



March 17, 2022

**United States House of Representatives
Committee on House Administration Subcommittee on Elections
Voting in America: Ensuring Free and Fair Access to the Ballot in Texas**

In 2019, Campaign Legal Center (CLC) and several of our partners sued Texas’s former Secretary of State, David Whitley, for inaccurately flagging tens of thousands of naturalized U.S. citizens as potential non-citizens and demanding additional documentation in order to maintain their voter registration. Shortly thereafter, the state entered into a settlement agreement with CLC and its partners to reform Texas’s flawed voter purge program. The state legislature codified the terms of the 2019 Settlement Agreement when it passed SB 1, its omnibus voter suppression bill, last year, but it appears that Texas is continuing to inaccurately flag eligible U.S. citizen voters as non-citizens.

In 2019, former Texas Secretary of State Whitley transmitted a list of 95,000 registered voters who allegedly indicated they were noncitizens when they applied for their driver’s licenses to county registrars. Texas unlawfully demanded that these tens of thousands of individuals provide additional proof of citizenship within 30 days or have their voter registration cancelled.

But this process was fatally flawed. Texas law allows lawful permanent residents to obtain their Texas driver’s license or state ID and many naturalized U.S. citizen voters do so before becoming U.S. citizens. Thus, the documentation naturalized U.S. citizens provide to the Department of Public Safety (DPS) often reflects their U.S. citizenship status *before* naturalization. By relying on these stale DPS records to verify voters’ U.S. citizenship, Texas designed a system that effectively flagged naturalized U.S. citizens as non-U.S. citizens and demanded they take additional actions not required of non-naturalized citizens, or have their voter registration improperly cancelled.

CLC and our partners took Texas to court over its discriminatory, illegal voter purge that disproportionately targeted naturalized U.S. citizens who registered to vote after obtaining their citizenship. The litigation ultimately resulted in a settlement agreement ending Secretary of State David Whitley’s flawed voter purge program.

The agreement remains legally binding. In addition, Section 2.05 of SB 1 amended the Texas Election Code to codify the agreed upon terms. Now, under the settlement agreement and Section 16.0332 of the Texas Code, the Texas Secretary of State is only supposed to flag registered voters as potential non-U.S. citizens who presented documents or information to the Department of Public Safety indicating non-U.S. citizenship *after* they have already registered to vote.

CLC and our partners, including MALDEF, ACLU of Texas, Lawyers' Committee for Civil Rights Under Law, and Demos are concerned that Texas is not following the terms of the 2019 Settlement Agreement or Texas Election Code 16.0332 as revised by SB 1. In August of last year, the Texas Secretary of State's office informed CLC and our partners that it had identified 11,197 registered voters as potential non-U.S. citizens across the state and sent those voters' names to county voter registrars and elections administrators for investigation and potential removal from the voter rolls.

Yet, as of January of this year, only 278 of the over 11,000 voters flagged under the New Voter Purge Program had been confirmed to be non-U.S. citizens (less than 2.5%). Despite this, by December over 2,300 voter registrations had been cancelled as a part of this new voter purge program. Moreover, there is evidence that the new voter purge program continues to flag eligible voters as potential non-U.S. citizens. For example, in Tarrant County, home to Fort Worth and Arlington, of the 675 registered voters flagged by the New Voter Purge Program as potential non-U.S. citizens, as of February at least 119 had already been confirmed to be eligible voters, nearly 18% of those flagged. In Travis County, home to Austin, at least 93 of the 385 registered voters flagged by the New Voter Purge Program—nearly 1 in every 4 flagged registrants—had been confirmed to be U.S. citizens by the time the data was requested. It similarly appears that Collin County had confirmed U.S. citizenship for at least 88 of its 302 flagged voters, nearly 30% of those flagged. Notably, these percentages only demonstrate those flagged voters already confirmed to be citizens. Other U.S. citizens caught up in this net may not realize their voter registration was cancelled until their next attempt to vote.

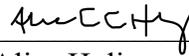
In August and October of last year, CLC and our partners requested information from the Texas Secretary of State's office pursuant to the National Voter Registration Act of 1993 (NVRA) in order to verify whether Texas is following the terms of our settlement agreement. The NVRA requires states to maintain accurate and current voter rolls to ensure that all eligible applicants are properly registered. To enforce compliance, Congress included a requirement that states make their records available to the public. Public monitoring of state's voter rolls and voter roll maintenance procedures is necessary to enforce the constitutional guarantee of the right to vote and protect against state programs that might otherwise deny certain U.S. citizens' right to vote in a discriminatory fashion. Despite the NVRA's requirement that states make these records public to ensure transparency, Texas has refused to give us any records. As a result, CLC and our partners sued Secretary Scott, asking a federal court to compel the Secretary of State's office to disclose the records so that we can determine whether Texas is continuing to target

naturalized U.S. citizens through discriminatory voter purges in violation of our 2019 Settlement Agreement and Texas law.

Discriminatory voter purges targeting Latino and other naturalized voters in Texas are just one way that the state's voting laws and policies restrict Texans' right to vote. These purges are part and parcel of Texas's long history of discriminating against minorities in voting, as evidenced by the United States Court of Appeals for the Fifth Circuit's recognition that Texas has engaged in discriminatory voter purges since at least 1975. *Veasey v. Abbott*, 830 F.3d 216, 240 (5th Cir. 2016).

We encourage all members of the United States House of Representatives to promptly pass federal legislation that will prevent Texas from implementing and engaging in discriminatory voter purges of naturalized U.S. citizen voters and other discriminatory practices.

Respectfully submitted,



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