

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

TEXAS DEMOCRATIC PARTY;	§	
BOYD L. RICHIE, in his capacity as	§	
Chairman of the Texas Democratic PARTY;	§	
HARRIS COUNTY DEMOCRATIC	§	
PARTY; GERALD BIRNBERG, IN HIS	§	
Capacity as Chairman of the Harris County	§	
Democratic Party; J. GOODWILLE PIERRE	§	
ALEXANDRA GIBBS; JEFFREY T.	§	
VANSCHOONHOVEN; BONI SUE	§	
LESZCZUK and ERIC J. GALLOWAY	§	
<i>Plaintiffs</i>	§	
 	§	
V.	§	CIVIL ACTION NO. H-08-3332
 	§	
PAUL BETTENCOURT, in his capacity	§	
as Harris County Tax Assessor Collector	§	
and Harris County Voter Registrar	§	
<i>Defendant</i>	§	JUDGE GRAY H. MILLER

**DEFENDANT’S BRIEF PRELIMINARY RESPONSE TO PLAINTIFFS’
MOTION TO COMPEL DISCOVERY RESPONSES AND
MOTION FOR MORE DEFINITE STATEMENT AND
REQUEST FOR ORAL HEARING**

Defendant files this brief preliminary Response to Plaintiffs’ Motion To Compel Discovery Responses and Motion for More Definite Statement and Request for Oral Hearing and respectfully shows this Court the following:

I. Nature and Stage of the Proceedings

1. Plaintiffs’ allegations involve broad claims of wrongdoing by the Harris County Voter Registrar’s Office concerning thousands and thousands of individual voter registration applications. As Plaintiffs’ counsel states in his Conclusion (page 19) “there is no denying that the scale of this case in terms of its legal and factual issues can be overwhelming.”
2. Defendant has in good faith responded to Plaintiffs’ extensive discovery concerning the thousands and thousands of individual files which are allegedly the basis of Plaintiffs’ claims.

3. Defendant's counsel have conferred with opposing counsel by correspondence and by telephone conference regarding Plaintiffs' desire for additional details to the discovery responses. Additionally, Defendant is now (1) preparing supplemental discovery responses and (2) gathering supplemental documents where possible but that effort will require additional time to complete in light of the voluminous data involved.

4. Plaintiffs have scheduled the depositions of six employees of the Voter Registrar's Office who are involved in voter registration activities to take place on Tuesday, March 10th and Wednesday, March 11th. (See Exhibit A attached). Hopefully, those depositions will help answer many of Plaintiffs' issues and help clear up some of Plaintiffs' confusion since the depositions will provide testimony from individuals who actually do the work being criticized by Plaintiffs.

II. Response and Argument

A. Request for Oral Hearing

5. An oral hearing is premature on the issues which Plaintiffs' identify because (1) many "office procedures" and other relevant issues regarding how voter registration applications are processed in the office should be answered during the six depositions already scheduled for this week, (2) the sheer volume of data to be considered in properly responding to Plaintiffs' discovery concerning thousands and thousands of applications does not always allow for a rapid, accurate response with definitive information. For judicial economy any full hearing on the discovery issues should not take place until after the depositions and until after the Defendant is allowed to supplement as best it can with additional information.

B. Motion to Compel Discovery Responses

6. Ripeness. Court actions on Plaintiffs' request for an order to compel discovery responses is premature because (1) Defendant has already provided its initial responses, (2) Defendant is

actively engaged in gathering supplemental information based on the conference with Plaintiffs' counsel concerning the issues raised and (3) Defendant is presenting six employees for deposition this week which should provide first hand testimony on many of the areas of confusion to Plaintiffs.

7. Ambiguities. Plaintiffs make flashy assertions in their Motion under the heading of "Alarming Number of Rejections", but they seem to either ignore or have no real appreciation for the inherent ambiguity in the term "rejection" in the context of voter registration. Defendant has asserted an objection in its discovery responses to this ambiguous term which was undefined by Plaintiffs. Do the Plaintiffs claim that all alleged 65,452 rejections they cite from January 1, 2007 to November 4, 2008, are in fact 65,452 different applicants who where each wrongfully denied the right to register to vote? Do Plaintiffs recognize that an applicant may not be immediately registered (and therefore arguably temporarily "rejected") because there is an incomplete application or do they understand that when the information provided is checked against various databases (i.e. driver's license numbers, social security numbers etc) for accuracy, identification and prevention of voter fraud before registration is completed and the information provided may raise questions that must be checked with the applicant before registration can properly be completed? Do they recognize that applicants who are temporarily rejected or delayed in their registration may cure the problem with proper information and the applicant then be registered as a voter? Are the Plaintiffs confused or do they know better?

8. Objections. While Plaintiffs may consider their discovery to have been perfection itself, there were many areas that required objection before making any formal admissions or denials under the Federal Rules (i.e. Plaintiffs' ambiguous use of the word "reject")¹ OR areas in which

¹ For a single example which is played out in many variations throughout the discovery, when Plaintiffs ask Defendant to admit in Admission No. 3 "... your office rejects Voter Registration Applications where the applicant provides the last four digits of their Social Security number in

Defendant could not voluntarily produce documents because thousands of pages of the documents requested contain “confidential” information which Defendant is prohibited by statute from disclosing (ex: social security numbers, Texas driver’s license number etc).

9. Semantics. Plaintiffs choose to characterize an effort for clarity and accuracy as “semantics” (pages 6 and 15), but what may be viewed as inconsequential internal office shorthand (i.e. use of the word reject) in the context of clerks processing applications in the Voter Registrar’s Office is a totally different matter when placed in the formal context of a Request for Admissions in the discovery in a lawsuit. Defendant formally considers the many discovery items involving the term “rejects” or “rejection” as a very serious issue where those terms are undefined by Plaintiffs and are vague or ambiguous on their face and certainly not something that a Defendant seeking to give honest accurate responses could simply respond to without objection and further clarification. The Motion asserts that Defendant “essentially refused to answer” (page 8), while in fact, Defendant rightly objected to the discovery items, identifying the vague and ambiguous nature of the inquiry. After conferencing with opposing counsel each of these items is being reevaluated to be clarified where possible.

10. Pre-clearance. Plaintiffs allege that actions of the Defendant were not properly pre-cleared in accordance with Section 5 of the Voting Rights Act. In Request for Production No. 1 they request the production of all manner of documentation relating to any preclearance. Defendant has produced those documents that Defendant has been able to obtain to date. Defendant has relied on the preclearances obtained by the Texas Secretary of State’s Office for

Section 8, but fails to check the box in Section 8 stating they do not have a state identification or driver’s license number” do the Plaintiffs intend “reject” in that context to mean a final determination that the applicant will not be registered as a voter OR do they mean “reject” registration at this time only where the problem can be resolved by the applicant clarifying or providing additional information which will allow the voter to be duly registered after the clarification or additional information is provided.

many changes. Defendant is taking steps to obtain from the Secretary of State additional preclearance documents which will be produced when those documents are obtained.

11. Confidentiality. Defendant is under the burden to follow both Federal and State law. Defendant is not at liberty to ignore one law in favor of another even if it would make life easier. In its objections and discovery responses Defendant identified a number of specific statutes that make certain information “confidential”.² Texas Election Code § 13.004(c) says that an applicant’s social security number, Texas driver’s license number, personal identification number issued by the Department of Public Safety, the residence address of a federal or state judge and in some cases other matters are “confidential and do not constitute public information for purposes of Chapter 552, Government Code”. Further, § 13.004(c-1) says “**the registrar shall ensure that the information listed in Subsection (c) is excluded from disclosure.**” Plaintiffs may wish to obtain confidential information on thousands of applicants but Defendant cannot voluntarily agree to disclose that information. Also, § 65.060 makes the same basic information confidential when placed on a provisional ballot affidavit.

12. Cost of Redaction. On August 1, 2008, Chad Dunn requested copies of many of the same documents that Plaintiffs have sought in this lawsuit.³ (See Ex B attached). On August 14,

² C. **CONFIDENTIALITY:** Seeks confidential information protected by Texas Government Code, Chapter 552 generally, including §§ 552.101-2 (generally; personnel file; personal ID number from the Texas Department of Public Safety), 552.117 (information of a government official or government employee), 552.1175 (information of a peace officer, jailer, security officer, or TDCJ employee), 552.130 (driver’s license number), 552.147 (social security number), (any indication that the individual is interested in working as an election judge), and/or which is protected by the Constitutional right to privacy and for which Plaintiff has not demonstrated a compelling need.

³ Ex -, at page 3 – “In summary, the information we are requesting is as follows:

- Any documents relating to the removal of names of registered voters or the suspension of any registered voter in the last 18 months;
- Any documents, voter registration cards, notices, or other materials created, collected or gathered involving the failure to register a voter who sought registration in the last 18 months;
- Any documents relating to the pre-clearance of the activities described above pursuant to § 5 of the Federal Voting Rgls Act;

2008, Assistant County Attorney, David M. Swope, sent Dunn a response (1) identifying the confidential information contained in the documents requested, (2) requesting a clarification and/or narrowing of the request and (3) providing an itemized cost estimate to retrieve, redact and produce the requested documents without the confidential information. (See Ex C attached). Dunn never clarified or revised his request in response to Mr. Swope's letter and cost estimate. In the event Plaintiffs persist in their request for production of the broad range of documents with confidential information, Defendant believes that the cost estimate of approximately \$1,500,000 provided in August 2008 is still a reasonable estimate of the cost in manpower and resources to retrieve, redact and produce all the documents requested by Plaintiffs in this case.

13. Protective Order. Defendant respectfully suggests that Defendant only be required to gather and redact the thousands of pages of documents requested if Plaintiffs rather than the taxpayers of Harris County are required to pay the cost for the manpower and resources which will be required to retrieve, redact confidential information and produce the documents requested. In the alternative, if the Honorable Court orders Defendant to ignore the statutory confidentiality mandated then the Court should enter a Protective Order tightly restricting any disclosure of the confidential information by Plaintiffs and Plaintiffs' counsel of record and strictly limiting the use of that confidential information to the discovery phase of this lawsuit subject to further orders of the this Court.

14. Defendant respectfully suggests that it is premature for the Court to be asked for an Order on Defendant's discovery responses generally until after the six depositions scheduled for this week are completed and until after the Defendant is allowed to supplement as best it can with additional information collected and until after a full response and hearing on the matter.

• Any documents, memoranda, correspondence or e-mails between your office and the Texas Secretary of State concerning the activities described above and;

15. In an effort at brevity, Defendant will await the opportunity to respond further to each specific item of discovery identified until the Court may notify the Defendant that a full response is desired.

C. Motion for More Definite Statement

16. Defendant respectfully suggests that it is premature for the Court to Order Defendant to amend its current Answer until such time as it is clear what Plaintiff is alleging, and until after the six depositions scheduled for this week are completed and until after the Defendant is allowed to supplement as best it can with additional information collected.

III. Conclusion and Request

17. Defendant has specifically made this preliminary response brief because the matters that Plaintiffs raise are being actively addressed by depositions this week and supplemental information being gathered will be produced in supplemental responses to discovery. Defendant requests that the Court use its good judgment and postpone issuing any order on the matters raised by the Plaintiffs until the discovery process already in motion has at least another thirty days to clarify the facts in the case. In the event the Court should decide to issue an Order at this time Defendant requests that a Protective Order prohibiting disclosure of confidential information without further Court order should accompany any Order requiring Defendant to produce, disclose or allow Plaintiffs to view any non-redacted confidential information. Finally, Plaintiff should be required to pay the cost of any redaction of confidential information from documents ordered to be produced.

Respectfully submitted,

By /s/ F. Clinton Gambill, II
F. CLINTON GAMBILL, II

OF COUNSEL:

• Any documents concerning or reflecting the database used to check addresses pursuant to the activities described above.”

VINCE RYAN
County Attorney
Harris County, Texas

State Bar No. 07601700
Federal I.D. No. 3672
Sr. Assistant County Attorney
1019 Congress, 15th Floor
Houston, Texas 77002
(713) 755-4985
Fax No. (713) 755-8924

OF COUNSEL:

ANDY TAYLOR
Andy Taylor & Associates, P.C.
State Bar No. 19727600
Federal I.D. No. 10002
405 Main Street, Suite 200
Houston, Texas 77002
(713) 222-1817
Fax No. (713) 222-1855

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of March, 2009, a true and correct copy of the foregoing pleading was served in accordance with the Federal Rules of Civil Procedure on the following:

Chad W. Dunn
K. Scott Brazil
Brazil & Dunn
4201 FM 1960 West, Suite 530
Houston, TX 77068

Mike Prather
Fabrega, Hood, Rayes & Fass
815 Walker, Suite 740
Houston, TX 77002-5701

F. Clinton Gambill, II
F. CLINTON GAMBILL, II

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

TEXAS DEMOCRATIC PARTY; §
BOYD L. RICHIE, in his capacity as §
Chairman of the Texas Democratic Party; §
HARRIS COUNTY DEMOCRATIC §
PARTY; §
GERALD BIRNBERG, in his capacity as §
Chairman of the Harris County §
Democratic Party; J. GOODWILLE §
PIERRE; ALEXANDRA GIBBS; §
JEFFREY T. VANSCHOONHOVEN; §
BONI SUE LESZCZUK; and ERIC J. §
GALLOWAY §

Plaintiffs,

Cause No. 4:08-CV-03332

vs.

LEO VASQUEZ, in his capacity as §
Harris County Tax Assessor Collector §
and Harris County Voter Registrar §

Defendant.

PLAINTIFFS' NOTICE OF INTENTION
TO TAKE ORAL DEPOSITIONS

TO: DEFENDANT LEO VASQUEZ, IN HIS CAPACITY AS HARRIS COUNTY TAX ASSESSOR COLLECTOR AND HARRIS COUNTY VOTER REGISTRAR BY AND THROUGH HIS ATTORNEYS OF RECORD, F. CLINTON GAMBILI, II, SENIOR ASSISTANT COUNTY ATTORNEY, 1019 CONGRESS, 15TH FLOOR, HOUSTON, TEXAS 77002.

YOU ARE HEREBY NOTIFIED that Plaintiffs, TEXAS DEMOCRATIC PARTY, BOYD L. RICHIE, in his capacity as Chairman of the Texas Democratic Party, HARRIS

COUNTY DEMOCRATIC PARTY, GERALD BIRNBERG, in his capacity as Chairman of the Harris County Democratic Party, J. GOODWILLE PIERRE, ALEXANDRA GIBBS, JEFFREY T. VANSCHOONHOVEN, BONI SUE LESZCZUK, and ERIC J. GALLOWAY (hereinafter collectively referred to as "Plaintiffs"), intend to take the oral deposition of the following individuals on **March 10 and 11, 2009, beginning at 10:00 a.m.**, and continuing thereafter until completed, at the law offices of F. Clinton Gambill, II, Senior Assistant County Attorney, 1019 Congress, 15th Floor, Houston, Texas 77002, before a certified court reporter. These depositions may be vidcotaped.

March 10, 2009

10:00 a.m.:	Elizabeth Hernandez
1:00 p.m.:	Pamala Ritchie
3:00 p.m.:	Kimberly Shoemaker

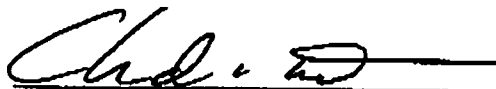
March 11, 2009

10:00 a.m.:	Beverly Thomas
1:00 p.m.:	Michelle Dixon
3:00 p.m.:	M. Frances Thurman

Respectfully submitted,

TEXAS DEMOCRATIC PARTY and
BOYD L. RICHIE, in his capacity as
Chairman of the Texas Democratic Party

By:



Chad W. Dunn -- Attorney In Charge
State Bar No. 24036507
Southern District of Texas No. 33467
General Counsel
TEXAS DEMOCRATIC PARTY
BRAZIL & DUNN
K. Scott Brazil
State Bar No. 02934050
Southern District of Texas No. 2585
4201 FM 1960 West, Suite 530
Houston, Texas 77068
Telephone: (281) 580-6310
Facsimile: (281) 580-6362

FABREGA, HOOD & FASS, L.L.P.
Mike Prather
State Bar No. 24034634
Southern District of Texas No. 31743
815 Walker, Suite 740
Houston, Texas 77002-5701
Telephone (713) 228-2322
Facsimile (713) 228-0088

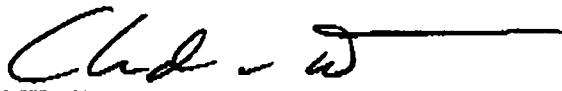
ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing instrument has been directed to all counsel of record and/or all interested parties, as listed below, by facsimile transmission, by certified mail, return receipt requested, and/or by regular U.S. first class mail on this the 25th day of February, 2009.

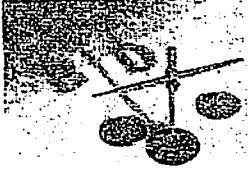
F. Clinton Gambill, II
Senior Assistant City Attorney
1019 Congress, 15th Floor
Houston, TX 77002
By Fax Only: 713-755-8924

Andy Taylor
Andy Taylor & Associates PC
405 Main Street, Suite 200
Houston, Texas 77002
By Fax Only: 713-222-1855



Chad W. Dunn

cc: Robin Hopper
(Court Reporter)
Advantage Reporting Service
P. O. Box 691204
Houston, Texas 77269
By Fax Only - (281) 376-7117



Brazil & Dunn

Attorneys at Law

4201 FM 1960 West,
Suite 530
Houston, Texas 77068
281/580-6310 | office
281/580-6362 | fax
www.BrazilAndDunn.com

Scott Brazil
Board Certified Civil Trial
Board Certified Personal Injury Law
Texas Board of Legal Specialization

Chad W. Dunn
Board Certified Personal Injury Law
Texas Board of Legal Specialization

August 1, 2008

The Honorable Paul Bettencourt
1001 Preston
Houston, Texas 77002

BY FAX ONLY: 713-368-2329

Dear Mr. Bettencourt:

You have received a letter from the Chairman of the Texas Democratic Party, Boyd Richie, concerning a recent *Houston Chronicle* article that reported activities of your office involving the removal of names from the Harris County Voter Registration List, and other efforts to refuse registration of applicants under certain circumstances. This letter is a follow-up to that letter, and notice pursuant to 42 U.S.C. § 1973gg-9(b)(2). This letter should also be considered a request for information under all applicable open record laws. Finally, this is a request for information under the Voting Rights Act, and in particular, whether your jurisdiction has complied with § 5 of the Voting Rights Act requiring pre-clearance of all voting procedures.

As we understand the information reported in the *Chronicle*, your office is removing or suspending names on the Harris County Voter Registration Database at either regular, or ad-hoc intervals. We are requesting information as to the timing of these activities and the criteria followed in performing same. Furthermore, we are requesting any and all records created as a result of these activities. We are also requesting the number of voters removed or suspended during each review, as well as the identities of such voters. In short, we are requesting any information available under the open records laws and 42 U.S.C. § 1973gg-6(i), that pertain to the removal or suspension of names from the list of registered voters in Harris County, Texas, or refusal to register voters, in the last 18 months.

We understand that your office is undertaking at least two activities with regard to the registration database that are legally suspect. First, we understand that in relation to these reviews, your office is utilizing a government database of official addresses and cross-checking those with the addresses provided by registered voters. When the address does not appear in the government database, the registered voter is removed from the registered voter list. It is unclear whether that voter is placed on a suspense list or what occurs with regard to their name and information. It has also been reported that the government database employed is at least six months behind in terms

The Honorable Paul Bettencourt
August 1, 2008
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of inclusion of new addresses. For example, a voter who recently moved into a newly constructed home and provided a change of address to the registration authority would subsequently be removed or suspended when that address did not yet appear in the government database. We are requesting information on how often these activities occurred, the specific identity of the database employed with the address information, as well as the number of, and identities of, the voters removed pursuant to these activities. Furthermore, we are requesting copies of any such notices sent to voters who were removed or suspended from the voter registration list as a result of these activities. We are also requesting any information concerning voters who challenged their removal.

The next activity we understand that is occurring concerns the failure to register voters who provide on their voter registration card only their Social Security Number. The *Chronicle* reports that your office, when it receives a voter registration card that is otherwise completed properly, does not contain a driver's license number, but does contain a Social Security Number, is not registering the voter because the voter fails to check a box certifying they do not possess a driver's license. What authority do you have for failing to register voters under these circumstances? If you have any such authority, and if it is grounded in state law, how do you reconcile that state law with 42 U.S.C. § 15483, which requires registration of applicants who provide a driver's license number or the last four digits of their Social Security Number? What authority do you have for requiring the voter to certify he/she does not have a driver's license when such information is otherwise available to you? How many voters have not been registered pursuant to these activities? Have they been notified they were not registered? Has anyone challenged the failure to register them? Has anyone filed suit in District Court challenging the failure to register? Also, please provide copies of any and all records for the last 18 months involving such activities. Also, provide copies of any notices sent to voters not registered under these provisions.

More generally, with regard to the Voting Rights Act, when were the foregoing activities pre-cleared by the United States Attorney General or by the United States District Court for the District of Columbia? If they were pre-cleared by your office or jurisdiction, please provide the date of the request, the inquiry number or file number, and any records or documents reflecting such pre-clearance request.

If the activities were pre-cleared as a result of a request by another jurisdiction, including the Texas Secretary of State, please provide any such information in your possession regarding that pre-clearance request. With regard to any pre-clearance request concerning these activities, provide the exact language and information provided to the pre-clearing authority describing such activities. If you claim the pre-clearance is implied from the overall pre-clearance of the Texas Election Code, explain why pre-clearance of the statute is imputed to your activities.

The Honorable Paul Bettencourt

August 1, 2008

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Based upon what we know to date, it appears your office is undertaking activities with regard to the Voter Registration List that violate federal and state law and that also violate provisions of the United States Constitution insofar as they burden the Fundamental Right to Vote without a significantly weighty governmental basis. Having said that, we desire to know more about the activities and seek to avoid litigation. Instead, we are asking for information from your office and also an opportunity to meet with you and your staff concerning these important matters.

In summary, the information we are requesting is as follows:

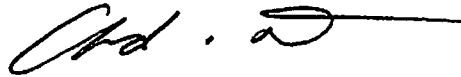
- Any documents relating to the removal of names of registered voters or the suspension of any registered voter in the last 18 months;
- Any documents, voter registration cards, notices, or other materials created, collected or gathered involving the failure to register a voter who sought registration in the last 18 months;
- Any documents relating to the pre-clearance of the activities described above pursuant to § 5 of the Federal Voting Rights Act;
- Any documents, memoranda, correspondence, or e-mails between your office and the Texas Secretary of State concerning the activities described above; and
- Any documents concerning or reflecting the database used to check addresses pursuant to the activities described above.

Also, because the deadline is rapidly approaching for closing the list of registered voters for the upcoming November 2008 General Election, the information requested is needed without delay. If it would facilitate the production of the information, we are willing to come to your offices and go through the materials to save time and any copying expenses. Hopefully our collaboration will reveal that a misunderstanding has occurred concerning the activities undertaken by your office with regard to the voter registration list or that we can reach an agreement as to the remedy of any past violations, and the implementation of procedures moving forward.

The Honorable Paul Bettencourt
August 1, 2008
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Again, we are hoping it is unnecessary, but pursuant to 42 U.S.C. §1973gg-9, you have 20 days from the date of this letter to provide a response. In the event you do not do so, my client will have the right to proceed with claims in the United States District Court for violations of federal statutes and other claims. Hopefully, we can avoid that by an immediate collaborative relationship.

Very truly yours,

A handwritten signature in black ink, appearing to read "Chad W. Dunn", with a long horizontal flourish extending to the right.

Chad W. Dunn
General Counsel
Texas Democratic Party

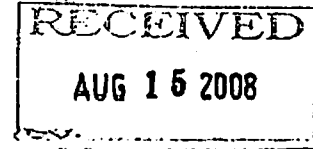
CWD:crw



Mike Stafford
Harris County Attorney

August 14, 2008

Via Certified Mail/ Return Receipt Requested
And Via Fax to (281) 580-6362



Chad W. Dunn, Esq.
General Counsel, Texas Democratic Party
4201 FM 1960 West, Suite 530
Houston, Texas 77068

Re: Public Information Request by Chad W. Dunn, Esq.; any documents relating to the removal of names of registered voters or the suspension of any registered voter in the last 18 months, any documents, voter registration cards, notices, or other materials created, collected or gathered involving the failure to register a voter who sought registration in the last 18 months, any documents relating to the pre-clearance of the activities described above pursuant to section 5 of the Federal Voting Rights Act, any documents, memoranda, correspondence, or e-mails between your office and the Texas Secretary of State concerning the activities described above; and any documents concerning or reflecting the database used to check addresses pursuant to the activities described above
C. A. File No. 08GEN1243

Dear Mr. Dunn:

This is in reference to your letter dated August 1, 2008 sent to the Honorable Paul Bettencourt, the Harris County Tax Assessor/Collector. In your letter you specifically requested the above referenced information. For example, in your request regarding voters removed or suspended during the last 18 months, you seek "any information available under the open records laws and 42 U.S.C. section 1973gg-6(i) that pertain to the removal or suspension of names from the list of registered voters in Harris County, Texas, or refusal to register voters in the last 18 months." Does this request include out of county residents whether or not they are registered elsewhere? (These applications are forwarded to Voter Registration of their county of residence.) If they are not a citizen of the United States? If the individual is a convicted felon? If the individual is ruled to be mentally or partially mentally incapacitated? If the individual is deceased? We respectfully urge you to consider the scope of your request and clarify with greater specificity what you are seeking.

In addition to the extent of your request there are certain items of information that are clearly considered to be confidential under the Public Information Act. An individual's social security number (§ 552.147), driver's license number (§ 552.130), personal ID number from the Texas Department of Public Safety (§ 552.101), and any indication the individual is interested in working as an election judge (§ 552.101).

Letter to Chad Dunn, Esq.
Page 2
August 14, 2008

If the documents indicate the individual is or was a police officer, county jailer, employee of the Texas Department of Criminal Justice or commissioned security officer there may also be home address information and other information that should be withheld pursuant to (§ 552.117) and (§ 552.1175).

Other than the social security number which we can unilaterally redact, we will have to submit the other exceptions to the Office of the Attorney General for a letter ruling if you do not agree that they may be redacted. If such a letter ruling request is sent to the Office of the Attorney General, that office may have forty-five working days in which to make a determination as to whether the items may be redacted. We respectfully request that you carefully review and determine if you will agree in writing to the proposed redactions without the necessity of seeking an attorney general ruling.

In the event you choose not to narrow the scope of your requests, we remind you that pursuant to the Public Information Act, governmental bodies may charge for providing copies of public information an amount that reasonably includes all costs related to reproducing the public information, including costs of materials, labor, and overhead. The Act requires that governmental bodies provide an itemized estimate of charges when the charges exceed \$40. Section 552.231 of the Government Code provides:

- (a) A governmental body shall provide to a requestor the written statement described by Subsection (b) if the governmental body determines:
 - (1) that responding to a request for public information will require programming or manipulation of data; and
 - (2) that:
 - (A) compliance with the request is not feasible or will result in substantial interference with its ongoing operations; or
 - (B) the information could be made available in the requested form only at a cost that covers the programming and manipulation of data.

An estimate of the total charge to provide you with copies of the presently requested documents is \$1,597,282.73. An invoice itemizing the estimated charges is attached to this letter. Please make out the check to the Harris County Treasurer. Upon presentation of the check you should contact Sonya Aston, Public Information Officer for the Harris County Tax Assessor/Collector Office at 1001 Preston, Houston, Texas 77002, phone (713) 368-2137, to confirm an estimated date, time and method for receiving the requested information.

Letter to Chad Dunn, Esq.

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August 14, 2008

You must respond in writing within ten working days that you will accept the estimated charges or that you desire to modify your request in response to the itemized statement. As provided by the Texas Public Information Act, TEX. GOV'T CODE ANN. § 522.2615 (Vernon 2005), your request will be considered withdrawn if you do not respond, in writing, by the 10th calendar day from your receipt of this letter and inform this office of your decision to accept the charges or amend your request.

If you have any questions please contact me at (713) 755-3601.

Yours very truly,

MIKE STAFFORD
County Attorney

By 
DAVID M. SWOPE
Assistant County Attorney

MAS/DMS

Enclosures

cc: Paul Bettencourt
Linda Harvey
Sonya Aston

OPEN RECORDS REQUEST #2174

Calculation of Estimated Labor and Material Cost

a/o 8/13/08

REGISTRATION CATEGORY	RECORD COUNT	TIME (MINUTES) TO RETRIEVE, COPY, REDACT DOCUMENTS FOR EACH FILE	TOTAL LABOR HOURS	PER HOUR LABOR RATE	TOTAL ESTIMATED LABOR	EST NO PAGES PER RECORD	TOTAL ESTIMATED NO PAGES	COPY COST PER PAGE	ESTIMATED COPY COST	TOTAL ESTIMATED COST
CANCELLED	58,936	10	9,822.7	\$15.00	\$147,340.00	8	471,488	\$0.10	\$47,148.80	\$194,488.80
PUT ON SUSPENSE	232,189	15	58,047.3	\$15.00	\$870,708.75	12	2,786,268	\$0.10	\$278,626.80	\$1,149,335.55
NOT REGISTERED: OUT OF COUNTY	32,077	5	2,673.1	\$15.00	\$40,096.25	3	96,231	\$0.10	\$9,623.10	\$49,719.35
INCOMPLETE & OTHER	58,163	12	11,632.6	\$15.00	\$174,489.00	5	290,815	\$0.10	\$29,081.50	\$203,570.50
OTHER DOCUMENTS	1,070	0.23	4.1	\$15.00	\$61.53	1	1,070	\$0.10	\$107.00	\$168.53
ESTIMATED TOTAL	382,435		82,179.7		\$1,232,695.53		3,645,872		\$364,587.20	\$1,597,282.73