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Dear Commissioners:

I am writing this public comment to you because there are two critical issues that I feel the commission must address to assure the accuracy of what you are doing and the successful defense of your redistricting plan if it is challenged in court. I have asked Craig to please forward this letter to members of this commission and to Citygate.

Before addressing those issues, I wish to say that I hope you are proud of what you have accomplished. Your task is not finished, but thus far you have pleased those persons who hoped you would succeed and severely disappointed those persons who hoped you would fail. You have listened to public comment and are working together in an amazingly united effort to craft a fair districting plan for Austin.

Citizen Voting Age Population (CVAP). This commission must obtain and review certain information about the districts in its plan that, thus far, has not been provided to this commission. The foremost among these is the citizen voting age population (CVAP) for each district.

As you know, noncitizens are ineligible to register or vote. CVAP measures¹ the number and percentage of citizens in a precinct, census block, or district that are 18 or older. In other words, it measures the number and percentage of the total or voting age population actually eligible to register to vote. If citizenship were uniform among all racial and ethnic groups and all precincts in a jurisdiction, the CVAP numbers would be of only minimal importance.² This is true in many states. However, in Texas, the CVAP numbers for a district are critical.

Let me explain in terms of Preliminary District One. You may recall that when he led the assignment of election precincts to District One, Commissioner Johnson indicated several times that he was most interested in the percentage of black voting age population. On at least one occasion he specifically mentioned the need to get CVAP numbers for the district. I have not communicated with Commissioner Johnson, but he clearly knows how elections, as a practical matter, are usually determined in Texas.

¹ CVAP is not an enumeration like the decennial census. Instead, it is the result of census data aggregated at a higher level (to protect privacy) and then extrapolated to each census block according to an algorithm.

² Please do not be confused – total population numbers are used to equalize among districts. CVAP is used separately as a tool in analyzing how different racial and ethnic groups vary (if at all) in their respective ability to register and vote in the district.

Historically there has generally been very little fall-off between the number of black VAP and number of black citizen VAP because a high percentage of persons who call themselves black in the census are citizens. Therefore, if data shows that a district has 25,000 black VAP, it would not be surprising that the district also has a roughly equivalent number (e.g. 22-25,000) of black CVAP. Further, since black citizens in Texas generally register to vote at a high rate, we expect the number of black registered voters to be only slightly less than the number of CVAP.

Although the pattern varies among anglos in different areas, we generally expect only a small drop-off from anglo VAP to anglo CVAP. Thus, the pattern among anglos is generally similar to the pattern we have seen among blacks, including a high rate of citizenship and a high rate of voter registration.

On the other hand, there is a sharp drop-off between the number of Hispanic VAP and the number of Hispanic CVAP. In Harris and Dallas Counties, over half (+50%) of the Hispanics age 18 or older are noncitizens and ineligible to register to vote. The percentage in Travis County is lower for the county as a whole, but there are areas where the percentage of noncitizens is high. A further problem exists because even Hispanics eligible to register to vote generally do so at a lower rate than their black and anglo counterparts. The cumulative effect of this drop-off is shown for example in 2012 election precinct #139 in which Hispanics make up almost 62% of the 8,734 VAP in the district, but only 1497 of the registered voters have a Spanish surname (SSRV).

In District One, this difference between VAP and CVAP means that although the black percentage of VAP is below 30%, the percentage of black persons eligible to vote (CVAP) is much higher. As a result, the black voters may be able to elect the candidate of their choice if they are cohesive. However, the percentage of anglo eligible voters is also likely to increase, so we need a means of measuring the CVAP of these racial groups in the district and a functional analysis to measure the degree of racial polarization in past elections.

In districts with a high percentage of Hispanic VAP, the actual number and percentage of Hispanics in the district eligible to vote may be much lower (e.g. 60% HVAP = 40% CVAP). However, given the history of non-polarized voting in Austin, this may be enough for Hispanic voters in the district to elect the person of their choice. A redrawing of the district to get a higher Hispanic percentage of CVAP may be unnecessary and counterproductive because it can reduce the number of districts in which Hispanic voters have a realistic opportunity to elect the person of their choice and it can require the breakup of neighborhoods through racial gerrymandering. A functional analysis will help this commission answer this difficult question.

These generalizations based on historical patterns may or may not be true of the various voting groups in Austin. Only a review of CVAP and SSRV numbers for the districts will yield current reliable data for the districts that you are drawing.

Ultimately this commission must do a functional analysis of each district to determine, based on appropriate prior elections, the degree of racial and ethnic polarization and who is likely to win in the new district. For example, in District One, elections such as the presidential primary between Obama and Clinton could be instructive (or elections involving Judge Biscoe, Representative Dukes, City Councilmember Cole, or similar candidates) if the election precincts remain comparable between 2008 and 2012.

It is crucial that this commission direct its staff and mapping expert to:

1. Obtain CVAP for all of the precincts;
2. Obtain SSRV (Spanish Surname Registered Voters) for each precinct; and
3. Perform a functional analysis (probably a regression analysis) of Districts 1, 2, 3, and 4 based on appropriate prior elections.

Obtaining this data and performing this analysis is easy. It can be done in a matter of hours if necessary. Giving the staff and mapping expert a week to bring this information to you is plenty of time for the task to be completed.

The Accuracy of the Database Being Used by this Commission. I have tried to work with your staff on this issue. I will describe this potential problem in a separate letter to you because, as detailed below, it is unclear whether the staff will allow any of my written comments to reach this commission or Citygate.

Blocking Written Comments to this Commission and Citygate. On October 2, 2013, I was informed by your staff that my written comments to this commission would be treated as “communications dealing with redistricting” and would not be forwarded by this commission’s staff. It is now very unclear to me whether some of my previous written comments were also blocked unilaterally by your staff without any notice to me or to this commission.

The staff’s unilateral effort to stifle public written comment is dangerous and unwise. Aside from clearly violating my constitutional right to petition the government under both the state and U.S. constitutions, this action is contrary to the intent and express wording of the city charter in which, for example, Section 3 (K) (7) explicitly allows (even encourages) written comments. I do not know if the staff’s actions are limited to me, or extend to other members of the public who have submitted written comments with which the staff disagrees. Certainly I am not the only person who has been concerned about not seeing any evidence (e.g. posting on the web) that their comments ever actually reached the members of this commission.

I deeply regret the need to bring this matter to your attention. I have tried to resolve this dispute with the staff and avoid making the matter a distraction for this commission and its important work. However, I am at a loss as to how your staff expects me to respond to its latest edict. Does it expect me to throw my pen (or computer) away and skulk into the night? If so, I am not inclined to do so.

Thank you for the job you are doing.

Steve Bickerstaff