



*SMU Legal Clinics*

July 14, 2021

**Re: Bullock Texas State History Museum *Forget the Alamo* Book Event  
Cancellation, in Violation of the First Amendment**

Dear Bullock Texas State History Museum Director Koch and Texas State Preservation Board Governing Board,

On behalf of the authors Bryan Burrough and Chris Tomlinson, we write to request that the Bullock Texas State History Museum (“Bullock Museum”) swiftly reschedule its canceled discussion of the authors’ recently published book *Forget the Alamo: The Rise and Fall of an American Myth* (“*Forget the Alamo*”). The expressed mission of the Bullock Museum is to “engage the broadest possible audience to interpret the continually unfolding Story of Texas” under the “belief that the exploration of our history nurtures personal and collective identity in a diverse world.”<sup>1</sup> And rightly so—these Texan authors believe in a society in which ideas are openly debated and everyone can exercise their right to encounter ideas and explore the world around them free from government suppression.

The cancellation of this event not only strikes at the very heart of the Museum’s mission, but also violates core constitutional principles. As the Supreme Court reminded us nearly a century ago, “if there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.” *West Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943). Simply put, the government cannot suppress people’s speech based on their viewpoint. In cancelling this event, the Bullock Museum has done just that.

By questioning the traditional narrative of the Battle of the Alamo, *Forget the Alamo*—coauthored by Mr. Burrough, Mr. Tomlinson, and Jason Stanford—emphasizes that the goal of preserving slavery played a central role in the Texas Revolution and explores the erasure of both that goal and the contributions of Texans of Mexican heritage to the Battle in the conventional telling of these events. While, to some, *Forget the Alamo* may appear controversial or present a side of history that causes discomfort, to others it is a welcome telling of stories that have been long obscured. But however one might feel about the arguments, debates about Texas history cannot be limited by the political whims of our elected officials—now or as the wind changes direction.

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<sup>1</sup> Bullock Texas State History Museum, *About the Museum*, <https://www.thestoryoftexas.com/about/about-the-museum>.

Banning a book—or book talk—because it challenges the state’s “official” version of history is the censorship imposed by repressive regimes. The authors ask that the Bullock Museum reschedule the canceled book event, on the same platform, with the same level of publicity, and with notification to those who previously preregistered through the Museum’s reservation platform, to remedy this constitutional violation.

## **I. Background: *Forget the Alamo* and the Bullock Museum’s Book Event Cancellation**

Reexamining both the Battle of the Alamo itself and the origins of the conventional account of events, *Forget the Alamo* emphasizes that the Battle stemmed from Mexico’s efforts to abolish slavery and that Texans of Mexican heritage fought at the Battle but were subsequently excised from retellings of the story. The book examines both historical and historiographical sources to explain that the entrenched, made-for-Hollywood story of the Alamo was created in the mid-twentieth century as a product of the Jim Crow era in Texas. *Forget the Alamo* illuminates how both the Battle of the Alamo itself and Texas’s traditional creation myth are grounded in white supremacy.

In March 2021, the Bullock Museum invited the authors to speak to the Museum’s membership. A talk involving the authors of *Forget the Alamo* was a natural choice for the Museum, which regularly hosts book events with authors with fresh perspectives on Texas history. Recent Museum book events include:

- “New Perspectives: Violence in the Hill Country, the Texas Frontier in the Civil War Era,” a historian’s discussion of his work analyzing “the cultural and political priorities of white settlers and their interaction with . . . national integration and state-building”;<sup>2</sup>
- “Managed Migrations,” the discussion of an award-winning book on the history of border enforcement in the Rio Grande Valley and its intersection with the development of border agriculture;<sup>3</sup> and
- “A Single Star and Bloody Knuckles,” a “new look at contentious Texas politics” beginning in 1870, depicting “Texas political life against the backdrop of industry, the economy, and race relations.”<sup>4</sup>

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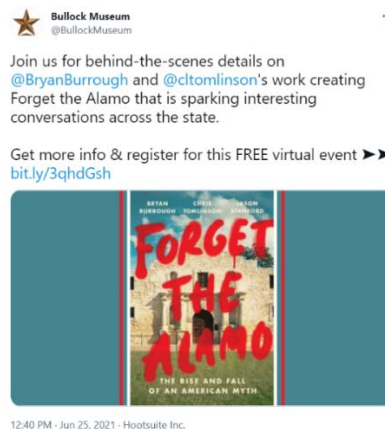
<sup>2</sup> Bullock Texas State History Museum, *New Perspectives: Violence in the Hill Country, the Texas Frontier in the Civil War Era*, March 18, 2021, <https://www.thestoryoftexas.com/visit/calendar/education/new-perspectives-violence-in-hill-country-20210318>.

<sup>3</sup> Bullock Texas State History Museum, *High Noon Talk: Managed Migrations*, February 4, 2021, <https://www.thestoryoftexas.com/visit/calendar/education/high-noon-talk-20210204>.

<sup>4</sup> Bullock Texas State History Museum, *High Noon Talk: A Single Star and Bloody Knuckles*, June 3, 2021, <https://www.thestoryoftexas.com/visit/calendar/education/high-noon-talk-20210603>.

The Museum has also put on other programming that probes Texas history, including precisely the questions examined in *Forget the Alamo*. In “Myths and Unsolved Mysteries of the Texas Revolution,” in April, the Museum explored, “What were the causes of the Texas Revolution? What key players and events helped a small group of revolutionaries achieve independence from Mexico?”<sup>5</sup> Other Museum events that have examined Texas history include general explorations of “Texas History and the Civil War”;<sup>6</sup> “Spanish Missions in Texas”;<sup>7</sup> and “What Makes Texas, Texas?”<sup>8</sup>

The Bullock Museum agreed to host the *Forget the Alamo* event on its preferred internet platform and collected registrations for the event through its platform, located on its website. The event, which was co-branded with the Writers’ League, was scheduled for Thursday, July 1.<sup>9</sup> The Museum advertised the event on social media, such as in this tweet:



The link in the tweet, no longer functional, leads to an error page on the Bullock Museum’s website.<sup>10</sup>

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<sup>5</sup> Bullock Texas State History Museum, *Texas History Tuesdays: Myths and Unsolved Mysteries of the Texas Revolution*, April 20, 2021, <https://www.thestoryoftexas.com/visit/calendar/texas-history-tuesdays-04202021>.

<sup>6</sup> Bullock Texas State History Museum, *Texas History Tuesdays: Texas History and the Civil War*, February 23, 2021, <https://www.thestoryoftexas.com/visit/calendar/texas-history-tuesdays-02232021>.

<sup>7</sup> Bullock Texas State History Museum, *Texas History Tuesdays: Spanish Missions in Texas*, March 9, 2021, <https://www.thestoryoftexas.com/visit/calendar/texas-history-tuesdays-03092021>.

<sup>8</sup> Bullock Texas State History Museum, *Texas History Tuesdays: What Makes Texas, Texas?*, February 9, 2021, <https://www.thestoryoftexas.com/visit/calendar/texas-history-tuesdays-02092021>.

<sup>9</sup> Press Release, Bullock Texas State History Museum, *Free Program to Explore the Craft of Writing with Forget the Alamo Authors* (June 24, 2021), <https://www.thestoryoftexas.com/press/press-releases/forget-the-alamo-20210624>.

<sup>10</sup> Bullock Texas State History Museum, <https://www.thestoryoftexas.com/visit/calendar/rewriting-history-20210701>.

In the lead-up to the July 1 event, the authors became aware of pressure from individuals and entities that favored the traditional history of the Battle of the Alamo—the history that *Forget the Alamo* debunks—to cancel the book event. By that point, the Museum had hundreds of registrations on its website—roughly three times the size of one of its typical book event audiences.

But less than four hours before the event was scheduled to begin, the authors learned that the Museum had pulled out of the event. The next day, Texas State Preservation Board Co-Vice Chairman and Lieutenant Governor Patrick announced on Twitter that “[a]s a member of the Preservation Board, I told staff to cancel this event as soon as I found out about it. Like efforts to move the Cenotaph, which I also stopped, this fact-free rewriting of TX history has no place @BullockMuseum. #txlege”<sup>11</sup> The Preservation Board “govern[s] and provide[s] for the operation of” the Museum. Tex. Gov’t Code § 445.002(a).

## **II. The Cancellation of the *Forget the Alamo* Bullock Museum Book Event is Unconstitutional Viewpoint-Based Discrimination.**

Lieutenant Governor Patrick’s abrupt, process-free cancellation of the *Forget the Alamo* book event at the Bullock Museum violates the First Amendment: it is fundamental to our democracy that government officials cannot suppress speech because they disagree with the speaker’s position on a topic. The “government violates the First Amendment when it denies access to a speaker solely to suppress the point of view he espouses on an otherwise includible subject.” *Cornelius v. NAACP Legal Def. & Educ. Fund, Inc.*, 473 U.S. 788, 806 (1985).

The Bullock Museum regularly invites outside speakers to give book talks on their works that provide new perspectives on Texas history. The topic of “myths” surrounding the Texas Revolution is within the Museum’s historical ambit, as demonstrated by its own programming in April of this year. Yet the Texas State Preservation Board, including Lieutenant Governor Patrick, apparently directed the Museum to ban the authors from discussing *Forget the Alamo*. In other words, the Board has now suppressed a historical analysis with which it apparently disagrees and that it does not wish Texans to hear. This is a blatant violation of the First Amendment’s protection of freedom of speech. The government may not seek “to suppress expression merely because public officials oppose the speaker’s view.” *Minnesota Voters All. v. Mansky*, 138 S. Ct. 1876, 1885 (2018).

To the extent you wish to justify your actions by suggesting that a private book talk could have been organized at a later date, on a new private platform, and with a new list of RSVPs

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<sup>11</sup> Dan Patrick (@DanPatrick), Twitter (July 2, 2021, 11:21 AM), <https://twitter.com/DanPatrick/status/1410997053371654145>.

following the cancellation of the Museum’s sponsored public event, that is simply a fool’s errand. The Supreme Court has been clear here, too: the availability of a privately owned facility for speech does not justify suppressing that speech in a publicly owned facility. *Se. Promotions, Ltd. v. Conrad*, 420 U.S. 546, 555-56 (1975) (“One is not to have the exercise of his liberty of expression in appropriate places abridged on the plea that it may be exercised in some other place.”).

The cancellation of the *Forget the Alamo* book event at the Bullock Museum is an unconstitutional and authoritarian effort to stifle the free circulation of ideas. The message as to what is “patriotic education” acceptable to Governor Abbott and Lieutenant Governor Patrick—and what are ideas that they therefore will and will not seek to ban in Texas—has unfortunately been made clear.

To remedy this First Amendment violation as swiftly as possible, Mr. Burrough and Mr. Tomlinson request that the Museum reschedule the canceled book event on the same virtual platform, with the same level of publicity and with notification to those who preregistered and were unable to attend the originally scheduled event due to its unconstitutional cancellation. Mr. Burrough and Mr. Tomlinson reserve all other rights and remedies.

Sincerely,

/s/ Andre Segura

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Cc: Texas State History Museum Foundation Board of Trustees