

**Cause No. 2020-52383**

**THE STATE OF TEXAS,**  
*Plaintiff,*

v.

**CHRIS HOLLINS, in his official capacity**  
**as Harris County Clerk**  
*Defendant.*

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**In the District Court of**

**Harris County, Texas**

**127th Judicial District**

**Defendant Chris Hollins's Opposition to Plaintiff's Application for Temporary Restraining Order, Temporary Injunction and Permanent Injunction**

Unofficial Copy Office of Marilyn Burgess District Clerk

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Christopher Hollins, in his official capacity as the Harris County Clerk, files this Brief in Opposition to The State of Texas’s Application for Temporary Restraining Order, Temporary Injunction, and Permanent Injunction, and would respectfully show the Court the following:

**I. Preliminary Statement**

The Texas Election Code permits and in fact facilitates the broad distribution of vote-by-mail applications to registered voters. The broad distribution of vote-by-mail applications is consistent with the Election Code’s empowerment of voters to decide for themselves whether they meet the statutory criteria for mail voting and, if so, whether to exercise that option. To that end, Chris Hollins—Harris County’s top elections officer—plans to send vote-by-mail applications to all registered voters in Harris County, including those under 65 years of age, along with educational information about the eligibility criteria for voting by mail. By providing applications and educational information, Hollins’s plan will allow Harris County voters to make an informed decision of how to vote this November and will facilitate access to the franchise for those voters who are entitled to vote by mail due to a disability or other qualifying reason.

Nevertheless, the State of Texas has brought this lawsuit seeking to block Hollins from sending vote-by-mail applications to all registered voters in Harris County. The State does not dispute that Hollins may send applications to voters age 65 and over, nor does the State dispute that Hollins may send educational information to all voters. But according to the State, Texas law purportedly prohibits Hollins and other county elections officers from sending vote-by-mail applications to voters age 18 to 64 who do not request an application because some subset of those voters will determine that they do not meet the criteria to vote by mail.

The State’s view turns the Texas Election Code upside down. Section 84.013 of the Election Code specifically contemplates that individuals and organizations will broadly distribute vote-by-mail applications to voters, without limitation. Indeed, the Code *requires* the Secretary of

State to facilitate such distribution by providing vote-by-mail applications to individuals and organizations free of charge. And the Elections Code gives Hollins, in his role as Harris County's early voting clerk, broad discretion to conduct and manage early voting, including by providing vote-by-mail applications along with educational information about the criteria.

The State cites no statute that prohibits Hollins from sending vote-by-mail applications to registered voters, and the State's position that Hollins may not do so would lead to absurd results. Under the State's theory, everyone in the State of Texas, and potentially nationwide, may distribute vote-by-mail applications to Texas voters—except for the county elections officers charged with administering early voting. That makes no sense and cannot possibly be correct.

County elections officers have not only the discretion to make voting easier for eligible voters, but in the context of the pandemic, the solemn duty to ensure that voting is both safe and accessible. The State and its election officials should be working cooperatively to educate and empower Texas voters so that those whose health would be jeopardized by voting in person due to underlying physical conditions can safely cast their ballots this November. The State's motion for injunctive relief should be denied, and its claims should be rejected.<sup>1</sup>

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<sup>1</sup> Several other pending lawsuits may be relevant to the parties' dispute here. For one, Steven Hotze, the Harris County Republican Party, and Sharon Hemphill filed a petition for writ of mandamus against Hollins in the Texas Supreme Court, likewise seeking to block Hollins from sending vote-by-mail applications to all registered voters in Harris County. *See In re Hotze*, No. 20-0671, Tex. Sup. Ct., filed Aug. 31, 2020. On September 2, 2020, the Supreme Court issued an order mirroring the Rule 11 Agreement in this case and requiring Hollins to advise the Court of any developments in this case that may affect its order. Ex. 13. There are also multiple cases pending in federal court against the State, including *Texas Democratic Party v. Abbott* challenging the age limitation for no-excuse mail voting under the federal Twenty-Sixth Amendment, which was argued to the Fifth Circuit on August 31, and *Lewis v. Hughs*, in which the Fifth Circuit issued a summary affirmance in an interlocutory appeal concerning the ability of the Secretary of State to be sued. *See Order, Lewis v. Hughs*, No. 20-50654 (5th Cir. Sept. 4, 2020).

## II. Background

### A. The Texas Election Code Allows Voters to Determine Their Own Eligibility to Vote by Mail

To vote by mail, an eligible voter must submit an application; a voter who has not submitted an application to vote by mail cannot receive a mail ballot. Tex. Elec. Code § 84.001(a), (f).<sup>2</sup> The Texas Election Code permits eligible voters to vote by mail if they meet one of several criteria. Those criteria include (1) if the voter is age 65 or older, or (2) if the voter is under age 65 and (a) will be out of the county throughout the election period, (b) is in jail but otherwise eligible to vote, or (c) has a “disability,” defined broadly as a “a sickness or physical condition that prevents the voter from appearing at the polling place on election day without a likelihood of needing personal assistance or of injuring the voter’s health.” *Id.* §§ 82.001-82.004.

The Texas Supreme Court has held that “[t]he decision to apply to vote by mail based on a disability is the voter’s, subject to a correct understanding of the statutory definition of ‘disability,’” and that election officials have no power to question or investigate a ballot application that is valid on its face. *In re State*, 602 S.W.3d 549, 550, 560-61 (Tex. 2020). With respect to the definition of “disability,” the Court held that while “a voter’s lack of immunity to COVID-19, without more, is not a ‘disability’ as defined by the Election Code,” “a voter can take into consideration aspects of his health and his health history that are physical conditions in deciding whether, under the circumstances, to apply to vote by mail because of a disability.” *Id.* at 550, 561. The Court explained, as an example, that a “heart condition” is the type of physical condition that a voter could consider in deciding whether she is entitled to vote by mail. *Id.* at 560.

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<sup>2</sup> A qualified voter is a person who is 18 or over, a citizen, and registered to vote. Tex. Elec. Code § 11.002. An eligible voter is a qualified voter who satisfies the requirements, such as residency, for a particular election. *Id.* § 11.001.

Highly relevant to a voter’s determination of whether she has a qualifying “sickness or physical condition” under § 82.002 during the COVID-19 pandemic, the Centers for Disease Control and Prevention (CDC) has issued guidance that “[p]eople of any age with certain underlying medical conditions” face an “increased risk of severe illness from COVID-19.” Ex. 2, CDC, *Coronavirus Disease 2019 (COVID-19): People with Certain Medical Conditions* (emphasis added).<sup>3</sup> These underlying medical conditions include cancer, obesity, diabetes, high blood pressure, asthma, pregnancy, smoking, and many other conditions. *Id.* As described in the attached declaration of Dr. Deborah Bujnowski from Harris County Public Health, large percent-ages of Harris County residents between the ages of 18 to 64 have these conditions: 32.4% are obese, 14.3% are smokers, 24.0% have high blood pressure, 6.9% have asthma, 4.2% had or currently have cancer, and 2.2% have chronic obstructive pulmonary disease. Ex. 11, Bujnowski Decl. ¶ 4.

**B. The Texas Election Code Grants Clerk Hollins Broad Authority over Early Voting**

Texas law gives Hollins both the responsibility and the authority to manage early voting in Harris County. Hollins serves as the County’s “early voting clerk” for the November 2020 elections. *See* Tex. Elec. Code § 83.002(1). In that role, Hollins has the responsibility to “conduct the early voting” in Harris County. *Id.* § 83.001(a). Hollins also maintains “the same duties and authority with respect to early voting as a presiding election judge has with respect to regular voting.” *Id.* § 81.001(c). Thus, Hollins is “in charge of and responsible for the management and conduct of” Harris County’s early voting. *Id.* § 32.071 (powers of a presiding election judge).

Within this broad charge, the Elections Code assigns Hollins certain specific duties. As early voting clerk, Hollins “shall mail without charge an appropriate official application form for an early voting ballot” to anyone who requests one. Tex. Elec. Code § 84.012. Additionally,

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<sup>3</sup> <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>.

Hollins is required to make applications “readily and timely available.” *Id.* § 1.010(a). Hollins also is responsible for accepting applications. *Id.* § 84.001(d). Upon receiving an application, Hollins “shall review” it. *Id.* § 86.001(a). Crucially, this review is limited to the application itself; Hollins has no “duty” to “investigate” the applicant or to “look beyond the application.” *In re State*, 602 S.W.3d at 561. So long as an application is “valid on its face,” *id.* at 550, Hollins “shall provide an official [mail] ballot to the applicant.” Tex. Elec. Code § 86.001(b).

**C. The Texas Election Code Obligates the SOS to Support County Elections Officers and to Make Vote-by-Mail Applications Available for Distribution by Anyone**

The Secretary of State (“SOS”) is the “chief election officer of the state.” Tex. Elec. Code § 31.001(a). In that capacity, the SOS “shall assist and advise all election authorities with regard to the application, operation, and interpretation of this code and of the election laws outside of this code.” *Id.* § 31.004(a). In addition to this mandate, the SOS “may take appropriate action to protect the voting rights of the citizens of this state from abuse by the authorities administering the state’s electoral processes.” *Id.* § 31.005(a). The SOS accomplishes its obligations and responsibilities through its election division. *See id.* § 31.001(b).

As part of its responsibilities to facilitate voting, the SOS is required by law to “maintain a supply of the official application forms for ballots to be voted by mail and shall furnish the forms in reasonable quantities without charge to *individuals or organizations requesting them for distribution to voters*.” Tex. Elec. Code § 84.013 (emphasis added). The Texas Election Code therefore specifically contemplates that any “individual[] or organization[]” may engage in the “distribution to voters” of “official application forms for ballots to be voted by mail.” *Id.*

Private parties and political campaigns avail themselves of this ability to send voters unsolicited applications to vote by mail. For instance, the Republican Party of Texas has sent unsolicited vote-by-mail applications to registered voters in Texas. *See, e.g., Ex. 5, Mailer*,

attached to @CGHollins Tweet Regarding Mailed Applications to Vote by Mail. The application is accompanied by a flyer with an image of President Trump that states: “Make a plan today to fill out one of the attached Absentee Ballot Request forms.” *Id.* The flyer contains no guidance or information for voters about the legal definition of “disability” under the Texas Election Code or the Texas Supreme Court’s recent ruling on the matter. *See id.*

The SOS also makes vote-by-mail applications available to the entire public on its website. The SOS’s website links to a PDF of a vote-by-mail application that any member of the public can print, and the site also allows anyone to submit an online request to have up to five applications mailed to them in hard copy. *See Ex. 4, Application for a Ballot by Mail, <https://www.sos.texas.gov/elections/voter/reqabbm.shtml>.* The requesting party (or any person who prints the PDF from the website) can distribute these applications to anyone, including people who have not asked for an application and people who may not meet any of the statutory criteria to vote by mail. Neither the SOS’s website nor the linked application form contains any guidance or information for voters about the legal definition of “disability” under the Texas Election Code or the Texas Supreme Court’s recent ruling on the matter. *See id.*

**D. The SOS Seeks to Prevent Hollins from Sending Vote-by-Mail Applications to Registered Voters**

On August 25, 2020, Hollins announced that he would send vote-by-mail applications to all registered voters in Harris County. Plaintiff’s Ex. 1, @CGHollins Tweet. Two days later, without requesting clarification or more information from Hollins about his plan, the SOS sent Hollins a letter demanding that he “immediately halt any plan to send an application for ballot by mail to all registered voters.” Ex. 6. Despite not knowing Hollins’s plan, the letter asserted that Hollins’s plan would “confuse voters about their ability to vote by mail,” “may cause voters to provide false information on the form,” and would “clog[] up the vote by mail infrastructure.” *Id.*



Hollins responded to the letter immediately. He explained that his office “intend[s] to include detailed guidance along with the applications to inform voters that they may not qualify and to describe who does qualify.” Ex. 7. Hollins added that he would “welcome a conversation” and asked the SOS Director of Elections about his availability to speak. *Id.*

On the evening of August 31, 2020—after this lawsuit was filed and in compliance with the parties’ Rule 11 Agreement—the SOS and Hollins discussed the SOS’s August 27 letter and asserted concerns with Hollins’s plan. During this telephone conversation, the SOS agreed that Hollins may send unsolicited vote-by-mail applications to all registered voters age 65 and over. Ex. 8, Hollins–Ingram Call Tr. at 9:23–10:15. The SOS further agreed that Hollins may send educational materials about voting by mail to all registered voters in Harris County, including those under age 65. *Id.* at 13:1–13:3, 13:7–13:9, 14:15–14:20, 15:17–15:19. And there can be no genuine dispute that *all* registered voters may obtain an *application* to vote by mail regardless of whether they meet any of the eligibility criteria to receive an actual mail ballot. *See* Tex. Elec. Code § 84.012; Pet. ¶ 13. The SOS, however, expressed the view that Hollins may not lawfully send unsolicited vote-by-mail applications to registered voters under age 65 even when accompanied by educational information about the criteria to be entitled to vote by mail.

Given the SOS’s concessions that Hollins may send unsolicited vote-by-mail applications to voters aged 65 or over and may send educational information about the criteria for mail voting to all registered voters, the question for decision is narrow. This case concerns whether Hollins may send unsolicited vote-by-mail applications to registered voters ages 18 to 64 whether accompanied by educational materials that Hollins undisputedly can send to all registered voters describing the criteria to vote by mail or not. The mailer that Hollins intends to send (Ex. 1) is reproduced in full on the following page:

Para recibir esta información o la Solicitud de Voto por Correo en Español, comuníquese con:

Để nhận được thông tin này hoặc Đơn Xin Bầu Cử Bằng Thư bằng Tiếng Việt, xin liên lạc:

要接收此信息或中英文的郵遞投票申請表格, 請聯繫:

QUESTIONS? CONTACT: [vbm@harrisvotes.com](mailto:vbm@harrisvotes.com)  
713-755-6965



# DO YOU QUALIFY TO VOTE BY MAIL?



**READ THIS BEFORE APPLYING FOR A MAIL BALLOT**  
The Harris County Clerk's Office is sending you this application as a service to all registered voters. However, **NOT ALL VOTERS ARE ELIGIBLE TO VOTE BY MAIL.** READ THIS ADVISORY TO DETERMINE IF YOU ARE ELIGIBLE BEFORE APPLYING.



**You are eligible to vote by mail if:**

- You are age 65 or older by Election Day, November 3, 2020;
- You will be outside of Harris County for all of the Early Voting period (October 13th - October 30th) and on Election Day (November 3rd);
- You are confined in jail but otherwise eligible to vote;
- You have a disability. Under Texas law, you qualify as disabled if you are sick, pregnant, or if voting in person will create a likelihood of injury to your health.
  - The Texas Supreme Court has ruled that lack of immunity to COVID-19 can be considered as a factor in your decision as to whether voting in person will create a likelihood of injury to your health, but it cannot be the only factor. You can take into consideration aspects of your health and health history that are physical conditions in deciding whether, under the circumstances, voting in person will cause a likelihood of injury to your health.
  - YOU DO NOT QUALIFY TO VOTE BY MAIL AS "DISABLED" JUST BECAUSE YOU FEAR CONTRACTING COVID-19. YOU MUST HAVE AN ACCOMPANYING PHYSICAL CONDITION. IF YOU DO NOT QUALIFY AS "DISABLED," YOU MAY STILL QUALIFY IN CATEGORIES 1 - 3 ABOVE.**
  - It's up to you to determine your health status—the Harris County Clerk's Office does not have the authority or ability to question your judgment. If you properly apply to vote by mail under any of the categories of eligibility, the Harris County Clerk's Office must send you a mail ballot.
  - To read guidance from the U.S. Centers for Disease Control and Prevention (CDC) on which medical conditions put people at increased risk of severe illness from COVID-19, please visit: [www.HarrisVotes.com/CDC](http://www.HarrisVotes.com/CDC)

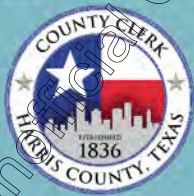
If you have read this advisory and determined that you are eligible to vote by mail, please complete the attached application and return it to the Harris County Clerk's Office! Voting by mail is a secure way to vote, and it is also the safest and most convenient way to vote.

To receive CRITICAL ELECTION UPDATES, sign up at: [www.harrisvotes.com/text](http://www.harrisvotes.com/text)

For Official Use Only: W:ID #Country Election P:1 #  
123000000/906

## APPLICATION FOR BALLOT BY MAIL

**CHRIS HOLLINS**



- Fill in (or verify) your name and address
- Select your reason for using Ballot By Mail
- Select your Election(s)
- Sign your application, affix a stamp, and place in the mail

PROTECTING YOUR RIGHT TO VOTE

**1 APPLICANT'S VOTER REGISTRATION:**

Name/Address/City/State/Zip Code

JOHN Q. PUBLIC  
123 MAIN STREET  
HOUSTON, TEXAS 77078-0044

PHONE NUMBER:  
(Optional)

**PREFERRED MAILING ADDRESS (REQUIRED FOR OUT OF COUNTY & IN JAIL):**

Address/City/State/Zip Code



123000000

**2 REASON FOR APPLYING FOR BALLOT BY MAIL:**

- Age 65 or older
- Have a disability
- \*\*Outside the county throughout Early Voting & Election Day (Oct. 13 - Oct. 30, 2020 & Nov. 3, 2020)
- Confined in jail

(\*\*Dates You Will be Outside the County: / / - / / )

**3 ELECTIONS FOR WHICH YOU ARE APPLYING:**

- ALL 2020 ELECTIONS
- November 3, 2020

SIGN YOUR APPLICATION: If you cannot sign, you must have a person witness your mail. If a person helped you fill out this application you must give the name of that person on the line immediately below your signature. In any single election, it is a Class A misdemeanor for any person to sign a ballot application as a witness for more than one applicant. Limited one second and subsequent applications are restricted to witnesses as a parent, spouse, child, sibling, or grandparent. If you need additional information call the Texas Secretary of State at 1-800-252-8823. COMMON CONTACT CAREER: You may submit via a common or contact carrier which is a ballot box for ballot carrier.

**4 I certify that the information given on this application is true, and I understand that giving false information on this application is a crime. SIGN HERE X**

**5 OPTIONAL - FILL OUT THIS SECTION ONLY IF YOU ASSISTED A VOTER WITH THIS FORM**  
 Check this box if acting as an ASSISTANT

X Signature of Assistant:  
PRINT FULL NAME of Assistant:  
Assistant's Address of Residence or Title of Elections Official:  
Assistant's Relationship to Applicant:

**6 OPTIONAL - FILL OUT THIS SECTION ONLY IF YOU ARE A WITNESS FOR A VOTER WITH THIS FORM**  
 Check this box if acting as a WITNESS

X FOR WITNESS: Applicant, if unable to sign, shall make a mark in the presence of witness. If applicant is unable to make mark, the witness shall check here \_\_\_\_\_  
X Signature of Witness: PRINT FULL NAME of Witness:  
Witness' Address of Residence or Title of Elections Official:  
Witness' Relationship to Applicant:

### III. Legal Standards

The State bears the burden on both its *ultra vires* claim and its claim under Texas Election Code § 31.005. To succeed on its *ultra vires* claim, the State “must allege, and ultimately prove, that [Hollins] acted without legal authority or failed to perform a purely ministerial act.” *City of El Paso v. Heinrich*, 284 S.W.3d 366, 372 (Tex. 2009). To succeed on its claim under Texas Election Code § 31.005, the State must demonstrate that Hollins has “abuse[d]” the “voting rights of the citizens of this state” by “administering the state’s electoral processes” in a way that “impedes the free exercise of a citizen’s voting rights.” Tex. Elec. Code § 31.005(a)-(b).

The State’s burden is magnified here because it seeks a temporary injunction. “A temporary injunction is an extraordinary remedy and does not issue as a matter of right.” *Tex. Black Iron, Inc. v. Arawak Energy Int’l Ltd.*, 527 S.W.3d 579, 584 (Tex. App. – Houston [14th Dist.] 2017, no pet.). “To obtain a temporary injunction, the applicant must plead and prove: (1) a cause of action against the defendant; (2) a probable right to the relief sought; and (3) a probable, imminent, and irreparable injury in the interim.” *Id.* “The applicant bears the burden of production to offer some evidence of each of these elements.” *Id.* Even if the applicant meets these elements, the decision whether to grant a temporary injunction “rests within the trial court’s sound discretion.” *Id.*

For multiple reasons set forth below, the State cannot meet its heavy burden here to show that a temporary injunction is warranted.

### IV. Legal Argument

#### A. Texas Election Code Section 84.013 Authorizes Any Individual or Organization to Distribute Unsolicited Vote-by-Mail Applications to Voters

Contrary to the State’s contention, the Texas Election Code does not restrict access to vote-by-mail applications. To the contrary, the Code expressly permits any individual or organization

to distribute such applications to voters, regardless of whether a voter has requested an application or is ultimately entitled to vote by mail. While some individual voters may not ultimately be entitled to vote by mail, the Election Code plainly authorizes Hollins (as an individual) and the Harris County Clerk's Office (as an organization) to distribute applications to voters.

Specifically, Texas Election Code § 84.013 provides:

The secretary of state shall maintain a supply of the official application forms for ballots to be voted by mail and shall furnish the forms in reasonable quantities without charge to individuals or organizations requesting them for distribution to voters.

On its face, § 84.013 expressly permits any "individual[] or organization[]" to "distribut[e]" vote-by-mail applications to "voters," without limitation. This provision in fact allows for broad distribution of vote-by-mail applications to voters, as it requires the SOS to facilitate such distribution by making the application forms available "without charge." And neither § 84.013 nor any other provision of the Election Code restricts this "distribution" only to those voters who are entitled to vote by mail, or only to those voters who requested an application.

The plain text of § 84.013 thus permits Hollins to distribute vote-by-mail applications to voters. Hollins is an "individual" and the Harris County Clerk's Office is an "organization" for purposes of § 84.013. The terms "individual" and "organization" are not defined by statute. *See* Tex. Elec. Code § 1.005 ("Definitions"). "When, as here, a statute does not define a term, we typically apply the term's common, ordinary meaning, derived first from applicable dictionary definitions, unless a contrary meaning is apparent from the statute's language." *City of Fort Worth v. Rylie*, 602 S.W.3d 459, 466 (Tex. 2020). Hollins obviously is an "individual" in any ordinary sense of the term, and nowhere does the Texas Election Code exclude government officers from the definition of an "individual." To the contrary, the Code in at least one chapter defines a "County election officer" as an "*individual* employed by a county as an elections administrator, voter registrar, county clerk, or other officer with responsibilities relating to the administration of

elections.” Tex. Elec. Code § 279.001 (emphasis added). Likewise, the “ordinary meaning” of the term “organization” does not exclude governmental bodies like the Clerk’s office. *See, e.g.*, “Organization,” Office of the Texas Governor, <https://gov.texas.gov/organization>.

Moreover, it would make no sense to interpret the Texas Election Code as allowing private individuals and organizations free rein to distribute unsolicited vote-by-mail applications while preventing Harris County’s top elections officer from doing the same. *See El Paso Educ. Initiative, Inc. v. Amex Properties, LLC*, 602 S.W.3d 521, 531 (Tex. 2020) (courts should avoid “absurd or nonsensical results”). Not only do political organizations like the Republican Party of Texas distribute vote-by-mail applications, Ex. 5, but numerous third-party organizations participate in vote-by-mail application programs, with the active encouragement of federal, State and local organizations such as non-profits or political campaigns. These applications constitute about half of those the Harris County Clerk’s Office received during the primary run off. *See* Ex. 10, de Leon Decl. Ex. A. No restrictions or limitations are placed on third parties by the Secretary of State or county elections officers as to who may send or receive a vote-by-mail application. It simply cannot be that everyone in the State of Texas—and, indeed, the entire United States of America—is authorized to send unsolicited vote-by-mail applications to registered Texas voters *except for* the county elections officers who are charged with administering the vote-by-mail process.

The fact that private individuals and organizations can and do distribute unsolicited vote-by-mail applications powerfully undermines the State’s purported concerns that Hollins’s distribution of such applications will lead to “confusion” or “voter fraud” or will otherwise “undermine[] the function of the system.” Pet. ¶¶ 30-32. The State offers no explanation as to why Hollins’s distribution of vote-by-mail applications will purportedly cause these harms, but the mass distribution of such applications by private individuals and organizations—and by the

SOS on its website—would not. In fact, the opposite is true. As described above, Hollins intends to include a prominent and rigorous explanation of the criteria for being entitled to vote by mail, *see* Ex. 1, whereas private distributors of applications like the Republican Party of Texas include no explanation of the relevant eligibility criteria and the SOS has failed to provide voters with much-needed guidance on the disability category in light of the *In re State* decision. Hollins’s conscientious efforts to ensure that registered Harris County voters can make an informed decision about whether to apply to vote by mail should be encouraged, not met with threats and legal action.

**B. Hollins May Distribute Vote-by-Mail Applications as Early Voting Clerk**

In addition to the authorization for any individual or organization to distribute vote-by-mail applications under Texas Election Code § 84.013, Hollins’s role as Harris County’s early voting clerk also authorizes him to send such applications to all registered voters in the County.

As previously described, in his role as the “early voting clerk” for Harris County, Hollins possesses broad authority to oversee the “management and conduct” of mail voting. Tex. Elec. Code § 32.071; *see id.* §§ 83.001(a), 83.001(c), 83.002(1). Hollins has a specific duty to make vote-by-mail applications “readily and timely available.” *Id.* § 1.010(a). And his responsibility to “conduct” mail voting carries with it an “implied authority to exercise a broad discretion to accomplish the purposes intended.” *Anderson v. Wood*, 152 S.W.2d 1084, 1085 (Tex. 1941).

Hollins’s plan to send vote-by-mail applications—along with educational information about the eligibility criteria—falls well within his broad authority and discretion to “manage” and “conduct” the vote-by-mail process. Indeed, like many other county clerks, Hollins makes the application available on the Clerk’s Office official website, where it may be downloaded and printed by anyone. *See* Harris County Clerk, Voting Information, Application for Ballot by Mail, <https://www.harrisvotes.com/Docs/VotingInfo/Ballot%20By%20Mail%20Application%20-%20English.pdf>; *see also, e.g.* Carson County Clerk, Application for Ballot by Mail,

<http://www.co.carson.tx.us/upload/page/1423/APPLICATION%20FOR%20BALLOT%20BY%20MAIL%201.pdf>. Despite the fact that no provision of the Texas Election Code specifically deals with the posting of vote-by-mail applications on county websites, the State of Texas has never objected to this routine practice. And the State offers no principled or textual distinction between this universally accepted practice, which makes the vote-by-mail application available to any Internet user, and Hollins’s plan to send applications to Harris County’s registered voters along with detailed educational information about the eligibility criteria for voting by mail.

Hollins’s plan also comports with both the letter and spirit of the Texas Supreme Court’s recent decision in *In re State*. There, the Supreme Court held that Texas law “place[s] in the hands of the voter the determination” of whether that voter is entitled to vote by mail “due to a physical condition,” *i.e.*, a “disability,” “subject to a correct understanding of the statutory definition.” 602 S.W.3d at 550, 561. Hollins’s plan does just this—it “place[s] in the hands of the voter” information that allows the voter to assess her entitlement to vote by mail and the application form for the voter to complete if she determines that she meets the eligibility criteria. In distributing such educational information and applications to voters in a single packet, Hollins is empowering Harris County voters to make their own determinations of whether they can and will apply to vote by mail, exactly as the Texas Supreme Court and the Legislature intended.

**C. No Provision of Texas Law Forbids Distributing Unsolicited Vote-by-Mail Applications to Voters**

As described above, Texas Election Code § 84.013 and the statutory provisions setting forth Hollins’s responsibilities as early voting clerk plainly authorize him to distribute vote-by-mail applications to voters. No provision of Texas law forbids him from doing so.

The State points to Texas Election Code § 84.012 (*see* Pet. ¶ 26), which requires Hollins to send vote-by-mail applications to those who request them, but that provision in no way precludes

Hollins from exercising his discretion to send applications to other voters as well. To read § 84.012 as limiting Hollins’s authority in this respect would be bizarre. In the first place, § 84.012 contains no words of limitation and makes no mention at all of voters who do not request an application. It thus would be strange to read such a limitation as implied, since the Legislature knows how to expressly limit the powers of a public servant to distribute applications. For example, the Legislature has expressly limited the authority of high school deputy registrars to distribute voter-registration applications. Tex. Elec. Code § 13.046(c) (“A high school deputy registrar may distribute registration application forms to and receive registration applications submitted to the deputy in person from students and employees of the school only.”); *see also* Tex. Loc. Gov’t Code § 143.1018 (limiting the scope of information a government official may send by stating the municipal employee “shall only send” certain information).

Second, § 84.012 does not “empower[]” Hollins, as the State erroneously claims. Pet. ¶ 26. On the contrary, it *requires* him to send applications to voters who request one. Tex. Elec. Code § 84.012. Section 84.012 is thus a floor, setting the lower bound of what a clerk must do in conducting the early vote. The State argues that this floor is also a ceiling—that the requirement to send applications to those who request them impliedly forbids clerks from sending applications to anyone else. But this novel approach to statutory interpretation is unsustainable. Consider, for example, how the State’s approach would apply to Texas Election Code § 31.125. That statute requires county elections officers to post on their website the office contact information and the name, address, and hours of each polling location. *Id.* § 31.125. Under the State’s interpretative approach, this provision would impliedly prohibit county elections officers from posting *any* other helpful information for voters on their websites. Of course, the statute does nothing of the sort.



Indeed, the State’s reading of § 84.012 is flatly inconsistent with concessions it has already made in this case. In June, the Harris County Clerk’s Office sent vote-by-mail applications to every registered voter over 65 for the July primary runoff. The SOS did not complain. In his discussion with Hollins after the State filed this lawsuit, the Director of Elections conceded that Hollins may again send unsolicited vote-by-mail applications to voters age 65 and over. Ex. 8, Hollins-Ingram Call at 10:151. But § 84.012 makes no distinctions on the basis of age; any implied limitation from that statute would apply equally to the mailing of unsolicited applications to voters of any age. Rather than live with the consequences of its strained interpretation of § 84.012, the State tries to pick and choose which voters may receive unsolicited applications from Hollins, completely unmoored from any statutory text.

**D. Texas Election Code § 31.005 Was Not Designed to Deter or Punish Efforts by Local Election Officials to Help Voters Exercise the Franchise Safely and Lawfully**

The State brought this action under Texas Election Code § 31.005, which enables the Secretary of State to “take appropriate action to protect the voting rights of the citizens of this state from abuse by the authorities administering the state’s electoral processes.” Tex. Elec. Code § 31.005(a). Under this statute, if the SOS determines that an election official is exercising his or her powers “in a manner that impedes the free exercise of a citizen’s voting rights, the secretary may order the person to correct this offending conduct.” *Id.* § 31.005(b). And “[i]f the person fails to comply, the secretary may seek enforcement of the order by a temporary restraining order or writ of injunction or mandamus obtained through the attorney general.” *Id.* (emphasis added).<sup>4</sup>

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<sup>4</sup> While the State insists that the SOS can order Hollins as a local election official to conduct the pre-election planning exactly as the Secretary dictates, the Secretary has taken the opposite position in voting rights cases pending against her in federal court. *See* Ex. 15, Tex. Sec. of State’s Mot. to Dismiss at 3, *Lewis v. Hughs*, No. 5:20-cv-00577-OLG, Doc. 17 at 2-4 (W.D. Tex. June 30, 2020) (“The Secretary does not oversee the local officials who *do* enforce the challenged [vote-by-mail] provisions. Local officials do not report to the Secretary. They are elected or appointed

Even setting aside that the Secretary of State is not a party to this lawsuit, § 31.005 does not remotely apply here for the simple reason that sending educational information about mail voting and vote-by-mail applications does not “impede[] the free exercise of a citizen’s voting rights.” Quite the contrary, Hollins’s plan to send educational information and applications to all registered voters in Harris County manifestly *promotes* the exercise of people’s voting rights. In fact, Hollins’s decision to provide applications to all voters age 65 or older was highly successful as it was by far the most productive application mailer: it was responsible for more than one-third of the applications received and its design enabled staff to process the applications in half the time. Ex. 10 de Leon Decl. ¶¶ 7-8, Ex. A.

The State’s cynical notion that educating voters about mail voting and giving them vote-by-mail applications violates § 31.005 turns the text and purpose of § 31.005 on its head. The statute affords voters the opportunity to freely exercise the right to vote, without interference by local officials in the “free exercise of a citizen’s voting rights.” Hollins’s plan to provide vote-by-mail applications accompanied by voter education on the criteria for voting by mail to all registered voters is consistent with this statute. By contrast, it is this lawsuit and the Secretary of State’s letter raising the specter of felony charges that seek to “impede[] the free exercise of a citizen’s voting rights.” Tex. Elec. Code § 31.005(b); *see* Ex. 6.

Simply put, increasing access to information and vote-by-mail applications expands rather than impedes the free exercise of voting rights. Hollins’s plan will assist citizens—such as those with physical conditions that place them at severe risks from COVID-19—to learn about their

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locally.”) (emphasis in original), *denied* \_\_ F. Supp. 3d \_\_ 2020 WL 4344432 (July 28, 2020), *summary affirmance on sovereign immunity grounds*, Order, No. 20-50654 (5th Cir. Sept. 4, 2020); *see also In re Stadler*, 540 S.W.3d 215, 218, n.9 (Tex. App. – Houston [1st Dist.] 2018, no pet.) (doubting that a local official is bound by the SOS’s “assistance and advice”).

vote-by-mail options and to exercise their right to vote by mail if they determine they have a qualifying disability. Empowering such persons will, in turn, assist all other voters in allowing more space to socially distance during in-person voting. *See* Ex. 14, Amicus Ltr. of Charles Butt.

Along with his efforts to educate Harris County voters on their potential eligibility to vote by mail, Hollins has secured and employed a substantial amount of additional resources to adequately process and administer the anticipated increase in vote-by-mail applications. Ex. 16, Harris County Commissioner's Court Order Regarding Budget for Harris County Clerk to Administer Safe, Secure, Accessible, Fair, and Efficient Election (25 August 2020). Accordingly, the Secretary of State's concerns about the administrative burden of processing vote-by-mail applications are unfounded.

The State's claim that providing voters with vote-by-mail applications unsolicited somehow impedes their voting rights—rather than empowering voters to make their own decision about whether they qualify as *In re State* instructs—is specious. The State's use of a statute designed to protect and expand the franchise to attempt to limit voters' access to reliable information about how to safely and legally vote is perverse. Rather, Hollins as the early voting clerk charged by law with conducting the election during a pandemic has a duty to make voting safe and accessible to all 2.4 million registered voters in Harris County no matter what their individual circumstances.

## V. Conclusion

For the foregoing reasons, Plaintiff's application for temporary restraining order, preliminary injunction, and permanent injunction should be denied and judgment should be issued in Defendant's favor.

Respectfully submitted,

Vince Ryan  
Harris County Attorney

/s/ Susan Hays  
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Assistant County Attorney  
State Bar No. 24074373

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\* *Pro hac vice* motions filed on this day.

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing instrument was served on all parties of record via eFiling on September 8, 2020.

/s/ Susan Hays

Unofficial Copy Office of Marilyn Burgess District Clerk

## EXHIBITS<sup>5</sup>

1. Under 65 Voter Information and Application to Vote by Mail Mailer from the Harris County Clerk
2. CDC Website – “People with Certain Medical Conditions” (website redirected from URL [www.harrisvotes.com/cdc](http://www.harrisvotes.com/cdc))
3. Harris County 65+ Mailer from June 2020
4. SOS Website “Application for a Ballot by Mail”
5. @CGHollins Tweet Regarding Mailed Applications to Vote by Mail
6. Ingram Letter of 27 August 2020
7. Email Correspondence between Ingram & Hollins (27 August 2020 through 30 August 2020)
8. Transcript of Audio Recorded Telephone Call between Ingram & Hollins (31 August 2020)
9. Audio Recorded Telephone Conversation between Ingram & Hollins (31 August 2020)
  - 9A. Audio Excerpt – “A County Choice to Make”
  - 9B. Audio Excerpt – “You’re Not Very Interested”
  - 9C. Audio Excerpt – “Love Educational Materials”
  - 9D. Audio Excerpt – “Nobody’s Making You Send the Educational Materials, But if You Are, That’s Good.”
  - 9E. Audio Excerpt – “That’s Texas Law”
  - 9F. Audio Excerpt – “More Information is Better than Less”
10. Declaration of Hector de Leon (see Defendant’s Witness List)
11. Declaration of Dr. Bujnowski (see Defendant’s Witness List)
12. Declaration of Lindsey Clark (see Defendant’s Witness List)
  - 12A. “Request Your Ballot” Email

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<sup>5</sup> For the convenience of the Court, this exhibit list is the same as that submitted by Defendants but only those items cited herein are attached.

- 12B. “Make Sure You’re Ready to Vote” (vote.donaldjtrump.com)
- 12C. “Make Sure You’re Ready to Vote” (vote.donaldjtrump.com)
- 12D. “You’ve Got Options” (vote.donaldjtrump.com)
- 12E. “Request by Mail” (vote.donaldjtrump.com)
- 12F. “Request by Mail” / Disability (vote.donaldjtrump.com)
- 12G. Screenshot of SOS Website “Request an Application for Ballot by Mail”
13. Texas Supreme Court Order
14. Charles Butt Amicus Letter
15. Texas Sec. of State’s Mot. to Dismiss, *Lewis v. Hughs*, CA No. 5:20-cv-577, Doc. 17, June 3, 2020 (W.D. Tex.) (excerpt)
16. Harris County Commissioner’s Court Order Regarding Budget for Harris County Clerk to Administer Safe, Secure, Accessible, Fair, and Efficient Election (25 August 2020)
17. [Withdrawn from consideration for pre-admission by Defendant]
18. Demonstrative Exhibit of Defendant’s Exhibits 1, 4, and 5

Unofficial Copy Office of Mallyn Burgess District Clerk

Cause No. 2020-52383

THE STATE OF TEXAS,  
*Plaintiff,*

v.

CHRIS HOLLINS, in his official capacity  
as Harris County Clerk  
*Defendant.*

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In the District Court of

Harris County, Texas

127th Judicial District

**DEFENDANT'S EXHIBIT 1**

Under 65 Voter Information and Application to Vote by  
Mail from the Harris County Clerk

Unofficial Copy Office of Marilyn Burges District Clerk



Para recibir esta información o la Solicitud de Voto por Correo en Español, comuníquese con:

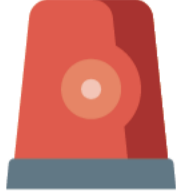
Để nhận được thông tin này hoặc Đơn Xin Bầu Cử Bằng Thư bằng Tiếng Việt, xin liên lạc:

要接收此信息或中英文的郵遞投票申請表格, 請聯繫:

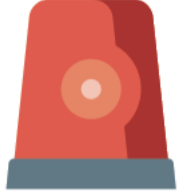
QUESTIONS? CONTACT: vbm@harrisvotes.com 713-755-6965



# DO YOU QUALIFY TO VOTE BY MAIL?



**READ THIS BEFORE APPLYING FOR A MAIL BALLOT**  
The Harris County Clerk's Office is sending you this application as a service to all registered voters. However, **NOT ALL VOTERS ARE ELIGIBLE TO VOTE BY MAIL.** READ THIS ADVISORY TO DETERMINE IF YOU ARE ELIGIBLE BEFORE APPLYING.



### You are eligible to vote by mail if:

- You are age 65 or older by Election Day, November 3, 2020;
- You will be outside of Harris County for all of the Early Voting period (October 13th - October 30th) and on Election Day (November 3rd);
- You are confined in jail but otherwise eligible to vote;
- You have a disability. Under Texas law, you qualify as disabled if you are sick, pregnant, or if voting in person will create a likelihood of injury to your health.
  - The Texas Supreme Court has ruled that lack of immunity to COVID-19 can be considered as a factor in your decision as to whether voting in person will create a likelihood of injury to your health, but it cannot be the only factor. You can take into consideration aspects of your health and health history that are physical conditions in deciding whether, under the circumstances, voting in person will cause a likelihood of injury to your health.
  - YOU DO NOT QUALIFY TO VOTE BY MAIL AS "DISABLED" JUST BECAUSE YOU FEAR CONTRACTING COVID-19. YOU MUST HAVE AN ACCOMPANYING PHYSICAL CONDITION. IF YOU DO NOT QUALIFY AS "DISABLED," YOU MAY STILL QUALIFY IN CATEGORIES 1 - 3 ABOVE.**
  - It's up to you to determine your health status—the Harris County Clerk's Office does not have the authority or ability to question your judgment. If you properly apply to vote by mail under any of the categories of eligibility, the Harris County Clerk's Office must send you a mail ballot.
  - To read guidance from the U.S. Centers for Disease Control and Prevention (CDC) on which medical conditions put people at increased risk of severe illness from COVID-19, please visit: [www.HarrisVotes.com/CDC](http://www.HarrisVotes.com/CDC)

If you have read this advisory and determined that you are eligible to vote by mail, please complete the attached application and return it to the Harris County Clerk's Office! Voting by mail is a secure way to vote, and it is also the safest and most convenient way to vote.

To receive CRITICAL ELECTION UPDATES, sign up at: [www.harrisvotes.com/text](http://www.harrisvotes.com/text)

For Official Use Only: VUID #/County Election Pct #  
1230000000/906

## APPLICATION FOR BALLOT BY MAIL

# CHRIS HOLLINS



### 1 APPLICANT'S VOTER REGISTRATION:

Name/Address/City/State/Zip Code  
**JOHN Q. PUBLIC**  
123 MAIN STREET  
HOUSTON, TEXAS 77078-0044

### PREFERRED MAILING ADDRESS (REQUIRED FOR OUT OF COUNTY & IN JAIL):

Address/City/State/Zip Code

### PHONE NUMBER: (Optional)



### 2 REASON FOR APPLYING FOR BALLOT BY MAIL:

- Age 65 or older
- Have a disability
- \*\*Outside the county throughout Early Voting & Election Day (Oct. 13 - Oct. 30, 2020 & Nov. 3, 2020)
- Confined in jail

(\*\*Dates You Will be Outside the County: \_\_\_/\_\_\_/\_\_\_ - \_\_\_/\_\_\_/\_\_\_)

### 3 ELECTIONS FOR WHICH YOU ARE APPLYING:

- ALL 2020 ELECTIONS
- November 3, 2020

SIGN YOUR APPLICATION: If you cannot sign, you must have a person witness your mark. If a person helped you fill out this application you must give the name of that person on the line immediately below your signature. In any single election, it is a Class A misdemeanor for any person to sign a ballot application as a witness for more than one applicant, unless the second and subsequent application are related to the witness as a parent, spouse, child, sibling, or grandparent. If you need additional information call the Texas Secretary of State at 1-800-252-8683. COMMON CONTRACT CARRIER: You may submit via a common or contract carrier which is a bona fide, for profit carrier.

### 4 I certify that the information given on this application is true, and I understand that giving false information on this application is a crime. SIGN HERE X

Signature of Applicant As Registered

### 5 OPTIONAL - FILL OUT THIS SECTION ONLY IF YOU ASSISTED A VOTER WITH THIS FORM

Check this box if acting as an ASSISTANT

X  
Signature of Assistant

PRINT FULL NAME of Assistant

Assistant's Address of Residence or Title of Elections Official

Assistant's Relationship to Applicant

### 6 OPTIONAL - FILL OUT THIS SECTION ONLY IF YOU ARE A WITNESS FOR A VOTER WITH THIS FORM

Check this box if acting as a WITNESS

X FOR WITNESS: Applicant, if unable to sign, shall make a mark in the presence of witness. If applicant is unable to make mark, the witness shall check here \_\_\_\_\_.

X  
Signature of Witness

PRINT FULL NAME of Witness

Witness' Address of Residence or Title of Elections Official

Witness' Relationship to Applicant

Fill in (or verify) your name and address

Select your reason for using Ballot By Mail

Select your Election(s)

Sign your application, affix a stamp, and place in the mail

PROTECTING YOUR RIGHT TO VOTE

**CHRIS HOLLINS**  
**Harris County Clerk**  
P.O. BOX 1148  
HOUSTON, TX 77251-1148



FIRST-CLASS MAIL  
U.S. POSTAGE  
**PAID**  
HOUSTON, TX  
PERMIT NO. 3111



JOHN Q. PUBLIC  
123 MAIN STREET  
HOUSTON, TEXAS 77078-0044



**TO RECEIVE CRITICAL ELECTION UPDATES, SIGN UP AT:**  
[www.harrisvotes.com/text](http://www.harrisvotes.com/text)



HARRIS COUNTY CLERK



**S.A.F.E.**  
**ELECTIONS**

**SECURE • ACCESSIBLE • FAIR • EFFICIENT**

OFFICE OF CHRIS HOLLINS

**PROTECTING YOUR RIGHT TO VOTE**

**Did you sign your application?**  
**Did you affix a stamp?**

**FROM:**

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First Class  
Stamp  
Required



**CHRIS HOLLINS**  
**Harris County Clerk**  
P.O. BOX 1148  
HOUSTON, TX 77251-1148

Unofficial Copy Office of Marilyn Burgess District Clerk

Cause No. 2020-52383

THE STATE OF TEXAS,  
*Plaintiff,*

v.

CHRIS HOLLINS, in his official capacity  
as Harris County Clerk  
*Defendant.*

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In the District Court of

Harris County, Texas

127th Judicial District

**DEFENDANT'S EXHIBIT 2**

CDC Website – “People with Certain Medical Conditions”  
(website redirected from URL [www.harrisvotes.com/cdc](http://www.harrisvotes.com/cdc))

Unofficial Copy Office of Marilyn Burgess, District Clerk

# Coronavirus Disease 2019 (COVID-19)

[MENU >](#)


## People with Certain Medical Conditions People with Certain Medical Conditions

Updated Aug. 14, 2020

[Print](#)


### Summary of Recent Changes

Revisions were made on July 17, 2020 to reflect recent data supporting increased risk of severe COVID-19 among individuals with cancer. The listed underlying medical conditions in children were also revised to indicate that these conditions **might** increase risk to better reflect the quality of available data currently. We are learning more about COVID-19 every day, and as new information becomes available, CDC will update the information below.

People of any age with **certain underlying medical conditions** are at increased risk for severe illness from COVID-19:

People of any age with the following conditions **are at increased risk** of severe illness from COVID-19:

- [Cancer](#)
- [Chronic kidney disease](#)
- [COPD \(chronic obstructive pulmonary disease\)](#)
- [Immunocompromised state \(weakened immune system\) from solid organ transplant](#)
- [Obesity \(body mass index \[BMI\] of 30 or higher\)](#)
- [Serious heart conditions, such as heart failure, coronary artery disease, or cardiomyopathies](#)
- [Sickle cell disease](#)
- [Type 2 diabetes mellitus](#)

COVID-19 is a new disease. Currently there are limited data and information about the impact of underlying medical conditions and whether they increase the risk for severe illness from COVID-19. Based on what we know at this time, people with the following conditions **might be at an increased risk** for severe illness from COVID-19:

- [Asthma \(moderate-to-severe\)](#)
- [Cerebrovascular disease \(affects blood vessels and blood supply to the brain\)](#)
- [Cystic fibrosis](#)
- [Hypertension or high blood pressure](#)

- Immunocompromised state (weakened immune system) from blood or bone marrow transplant, immune deficiencies, HIV, use of corticosteroids, or use of other immune weakening medicines
- Neurologic conditions, such as dementia
- Liver disease
- Pregnancy
- Pulmonary fibrosis (having damaged or scarred lung tissues)
- Smoking
- Thalassemia (a type of blood disorder)
- Type 1 diabetes mellitus

Want to see the evidence behind these lists?

Children who have medical complexity, who have neurologic, genetic, metabolic conditions, or who have congenital heart disease might be at increased risk for severe illness from COVID-19 compared to other children.

The list of underlying conditions is meant to inform clinicians to help them provide the best care possible for patients, and to inform individuals as to what their level of risk may be so they can make individual decisions about illness prevention. We are learning more about COVID-19 every day. This list is a living document that may be updated at any time, subject to potentially rapid change as the science evolves.

## Reduce your risk of getting COVID-19

It is especially important for people at increased risk of severe illness from COVID-19, and those who live with them, to protect themselves from getting COVID-19.

The best way to protect yourself and to help reduce the spread of the virus that causes COVID-19 is to:

- Limit your interactions with other people as much as possible.
- Take precautions to prevent getting COVID-19 when you do interact with others.

If you start feeling sick and think you may have COVID-19, get in touch with your healthcare provider within 24 hours.

## Venturing out into a public setting? What to consider before you go.

As communities and businesses across the United States are opening, you may be thinking about resuming some activities, running errands, and attending events and gatherings. There is no way to ensure you have zero risk of infection, so it is important to understand the risks and know how to be as safe as possible.

People at increased risk of severe illness from COVID-19, and those who live with them, should consider their level of risk before deciding to go out and ensure they are taking steps to protect themselves. Consider avoiding activities where taking protective measures may be difficult, such as activities where social distancing can't be maintained. **Everyone should take steps to prevent getting and spreading COVID-19** to protect themselves, their communities, and people who are at increased risk of severe illness.

In general, **the more people you interact with, the more closely you interact with them, and the longer that interaction, the higher your risk of getting and spreading COVID-19.**

- If you decide to engage in public activities, continue to protect yourself by practicing everyday preventive actions.
- Keep these items on hand and use them when venturing out: a mask, tissues, and a hand sanitizer with at least 60% alcohol, if possible.
- If possible, avoid others who are not wearing masks or ask others around you to wear masks.

# Are you considering in-person visits with family and friends? Here are some things to consider to help make your visit as safe as possible:

## When to delay or cancel a visit

- Delay or cancel a visit if you or your visitors have [symptoms](#) of COVID-19 or have been exposed to someone with COVID-19 in the last 14 days.
- Anyone who has had [close contact](#) with a person with COVID-19 should [stay home and monitor for symptoms](#).

In general, the more people you interact with, the more closely you interact with them, and the longer that interaction, the higher the risk of COVID-19 spread. So, [think about](#):

- How many people will you interact with?
- Can you keep 6 feet of space between you and others?
- Will you be outdoors or indoors?
- What's the length of time that you will be interacting with people?

## Encourage social distancing during your visit

- Visit with your friends and family **outdoors**, when possible. If this is not feasible, make sure the room or space is well-ventilated (for example, open windows or doors) and large enough to accommodate [social distancing](#).
- Arrange tables and chairs to allow for social distancing. People from the same household can be in groups together and don't need to be 6 feet apart from each other.
- Consider activities where social distancing can be maintained, like sidewalk chalk art or yard games.
- Try to avoid close contact with your visitors. For example, don't shake hands, elbow bump, or hug. Instead wave and verbally greet them.
- If possible, avoid others who are not wearing masks or ask others around you to wear masks.
- Consider keeping a list of people you visited or who visited you and when the visit occurred. This will help with [contact tracing](#) if someone becomes sick.

## Wear masks

- [Masks](#) should be worn over the nose and mouth. Masks are especially important when it is difficult to stay at least 6 feet apart from others or when people are indoors to help protect each other.
- Masks may slow the spread of the virus and help people who may have the virus and do not know it from transmitting it to others
  - Wearing a mask helps protect others in case you're infected, while others wear one to protect you should they be infected.
- **Who should NOT use masks:** Children under age 2 or anyone who has trouble breathing, is unconscious, or is incapacitated or otherwise unable to remove the mask without assistance.

## Wash hands often

- Everyone should [wash their hands](#) for at least 20 seconds at the beginning and end of the visit and whenever you think your hands may have become contaminated.
- If soap and water are not readily available, such as with outdoor visits or activities, use a hand sanitizer that contains at least 60% alcohol. Cover all surfaces of your hands and rub them together until they feel dry.
- Remind guests to wash or sanitize their hands before serving or eating food.
- Use single-use hand towels or paper towels for drying hands so visitors do not share towels. Have a no-touch trash can available for guests to use.

## Limit contact with commonly touched surfaces or shared items

- Encourage your visitors to bring their own food and drinks.

- **Clean and disinfect** commonly touched surfaces and any shared items between use.
- If you choose to use any shared items that are reusable (e.g., seating covers, tablecloths, linen napkins), wash, clean, and sanitize them after the event.

## If you are thinking about participating in an event or gathering:

If you are at increased risk for severe illness, consider avoiding high-risk gatherings. The risk of COVID-19 spreading at events and gatherings increases as follows:

**Lowest risk:** Virtual-only activities, events, and gatherings.

**More risk:** Smaller outdoor and in-person gatherings in which individuals from different households remain spaced at least 6 feet apart, wear masks, do not share objects, and come from the same local area (e.g., community, town, city, or county).

**Higher risk:** Medium-sized in-person gatherings that are adapted to allow individuals to remain spaced at least 6 feet apart and with attendees coming from outside the local area.

**Highest risk:** Large in-person gatherings where it is difficult for individuals to remain spaced at least 6 feet apart and attendees travel from outside the local area.

## Stay healthy during the COVID-19 pandemic

Staying healthy during the pandemic is important. Talk to your healthcare provider about whether your vaccinations and other preventive services are up to date to help prevent you from becoming ill with other diseases.

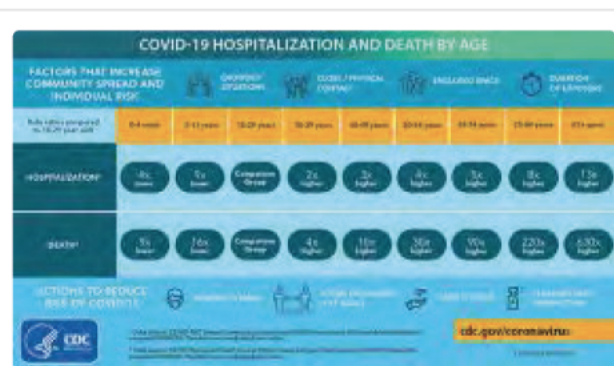
- It is particularly important for those at increased risk of severe illness, including older adults, to receive recommended vaccinations against influenza and pneumococcal disease.
- Talk with your healthcare provider about maintaining preventive services like **cancer screenings** during the pandemic.
- Remember the importance of staying **physically active** and practicing healthy habits to **cope with stress**.
- If you have a medical emergency, do not delay seeking emergency care.

## If you have an underlying medical condition, you should continue to follow your treatment plan:

- **Continue your medicines** and do not change your treatment plan without talking to your healthcare provider.
- **Have at least a 30-day supply** of prescription and non-prescription medicines. **Talk to a healthcare provider**, insurer, and pharmacist about getting an extra supply (i.e., more than 30 days) of prescription medicines, if possible, to reduce your trips to the pharmacy.
- **Do not delay getting emergency care for your underlying medical condition** because of COVID-19. Emergency departments have contingency infection prevention plans to protect you from getting COVID-19 if you need care.
- **Call your healthcare provider if you have any concerns** about your underlying medical conditions or if you get sick and think that you may have COVID-19. If you need emergency help, call 911 right away.
- **If you don't have a healthcare provider**, contact your nearest **community health center** or **health department**.



COVID-19 Associated Hospitalization Related to Underlying Medical Conditions



COVID-19 Hospitalization and Death by Age



COVID-19 Hospitalization and Death by Race/Ethnicity

# Actions you can take based on your medical conditions and other risk factors

## Asthma (moderate-to-severe)

Having moderate-to-severe asthma may increase your risk for severe illness from COVID-19.

### Actions to take

- Keep your asthma under control by following your [Asthma Action Plan](#).
- Continue your current medicines, including any inhalers with steroids in them (“steroids” is another word for corticosteroids). Know [how to use your inhaler](#). Avoid your [asthma triggers](#).
- Make sure that you have at least a 30-day supply of your medicines.
- Call your healthcare provider if you have concerns about your condition or feel sick. **If you don't have a healthcare provider**, contact your nearest [community health center](#) [↗](#) or [health department](#).
- Have another member of your household who doesn't have asthma clean and disinfect your house for you. When they use cleaning and disinfecting products, have them:
  - Make sure that people with asthma are not in the room.
  - Avoid using [disinfectants known to trigger asthma attacks](#).
  - Open windows or doors and use a fan that blows air outdoors.
  - Always follow the instructions on the product label.
  - Spray or pour spray products onto a cleaning cloth or paper towel instead of spraying the product directly onto the cleaning surface (if the product label allows).

[Learn more about asthma.](#)

## Cancer

Having cancer currently increases your risk of severe illness from COVID-19. At this time, it is not known whether having a history of cancer increases your risk.

### Actions to take:

- Have a conversation with your healthcare provider or care team to discuss your individual level of risk based on your condition, your treatment, and the level of transmission in your community.
- Do not stop taking your medicines or alter your treatment plan without talking to your healthcare provider.
- Make sure that you have at least a 30-day supply of your medicines.
- Do not delay life-saving treatment or emergency care.
- Call your healthcare provider or care team if you have concerns about your condition, your treatment, think you may have been exposed to COVID-19, or any other questions.
- For more information on [preventing infections for people with cancer](#).

## Chronic kidney disease

Having chronic kidney disease of any stage increases your risk for severe illness from COVID-19.

### Actions to take

- Continue your medicines and your diet as directed by your healthcare provider.
- Make sure that you have at least a 30-day supply of your medicines.



- Stay in contact with your healthcare team as often as possible, especially if you have any new signs or symptoms of illness. Also reach out to them if you can't get the medicines or foods you need.
- **If you don't have a healthcare provider**, contact your nearest [community health center](#) or [health department](#).
- Have shelf-stable food choices to help you follow your kidney diet.
- If you are on dialysis:
  - Contact your dialysis clinic and your healthcare provider if you feel sick or have concerns.
  - Do NOT miss your treatments.
  - Plan to have enough food on hand to follow the [KCER 3-Day Emergency Diet Plan](#) for dialysis patients in case you are unable to maintain your normal treatment schedule.

[Learn more about kidney disease.](#)

[Learn how to take care of your kidneys.](#)

## COPD, cystic fibrosis, pulmonary fibrosis, and other chronic lung diseases

Having COPD (including emphysema and chronic bronchitis) is known to increase your risk of severe illness from COVID-19. Other chronic lung diseases, such as idiopathic pulmonary fibrosis and [cystic fibrosis](#), may increase your risk of severe illness from COVID-19.

### Actions to take

- Keep taking your current medicines, including those with steroids in them ("steroids" is another word for corticosteroids).
- Make sure that you have at least a 30-day supply of your medicines.
- Avoid triggers that make your symptoms worse.
- Call your healthcare provider if you have concerns about your condition or feel sick.
- **If you don't have a healthcare provider**, contact your nearest [community health center](#) or [health department](#).

[Learn more about COPD.](#)

## Diabetes

Having type 2 diabetes increases your risk of severe illness from COVID-19. Based on what we know at this time, having type 1 or gestational diabetes may increase your risk of severe illness from COVID-19.

### Actions to take

- Continue taking your diabetes pills and insulin as usual.
- Test your blood sugar and keep track of the results, as directed by your healthcare provider.
- Make sure that you have at least a 30-day supply of your diabetes medicines, including insulin.
- Follow your healthcare provider's instructions if you are feeling ill as well as the [sick day tips for people with diabetes](#).
- Call your healthcare provider if you have concerns about your condition or feel sick.
- **If you don't have a healthcare provider**, contact your nearest [community health center](#) or [health department](#).

[Learn more about diabetes.](#)

## Hemoglobin disorders such as sickle cell disease and thalassemia

Having sickle cell disease (SCD) increases your risk for severe illness from COVID-19. Having other hemoglobin disorders,

like thalassemia, may increase your risk for severe illness from COVID-19.

### Actions to take

- Ask your healthcare provider about telemedicine or remote healthcare visits, and know [when to go to the emergency department](#).
- Work with your healthcare provider to manage [medicines and therapies](#) for your disorder (including hydroxyurea, chelation therapy, blood transfusions, and prescriptions for pain management) and any other health condition you may have (such as diabetes, high blood pressure, and arthritis).
- **If you don't have a healthcare provider**, contact your nearest [community health center](#) or [health department](#).
- Try to prevent vaso-occlusive episodes or pain crises by [avoiding possible triggers](#).
- Review CDC's [healthy living with SCD guide](#) or our [healthy living with thalassemia guide](#) for tips to help you stay healthy.
- Find [SCD resources](#) and [thalassemia resources](#) to help navigate care and increase knowledge and awareness of SCD and thalassemia.
- Let friends and family know about the need for [healthy blood donors](#).

## Immunocompromised state (weakened immune system) from blood, bone marrow, or organ transplant; HIV; use of corticosteroids; or use of other immune weakening medicines

Many conditions and treatments can cause a person to be immunocompromised or have a weakened immune system. These include: having a solid organ transplant, blood, or bone marrow transplant; [immune deficiencies](#); [HIV](#) with a low CD4 cell count or not on HIV treatment; prolonged use of corticosteroids; or use of other immune weakening medicines. Having a weakened immune system may increase your risk of severe illness from COVID-19.

### Actions to take

- Continue any recommended medicines or treatments and follow the advice of your healthcare provider.
- Do not stop taking your medicines without talking to your healthcare provider.
- Make sure that you have at least a 30-day supply of your medicines.
- Do not delay life-saving treatment or emergency care.
- Call your healthcare provider if you have concerns about your condition or feel sick.
- **If you don't have a healthcare provider**, contact your nearest [community health center](#) or [health department](#).

[Information for people living with HIV](#)

## Liver disease

Having chronic liver disease, especially cirrhosis (scarring of the liver), may increase your risk for severe illness from COVID-19.

### Actions to take

- Take your medicines exactly as prescribed.
- Make sure that you have at least a 30-day supply of your medicines.
- Call your healthcare provider if you have concerns about your condition or feel sick.
- **If you don't have a healthcare provider**, contact your nearest [community health center](#) or [health department](#).

[Learn more about chronic liver disease.](#)

## Pregnancy

Based on what we know at this time, **pregnant people might be at an increased risk for severe illness from COVID-19** compared to non-pregnant people. Additionally, there may be an increased risk of adverse pregnancy outcomes, such as preterm birth, among pregnant people with COVID-19.

### Actions to take

- Do not skip your prenatal care appointments.
- Make sure that you have at least a 30-day supply of your medicines.
- Talk to your healthcare provider about how to stay healthy and take care of yourself during the COVID-19 pandemic.
- If you don't have a healthcare provider, contact your nearest [community health center](#) or [health department](#).
- Call your healthcare provider if you have any questions related to your health.
- Seek care immediately if you have a medical emergency.
- You may feel increased stress during this pandemic. Fear and anxiety can be overwhelming and cause strong emotions. Learn about [stress and coping](#).

[Learn more about pregnancy and COVID-19.](#)

## Serious Heart Conditions and Other Cardiovascular and Cerebrovascular Diseases

Having any of the following serious heart conditions increases your risk of severe illness from COVID-19:

- Heart failure
- Coronary artery disease
- Cardiomyopathies
- Pulmonary hypertension

Having other cardiovascular or cerebrovascular disease, such as hypertension (high blood pressure) or stroke, may increase your risk of severe illness from COVID-19.

[Learn more about serious heart conditions](#)

### Actions to take

- Take your medicines exactly as prescribed and follow your healthcare provider's recommendations for diet and exercise while maintaining social distancing precautions.
- Continue angiotensin converting enzyme inhibitors (ACE-I) or angiotensin-II receptor blockers (ARB) as prescribed by your healthcare provider for indications such as heart failure or high blood pressure.
- Make sure that you have at least a 30-day supply of your heart disease medicines, including high cholesterol and high blood pressure medicines.
- Call your healthcare provider if you have concerns about your condition or feel sick.
- **If you don't have a healthcare provider**, contact your nearest [community health center](#) or [health department](#).
- Do not delay life-saving treatment or emergency care.

[Learn more about heart disease.](#)

[Learn more about stroke.](#)

[Learn more about high blood pressure.](#)

## Obesity

Having obesity, defined as a [body mass index](#) (BMI) of 30 or above, increases your risk of severe illness from COVID-19.

### Actions to take

- Take your medicines for any underlying health conditions exactly as prescribed.
- Follow your healthcare provider's recommendations for nutrition and physical activity, while maintaining social distancing precautions.
- Call your healthcare provider if you have concerns or feel sick.
- **If you don't have a healthcare provider**, contact your nearest [community health center](#) [↗](#) or [health department](#).

[Learn more about obesity in adults.](#)

[Learn about obesity in children.](#)

## Neurologic conditions such as dementia

Having neurologic conditions such as dementia may increase your risk of severe illness from COVID-19.

### Actions to take

- Take your medicines as prescribed.
- Make sure that you have at least a 30-day supply of your medicines.
- Call your healthcare provider if you have concerns about your condition or feel sick.
- **If you don't have a healthcare provider**, contact your nearest [community health center](#) [↗](#) or [health department](#).

[Learn more about dementia.](#)

[Learn about caring for people living with dementia during COVID-19.](#)

[Learn about amyotrophic lateral sclerosis \(ALS\).](#)

## Smoking

Being a current or former cigarette smoker may increase your risk of severe illness from COVID-19.

### Actions to take

- If you currently smoke, quit. If you used to smoke, don't start again. If you've never smoked, don't start.
- [Counseling from a healthcare provider and Food and Drug Administration \(FDA\)-approved medications](#) can double the chances of quitting smoking.
- For help quitting smoking, call 1-800-QUIT-NOW or visit [smokefree.gov](#) [↗](#) .
- Call your healthcare provider if you have concerns or feel sick.
- **If you don't have a healthcare provider**, contact your nearest [community health center](#) [↗](#) or [health department](#).

[Learn about smoking and tobacco use.](#)

[Learn about the health effects of cigarette smoking.](#)

## Children with Certain Underlying Conditions

While children have been less affected by COVID-19 compared to adults, children with certain conditions may be at increased risk for severe illness. Children who are medically complex, who have serious genetic, neurologic, metabolic disorders, and with congenital (since birth) heart disease might be at increased risk for severe illness from COVID-19. Similar to adults, children with obesity, diabetes, asthma and chronic lung disease, or immunosuppression might be at increased risk for severe illness from COVID-19. CDC is investigating a rare but serious complication associated with COVID-19 in children called Multisystem Inflammatory Syndrome in Children (MIS-C). We do not yet know what causes MIS-C and who is at increased risk for developing it. Learn about [MIS-C](#).

### Actions to take

- Give medicines as prescribed for your child's underlying conditions.
- Make sure that you have at least a 30-day supply of your child's medicines.
- Call your child's healthcare provider if you have concerns and to discuss your child's specific conditions and risk for severe illness from COVID-19.
- Well-child visits and vaccines are still important during the COVID-19 pandemic. Stay in contact with your child's healthcare provider and make sure your child is up to date with vaccines to prevent other diseases. Learn more about [how to protect yourself and your family](#) during the COVID-19 pandemic.
- **If you don't have a healthcare provider**, contact your nearest [community health center](#) [↗](#) or [health department](#).

[Learn about preventing illness in your children.](#)

[Learn more about congenital heart disease and specific genetic and neurologic disorders in children.](#)

## People with Multiple Underlying Conditions

The more underlying medical conditions someone has, the greater their risk is for severe illness from COVID-19.

### Actions to take

- Continue your medicines and treatment plans as directed by your healthcare provider.
- Make sure that you have at least a 30-day supply of your medicines.
- Call your healthcare provider if you have any concerns or feel sick.
- **If you don't have a healthcare provider**, contact your nearest [community health center](#) [↗](#) or [health department](#).
- Do not delay emergency care.

Last Updated Aug. 14, 2020

Unofficial Copy Office of Marilyn Burgess District Clerk

Cause No. 2020-52383

THE STATE OF TEXAS,  
*Plaintiff,*

v.

CHRIS HOLLINS, in his official capacity  
as Harris County Clerk  
*Defendant.*

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In the District Court of

Harris County, Texas

127th Judicial District

**DEFENDANT'S EXHIBIT 4**

SOS Website "Application for a Ballot by Mail"

Unofficial Copy Office of Marilyn Burges District Clerk



Texas Secretary of State  
Ruth R. Hughs

COVID-19 - As recommended precautions continue to increase for COVID-19, the James E. Rudder Building will be closed to visitors and customers beginning Wednesday, March 18, 2020. The Office of the Secretary of State is committed to continuing to provide services to ensure business and public filings remain available 24/7 through our online business service, [SOSDirect](#) or use the new [SOSUpload](#). Thank you in advance for your patience during this difficult time. [Information on Testing Sites is now available](#)

WE WILL BE CLOSED MONDAY, SEPTEMBER 7TH IN OBSERVANCE OF LABOR DAY. [HOLIDAY CLOSURE DETAILS](#)

Note - Navigational menus along with other non-content related elements have been removed for your convenience. Thank you for visiting us online.

## Application for a Ballot by Mail

To be eligible to vote early by mail in Texas, you must:

- be 65 years or older;
- be disabled;
- be out of the county on election day and during the period for early voting by personal appearance; or
- be confined in jail, but otherwise eligible.

### Instructions for submitting an Application for Ballot by Mail (“ABBM”):

1. [Print \(PDF\)](#) the ABBM form
2. OR submit an [order online](#) and an ABBM will be mailed to you.
3. Complete Sections 1 through 8.
4. Sign and Date Section 10.
5. If you were unable to sign the application and someone witnessed your signature, that person must complete Section 11.
6. If someone helped you complete the application or mailed the application for you, that person must complete Section 11.
7. Affix postage.
  - a. If you printed the application you must place it in your own envelope and add postage.
  - b. If you ordered the application online and it was mailed to you - fold the application in half, moisten top tab, seal and add postage.
8. Address and mail the completed ABBM to the Early Voting Clerk in your county. You may also fax the application if a fax machine is available in the early voting clerk’s office. You also have the option of submitting a **scanned** copy of the **completed and signed** application to the Early Voting Clerk via email. If an ABBM is faxed or emailed, then the original, hard copy of the application **MUST** be mailed and received by the early

voting clerk no later than the 4th business day.

- a. The Early Voting Clerk is the County Clerk or Elections Administrator for your county
- b. Contact information, including mailing addresses, fax numbers if available, and email addresses for the Early Voting Clerks are available on this website.

**NOTICE: DO NOT MAIL, FAX, OR EMAIL COMPLETED APPLICATIONS FOR BALLOT BY MAIL TO THE SECRETARY OF STATE'S OFFICE. ALL APPLICATIONS RECEIVED BY THIS OFFICE WILL BE REJECTED.**

Military and overseas voters are welcome to use the regular registration and early voting by mail process available to all voters away from their home county on Election Day. However, there are also special provisions for military and overseas voters.

For more information, please read the Early Voting in Texas pamphlet.

Unofficial Copy Office of Marilyn Burgess District Clerk



Cause No. 2020-52383

THE STATE OF TEXAS,  
*Plaintiff,*

v.

CHRIS HOLLINS, in his official capacity  
as Harris County Clerk  
*Defendant.*

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In the District Court of

Harris County, Texas

127th Judicial District

**DEFENDANT'S EXHIBIT 5**

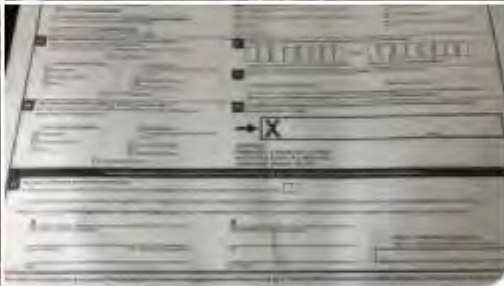
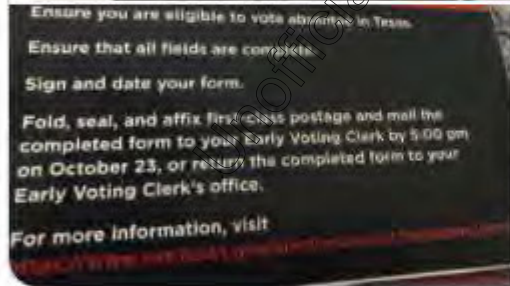
@CGHollins Tweet Regarding Mailed Applications to  
Vote by Mail

Unofficial Copy Office of Marilyn Burges District Clerk



**Chris Hollins** @CGHollins · Sep 2

Heads up @AllenWest someone is masquerading as @TexasGOP and sending mail ballot applications to thousands (perhaps millions) of Texans who haven't requested them. I know that you're opposed to mail ballots, so this couldn't possibly be you! Find these people and stop them!!



**Texas GOP** @TexasGOP · Aug 28

Chairman @AllenWest discusses the important distinction between universal mail-in ballots & absentee ballots. Please RT. Chairman [youtu.be/aCKOPTTVMU](https://youtu.be/aCKOPTTVMU) #KeepTexasRed #ElectionIntegrity #LeadRight #HoldTexas #Election2020 #2020Election

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# THE BEST IS YET TO COME

PRESIDENT TRUMP NEEDS YOU TO ACT NOW.

President Trump will always put **America First** by:

- Fighting for law and order
- Protecting us from the radical left
- Leading our Great American Comeback



TEXAS  
**TRUMP**  
VICTORY

Support our Great American Comeback. Make a plan today to fill out one of the attached Absentee Ballot Request forms.

Paid for by the Republican Party of Texas.  
WWW.TEXASGOP.ORG  
P.O. Box 22206  
Austin, TX 78758

\*\*\*\*\*AUTO\*\*SCH 5-DIGIT 77056  
THE OLIVER HOUSEHOLD  
OR CURRENT RESIDENT  
HOUSTON TX

## THE LAND OF GREATNESS

"My fellow citizens: America's destiny is in our sights. America's heroes are embedded in our hearts. America's future is in our hands. And ladies and gentlemen: the best is yet to come."

- President Donald Trump, Speech at Mt Rushmore, July 3, 2020



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# President Trump is Counting on You.

Join millions of your fellow Americans doing their part to support our Great American Comeback. Make a plan today to fill out one of the attached Absentee Ballot Request forms.

"I will be an absentee voter. We have a lot of absentee voters that works, so we are in favor of absentee."  
- President Donald Trump, 7/30/20

**Fill Out One Of The Attached Forms In Order To Request Your Absentee Ballot Today!**

**In order to complete your request, you will need to:**

- ⊙ Review the absentee ballot application and confirm that you meet the eligibility requirements for voting absentee.
- ⊙ Fill out the application completely.
- ⊙ Submit the request to your local election office. Deadline to request a ballot by mail is (received by) Friday, October 23, 2020.
- ⊙ When your ballot arrives, read it carefully and follow the instructions to complete it and return it.

**TO ENSURE YOUR ABSENTEE BALLOT REQUEST IS RECEIVED, PLEASE DO THE FOLLOWING:**

**Ensure you are eligible to vote absentee in Texas.**

**Ensure that all fields are complete.**

**Sign and date your form.**

**Fold, seal, and affix first-class postage and mail the completed form to your Early Voting Clerk by 5:00 pm on October 23, or return the completed form to your Early Voting Clerk's office.**

**For more information, visit**

**<https://www.sos.texas.gov/elections/voter/reqabbm.shtml>**

Application for Ballot by Mail

Revised by the Office of the Secretary of State of Texas 08/24/2017

For Official Use Only - Section 4, Public & Charitable Entities, Chapter 4, Government Code, Texas

Mobile email

1 Last Name (Please print information) \_\_\_\_\_ Suffix (Jr., Sr., III, etc.) \_\_\_\_\_ First Name \_\_\_\_\_ Middle Initial \_\_\_\_\_

2 Residence Address: See back of this application for instructions. \_\_\_\_\_ City \_\_\_\_\_, TX ZIP Code \_\_\_\_\_

3 Mail my ballot to: If mailing address differs from residence address, please complete Box # 7. \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

4 Date of Birth (mm/dd/yyyy) (Optional)

Contact Information (Optional)  
 Please list phone number and/or e-mail address.  
 \* List in case you have questions.

5 Reason for Voting by Mail:

65 years of age or older (Complete Box #6a)

Disability (Complete Box #6a)

Expected absence from the county (Complete Box #6b and Box #9)  
 You will receive a ballot for the upcoming election only.

Confinement in jail (Complete Box #6b)  
 You will receive a ballot for the upcoming election only.

7 If you are requesting this ballot be mailed to a different address (other than residence), indicate where the ballot is to be mailed. See reverse for instructions.

Address as listed on my voter registration certificate

Address of the poll

Address as listed on my voter registration certificate

Residing home, assisted living facility, or long term care facility

Hospital

Retirement Center

Address outside the county (see Box #9)

6a ONLY Voters 65 Years of Age or Older or Voters with a Disability:  
 If applying for one election, select appropriate box.  
 If applying once for elections in the calendar year, select "Annual Application."

Annual Application

Uniform and Other Elections:

May Election

November Election

Other \_\_\_\_\_

Primary Elections:  
 You must declare one political party to vote in a primary.

Democratic Primary

Republican Primary

Any Resulting Runoff

8 If you selected "expected absence from the county," see reverse for instructions.

Date you can begin to receive mail at this address \_\_\_\_\_ Date of return to residence address \_\_\_\_\_

9 Voters may submit a completed, signed, and scanned application to the Early Voting Clerk at: \_\_\_\_\_ (early voting clerk's e-mail address) \_\_\_\_\_ (early voting clerk's fax)

NOTE: If you fax or e-mail this form, please be aware that you must also mail the form to the early voting clerk within four business days. See "Submitting Application" on the back of this form for additional information.

6b ONLY Voters Absent from County or Voters Confined in Jail:  
 You may only apply for a ballot by mail for one election, and any resulting runoff.  
 Please select the appropriate box.

Uniform and Other Elections:

May Election

November Election

Other \_\_\_\_\_

Primary Elections:  
 You must declare one political party to vote in a primary.

Democratic Primary

Republican Primary

Any Resulting Runoff

10 "I certify that the information given in this application is true, and I understand that giving false information in this application is a crime."

→ **X** \_\_\_\_\_ Date \_\_\_\_\_

SIGN HERE  
 If applicant is unable to sign or make a mark in the presence of a witness, the witness shall complete Box #11.

If someone helped you to complete this form or mails the form for you, then that person must complete the sections below.

11 See back for Witness and Assistant definitions.

If applicant is unable to mark Box #10 and you are acting as a **Witness** to that fact, please check this box and sign below.

If you assisted the applicant in completing this application in the applicant's presence or e-mailed/mailed or faxed the application on behalf of the applicant, please check this box as an **Assistant** and sign below.

★ If you are acting as **Witness and Assistant**, please check **both boxes**. Failure to complete this information is a Class A misdemeanor if signature was witnessed or applicant was assisted in completing the application.

**X** \_\_\_\_\_  
 Signature of Witness/Assistant

**X** \_\_\_\_\_  
 Printed Name of Witness/Assistant

Street Address \_\_\_\_\_ Apt Number (if applicable) \_\_\_\_\_ City \_\_\_\_\_

State \_\_\_\_\_ ZIP Code \_\_\_\_\_

Witness' Relationship to Applicant  
 (Refer to instructions on back for classification)

\_\_\_\_\_

formulario está disponible en Español. Para conseguir la versión en Español favor de llamar sin cargo al 1.800.252.8683 a la oficina del Secretario de Estado o la Secretaria de Votación por

Cause No. 2020-52383

THE STATE OF TEXAS,  
*Plaintiff,*

v.

CHRIS HOLLINS, in his official capacity  
as Harris County Clerk  
*Defendant.*

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In the District Court of

Harris County, Texas

127th Judicial District

**DEFENDANT'S EXHIBIT 6**

Ingram Letter of 27 August 2020

Unofficial Copy Office of Marilyn Burgess District Clerk

# The State of Texas



Elections Division  
P.O. Box 12060  
Austin, Texas 78711-2060  
www.sos.state.tx.us

Phone: 512-463-5650  
Fax: 512-475-2811  
For Relay Services  
(800) 252-VOTE (8683)

Ruth R. Hughs  
Secretary of State

August 27, 2020

Chris Hollins  
Harris County Clerk  
201 Caroline St., 3rd Floor  
Houston, Texas 77002

Dear Mr. Hollins:

It has come to our office's attention that Harris County intends to send an application to vote by mail to every registered voter in the county. Such action would be contrary to our office's guidance on this issue and an abuse of voters' rights under Texas Election Code Section 31.005.

As you know, the Texas Election Code requires that voters have a qualifying reason to vote by mail. They must be 65 years or older, disabled, out of the county while voting is occurring, or confined in jail but otherwise eligible to vote. It is not possible that every voter in Harris County will satisfy one or more of these requirements.

By sending applications to all voters, including many who do not qualify for voting by mail, your office may cause voters to provide false information on the form. Your action thus raises serious concerns under Texas Election Code Section 84.0041(a)(1), (2).

At a minimum, sending an application to every registered voter will confuse voters about their ability to vote by mail. Earlier this year and continuing, there have been a number of lawsuits challenging the fact that Texas law requires a reason to vote by mail. Thus far the challenged law remains the same in spite of these lawsuits. An official application from your office will lead many voters to believe they are allowed to vote by mail, when they do not qualify.

Finally, by sending an application to every registered voter, you could impede the ability of persons who need to vote by mail to do so. Clogging up the vote by mail infrastructure with potentially millions of applications from persons who do not qualify to vote by mail will make it more difficult for eligible mail voters to receive their balloting materials in a timely manner and will hamper efforts to qualify and count these ballots when received by your office.

For all of these reasons, you must immediately halt any plan to send an application for ballot by mail to all registered voters and announce its retraction. If you have not done so by noon on Monday, August 31, 2020, I will request that the Texas Attorney General take appropriate steps under Texas Election Code 31.005.



Sincerely,



Keith Ingram  
Director of Elections

Unofficial Copy Office of Marilyn Burgess District Clerk

THE STATE OF TEXAS,  
*Plaintiff,*

v.

CHRIS HOLLINS, in his official capacity  
as Harris County Clerk  
*Defendant.*

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In the District Court of

Harris County, Texas

127th Judicial District

**DEFENDANT'S EXHIBIT 7**

Email Correspondence between Ingram & Hollins (27 August through 30 August 2020)

Unofficial Copy Office of Marilyn Burges District Clerk

**From:** Hollins, Chris (CCO)  
**Sent:** Sunday, August 30, 2020 4:52 PM  
**To:** Keith Ingram <KIngram@sos.texas.gov>  
**Cc:** Winn, Michael (CCO) <Michael.Winn@cco.hctx.net>; Adam Bitter <ABitter@sos.texas.gov>; Ray, Douglas (CAO) <Douglas.Ray@cao.hctx.net>; Aiyer, Jay (CAO) <Jay.Aiyer@cao.hctx.net>; Stevens, Beth (CCO) <Beth.Stevens@cco.hctx.net>; O'Rourke, Terence (CAO) <Terence.O'Rourke@cao.hctx.net>  
**Subject:** RE: Letter regarding ABBM mailing  
**Sensitivity:** Personal

Keith,

I'm glad that you said you are willing to speak, but a bit disappointed that it seems like your mind is made up before speaking with me.

If you had conferred with me before sending your letter, you would have learned that we are not just sending mail-in ballot applications, but providing voters with information on how to legally and safely vote. With our current plan, there is no way a voter could receive the provided information and think that they were automatically qualified to vote by mail or that my office was encouraging them to vote fraudulently. I ask that the Secretary of State's office take the time to confer with us before moving forward with any threatened enforcement actions.

It's also worth noting that Harris County is prepared to handle over a million applications and mail ballots. I'd like to share details about our vote by mail infrastructure with you to allay any concerns you might have (and to share information that you may want to share with other counties facing this challenging election).

You didn't provide your availability to meet with me in our previous emails. Are you available to connect at 4PM Monday? I can circulate a Zoom link for us to dial into. I can assure you that we are not mailing out ballot applications before that time, and I ask that you agree to confer with us before taking any steps on your end.

I look forward to speaking with you.

Best,

Chris

---

**Christopher G. Hollins**  
County Clerk  
Harris County, Texas



713.274.8600 (o)  
713.899.3204 (m)  
[www.cclerk.hctx.net](http://www.cclerk.hctx.net)  
[www.harrisvotes.com](http://www.harrisvotes.com)  
him/his

**From:** Keith Ingram <[KIngram@sos.texas.gov](mailto:KIngram@sos.texas.gov)>  
**Sent:** Friday, August 28, 2020 5:28 PM  
**To:** Hollins, Chris (CCO) <[Chris.Hollins@cco.hctx.net](mailto:Chris.Hollins@cco.hctx.net)>  
**Cc:** Winn, Michael (CCO) <[Michael.Winn@cco.hctx.net](mailto:Michael.Winn@cco.hctx.net)>; Adam Bitter <[ABitter@sos.texas.gov](mailto:ABitter@sos.texas.gov)>; Ray, Douglas (CAO) <[Douglas.Ray@cao.hctx.net](mailto:Douglas.Ray@cao.hctx.net)>; Aiyer, Jay (CAO) <[Jay.Aiyer@cao.hctx.net](mailto:Jay.Aiyer@cao.hctx.net)>; Stevens, Beth (CCO) <[Beth.Stevens@cco.hctx.net](mailto:Beth.Stevens@cco.hctx.net)>  
**Subject:** RE: Letter regarding ABBM mailing  
**Sensitivity:** Personal

Dear Mr. Hollins:

Thank you for your response to my letter. Our office appreciates and shares your concern to prevent unqualified voters from applying to vote by mail. Unfortunately, indiscriminately sending millions of applications for mail ballots to all registered voters in Harris County, regardless of whether they requested an application or whether they even qualify to vote by mail, will only lead to confusion and undermine our shared goal of ensuring an efficient and fair election process. The Election Code clearly empowers clerks to send mail ballot applications to voters who request them. Clerks lack authority, however, to undertake the unsolicited mass mailing you propose, and for good reason. Flooding the County with millions of unrequested applications on the eve of an election is certain to result in large numbers of improper mail ballot requests. That reality most certainly raises serious concerns under Section 84.0041. Specifically, the mailing likely will cause voters who are not qualified to vote by mail to apply nonetheless.

I am happy to speak with you prior to the Monday deadline about options for better educating voters who qualify to vote by mail about their statutory rights and the availability of applications. But, I stand by my letter of August 27, and I must reiterate our demand that you immediately halt any plan to send an application for ballot by mail to all registered voters and announce its retraction no later than by noon on Monday, August 31, 2020.

Keith Ingram  
Director, Elections Division  
Office of the Secretary of State  
800-252-VOTE(8683)  
[www.sos.state.tx.us/elections/index.shtml](http://www.sos.state.tx.us/elections/index.shtml)  
**For Voter Related Information, please visit:**

**VOTETEXAS.GOV**  
POWERED BY THE TEXAS SECRETARY OF STATE

*The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as personal legal advice to you for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.*

**From:** Hollins, Chris (CCO) <[Chris.Hollins@cco.hctx.net](mailto:Chris.Hollins@cco.hctx.net)>  
**Sent:** Friday, August 28, 2020 2:18 PM  
**To:** Keith Ingram <[KIngram@sos.texas.gov](mailto:KIngram@sos.texas.gov)>  
**Cc:** Winn, Michael (CCO) <[Michael.Winn@cco.hctx.net](mailto:Michael.Winn@cco.hctx.net)>; Adam Bitter <[ABitter@sos.texas.gov](mailto:ABitter@sos.texas.gov)>; Ray, Douglas (CAO)

<[Douglas.Ray@cao.hctx.net](mailto:Douglas.Ray@cao.hctx.net)>; Aiyer, Jay (CAO) <[Jay.Aiyer@cao.hctx.net](mailto:Jay.Aiyer@cao.hctx.net)>; Stevens, Beth (CCO) <[Beth.Stevens@cco.hctx.net](mailto:Beth.Stevens@cco.hctx.net)>

**Subject:** Re: Letter regarding ABBM mailing

**Sensitivity:** Personal

**CAUTION:** This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to [Informationsecurity@sos.texas.gov](mailto:Informationsecurity@sos.texas.gov).

Hi Keith,

Haven't heard back from you here. Given the deadline you included in your letter, it would behoove us to connect by Monday. When can you meet?

Thanks,

Chris

---

Christopher G. Hollins  
County Clerk, Harris County, Texas  
(m) 713.899.3204

On Aug 27, 2020, at 11:42 PM, Hollins, Chris (CCO) <[Chris.Hollins@cco.hctx.net](mailto:Chris.Hollins@cco.hctx.net)> wrote:

Hi Keith,

We share your concerns of voters who do not qualify to vote by mail applying. We intend to include detailed guidance along with the applications to inform voters that they may not qualify and to describe who does qualify. They would then have to complete the application and sign the application, stating that what they put on it is true.

I am sure you know the law back to front, but I am pasting it here for everyone's convenience. I don't see how providing information and resources to voters in any way touches on (a)(1), (2).

(a) A person commits an offense if the person:

- (1) knowingly provides false information on an application for ballot by mail;
- (2) intentionally causes false information to be provided on an application for ballot by mail;
- (3) knowingly submits an application for ballot by mail without the knowledge and authorization of the voter; or
- (4) knowingly and without the voter's authorization alters information provided by the voter on an application for ballot by mail.

I would welcome a conversation on the topic. Please let me know your availability.

Best,

Chris

---

**From:** Keith Ingram <[KIngram@sos.texas.gov](mailto:KIngram@sos.texas.gov)>  
**Sent:** Thursday, August 27, 2020 5:13 PM  
**To:** Hollins, Chris (CCO) <[Chris.Hollins@cco.hctx.net](mailto:Chris.Hollins@cco.hctx.net)>

Cc: Winn, Michael (CCO) <[Michael.Winn@cco.hctx.net](mailto:Michael.Winn@cco.hctx.net)>; Adam Bitter <[ABitter@sos.texas.gov](mailto:ABitter@sos.texas.gov)>

**Subject:** Letter regarding ABBM mailing

**Sensitivity:** Personal

Mr. Hollins,

Attached is a letter from our office regarding the ABBM mailing.

Keith Ingram  
Director, Elections Division  
Office of the Secretary of State  
800-252-VOTE(8683)

[www.sos.state.tx.us/elections/index.shtml](http://www.sos.state.tx.us/elections/index.shtml)

**For Voter Related Information, please visit:**

<image001.png>

*The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as personal legal advice to you for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.*

Unofficial Copy Office of Marilyn Burgess District Clerk

THE STATE OF TEXAS,  
*Plaintiff,*

v.

CHRIS HOLLINS, in his official capacity  
as Harris County Clerk  
*Defendant.*

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In the District Court of

Harris County, Texas

127th Judicial District

**DEFENDANT'S EXHIBIT 8**

Transcript of Audio Recorded Telephone Call between  
Ingram & Hollins (31 August 2020)

Unofficial Copy Office of Marilyn Burges District Clerk

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Audio Transcription of  
"Telephone Conference,  
Monday, August 31, 2020, 6 p.m."

Unofficial Copy Office of Marilyn Burgess District Clerk



1 CHARLIE ELDRED: Hi everybody. Chris Hollins just  
2 joined the call. Hi, Mr. Hollins. This is Charlie Eldred from  
3 the Attorney General's Office.

4 CHRIS HOLLINS: Hey, Charlie. How are you doing?

5 CHARLIE ELDRED: I'm doing great. How are you?

6 CHRIS HOLLINS: I'm doing well. I think there are  
7 about ten folks on this call. Do other folks want to announce  
8 themselves?

9 SETH HOPKINS: Hi. This is Seth Hopkins with the  
10 Harris County Attorney's Office.

11 MALE SPEAKER: Can you hear me?

12 CHRIS HOLLINS: I can hear you.

13 MICHAEL WINN: Hi. This is Michael Winn for  
14 the Harris County Clerk's Office.

15 CAMERON HETZEL: Hello. This is Cameron Hetzel with  
16 the County Attorney's Office

17 BETH STEVENS: Hey, everybody. Beth Stevens with the  
18 Harris County Clerk's Office.

19 CHRIS HOLLINS: Susan Hays, are you still on the  
20 line?

21 SUSAN HAYS: I am. (Inaudible). This is Susan Hays  
22 (inaudible) counsel for Harris County Clerk.

23 CHARLIE ELDRED: Is that everybody from Harris County?  
24 Okay. How about -- will -- will state people announce

1 themselves.

2           STEPHANIE HUNTER: This is Stephanie Hunter from the  
3 Attorney General's Office.

4           ADAM BITTER: This is Adam Bitter from the Secretary  
5 of State's Office.

6           KEITH INGRAM: And Keith Ingram from the Secretary of  
7 State's Office.

8           CHARLIE ELDRED: And I believe that is it. That's  
9 certainly it from the Secretary of State now.

10           CHRIS HOLLINS: So we have Keith and Adam from the  
11 SOS, and then we have Charles and Kathleen from the AG's Office;  
12 is that correct?

13           CHARLIE ELDRED: Yes, sir.

14           CHRIS HOLLINS: Okay. Well, here we are. Thank you  
15 for taking the time to get on the phone with us. I must  
16 say I -- I wish we would have been able to talk before, you know,  
17 legal action was taken per my multiple emails, you know, to that  
18 regard, but I'm glad that we're able to speak now. About how --  
19 how much time do we have right now?

20           MALE SPEAKER: I'll let Keith answer that one.

21           KEITH INGRAM: Yeah, we're at your disposal.

22           CHRIS HOLLINS: Okay. Well, Keith, you know, before  
23 the end of last week, you know, I -- I think that, you know, my  
24 office and the Secretary of State's Office, and particularly, you

1 know, the Elections Division, had had a pretty smooth  
2 relationship. I believe that you and Michael have a longstanding  
3 relationship, and so -- you know, it was my understanding that --  
4 that we could work together as, you know, mutual public servants  
5 of the people of Texas and the people of Harris County, and, you  
6 know, it's my hope that despite this particular issue and going  
7 forward, that we can continue to serve in that manner. I think  
8 that takes being able to pick up the phone and talk to one  
9 another, share ideas, share disagreements before we jump into a  
10 courtroom, but, again, that having all been said, I'm -- I'm glad  
11 that you're on the phone now, and, you know, I -- I hope that we  
12 can, you know, spend some time today talking in a -- you know, in  
13 a way that's not adversarial, frankly. And so I wanted to talk  
14 about a couple of things and, of course, want to hear from you  
15 about what you want to cover. You know, in your letter you --  
16 you know, you mentioned concerns with, you know, our  
17 infrastructure to handle vote by mail. You -- you mentioned, you  
18 know, what happens if millions of people apply and, you know,  
19 will that sort of gum up the works and -- and make it less  
20 feasible for people -- yeah, for -- for everyone to have their --  
21 their votes counted that way; and so I want to talk to you about  
22 that a little bit. I -- I want to talk to you more broadly just  
23 about things we're doing down here. You know, I think we've  
24 been, you know, on the innovative side and -- and so since I have

1 you on the phone, I would like to talk through a couple things  
2 that we're doing and hear from you, you know, for good or for bad  
3 on those and -- yeah, and then, I think, we can talk more  
4 specifically about -- about this mailer as well as other mailers  
5 that my office put out just to -- to understand where -- where  
6 you're coming from. And I don't want to get too much into  
7 legalese. Of course, if you need to state a legal position,  
8 that's fair; I -- I get it, but I do just want to kind of  
9 understand, you know, conversationally, you know, what the issues  
10 are from your side and see if we can't talk about how to -- to  
11 allay some of those concerns. Is there anything else on your  
12 side that you want to cover?

13 KEITH INGRAM: No.

14 CHRIS HOLLINS: All right. So -- so vote by mail  
15 infrastructure. So we have 2.4 million registered voters here in  
16 Harris County. That might tick up just a little bit before the  
17 October 5th deadline, but I don't think it's going to go too much  
18 further than that, and, you know, we, here in Harris County have,  
19 -- you know, been using data, looking at what happened from our  
20 July elections, particularly as it related to the mailer that was  
21 sent out then and then understanding who's -- who's likely to  
22 vote by mail, and then also what are just some -- you know, some  
23 very high turnout scenarios essentially as it relates to vote by  
24 mail to understand what we need to be prepared for. We're doing

1 the same thing for in-person voting as well. We're trying to  
2 understand what does a very high turnout scenario look like, and  
3 in those scenarios will we be prepared with the right number of  
4 locations and the right number of machines both for early vote  
5 and for election day. And so given that, you know, we -- we  
6 prepared and are preparing for what would be far beyond record  
7 turnout in Harris County. What -- what we've seen -- and you  
8 probably know some of this stuff better than I do since I'm a few  
9 months into the job and -- and you've been on the job for quite  
10 some time, but, you know, the -- the past few presidential  
11 elections going all the way back to 2008 we've had 60 or 62  
12 percent turnout, right in that range, and what we've been  
13 preparing for this time around is what happens in 72 percent  
14 turnout which is unlikely to happen, but, again, if there is  
15 dramatically high turnout, we want to be prepared. And then if  
16 there is 72 percent turnout, what happens if a huge chunk of  
17 those folks vote by mail, and then what happens if, you know, a  
18 huge -- or even, you know, traditional chunk of those folks, vote  
19 in person, both from early vote and election day. And so given  
20 all that you know, we're prepared for more than 1.5 million  
21 people to vote in person which, again, would be far higher than  
22 anything we've ever seen here in Harris County, but on the mail  
23 side we're prepared for nearly a million people, you know, nearly  
24 half of all registered voters to send in applications as well as

1 to have those -- those -- you know, those potentially approved  
2 and processed as ballots ultimately. And so we've walked through  
3 all the math, all the timing at which some of those ballots might  
4 come in, given the timing of the election itself but also the  
5 timing of any mailers that went out. We've used data from our  
6 65-year-old mailer that we sent out at the beginning of June to  
7 understand how quickly people turn those applications around,  
8 what percentage of people, you know, turn those applications  
9 around and -- and so on and so forth. And what we found  
10 essentially is -- you know, we know, of course, and, I think,  
11 you've -- you've stated in -- in some of your documents and  
12 emails that all voters who are over the age of 65 are eligible to  
13 vote by mail. And so given that, we saw that, you know, a fairly  
14 low percentage of voters, who we know are 100 eligible to vote by  
15 mail, sent those applications back to us when we sent them to  
16 them in June. And so given that -- because -- because we know  
17 that not all Harris County voters are eligible to vote by mail,  
18 our assumption -- and I'd like to hear it from you if you  
19 disagree with it -- is that, you know, the same or a lower of a  
20 percentage of voters who receive an application across the county  
21 would ultimately return those applications. What do you think  
22 about that assumption?

23 KEITH INGRAM: Well, I don't know anything about what  
24 assumption to make here. My question is why in the world do you

1 want to lead your voters into committing a felony. That is just  
2 outrageous on its face. Why in the world would you even consider  
3 misleading somebody into thinking that they could vote by mail  
4 when they can't. That is outrageous, and it's a violation of  
5 their rights, and I do not appreciate treating voters that way.

6 CHRIS HOLLINS: So I would agree with you that if  
7 someone was trying to mislead voters and get them to commit a  
8 felony that that would be really disappointing and a -- an issue.

9 KEITH INGRAM: Well, that is exactly the outcome in  
10 this particular instance.

11 CHRIS HOLLINS: Well, let's -- let's talk about it,  
12 but, I think, I've addressed you very collegially, and -- and you  
13 sound a little bit annoyed and aggressive. I think we should try  
14 to --

15 KEITH INGRAM: Well, I'm annoyed that you're talking  
16 about everything except the problem. The problem is you are  
17 misleading voters; you're confusing voters; and you're  
18 potentially gumming up the works. The only one you're talking  
19 about is the potential gumming up of the works, and that's  
20 probably the least important of the three.

21 CHRIS HOLLINS: Okay. And I -- I mean, I laid out my  
22 -- my agenda before we started talking, and it sounded like you  
23 were fine with that. And the first one was vote by mail (Talking  
24 over) infrastructure. Say that one more time. I'm sorry. I

1 didn't hear you.

2 KEITH INGRAM: I said I didn't have anything to add; I  
3 didn't say I was okay with it.

4 CHRIS HOLLINS: All right. I'm -- I apologize for --  
5 for making that assumption; and so are you not okay with my  
6 agenda?

7 KEITH INGRAM: It seems to me like you're tackling the  
8 least important one first.

9 CHRIS HOLLINS: Okay.

10 KEITH INGRAM: That's my frustration.

11 CHRIS HOLLINS: All right. So -- so we've covered  
12 "gumming up the works"; and so I just want to be clear on the  
13 "gumming up the works" piece that we're prepared for an  
14 inordinately high amount of mail ballots, one that's almost sure  
15 not to come to pass, but, you know, we're -- we're in the -- the  
16 mode of being over prepared. And so are you -- are you  
17 comfortable with -- with having covered that?

18 KEITH INGRAM: Yeah. I don't necessarily agree or  
19 disagree. I don't care very much about that one; I care a whole  
20 lot about why you think it's a good idea to mislead voters by  
21 sending them an official piece of mail leading them to believe  
22 they can vote by mail when they can't.

23 CHRIS HOLLINS: Okay. And so before jumping into  
24 that, I did want to just cover the -- because you've -- you



1 mentioned the 65 and up mailer that we sent back in -- in June.  
2 And so because those folks are all 100 percent qualified, you  
3 thought that was fine?

4 KEITH INGRAM: I didn't think it was advisable, but it  
5 certainly -- there was nothing we could criticize about it, and  
6 what we've advised counties is if you're going to mail to voters  
7 unsolicited AVBMs, you need to do it with a population that  
8 you're 100 percent sure is eligible so that you do not mislead  
9 them into taking they can vote by mail when they cannot.

10 CHRIS HOLLINS: All right. So on the 65 and up  
11 mailer, you didn't think it was the most efficient use of our  
12 resources, but you didn't have -- you didn't take issue with it?

13 KEITH INGRAM: That's right.

14 CHRIS HOLLINS: Okay.

15 KEITH INGRAM: A county choice to make.

16 CHRIS HOLLINS: All right. And so -- so why don't we  
17 pivot then since we've -- we've -- we covered vote-by-mail  
18 infrastructure, we talked about the 65 and up mailer. I wanted  
19 to talk about some of the more innovative stuff that we were  
20 doing generally, but it sounds like you're not very interested;  
21 is that correct?

22 KEITH INGRAM: That would be correct. Unless, you  
23 know, you're going to try and count results over the Internet or  
24 something, then I would be concerned about that.

1 CHRIS HOLLINS: No, sir. We're going to continue to -  
2 - to -- to drive those results from voting locations to -- to our  
3 drop-off points under the same levels of security that -- that we  
4 have been and so -- so nothing -- nothing to worry about there.  
5 So -- so our mailer. And -- and I -- I had -- I initially wanted  
6 to kind of jump on a Zoom with you and kind of show it to you,  
7 but just to describe it to you visually, when you first open up  
8 that mailer, the application -- it's -- it's a postcard -- or  
9 it's set up as a series of postcards, and the application itself  
10 you don't see it until you get to page 3. The first two pages  
11 are full of very bold and, in fact, big and red ink language, and  
12 I'm just going to read it to you for a moment just so you can  
13 have a feel for what it says. So the very, very first words you  
14 see at the top next to our -- our logo says, "Do you qualify to  
15 vote by mail?" And then it says in red ink -- and, by the way,  
16 there are huge -- I'd say about -- the size roughly of about size  
17 50 or 60 font -- red sirens like you would on an ambulance.  
18 There are two -- two of them -- one on the left side of the page,  
19 one on the right side of the page -- big sirens. And in red ink  
20 it says, "Read this before applying for a mail ballot." Then in  
21 black ink it says, "The Harris County Clerk's Office is sending  
22 you this application as a service to all registered voters."  
23 Then it turns back to bold red ink in all caps -- I forgot to  
24 mention all caps -- bold red ink and all caps. It says,

1 "However, not all voters are eligible to vote by mail. Read this  
2 advisory to determine if you are eligible before applying." From  
3 there it goes into the code and says, "You're eligible to vote by  
4 mail if you're 65 or older." I'm paraphrasing a little bit to  
5 save us time. You know, you'll be outside of the county during  
6 the voting period, you're confined to jail but otherwise eligible  
7 to vote, or you have a disability. And where it says,  
8 "disability," it says, "Under Texas Law you're qualified if  
9 you're sick or pregnant or voting in person will create a  
10 likelihood of injury to your health." Now right under that in  
11 bold red ink again in all caps, it says, "You do not qualify to  
12 vote by mail as disabled just because you fear contracting Covid-  
13 19." Continuing in all caps in red bold ink, it says, "You must  
14 have an accompanying physical condition." If you do not qualify  
15 as disabled, you may still qualify in categories one through  
16 three above." -- one through three being age 65, outside the  
17 county, or confined in jail. And so when you read that -- when  
18 you hear that -- red ink, huge sirens on the page that says,  
19 "Read this before applying for a mail ballot" and having to go  
20 through this for multiple pages before you even get to an  
21 application -- what about that to you, Keith, sounds misleading  
22 to a voter?

23 KEITH INGRAM: Because you're sending them a voter --  
24 an application to vote by mail. You're sending it as the County

1 Clerk of Harris County. Sending educational materials, like I  
2 said in my email the other night, is fine. We would encourage  
3 that. So the educational materials -- great. Send it. Don't  
4 send an application to every voter when you know most of those  
5 people who are receiving it do not qualify to vote by mail, and  
6 some portion of them are going to commit a felony by returning it  
7 when they don't qualify. Don't do that. Send the educational  
8 materials. Love educational materials. Send more educational  
9 materials, but don't send the application. That's where the  
10 voters are going to get misled. That's where they're going to  
11 get confused, and that's where they're going to get walked into a  
12 felony.

13 CHRIS HOLLINS: What is confusing and misleading about  
14 saying in red ink "Not all voters are eligible to vote by mail.  
15 Read this advisory to determine if you are eligible before  
16 applying"?

17 KEITH INGRAM: I told you what was confusing.

18 CHRIS HOLLINS: The fact that we've also for  
19 convenience supplied them with --

20 KEITH INGRAM: The fact that -- (Talking over)

21 CHRIS HOLLINS: -- an application if --

22 KEITH INGRAM: That's right.

23 CHRIS HOLLINS: -- if they deem themselves eligible.

24 KEITH INGRAM: Instead of telling them where they can

1 get one if they think they're eligible. That's exactly it.

2 CHRIS HOLLINS: So we should essentially create  
3 another hurdle to them applying by having them have to go call us  
4 and have it mailed to them.

5 KEITH INGRAM: It is -- it is absolutely not creating  
6 a hurdle. It is a hurdle that already exists. It is not  
7 creating an extra hurdle. That is -- that is inflammatory talk  
8 that -- that shouldn't be.

9 CHRIS HOLLINS: Yeah, I understand where you're coming  
10 from. What I meant to say was we're already sending them  
11 something in the mail, and so I -- I know you were talking about  
12 --

13 KEITH INGRAM: That's right.

14 CHRIS HOLLINS: Like, the cost benefit of --

15 KEITH INGRAM: (Talking over) educational materials  
16 through the mail, send educational materials through the mail.  
17 Nobody's making you do that. And the fact that you view that as  
18 then creating an extra hurdle, shows the position that you're  
19 coming from. And what I'm saying is nobody's making you send the  
20 education materials, but if you are that's good. But you don't  
21 send an application with it and mislead voters into thinking it's  
22 going to be okay for them to do it.

23 CHRIS HOLLINS: And I -- and I said I heard what you  
24 were saying on the extra hurdle piece. What I -- what I -- and I

1 was trying to explain what I meant. What I meant was --

2 KEITH INGRAM: I do understand what you mean. What  
3 you mean is that you're -- you're doing this thing, and then the  
4 voters are going to have to do another thing, and that doesn't  
5 necessarily mean it's an extra hurdle just because you're doing a  
6 thing.

7 CHRIS HOLLINS: Right. But I know on -- when we were  
8 talking about our 65 and up mailer earlier, you know, you  
9 mentioned that it -- you didn't think it was the best use of  
10 resources. And so my question is if we're already sending them a  
11 mailer -- right? -- so we're paying the cost of postage, we're  
12 paying a thing to print, yada, yada, yada, yada -- wouldn't  
13 it be inefficient to not provide them with the application if  
14 they deem themselves eligible?

15 KEITH INGRAM: It's only inefficient if you -- it's  
16 only inefficient if you think they belong together, and they do  
17 not belong together. That is not inefficient to tell people how  
18 they can qualify to vote by mail and where they can get an  
19 application to do it. That's not inefficient; that's Texas law.

20 CHRIS HOLLINS: So an application to vote by mail and  
21 information about who qualifies to vote by mail do not go  
22 together?

23 KYLE BARBER: Not when you're sending it to a  
24 population -- the large majority of which you know will not

1 qualify -- and then you're walking them right into thinking they  
2 do.

3 CHRIS HOLLINS: All right. And so it sounds like it's  
4 your position that sending information to voters -- good thing;  
5 correct?

6 KEITH INGRAM: More information is better than less  
7 usually, yes.

8 CHRIS HOLLINS: Okay. But it's also your position  
9 that under no circumstances -- even with warnings, et cetera, et  
10 cetera, et cetera, should all voter or all registered voters  
11 be sent an application from our office.

12 KEITH INGRAM: That's correct.

13 CHRIS HOLLINS: Okay. And -- and it sounds like  
14 there's nothing that's going to change your mind on that.

15 KEITH INGRAM: That is correct.

16 CHRIS HOLLINS: Okay. Do you have any -- any other  
17 questions for me, Keith?

18 KEITH INGRAM: No, I -- I'm -- like you started off,  
19 I've always appreciated the cooperation of Harris County Clerk's  
20 Office. I don't want anything to mess that up, but this is a  
21 very bad idea.

22 CHRIS HOLLINS: All righty. And then any -- outside  
23 of questions, any -- anything else, like, worth sharing with us  
24 whether related to this or -- or not?

1 KEITH INGRAM: No.

2 CHRIS HOLLINS: All right. I know we've got a bunch  
3 of other folks on the phone, and it's been you and I dominating  
4 here. Other folks on the phone, anything worth -- worth -- worth  
5 mentioning here or -- or discussing while we are all here with  
6 this meeting of the minds?

7 CHARLIE ELDRED: Nothing from the AG.

8 MALE SPEAKER: Nothing from me.

9 FEMALE SPEAKER: Nothing from me.

10 MALE SPEAKER: Nothing from me either.

11 CHRIS HOLLINS: All right. So I've heard nothing from  
12 the AG. Anything else from SOS side?

13 ADAM BITTER: This is Adam. There's nothing more --

14 CHRIS HOLLINS: Okay.

15 ADAM BITTER: -- nothing more with that beyond what  
16 Keith said.

17 CHRIS HOLLINS: Okay. Thanks, Adam. Anything else  
18 from the Harris County Attorney or -- or outside counsel?

19 SUSAN HAYS: I'm good. I think they made their  
20 position clear.

21 CHRIS HOLLINS: All right. And then -- and then  
22 County Clerk's Office. Anything else?

23 MALE SPEAKER: I'm good. I'm good.

24 FEMALE SPEAKER: Nothing. Same.



1           CHRIS HOLLINS: Okay. All right. Well, Keith and --  
2 and everybody else from -- from the Secretary's Office --  
3 Secretary of State's Office as well as the AG's office, thanks  
4 for taking the -- the -- the time to join us on the call this  
5 evening and have this chat.

6           KEITH INGRAM: Thank you.

7           MALE SPEAKER: Thank you.

8           FEMALE SPEAKER: Thank you everybody. Take care.

9           CHRIS HOLLINS: Thank you.

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Unofficial Copy Office of Marilyn Burgess-District Clerk

## CERTIFICATE OF TRANSCRIBER

I, JENNIFER CANDELA-ALVAREZ, do hereby certify that  
this transcript was prepared from audio the best of my ability.

I am neither counsel for, related to, nor employed by  
any of the parties to this action, nor financially or otherwise  
interested in the outcome of this action.

September 1, 2020

DATE

JENNIFER CANDELA-ALVAREZ

Cause No. 2020-52383

THE STATE OF TEXAS,  
*Plaintiff,*

v.

CHRIS HOLLINS, in his official capacity  
as Harris County Clerk  
*Defendant.*

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In the District Court of

Harris County, Texas

127th Judicial District

**DEFENDANT'S EXHIBIT 10**

Declaration of Hector de Leon

Unofficial Copy Office of Marilyn Burgess District Clerk

THE STATE OF TEXAS,  
*Plaintiff,*

v.

CHRIS HOLLINS, in his official capacity  
as Harris County Clerk  
*Defendant.*

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In the District Court of  
  
Harris County, Texas  
  
127th Judicial District

**UNSWORN DECLARATION OF HECTOR DE LEON**

1. I am a Public Information Officer and Senior Election Official with the Elections Division of the Harris County Clerk’s Office. The following facts are within my personal knowledge.

2. I conducted queries on the Harris County voter management system to pull reports of statistical data to provide the facts in this declaration.

3. Beginning June 4, 2020, the Harris County Clerk’s Office sent out a mailer of voter information accompanied by a vote-by-mail application to every registered voter aged 65 or older in the voter roll (“HCC 65+ Mailer”). This mailer totaled 375,578.

4. As of June 10, the date I estimate any applications could be returned after (1) the mailer went out on June 4, (2) the voter received the mailer through the mail and decided to apply, and (3) the applications began arriving at the Harris County Clerk’s office through the mail, our office already had 78,430 vote-by-mail applications from other sources including voters who submitted applications during the March primary election and selected the “annual” option.

5. In total vote-by-mail applications we received for the 65+ age category for the July run-off was 133,233 with a grand total including absentee, disability, and confined to jail of 141,131 applications. I ran a query of our data searching based on a source code the office

maintains to indicate what form was used and who provided that form. The resulting report is attached as Exhibit A. The "Request Source" column contains codes which begin with the source of the application and end with the category the application selected. Codes with names like "Abbott," "Anna," "Cagle," "Davis," "MJ," "MMoore," "Wall," and "West" are from candidates' campaigns. "TXDP," "HCDP," and "HCRP" are from political parties. "CRHC" is the Conservative Republicans of Harris County and totaled 9,016 applications. "SOS" indicates that the voter downloaded and printed the SOS official form and totaled 4,157 applications.

6. "CCO" indicates a Harris County Clerk's webform that was returned as a folded card that can simply be split open to process. These totaled only 660. "CC WEB" indicates forms downloaded from the Harris County Clerk's website that were printed out and returned in an envelope. These are more time consuming to process because the envelope must be opened and totaled 16,283.

7. "65&OLD" is the code for the HCC 65+ Mailer. "65&OLD Y65" indicates the applications that selected an "annual" application and thus will automatically receive a ballot for the November election. We received a total of 50,945 applications from the HCC 65+ Mailer by far the most successful source. This makes for a return rate on the mailer of 13.6%.

8. The HCC 65+ Mailer's application form was designed for ease of processing. The folded card design enables fast opening compared to an envelope. In addition, the mailers were pre-printed with known eligible voters' VIUD number, name, and address, then bar coded so that when an application was returned the elections department could simply scan the bar code which would populate the correct data in the system rather than require staff to manually key in the data. Staff could then confirm eligibility as the Election Code requires. These two design changes allow

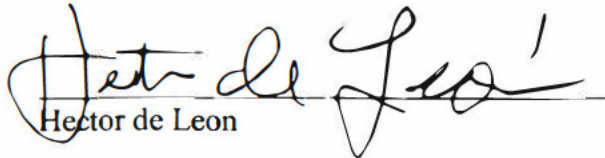
staff to process applications in about half the time than a hand-filled application mailed in an envelope requires.

9. Typically, a lower number of ballots are sent to voters than there were applications submitted because of duplicate requests, and a still lower number of ballots are actually returned than were sent to voters as some voters decide not to vote after all. For the July primary run off, with its low voter turn-out of 9.6%, 65+ voters returned 80,123 ballots out of a total of 83,770 ballots voted by mail in that election. This was a record number of vote-by-mail ballots for a primary run-off. By comparison in the 2016 general election, when 61.33% of the voters turned out to vote, there were slightly less than 100,000 vote-by-mail ballots. Thus, the efforts to encourage voting-by-mail, including the HCC 65+ Mailer, resulted in the total number of vote-by-mail ballots in the primary run off that resembled that of a presidential year general election.

10. As of September 6, we have already received 182,350 vote-by-mail applications of which 171,374 are from voters aged 65 or more.

My name is Hector de Leon, my date of birth is \_\_\_\_\_, and my address is 1001 Preston, 4<sup>th</sup> Floor, Houston, Texas 77002, United States. I declare under penalty of perjury that the facts stated in this document are true and correct.

Executed in Harris County, State of Texas, on September 8, 2020.

  
Hector de Leon

HARRIS COUNTY TX: Count of Mail Ballot Requests by Request Source	
Date: 09/07/2020	For Election 0520 - a_cntsrc v.130925
Time 10:41 am	Includes all requests including cancelled and replaced
Request Source	Count
4X5 BL	3
4X5 BL Y65	472
4X5 Y65	405
4X5 YDIS	3
65&OLD	10,283
65&OLD Y65	40,662
ABBOTT Y65	33
AC	2,487
AC/FPCA	40
ANNA ABS	20
ANNA NR	3
ANNA Y65	995
ANNA YDIS	517
BLK/WHTY65	878
BLK123 Y65	1
BR Y65	479
BRL Y65	1,659
BRL YDIS	3
CAGLE Y65	2,367
CAGLE YDIS	5
CARTER Y65	2
CAYTEN Y65	2
CC WEB ABS	674
CC WEB DIS	248
CC WEB Y65	12,699
CC WEBJAIL	346
CC WEBYDIS	2,316
CCO 65	4
CCO ABS	14
CCO DIS	9
CCO WEB 65	501
CCO WEB NR	2
CCO Y65	86
CCO YDIS	44
CD Y65	537
CRHC Y65	9,014
CRHC YDIS	2
CSOS Y65	118
CSOS YDIS	4
DAVIS	209
DAVIS Y65	3
DP Y65	2
HCDP Y65	2
HCRP Y65	290

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Request Source	Count
HCRP YDIS	1
HCTD Y65	1
HISD Y65	1
JN Y65	813
LETTERS	271
MISC	59
MISC Y65	1,211
MISC YDIS	31
MJ Y65	1,379
MJ YDIS	2
MM Y65	158
MMOORE Y65	629
MSOS	2
MSOS Y65	8
PAUL Y65	7,724
PAUL YDIS	1
RED	1
RED&WHITE	4
RED&WHTY65	116
S SOS Y65	4
SARA Y65	137
SD 17	71
SD 17 Y65	35
SENATE 17	1
SHERMN Y65	772
SOS 65	69
SOS ABS	184
SOS DIS	27
SOS E 65	59
SOS E ABS	632
SOS E DIS	44
SOS E YDIS	348
SOS Y65	758
SOS YDIS	262
SOSWEB Y65	1,774
SRW Y65	2,144
SS	4
SS WEB Y65	1
SUSAN Y65	922
TARSHA Y65	2
TURNER	1
TXDP	58
TXDP DIS	4
TXDP Y65	32,630
WALL	1
WALL Y65	103
WALL YDIS	15

Unofficial Copy Office of Mariyn Burgess District Clerk



<b>Request Source</b>	<b>Count</b>
WEST	1
WEST Y65	1,918
WEST Y65 N	10
WHITE	123
WHITE Y65	106
<b>Total:</b>	<b>144,075</b>

Unofficial Copy Office of Marilyn Burgess District Clerk

Cause No. 2020-52383

THE STATE OF TEXAS,  
*Plaintiff,*

v.

CHRIS HOLLINS, in his official capacity  
as Harris County Clerk  
*Defendant.*

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In the District Court of

Harris County, Texas

127th Judicial District

**DEFENDANT'S EXHIBIT 11**

Declaration of Dr. Bujnowski

Unofficial Copy Office of Marilyn Burgess District Clerk

THE STATE OF TEXAS,  
*Plaintiff,*

v.

CHRIS HOLLINS, in his official capacity  
as Harris County Clerk  
*Defendant.*

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In the District Court of  
  
Harris County, Texas  
  
127th Judicial District

**UNSWORN DECLARATION OF DEBORAH BUJNOWSKI, PhD, MPH, RD**

1. I am a nutritional and cardiovascular epidemiologist and research scientist and the data analytics manager at Harris County Public Health’s Office of Science, Surveillance and Technology. I have a master’s degree in public health in epidemiology from Tulane University and earned my PhD in public health studies at Saint Louis University.

2. The Office of Science, Surveillance and Technology in the regular course of business collects, analyzes, and tracks health data including on the prevalence of disease in the population of Harris County. Among the data my office reviews regularly is the University of Texas School of Public Health’s Health of Houston Survey which may be viewed at the following websites: <https://hhs2010.sph.uth.tmc.edu/SingleMapReport> / (“Health of Houston Survey”) and <https://nesstar.sph.uth.edu/webview/>.

3. I compared the Health of Houston Survey with the list of underlying medical conditions that are known or suspected to increase the risk of serious illness from COVID-19 maintained by the United States Centers for Disease Control and Prevention (“CDC”) available to the public at this website: <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical->

[conditions.html?CDC\\_AA\\_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/groups-at-higher-risk).

4. Based on the Health of Houston Survey, in Harris County among people aged 18-64:

- a. 4.2% or slightly more than one in twenty-four have had, or currently have, cancer;
- b. 6.9% or slightly more than one in fifteen currently have asthma;
- c. 32.4% or about one in three are obese (body mass index (“BMI”) of 30 or greater);
- d. 24.0% or slightly more than one in four have high blood pressure;
- e. 5.7% or slightly more than one in eighteen have cardiovascular disease, including heart attack, stroke, coronary heart disease, or angina;
- f. 8.5% or slightly more than one in twelve have type 2 diabetes;
- g. 2.2% or slightly more than one in forty-six have chronic obstructive pulmonary disease (“COPD”); and
- h. 14.3% or slightly more than one in seven are smokers.

5. There are other underlying conditions listed by the CDC but these are those that are either the most common or for which we have the most readily available data.

My name is Deborah Bujnowski, my date of birth is \_ \_ , and my address is 2223 West Loop South, Houston, Texas 77027. I declare under penalty of perjury that the facts stated in this document are true and correct.

Executed in Harris County, State of Texas, on September 8<sup>th</sup>, 2020.



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Deborah Bujnowski

Cause No. 2020-52383

THE STATE OF TEXAS,  
*Plaintiff,*

v.

CHRIS HOLLINS, in his official capacity  
as Harris County Clerk  
*Defendant.*

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In the District Court of

Harris County, Texas

127th Judicial District

**DEFENDANT'S EXHIBIT 13**

Texas Supreme Court Order

Unofficial Copy Office of Marilyn Burgess District Clerk

**IN THE SUPREME COURT OF TEXAS**

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No. 20-0671

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IN RE STEVEN HOTZE, M.D., HARRIS COUNTY REPUBLICAN PARTY, AND  
SHARON HEMPHILL

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ON PETITION FOR WRIT OF MANDAMUS

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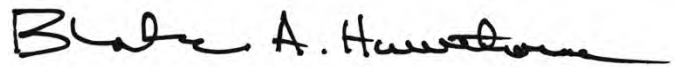
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**ORDERED:**

1. The Emergency Motion for Temporary Relief is GRANTED in part. In conformance with the Rule 11 agreement in *State of Texas v. Hollins* (No. 2020-52383, 61st Judicial District Court, Harris County), Real Party in Interest Hollins is ordered to refrain from sending applications to vote by mail to registered voters under the age of 65 who have not requested them until five days after a temporary injunction ruling in *State of Texas v. Hollins*. The Real Party in Interest should inform the Court of any developments in *State of Texas v. Hollins* that may affect this order.

3. The petition for writ of mandamus remains pending before this Court.

Done at the City of Austin, this Wednesday, September 2, 2020.



BLAKE A. HAWTHORNE, CLERK  
SUPREME COURT OF TEXAS

BY CLAUDIA JENKS, CHIEF DEPUTY CLERK

Unofficial Copy Office of Morris Burgess District Clerk

Cause No. 2020-52383

THE STATE OF TEXAS,  
*Plaintiff,*

v.

CHRIS HOLLINS, in his official capacity  
as Harris County Clerk  
*Defendant.*

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In the District Court of

Harris County, Texas

127th Judicial District

**DEFENDANT'S EXHIBIT 14**

Charles Butt Amicus Letter

Unofficial Copy Office of Marilyn Burgess District Clerk



[www.adjtlaw.com](http://www.adjtlaw.com)

Wallace B. Jefferson  
Board Certified-Civil Appellate Law  
Texas Board of Legal Specialization  
P: (512) 482-9300  
[wjefferson@adjtlaw.com](mailto:wjefferson@adjtlaw.com)

September 2, 2020

Blake A. Hawthorne, Clerk  
Supreme Court of Texas  
201 W. 14th Street, Room 104  
Austin, Texas 78701

Re: No. 20-0671; *In re Stephen Hotze, et al.* In the Supreme Court of Texas

Dear Mr. Hawthorne:

Charles Butt respectfully submits the attached amicus curiae letter in support of the Respondent Chris Hollins in the above-referenced mandamus proceeding. Please distribute this letter to the Court.

Pursuant to Rule 11(c), Tex. R. App. P., no fee has been paid or will be paid in connection with this amicus curiae letter.

Unofficial Copy Office of Malvyn Burgess District Clerk

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Respectfully submitted,

/s/ Wallace B. Jefferson

Wallace B. Jefferson

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Rachel A. Ekery

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**ATTORNEYS FOR AMICUS CURIAE CHARLES BUTT**

Unofficial Copy Office of Marilyn Dubose, District Clerk

**CERTIFICATE OF SERVICE**

I hereby certify that on September 2, 2020, this letter was served via electronic service through eFile.TXCourts.gov on all parties through counsel of record, listed below:

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FIRST ASSISTANT COUNTY  
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*Attorneys for Respondent Harris County Clerk*

Blake A. Hawthorne  
September 2, 2020  
Page 4

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(713) 751-3058 (Facsimile)

*Counsel for Relators*

/s/ Wallace B. Jefferson  
Wallace B. Jefferson

Unofficial Copy Office of Marilyn Burgess District Clerk

September 2, 2020

Dear Chief Justice Hecht and members of the Supreme Court of Texas,

I send my best wishes to you with my thanks for your service to the State.

As you likely know, when the Coronavirus began to impact Texas, our company and many other retailers expanded their programs of allowing pickup of online orders at the store. In addition, our home delivery offerings were expanded. A significant portion of our sales are now transacted without the customer having to interact face-to-face with another individual.

We've worked hard to give customers opportunities to buy their food in the safest way. In light of this, I also support efforts to allow voting by mail, which is the safest means for people to exercise this vital right during this time. The plan announced by the Honorable Chris Hollins, Harris County Clerk, to send applications for mail-in ballots to registered voters in Harris County is permissible under the Election Code and facilitates the execution of the constitutional right to vote.

Texas requires an excuse to vote absentee but, as your Court has recently held, does not permit election officials to second-guess a voter's exercise of that option. Thus, Clerk Hollins's effort to make absentee ballots widely available trusts voters, protecting those who are vulnerable from unnecessary exposure in this new Covid world in which we're living.

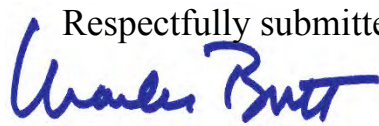
It's always been my impression that the more people who vote, the stronger our democracy will be.

My knowledge of the judicial world is not deep, but it seems to me that it is important for both state and federal courts to retain their non-partisan reputation, which today seems to be in jeopardy.

Based on our experience at H-E-B, many people, including those of all ages, are nervous about contracting the virus. By extension, in my opinion, many would be anxious about voting in person. Clerk Hollins has reasonably given these voters a chance to guard against perilous exposure in a manner consistent with this Court's opinion and the Election Code.

Thank you for considering this view.

All good wishes to you.

Respectfully submitted,  
  
Charles Butt

### Automated Certificate of eService

This automated certificate of service was created by the e filing system. The filer served this document via email generated by the e filing system on the date and to the persons listed below:

Kennon Welch on behalf of Wallace Jefferson  
Bar No. 19  
kwelch@adjtlaw.com  
Envelope ID: 45926668  
Status as of 9/2/2020 4:07 PM CST

Associated Case Party: Steven Hotze

Name	BarNumber	Email	TimestampSubmitted	Status
Jared R.Woodfill		woodfillservice@gmail.com	9/2/2020 4:01:15 PM	SENT

Associated Case Party: Harris County Clerk

Name	BarNumber	Email	TimestampSubmitted	Status
Vince Ryan		vince.ryan@cao.hctx.net	9/2/2020 4:01:15 PM	SENT
Cameron Hatzel		Cameron.Hatzel@hctx.net	9/2/2020 4:01:15 PM	SENT
Robert Soard		Robert.Soard@cao.hctx.net	9/2/2020 4:01:15 PM	SENT
Terence O'Rourke		Terence.O'Rourke@cao.hctx.net	9/2/2020 4:01:15 PM	SENT
Susan Hays		hayslaw@me.com	9/2/2020 4:01:15 PM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Wolfgang PHirczy de Mino, PhD		wphdmphd@gmail.com	9/2/2020 4:01:15 PM	SENT

Associated Case Party: Charles Butt

Name	BarNumber	Email	TimestampSubmitted	Status
Wallace B.Jefferson		wjefferson@adjtlaw.com	9/2/2020 4:01:15 PM	SENT
Rachel A.Ekery		rekery@adjtlaw.com	9/2/2020 4:01:15 PM	SENT

THE STATE OF TEXAS,  
*Plaintiff,*

v.

CHRIS HOLLINS, in his official capacity  
as Harris County Clerk  
*Defendant.*

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In the District Court of

Harris County, Texas

127th Judicial District

**DEFENDANT'S EXHIBIT 15**

SOS Excerpts from Briefing in *Lewis v. Hughs*, CA No. 5:20-cv-577 in the United States District Court for the Western District of Texas, San Antonio Division

Unofficial Copy Office of Marilyn Briggs, District Clerk

voting to *the denial or abridgment of the right to vote.*” *Id.* at 600–01. Moreover, any inconvenience is more than outweighed by Texas’s obligation to prohibit “all undue influence in elections from power, bribery, tumult, or other improper practice.” Tex. Const. art. VI, § 2(c). Texas is constitutionally bound to enforce such “regulations as may be necessary to detect and punish fraud and preserve the purity of the ballot box.” Tex. Const. art. VI, § 4. That is why Plaintiffs’ claims should be dismissed.

But the Court need not reach the merits because Plaintiffs’ claims suffer from threshold jurisdictional and procedural defects. Sovereign immunity bars their claims because the Secretary does not enforce the laws being challenged. Moreover, Plaintiffs lack standing because any prediction that these laws will affect their ballots is speculative.

## ARGUMENT

### I. Sovereign Immunity Bars Plaintiffs’ Claims

Sovereign immunity precludes claims against state officials unless the *Ex parte Young* exception applies. See *McCarthy ex rel. Travis v. Hawkins*, 381 F.3d 407, 412 (5th Cir. 2004). *Ex parte Young* “rests on the premise—less delicately called a ‘fiction’—that when a federal court commands a state official to do nothing more than refrain from violating federal law, he is not the State for sovereign-immunity purposes.” *Va. Office for Prot. & Advocacy v. Stewart*, 563 U.S. 247, 255 (2011) (citation omitted). Consequently, *Ex parte Young* applies only when the defendant enforces the challenged statute. See *Ex parte Young*, 209 U.S. 123, 157 (1908); *City of Austin v. Paxton*, 943 F.3d 993, 1001–02 (5th Cir. 2019); *Morris v. Livingston*, 739 F.3d 740, 746 (5th Cir. 2014) (a proper defendant has both “the particular duty to enforce the statute in question and a demonstrated willingness to exercise that duty”).

The Secretary does not implement the four aspects of Texas law that Plaintiffs challenge. Local officials do. The four injunctions Plaintiffs request in their prayer for relief make this plain. First, Plaintiffs request an injunction “requiring . . . prepaid postage on the ballot carrier envelopes used to return the marked mail-in ballots to the counties.” ECF 1 at 41. The Secretary does not provide ballot

carrier envelopes—local officials do. *See* Tex. Elec. Code § 86.002(a). Second, Plaintiffs seek an injunction prohibiting “rejecting vote-by-mail ballots if those ballots are postmarked by 7:00 p.m. on election day and received by the county election administrator before it canvases the election.” ECF 1 at 41. The Secretary does not reject (or accept) vote-by-mail ballots—local officials do. *See* Tex. Elec. Code § 86.011(a), (c). Third, Plaintiffs pray for an injunction either prohibiting “rejecting mail-in ballots on signature verification grounds” or requiring that voters be provided “the opportunity to cure any issues with signature verification before their ballots are rejected.” ECF 1 at 41–42. The Secretary is not responsible for accepting vote-by-mail ballots or providing notice—local officials are. *See* Tex. Elec. Code § 87.041(a) (“The early voting ballot board shall open each jacket envelope for an early voting ballot voted by mail and determine whether to accept the voter’s ballot.”); *id.* § 87.0431(a) (providing “the presiding judge of the early voting ballot board shall deliver written notice of the reason for the rejection of a ballot to the voter”); *id.* § 87.027 (a signature verification committee can be established by the county). Fourth, Plaintiffs ask for an injunction prohibiting “implementing, enforcing, or giving any effect to the Voter Assistance Ban.” ECF 1 at 42. Plaintiffs complain that Texas law “criminalizes” certain conduct. *Id.* ¶ 105. The Secretary does not prosecute criminal offenses—local officials do. *See, e.g.,* Tex. Gov’t Code § 44.115.

Plaintiffs do not identify any enforcement action the Secretary could take. Instead, they cite the Secretary’s title, “chief elections officer,” ECF 1 ¶ 26 (citing Tex. Elec. Code § 31.001(a)). But that title is not “a delegation of authority to care for any breakdown in the election process.” *Bullock v. Calvert*, 480 S.W.2d 367, 372 (Tex. 1972). The Secretary does not oversee the local officials who *do* enforce the challenged provisions. Local officials do not report to the Secretary. They are elected or appointed locally, and they are not bound by the Secretary’s advice. *In re Stalder*, 540 S.W.3d 215, 218 n.9 (Tex. App.—Hous. [1st Dist.] 2018, no pet.) (expressing doubt that a local party chair is bound by the “assistance and advice” provided by the Secretary of State when administering party primary); *see*



also *United States v. State of Texas*, 445 F. Supp. 1245, 1261 (S.D. Tex. 1978) (“[this county official] has, for a number of years (in the face of advice from the Secretary of State) continued to apply . . . an erroneous rule of law.”), *aff’d sub nom. Symm v. United States*, 439 U.S. 1105 (1979); *Ballas v. Symm*, 351 F. Supp. 876, 888 (S.D. Tex. 1972), *aff’d*, 494 F.2d 1167 (5th Cir. 1974) (observing that “the Secretary’s opinions are unenforceable at law and are not binding.”).<sup>1</sup>

Even if the Secretary could coerce local officials, a federal court could not order her to do so. The *Ex parte Young* exception is limited to injunctions “prevent[ing] [a state official] from doing that which he has no legal right to do.” *Ex parte Young*, 209 U.S. at 159. It does not authorize injunctions directing “affirmative action.” *Id.*; see also *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682, 691 n.11 (1949) (noting sovereign immunity applies “if the relief requested cannot be granted by merely ordering the cessation of the conduct complained of but will require affirmative action by the sovereign”). Thus, sovereign immunity bars “cases where the [defendant] sued could satisfy the court decree only by acting in an official capacity.” *Zapata v. Smith*, 437 F.2d 1024, 1026 (5th Cir. 1971).

## II. Plaintiffs Lack Standing

### A. Injury in Fact

#### 1. Individual Plaintiffs Allege Speculative Possible Future Injuries, Not Certainly Impending Ones

The Supreme Court has “repeatedly reiterated that ‘threatened injury must be *certainly impending* to constitute injury in fact,’ and that ‘[a]llegations of *possible* future injury’ are not sufficient.” *Clapper v. Amnesty Int’l US A.*, 568 U.S. 398, 409 (2013). Plaintiffs have not plausibly alleged such an injury here.

Plaintiffs do not allege they *will be* prevented from voting. Instead, they allege they *may* have trouble voting. Plaintiffs are “concerned that [their] ballot[s] *may* be rejected because of the Signature

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<sup>1</sup> Thus, a recent dispute about the interpretation of the Election Code was resolved, not when the Secretary issued advice to local officials, but when the Attorney General filed a petition for a writ of mandamus against local officials charged with approving or rejecting mail-in ballot applications under the Election Code. See *In re State of Texas*, No. 20-0394, 2020 WL 2759629 (Tex. May 27, 2020).

THE STATE OF TEXAS,  
*Plaintiff,*

v.

CHRIS HOLLINS, in his official capacity  
as Harris County Clerk  
*Defendant.*

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In the District Court of

Harris County, Texas

127th Judicial District

**DEFENDANT'S EXHIBIT 16**

Harris County Commissioner's Court Order Regarding  
Budget for Harris County Clerk to Administer Safe,  
Secure, Accessible, Fair, and Efficient Election (25 August  
2020)

Unofficial Copy Office of Marilyn Briggs District Clerk



# CHRIS HOLLINS

## COUNTY CLERK

Recording the Major Events of Your Life and Protecting Your Right to Vote

August 18, 2020

### COVID-19

Honorable Judge and Commissioners Court  
1001 Preston, 9<sup>th</sup> Floor  
Houston, Texas 77002

	YES	NO	ABSTAIN
Judge Lina Hidalgo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Rodney Ellis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Adrian Garcia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Steve Radack	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comm. R. Jack Cagle	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

RE: Budget Request for the November 2020 General Election

Dear Court Members:

As you know, the County Clerk’s Office has made it our top priority to administer a safe, secure, accessible, fair, and efficient election for the voters of Harris County this November. To ensure this outcome, our office is executing the S.A.F.E. Elections Plan, a robust set of 24 initiatives, many of which were rolled out or piloted in the July Primary Runoff Election. These initiatives will need to be continued or expanded in November to guarantee voter safety. We expect to be operating in a prolonged global pandemic, and we further expect record voter turnout – as many as 1.7 million voters across Harris County.

The initiatives include, but are not limited to:

- Providing personal protective equipment (PPE) to all election workers and all voters who need it;
- Increasing the number of voting centers, to a record 120 Early Voting sites and a record 808 Election Day sites;
- Increasing the number of election workers to as many as 12,000 to accommodate the increase in voting centers;
- Extending the Early Voting period to a record three weeks;
- Extending Early Voting hours, to include multiple nights open until 10:00 PM and one night of 24-hour voting;
- Promoting Vote-By-Mail within the bounds of the law, and ensuring the proper infrastructure to process a record number of mail ballots;
- Introducing Drive-Thru Voting at multiple sites across Harris County;
- Relocating our entire elections operation to NRG Arena (already approved by this Court); and
- Increasing our call center responsiveness and reserve staff during this time of unprecedented change and uncertainty.

We are requesting a total of \$17.171 million in additional funding to execute the S.A.F.E. Elections Plan, to be distributed as follows:

- \$16.069 million to PIC Fund 1020 - 51600000 (eligible for C.A.R.E.S. Act);
- \$1.002 million to General Fund 1000 - 51600000 (Election Cost Center); and
- \$0.100 million to General Fund 1000 - 51620000 (ADA Cost Center).

We will continue to work with the Office of Budget Management to confirm all cost estimates. If you have any questions regarding this request, please contact Danny Sumrall at 713.274.8674.

Respectfully,

Christopher G. Hollins  
County Clerk  
Harris County, Texas

Presented to Commissioners Court

August 25, 2020

Approve: G/E

CH/ch

Attachments (2)

cc: Douglas Ray, Office of Vince Ryan, Harris County Attorney  
Kevin Seat, Budget Management Department



# CHRIS HOLLINS

## COUNTY CLERK

*Recording the Major Events of Your Life and Protecting Your Right to Vote*

**FOR IMMEDIATE RELEASE**

June 15, 2020

**CONTACT:** Rosio Torres-Segura

[rosio.torres-segura@cco.hctx.net](mailto:rosio.torres-segura@cco.hctx.net)

(713) 274-9725

### **Harris County Clerk Chris Hollins Launches 23-Point S.A.F.E. Plan Ahead of July Primary Runoff Elections**

**(Houston, TX)** – Today, Clerk Hollins announced S.A.F.E., a robust set of 23 initiatives to ensure the July Primary Runoff Elections and the November General Election are safe, secure, accessible, fair, and efficient. The framework addresses the challenges of administering an election during an unprecedented global pandemic through thoughtful consideration of voter and poll-worker safety and innovating conventional practices to make voting more efficient.

“Since taking office on June 1st, I’ve spent my first two weeks learning, meeting with staff and stakeholders, and creating dedicated working groups to tackle the challenges we are facing as we head into July and November. Through these discussions, we developed S.A.F.E. to communicate to voters and staff what they can expect at the polls,” said **Harris County Clerk Chris Hollins**. “My commitment to all the residents of Harris County is to administer a safe, secure and fair election this July and again in November. This office will do everything we can to give every Harris County voter an equal say at the polls and give you the peace of mind that your vote will be counted.”

More information on the 23 S.A.F.E. initiatives below:

**SAFE** is our commitment to voters that you can exercise your right to vote without putting your health at risk. We will:

1. Provide PPE to all poll workers and voters who need it;
2. Optimize the floor plans of polling locations for safety and social distancing; and
3. Promote and maximize vote-by-mail within the bounds of the law.

Our election will be **SECURE**. It is ours—no one else’s—and we will not allow any tampering. We will:

4. Ensure the security of our voting systems and hardware; and
5. Respond proactively to any reports of voter intimidation, coercion, or fraud.

Our election will be **ACCESSIBLE**. Harris County voters can cast their votes at more polling sites and can do so quickly and conveniently. We will:

6. Utilize data to increase the number and optimize the locations of polling sites;
7. Procure sufficient additional machines from other jurisdictions and provide them with exceptional technical support;
8. Allocate machines across polling sites based on known traffic patterns and expected turnout;
9. Accurately report wait times across the County during the Early Voting period and on Election Day;
10. Provide increased voting hours during the Early Voting period;
11. Ensure ADA accessibility across County polling sites; and
12. Increase curbside voting and potentially introduce drive-thru-voting.



# CHRIS HOLLINS

## COUNTY CLERK

*Recording the Major Events of Your Life and Protecting Your Right to Vote*

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Our election will be **FAIR**. Every Harris County voter has equal access to the polls, and your vote is your voice in our democracy. We will:

13. Increase outreach to all voters and groups traditionally left out of the democratic process;
14. Seek and incorporate meaningful feedback from all stakeholders;
15. Count every vote and ensure the accuracy of election results;
16. Reduce the time it takes to report results on Election Day; and
17. Proactively engage provisional ballot voters on how to cure their ballots so they may be counted.

And our election will be **EFFICIENT**. We will ensure that the resources are in place for our elections to run smoothly despite today's unprecedented conditions. We will:

18. Recruit more than enough poll workers to operate polling locations during the Early Voting period and on Election Day;
19. Train poll workers and clarify standard operating procedures for effective operation in today's historic challenges;
20. Prepare resources in anticipation of increased vote-by-mail usage by Harris County voters;
21. Put key performance indicators (KPIs) in place to measure our preparedness in ensuring a S.A.F.E. election for the voters of Harris County;
22. Optimize the ballot layout to allow voters to cast their votes more quickly; and
23. Procure the next generation of voting machines for use beyond 2020.

The first election of Clerk Hollins's administration will be the 2020 Primary Runoff. The Early Voting Period for this election will be June 29-July 10, and Election Day is on July 14.

For more information go to [harrisvotes.com](http://harrisvotes.com) and follow @harrisvotes on Twitter, Facebook and Instagram.

###

**NOTE:** "Establish COVID-19 testing and tracing protocols for CCO staff, election workers, and potentially affected voters" was later formalized as a 24th S.A.F.E. initiative, and it became necessary to relocate elections operations to NRG Arena in order to function at full strength while enforcing safety and social distancing protocols.

## Details of CCO budget request for November 2020 General Election

Sum of Total Cost Initiative	CRF Eligible		Prior Budgets	Grand Total
	No	Yes		
01 - PPE		\$ 2,527,256		\$ 2,527,256
02 - Floorplans		\$ 58,300		\$ 58,300
03 - Promote VBM		\$ 2,071,440		\$ 2,071,440
05 - Intimidation Call Center		\$ 84,999		\$ 84,999
06 - Optimize Locations		\$ 662,400	\$ (60,000)	\$ 602,400
07 - Tech Support		\$ 364,800		\$ 364,800
09 - Wait Times		\$ 61,500		\$ 61,500
10 - Increase Hours		\$ 192,406		\$ 192,406
11 - ADA	\$ 100,000	\$ 382,000		\$ 482,000
12 - Curbside & DTV		\$ 704,664		\$ 704,664
13 - Increase Outreach		\$ 1,675,044	\$ (886,000)	\$ 789,044
14 - Stakeholder Feedback	\$ 400			\$ 400
16 - Reduce Reporting Times	\$ 84,000			\$ 84,000
17 - Curing		\$ 147,300		\$ 147,300
18 - Recruitment		\$ 12,375,194	\$ (2,674,000)	\$ 9,701,194
19 - Training & SOP		\$ 728,200		\$ 728,200
20 - VBM Infrastructure		\$ 4,965,775		\$ 4,965,775
21 - KPI	\$ 80,000			\$ 80,000
24 - COVID Testing Protocol		\$ 249,000		\$ 249,000
Adjustment of July expenses	\$ (3,000,000)	\$ 3,000,000		\$ -
GF needs (net)	\$ 3,837,500			\$ 3,837,500
<b>Grand Total</b>	<b>\$ 1,101,900</b>	<b>\$ 30,250,278</b>	<b>\$ (3,620,000)</b>	<b>\$ 27,732,178</b>

	PIC	GF
<b>Total SAFE Request (net of GF budget)</b>	<b>\$ 23,894,678</b>	
<b>SAFE (CARES-eligible)</b>	<b>\$ 23,630,278</b>	
<b>SAFE (not CARES-eligible)</b>		<b>\$ 264,400</b>
<b>Total GF needs (net)</b>		<b>\$ 3,837,500</b>
<b>Available Funds to Use</b>	<b>\$ (10,561,837)</b>	
1020	\$ (5,318,275)	
2602	\$ (3,696,620)	
2699	\$ (708,914)	
2601	\$ (120,000)	
2306	\$ (718,027)	
<b>Corrections</b>	<b>\$ 3,000,000</b>	<b>\$ (3,000,000)</b>
<b>Needed Funds</b>	<b>\$ 16,068,441</b>	<b>\$ 1,101,900</b>