

following associations are represented on the Board of Directors of TAC: the County Judges and Commissioners Association of Texas; the North and East Texas Judges' and Commissioners' Association; the South Texas Judges' and Commissioners' Association; the West Texas Judges' and Commissioners' Association; the Texas District and County Attorneys' Association; the Sheriff's Association of Texas; the County and District Clerks' Association of Texas; the Texas Association of Tax Assessor-Collectors; the Texas County Treasurers' Association; the Justice of the Peace and Constables' Association of Texas; and the County Auditors' Association of Texas. The County Judges and Commissioners Association of Texas is a non-profit association of all 254 county commissioners courts, providing educational, legal and legislative services to the members of county commissioners courts. Each of the County Organizations serves its respective member counties through education endeavors and through representation before state and federal governmental entities.

The County Organizations approve of the planned unified primaries. Bifurcated primaries would result in increased costs to counties, and would create confusion among voters.

Despite agreement with the unified primaries, the County Organizations believe the Order issued in these consolidated cases on December 16, 2011 (hereinafter, "the Order") imposes on counties requirements that (1) are impossible to comply with, or that will be extremely difficult and expensive to comply with, if compliance is physically possible; and (2) may lead to voter confusion and disenfranchisement.

The comments contained in this Joint Advisory Memorandum are derived from conferences with election officials in the following Texas counties: Bell, Bexar, Brazoria, Collin, Dallas, Denton, Ector, El Paso, Fort Bend, Harris, Hays, Hunt, Lubbock, Midland, Nueces, Rockwall, San Patricio, Shelby, Tarrant, and Travis. These counties are representative of the 254 counties in Texas, with the

smallest having a population of just over 25,400 (Shelby) and the largest (Harris) having a population over 4 million. The election officials in each of these counties have expressed serious reservations and concerns regarding their ability to comply with the Order.

Adoption of Revised Precinct Lines

The Order is contingent on the Court entering redistricting plans for Texas House, Senate and congressional races on or before February 1, 2012. However, in subsection 1. of the Order the Court directs commissioners courts to adopt changes in election precinct boundaries necessary to give effect to a redistricting plan under the Texas Constitution no later January 31, 2012.

Assuming the Court enters redistricting plans on February 1, 2012, it would be impossible for county commissioners courts to comply with the Order with regard to the adoption of election precinct boundaries.

If the Court were to enter redistricting plans prior to February 1, 2012, it is the opinion of most of the elections administrators in our member counties that the revision of election precinct boundaries will take a minimum of 3 weeks to complete. Although not cited in the Order, §42.033, Texas Election Code, states a change in election precinct boundaries may not be effective earlier than the first day of the first even-numbered voting year following the voting year in which the change is ordered unless the voter registrar has sufficient time to correct the registration records before the effective date of the change. This provision of Texas law specifically recognizes that changes in precinct boundaries require time to correct registration records. Unfortunately, the Order does not recognize that required time.

This matter is further complicated in that, for some revised election precincts, a polling place must be identified for the primary, runoff, and regular elections. Commissioners courts will not approve voting precincts without first confirming that there is a suitable polling place for each

precinct.

Finally, the Order does not mention the requirement that all changes to election precincts require preclearance by the Department of Justice pursuant to Section 5 of the Voting Rights Act before the changes may be given effect. The preclearance requirement will delay updates of voter registration systems, mailing of voter registration certificates, and preparation of ballots.

Updates of Voter Registration Systems

Once new county election precinct boundaries are adopted by county commissioners courts, elections administrators will require a minimum of 3 to 4 weeks to update their voter registration systems. GIS systems currently in use in counties often cannot make a large number of required changes automatically, and those individual voter registrations will have to be updated manually. This problem, of course, is greatest in populous counties. The voter registration systems must be updated in order for correct voter registration certificates to be mailed (and in order to prepare ballots).

Despite the total of 6 to 7 weeks needed from the entry of redistricting plans until correct voter registration certificates can be prepared, the Order directs county voter registrars to mail voter registration certificates on or before February 13, 2012. That date could be just 12 days after the entry of redistricting plans. The date is simply not realistic if the Court expects the mailed voter registration certificates to be accurate as to any new or revised districts and voting precincts. Harris County alone is required to mail 1.9 million voter certificates, and an unknown number of those may need to be updated in order to contain accurate information. If voter registrars are required to mail inaccurate voter registration certificates in order to meet the deadline set by the Court, there is likely to be much confusion among voters. And voter confusion leads to voter disenfranchisement.

Preparation of Ballots and MOVE Act

As mentioned above, ballots cannot be accurately prepared until new and revised election precincts are entered into voter registration systems. This process will take a minimum of 6 to 7 weeks from the entry of redistricting orders. However, the Military and Overseas Voter Empowerment (MOVE) Act requires states to transmit validly-requested absentee ballots to U.S. Uniformed Services and merchant marine, their family members and U.S. citizens residing outside the United States no later than 45 days before a federal election. The 45th day before the April 3, 2012 primary date set by the Order is Saturday, February 18, 2012. That date is a mere 17 days after the last date the Court may enter redistricting plans. This is simply not enough time for counties to analyze the redistricting plans, prepare necessary precinct boundary changes, have those precinct boundary changes adopted by commissioners courts, have the Department of Justice pre-clear the precinct boundary changes, update the voter registration systems, and print both voter registration certificates and ballots.

Preparation of Runoff Ballots

The Order sets June 5, 2012 as the date for the 2012 general primary runoff election. The Order also sets the date for county executive committees to conduct the ballot drawing for the primary runoff ballot on April 16, 2012. However, the MOVE Act requires that ballots be mailed to overseas voters no later than Saturday, April 21, 2012. Ballot preparation simply takes longer than 4 days; and many counties will find themselves at the mercy of their printing vendors.

Requested Action

The County Organizations respectfully request this Court to convene a hearing and take testimony from county election officials regarding the ability of those election officials to comply with the Order. At the conclusion of the hearing, the Court should issue such further orders as are

necessary for counties to comply with the orders of the Court while also avoiding violations of applicable law. Such orders may include orders that expedite implementation of election precinct boundaries, such as a limited waiver of Section 5 of the Voting Rights Act, and orders waiving strict compliance with the MOVE Act, and such additional orders as necessary to allow sufficient time to prepare and mail ballots for the general and runoff primaries.

Respectfully submitted,

/s/ John B. Dahill w/ permission
John B. Dahill, General Counsel
SBN: 05310430
john@cuc.org

Texas Conference of Urban Counties
500 W 13th St.
Austin TX 78701
P: 512.476.6174
F: 512.476.5122

Attorney for the Texas Conference of Urban Counties

/s/ James P. Allison
James P. Allison
SBN: 01090000
j.allison@allison-bass.com

ALLISON, BASS & ASSOCIATES, L.L.P.
A.O. Watson House
402 W. 12th Street
Austin, Texas 78701
(512) 482-0701 *telephone*
(512) 480-0902 *facsimile*

Attorney for the County Judges and Commissioners Association of Texas

/s/ Karen C. Gladney w/ permission
Karen C. Gladney, General Counsel
SBN: 07992500
KarenG@county.org

Texas Association of Counties
P. O. Box 2131
Austin TX 78768
Phone: (512) 478-8753
Fax: (512) 478-3573

Attorney for the Texas Association of Counties

CERTIFICATE OF SERVICE

The undersigned do hereby certify that on the 21st day of December, 2011, a true and correct copy of the foregoing Joint Advisory Memorandum was forwarded to the attorneys of record in the lead and consolidated cases in this matter by electronic mail and by US Mail at the following electronic mail and regular mail addresses:

Kent M. Adams

Lewis, Brisbois, Bisgaard & Smith, LLP
3355 West Alabama, Suite 400
Houston, TX 77098
(713) 659-6767
(713) 759-6830 (fax)
kadams@lbbslaw.com

Jessica Ring Amunson

Jenner & Block LLP
1099 New York Ave., N.W., Suite 900
Washington, DC 20001
(202) 639-6023
(202) 639-6066 (fax)
jamunson@jenner.com

Joaquin Guadalupe Avila

P.O. Box 33687
Seattle, WA 98133
206-724-3731
206-398-4261 (fax)
avilaj@seattleu.edu

Gary L. Bledsoe

Law Office of Gary L. Bledsoe
316 W. 12th Street
Suite 307
Austin, TX 78701
(512) 322-9992
512/322-0840 (fax)
garybledsoe@sbcglobal.net

Marisa Bono

Maldef
110 Broadway #300
San Antonio, Tx 78205
(210) 224-5476 ext 204
210/224-5382 (fax)
mbono@maldef.org

K. Scott Brazil

Brazil & Dunn
4201 FM 1960 West
Suite 530
Houston, TX 77068
(281)580-6310
(281)580-6362 (fax)
scott@brazilanddunn.com

Ricardo G. Cedillo

Davis, Cedillo & Mendoza
McCombs Plaza
755 E. Mulberry Ave.
Suite 500
San Antonio, TX 78212
(210) 822-6666
210/822-1151 (fax)
rcedillo@lawdcm.com

Bruce D. Cohen

Office of the Attorney General of Texas
PO Box 12548, Capitol Station
Austin, TX 78711
(512) 463-0879
512/936-0545 (fax)
bruce.cohen@oag.state.tx.us

Angela V. Colmenero

Office of the Attorney General
P.O. Box 12548, Capitol Station
Austin, TX 78711
(512) 463-2120
(512) 320-0667 (fax)
angela.colmenero@oag.state.tx.us

Michael B. DeSanctis

Jenner & Block, LLC
1099 New York Ave, NW - Ste 900
Washington, DC 20001
(202)637-6323
202/639-6066 (fax)
mdesanctis@jenner.com

Rebecca McNeill Couto

Maldef (Mexican American Legal Defense &
Educational Fund)
110 Broadway - #300
San Antonio, TX 78205
(210) 224-5476
210/224-5382 (fax)
rcouto@maldef.org

Chad W. Dunn

Brazil & Dunn
4201 FM 1960 West
Suite 530
Houston, TX 77068
(281)580-6310
281/580-6362 (fax)
chad@brazilanddunn.com

Donna Garcia Davidson

PO Box 12131
Austin, TX 78711
(512) 775-7625
(877)200-6001 (fax)
donna@dgdllawfirm.com

Anita Sue Earls

Southern Coalition for Social Justice
1415 West Highway 54, Suite 101
Durham, NC 27707
(919) 323-3380 ext 115
(919) 323-3942 (fax)
anita@southerncoalition.org

Hector De Leon

De Leon & Washburn, P.C.
Barton Oaks Plaza V
901 S. Mopac, Ste 230
Austin, TX 78746
(512)478-5308
(512)482-8628 (fax)
hdeleon@dwlawtx.com

Marc Erik Elias

Perkins Cole LLP
700 Thirteenth Street N.W. - Ste 600
Washington, DC 20005-3960
(202) 434-1609
(202) 654-9126 (fax)
melias@perkinscoie.com

Benjamin S. DeLeon

De Leon & Washburn, PC
901 S. MoPac Expressway
Barton Oaks Plaza V, Suite 230
Austin, TX 78746
(512) 478-5308
(512) 482-8628 (fax)
bdeleon@dwlawtx.com

David Escamilla

Travis County Assistant Attorney
P.O. Box 1748
Austin, TX 78767
(512) 854-9513
(512) 854-4808 (fax)
David.Escamilla@co.travis.tx.us

Manuel Escobar, Jr.

Attorney at Law
201 W. Poplar
San Antonio, TX 78212-0001
(210) 212 5592
escobarm1@aol.com

Nicholas Espiritu

MALDEF
634 S. Spring Street, 11th Floor
Los Angeles, CA 90014
(213) 629-2512
(213) 629-0266 (fax)
nespiritu@maldef.org

Donald H. Flanary

Goldstein, Goldstein & Hilley
310 S. St. Mary's Street
29th Floor
San Antonio, TX 78205-4605
(210) 226-1463
210/226-8367 (fax)
donflanary@hotmail.com

Matthew Hamilton Frederick

Office of the Attorney General
209 West 14th Street, 8th Floor
Austin, TX 78701
(512) 475-4330
matthew.frederick@oag.state.tx.us

Jesse Gaines

Attorney at Law
PO Box 50093
Fort Worth, TX 76105
(817) 714-9988
gainesjesse@ymail.com

Jose Garza

Liaison Counsel
Texas RioGrande Legal Aid
1111 North Main
San Antonio, TX 78212
(210) 212-3701
(210) 212-3774 (fax)
jgarza@trla.org

Christopher K. Gober

GOBER HILGERS PLLC
3101 Cedar Springs Rd
Suite 1050
Dallas, TX 75201
214-842-6829
877-437-5755 (fax)
cgober@goberhilgers.com

Gerald Harris Goldstein

Attorney at Law
310 S. St. Mary's
29th Floor, Tower Life Building
San Antonio, TX 78205
(210) 226-1463
210/226-8367 (fax)
ggandh@aol.com

Richard Edwin Gray, III

Gray & Becker, P.C.
900 West Avenue
Suite 300
Austin, TX 78701-0001
(512) 482-0061
512/482-0924 (fax)
rick.gray@graybecker.com

J. Gerald Hebert

J. Gerald Hebert, P.C.
191 Somerville Street, #405
Alexandria, VA 22304
(703) 628-4673
202-639-6066 (fax)
hebert@voterlaw.com

Max Renea Hicks

Law Office of Max Renea Hicks
101 West Sixth Street
Suite 504
Austin, TX 78701
(512) 480-8231
512/480-9105 (fax)
rhicks@renea-hicks.com

Sam Johnson

Scott, Douglass & McConnico
One American Center
600 Congress Avenue
Suite 1500
Austin, TX 78701
(512) 495-6300
512/474-0731 (fax)
sjohnson@scottdoug.com

Cynthia B. Jones

Jones Legal Group, LLC
904 12th Ave E.
Seattle, WA 98102
(206) 972-4943
jones.cynthiab@gmail.com

Ana M. Jordan

Assistant Texas Attorney General
Law Enforcement Defense
P.O. Box 12548
Capitol Station
Austin, TX 78711-2548
(512) 463-2127
(512) 495-9139 (fax)
ana.jordan@oag.state.tx.us

Karen M. Kennard

City of Austin Law Department
PO Box 1088
Austin, TX 78767-1088
(512) 974-2268
karen.kennard@ci.austin.tx.us

Abha Khanna

Perkins Cole LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
(206) 359-8312
(206) 359-9312 (fax)
akhanna@perkinscoie.com

Mark W. Kiehne

Davis, Cedillo & Mendoza, Inc.
McCombs Plaza
755 E. Mulberry, Suite 500
San Antonio, TX 78212
(210)822-6666
210/822-1151 (fax)
mkiehne@lawdcm.com

George Joseph Korbel

Texas Rio Grande Legal Aid, Inc.
1111 North Main
San Antonio, TX 78213
(210) 212-3600
gkorbel@trla.org

S. Abraham Kuczaj, III

Scott Douglass & McConnico, LLP
600 Congress Avenue, 15th Floor
Austin, TX 78701
(512)495-6300
(512)474-0731 (fax)
akuczaj@scottdoug.com

Caroline D. Lopez

Jenner & Block LLP
1099 New York Ave., N.W.
Suite 900
Washington, DC 20001
202-639-6000
202-639-6066 (fax)
clopez@jenner.com

David Mattax

Assistant Attorney General
Finance Division
P.O. Box 12548
Austin, TX 78711-2548
(512)463-0150
512/477-2348 (fax)
david.mattax@oag.state.tx.us

Stephen E. McConnico

Scott, Douglass & McConnico
One American Center
600 Congress Ave., 15th Floor
Austin, TX 78701
(512) 495-6300
512/474-0731 (fax)
smcconnico@scottdoug.com

Robert Stephen Notzon

Law Office of Robert Notzon
1507 Nueces Street
Austin, TX 78701
(512)474-7563
512/474-9489 (fax)
robert@notzonlaw.com

Eric Christopher Opiela

Eric Opiela PLLC
1122 Colorado St
Suite 2301
Austin, TX 78701
(512) 791-6336
(512) 250-3102 (fax)
eopiela@ericopiela.com

Nina Perales

MALDEF [Mexican American Legal Defense
& Educational Fund]
110 Broadway Street, #300
San Antonio, TX 78205
(210) 224-5476
210/224-5382 (fax)
nperales@maldef.org

Frank M. Reilly

Potts & Reilly, L.L.P.
P.O. Box 4037
Horseshoe Bay, TX 78657
512/469-7474
512/469-7480 (fax)
reilly@pottstreilly.com

David R. Richards

Richards Rodriguez & Skeith, LLP
816 Congress, Suite 1200
Austin, TX 78701
(512)476-0005
(512)476-1513 (fax)
davidr@rrsfirm.com

Allison Jean Riggs

Southern Coalition for Social Justice
1415 West Highway 54, Suite 101
Durham, NC 27707
(919) 323-3380 ext 117
(919) 323-3942 (fax)
allison@southerncoalition.org

Rolando L. Rios

Law Offices of Rolando L. Rios
115 E Travis Street
Suite 1645
San Antonio, TX 78205
(210) 222-2102
210/222-2898 (fax)
rrios@rolandorioslaw.com

Mark Anthony Sanchez

Gale, Wilson & Sanchez, PLLC
115 East Travis
19th Floor
San Antonio, TX 78205
(210) 222-8899
210/222-9526 (fax)
masanchez@gws-law.com

David J. Schenck

Deputy Attorney General for Legal Counsel
Office of the Attorney General
P.O. Box 12548
Austin, TX 78701
(512) 936-1342
(512) 936-0545 (fax)
david.schenck@oag.state.tx.us

Jaye Allison Sitton

US Department of Justice
950 Penn Ave., NW
NWB #7266
Washington, DC 20530
(202) 305-4143
jaye.sitton@usdoj.gov

Paul M. Smith

Jenner & Block LLP
1099 New York Ave., N.W.
Washington, D. 20001
(202) 639-6060
(202) 639-6066 (fax)
psmith@jenner.com

John K. Tanner

John Tanner Law Office
3743 Military Rd. NW
Washington, DC 20015
(202) 503-7696
John.k.tanner@gmail.com

/s/ James P. Allison

James P. Allison