New Deal's popularity. After *Smith* was decided, blacks quickly joined the emerging liberal wing of the Texas Democrats, who were locked in conflict with party conservatives, and the biracial coalition supported liberal Ralph Yarborough in his campaigns for governor and United States senator from 1952 to 1972. They also supported other liberal white and Latino candidates in Democratic primaries and joined the liberals in party conventions. Several black Texans ran for office after *Smith*, but two of the first to succeed were Garlington J. Sutton, who won a post in 1948 on the governing board of a San Antonio junior-college district, and Hattie Mae White, who in 1958 won a Houston school-board post with a plurality of the votes but less than a majority. (Apparently many voters thought she was white.) By 1965, the year Congress passed the Voting Rights Act and more than two decades after the end of the white primary, at most only a half-dozen black Texans held office.

22. As a result of legislative reapportionment in 1966—mandated by the Supreme Court's recent one-person, one-vote decisions—blacks were nominated for posts above the level of precinct chairmen in the Texas Democratic primary for the first time, at least, in this century. Barbara Jordan, a young Houston attorney, won election that year from a newly drawn single-

member senatorial district in which blacks and Mexican Americans made up about half the population, after twice having unsuccessfully run at large in Harris County—which had a 20 percent black population—for a seat in the legislature. She was elected to Congress in 1972 from a district less than half white. In 1973 she became one of the first two Southern blacks to serve in Congress since 1901; she went on to a distinguished political career, achieving national recognition on the House Judiciary Committee during the Watergate hearings after the 1972 presidential election. Two blacks won seats in the Texas House in 1966—Curtis Graves of Houston and Joe Lockridge of Dallas. Each succeeding legislature also had black members. In 1993 two black senators and fourteen black representatives composed 9 percent of the legislature, while about 11 percent of the Texas voting-age population was black. All black members were Democrats that year, and all were elected from districts in which blacks, or blacks and Hispanics, were a majority.

23. Across the state African-American elected officials increased from fewer than seven in 1964 to 472 in 1993. These included Morris Overstreet, a justice on the Texas Court of Criminal Appeals and the first black elected statewide in Texas history, who in 1990 had defeated a single opponent, a black appointed by the Republican governor to fill an unexpired term. Among the other officials were 2 members of Congress, 13 mayors, 128 city-council members, 85 school-board members, and 17 county commissioners. The three black members of Congress elected since Jordan—Mickey Leland and Craig Washington of Houston and Eddie Bernice Johnson of Dallas—had served first in the legislature; all were elected from districts in which whites were a minority.

24. The increase in black office-holding would have been much smaller without extensive revision of discriminatory election laws, beginning in the 1960s. The Twenty-fourth Amendment abolished the poll tax in federal elections in 1964, and the Supreme Court overturned its use in state and local elections in *Harper v. Virginia State Board of Elections* (1966). The onerous annual voter registration system that a conservative-dominated legislature had substituted when the poll tax was invalidated was ruled unconstitutional in *Beare v. Smith* (1971). The Supreme Court in *Bullock v. Carter* (1972) struck down the state's candidate filing fees, which the Court said weighed "more heavily on the less affluent segment of the community."

25. Another form of discrimination was attacked in a series of vote-dilution cases. In white-majority jurisdictions where whites voted as a bloc against candidates preferred by most black or Mexican-American voters, the whites could systematically deny election to the minorities' candidates, who often belonged to minority groups themselves. This occurred when certain election structures or practices existed. These were mostly of two kinds: at-large systems with a majority-runoff requirement; or, where elections were by district, gerrymandering. In either case, white bloc voting often defeated candidates of minority voters and weakened their political strength. The Supreme Court first found minority vote dilution unconstitutional in *White v. Regester* (1973), which held that the round of legislative redistricting in Texas during the 1970s violated the equal-protection clause. As a remedy, district boundaries were redrawn in San Antonio and Dallas. Further litigation soon attacked other districts and produced a sharp increase in black and Hispanic legislators in the 1970s. In 1975 Congress, thanks in large measure to the presence of Barbara Jordan on the Judiciary Committee, extended to Texas



coverage of Section 5 of the Voting Rights Act, requiring all proposed changes in voting procedure, including redistricting, to be precleared by the United States attorney general.

26. Justice Department oversight diminished gerrymandering against minorities by the legislature and other entities such as cities and counties. In addition, minority plaintiffs invoked the Constitution and the Voting Rights Act to sue numerous cities, school districts, county commissioners' courts, and other entities, alleging minority vote dilution and demanding changes from at-large to district elections or the establishment of more fairly drawn districts. From the early 1970s on, these suits enabled many blacks and Hispanics to win office. In addition, the Justice Department from 1975 on refused to preclear numerous proposed election changes in Texas that would have undercut minority voting strength.

27. Most of these measures securing black and Hispanic voting rights were fashioned during the so-called Second Reconstruction, the period beginning with *Brown v. Board of Education* (1954), when several federal statutes and judicial decisions were formulated to destroy the Jim Crow system, discourage racial discrimination, and enable Southern blacks to participate equally in politics. The new laws were largely a response to the black-led civil rights movement, in which Texans, both black and white, participated. The Second Reconstruction also led to a party realignment in Texas. As U.S. Senate majority leader, Lyndon B. Johnson guided the 1957 Civil Rights Act through the upper house; and as president he played a crucial role in the enactment of the 1964 Civil Rights Act, which abolished the Jim Crow system of segregated public accommodations, and the 1965 Voting Rights Act. Ralph Yarborough, the only Democratic United States senator from Texas from 1961 to 1971, was the only Southern senator to support the 1964 bill and only one of three Southern senators to support the Voting Rights Act the next year. Backing epochal civil-rights policies in the late 1950s and 1960s, these two Texas Democrats, dependent on a solid black vote, were among the leaders of the national party's mainstream.

28. At the same time, virtually no Texas Republican leader supported civil-rights legislation of the era. U.S. Senator John Tower opposed both the 1964 and 1965 bills. George H. W. Bush, opposing Yarborough for the Senate in 1964, attacked him for supporting the Civil Rights Act. That year Bush and Tower backed Barry Goldwater, who opposed the Civil Rights Act as a violation of states' rights and who was the first modern Republican presidential candidate to employ a "Southern strategy" in a campaign appealing to conservative whites while largely ignoring black voters. The polarized positions of party leaders on civil-rights issues resulted in a gradual exodus of racially conservative white voters from the Democratic party, the strengthening of black and Hispanic ties to it, and a remarkable growth in Republican voting and office-holding, which has continued to this day. The Texas Democratic party became disproportionately black, Hispanic, and liberal, while the Republicans remained overwhelmingly white and conservative.

29. If a survey of the history, status, and prospects of black Texans were to be conducted today, more than a century after the end of congressional Reconstruction, it would reveal that many hard-fought battles for political equality have been won, even as challenging problems remain and others loom on the horizon. The right of blacks to vote was obtained during Reconstruction, lost at the turn of the century, and won again long decades later. The same was

true for their ability to hold office and participate in government. As a racial minority that had made striking social and economic progress since the 1940s even while struggling with serious social problems—including discrimination, poverty, unemployment, crime, family breakdown, infant mortality, and drug abuse—black Texans continue to shore up and expand their own community institutions while looking to politics and government for additional support.

30. Yet even when they coalesce at the polls and in governmental bodies with white and Mexican-American Democrats—who have been their most reliable allies from the 1960s onward—the coalition's size has often been insufficient to achieve statewide goals such as equal school funding, a more progressive tax base, adequate protection from discrimination, fair provision of municipal services, and similar items on black Texans' long-term agenda.<sup>6</sup>

31. Moreover, there is evidence that the white conservative majority in Texas, now largely allied with the Republican party, is still, in 2011, intent on minimizing the electoral influence of blacks, Latinos, and Democratic-leaning voters in general through two kinds of behavior: 1) *intimidation and purveying false information at polling sites* in predominantly minority neighborhoods, ostensibly to prevent voter fraud; and 2) *passage of laws—particularly a photo ID requirement*—that will presumably diminish minority voting. A third kind of vote suppression, by which Republican officials *illegally prevent black college students from voting through trumped-up requirements*, continued until quite recently at the predominantly black Prairie View University in Waller County, until various voting rights organizations finally convinced the U.S. Department of Justice under the Bush administration in 2008 to ban student

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<sup>6</sup> A brief bibliography covering much of the above thumbnail history of black politics is as follows: Melvin J. Banks, *The Pursuit of Equality: The Movement for First Class Citizenship among Negroes in Texas, 1920–1950* (Ph.D. dissertation, Syracuse University, 1962). Alwyn Barr, *Black Texans: A History of Negroes in Texas, 1528–1971* (Austin: Jenkins, 1973). Alwyn Barr, *Reconstruction to Reform: Texas Politics, 1876–1906* (Austin: University of Texas Press, 1971). William Joseph Brophy, *The Black Texan, 1900–1950: A Quantitative History* (Ph.D. dissertation, Vanderbilt University, 1974). Barry A. Crouch, *The Freedmen's Bureau and Black Texans* (Austin: University of Texas Press, 1992). Chandler Davidson, *Race and Class in Texas Politics* (Princeton University Press, 1990). Michael L. Gillette, *The NAACP in Texas, 1937–1957* (Ph.D. dissertation, University of Texas at Austin, 1984). Bruce Alden Glasrud, *Black Texans, 1900–1930: A History* (Ph.D. dissertation, Texas Tech College, 1969). Darlene Clark Hine, *Black Victory: The Rise and Fall of the White Primary in Texas* (Millwood, New York: KTO Press, 1979). Barbara Jordan and Shelby Hearon, *Barbara Jordan: A Self-Portrait* (Garden City, New Jersey: Doubleday, 1979). J. Morgan Kousser, *The Shaping of Southern Politics: Suffrage Restrictions and the Establishment of the One-Party South, 1880–1910* (New Haven: Yale University Press, 1974). Merline Pitre, *Through Many Dangers, Toils and Snares: The Black Leadership of Texas, 1868–1900* (Austin: Eakin, 1985). Lawrence D. Rice, *The Negro in Texas, 1874–1900* (Baton Rouge: Louisiana State University Press, 1971). James Smallwood, *Time of Hope, Time of Despair: Black Texans during Reconstruction* (London: Kennikat, 1981). James R. Soukup, Clifton McCleskey, and Harry Holloway, *Party and Factional Division in Texas* (Austin: University of Texas Press, 1964).

vote suppression in the county for violating the Voting Rights Act.<sup>7</sup> A three-judge panel subsequently required Waller County officials to justify all rejected voter registrations to the Justice Department in twice-yearly reports through 2012.<sup>8</sup>

32. The first type of behavior mentioned above—intimidation and purveying false information—is reported sporadically and in varying detail in Texas news media virtually every election year. To my knowledge, no scholar has focused on these intimidation efforts in a systematic manner. In an unpublished report in 2004, however, three historian colleagues and I gave detailed accounts of four Texas incidents in the 1980s—one in Dallas in 1982, two in Houston in 1984 and 1986, and a fourth in Hidalgo County in South Texas in 1988. All involved efforts by the GOP to prevent alleged voter fraud in minority precincts, even though *no credible evidence of such fraud was brought to light. In some cases clear evidence of voter intimidation or false election information aimed at minority voters was present.*<sup>9</sup> I will mention only one, illustrative of the kind of methods of polling place intimidation or misinformation perpetrated by Republicans.

33. Political scientists writing in 1964, the year that Goldwater's try for the presidency galvanized the emerging GOP in Texas, observed that Texas Republicans "as indicated by their conduct and pronouncements . . . have virtually written off that one-fourth of the electorate composed of Negroes and Latin Americans."<sup>10</sup> While that was still true in the 1980s for blacks, it was somewhat less so for Latinos. Slowly the Republicans had begun to reach out to conservative Latinos, and officeholders started appointing some to their administration. The rapid growth of the Latino population through immigration and natural increase helped get the Republicans' attention. Still, GOP leaders were keenly aware that most voters in both minority populations were heavily Democratic, and "ballot security" was a major Republican concern.

34. The 1980 elections had been particularly dramatic in Texas. Ronald Reagan carried the state, which had voted for Jimmy Carter four years before. The Republicans felt their star was rising. Two years earlier, in 1978, they had won two landmark contests. William Clements, Jr., a wealthy oilman, had become the first Republican governor since Reconstruction; and John Tower, an outspoken conservative and Texas' first Republican senator since 1870, had been elected to a second term. Tower had been a strong supporter of Goldwater in 1964 and was outspoken in his defense of Goldwater's refusal to back the Civil Rights Act that year.<sup>11</sup>

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<sup>7</sup> For a summary of the Prairie View case, see the Campaign Legal Center, "Featured News: Oct. 10, 2008 – Texas County Agrees to Stop Vote Suppression Efforts Against Black University Students."

<sup>8</sup> Cindy George, "Judges slap voter rules on Waller County," *Houston Chronicle*, Oct. 24, 2008, B1.

<sup>9</sup> Chandler Davidson, Tanya Dunlap, Gale Kenny, and Benjamin Wise, *Republican Ballot Security Programs: Vote Protection or Minority Vote Suppression—Or Both?* Washington, D.C.: Center for Voting Rights and Protection, 2004, pp. 55-9, 62-8.

<sup>10</sup> James R. Soukup, Clifton McCleskey, and Harry Holloway, *Party and Factional Division in Texas* (Austin: University of Texas Press, 1964), 64.

<sup>11</sup> "Random Glances at the New Republicans," *Texas Observer* 56 (21 Aug. 1964), 3-4.

35. Clements' 1978 victory was an upset, though a narrow one. Turnout was key. Both he and Tower got high voter turnout in the wealthy, urban areas of the state. The working-class and minority voters of the cities, as well as of rural East Texas, largely stayed away from the polls.<sup>12</sup> These events augured well for Republicanism in Texas, and the party hoped to increase their number of elected officials in Texas while carrying the state for Ronald Reagan, which they did.

36. In 1982, Clements was running for a second term, and both Democrats and Republicans were working hard to get out the vote. Adumbrating events in Florida in 2000, Clements' secretary of state, David Dean, chief state elections officer, had developed a scheme during the summer of 1982 to purge state voter rolls of ineligible felons. A heated controversy followed. The director of the Texas Civil Liberties Union said it "smacks of a politically motivated attempt to intimidate anyone who has ever been arrested into foregoing the right to vote." A federal injunction forced him to drop the effort when it was revealed that the list of "felons" he proposed to send to county voting officials was highly inaccurate.<sup>13</sup>

37. A few months later, events in Dallas focused the spotlight again on Democratic allegations of Republican efforts at minority vote suppression and Republican allegations of voter fraud. On Election Day afternoon, Democratic poll-watchers noticed that a number of heavily black precincts were running short of ballots. Democratic congressman Martin Frost's tally after the election revealed that thirty-three precincts had actually run out of ballots during the day, that more ballots were sometimes slow in coming from the county elections office, and that in some precincts they never came at all. People waited up to 4 1/2 hours in the rain as a result of the shortages. Democrats attributed the problem to the county election administrator and asked for an investigation by the Justice Department and the county district attorney.<sup>14</sup>

38. What attracted even more publicity, however, was the appearance of large black and red signs in black precincts. The signs contained a message that began,

**DO NOT REMOVE THIS SIGN BY ORDER OF THE SHERIFF OF DALLAS COUNTY**  
**You Can Be Imprisoned**

after which were listed six voting fraud offenses. The signs were put up by a state appeals court judge, Patrick Guillot, and a group of at least four other Republican state judges, one of whom later became a federal district judge and another, a Texas Supreme Court judge. Guillot, in a letter soliciting help from his fellow judges, wrote that "Governor Clements' ballot security chairman requested that all his judicial appointments help out in the effort to keep voting fraud to a minimum. . . . I talked with [secretary of state] David Dean and Sheriff [Don] Byrd Friday

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<sup>12</sup> Michael Barone and Grant Ujifusa, *The Almanac of American Politics 1982* (Washington, D.C.: Barone & Company, 1981), 1049.

<sup>13</sup> "Dean's List an Attempt to Intimidate," *Texas Observer* 74 (15 Oct. 1982), 3. David Richards, *Once Upon a Time in Texas: A Liberal in the Lone Star State* (Austin: University of Texas Press, 2002), 201-3.

<sup>14</sup> Kay Gunderson, "Plots, Suits, and Mystical Incantations in Dallas County," *Texas Observer* 74 (10 Dec. 1982): 3-4. The entire contents of the sign are contained in a copy of the sign supplied to the author by George Korbel, Texas Rural Legal Aid, San Antonio, Texas.

and cleared this with them. Remember, when you discourage fraud, you gain votes, too.” The latter three words were underlined.<sup>15</sup>

39. When questioned later, Dean said that “he had told Guillot that these signs could not be posted without the approval” of the county elections administrator, Conny Drake. Drake, however, denied having received the request for approval. Sheriff Byrd, who had directed some of his deputies to post signs in South Dallas, where many blacks were concentrated, said he understood that Dean had given approval for their posting—which Dean later denied under oath. Indeed, Dean said he had warned against the project.<sup>16</sup> The Department of Justice later found fault with the signs, and Assistant U.S. Attorney General William Bradford Reynolds, a conservative Republican, said he was “concerned that no nonracial justification has been offered for placing most of the signs at minority precincts.”<sup>17</sup>

40. One of the sign-posters, state district judge Jack Hampton, asserted he had gotten each election judge’s permission before posting a sign at the precinct—a claim denied by a spokesman for one of the County Commissioners in whose district the postings had occurred. Hampton told a newspaper reporter who had asked him if he believed the signs were intimidating to minority voters, “We have more black defendants in this courthouse than white defendants. If they steal more, I guess they could be intimidated more.”<sup>18</sup>

41. Four years later, in 1986, one of the sign posters, Judge Sidney Fitzwater, was nominated to the federal bench under the sponsorship of Texas Senator Phil Gramm. He had first been appointed to his state judgeship by Governor Clements and was running for election to the same post in 1982 when he put up the signs. At his Senate confirmation hearing, he admitted to participating in the Republican ballot security program, but said that “he did not study the signs and drew no conclusion from the fact that he was asked to post them only in black areas of south Dallas.” Indeed, he said that he would not have posted them if he had known they were targeted solely at minority precincts. He also commented that another judge had told him to post the signs, and that it was a part of an officially sanctioned ballot security program.<sup>19</sup>

42. After apologizing for his actions and taking sharp criticism from various Democrats and from Willie Velasquez, director of the Southwest Voter Education Project in Texas, Fitzwater was confirmed, becoming, at age thirty-two, the youngest judge on the federal bench.<sup>20</sup>

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<sup>15</sup> Gunderson, “Plots, Suits, and Mystical Incantations in Dallas County,” 4.

<sup>16</sup> *Ibid*; Richards, *Once Upon a Time in Texas*, 203.

<sup>17</sup> Howard Kurtz, “Two Judicial Choices Assailed; Liberals Say Both Have Tried to Impede Minority Voting,” *The Washington Post*, 5 Feb. 1986, A4; Judy Wiessler, “Judicial nominee defends activities of 1982 election,” *Houston Chronicle*, 6 Feb. 1986, 1-3.

<sup>18</sup> Gunderson, “Plots, Suits, and Mystical Incantations in Dallas County,” 3-4.

<sup>19</sup> Howard Kurtz, “Two Judicial Choices Assailed,” A4; Judy Wiessler, “Judicial nominee defends activities of 1982 election,” 1-3.

<sup>20</sup> Judy Wiessler, “Texas GOP readies precinct stakeouts,” *Houston Chronicle*, 8 Oct. 1986, 1-4; Judy Wiessler, “Judicial nominee defends activities of 1982 election,” *Houston Chronicle*, 6 Feb. 1986, 1-3.

43. As noted above, this was just one of four Texas cases of vote intimidation or misinformation from the 1980s involving one type of behavior designed to depress Democratic voting that my colleagues and I described. I am convinced that a careful scholarly search of the media statewide in each subsequent election season would turn up a number of such cases over the following quarter century.

44. Regarding voter intimidation, the 2010 election season witnessed the birth of a major new Republican organization in Harris County (Houston), King Street Patriots, which attracted national attention for its claims of the existence of voter fraud—without credible supporting evidence—particularly in minority areas. The group has since gone national and has invited to Houston a number of conservative Republican proponents of more stringent and coordinated efforts to “true the vote,” as it calls preventing vote fraud. The presence of King Street Patriot poll watchers in minority precincts during early voting in Houston in October 2010 was a subject of many claims—including harassment of minority voters by the Patriots.<sup>21</sup> It seems unlikely that Republican efforts to monitor voting in minority areas will subside in the near future.

45. The second type of behavior—efforts by Republican politicians, in their words, to prevent what they often describe as “massive” vote fraud through passage of a law requiring voters to show a government-issued photo ID before voting—has been underway in Texas for at least seven years, and in the recently concluded 2011 state legislative session the efforts finally succeeded, after photo ID bills failed passage in three previous sessions. It is my opinion, after having closely followed the controversy between Democrats and Republicans in the state and nation, that passage of the Texas photo ID law is a continuation of the efforts by conservative whites underway since the end of Reconstruction to diminish the impact of black voting, either for racist or partisan reasons or both. (Given the support of both black and Latino voters for the state Democratic party in the current century, the motive behind such efforts is to diminish Latino votes as well as black ones, but as the focus of this affidavit is on African Americans, I shall limit my comments to the latter group.)

46. In January 2006, after the first photo ID bill failed passage the previous year, Greg Abbott, the Republican attorney general, first elected in 2002, announced a “training initiative to identify, prosecute [and] prevent voter fraud.”<sup>22</sup> Specifically, Abbott’s message claimed: “Voter fraud has been an epidemic in Texas for years, but it hasn’t been treated like one.” The news release from his office continued:

Trainers from my office are now across the state visiting with prosecutors and law enforcement officers to stop the problem of voter fraud in its tracks. The integrity of our democratic election process must be protected.” The training, to be conducted by the Attorney General’s new Special Investigations Unit (SIU), will help police departments,

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<sup>21</sup> See, for example, Chris Moran, “Voter complaints surface,” *Houston Chronicle*, 22 Oct. 2010.

<sup>22</sup> Attorney General of Texas Greg Abbot, “Attorney General Abbott Launches Training Initiative to Identify, Prosecute, Prevent Voter Fraud,” news release, 25 January. [www.oag.state.tx.us/oagnews/release.php?id=1423](http://www.oag.state.tx.us/oagnews/release.php?id=1423).

sheriff's offices, and district and county attorneys successfully identify, investigate and prosecute various types of voter fraud offenses. Investigating voter fraud allegations will be one of the primary responsibilities of the SIU, which was established with a \$1.5 million grant from the Governor's [Rick Perry's] office. The key 44 counties include 18 cities where the Attorney General has previously investigated or prosecuted alleged Election Code violations that were referred by the Secretary of State. 34 of the counties have populations of at least 100,000. The 44 counties contain 78 percent of eligible registered voters in Texas.

This was the most ambitious and costly effort in recent Texas history—perhaps ever—by the state's government to attack the alleged problem of voter fraud. What have been the results?

47. Texas is a large state, with elections for thousands of offices occurring in a four-year period in its numerous governmental units. (In 2010, it had 254 counties, 1,215 incorporated cities, and 1,265 public school districts, all of which held elections for public office, in addition to those for federal, statewide and legislative offices.) In 2006, there were 16.6 million persons of voting age, and of those, 13.1 million were registered to vote.<sup>23</sup> An anti-immigration organization estimated that 1.7 million Texas inhabitants of all ages resided there illegally in 2007.<sup>24</sup> Given these facts, one would expect an aggressive, centralized, well-funded vote-fraud initiative by the state's highest law-enforcement officer to yield a sizable number of indictments in short order if, in fact, vote fraud had reached "epidemic" proportions. This is all the more true inasmuch as the claim is often made by Republican officials that there is widespread voting by illegal residents along the Mexican border: there are fifteen counties which directly touch Mexico and a good many more that are not far from the border.

48. The data from Attorney General Abbott's Website, where he publishes a weekly newsletter, tell a very different story. In the research I conducted on this issue in 2007, I found that in the almost two years between the day the initiative was announced in late January 2006 and October 2007, Abbott's Website indicated 13 persons had either been indicted, found guilty, or sentenced for vote fraud in Texas, six on misdemeanor counts typically involving helping others with mail-in ballots. Of the 13, five were accused of having committed fraud before 2006, the year the initiative was announced, and the remaining eight in 2006. A total of 4.4 million Texans voted in the general elections for governor or U.S. senator that year, in addition to those who voted only in primaries and local nonpartisan elections.<sup>25</sup> At that point,

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<sup>23</sup> Texas Secretary of State, "Turnout and Voter Registration Figures (1970-Current)," 2007. [www.sos.state.tx.us/elections/historical/70-92.shtml](http://www.sos.state.tx.us/elections/historical/70-92.shtml).

<sup>24</sup> FAIR, "Texas Illegal Aliens," [www.fairus.org/site/PageServer?pagename=research\\_researchab4e](http://www.fairus.org/site/PageServer?pagename=research_researchab4e).

<sup>25</sup> Attorney General 2006, *op. cit.* An examination of Abbott's Website specifically for this affidavit conducted 23 August 2011 revealed slightly different statistics. There were only eight mentions of vote fraud in the almost six years between June 13, 2005 and May 13, 2011. A total of two persons were mentioned as having been found guilty of vote fraud, and in neither case—nor the handful of indictments that did not lead to convictions—was impersonation at the polls alleged, i.e., the type of fraud that would have presumably been prevented by a photo ID

six of the 13 persons mentioned above had not yet been found guilty. Of the seven found guilty and the six remaining under indictment, none of the types of fraud they had been charged with would have been prevented by the photo ID requirements advocated by Republicans in the 2005 session or subsequently. That is to say, *none involved voter impersonation at the polls*. Most involved either political officials who were charged with engaging in illegal efforts to affect the election outcome, or persons who helped elderly or disabled friends with their mail-in ballots, apparently unaware of a law passed in 2003 requiring them to sign the envelope containing the friend's ballot before mailing it. Whether other vote fraud convictions not mentioned on the Attorney General's Website have occurred I have not been able to determine. Given his and other Republican officials' eagerness to stress the widespread nature of such fraud in Texas, however, it seems unlikely he would fail to report such convictions on his Website.

49. Still, the Republican Party of Texas continued its quest for a photo ID law in 2009, failing yet a third time. But thanks to a record-setting increase in Republican Texas legislators in 2011, fueled in part by the Tea Party revolt, Republicans finally passed one of the strictest photo ID requirements in the nation. Governor Perry had declared voter ID a legislative "emergency" in order to fast-track the bill. This was a year when the strong Republican showing nationwide in 2010 led several state legislatures—virtually on a party-line vote—to pass similar photo ID laws.<sup>26</sup>

50. Do Republican officeholders and party leaders who have been most outspoken in their support of a photo ID law really believe, as Abbott argued in 2006, that there is an "epidemic" of voter impersonation fraud in the state, despite the paucity of evidence for it, as well as the existence of evidence that other kinds of vote fraud—e.g., absentee ballot fraud, which is not prevented by a photo ID requirement—are more widespread? In answering this question, it is worth considering the views of the former political director of the Texas GOP, Royal Massett, expressed to a reporter about a year after Abbott's dire warnings in 2006.

51. Interviewed by Houston's daily newspaper, the *Houston Chronicle*, Massett told the reporter that while it was "an article of religious faith" among Republicans that voter fraud was causing them to lose elections to Democrats, he did not believe it. According to the reporter, however, Massett "does believe that requiring photo IDs could cause enough of a drop-off in *legitimate* Democratic voting to add 3 percent to the Republican vote."<sup>27</sup> One can only speculate whether the Republicans in the state legislature in 2011 still believed that fraud among minority Democrats was causing Republicans to lose elections, but it seems likely to this observer of the Texas political scene that many Republican legislators share Massett's view that a photo ID law—indeed, one of the nation's strictest—will add a few percentage points to the

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law. See

[https://www.oag.state.tx.us/oagNews/searchresults.php?q=vote+fraud&as\\_fid=mWsV7QxLGdE9OsxquSKG](https://www.oag.state.tx.us/oagNews/searchresults.php?q=vote+fraud&as_fid=mWsV7QxLGdE9OsxquSKG)

<sup>26</sup> The National Conference of State Legislatures recently claimed that in 2012, if and when the photo ID laws passed this year go into effect, Texas' new law will be one of the seven strictest ID laws among the fifty states.

<sup>27</sup> Kristen Mack, "In trying to win, has Dewhurst lost a friend?", *Houston Chronicle*, 18 May 2007. Italics are those of the present author. <http://www.chron.com/news/article/In-trying-to-win-has-Dewhurst-lost-a-friend-1815569.php>



Republican total in future elections. It is a well-known fact among political scientists and political operatives that those lacking a government-issued photo ID were disproportionately Democratic, a fact underlined in a 2006 study by the nonpartisan Brennan Center for Justice.<sup>28</sup>

52. In short, it is my considered opinion that one major purpose of the recently passed photo ID law in Texas is to discriminate against citizens of color, particularly black and brown voters. In this respect, the law is very much in the tradition of Texas' politically expressed racism that has been deeply imbedded in our state's history since statehood in 1845.

I declare under penalty of perjury that the statements made herein are true and correct to the best of my knowledge, information, and belief.

F. Chandler Davidson 27 August 2011  
F. Chandler Davidson Date

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<sup>28</sup> See Brennan Center for Justice, Citizens without Proof: A Survey of Americans' Possession of Documentary Proof of Citizenship and Photo Identification (November 2006), available at [http://www.brennancenter.org/page/-/d/download\\_file\\_39242.pdf](http://www.brennancenter.org/page/-/d/download_file_39242.pdf). A plethora of subsequent data on the impact of photo ID laws can be found at [http://www.brennancenter.org/content/resource/research\\_on\\_voter\\_id/](http://www.brennancenter.org/content/resource/research_on_voter_id/)

15 August 2011

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Princeton University M.A. 1966  
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**MILITARY SERVICE:** U.S. Navy (Honorable Discharge, 1962)

**TEACHING EXPERIENCE:**  
1966-1968 Instructor, Rice University  
1968-1973 Assistant Professor, Rice University  
1973-1983 Associate Professor with tenure, Rice University  
1983-2003 Professor, Rice University  
2003- Professor Emeritus, Research Professor

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**HONORS:**  
Senior Honors Program, Dept. of Philosophy, University of Texas, 1960-61

Undergraduate Philosophy Scholarship, University of Texas, 1960-61  
Phi Beta Kappa, University of Texas, 1961  
Fulbright Scholar, University of Poitiers, Faculté des Lettres, 1961-62  
Woodrow Wilson Fellow, Princeton University, 1963-64  
Brown College (Rice University), Teaching Excellence Award in the Humanities  
1969-70  
Outstanding Texas author, 1972, Theta Sigma Phi, Austin Professional Chapter  
of Women in Communications (award given for Biracial Politics).  
Research Fellow, National Endowment for the Humanities, 1976-77  
Rice University Provost Lecturer, 1985  
Controversies in Minority Voting, co-edited with Bernard Grofman, chosen as an  
Outstanding Book on Human Rights in the United States by the Gustavus  
Myers Center for the Study of Human Rights, 1993  
Quiet Revolution in the South, co-edited with Bernard Grofman, chosen as the  
winner of the Richard F. Fenno Prize awarded annually by the Legislative  
Studies section of the American Political Science Association for the best  
book in legislative studies published in the previous year, 1995  
Ally Award, Center for the Healing of Racism (Houston), 1996  
George R. Brown Award for Superior Teaching, Rice University, 1997, 1999,  
2000, 2002  
George R. Brown Award for Excellence in Teaching, Rice University, 1998  
Texas Philosophical Society of Texas, 1998-2006  
Minority Vote Dilution named to Howard University Press Classic Editions  
Library Series, 2004  
C.M. and Demaris Hudspeth Award for Outstanding Service as a Faculty  
Sponsor of a Student Organization, Rice University, 2010.

#### ADVISORY PANELS, COMMISSIONS

Voting Rights Research Advisory Board, University of California, Berkeley, 2004-05  
National Commission on the Voting Rights Act, 2005-06  
Advisory Committee, Democracy, Diversity, and Voice  
(The Democracy Collaborative, University of Maryland) 2004-05  
Advisory Committee, Voting Rights Research Initiative, Warren College of Law,  
University of California at Berkeley, 2004-06  
Organizing Committee, 40<sup>th</sup> Anniversary Gala, Joint Center for Political Studies,  
Washington, D.C. 2009-10

#### BIOGRAPHICAL ENTRIES:

Who's Who in America  
Who's Who in The Southwest  
Who's Who in American Education

#### JOINT APPOINTMENTS:

Professor, Department of Political Science, Rice University (1997-2003)

**PROFESSIONAL ACTIVITIES AND MEMBERSHIPS:**

American Sociological Association  
American Political Science Association  
American Association of University Professors

**SELECTED RICE UNIVERSITY ADMINISTRATIVE SERVICE:**

1973-75 Chair, University Library Committee  
1977-78 President, Rice Chapter, American Association of University Professors  
1979-83 Chair, Department of Sociology  
1986-89 Chair, Department of Sociology  
1987-88 Chair, Rice Task Force on Substance Abuse  
1988 Chair, Search Committee, Director of Office of Minority Affairs  
1988-90 Co-founder and first coordinator of interdisciplinary teaching team for "Intellectual Foundations of the Social Sciences," core curriculum course  
1993-96 Chair, Committee on Undergraduate Admission  
1995-03 Chair, Department of Sociology  
1997 Chair, President's Ad Hoc Committee to Revise Faculty Dismissal Policy  
1999-00 Chair, Committee on Teaching  
1998-02 Chair, Inter-institutional Search Committee, University of Texas School of Public Health and Rice University Department of Sociology  
2002-03 Chair, Athletic Subcommittee of Faculty Council  
2006-07 Chair, Committee on the Rice Undergraduate Program  
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**AREAS OF SCHOLARLY ACTIVITY:**

Politics and Society  
Social Stratification  
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Electoral Behavior  
Texas Politics  
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National Endowment for the Humanities, full salary support for the year (1976-77)  
National Science Foundation, \$231,331 grant, "Collaborative Research on the Implementation and Effects of the 1965 Voting Rights Act," co-principal investigator with Bernard Grofman, University of California at Irvine (1988-92)  
National Science Foundation Law and Social Sciences Program, \$8,500 grant, "Supplementary Grant for Collaborative Research on the Voting Rights Act: The Effects of Changing Electoral Systems on the Election of Women" (NSF

- SES #88-09329), co-principal investigator with Bernard Grofman and Susan Welch (1989-90).
- Rockefeller Foundation, \$50,000 grant, "A Conference on the Voting Rights Act: A Twenty-five Year Perspective," with Thomas Mann and Bernard Grofman, under the auspices of the Brookings Institution (1989-90).
- Ford Foundation, \$6,000 grant. "Newspaper Data Base on 1990s Redistricting," Bernard Grofman, principal investigator (1991-93).
- Center for Voting Rights and Protection, \$60,000 grant. "Republican Ballot Security Programs," principal investigator, 2004.
- Lawyers' Committee for Civil Rights Under Law, \$120,000 grant. "Protecting Minority Voters: The Voting Rights Act at Work, 1982-2005," principal author, 2005.
- Brennan Center for Justice at NYU and Center for Voting Rights and Protection, \$10,000 grant. "Brief *Amici Curiae* of Historians and Other Scholars in Support of Petitioners," *William Crawford et al., Petitioners, v. Marion County Election Board, et al.*, in the Supreme Court of the United States, Nov. 2007," principal author, 2007.
- Center for Voting Rights and Protection, \$10,000 contribution to Social Inequality Fund, Dept. of Sociology, to be used in research on vote suppression, 2008.

#### CONGRESSIONAL AND LEGISLATIVE TESTIMONY

- "Prepared statement of Chandler Davidson, Chair, Department of Sociology, Rice University, Houston, Tex." Voting Rights Act: Hearings before the Subcommittee on the Constitution of the Committee on the Judiciary, United States Senate, 1982 (Volume 2), Serial No. J-97-92; Washington, D.C.: U.S. Government Printing Office, 1983, pp. 293-303.
- "Voting Rights Roundtable," Subcommittee on Civil and Constitutional Rights, Judiciary Committee, U.S. House of Representatives, May 25, 1994, invited participant.
- "Prepared statement of Chandler Davidson, Radoslav Tsanoff Professor of Public Affairs Emeritus, Rice University: 'An Introduction to the Expiring Provisions of the Voting Rights Act.'" Voting Rights Act: Hearings before the Committee on the Judiciary, United States Senate, May 9, 2006. Invited participant. <http://thomas.loc.gov/cgi-bin/cpquery/T?&report=sr295&dbname=109&>
- "Prepared statement of Chandler Davidson: 'Vote Caging'," Hearing on Abusive Robocalls and Vote Caging, Committee on Rules and Administration, United States Senate, February 27, 2008. Invited participant. <http://rules.senate.gov/hearings/2008/022708hrg.htm>
- "Prepared statement of Chandler Davidson: 'The Historical Context of Senate Bill 362'," Hearings Before the Texas Senate Meeting as a Committee of the Whole to consider a bill to enact a voter photo ID requirement, March 10, 2009. Invited participant.

## U. S. SUPREME COURT CITATIONS OF PUBLICATIONS

Thornburg v. Gingles, 478 U.S. 30, 106 S. Ct. 2752 (1986).

Shaw v. Reno, 509 U.S. 630, 113 S. Ct. 2816 (1993).

Johnson v. De Grandy, 512 U.S. 997, 114 S. Ct. 2647 (1994).

Miller v. Johnson, 515 U.S. 900, 115 S. Ct. 2475 (1995).

Bush v. Vera, 517 U.S. 952, 116 S. Ct. 1941 (1996).

Shaw v. Hunt, 517 U.S. 899, 116 S. Ct. 1896 (1996).

Abrams v. Johnson, 521 U.S. 74, 117 S. Ct. 1925 (1997).

## OTHER RECENT COURT CITATIONS OF PUBLICATIONS

Northwest Austin Municipal Utility District Number One v. Mukasey, U.S. District Court for the District of Columbia, Civil Action No 06-1384, p. 12 ([*Protecting Minority Voters: The Voting Rights Act at Work, 1982-2005*] 2008).

Democratic National Committee et al., v. Republican National Committee, et al., U.S. District Court, District of New Jersey, Civil Action No 81-3876 (DRD) p. 21. ["Republican Ballot Security Programs: Vote Protection or Minority Vote Suppression—Or Both?"] (2009)

## PUBLICATIONS:

## I. Intended Primarily for a Professional Audience

## Books:

Biracial Politics: Conflict and Coalition in the Metropolitan South, Louisiana State University Press, 1972.

Minority Vote Dilution (editor), Howard University Press, 1984 (paperback ed., 1989).

Race and Class in Texas Politics, Princeton University Press, 1990 (paperback ed. 1992).

Controversies in Minority Voting: The Voting Rights Act in Perspective (ed. with Bernard Grofman), The Brookings Institution, 1992 (hardcover and paperback).

Quiet Revolution in the South: The Impact of the Voting Rights Act, 1965-1990 (ed. with Bernard Grofman), Princeton University Press, 1994 (hardcover and paperback).

## Commissioned Reports:

Republican Ballot Security Programs: Vote Protection or Minority Vote Suppression—or Both?, in co-authorship with Tanya Dunlap, Gale Kenny, and Benjamin Wise, Center for Voting Rights and Protection, Washington, D.C. (2004).

[http://www.votelaw.com/blog/blogdocs/GOP\\_Ballot\\_Security\\_Programs.pdf](http://www.votelaw.com/blog/blogdocs/GOP_Ballot_Security_Programs.pdf)  
Protecting Minority Voting Rights: The Voting Rights Act at Work 1982-2005, National Commission on the Voting Rights Act, Washington, D.C. (2006).

(Lawyers' Committee for Civil Rights Under Law)

[http://www.lawyerscommittee.org/admin/voting\\_rights/documents/files/0023.pdf](http://www.lawyerscommittee.org/admin/voting_rights/documents/files/0023.pdf)

Highlights of Hearings of the National Commission on the Voting Rights Act 2005, National Commission on the Voting Rights Act, Washington, D.C.

(2006). (Lawyers' Committee for Civil Rights Under Law)

<http://www2.ohchr.org/english/bodies/hrc/docs/ngos/lccr3.pdf>

#### Selected Articles and Book Chapters:

- "A Summer Enrichment Program for Black Pre-Medical students," in co-authorship with Daniel Creson, M.D., Texas Reports on Biology and Medicine, 29 (1971), 443-50.
- "Houston Elects a Mayor," in co-authorship with Douglas Longshore, New South: A Quarterly Journal of Southern Affairs, 27 (1972), 47-61.
- "Ethnic Attitudes as a Basis for Minority Cooperation in a Southwestern Metropolis," in co-authorship with Charles Gaitz, Social Science Quarterly, 22 (1974), 738-48.
- "Are the Poor Different?," in co-authorship with Charles Gaitz, Social Problems, 22 (1974), 230-45.
- "Variations in Gender Roles Among Classes," in co-authorship with Virginia Davidson, M.D., Sex Roles: A Journal of Research, 3 (1977), 459-67.
- "At-Large Elections and Minority Representation," Social Science Quarterly, 60 (1979), 337-38.
- "The Effects of At-Large Elections on Minority Representation: A Review of Historical and Recent Evidence," in co-authorship with George Korbel, Journal of Politics, 43 (1981), 982-1005.
- "Reforming a Reform," in Merle Black and John Shelton Reed (eds.), Perspectives on the American South, London, New York, Paris: Gordon and Breach Science Publishers, 1981, 143-49.
- "Houston: The City Where the Business of Government is Business," in Wendell Bedichek and Neal Tannahill (eds.), Public Policy in Texas, Glenview, Ill.: Scott, Foresman and Company, 1982, 275-88.
- "The Democrats," in Wendell Bedichek and Neal Tannahill (eds.), Public Policy in Texas, Glenview, Ill.: Scott, Foresman and Company, 1982, 160-70.
- "Carter Wesley," in Rayford Logan and Jeremy Townsend (eds.), The Dictionary of American Negro Biography, New York and London: W. W. Norton and Company, 1983, 639-40.
- "Minority Vote Dilution: An Overview," in Chandler Davidson (ed.), Minority Vote Dilution, Washington, D.C.: Howard University Press, 1984, 1-23.
- "Nonpartisan Slating Groups in an At-Large Setting," in co-authorship with Luis Fraga, in Chandler Davidson, Minority Vote Dilution, Washington, D.C.: Howard University Press, 1984, 119-43.

- "Ethnic Jokes: An Introduction to Race and Nationality," Teaching Sociology ,15 (1987), 296-302.
- "Slatting Groups as Parties in a 'Nonpartisan' Setting," in co-authorship with Luis Fraga, Western Political Quarterly, 41 (1988), 373-90.
- "The Voting Rights Act: A Brief History," in Grofman and Davidson (eds.), Controversies in Minority Voting (1992), 7-51.
- "Postscript: What is the Best Route to a Color-Blind Society?", with B. Grofman, in Grofman and Davidson (eds.), Controversies in Minority Voting (1992), 300-17.
- "The Voting Rights Act: Protecting the Rights of Racial and Language Minorities in the Electoral Process" (Introduction to special issue of journal on the Voting Rights Act), Chicano-Latino Law Review, 13 (1993), 1-14.
- "Editors' Introduction" (in co-authorship with B. Grofman), in Davidson and Grofman (eds.), Quiet Revolution in the South (1994), 3-17.
- "The Recent Evolution of Voting Rights Law Affecting Racial and Language Minorities," in Davidson and Grofman (eds.), Quiet Revolution in the South (1994), 21-37.
- "Texas" (with R. Brischetto, D. Richards, and B. Grofman), in Davidson and Grofman (eds.), Quiet Revolution in the South (1994), 233-70.
- "The Effect of Municipal Election Structure on Black Representation in Eight Southern States," (with B. Grofman) in Davidson and Grofman (eds.), Quiet Revolution in the South (1994), 301-34.
- "The Voting Rights Act and the Second Reconstruction" (with B. Grofman) in Davidson and Grofman (eds.), Quiet Revolution in the South (1994), 378-87.
- "African Americans and Politics," The New Handbook of Texas (1996). Vol. 1, 51-55.
- "Voting Rights Act of 1965 and its Amendments," in Leonard W. Levy and Kenneth L. Karst, eds., Supplement II, Encyclopedia of the American Constitution, 2d. ed. (2000) 2813-14.
- "Race and Voting," in Leonard W. Levy and Kenneth L. Karst, eds., Supplement II, Encyclopedia of the American Constitution, 2d. ed. (2000) 2093-94.
- "White Gerrymandering of Black Voters: A Response to Professor Everett," North Carolina Law Review 79 (2001), 1333-43.
- Amici Curiae* Brief of Historians and Other Scholars in Support of Petitioners, *William Crawford, et al., v. Marion County Election Board, et al.*, in the Supreme Court of the United States (November 2007), drafter, primary author, signatory.
- "Vote Caging as a Republican Ballot Security Technique" (with T. Dunlap, G. Kenney, and B. Wise), William Mitchell Law Review 34:2 (2008), 533-62.
- "The Historical Context of Voter Photo ID Laws," *PS: Political Science and Politics*, (January 2009), 93-96.

## II. Intended Primarily for a General Audience



## Articles:

- "The Oil Patch," Harper's (August, 1964), 41-46.
- "Our 'Dirty War' in Vietnam," The Nation (November 2, 1964), 299-303.
- "A Case for Busing," The Texas Observer (July 16, 1971), 12-14.
- "Stalking the White Working Class," Dissent (Fall, 1972), 595-601.
- "Reply to Professor Lipset," Dissent (Winter, 1973), 128.
- "Wonder Bread and Hog Jowls: New Politics in the Old South," Dissent (September 29, 1974), 269-72.
- "The Texans' and Other Myths," The Texas Observer (June 18, 1976), 3-5.
- "The Culture of Shiftlessness," Dissent (Fall, 1976), 349-56.
- "A Night of Violence," The Texas Observer (September 9, 1977), 19-21.
- "Women and Minorities at Large," Houston Breakthrough (October, 1977), 1, 31.
- "Interview with Billie Carr," Houston Breakthrough (April, 1978), 1.
- "The Privileged Ones," The Texas Observer (June 9, 1978) 16-19.
- "Of That Time, of This Place," The Texas Observer (Twenty-Fifth Anniversary Edition) (December 28, 1979), 60-73.
- "In Texas, Electoral Changes," New York Times, Op-Ed Essay, (February 23, 1980).
- "A Painfully Narrow Set of Options," The Texas Observer (October 17, 1980), 3-14.
- "Beware No-pass, No-Play Red Herrings," Houston Post, Op-Ed Essay (June 3, 1985), B3.
- "Numbers Behind the Numbers in Black Progress," Houston Post, Op-Ed Essay (March 14, 1987), B3.
- "Texas judges can be elected without diluting ethnic vote," Houston Post, Op-Ed Essay (December 3, 1989), C3.
- "Lack of knowledge may top list of reasons babies are dying here," Houston Post (September 15, 1991), C-3 (with Victoria Soto).
- "The Color Line Reconsidered" (review essay of three books: Arthur Ashe, Days of Grace; John Hope Franklin, The Color Line; and Cornel West, Race Matters), Texas Observer, (September 17, 1993), pp. 18-19.
- "Affirmative Action in Undergraduate Admissions: The Experience at Rice," Reconstruction 2 (1994), 45-54.
- "Voting Rights and the Second Reconstruction: the Rocky Road to the Present . . . and Beyond," Southern Changes, 16 (Winter 1994), 4-7.
- "Affirmative Action in Undergraduate Admissions: The Experience at Rice," Sallyport: The Magazine of Rice University, 52 (Winter 1996), 18-25.
- "Minority Representation in Congress: Reply to Professor Swain" (with Bernard Grofman), Chronicle of Higher Education (November 8, 1996).
- "Vouchers Only Serve to Balkanize Schools," Houston Chronicle Op-Ed Essay (April 21, 1999).
- "Renewing the Non-permanent Features of the Voting Rights Act," *Focus Magazine*, July-Aug. 2006, 1-14.

"A Renowned Professor of Philosophy at Rice Created Model for Teaching Religion," *Houston Chronicle* Op-Ed Essay (April 27, 2008).

"The Continuing Problem of Vote Suppression in America," ACLU Blog of Rights (in conjunction with Voting Rights Symposium) (2008)  
<http://blog.aclu.org/tag/voting-rights-symposium/>.

"The Historical Context of the Texas Voter ID Proposal," *The Texas Lyceum Journal* (July 2009), 24-28  
[http://www.texaslyceum.org/media/staticContent/journals/Journal\\_July2009.pdf](http://www.texaslyceum.org/media/staticContent/journals/Journal_July2009.pdf)

#### THESIS AND DISSERTATION COMMITTEES:

- 1971 James Cogan, "An Essay on Phenomenological Ontology: On Description and Analysis." Ph.D. Dissertation in Philosophy, Anthony Palmer, Director.
- 1971 Julie Roy Jeffrey, "Education for Children of the Poor: A Study of the Origins and Implementation of the Elementary and Secondary Education Act of 1965." Ph.D. Dissertation in History, Allen Matusow, Director.
- 1972 Fernando Rodriguez Casas, "Substance and Referring." M.A. Thesis in Philosophy, James Street Fulton, Director.
- 1973 Barbara Thompson Day, "The Oil and Gas Industry in Texas Politics, 1920-1935." Ph.D. Dissertation in History, Allen Matusow, Director.
- 1973 Ronald Schlundt, "Civil Rights Policies in the Eisenhower Years." Ph.D. Dissertation in History, Allen Matusow, Director.
- 1975 Patricia Goudreau, "Investigation of Sex Differences Across Job Levels." Ph.D. Dissertation in Psychology, William C. Howell, Director.
- 1975 Kenneth Mladenka, "Distribution of Urban Public Services." Ph.D. Dissertation in Political Science, Robert H. Dix, Director.
- 1975 Rudi Volti, "Agricultural Development and Organizational Changes: Agro-Technical Extension Services in the People's Republic of China." Ph.D. Dissertation in Behavioral Science, Chandler Davidson, Director.
- 1976 Michael Freney, "The Political Element in Military Expertise." Ph.D. Dissertation in Political Science, John Ambler, Director.
- 1976 Louis J. Marchiafava, "Institutional and Legal Aspects of the Growth of Professional Urban Police Service: The Houston Experience." Ph.D. Dissertation in History, Harold Hyman, Director.
- 1978 Cheryl Walker Casey, "From Myth to Reality: A Study of the Theme of Rebirth in the Tragedies of Aimé Césaire." Ph.D. Dissertation in French, Maurice Lecuyer, Director.
- 1981 Robert Eubank, "Incumbency, Partisanship and Salience Effects in Congressional Elections, 1956-1978." Ph.D. Dissertation in Political Science, David Brady, Director.

- 1983 Luis Ricardo Fraga, "Nonpartisan Slating Groups: The Role of Reformed Parties In Substate Policy Making." Ph.D. Dissertation in Political Science, David Brady, Director.
- 1986 Douglas J. Brems, "Risk Perception for Common Consumer Products." Ph.D. Dissertation in Psychology, Kenneth Laughery, Director.
- 1988 Morgan Slusher, "Differential Impact of Causal and Statistical Evidence in Counteracting Belief Perseverance: Changing Beliefs about Acquired Immune Deficiency Syndrome." Ph.D. Dissertation in Psychology, Craig Anderson, Director.
- 1989 Peter Cobin, "Linguistic Subsystems of a Chicano Child." Ph.D. Dissertation in Linguistics, Sidney Lamb, Director.
- 1991 Kerri D. Gantz, "On the Basis of Merit Alone: Integration, Tuition, Rice University, and the Charter Change Trial, 1963-1966." M. A. Thesis in History, John Boles, Director.
- 1991 Albert L. Ellis, III, "The Regressive Era : Progressive Era Tax Reform and the National Tax Association : Roots of the Modern American tax structure." Ph.D. in Political Science, Robert Stein, Director.
- 1992 James D. Schmidt, "Neither Slavery nor Involuntary Servitude: Free Labor and American Law, 1815-1880." Ph.D. Dissertation in History, Harold M. Hyman, Director.
- 1992 Charles Zelden, "Justice Lies in the District: A History of the U.S. District Court, Southern District of Texas, 1902-1960." Ph.D. Dissertation in History, Harold Hyman, Director.
- 1993 Leslie Lovett, "The Jaybird-Woodpecker War: Reconstruction and Redemption in Forty Bend County, 1865-90." M.A. Thesis in History, Harold Hyman, Director.
- 1994 Nicholas George Malavis, "Bless the Pure and Humble: Texas Lawyers and Oil Regulation, 1919-1936." Ph.D. Dissertation in History, Harold M. Hyman, Director.
- 1994 Barbara Jane Rozek, "Words of Enticement: The Effort to Attract Immigrants to Texas, 1865-1914." Ph.D. Dissertation in History, John Boles, Director.
- 1996 Loreta Kovacic, "The Piano Music of Boris Papandopulo." M.A. Thesis in Music, Walter Bayle, Director.
- 1996 Sam Watson, "Professionalism, Social Attitudes, and Civil-Military Accountability in the United States Army Officer Corps, 1815-1846." Ph. D. Dissertation in History, Ira Gruber, Director.
- 1997 Bruce Anderson, "Electoral Competition and Party Complexity: A Dynamic Model of Minority Party Success and Legislative Organization in Transforming State House Chambers." Ph.D. Dissertation in Political Science, Keith Hamm, Director.
- 1997 Ellen Renee Read, "The Effects of Social Security Reforms on Health, Leisure, and Consumption Decisions." Ph.D. Dissertation in Economics, Robin Sickles, Director.

- 1998 Maria Anderson, "Private Choices vs. Public Voices: The History of Planned Parenthood in Houston." Ph.D. Dissertation in History, Harold Hyman, Director.
- 1998 Philip D. Dillard, "The Confederate Debate Over Arming the Slaves." Ph.D. Dissertation in History, John Boles, Director.
- 1999 Jonathan W. Singer, "Broken Trusts: The Texas Attorney General Versus the Oil Industry, 1889-1909." Ph.D. dissertation in History, Harold Hyman, Director.
- 2000 Melissa Kean, "At a Most Uncomfortable Speed: The Desegregation of the South's Private Universities, 1945-1964." Ph.D. dissertation in History, John Boles, Director.
- 2001 Robert S. Shelton, "Waterfront Workers of Galveston, 1838-1920." Ph.D. dissertation in History, John Boles, Director.
- 2002 Richard Engstrom, "'Electoral District Structure and Political Behavior.'" Ph.D. dissertation in Political Science, John Alford, Director.
- 2003 Stacey Ulbig, "Subnational Contextual Influences on Political Trust." Ph.D. dissertation in Political Science, John Alford, Director.
- 2004 Elaine Thompson, "Southern Small Towns: Society, Politics, and Race Relations in Clinton, Louisiana." Ph.D. dissertation in History, John Boles, Director.
- 2005 Janet Malek, "The Decision to Conceive and the Concept of Harm: A Defense of a Child-Centered Ethical Appeal." Ph.D. Dissertation in Philosophy, George Sher, Director.
- 2006 Scott P. Marler, "Merchants and the Political Economy of Nineteenth-Century Louisiana: New Orleans and Its Hinterlands." Ph.D. dissertation in History, John Boles, Director.
- 2010 Wesley Phelps, "The War on Poverty in Houston," Ph.D. dissertation in History, Allen Matusow, Director.

#### SENIOR HONORS THESES DIRECTED:

- 1969 Nancy Dietz, "The Developmental Psychology of Jean Piaget and Its Implications for the Field of Mental Retardation."
- 1983 Meredith Gibbs, "Admissions Policies at Rice University."
- 1990 Victoria Soto, "Poor Women's Experience with Prenatal Care in Houston, Texas."
- 1993 Elizabeth Lock, "The Texas At-Large System and Possibilities for Multiracial Coalition Formation."
- 1996 Mary Elizabeth Stearns, "Business-Elementary School Partnerships in the Houston Independent School District."
- 1996 Carolyn Chi, "Students' Views on the Racial Climate at Rice University."
- 1998 Felisa Sanchez, "Ethnic Composition of Congressional Districts and Hispanic Candidates' Electoral Success."
- 1999 Elisheva Budabin McQuown, "Believing, Achieving, and Succeeding: An Experimental Language Arts Program."

- 1999 Claudia Gee, "Factors Influencing Occupational Prestige."  
2001 Kelly Bolen, "Juvenile Probation in Harris County: A Case Study."  
2002 Lori Hellkamp, "After Affirmative Action: Percent Plans?" (Rice Undergraduate Scholars Program).  
2005 Caitlin Rosenthal. "Beyond the Bake Sale: Assessing the Social and Economic Capital of Parent-Teacher Organizations" (Political Science Senior Honors Thesis).

## UNIVERSITY SERVICE

### Standing Committees:

- University Welfare Committee, 1970-71
- Library Committee, 1971-75 (Chair, 1973-75)
- Affirmative Action Committee, 1971-74, 1992-93
- Education Council, 1977-86
- Committee on Teaching, 1977-80, 1996-97, 1999-00 (chair)
- Admissions Committee, 1981-89, 1993-96 (chair)
- Parking Committee, 1991-93
- Faculty Council, 2002-03
- Promotion and Tenure Committee, 2002-03
- University Council, 2002-03

### Other Committees:

- Minority Student Recruitment Committee, 1968-72
- Sloan Grant Committee, 1972-75
- Danforth Fellowship Committee, 1974-75
- Rice Task Force on Substance Abuse (Chair), 1987-88
- Search Committee, Director, Office of Minority Affairs (Chair), 1987-88
- Personnel Grievance Committee, 1988-89
- Committee of Inquiry into Sexual Harassment Charges (Chair), 1991
- Search Committee, Vice President for Student Affairs, 1993-94
- President's Ad Hoc Committee on Athletic Admissions, 1994
- President's Ad Hoc Committee on Minority Concerns, 1994-2003
- Sallyport Board of Advisors, 1994-98
- Search Committee, Dean of Social Sciences, 1995-96
- President's Ad Hoc Committee on Faculty Dismissal Policy (Chair), 1997
- Search Committee, Richardson Senior Fellow in Public Policy, Baker Institute, Rice University, 1998-99
- Search Committee, Medical Sociology Joint Appointment, Rice University and University of Texas School of Public Health (Chair), 1998-2002
- Search Committee, Sociology faculty replacements (Chair), 1998-2000
- President's Ad Hoc Planning Committee for the Center for Teaching and Curricular Innovation, 1999-2000
- President's "KTRU Friendly" Committee, 2001-03

Ad Hoc Committee on Status of Rice Thresher, 2002-03  
President's Ad Hoc Committee on Gays, Lesbians, Bi-sexuals, and the Transgendered, 2002-03  
Committee on the Rice Undergraduate Program (Chair), 2005-06  
Rice Benefits Committee, 2009-

#### Residential College Associateships

Jones College, 1967-76  
Baker College, 1982-87

#### Faculty Sponsorships of Student Groups

Rice Democratic Caucus, 1977-86  
Rice Young Democrats, 1987-94; 2003-  
Rice TexPIRG (Texas Public Interest Research Group), 1979-83  
Rice Gay-Lesbian Support Group, 1979-88  
Rice GALOR, 1989-95  
Rice PRIDE, 1995-2003  
Rice Black Students Union, 1987-93  
Rice Black Student Association, 1993-  
Rice Fellows, 1999-2001  
NAACP, Rice Chapter, 2001-03

#### Residential College Courses Taught

"Violence" (Jones College), 1968  
"The Social Conditioning of Interpersonal Relations" (Jones College), 1969  
"The University" (Jones College), 1969  
"Electoral Politics" (with Prof. George Antunes), 1972  
"Money and Politics in Texas" (Will Rice College), 1976  
"Houston Beyond the Hedges" (Baker College), 1981

#### Selected Miscellaneous University Service

Rice Summer Honors Program in the Social Sciences, 1970  
Coordinator, Jones College Freshman Tutorial Project, 1970-72  
Sponsor, "Ugly Artifacts Exhibition," Rice Memorial Center, 1971  
Speaker, "Rice and the Houston Black Community," Rice Alumni Homecoming Weekend, 1971  
Participant, "Max Weber in the Social Sciences," History Department Graduate Colloquium, 1974  
Teacher (with others), Interdisciplinary Sloan Grant Courses, 1975  
Lecturer, Education Council-sponsored in-service teaching training, 1977  
Teacher (with Profs. Thomas Haskell and Martin Weiner), "The New Shape of Work," NEH-funded interdisciplinary course, 1978  
Organizer, "Texas Democratic Party, 1936-1988" Oral History and Personal Paper Archives, Woodson Center, 1978-1988

Organizer, Interdisciplinary Study Group on Social Theory, 1980  
Moderator, faculty panel discussion on U.S. foreign policy in El Salvador, sponsored by Rice Democratic Caucus, 1981  
Speaker, Sid Richardson College Forum, 1982  
Moderator, faculty panel discussion on Soviet foreign policy, sponsored by Rice Democratic Caucus and Rice TexPIRG, 1983  
Co-founder, Walter and Helen Hall Annual Lecture Series, 1983-  
Chair, Minority-Group Subcommittee of Admissions Committee, 1986-89  
Originator and Co-coordinator, The Rice Urban Lecture Series, 1992-93  
Co-sponsor and moderator, Public Symposium on The Bell Curve, 1995  
Moderator, Debate on Affirmative Action, sponsored by ADVANCE, 1996  
Coordinator, "A Celebration of the Life of Barbara Jordan," public memorial tribute to Barbara Jordan sponsored by the Department of Sociology, 1996  
Moderator, "Diversity at Rice," Student Association Annual Retreat, 1996  
Moderator, Debate on Immigration, sponsored by ADVANCE, 1996  
Co-organizer and participant, campus-wide meeting on sexism at Rice, 1996  
Speaker, "Race and Rice," panel on the situation of minority students at Rice on the first anniversary of the Hopwood decision, Rice University, 1997  
Judge, Phi Beta Kappa teaching award, Rice University, 1998-03  
Chair, Phi Beta Kappa teaching award committee, Rice University. 2001-02  
Judge, Hudspeth Awards Committee, 2000  
Faculty chair, United Way Fund Drive, Rice University 2001-02  
Keynote speaker, campus-wide 9/11 anniversary remembrance service, Rice University, 2002  
Moderator, "Homophobia at Rice," forum sponsored by ADVANCE on Rice University campus, 2002  
Panelist, "Reverse Discrimination or Equal Opportunity?: Discussing Affirmative Action," forum sponsored by ADVANCE, Rice University , 2003

#### SELECTED COMMUNITY SERVICE:

##### Presentations

"The Feasibility of Biracial Voting Coalitions," Citizens for Good Schools, Houston, 1967  
"The Social Responsibilities of Business," Southwestern Bell College-Business Socioeconomic Seminar, Austin, 1969  
"The Military-Industrial Complex," Rice University, Vietnam Moratorium Day, 1969  
"Institutional Racism," annual regional meeting of YWCA directors, Houston, 1971  
"Race, Class and Politics in Texas," South Park Civic Club, Houston, 1974

- "Women and other Minorities at Rice," Society of Rice University Women, 1975
- "Measuring the Effects of the 'Second Reconstruction,'" Rice Bicentennial Public Lecture Series, 1976
- "Texas Political Parties," lecture in a series on Texas politics, sponsored by the Breakthrough Foundation, Houston, 1978
- "The Effects of Single-member Districts on Houston City Elections," presented at various times to the Harris County Council of Organizations, Jones Memorial Methodist Church, Jewish Community Center Public Affairs Forum and The Metropolitan Organization, 1979
- "Race and the 1984 Presidential Election," Rice Alumni Lecture Series, 1984
- "Recent Houston Politics," public lecture given to the Cross-cultural Development Organization, Houston, 1985
- "The City and Its People. The Ethnic Groups Who Shaped Houston's Population," Rice Continuing Studies Lecture Series, "The Way We Were: A History of Houston," 1993.
- "Trends in Rice Undergraduate Admissions," Board of Trustees, Rice University, 1995.
- "The Rise of Racial Gerrymandering in Houston," First Unitarian-Universalist Church, Lecture Series on Houston, 1996.
- "The Struggle for Black Political Equality in Texas," ninth-grade history class, Stafford High School, Stafford, Texas, 1997.
- "The Rise of the Meritocracy?" Rice Lecture Series Featuring Teaching Award Winners, 1998.
- "The Idea of Equality in the Paintings of Norman Rockwell," Rice Lecture Series Featuring Teaching Award Winners, 1999.
- "Teaching Across the Millennia: A Rice Professor Reminisces," Society for Rice University Women, January 2000; also given to Rice Alumni, Vienna, Austria, August 2000.
- "Redistricting: The Blood Sport of Politics," Rice Lecture Series Featuring Teaching Award Winners, 2000.
- "Is Equality in America a Chimera?" Rice Lecture Series Featuring Teaching Award Winners, 2002; also given as part Continuing Studies Lecture Series Featuring Sociology Department, 2003.

#### SELECTED PROFESSIONAL ACTIVITIES:

- "An Introduction to Sociology," ten-week seminar for resident psychiatrists, The University of Texas Medical Branch, Galveston, 1971.
- Invited response to two papers, Southern Historical Association annual meeting, Atlanta, 1974.
- "Roundtable on Peace Education: Regional Experiences and Resources," Southwestern Social Science Association annual meeting, San Antonio, 1975.



- "The Culture of Poverty and the Culture of Wealth," paper, Southwestern Social Science Association annual meeting, Dallas, 1976.
- Charter member, Board of Directors, Houston Metropolitan Research Center, Houston Public Library, 1977.
- "The Influence of Money on Elections: The Texas Case," jointly authored paper, Southwestern Social Science Association annual meetings, Dallas, 1977.
- "The Struggle for Control of the Democratic Party in Texas," paper, Eastern Sociological Association annual meeting, New York City, 1976.
- "The Mobilization of Bias in Houston City Politics," co-authored paper, Southwestern Social Science Association annual meeting, Houston, 1978.
- "The Political Economy of Contemporary Public Policy," Symposium participant, Department of Government, The University of Texas at Austin, 1978.
- Invited response to two papers, Southern Historical Association annual meeting, Atlanta, 1979.
- "Increasing Opportunities for Political Participation," invited panelist, Texas Advisory Committee to the U.S. Commission on Civil Rights, San Antonio, 1979.
- "A Model of Contemporary Houston Politics," paper, Social Sciences Faculty, Houston Community College, 1980.
- "At-Large Elections and Minority-Group Representation," co-authored paper, Texas Southern University Conference on Afro-American Studies, Houston, 1981.
- "At-Large Election Systems and the Dilution of the Black Vote: Historians as Expert Witnesses," panelist, Social Science History Association annual meeting, Nashville, 1981.
- "Minority Politics and Political Cultures," panelist, Southwestern Social Science Association annual meeting, San Antonio, 1982.
- "Continuity and Change in a Sunbelt City: Perspectives on Houston and Survey Research in the 1980s," panel chair, Southeastern Sociological Association Annual Meetings, Houston, 1983.
- "The Social Scientist as Expert Witness," panelist, Southwestern Political Science Association annual meetings, Houston, 1983.
- "Minority Vote Dilution," panel chair, Southern Political Science Association Annual Meeting, Birmingham, 1983.
- "Power, Influence, and Public Policy in Houston," panelist, Southwestern Political Science Association annual meeting, Houston, 1985.
- "Nonpartisan Slating Groups and Minority Representation," paper, American Political Science Association annual meeting, New Orleans, 1985.
- "Partisans in Sheep's Clothing: The Ambiguous Legacy of Municipal Reform," Rice University Provost's Lecture Series, 1985.
- "The Impact of the Voting Rights Act of 1965," co-organizer (with Bernard Grofman) planning conference, Rice University, 1988.
- "Municipal and Special District Elections," panelist, Southwestern Political Science Association annual meetings, 1988.

- "V. O. Key's Vision of Texas Politics," presentation, symposium on "The World of Texas Politics," sponsored by The Houston Post and the LBJ School of Public Affairs, Houston, 1988.
- "Texas Politics," invited panelist, Lee College Symposium on "Texas Politics in Transition," Baytown, 1988
- "Race and Class in Texas Politics," paper, Conference on Social Class, University of Kansas, 1989.
- "Race and Class in Texas Politics," paper, American Sociological Association, San Francisco, 1989.
- "The Impact of the Voting Rights Act," panel chair, American Political Science Association, Atlanta, 1989.
- "The Voting and Campaign Process," panel moderator, Symposium on Democracy in the 1990s: Voting in the United States, Lyndon Baines Johnson School of Public Affairs, Austin, 1990.
- "The Voting Rights Act and the Transformation of Urban Politics," panel chair, Western Political Science Association, Seattle, March 1991.
- "What is Election Discrimination? Argument and Proof in Voting Rights Cases," panelist, American Association of Black Political Scientists annual meeting, Houston, March 1992.
- "Recent Controversies over The Voting Rights Act," invited lecture, Seminar on Voting Rights, University of San Francisco School of Law, San Francisco, March 1992.
- "1990s Redistricting," panelist, Western Political Science Association annual meeting, San Francisco, March 1992.
- "Regulating the Electoral Process," invited panelist, Texas Law Review Symposium, University of Texas Law School, Austin, Texas, 1992.
- "The Impact of the Voting Rights Act in the South: The First Twenty-five Years," invited panelist, Southern Regional Council Voting Rights Conference, Atlanta, 1993.
- "Voting Rights After Shaw v. Reno," invited panelist, American Political Science Association annual meeting, New York City, 1994.
- "Response to Gary Orfield," invited panelist on "Educational Policy," Conference on the Impact of the Civil Rights Act of 1964, National Judicial Center, Washington, D.C., 1994.
- "Diversity and Democracy: Creating the Common Good," invited paper, 75th Anniversary of the Southern Regional Council, Atlanta, 1994.
- "The Voting Rights Act: The Accomplishments." Panel moderator, Conference on the Voting Rights Act, Thurgood Marshall School of Law, Texas Southern University, 1995.
- "Voting Rights in the Wake of Recent Supreme Court Decisions," panel moderator, American Political Science Association annual meeting, Chicago, 1995.
- "The Media and the Quiet Revolution: Public Opinion and Voting Rights," invited paper, Conference on "The Voting Rights After Thirty Years," co-sponsored

- by the Southern Regional Council and the Lawyers Committee for Civil Rights Under Law, New Orleans, 1995.
- "Mechanisms of Ethnic/Racial Conflict Resolution," invited panelist, "E Pluribus Unum" conference, Stanford University, 1996.
- "Tenth Anniversary Roundtable on Voting Rights Issues," invited panelist, The Citadel Symposium on Southern Politics, Charleston, March 7-8, 1996.
- "The Rise of Racial Gerrymandering in Texas," invited public lecture, Lamar University, Beaumont, March 25, 1997.
- "Contemporary Districting Challenges and Opportunities," invited panelist, conference on "Geographic Information Systems and Political Redistricting," National Center for Geographic Information and Analysis, SUNY at Buffalo, Oct. 26, 1997.
- "Perspectives on the 2000 Redistricting," invited panelist, Joint Center for Political and Economic Studies, Washington, D.C. , July 9, 1998.
- "Author Meets Critics," invited panelist responding to Morgan Kousser's Color Blind Injustice, Southern Sociological Society, Nashville, April 9, 1999.
- "Race and Redistricting," invited paper, Conference on "African Americans: Research and Policy Perspectives at the Turn of the Century," Stanford University, November 11-13, 1999.
- "And Then You Are Sued: Examining the Role of the U.S. Department of Justice and the Federal Courts in the Fifth Wave of Redistricting Since the Passage of the Voting Rights Act," invited chair, Conference on "Power Shift: Redrawing America's Political Boundaries After the 2000 Elections and Census," University of Houston Center for Public Policy, December 8, 2000.
- "White Gerrymandering of Black Voters: A Response to Professor Everett," invited paper, "Democracy in a New America: A Symposium," sponsored by the University of North Carolina Law Review, Chapel Hill, February 2001.
- "Urban Disfranchisement," invited organizer and chair, plenary session of American Sociological Association annual meeting, Anaheim, California, August 20, 2001.
- "Author Meets Critics: S.M. Lipset and Gary Marks's Why There is No Socialism in the United States," organizer of panel, American Sociological Association annual meeting, Anaheim, California, August 18-21, 2001.
- "The Future of the Voting Rights Act," invited participant, conference at Columbia University, September 20-21, 2003.
- "Protecting Democracy: Defining the Research Agenda for the 2007 Voting Rights Act Reauthorization," invited participant, Harvard Civil Rights Project, Harvard University, May 9-12, 2004.
- "Protecting Our Voices: The Significance of the Voting Rights Act," invited participant, Mexican American Legal Defense Fund, the Lawyers Committee for Civil Rights Under Law, and the NAACP Legal Defense Fund, Washington, D.C., June 17-18, 2004.

- "One Nation with Many Voices," invited participant, conference on the Voting Rights Act and minority language provisions, Arizona State University, Phoenix, April 6, 2005.
- "Lessons From the Past, Prospects for the Future: Honoring the 40th Anniversary of the Voting Rights Act of 1965," invited panelist, Yale University, April 21-23, 2005.
- "Past and Prologue," invited panelist, National Conference Commemorating the 40<sup>th</sup> Anniversary of the Voting Rights Act of 1965" (Sponsored by the Lawyers Committee for Civil Rights, LDF, MALDEF, ACLU, and Native American Rights Fund), July 25-26, 2005, Washington, D.C.
- "Documenting Discrimination in Voting: Judicial Findings Under Section 2 of the Voting Rights Act since 1982," invited panelist, The Voting Rights Initiative, University of Michigan Law School, November 10, 2005.
- "Conference on the Voting Rights Act," invited panelist, Duke University, April 7-8, 2006.
- "Research on Minority Vote Suppression," convener, unofficial colloquium in conjunction with the annual meeting of the American Political Science Association, Philadelphia, August 31, 2006.
- "Democracy, Disenfranchisement, and November 2008," invited panelist, Rice University, September 24, 2008.
- "Shaking the Foundations," invited panelist, conference, Stanford Law School, October 3-4, 2008.
- "A Brief History of Vote Suppression in America from the Civil Rights Movement to the Present," invited lecture, American Constitution Society, Houston Lawyers Chapter, October 28, 2008.
- "Vote Suppression," invited lecture, Community Census and Redistricting Institute, Southern Coalition for Social Justice, Duke University, July 29, 2010.

#### CONSULTING:

- 1971      Sparks v. Griffin, U.S. District Court, Marshall, Texas. Expert witness for plaintiffs, black school teachers who were fired when Upshur Independent School District was required to desegregate.
- 1973-74   USA v. Griggs, U.S. District Court, Gainesville, Florida. Consultant to defendants in their efforts to demonstrate that the jury selection procedure in Florida was unfair.
- 1973-74   Sabala v. Western Gillette, Inc. and Ramirez v. Western Gillette, Inc., U.S. District Court, Houston, Texas (Case Nos. 71-H-961 and 71-H-1336). Consultant to plaintiffs in class-action employment discrimination suit.

- 1975-76 Greater Houston Civic Council v. Mann, U.S. District Court, Houston (Case No. 73-H-1650). Expert witness for plaintiffs, who alleged minority vote dilution as a result of the City of Houston's at-large election system.
- 1978 Three-judge panel, U.S. District Court, Houston. Expert witness for plaintiffs-intervenors attempting to enjoin the City of Houston from holding elections until it complied with Section 5 pre-clearance requirements of the Voting Rights Act.
- 1979-80 Whitfield v. City of Taylor, Texas U.S. District Court, Austin, Texas (Case No. A-79-CA-0015). Consultant to plaintiffs, who alleged unconstitutional dilution of their votes.
- 1979-83 Jones v. City of Lubbock, Texas, U.S. Court of Appeals, Fifth Circuit, Unit A (No. 79-2744). Consultant and expert witness for plaintiffs-appellants, who alleged unconstitutional dilution of their votes.
- 1979-86 Velasquez v. City of Abilene, Texas, U.S. District Court, Abilene (Case No. CA-1-80-57). Consultant and expert witness for plaintiffs, who alleged unconstitutional dilution of their votes.
- 1980 City of Port Arthur, Texas v. United States of America, U.S. District Court for the District of Columbia (Case No. 80-064P). Expert witness for USA, who contended that a consolidation election by the city illegally diluted the votes of minorities under the Voting Rights Act.
- 1980-81 Oxford Place Welfare Rights Organization v. Jerome Chapman, U.S. District Court, Houston (Case No. 79-H-1283). Consultant to plaintiffs, welfare recipients who alleged that long delays in receipt of their welfare payments were unconstitutional.
- 1981 At the request of the Legal Aid Society of Central Texas, analyzed voting data for the City of Austin, Texas, relevant to a preclearance submission the city made to the Justice Department under the Voting Rights Act.
- 1981 Brown v. Board of School Commissioners of Mobile County, U.S. District Court, Mobile, Alabama (Case No. CV-75-298-P). Expert witness for USA, intervenors in the rehearing of a vote-dilution suit, remanded by the U.S. Supreme Court.
- 1981 Bolden v. City of Mobile, U.S. District Court, Mobile, Alabama (Case No. 75-297-P). Expert witness for plaintiffs in the rehearing of a vote-dilution case, remanded by the U.S. Supreme Court.

- 1981 Walton v. Henson, U.S. District Court, Paris, Texas (Case No. P-80-39-CA). Expert witness for plaintiffs, who alleged unconstitutional dilution of their votes.
- 1981 Seaman v. Upham. Three-judge panel, U.S. District Court, Austin, Texas (Case No. P-81-49-CA). Expert witness for plaintiffs, who alleged unconstitutional dilution of their votes.
- 1982 Texas v. Martin, 104th District Court of Taylor County, Texas. Consultant to defendant, Dee Dee Martin, indicted on capital murder charges, who claimed the jury selection system discriminated against blacks.
- 1982 Harris v. City of Hopewell, Virginia, U.S. District Court, Richmond, Virginia (Case No. 82-0036-R). Consultant to plaintiffs, who claimed unconstitutional dilution of their votes.
- 1983-84 Kirksey v. Danks, Mayor of Jackson, Mississippi, U.S. District Court, Jackson (Civil Action No. J83-0077-C). Expert witness for plaintiffs, who claimed dilution of their votes under Section 2 of the Voting Rights Act.
- 1985 Sumbry v. Russell County, Alabama. Consultant to plaintiffs, who claimed dilution of their voting strength under Section 2 of the Voting Rights Act.
- 1985 Lee County Branch of the NAACP v. City of Opelika, Alabama, (Case No. 83-7275). Consultant to plaintiffs, who claimed dilution of their voting strength under Section 2 of the Voting Rights Act.
- 1985 Tallahassee NAACP v. Leon County, Florida. Consultant to plaintiffs alleging dilution of their votes in county commission elections.
- 1985 Harris v. Graddick, U.S. District Court, Birmingham (C.A. No. 84-T-595-N). Expert witness for plaintiffs alleging that the state of Alabama employed a system for appointing poll officials that denied blacks equal access to the political process.
- 1985-86 LULAC v. Midland Independent School District, U.S. District Court, Midland, Texas (MO-85-CA-001). Expert witness for plaintiffs alleging vote dilution.
- 1985-86 United States of America v. Dallas County (Alabama) Commission, U.S. District Court, Selma (C.A. No. 78-578-H). Expert witness for U.S.A. in case alleging the dilution of minority votes in Dallas County.
- 1986-87 Martin v. Allain, Governor of Mississippi, U.S. District Court, Jackson (C.A. No. J84-0708 (W)). Expert witness for plaintiffs alleging vote dilution.

- 1985-87 McNeil v. City of Springfield, U.S. District Court, Springfield, IL. (C.A. No. 85-2365). Expert witness for plaintiffs alleging minority vote dilution.
- 1987 Martin v. Allain (see above) consolidated with Kirksey v. Allain, U.S. District Court, Jackson (C.A. No. J85-0960 (W)). Expert witness for plaintiffs, alleging violation of their voting rights under the Constitution and the Voting Rights Act..
- 1987 Metropolitan Pittsburgh Crusade for Votes v. City of Pittsburgh (C.A. No. 86-173). Consultant to plaintiffs alleging vote dilution.
- 1988-89 Badillo v. City of Stockton, California (C.A. No. 87-1726 U. S. District Court, Eastern District of California). Consultant to plaintiffs alleging vote dilution.
- 1988-89 Russell Yarbrough v. City of Birmingham, Alabama (C.A. No. CV87-PT-1947-S). Consultant to defendants, a racially-mixed city council elected at large in a system white plaintiffs claimed diluted their votes.
- 1988-89 League of United Latin American Citizens (LULAC) v. Clements, U.S. District Court, Western District of Texas (No. 88-CA-154). Consultant to plaintiffs alleging vote dilution in multi-member district state judicial elections.
- 1994 Vera v. Richards, U.S. District Court, Southern District of Texas (C.A. No. H-94-0227). Expert for State of Texas, which was alleged to have violated the U.S. Constitution in creating majority-minority districts in the 1990s round of congressional redistricting.
- 2004-05 Center for Voting Rights and Protection, Inc. Washington, D.C. Director of research on ballot security programs as instruments of minority vote suppression.
- 2004-06 Lawyers' Committee for Civil Rights Under Law, Washington, D.C. Director of research on the status of minority voting rights in the U.S.
- 2005-06 Member, National Commission on the Voting Rights Act, which held ten regional hearings across the nation on problems with voting faced by racial minorities.
- 2007 Brennan Center for Justice at NYU and Center for Voting Rights and Protection, Inc., Washington, D.C. Signatory, as well as drafter and primary author of Historians and Other Scholars *amici curiae* brief in Crawford et al., v. Marion County Election Board, et al., in the Supreme Court of the United States.

- 2009      Democratic National Committee, et al., v. Republican National Committee, et al., Civil Action No: 81-3876 (DRD), U.S. District Court: District of New Jersey. Expert for the DNC, which argued that a consent decree requiring the RNC to obtain permission from Federal Judge Dickinson Debevoise before engaging in any ballot security program should not be vacated, as requested by the RNC.

## REFERENCES

### Bernard Grofman

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Adjunct Professor of Economics  
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# **EXHIBIT B**

## **Estimates of Texas Voters Without State-Issued Photo Identification**

by

Leland Beatty, MBA

August 31, 2011

I declare the following:

1. My name is Leland Beatty. I am a resident of Austin, TX. I am currently employed as a statistical marketing consultant by commercial and political clients. Previously, I served as general manager of Texas Rural Communities, Inc., a non-profit economic development corporation, and as director of research at the Texas Department of Agriculture. My resume, with detailed experience and education, is attached.
2. I have done extensive research on voting behaviors, including minority participation, in Texas, Minnesota, New York and Wisconsin.

### **ANALYSIS OF TEXAS ACTIVE VOTERS WITHOUT STATE-ISSUED PHOTO IDENTIFICATION**

3. Although the State of Texas routinely compares registered voter information with data in its law enforcement and licensing database, it has declined to make public information on the exact number of registered voters who do not possess state-issued photo identification, or on the ethnic or racial composition of voters without mandated id. Research suggests that substantial numbers of Texas active registered voters do not currently possess valid identification required by the new law, and the State of Texas has the capacity to determine exactly who and how many will be affected.
4. Research based on a different state has been applied in a number of voter identification cases, including Justice David Souter in his dissenting opinion in Crawford v. Marion County Election Board, and the U.S. Department of Justice in its preclearance discussions on Georgia's voter identification law.

### **DATA AND METHODS**

5. A complete list of Texas registered voters was obtained from the Texas Secretary of State. Latino voters were identified by Latino-specific last names. African American voters were identified by a commercial service. Additionally, voter addresses were geocoded and locations were noted by census block, block group and tract, and census data on income, ethnicity and tenure were appended to each voter record. Census median household income was weighted by the number of registered voters at the block group level.
6. The best method for quantifying the effect of state-issued identification requirements on registered voters would be actual counts from the Texas Department of Public Safety, which

checks all voter registrants for disqualifying factors, such as criminal or mental health issues, and issues identification acceptable under the new Texas law, including drivers licenses, state ids, and handgun licenses. However, the state has declined to make such information available.

7. A search of the literature on state-issued identification and voter registration revealed no research on this relationship in the state of Texas. Additionally, I researched and was not able to locate racial breakdowns for holders of passports, handgun licenses, or and citizenship certificates.
8. In the absence of Texas-specific study, research at the national level and on other states was reviewed and conclusions from those studies were applied to the Texas voter file. While this approach is not conclusive, it suggests significant potential for disenfranchisement of minority Texas voters.

## RESULTS

9. All of the research reviewed agreed that some disenfranchisement of qualified voters results from laws that require a state-issued photo id be presented at the polls. The lowest effect, described by Stephen Ansolabehere in his 2007 study, “Access versus Integrity in Voter Identification Requirements” [[http://www.vote.caltech.edu/media/documents/wps/vtp\\_wp58.pdf](http://www.vote.caltech.edu/media/documents/wps/vtp_wp58.pdf)], calculated that only .06% of registered voters lacked acceptable identification. In Texas, that would mean the disenfranchisement of 8,284 currently registered voters.
10. Lower income voters are disproportionately disenfranchised by voter photo identification laws, according to research by Matt Barreto, Stephen Nuno, and Gabriel Sanchez in “The Disproportionate Impact of Indiana Voter ID Requirements on the Electorate,” Working Paper, Washington Institute for the Study of Ethnicity and Race [[http://depts.washington.edu/uwiser/documents/Indiana\\_voter.pdf](http://depts.washington.edu/uwiser/documents/Indiana_voter.pdf)]. Barreto, et al, determined that 17.5% of registered voters with annual incomes under \$40,000 did not possess qualifying identification, compared to 11.2% of registered voters with annual incomes over \$40,000. Minority voters in Texas are significantly impacted by income disparity, according to the U.S. Census.
11. Almost six percent of active registered Texas voters live in census block groups with median household income under \$20,000, and 45% (5.9 million active voters) live in census block groups with median household incomes below \$40,000 per year. Minority voters make up a disproportionate share of voters with household incomes below \$40,000, including 55% of active Latino registered voters, and 51% of active African American Registered voters. Income

tables by ethnicity are provided in the appendix.

12. If we expand our view from active registered voters to the voting age population, we see even greater numbers of inactive and unregistered minority voters could be denied voting rights if this law takes effect. I studied and analyzed poverty data from the Census 2009 American Community Survey, broken down by ethnicity. That data revealed that 8.8% of White Texans live below the federal poverty level, compared to 22.8% of African Americans and 25.8% of Latinos.
13. 18.8% of the Latino voting age population lived below the poverty level in 2009, and 20.8% of voting age African Americans, compared to only 8.3% of the voting age white population. The poverty level in 2009 was set at an annual income of \$22,050 for a family of four. Currently, it is \$22,350. The table below shows the poverty counts and shares by ethnicity.

Texas Poverty Counts and Shares						
Ethnicity	Total Population	Below Poverty	Below Poverty Share	Population 18+	Below Poverty 18+	Below Poverty 18+ Share
African American	2,738,904	623,899	22.8%	1,943,311	365,997	18.8%
Latino	8,382,218	2,159,385	25.8%	5,522,882	1,146,358	20.8%
White	11,097,466	974,026	8.8%	8,912,545	739,842	8.3%
Other	1,600,454	135,222	8.4%	807,190	91,225	11.3%
All Ethnicities	23,819,042	3,892,532	16.3%	17,185,928	2,343,422	13.6%

Source: American Community Survey, 5 Year Summary, 2005-2009. Estimates for 2009.

14. I also researched the median household income by ethnicity for 2010. The results, presented in the appendix, confirm substantially larger low-income shares among minority Texas residents. The data and analysis revealed that the median household income for all White voters in Texas is \$56,587, yet it is only \$39,271 for Black voters and \$39,153 for Latino voters.
15. Most research shows additional disproportionate impacts on minority voters. Barreto, et al, discovered that 18.1% of minority voters did not possess acceptable photo identification, compared to only 11.5% of white voters. From a study of Georgia registered voters, M.V. Hood III and Charles S. Bullock III of the University of Georgia concluded that minority voters are almost twice as likely to be disenfranchised by photo identification requirements as were white voters. In "Voter ID Are Not the Problem: A Survey of Three States, Robert Pastor, Robert Santos, Alison Prevost and Vassia Gueorguieva discovered that African American voters did not possess acceptable photo identification at a rate almost 2.5 times as high as that for white voters. Barreto, et al asked eligible voters in Indiana about their identification and determined that an even higher share were likely to be disenfranchised, particularly low-income

and minority voters.

Voters Without Acceptable Voter ID by Ethnicity: Three Studies			
Ethnicity	Hood Study	Pastor Study	Barreto Study
African American	6.80%	2.2%	18.1%
Latino	7.30%	Not Calculated	Not Calculated
White	3.70%	0.9%	11.5%
Other/Missing	4.90%	Not Calculated	Not Calculated

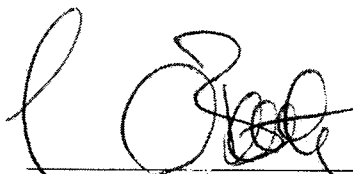
The table below applies the study percentages to Texas active registered voters.

Three Estimates of Texas Voters Without Acceptable Photo ID				
Ethnicity	Active Registered Voters	Hood Study	Pastor Study	Barreto Study
African American	1,629,418	110,800	35,847	294,925
Latino	3,082,634	225,032	Not Calculated	Not Calculated
White	7,853,187	290,568	70,679	903,117
Other/Missing	580,801	28,459	Not Calculated	Not Calculated
Total	13,146,040	654,860	106,526	1,198,041

## CONCLUSION

- While studies differ over the full impact of requiring voters to produce state-issued photo identification, there is broad agreement that photo identification laws result in the disenfranchisement of some voters. Research also indicates a strong likelihood that minority voters will be disenfranchised at a significantly greater rate than white voters. While this research focused on voters in other states, the State of Texas has the ability and responsibility to demonstrate the effect of the Texas law on the actual population, including minority and disadvantaged voters, and should be required to do so in the preclearance process.

I declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge,

 8/31/2011  
Leland Beatty Date

information, and belief.

Sources:

- A Stephen Ansolabehere, 2007 "Access versus Integrity in Voter Identification Requirements",  
[http://www.vote.caltech.edu/media/documents/wps/vtp\\_wp58.pdf](http://www.vote.caltech.edu/media/documents/wps/vtp_wp58.pdf)
- A Robert Pastor, Robert Santos, Alison Prevost and Vassia Gueorguieva (2008). Voter Ids Are Not the Problem: A Survey of Three States. Center for Democracy and Election Management.  
<http://www.american.edu/is/edem/pdfs/NoterIDFinalReport1-9-08.pdf>
- A Matt Barreto, Stephen Nuno, and Gabriel Sanchez (November 8, 2007), "The Disproportionate Impact of Indiana Voter ID Requirements on the Electorate," Working Paper, Washington Institute for the Study of Ethnicity and Race,  
[http://depts.washington.edu/uwiser/documents/Indiana\\_voter.pdf](http://depts.washington.edu/uwiser/documents/Indiana_voter.pdf)
- A M.V. Hood III and Charles S. Bullock III, 2007, "Worth a Thousand Words?: An Analysis of Georgia's Voter Identification Statute," Annual Meeting of the Southwestern Political Science Association. <http://electionlawblog.org/archives/GA%20Voter%20ID%20%28Bullock%20&%20Hood%29.pdf>

## Appendix

The tables below show the number of active Texas registered voters by the median household income of the Census block group in which they reside. Table 1 presents data for all active registered voters; Table 2 for Latino active voters; Table 3 for African American active voters; Table 4 for White active voters, and Table 5 for voters of other ethnicities, and those for whom ethnicity could not be determined.

Table 1: All Active Registered Voters

Median Household Income: All Voters				
Household Income Group	Median HH Income	Voters	Ethnic Group Share	All Voters Share
\$20,000 or Less	\$18,225	753,819	5.7%	5.7%
\$20,000 to \$30,000	\$27,756	2,268,533	17.3%	17.3%
\$30,000 to \$40,000	\$36,738	2,897,934	22.0%	22.0%
\$40,000 to \$50,000	\$46,299	2,234,500	17.0%	17.0%
Over \$50,000	\$73,698	4,991,254	38.0%	38.0%
Total	\$50,762	13,146,040	100.0%	100.0%

Table 2: Latino Active Registered Voters

Median Household Income: Latino Voters				
Household Income Group	Median HH Income	Voters	Ethnic Group Share	All Voters Share
\$20,000 or Less	\$17,854	372,413	12.1%	2.8%
\$20,000 to \$30,000	\$26,605	932,891	30.3%	7.1%
\$30,000 to \$40,000	\$35,603	703,861	22.8%	5.4%
\$40,000 to \$50,000	\$45,113	428,412	13.9%	3.3%
Over \$50,000	\$66,265	645,057	20.9%	4.9%
Total	\$39,156	3,082,634	100.0%	23.4%

Table 3: African American Non-Suspense Registered Voters

Median Household Income: African American Voters				
Household Income Group	Median HH Income	Voters	Ethnic Group Share	All Voters Share
\$20,000 or Less	\$17,220	202,013	12.4%	1.5%
\$20,000 to \$30,000	\$26,748	390,746	24.0%	3.0%
\$30,000 to \$40,000	\$35,451	392,725	24.1%	3.0%
\$40,000 to \$50,000	\$44,526	253,254	15.5%	1.9%
Over \$50,000	\$64,148	390,680	24.0%	3.0%
Total	\$39,271	1,629,418	100.0%	12.4%



Table 4: White Non-Suspense Registered Voters

Median Household Income: White Voters				
Household Income Group	Median HH Income	Voters	Ethnic Group Share	All Voters Share
\$20,000 or Less	\$20,272	164,523	2.1%	1.3%
\$20,000 to \$30,000	\$29,433	898,704	11.4%	6.8%
\$30,000 to \$40,000	\$37,464	1,723,779	22.0%	13.1%
\$40,000 to \$50,000	\$46,869	1,465,175	18.7%	11.1%
Over \$50,000	\$75,360	3,601,007	45.9%	27.4%
Total	\$56,587	7,853,187	100.0%	59.7%

Table 5: Other/Missing Ethnicity Non-Suspense Registered Voters

Median Household Income: Other and Missing Ethnicity Voters				
Household Income Group	Median HH Income	Voters	Ethnic Group Share	All Voters Share
\$20,000 or Less	\$18,680	14,870	2.6%	0.1%
\$20,000 to \$30,000	\$29,654	46,192	8.0%	0.4%
\$30,000 to \$40,000	\$38,200	77,570	13.4%	0.6%
\$40,000 to \$50,000	\$47,635	87,659	15.1%	0.7%
Over \$50,000	\$80,256	354,510	61.0%	2.7%
Total	\$64,641	580,801	100.0%	4.4%

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**Employment**

1/00-present	<b>Consultant, Predictive Analytics and Business Process.</b> <i>Voter Participation and Preference Modeling</i> <ul style="list-style-type: none"><li>Highly accurate predictive modeling. In the past four election cycles, actual results varied less than 2% from predicted results. This information advantage has consistently helped candidates win against much better funded opponents. Services include innovative low-cost polling, detailed market segmentation, and integration with campaign resources, including budgeting, message, canvas, mail and phone programs, and media buying.</li></ul> <i>Marketing Planning and Management</i> <ul style="list-style-type: none"><li>Create targeted marketing plans based on data mining analysis of complex consumer data. Product includes detailed market segments with strategies and metrics for each segment. Clients include national big-box retailers, insurance marketers and direct mail vendors.</li></ul>	Austin, TX
6/89-12/99	<b>Texas Rural Communities, Inc.</b> <i>General Manager</i> Highlights: <ul style="list-style-type: none"><li>Created adult continuing education programs, including a farm financial management training program which became a requirement for all Texas farmers seeking a federal farm loan. Delivered program via community colleges and the Internet. Customer satisfaction levels topped 90% in a course expected to be unpopular</li><li>Operated a grant program targeting rural, minority children which funded innovative social programs, such as heritage-based mentor programs for at-risk rural minority children.</li><li>Investment fiduciary for Heartland Lloyds, a start-up insurance company targeted to the insurance needs of underserved rural counties; served on Heartland's Board of Directors for five years</li><li>Operated an active small business loan and technical assistance program</li><li>Managed operations of five endangered Texas state parks. Tripled income and reduced deficits by 50% in two years</li><li>Created a set of private-industry tourism promotions that increased revenues of participants by more than 33% in first season.</li></ul>	Austin, TX
5/83-5/89	<b>Texas Department of Agriculture</b> <i>Director, Farmer Assistance Programs</i> <ul style="list-style-type: none"><li>Created and delivered programs to increase income and provide legal and mental health assistance to farmers and other rural businesses during the worst agricultural economic downturn since the Great Depression</li><li>Led staff of 6 to 12 researchers and program specialists</li><li>Producer for Willie Nelson's FarmAid II</li><li>Primary speechwriter for Agriculture Commissioner Jim Hightower</li></ul>	Austin, TX
3/80-5/83	<b>Sweetwater Reporter</b> <i>Managing Editor of award-winning daily newspaper serving 17,000 subscribers</i>	Sweetwater, TX
9/77-5/79	<b>Weslaco Independent School District</b> <i>Bilingual Teacher for migrant high schoolers with English language skills at primary levels</i>	Weslaco, TX
<b>Education</b>	<b>The University of Texas at Austin, McCombs School of Business</b> Master of Business Administration  <b>Columbia University, New York, New York</b> Bachelor of Arts in Literature, History and Art History	

# **EXHIBIT C**

County Name	Status	County Seat	Closest City	Fed. Judicial Dist.	Fed. Division
State of Texas					
Aransas	No office				
Austin	Closed (aging system)				
Bandera	Closed (aging system)				
Clay	Closed				
Collingsworth	Closed				
Cottle	Closed				
Dimmit	No office				
Falls	No office				
Fayette	Closed				
Foard	Closed				
Franklin	Closed				
Goliad	Closed				
Grimes	Closed				
Hall	Closed				
Jack	Closed				
Kenedy	No office				
Kent	Closed				
King	No office				
La Salle	Closed				
Loving	No office				
Madison	Closed				
Marion	No office				
Newton	No office				
Potter	No office				
Roberts	Closed				
Sabine	Closed				
San Augustine	No office				
San Jacinto	Closed				
Shackelford	Closed				
Somervell	No office				
Stonewall	Closed				
Throckmorton	Closed				
Trinity	Closed				
Willacy	No office				

# **EXHIBIT D**

County Name State of Texas	Status
Archer	Temporarily Closed
Armstrong	Temporarily Closed
Blanco	Temporarily Closed
Borden	Temporarily Closed
Briscoe	Temporarily Closed
Burleson	Temporarily Closed (no reason)
Caldwell	Temporarily Closed
Camp	Temporarily Closed
Cochran	Temporarily Closed
Coke	Temporarily Closed
Concho	Temporarily Closed
Crockett	Temporarily Closed
Delta	Temporarily Closed
Dickens	Temporarily Closed
Duval	Temporarily Closed
Edwards	Temporarily Closed
Frio	Temporarily Closed
Garza	Temporarily Closed
Glasscock	Temporarily Closed
Hansford	Temporarily Closed
Hartley	Temporarily Closed
Hudspeth	Temporarily Closed
Irion	Temporarily Closed
Jackson	Temporarily Closed
Jeff Davis	Temporarily Closed
Jim Hogg	Temporarily Closed
Karnes	Temporarily Closed
Kimble	Temporarily Closed
Kinney	Temporarily Closed
Lee	Temporarily Closed
Lipscomb	Temporarily Closed
Lynn	Temporarily Closed
Mason	Temporarily Closed
McMullen	Temporarily Closed
Menard	Temporarily Closed
Motley	Temporarily Closed
Oldham	Temporarily Closed
Real	Temporarily Closed
Refugio	Temporarily Closed
Robertson	Temporarily Closed (no reason)
San Saba	Temporarily Closed
Schleicher	Temporarily Closed
Sherman	Temporarily Closed
Sterling	Temporarily Closed
Terrell	Temporarily Closed
Upton	Temporarily Closed

# **EXHIBIT E**

County	Days Open	Hours
State of Texas		
Baylor	Tues.	9:15-3:45
Bosque	Wed. & Thurs.	9:00-4:00
Brooks	Tues. 1st, 3rd, & 5th Wed.(note other office	8:30-4:00
Callahan	closed)	9:00-4:00
Carson	1st, 3rd, & 5th Tues.	9:00-4:00
Castro	Mon., Thurs., & Fri.	8:30-5:00
Coleman	Mon., Thurs., & Fri.	8:30-5:00
Comanche	Tues., Thurs., & Fri.	8:30-5:00
Crane	Mon. & Fri.	8:30-5:00
Culberson	Thurs.	9:00-5:00
Dallam	Tues.	9:00-4:00
Donley	Thurs.	9:00-3:45
Fisher	Wed.	9:00-4:00
Freestone	Wed.	9:00-4:00
Hamilton	Mon., Tues. & Wed.	8:30-5:00
Hardeman	Tues. (except 1st)	9:00-4:00
Hardin	2nd & 4th Tues.	9:00-4:00
Haskell	Mon. & Fri.	8:30-5/4:30
Hemphill	Wed. & 2nd & 5th Tues.	9:00-4:00
Jones	Mon., Tues., Fri. & 2nd & 4th Wed.	8:30-5:00
Knox	Wed.	8:30-4:15
Lampasas	Tues., Wed. & Thurs.	8:30-5:00
Lavaca	Tues. & Wed.	9:00-4:00
Limestone	Mon., Tues., Thurs., & Fri.	8:30-5:00
Live Oak	Tues. & Wed.	9:00-4:00
Llano	Tues. & Thurs.	9:00-4:30
Martin	Tues.	9:00-4:00
Medina	Mon., Tues., Thurs., & Fri.	8:00-5:00
Milam	Mon., Thurs., & Fri.	8:30-5:00
Mills	Thurs.	9:00-4:00
Mitchell	Mon. & Fri.	8:30-5/1:00
Moore	Mon., Wed., Thurs., & Fri.	8:00-5:00
Panola	Mon., Wed. & Fri.	8:00-4:30
Parmer	Tues. & Wed.	9:00-4:30
Rains	Wed.	9:00-4:00
Reagan	Wed. & Thurs.	9:15-3:45
Reeves	Mon., Tues., Wed. & Fri.	8:30-5:00
Runnels	Tues. & Wed.	8:45-4:15
Scurry	Tues., Wed. & Thurs.	8:30-5:00 1:30(Tu)/8:30-
Stephens	Tues., Wed. & Thurs.	5:00
Sutton	Thurs.	9:30-3:15
Swisher	Tues. & Wed.	8:30-4:30
Tyler	Wed. & Thurs.	9:00-4:00
Ward	Tues. & Thurs.	9:00-3:30
Wheeler	Thurs. & 1st, 3rd, & 5th Tues. (note other office is closed)	9:00-3:45



Winkler

Wed. & Thurs.

8:30-4:15 &  
9:00-3:45