



January 28, 2019

**RE: INDEPENDENT DUTY AND LIABILITY OF COUNTY VOTER REGISTRARS NOTWITHSTANDING ELECTION ADVISORY NO. 2019-02, DATED JANUARY 25, 2019**

Dear County Election Official,

We write on behalf of non-profit organizations in Texas dedicated to protecting the voting rights of Texans, including the below listed organizations. This letter concerns Election Advisory No. 2019-02, dated January 25, 2019 (“the Advisory”), relating to the use of Department of Public Safety (“DPS”) data to attempt to identify non-citizens who are registered to vote.

As you will see from the attached letter sent to the Secretary of State, we are demanding that the Secretary of State rescind the advisory before any counties take action on it. Notwithstanding our demand to Secretary of State, we write separately to you to remind you of your independent obligations under Chapter 16 of the Texas Election Code regarding the investigation of whether a registered voter is eligible for registration in your county.

Under the Texas Election Code, responsibility for investigating whether a registered voter is eligible to vote is vested with the County Voter Registrar, not with the Secretary of State. Importantly, under the Texas Election Code no action may be taken in relation to the voter’s registration unless the Voter Registrar has reason to believe that the voter is no longer eligible for registration and the voter receives notice and an opportunity to demonstrate their eligibility. The Advisory does not and cannot supplant your independent responsibilities under the Code.

As set forth in more detail in the attached letter to the Secretary of State concerning the Advisory, the Advisory is deeply flawed and does not provide a reliable or sufficient reason to believe that any voter identified by the Secretary of State is ineligible to vote. Indeed, the Advisory makes plain that the matching process undertaken by the Secretary of State has resulted in only “WEAK matches” for ineligibility.

Further, any actions taken based on this list are likely to violate federal law. As a reminder, under the National Voter Registration Act, a Voter Registrar is not alleviated of their duties to perform list maintenance in a non-discriminatory fashion and in compliance with the Voting Rights Act simply because they rely on lists provided by another party. 52 USC 20507(b)(1). Additionally, under the NVRA, you have a responsibility to ensure that eligible voters remain on the rolls and are not removed erroneously. We urge you to not take any action on this matter unless and until the Secretary of State has provided greater transparency on its procedures and ensured there are adequate safeguards for not identifying lawfully registered naturalized citizens.

**PUBLIC INFORMATION ACT REQUEST:**

Additionally pursuant to the Texas Public Information Act, Chapter 552 of the Texas Government Code, please consider this letter a request for all records relating to the Advisory, including but not limited to the list of all individuals identified by the Secretary of State or Department of Public Safety as potential non-citizens, the Voter Unique Identifier for each of those individuals, and all communications and correspondence with the Secretary of State concerning the Advisory.

Should you have any questions regarding the Advisory or your responsibilities as outline here, please contact Tommy Buser-Clancy at [tbuser-clancy@aclutx.org](mailto:tbuser-clancy@aclutx.org). or Beth Stevens at [beth@texascivilrightsproject.org](mailto:beth@texascivilrightsproject.org).

Sincerely,

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