



March 10, 2020

*By Email & Certified Mail*

Dr. Diane Trautman  
Harris County Clerk  
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(713) 274-8600  
ccinfo@hccountyclerk.com

**Re: Harris County's Administration of the March 2020 Primary Election  
& Upcoming Elections**

Dear Dr. Trautman:

The NAACP Legal Defense and Educational Fund, Inc. (“LDF”) writes with deep concern about significant issues that voters—especially voters of color—experienced during the March 2020 primary elections last week and other recent elections in Harris County. These issues individually and in combination with one another have impacted voters’ ability to cast ballots free from unacceptably long lines and wait-times, inadequately located and under-staff and under-equipped polling locations, and insufficient communication and transparency with voters, among other impediments or outright barriers.

In a letter dated February 11, 2019, LDF cautioned you that transitioning to Election Day Vote Centers (“EDVCs”) without sufficient care, study, oversight, community engagement, and documentation could produce suppressive effects on the voting rights of communities of color, threatening vulnerable populations’ access to the franchise and exposing Harris County to potential liability.<sup>1</sup> At the time, your office responded by expressing a “commit[ment] to making sure elections are accessible, equitable, and that polling locations accurately meet the needs of the community.”<sup>2</sup>

Unfortunately, your office’s actions in the March 2020 primary fall far short of this commitment. No citizen in a modern democracy should be forced to wait in line for up to six hours simply to exercise their fundamental right to vote, as your actions and that of other officials required many voters in Houston to do last week.

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<sup>1</sup> Ltr. from Leah Aden, LDF, to Dr. Diane Trautman, Harris County Clerk (Feb. 11, 2019), [https://www.naacpldf.org/wp-content/uploads/Letter-to-Harris-County-Clerk-re-Vote-Centers\\_2.11.19-1.pdf](https://www.naacpldf.org/wp-content/uploads/Letter-to-Harris-County-Clerk-re-Vote-Centers_2.11.19-1.pdf).

<sup>2</sup> Email from Roxanne Werner, Office of Diane Trautman, Harris County Clerk, to Leah Aden, LDF (Feb. 14, 2019) (on file with LDF).

Accordingly, we write to request a full accounting from your office of the failures of election administration that produced this year's debacle and your office's plans for ensuring that this does not reoccur in future elections, including the fall election where anticipated turnout will be even higher in Harris. Indeed, we demand that you take immediate action—heeding the voices of Harris County voters of color and the organizations that represent them—to ensure that analogous failures do not plague your administration of the November 2020 presidential election.<sup>3</sup>

Through eyewitness accounts and reporting, the steps that led to Harris County's mismanagement of Election Day voting last week are becoming clear. We believe that a major driver of the long waiting times was the failure to adequately distribute EDVCs in areas that serve Black voters and other voters of color. In addition, we understand that the two major political parties failed to agree on joint primaries, which meant that, although voters of either party could cast their ballot at the same location, they would only be able to use a machine designated to their party.<sup>4</sup> We further understand that your office's decision to allocate an equal number of voting machines to both the Republican and Democratic parties, despite clear indicators that Democratic turnout would be significantly higher within Harris County, exacerbated the problem—particularly in polling locations such as Texas Southern University (“TSU”), a college campus with a young,

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<sup>3</sup> Even one such incident would be unacceptable and would suffice to cast doubt on Harris County's readiness for the November 2020 election. However, Harris County has a record of other failures, including during the 2016 and 2018 election cycles. *See, e.g.*, Mark Demsey, Julian Fill & Gabrielle Banks, *Long lines, difficulties, at multiple polling places across Houston*, Houston Chronicle (Nov. 6, 2018), <https://www.chron.com/politics/election/article/Long-lines-and-machines-down-at-multiple-polling-13366520.php> (long lines and technical difficulties at polling places across Houston on Election Day); Rose-Ann Aragon, *Last day of early voting leads to long lines at Houston-area polling locations*, Click2Houston.com (Nov. 2, 2018), <https://www.click2houston.com/news/2018/11/03/last-day-of-early-voting-leads-to-long-lines-at-houston-area-polling-locations/> (long lines in Harris County during early voting); Mark Berman, William Wan & Sari Horwitz, *Voters encounter some malfunctioning machines, other headaches on Election Day*, Wash. Post (Nov. 8, 2016), <https://www.washingtonpost.com/news/post-nation/wp/2016/11/08/election-day-voters-report-long-lines-intimidation-and-confusion-in-some-parts-of-the-country/> (Harris County website listing incorrect polling places); Jim Malewitz, *In some counties, early voting means long lines*, Tex. Tribune (Oct. 24, 2016), <https://www.texastribune.org/2016/10/24/some-texas-counties-long-lines-complicate-early-vo/> (long lines during early voting in Harris County).

Unfortunately, the absence of major issues during the rollout of EDVCs in the fall 2019 elections indicates nothing about Harris County's readiness for high-turnout elections such as the 2020 primaries and general elections. David McClendon, *Top 5 Takeaways About the Vote Your Way Campaign*, January Advisors (Dec. 20, 2019), <https://www.januaryadvisors.com/vote-your-way-top-5-takeaways/>.

<sup>4</sup> Tulsi Kamath, *Harris County clerk blames GOP for refusing to allow joint primary, causing long wait times for voters on Super Tuesday*, Click2Houston.com (Mar. 4, 2020), <https://www.click2houston.com/decision-2020/2020/03/04/harris-county-clerk-blames-gop-for-refusing-to-allow-joint-primary-causing-long-wait-times-for-voters-on-super-tuesday/>.

predominantly Black voting-age population.<sup>5</sup> Finally, Harris County's wait-time display system failed to report accurate information.<sup>6</sup>

As is now well known, Black people and other people of color were disproportionately affected by the decisions made in Harris County, as the longest wait-times in Harris County occurred in locations such as TSU that disproportionately serve voters of color, including young voters.<sup>7</sup> These and other shortcomings repeated a trend seen across the County: inadequate preparation and analysis, deficient logistical planning, and insufficient attention to equity—while equality is always a goal, considering equity allows for appropriately adjusted election-administration resources for communities' particularized needs.

These systemic failures led to many individual harms. For example, we spoke to a young voter on the TSU campus who was forced to wait *nearly five hours* to cast her ballot in a presidential race for the first time in her life, while several voting machines stood idle on the side of the *same polling place* serving voters affiliated with the Republican party. Another voter informed us that she waited *two hours* to cast her ballot at the Kashmere Multi-Service Center EDVC. According to observations by this voter and others, several people waiting in line to cast their ballot were forced to give up, realizing that they would not be able to make it back to their jobs on time from their scheduled lunch breaks. In addition, many elderly people at the Kashmere location were observed standing in high temperatures for long periods of time to vote, including persons who had to be taken out of the line due to health concerns.<sup>8</sup> As these stories and others demonstrate, your office's actions harmed voters of color, young and elderly voters, and/or other voters with less flexible work schedules, limited transportation access, and obligations that did not allow for voters to wait upwards of two to five hours to vote.

As an organization that is committed to upholding the right to vote for all citizens, particularly people of color, who must too often contend with discriminatory burdens on their access to the franchise, we intend to provide detailed recommendations to Harris County in the coming weeks to assist you in averting these very preventable issues. Counties such as Harris must learn from their mistakes and take prompt corrective action to ensure elections are fair and

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<sup>5</sup> See Zach Despart, *Trautman apologizes for long lines on Super Tuesday*, Houston Chronicle (Mar. 6, 2020), <https://www.houstonchronicle.com/news/houston-texas/houston/article/Trautman-apologizes-for-long-lines-on-Super-15111259.php>.

<sup>6</sup> Alexa Ura, *Harris County clerk apologizes to voters, "takes full responsibility" for long waits to vote in Houston*, Tex. Tribune (Mar. 6, 2020), <https://www.texastribune.org/2020/03/06/harris-county-clerk-apologizes-long-waits-vote-houston/>.

<sup>7</sup> See Alexa Ura, *Harris County's cascade of election day fumbles disproportionately affected communities of color*, Tex. Tribune (Mar. 4, 2020), <https://www.texastribune.org/2020/03/04/harris-countys-texas-southern-university-voting-delays-what-happened/>.

<sup>8</sup> Paul Debenedetto, Lucio Vasquez, Haya Panjwani & Madison Alvis, *Super Tuesday Plagued By Hours-Long Wait Times In Parts Of Harris County*, Hous. Public Media (Mar. 3, 2020, 10:04 p.m.), <https://www.houstonpublicmedia.org/articles/news/politics/election-2020/2020/03/03/362534/super-tuesday-plagued-by-hours-long-wait-times-in-parts-of-harris-county/>.

equitable for all voters. Thus, we encourage Harris County to account for its shortcomings in last week's primary election and to engage fully in the development of equitable solutions. Our democracy depends on free and open access to the sacred right to vote, which is a "fundamental political right" that is "preservative of all rights" and must be protected.<sup>9</sup> "Other rights, even the most basic, are illusory if the right to vote is undermined."<sup>10</sup> It is imperative that Harris County take all necessary steps to ensure that what occurred in the March 2020 primary election does not happen again.

We welcome opportunities to work with your office to better understand and learn from this experience. We are encouraged by the willingness that your office has demonstrated to acknowledge the mistakes and to engage with concerns from affected voters in the community and look forward to discussing these issues further.

Sincerely,



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Adrian Garcia, Precinct 2 Commissioner  
Steve Radack, Precinct 3 Commissioner  
R. Jack Cagle, Precinct 4 Commissioner

Ruth R. Hughs, Texas Secretary of State

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<sup>9</sup> *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886).

<sup>10</sup> *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964).