

September 16, 2013

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Dear Commissioners:

At the hearing on Saturday, September 14, Commissioner Lopez asked me whether I was suggesting that election precincts or voting tabulation districts (VTDs) should be used for redistricting. I indicated that election precincts, not VTDs, are the proper way for describing the districts. However, I must clarify my answer by explaining the difference between election precincts and VTDs and by pointing to **legislation (unknown to me on Saturday) that was enacted this year by the Texas Legislature that appears to significantly affect your task.**

Election Precincts and VTDs. Election precincts under Texas Law are the smallest form of government entity with fixed boundaries. Voters are registered according to the election precinct in which they reside based on the address associated with their registration. Since every voter is registered according to his or her address and all addresses in the county are assigned to a precinct, the county knows how many voters ostensibly reside within each precinct. **However, there is no state or local mechanism for knowing the actual population or demographics of an election precinct.**

The national census is conducted in the last year of each decade (e.g. 2010). It is an enumeration (i.e. count) of all persons in the U.S. conducted uniformly nationwide to determine the residence of each person on April 1st of the year. The results of this census are released by the Bureau of Census initially early the following year (e.g. 2011). These results exist at the macro level (e.g. state, metropolitan areas, counties and cities) and at the micro level. The smallest unit for which the census data is reported is the **census block**. There are over 8 million census blocks in the United States. The shape of the blocks exists for the convenience of taking and reporting the census. Some census blocks contain thousands of persons (e.g. a block containing an apartment complex) or no one at all (e.g. a highway median or cemetery). The population data for the block does not identify where a person lives in the block.

The voting tabulation district (VTD) is merely a numerical construct for determining (as best as possible) the number of persons (and race and ethnicity) within an election precinct by using the census blocks to determine the population and demographics within an election precinct. There is a VTD for each precinct. However, the marriage of the census geography with the election precinct is not necessarily perfect. Therefore, the population and demographics of an election precinct remain approximate based on the best data available. Travis County prepared and submitted a list of VTDs for preclearance of its election precincts. This same data (as prepared by the county) was used by the Texas Legislative Council. It would be time consuming, costly, and unnecessary for this commission to try to

create new VTDs. Therefore, I have forwarded the Travis County and the Legislative Council e-mails and data and asked that they be provided to Citygate. I have also suggested that this commission or its staff should also obtain the data directly from the county to remove any question of the data's origin.

House Bill 1164. I have unintentionally given you some incorrect information. Sorry. I said that state law requires that election precincts must be wholly contained within city district lines. This was the requirement of Section 42.005 of the Texas Election Code in the past. However the Texas Legislature in 2013 adopted House Bill 1164 (signed by the governor in May) deleting the requirement that an election precinct may not contain territory from more than one "ward in a city with a population of 10,000 or more." In my view this legislation could have a significant effect on the districts that you draw. I am forwarding a copy of HB 1164 as enacted.

Steve Bickerstaff

H.B. No. 1164

AN ACT

relating to the territory that may be included in a single county election precinct.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 42.005, Election Code, is amended to read as follows:

Sec. 42.005. RELATIONSHIP TO [WARDS,] DISTRICTS[,] AND JUSTICE AND COMMISSIONERS PRECINCTS.

SECTION 2. Section 42.005(a), Election Code, is amended to read as follows:

(a) A county election precinct, including a consolidated precinct, may not contain territory from more than one of each of the following types of territorial units:

- (1) a commissioners precinct;
- (2) a justice precinct;
- (3) a congressional district;
- (4) a state representative district;
- (5) a state senatorial district; or
- (6) [a ward in a city with a population of 10,000 or more; or]
- [(7)] a State Board of Education district.

SECTION 3. Section 42.010(c), Election Code, is amended to read as follows:

(c) After each redistricting of a territorial unit described by Section 42.005(a)(3), (4), (5), or (6) [(7)], the commissioners court may submit recommendations to the secretary of state on changes to the territorial units to allow the county to eliminate county election precincts with no population or a substantially small population.

SECTION 4. Sections 42.005(c) and (d) and 42.010(a), Election Code, are repealed.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.