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Case No. 348-367889-25

LEAGUE OF UNITED LATIN AMERICAN CITIZENS OF FORT WORTH, COUNCIL 4568, and LEAGUE OF WOMEN VOTERS OF TARRANT COUNTY,	§	**IN THE DISTRICT COURT OF**
	§	
	§	**TARRANT COUNTY, TEXAS**
	§	
	§	**348th JUDICIAL DISTRICT**
***Plaintiffs*,**	§	
	§	
v.	§	
	§	
TARRANT COUNTY, TARRANT COUNTY COMMISSIONERS COURT, and COUNTY JUDGE TIM O'HARE, in his official capacity,	§	
	§	
	§	
Defendants.	§	

PLAINTIFFS' MOTION FOR TEMPORARY AND PERMANENT INJUNCTION

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Plaintiffs League of United Latin American Citizens of Fort Worth, Council 4568 ("LULAC Council 4568") and League of Women Voters of Tarrant County ("LWV Tarrant County") are nonpartisan civil rights organizations which together have hundreds of members throughout Tarrant County. On August 14, 2025, they filed their Original Verified Petition (the "Petition" or "Dkt. 1") in this case, challenging the unlawful redistricting of Tarrant County commissioners precinct boundaries under the Texas Open Meetings Act ("TOMA"); Article V, Section 18 of the Texas Constitution; Section 106.001 of the Texas Civil Practice and Remedies Code; and Article I, Sections 3 and 3a of the Texas Constitution against Tarrant County, the Tarrant County Commissioners Court (the "Commissioners Court"), and County Judge Tim O'Hare in his official capacity as Defendants.

Plaintiffs now respectfully ask this Court to enter a temporary injunction restoring the status quo and enjoining Defendants' use of their unlawful and racially discriminatory commissioners precinct map. Absent such relief, Defendants' map—adopted through a secretive and unprecedented process, and with no regard for the convenience of the people of Tarrant County—will continue to irreparably harm Plaintiffs' members by stripping them of their rights under the Texas Constitution, including equality under the law and in County government representation. Expeditious relief is necessary to prevent the imminent compounding of these irreparable harms because the candidate filing period for the March 2026 primary elections begins on November 8, 2025. *See* Tex. Elec. Code § 172.023(b); *see also* Ex. 1, Texas Secretary of State, *Important 2026 Election Dates* (September 1, 2025), https://perma.cc/T9U8-AWT2.

BACKGROUND

1. On June 3, 2025, Defendants broke with longstanding procedure and adopted new commissioners precinct boundaries in a sudden, rushed process over the objections of hundreds of County residents.

2. In doing so, Defendants ran roughshod over the 2021 adoption of commissioners precinct boundaries ("Original Map"), which occurred immediately after the national 2020 Census, and which was carried out through lawful, transparent, and bipartisan means.

3. Defendants undertook this mid-decade redistricting effort less than four years after completing that fulsome redistricting process—an unprecedented move in recent County history, with no legal trigger or justification based on traditional redistricting criteria. Dkt. 1, ¶¶ 4, 5, 79.

4. On April 2, 2025, Defendant O'Hare personally "researched and found" the Virginia-based firm Public Interest Legal Foundation ("PILF") and pushed through their hiring for redistricting, over the objections of two Commissioners and without any public discussion of specific services to be rendered or work product to be delivered. *Id.* ¶¶ 82–84. By contrast, in 2021, the bipartisan Commissioners Court hired a Texas firm after publicly discussing their deliverables. *Id.* ¶ 87.

5. Defendants began this mid-decade redistricting process without publicly adopting any criteria for new maps—even though, in 2021, they had issued an order adopting traditional, lawful redistricting criteria. *Id.* ¶¶ 66–67, 95; Ex. 2**,** Minutes of Commissioners Court, Sep. 28, 2021 at 4, Tarrant Cnty. Comm'rs Ct. (Sep. 28, 2021), https://perma.cc/45DP-PNQB; Ex. 3**,** Sept. 28, 2021 Meeting Data Archive, Tarrant County Commissioners Court, Scan Pages 2426089, 2426090, 2426091, https://perma.cc/LQJ7-AE9Z; Ex. 4, Sept. 28, 2021 Meeting Data Archive,

Tarrant County Commissioners Court, Scan Pages 2426086, 2426087, and 2426088, https://perma.cc/LQJ7-AE9Z.

6. PILF met with individual Commissioners in swift succession on April 30, 2025. Within 48 hours of those meetings—despite ostensibly hearing the Commissioners' preferences for the first time—PILF submitted five proposed maps ("Maps 1 through 5") to the Commissioners Court, which were subsequently posted on the County website. Dkt. 1, ¶ 88.

7. PILF and Defendants failed to provide any information about the racial and ethnic populations, voting age population ("VAP"), or citizen voting population ("CVAP") of these proposed maps—a stark contrast to 2021, when the Commissioners Court *mandated* the provision of that data. *Id.* ¶¶ 67, 88, 92–93. PILF and Defendants also failed to provide a breakdown of the number of people moved from one district to another, or an analysis of city boundaries, election precincts, and other communities of interest—all factors that the Commissioners Court had been required to consider in 2021. *Id.*

8. In fact, PILF failed to provide *any* data other than the population and partisan balance. *Id.* ¶ 92. Ex. 5, Option 7 Data, Tarrant Cnty. Comm'rs Ct., https://perma.cc/7437-VXWX (last accessed Sept. 8, 2025).

9. Even so, Maps 1 through 5 clearly appeared to affect Black and Latino communities by fracturing minority communities of interest. *See* Dkt. 1, ¶ 89.

10. Defendants also froze out the public by failing to hold any public map-drawing sessions, despite having held two such sessions with the Commissioners Court's hired law firm in 2021. *Id.* ¶ 96.

11. Defendants did not publicly review any of the nine alternative, citizen-created maps that were submitted. *Id.* ¶¶ 96–97. When reporters asked Defendant O'Hare about those citizen-

created maps, he told them to "buzz off." *Id.*; Ex. 6**,** Cody Copeland, *They Submitted Maps for Tarrant County Redistricting. What Happened To Them?*, FORT WORTH STAR-TELEGRAM (June 4, 2025), https://perma.cc/GFN2-2YNQ.

12. This disdain for public participation departed from the 2021 procedure, when the Commissioners Court publicly considered and discussed a citizen-created map remarkably similar to the ultimately-adopted Map 7—which the Commissioners Court rejected at the time for "mov[ing] a substantial minority population out of [Precinct] 2 into [Precinct] 1." Ex. 7, Nov. 2, 2021 Meeting Data Archive, Tarrant County Commissioners Court, Scan Page 2444070, https://perma.cc/G982-54HA; Nov. 2, 2021 Meeting Video at 2:13:30, Tarrant County Commissioners Court, https://perma.cc/F8M9-3KF4.

13. Although Defendants excluded the public from the most critical parts of this redistricting process, Tarrant County residents showed up at the May 6, 2025 Commissioners Court meeting to unanimously oppose the redistricting process and Defendants' departure from the transparency of the 2021 redistricting decision. And, over the course of four subsequent community hearings, hundreds of community members criticized the redistricting as racially motivated. Dkt. 1, ¶¶ 98–99.

14. Nevertheless, in defiance of the public outcry, PILF created two more maps for Defendants after all the community hearings had finished, mere days before the June 3, 2025 vote. On May 27, PILF representative Joe Nixon emailed a sixth map ("Map 6") to Defendants. Two days later, Map 6 was released to the public without any explanation for its creation. *Id.* ¶ 100.

15. On May 30, 2025—a Friday, and only one business day before the redistricting vote—Defendants released a seventh map to the public ("Map 7"). Again, Defendants denied the

public any explanation of Map 7's creation, and failed to provide any data other than population and partisan breakdowns. *Id.* ¶ 101.

16. The public thus awoke on the day of the June 3, 2025 vote without knowing why Maps 6 or 7 were created, or what their Commissioners thought of those proposals, especially in comparison to the Maps 1 through 5. They would not receive answers at the open Commissioners Court meeting that day.

17. At the meeting, before any discussion took place, Commissioner Krause began consideration of the agenda item by moving to adopt Map 7. Commissioner Ramirez quickly seconded that motion. Ex. 8, Minutes of Commissioners Court, June 3, 2025, at 4–5, Tarrant Cnty. Comm'rs Ct. (June 3, 2025), https://perma.cc/ZG6W-RDYH; Declaration of Janet Mattern ("Mattern Decl.") ¶ 20.

18. Defendant O'Hare and Commissioners Ramirez and Krause urged adoption of Map 7 over the objections of the many members of the public who came to protest the redistricting that day, and who packed the courtroom, two overflow rooms, and the hallway. Dkt. 1, ¶¶ 126–128. Most members of the public spoke out against Defendants' apparent racially discriminatory motivations. *Id.*

19. Nevertheless, Defendants adopted Map 7 in a 3–2 vote, after failing to seriously consider or discuss any other of the proposed map options. *Id.* ¶ 133.

20. The same day of the vote, Defendant O'Hare explained his reasoning to an NBC reporter: "[t]he policies of Democrats continue to fail Black people over and over, but many of them keep voting them in. It's time for people of all races to understand the Democrats are a lost party, they are a radical party, it's time for them to get on board with us and we'll welcome them with open arms." Defendant O'Hare's statement was clear: this decision was intended to target

Black voters. *Id.* ¶ 14; "Lone Star Politics: June 8, 2025," NBC DFW at 16:20 (June 8, 2025), https://perma.cc/THK9-MRAY.

21. Map 7 took immediate effect, sowing confusion and causing inconvenience to voters. Individual voters no longer know who their precinct Commissioner is, placing a burden on Plaintiffs and other organizations to remedy the confusion. Dkt. 1, ¶¶ 124, 134. Precincts are also now responsible for roads on both the eastern and western borders of the County, stretching resources thin and inconveniencing County residents. *Id.* ¶ 122; Mattern Decl. ¶¶ 29–31.

22. In recent weeks, voter confusion and inconvenience has only been made worse due to the Commissioners Court's abrupt reduction in early voting and election day polling places available for the upcoming November 4, 2025 constitutional and local election (as well as special election for Senate District 9). On August 19, over the objection of Commissioners Simmons and Miles, the Court voted 3–2 to reduce by half the number of polling places. On September 3, Commissioner Simmons asked the Commissioners Court to consider reinstating some polling places across the County; members of the public testified nearly unanimously against the closures and in support of reinstatement, particularly in predominantly minority parts of the County. Yet Defendant O'Hare and Commissioners Krause and Ramirez rejected efforts to open more polling places, severely inconveniencing voters in an election that has far more constitutional amendments on the ballot than in recent years, as well as a consequential special election. Mattern Decl. ¶ 38; Ex. 16, Drew Shaw, *Republican Tarrant County Commissioners Vote Down Reinstating Election Day Voting Sites*, KERA NEWS (Sep. 4, 2025), https://perma.cc/WYG3-BYBA.

23. Defendants have not publicly provided a legal justification for reducing the number of polling places. However, the Texas legislature recently passed legislation—SB 985—which permits a County to consolidate large election precincts to "give effect to a redistricting plan," and

thereby cut polling places. *See* Tex. Elec. Code § 42.0051. Plaintiffs do not know of any other legal justification for Defendants' reduction of polling places. This series of events suggests that the legal basis for the County to reduce polling places is, at least in part, the recent redistricting.

24. Accordingly, a return to the Original Map could result in a return to a higher number of voting precincts and thus trigger a return to the significantly higher number of polling places in November 4, 2025, addressing voters' concerns about further voter suppression.

LEGAL STANDARD

25. A temporary injunction's purpose is to preserve the status quo of the litigation's subject matter pending a trial on the merits. *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002). The status quo is "the last, actual, peaceable, non-contested status which preceded the pending controversy." *Big Three Industries, Inc. v. Railroad Comm'n*, 618 S.W.2d 543, 548 (Tex. 1981).

26. Plaintiffs are not required to establish that they will prevail at trial to obtain a temporary injunction. *Butnaru*, 84 S.W.3d at 211.

27. Instead, to obtain a temporary injunction, the applicant must plead and prove three specific elements: (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.* at 204.

28. In addition, "[w]here a statute provides for a right to an injunction for a violation, a party does not have to establish the general equitable principles for a temporary injunction." *Marauder Corp. v. Beall*, 301 S.W.3d 817, 820 (Tex. App.—Dallas 2009, no pet.).

ARGUMENT

A. Plaintiffs have stated five valid causes of action.

29. Plaintiffs bring two valid causes of action under statutes that explicitly authorize injunctive relief. TOMA provides that an "interested person" "may bring an action by mandamus or injunction to stop, prevent, or reverse a violation or threatened violation of this chapter by members of a governmental body." Tex. Gov't Code. § 551.142(a). Similarly, Texas Civil Practice and Remedies Code Section 106.002(a) provides that "If a person has violated or there are reasonable grounds to believe a person is about to violate Section 106.001, the person aggrieved by the violation or threatened violation may sue for preventive relief, including a permanent or temporary injunction, a restraining order, or any other order."

30. Plaintiffs also state three valid causes of action under the Texas Constitution that allow for injunctive relief. *See Sw. Newspapers Corp. v. Curtis*, 584 S.W.2d 362, 368 (Tex. App.—Amarillo 1979, no writ) (stating that courts have a "constitutional responsibility to delineate and protect fundamental liberties," including through "the issuance of an injunction which is necessary to protect constitutional rights"). More specifically, Plaintiffs have brought claims under Article I, Section 3 and 3a, and Article V, Section 18—all constitutional provisions that allow for judicial review. *See, e.g.*, *Del Valle Indep. Sch. Dist. v. Lopez*, 863 S.W.2d 507, 515 (Tex. App.—Austin, 1993, writ denied) ("[A] party may bring a voting-rights challenge under either the Texas Constitution's equal protection clause, Tex. Const. art. I, § 3, or the equal rights amendment, Tex. Const. art I, § 3a."); *Hatter v. Worst*, 390 S.W.2d 293, 296–97 (Tex. App.—Amarillo 1965, writ ref'd n.r.e.) (affirming judicial review under Article V, Section 18).

B. Plaintiffs have a probable right to the relief sought.

31. Plaintiffs have a probable right to the relief sought. To establish a probable right to relief, Plaintiffs must demonstrate "both standing to bring their claims and that the claims will

probably succeed on the merits." *Abbott v. Anti-Defamation League Austin, Sw., & Texoma Regions*, 610 S.W.3d 911, 917 (Tex. 2020). However, as stated above, Plaintiffs are not required to establish that they will prevail at trial to obtain a temporary injunction. *Butnaru*, 84 S.W.3d at 211.

B.1. Plaintiffs have standing.

32. While only one plaintiff needs to establish standing for declaratory or injunctive relief, all Plaintiffs have standing here. *Andrade v. NAACP of Austin*, 345 S.W.3d 1, 6 (Tex. 2011). As the Texas Supreme Court has explained, an association has standing to sue on behalf of its members—"associational standing"—when "'(a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.'" *Tex. Ass'n of Bus. v. Tex. Air Control Bd.*, 852 S.W.2d 440, 447 (Tex. 1993) (quoting *Hunt v. Wash. State Apple Advertising Comm'n*, 432 U.S. 333, 343 (1977)). Plaintiffs satisfy this test.

33. To start, each Plaintiff has members who would have standing to sue in their own right because they have suffered, or imminently will suffer concrete injuries that are traceable to and redressable by Defendants with respect to each of Plaintiffs' claims. *See Meyers v. JDC/Firethorne, Ltd.*, 548 S.W.3d 477, 484 (Tex. 2018). *First*, both LULAC Council 4568 and LWV Tarrant County have members who were harmed by Defendants' failure to follow proper open-meeting requirements under TOMA.[1] *Second*, Plaintiffs also have members who have been and will continue to be harmed by Defendants' failure to carry out its redistricting plan with due

[1] *See, e.g.*, *Hays Cnty. Water Planning P'ship v. Hays Cnty.*, 41 S.W.3d 174, 177 (Tex. App.—Austin 2001, pet. denied) (holding that non-profit had associational standing to bring TOMA claim on behalf of its members); *Cox Enterprises, Inc. v. Bd. of Trustees of Austin Indep. Sch. Dist.*, 706 S.W.2d 956, 960 (Tex. 1986) (explaining that TOMA "is intended to safeguard the public's interest in knowing the workings of its governmental bodies").

regard to "the convenience of the people" as required by Article V, Section 18 of the Texas Constitution. Dkt. 1, ¶¶ 21–28; Mattern Decl. ¶¶ 20–33. *Third*, Plaintiffs each have Black and Latino members living in the Original Map's Precincts 1 and 2 who are now deprived of an equal ability to participate in the political process and to elect candidates of their choice due to Defendants' violation of Texas Civil Practice and Remedies Code Section 106.001 and Article I, Sections 3 and 3a of the Texas Constitution. Dkt. 1, ¶¶ 21–28; Mattern Decl. ¶¶ 3, 17. *Finally*, LWV Tarrant County also has Black and Latino members who, under the Adopted Map 7, were "cracked" from a second district where they had an opportunity to elected their candidate of choice and "packed" into a single district with more minority voters than is necessary to elect their candidate of choice. Because of that "cracking" and "packing," those members have been deprived of an equal ability to elect candidates of their choice, and also face the immediate injury of temporary disenfranchisement because they have been shifted from a precinct with an upcoming 2026 election into a precinct with a 2028 election, in violation of Article I, Sections 3 and 3a of the Texas Constitution. Dkt. 1, ¶ 26. *See, e.g.*, Mattern Decl. ¶¶ 3, 17. Each of these injuries is unquestionably traceable to and redressable by Defendants.

34. Next, the interests Plaintiffs seek to protect are clearly germane to their organizational purposes of protecting voting rights and advancing civic opportunity for their members and their communities, including the Black and Latino communities. For example, LULAC Council 4568's mission is to advance the economic condition, educational attainment, political influence, housing, health, and civil rights of the Hispanic population of the United States. To further that mission, it frequently organizes voter registration events and hosts and supports events encouraging the Latino community's civic engagement. Similarly, LWV Tarrant County's mission is to empower voters and defend democracy, and it regularly engages in efforts to register

and encourage individuals, including Black and Latino individuals, to take part in the political process. *See* Dkt. 1, ¶¶ 21–28.

35. Finally, neither the claims asserted nor the relief requested require the participation of individual members in the lawsuit because Plaintiffs seek only "prospective equitable relief" and because their claims "can be proven by evidence from representative injured members without a fact-intensive-individual inquiry." *See, e.g.*, *Big Rock Inv'rs Ass'n v. Big Rock Petroleum, Inc.*, 409 S.W.3d 845, 850–851 (Tex. App.—Fort Worth 2013, pet. denied) (collecting cases); *see also City of Bedford v. Apartment Ass'n of Tarrant Cnty., Inc.*, No. 02-16-00356-CV, 2017 WL 3429143, at *3 (Tex. App.—Fort Worth Aug. 10, 2017, pet. denied). Plaintiffs therefore have associational standing to bring their claims.

B.2. Count One: Violation of Texas Open Meetings Act ("TOMA")

36. Plaintiffs have a probable right to relief on their claim under the Texas Open Meetings Act ("TOMA"). TOMA requires that every "meeting"—"a deliberation between a quorum of a governmental body, or between a quorum of a governmental body and another person, during which public business or public policy over which the governmental body has supervision or control is discussed or considered"—"shall be open to the public," including commissioners court meetings. Tex. Gov't Code §§ 551.001(3)(B)–(4), 551.002. A "quorum" is defined as "a majority of a governmental body, unless defined differently by applicable law," *id.* § 551.001(6), while "deliberation" is defined as "a verbal or written exchange between a quorum of a governmental body, or between a quorum of a governmental body and another person, concerning an issue within the jurisdiction of the governmental body," *id.* § 551.001(2).

37. The Texas Supreme Court has therefore made clear that "[w]hen a majority of a public decision-making body is considering a pending issue, there can be no 'informal' discussion.

There is either formal consideration of a matter in compliance with the Open Meetings Act or an illegal meeting." *Acker v. Texas Water Comm'n*, 790 S.W.2d 299, 300 (Tex. 1990).

38. Nor may Commissioners Courts sidestep their strict transparency obligations via "walking violations," which occur when "members of a governmental body . . . gather in numbers that do not physically constitute a quorum at any one time but who, through successive gatherings, secretly discuss a public matter with a quorum of that body." *Asgeirsson v. Abbott*, 773 F. Supp. 2d 684, 706 (W.D. Tex. 2011), *aff'd*, 696 F.3d 454 (5th Cir. 2012) (quoting Tex. Att'y Gen. Op. GA–0326, 2005 WL 1190503, at *2 (May 18, 2005)). Specifically, TOMA provides that a member of a governmental body violates the statute if the member:

> (1) knowingly engages in at least one communication among a series of communications that each occur outside of a meeting authorized by this chapter and that concern an issue within the jurisdiction of the governmental body in which the members engaging in the individual communications constitute fewer than a quorum of members but the members engaging in the series of communications constitute a quorum of members"; and
>
> (2) knew at the time . . . that the series of communications:
>
> (A) involved or would involve a quorum; and
> (B) would constitute a deliberation once a quorum of members engaged in the series of communications.

Tex. Gov't Code § 551.143.

39. It would therefore have been a violation of TOMA for the County Judge and two other Commissioners to discuss the substance of redistricting maps "informally," prior to voting on the matter. *Cf., e.g.*, *Acker*, 790 S.W.2d at 300 (holding that two out of three members of a commission discussing a pending matter in a restroom would violate TOMA); Tex. Att'y Gen. Op. No. LO–95–0551995 WL 566978, at *1–2 (Aug. 30, 1995) (opining that a city council member could violate the Act when he telephones individually a quorum of the council members to express

his views about public business that has not been formerly considered by the council in an open session). It would similarly be a violation if the County Judge talked to his redistricting consultants at PILF about the details of Maps 6 and 7 outside of a properly noticed open meeting, knowing then the PILF representatives would talk to two other Commissioners about the same issue.[2]

40. Plaintiffs do not need direct evidence of such unlawful meetings occurring to prevail on their claims. A TOMA violation—walking or otherwise—can be established in part through circumstantial evidence of "rubber stamping," suggesting "*pro forma* public approval . . . by the governing body of matters already determined in closed meetings." *See Willmann v. City of San Antonio*, 123 S.W.3d 469, 480 (Tex. App.—San Antonio 2003, pet. denied). Moreover, courts have a "mandate to liberally construe TOMA's provisions in order to safeguard the public's interest in open government." *Id.* at 479 (citing *Acker*, 790 S.W.2d at 300).

41. The timing, content, and treatment of Maps 6 and 7 suggest behind-the-scenes, illegal discussion of redistricting policy by Defendant O'Hare, Commissioner Krause, Commissioner Ramirez, and PILF representatives. Both maps were created and released after the four public hearings and just days before the June 3, 2025 public hearing, without any public deliberation or comment by any members of the Commissioners Court. Expert Declaration and Report of Mark P. Jones ("Jones Report"), at 23–24; Mattern Decl. ¶ 14.

[2] Such discussions among Commissioners Court members and PILF representatives, even if they are attorneys, cannot be shielded by attorney-client privilege, as TOMA only allows for closed consultation with attorneys under very specific conditions:

(1) "A governmental body may not conduct a private consultation with its attorney except: when the governmental body seeks the advice of its attorney about pending or contemplated litigation [or a settlement offer or Texas Bar disciplinary issue]." Tex. Gov. Code § 551.071.
(2) The closed meeting must be announced in an open meeting. *Id.* § 551.101.
(3) A certified agenda for or recording of the meeting must be made. *Id.* § 551.103.

42. The maps made targeted changes to specific neighborhoods, suggesting unlawful secretive horse-trading. For example, the ultimately-adopted Map 7 differs from Map 6 by conspicuously and surgically carving out AT&T Stadium and Globe Life Field from Precinct 2 and placing it in Precinct 3—even though no rationale was given to the public for that change. Jones Report at 25; Mattern Decl. ¶ 15.

43. The three members of the Commissioners Court in favor of the redistricting also appeared unified in favor of Map 7 from the beginning of the hearing, even though Map 7 had only been publicly released days prior, with *no opportunity for TOMA-compliant discussion of Map 7 until the day of the hearing*. Commissioner Krause opened the meeting with a motion to adopt Map 7, seconded by Commissioner Ramirez. Ex. 8, Minutes of Commissioners Court, June 3, 2025, at 4–5, Tarrant Cnty. Comm'rs Ct. (June 3, 2025), https://perma.cc/ZG6W-RDYH. He did so even though the few supporters of redistricting testified that they would be satisfied with Maps 1, 6, or 7—not Map 7 specifically. Mattern Decl. ¶ 24. At the close of public comment, Commissioner Krause again renewed the motion to adopt Map 7, seconded by Commissioner Ramirez, without *any discussion whatsoever* of the merits of the map proposal compared to any others, including the newly proposed Map 6. *Id*. Jones Report at 23–24; Mattern Decl. ¶ 23. When decisions are made with "no discussion," there is sufficient circumstantial evidence to support the finding of a TOMA violation. *See, e.g., Willmann*, 123 S.W.3d at 480 (finding sufficient circumstantial evidence for a violation when public meeting on hiring individuals involved "no discussion regarding all the individuals who had applied and reapplied for appointment, the individuals who were not recommended, or the criteria the Committee used in determining its recommendations" and "the discussion centered on the three new individuals recommended for full-time appointments").

44. Here, the lack of specific discussion of the differences between Maps 1, 6, or 7 indicates pre-ordained agreement among the Commissioners Court majority, in violation of the "exact and literal compliance with the terms of [TOMA]" required to ensure good government. *Acker*, 790 S.W.2d at 300.

45. It is entirely possible to conduct the business of redistricting in a transparent, legal manner. For example, in 2021, the Austin-based law firm drew maps in open Commissioners Court, and the Commissioners Court publicly considered the various citizen map proposals submitted. *See* Dkt. 1, ¶¶ 63–72. Jones Report at 26; Mattern Decl. ¶ 12.

46. Further circumstantial evidence also demonstrates Plaintiffs' probable right to relief on a TOMA violation.

47. Near the end of the June 3, 2025 meeting, Commissioner Ramirez stated, "I've heard a lot of talk about the process, and I will agree with a lot of what folks said. I think the process did have flaws, I think that the process could have been a lot more comprehensive. But I also think that two of my colleagues on the Court chose of their own free will not to participate in the process. From day one they said we don't want any changes to the current map. . . . When two months ago this Court voted . . . to undertake this process. And so I would've hoped that we could've had more robust discussion, I could've hoped that we could've had some ideas presented from our other colleagues up here. But that was not the case. And so we are where we are." June 3, 2025 Meeting Video at 5:33:40, Tarrant Cnty. Comm'rs Ct. (June 3, 2025), https://perma.cc/2947-36BL. His comment indicates that substantive redistricting conversations took place among three members of the Commissioners Court from which Commissioners Miles and Simmons were excluded. Whether or not members declined to participate "of their own free

will" does not change the Commissioners Court's obligations under TOMA when a quorum or walking quorum is present. *Id.*

48. In addition, "[t]he habit or custom of a person doing a particular act is relevant in determining his conduct on the occasion in question." *Acker*, 790 S.W.2d at 302.

49. Defendant O'Hare has put up barriers to transparent government via harsh decorum rules that led to ejection of multiple members of the public at the June 3, 2025 meeting, as well as removals, bans, and criminal prosecutions of speakers on other prior matters. Jones Report at 24; Mattern Decl. ¶ 22. These ill-defined rules and often-arbitrary enforcement indicate disregard for values of openness and access to government enshrined in TOMA. This context offers additional support for Defendant O'Hare's intent to finalize major redistricting decisions behind closed doors.

50. This circumstantial evidence demonstrates Plaintiffs' probable right to relief on their TOMA claim: that out of view of the public, Defendant O'Hare, two Commissioners, and PILF communicated about the various map proposals and secretly coalesced around Map 7, leading up to the *pro forma* Commissioners Court approval of Map 7, despite no prior public discussion of its relative merits.

B.3. Count Two: Violation of Article V, Section 18

51. The highly unusual circumstances establishing a probable right to relief under Plaintiffs' TOMA claim also bolster Plaintiffs' probable right to relief on their claim that Defendants adopted Map 7 without "due regard to the convenience of the people" in violation of Texas Constitution Article V, Section 18. This provision specifically requires that a county "according to the most recent federal census, from time to time, *for the convenience of the people*, shall be divided into" precincts. Tex. Const. art. V, § 18(a) (emphasis added). State district courts have constitutional "appellate jurisdiction and general supervisory control over the County

Commissioners Court" when it carries out this process. Tex. Const. art. V, § 8; *see Comm'rs Court of Titus County v. Agan*, 940 S.W.2d 77, 79 (Tex. 1997)

52. The text of Article V Section 18 is clear: commissioners courts must divide districts "to meet the needs of the people." *Avery v. Midland County*, 406 S.W.2d 422, 427 (Tex. 1966), *vacated on other grounds*, 390 U.S. 474 (1968) (cleaned up). "[R]elevant factors" include the number of qualified voters, land areas, geography, miles of county roads, and taxable values. *Id.* at 428.

53. This power to redistrict is generally discretionary. *Id.* at 427. But "even in matters involving some degree of discretion, the commissioners court may not act arbitrarily." *Vondy v. Commissioners Ct. of Uvalde Cnty.*, 620 S.W.2d 104, 109 (Tex. 1981) (citing *Avery*, 406 S.W.2d at 428). Rather, the commissioners court's discretion "must be exercised in good faith and without fraud, not arbitrarily, nor in gross abuse of discretion." *Avery*, 406 S.W.2d at 427 (citing *Williams v. Castleman*, 247 S.W. 263 (Tex. 1922)). Thus, where the division of the county is not accomplished in a "reasonably fair and just manner" and "with due regard to the convenience of the people, the courts will not hesitate to grant relief." *Hatter v. Worst*, 390 S.W.2d 293, 296–97 (Tex. App.—Amarillo 1965, writ ref'd n.r.e.).

54. Here Defendants acted arbitrarily and in bad faith. To start, Defendants did not consider *any* factors rationally tied to meeting the needs of the people when redistricting. Defendants' only stated motivations to redistrict were partisanship and eliminating a less than two percent deviation in population between the smallest and largest commissioners precinct, based on 2020 Census numbers. Neither explanation holds water nor meets their obligations of Article V, Section 18.

55. Defendants first addressed redistricting before the public at a Commissioners Court hearing on April 4, 2025. At that hearing, Defendant O'Hare did not discuss his motivation for redistricting at all, despite the sudden and unforeseen introduction of redistricting just four years after a bipartisan map was re-adopted. Of the three members of the Commissioners Court who voted to redistrict (Defendant O'Hare, Commissioner Krause, and Commissioner Ramirez), only Commissioner Ramirez briefly offered a reason: population balancing. But that reason, as discussed further below, is belied by the facts. *See* April 4, 2025 Commissioners Court Hearing at 2:41:00, Tarrant County Commissioners Court, https://perma.cc/2FNW-UH4X (where Commissioner Ramirez stated that he supported redistricting to "explore population-balanced precinct lines.").

56. Later, on May 30, 2025, before adopting Map 7 over the opposition of hundreds of community members, particularly those in affected areas like Arlington, Defendant O'Hare declared that his motivation for redistricting was increasing the Republican majority on the Commissioners Court. That reasoning is also evidently pretextual. *See* Ex. 9, Caroline Vandergriff, *Tarrant County Judge Defends Redistricting Process*, CBS NEWS TEX. (May 30, 2025), https://perma.cc/64P5-FTWU. Similarly, at one of the four community hearings, Commissioner Krause stated that his "entire goal, my entire purpose, my entire intention" was to create a Republican majority on the Commissioners Court. Ex. 10, Miranda Suarez, *Tarrant Commissioner Matt Krause Says He Wants Redistricting to Grow Republican Majority On The Court*, FORT WORTH REP. (May 22, 2025), https://perma.cc/ZB7Y-U95P.

57. Neither goal, even if taken at face value, is *at all* related "to meet[ing] the 'changing needs of the people.'" *Avery*, 406 S.W.2d at 427.

58. For example, despite Commissioner Ramirez's call for population rebalancing, he admitted that he does not have current data showing that precinct populations were uneven. Ex. 11, Miranda Suarez, *Tarrant County Gears Up For An Unusual Mid-Decade Redistricting Fight. What Are The Rules?*, KERA NEWS (Apr. 14, 2025), https://perma.cc/NN73-EDX7; *see also* Dkt. 1, ¶ 85. Nor have Defendants redistricted according to updated data or explained why total population equality under 2020 Census numbers is necessary or desirable. Population deviations under 10 percent are generally accepted under constitutional and statutory standards, and under the Original Map, population deviations were less than two percent across all four commissioners precincts. Jones Report at 25. Further, according to a publicly available UCLA report, population deviation could have been reduced while maintaining two majority-minority precincts. Dkt. 1, ¶ 119.

59. Defendants' partisan rationale is similarly unconvincing and insufficient as the basis for county commissioner court redistricting. In judgment findings approved by the Texas Supreme Court, the trial court in *Avery* found that where "political expediency" and overrepresentation of a favored population are "principal purposes" for a redistricting decision, a County acted "arbitrarily, capriciously, unreasonably, unfairly, and wrongfully." *Avery*, 406 S.W.2d at 424–29 (noting the "obvious arbitrariness" that resulted from reliance of these factors).

60. Moreover, while "[t]he commissioners' court has the authority to divide the county into precincts, . . . it must be done with some degree, at least, of respect for the rights of the voters of the county." *Williams v. Woods*, 162 S.W. 1031, 1034 (Tex. App.—San Antonio 1914, no writ). A rationale based on maximizing Republican advantage is rooted in the convenience of elected officials, not of the voters. Redistricting only "to make it possible that certain men shall obtain and hold the government of the county, perhaps for years," and "with the undisguised purpose of

furthering the aims and desires of certain men bent upon acquiring control of the new county" is clearly done "in an arbitrary, unfair, and unreasonable manner." *Id.*

61. Even taking Defendants' rationale at face value, maximizing partisan advantage as the sole reason for redistricting is not a matter of voter convenience and cannot be considered "reasonably fair and just." *Hatter*, 390 S.W.2d at 297. Moreover, as explained below, this rationale is pretextual. Defendants' actions indicate racially discriminatory intent, rather than pure partisanship, and the resulting violations of equal protection certainly also violate Article V, Section 18. *See Avery*, 406 S.W.2d at 424–25; *see also Commissioners Court of Titus Cnty. v. Agan*, 940 S.W.2d 77, 80 (Tex. 1997) (commissioners court abuses its discretion under Article V when it acts illegally).

62. In addition, Defendants shared no evidence suggesting that they considered any of the factors courts typically look at when redistricting in a fair and just manner. In fact, Defendants and PILF have avoided explaining themselves or their rationale to the public at any of the *pro forma* hearings where residents objected to the redistricting. *See, e.g.*, June 3, 2025 Meeting Video at 4:48:31, Tarrant Cnty. Comm'rs Ct. (June 3, 2025), https://perma.cc/2947-36BL. For example, Defendants could have considered redistricting factors relating to the convenience of the people such as "land areas, geography, miles of county roads, and taxable values," *see Avery*, 406 S.W.3d at 427, or symmetry, the distance voters have to travel to vote, and other inconveniences relating to voting, *see Dubose v. Woods*, 162 S.W. 3, 3–4 (Tex. Civ. App. 1913). They evidently did not. Jones Report at 24–25.

63. Defendant O'Hare and Commissioners Krause and Ramirez did not discuss how the proposed maps, especially the last-minute proposed Map 7, would serve the convenience of the people.

64. In fact, the ultimately adopted Map 7 *inconveniences* the public. First, while packing Black and Hispanic voters into Precinct 1, Map 7 simultaneously stripped the sole remaining majority-minority precinct of its county maintenance center. Jones Report at 9; Mattern Decl. ¶ 31.

65. Map 7 also moved Precinct 1's unincorporated county roads to Precinct 2. Unincorporated county roads are maintained by the commissioner whose precinct they fall within. Thus, Commissioner Miles will need to collaborate with the other commissioners to hand off maintenance of unincorporated county roads formerly within his precinct—including repairs of potholes and other day-to-day concerns of the County's drivers. Ensuring continued maintenance of unincorporated county roads formerly in Precinct 1 will be costly, since the new commissioners will have to familiarize themselves with the roads and transition or re-hire teams to maintain the roads. Jones Report at 25.

66. The Commissioner for Precinct 2 is now responsible for all of the unincorporated roads that are in south Tarrant County. Some of these roads are on the other side of the County from the Precinct 2 maintenance facilities, stretching resources thin and inconveniencing County residents and personnel. Mattern Decl. ¶ 30.

67. Map 7 also forces voters to travel longer distances to speak to their Commissioners and attend meetings with them. Mattern Decl. ¶¶ 32–33.

68. The abrupt change in precinct boundaries has caused voter confusion about who represents voters and hindered their ability to reach out to their County representative about important issues. Mattern Decl. ¶ 29.

69. Map 7 also moved the AT&T Stadium and surrounding spaces from formerly majority-minority Precinct 2 to Precinct 3. Because the stadiums are a source of pride and prestige,

the commissioner whose precinct has these stadiums has high-profile opportunities to attend events and connect with other members of the business and political community, like mayors. Without stating its reasons, the Commissioners Court removed the stadium from the formerly minority-majority Precinct 2 to the Anglo-majority Precinct 3. Jones Report at 25; Mattern Decl. ¶ 16.

70. Despite having multiple opportunities to discuss the redistricting in Commissioners Court, only the Commissioners who voted against the redistricting raised concerns about how the redistricting would impact the public. The three members of the Commissioners Court who voted for the redistricting—Defendant O'Hare, Commissioner Krause, and Commissioner Ramirez—stayed silent about any motivations related to public convenience.

71. Moreover, despite numerous residents raising concerns about the cost of redistricting and the litigation that would likely follow, given the Map 7's impacts on Black and Latino voters and the Commissioners Court's retention of a law firm already involved in other gerrymandering suits, Defendants did not consider the inconvenience to voters of spending potentially millions of taxpayer dollars on an unnecessary and wasteful redistricting scheme. See Ex. 12, Rachel Royster, *Tarrant County Will Pay Lawyers $450 An Hour in Redistricting Lawsuit*, FORT WORTH STAR TELEGRAM (July 8, 2025), https://perma.cc/V5MV-49S4 (noting that to defend the redistricting, the County will pay PILF attorneys an hourly rate of $450 and pay for their travel fare, meals, and parking).

72. Finally, Defendants' failure to satisfy TOMA requirements and other legal violations described below also gives rise to a violation of Article V, Section 18. On this public record, there can be no dispute that Defendants failed to meet their constitutional obligation to consider the "convenience of the people."

B.4. Count Three: Violation of Texas Civil Practice and Remedies Code Section 106.001

73. Plaintiffs have also established a probable right to relief for their claim that Defendants violated Section 106.001 of the Texas Civil Practice and Remedies Code. That provision prohibits officials from discriminating on the basis of race as follows:

> (a) An officer or employee of the state or of a political subdivision of the state who is acting or purporting to act in an official capacity may not, because of a person's race, religion, color, sex, or national origin:
>
> . . .
>
> (6) impose an unreasonable burden on the person;

Tex. Civ. Prac. & Rem. Code § 106.001.

74. Racially discriminatory redistricting is prohibited by Section 106.001(a)(6), even if it is unintentional. *Richards v. Mena*, 907 S.W.2d 566, 569 (Tex. App.—Corpus Christi–Edinburg 1995), *writ dism'd by agr.* (Jan. 25, 1996) (considering two statewide redistricting bills and specifically rejecting Texas's argument that "any unintentional racially discriminatory impact of the redistricting legislation is not the type of discriminatory act addressed in section 106.001(a)(6)" before holding that such redistricting violated the statute). Plaintiffs' Section 106.001 claim therefore does not require a showing of intent and should be assessed pursuant to disparate impact discrimination jurisprudence.

75. A plaintiff bringing a disparate impact claim must show (1) the use of a facially neutral policy that (2) in fact had a disproportionately adverse effect on the protected class. *See City of Austin v. Chandler*, 428 S.W.3d 398, 406 (Tex. App. 2014—Austin 2014, no pet.). After identifying a specific policy, the plaintiff "must offer statistical evidence of a kind and degree sufficient to show that the practice in question caused the claimed of disparity." *Id.* at 410.

76. However, "a plaintiff need not prove causation with scientific certainty; rather his or her burden is to prove [causation] by a preponderance of the evidence." *Id.* For example, the

Third Court of Appeals has held that a 9.9 percentage point difference in raises between younger and older employees is "sufficiently substantial to raise an inference of causation" of age discrimination in a workplace. *Id.*

77. Though Defendants disclaim racially discriminatory intent, the ultimately adopted Map 7 unreasonably burdens Black and Hispanic voters, disproportionately impacting them by eliminating one of two precincts in which they were able to elect their preferred candidate because of racially polarized voting.

78. As a result, while Black and Latino residents make up 49.8 percent of Tarrant County's population, they are now only able to elect one preferred candidate. By contrast, Anglos make up 42.2 percent of Tarrant County's population, and they are now able to elect three preferred candidates. Dkt. 1, ¶ 34. Thus, while Anglos in Tarrant County make up a smaller population than Black and Latino residents, their power to elect a candidate of their choice is three times as large.

79. There can be no question that Defendants' June 2025 redistricting caused this stark racial disparity in voting power. Map 7 systematically packed Black and Latino voters into Precinct 1. Map 7 removed Black voters from Precinct 2 and packed them into Precinct 1. In Precinct 2, Black CVAP decreased from 25 percent to 18 percent. Dkt. 1, ¶ 114. In Precinct 1, Black CVAP increased from 31 percent to 38 percent. *Id.* Map 7 disperses the remainder of the Black voters into heavily Anglo Precinct 3, thereby diluting their vote. *Id.*

80. Map 7 also packs Latinos into Precinct 1, increasing the Hispanic CVAP in that Precinct by over 4 percent. Dkt. 1, p. 30, Table 4.

81. Map 7 also imposes an unreasonable burden on Black and Latino voters, including Plaintiffs' members, in Tarrant County by disproportionately shifting them from a precinct with a

2026 election to a precinct with a 2028 election, causing adverse effects due to a denied opportunity to participate in the political process.

82. For Anglo voters, the opposite happened. They were significantly more likely to be moved from a precinct with a 2028 election to a precinct with an imminent 2026 election.

83. Specifically, 24,000 more Black residents of voting age and 11,000 more Hispanic residents of voting age were moved to a precinct with a 2028 election than a 2026 election. Dkt. 1, ¶ 117. By contrast, 50,000 more Anglo voters were moved to a precinct with an imminent 2026 election than were moved to a precinct with a later 2028 election. Dkt. 1, ¶ 118. Black and Hispanic voters were disproportionately deprived of the opportunity to vote for their county representative every four years, as they would have expected under the Original Map. Instead, those voters must wait another two years to vote.

84. The numbers showing the disparity in voting power and ability to vote in 2026 for Black and Latino voters on one hand, and Anglo voters on the other, are clear evidence of disparate impact that can only be traced to Defendants' redistricting. Thus, Plaintiffs have established a probable right to relief for their official acts imposing an "undue burden" on their members on the basis of race.

85. Further, as demonstrated *infra* in Part B.4, Plaintiffs have shown intentional racial discrimination, which would also violate Section 106.001.

B.5. Counts Four and Five: Violations of Article I, Sections 3 and 3a of the Texas Constitution.

86. Plaintiffs' final two claims to which they can establish a probable right to relief arise under Article I, Sections 3 and 3a of the Texas Constitution—specifically Plaintiffs' claims that Defendants released Map 7 with the intent to discriminate on the basis of race and national origin, and that Map 7 temporarily disenfranchises many of Plaintiffs' Black and Latino members.

87. Article I, Section 3, which guarantees that "[a]ll free men, when they form a social compact, have equal rights," is known as the state's Equal Protection Clause and protects the right to vote. *Abbott v. Anti-Defamation League Austin, Sw., & Texoma Regions*, 610 S.W.3d 911, 919 (Tex. 2020) (citing *State v. Hodges*, 92 S.W.3d 489, 496, 501–02 (Tex. 2002)).

88. Article I, Section 3a states, "Equality under the law shall not be denied or abridged because of sex, race, color, creed, or national origin." Known as the state's Equal Rights Amendment, this section "is more extensive and provides more specific protection than both the United States and Texas due process and equal protection guarantees." *Interest of McLean*, 725 S.W.2d 696, 698 (Tex. 1987).

89. Either or both Section 3 or 3a may be used to bring a voting-rights challenge. *See, e.g.*, *Del Valle Indep. Sch. Dist. v. Lopez*, 863 S.W.2d 507, 515 (Tex. App.—Austin, 1993, writ denied) (holding that a claim can be stated under both sections against election practices that adversely affect Hispanic voters). Courts frequently analyze Section 3 and 3a claims together. *See, e.g.*, *State v. Loe*, 692 S.W.3d 215, 223 (Tex. 2024).

90. In analyzing these claims, the court applies a three-step test: (1) "whether equality under the law has been denied"; (2) "whether equality was denied because of a person's membership in a protected class of sex, race, color, creed, or national origin"; and (3) whether the "proponent of the discrimination can prove that there is no other manner to protect the state's compelling interest." *McLean*, 725 S.W.2d at 697–98. Plaintiffs will probably succeed in showing that they have satisfied all three steps for both their racial discrimination and their temporary disenfranchisement claims.

B.5.1. Defendants have denied equality under the law.

91. Under the first step, Defendants may be found to have denied "equality under the law" even when the challenged action does not facially discriminate. *See Klumb v. Houston Mun.*

Employees Pension Sys., 458 S.W.3d 1, 13 (Tex. 2015). Even if Defendants argue that the redistricting map is not facially discriminatory, Plaintiffs can show that their members "have been 'treated differently from others similarly situated.'" *Id.*

92. As described above in Section B.3, the adoption of Map 7 necessarily and disproportionately impacted Plaintiffs and their Black and Latino members by eliminating one of two precincts in which they were able to elect their preferred candidate and disproportionately shifting them from a precinct with a 2026 election to a precinct with a 2028 election. Jones Report at 12–14. *See, e.g.*, *Bell v. Low Income Women of Tex.*, 95 S.W.3d 253, 258 (Tex. 2002) (finding that because a facially neutral law "affected [women] differently from all others, the plaintiffs have established the first prong of the [Section 3a] analysis, that is, that equality under the law has been denied").

B.5.2. Direct and circumstantial evidence suggest that Plaintiffs are likely to succeed in showing Defendants' discriminatory purpose.

93. Plaintiffs are likely to succeed on the second step of the test—showing that the denial was "because of" race. Under this step, the "litigant must establish that the action stems from a discriminatory purpose." *Id.* at 259.

94. To start, Map 7's stark, racially disparate impact was easily foreseeable. Both state and federal courts have said that such disparate impact may be sufficient for a finding of intent. *See Pers. Adm'r of Massachusetts v. Feeney*, 442 U.S. 256, 279 n. 25 (1979) (stating that when disparate impact is "inevitable," "a strong inference that the adverse effects were desired can be reasonably drawn"); *see also Bell*, 95 S.W.3d at 264 ("We acknowledge that the adverse consequences of [the challenged action's] restrictions upon women could give rise to an inference of discriminatory purpose."). The law does not require that "the decisionmaker . . . explicitly spell out its invidious goals—a court may sometimes infer discriminatory intent where an act has

predicable discriminatory consequences." *League of United Latin Am. Citizens v. Abbott*, 601 F. Supp. 3d 147, 160 (W.D. Tex. 2022) (three-judge panel). This Court can, and should, find discriminatory purpose on that basis here.

95. But even if this Court does not rely on disparate impact alone, Plaintiffs will likely succeed in showing discriminatory intent on the basis of that impact in combination with other direct and circumstantial evidence. In analyzing this step, Texas courts generally look to federal anti-discrimination law, particularly the so-called "*Arlington Heights* factors" laid out by the U.S. Supreme Court in *Village of Arlington Heights v. Metropolitan Housing Development Corporation*, 429 U.S. 252 (1977). *See, e.g.*, *Bell*, 95 S.W.2d at 259–60; *Abbott v. Anti-Defamation League Austin, Sw., & Texoma Regions*, 610 S.W.3d 911, 916 (Tex. 2020).

96. Under this framework, "[t]he impact of an official action," like "whether it 'bears more heavily on one race than another,' may provide an important starting point." *Arlington Heights*, 429 U.S. at 266 (internal citation omitted). Under the ultimately adopted Map 7, Plaintiffs' Black and Latino members bear that heavy disproportionate impact, creating a starting point for a finding of discriminatory intent. *See supra* at Section B.4.

97. From there, Texas courts consider the following *Arlington Heights* factors: (1) "the historical background providing the context for the challenged action," (2) "the specific sequence of events leading up to it," (3) "departures from the normal procedural and substantive course," and (4) "legislative or administrative history." *Bell*, 95 S.W.2d at 260. In evaluating these factors, this Court may consider both circumstantial and direct evidence of intent. *Id.* "Contemporary" circumstantial evidence carries greater weight in this analysis. *See, e.g.*, *Veasey v. Abbott*, 830 F.3d 216, 232–33 (5th Cir. 2016) (*en banc*).

98. All the *Arlington Heights* factors show Defendants' intentional discriminatory purpose in adopting Map 7 and demonstrate Plaintiffs' probable right to relief under their Article I, Section 3 and 3a claims.

99. The first factor—the historical background—points toward discriminatory purpose. For example, in *League of United Latin Am. Citizens v. Abbott*, the federal district court found that the historical redistricting context weighed in the favor of finding racially discriminatory purpose regarding allegations of racially discriminatory redistricting in Senate District 10 in Tarrant County. 601 F. Supp. 3d 147, 170 (W.D. Tex. 2022). The federal court pointed to the fact that "[i]n every decade since . . . 1965, federal courts have held that Texas violated the [Voting Rights Act]," as well as "the 2012 decision holding that, among other violations, Texas had engaged in intentional vote dilution by redrawing SD 10." *Id.* Those historical facts weigh similarly here. *See id.* at 171 ("Plaintiffs will likely show that historical evidence weighs in favor of an inference of discriminatory intent."). In addition, past Anglo-preferred commissioners have explicitly announced their willingness to be called racist. *See* Dkt. 1, ¶ 13; Jones Report at 26–27; Ex. 13, Matthew Reyna, *Trump Rally in Dallas Begins With Passion, Ends With Violence*, N. TEX. DAILY (Jun. 18, 2016), https://perma.cc/9RG7-9PLN.

100. The context of the County's polarized voting and recent demographic shifts also provide strong objective evidence that the redistricting law was motivated by racially discriminatory intent. *See League of United Latin Am. Citizens v. Perry* ("*LULAC*"), 548 U.S. 399, 427–28 (2006). Tarrant County has seen significant demographic change since the Original Map was first adopted in 2011. Although Precinct 1 was the only majority-minority district in 2011, by the eve of June 3, 2025, both Precinct 1 and 2 were majority-minority. Dkt. 1, ¶ 41. That trend is only likely to increase, as the Black and Latino population grows while the Anglo population

shrinks. *Id.* ¶ 37. Further, Black and Latino voters in Tarrant County overwhelmingly vote for the same candidates, in opposition to significantly high rates of Anglo bloc voting. *Id.* ¶ 42–49. Jones Report at 15.

101. The majority-Republican, majority-Anglo Commissioners Court recognized that population growth when it chose to maintain the map adopted in 2011. That Original Map abided by the law and respected the population distribution and growing political power of voters of color in Tarrant County. Jones Report at 24–26; Dkt. 1, ¶¶ 63–75. That deliberate redistricting decision took place just four years ago, and redistricting triggered by the U.S. Census is likely to begin anew in five years.

102. Racially polarized voting in Tarrant County is well-documented. From 2018 to 2024, there have been 14 elections in Tarrant County at various levels. Across these elections, between 77 percent to 84 percent of the Anglo CVAP voted for a Republican candidate. In contrast, between 75 percent and 85 percent of the Hispanic CVAP voted for a Democratic candidate. Between 84 percent and 87 percent of the Black CVAP in the County also voted for a Democratic candidate. Jones Report at 15.

103. That racial polarization in voting is exacerbated by the fact that the Black-and-Latino-preferred Precinct 1 and 2 Commissioners are often the only members of the Commissioners Court to vote in line with the policy preferences of the majority of the Black and Latino communities in the County. Dkt. 1, ¶¶ 55–62. That includes votes by current and past Precinct 1 and 2 Commissioners on key issues like programs increasing access to the ballot for Black and Latino voters, holidays recognizing nationally lauded Latino civil rights leaders Cesar Chavez and Dolores Huerta, and the death of individuals of color in the County jail. *Id.*; Mattern Decl. ¶ 35.

104. Weighed against the historic background, the timing of Defendants' actions strongly suggests they were motivated to act against the increasing voting power of the County's Black and Latino residents—a suggestion further bolstered by statements from Defendant O'Hare's own local party, which stated that the redistricting was necessary due to changes in the County's "ethnic makeup" caused by increases in the Black and Hispanic populations and decreases in the Anglo population. *See infra* at ¶ 112.

105. The second, third, and fourth *Arlington Heights* factors—the specific sequence of events leading up to the June 3 vote, the departure from normal procedure and substance, and the legislative history—also point toward Defendants' discriminatory purpose.

106. Defendants engaged in an unprecedented mid-decade redistricting without any new census data or apparent triggering event. Dkt. 1, ¶¶ 5, 20. In doing so, Defendants radically departed from their past process for transparent redistricting, supporting an inference of intentional discrimination. Defendants:

- hired an out-of-state firm for redistricting, hand-selected by Defendant O'Hare outside any procurement process, without discussing publicly posted deliverables provided by the firm, *id.* ¶¶ 65, 87;
- failed to hold any public map-drawing sessions, *id.* ¶¶ 69–70, 96;
- failed to ask the out-of-state law firm to publicly analyze citizen-submitted maps, and never publicly discussed the citizen-submitted maps, *id.* ¶¶ 71, 97;
- failed to publicly adopt criteria for potential maps, including traditional, lawful redistricting criteria prohibiting discriminatory intent, *id.* ¶¶ 66–67, 95;
- failed to release any data on racial and ethnic demographics, despite requests from their own constituents to do so, *id.* ¶¶ 91–94, 102; and
- voted to adopt Map 7 without any opportunity for public discussion on that map prior to June 3, *id.* ¶¶ 100–04.

Moreover, Defendants' Map 7 violated the very same criteria they had implemented less than five years prior. In fact, Map 7 is remarkably similar to a map rejected by the Commissioners Court in 2021 for "moving a substantial minority population out of [Precinct] 2 into [Precinct] 1." Ex. 7**,** Nov. 2, 2021 Meeting Data Archive, Tarrant County Commissioners Court, Scan Page 2444070,

https://perma.cc/G982-54HA; Nov. 2, 2021 Meeting Video at 2:13:30, Tarrant County Commissioners Court, https://perma.cc/F8M9-3KF4.

107. Members of the public who attempted to call out racial discrimination were shut down and even forcibly removed from the hearing. Dkt. 1, ¶ 128. Jones Report at 24; *See* Ex. 14, Miranda Suarez & James Hartley, *Tarrant County Commissioners Vote 3–2 to Redistrict, Adopting More Republican-Friendly Map*, KERA NEWS (June 3, 2025), https://perma.cc/ENA7-58QG.

108. Other courts have found similar facts established discriminatory purpose in redistricting under the *Arlington Heights* factors. For example, in *Patino v. City of Pasadena*, the federal district court found discriminatory purpose where the governing body ignored objections from members of the public regarding the map's discriminatory effect; enacted the redistricting plan without seriously considering viable alternatives; and suppressed speech during the public debate on the new plan. 230 F. Supp. 3d 667, 772–24 (S.D. Tex. 2019).

109. Defendants' other conspicuous omissions further suggest a discriminatory purpose sufficient for the temporary-injunction stage: they failed (1) to adopt traditional, lawful redistricting criteria prohibiting racial gerrymandering and "cracking and packing" of minority voters and (2) to provide any data on racial or ethnic demographics, even when requested by their own constituents.

110. In addition, as the Petition explains, Defendant O'Hare's comments are direct evidence of intentional racial discrimination. Under the federal framework frequently applied by Texas courts, Plaintiffs "need not prove race-based hatred or outright racism, or that any particular legislator harbored racial animosity or ill-will toward minorities because of their race" to establish discriminatory purpose. *Perez v. Abbott*, 253 F. Supp. 3d 864, 948 (W.D. Tex. 2017).

111. Nevertheless, Defendant O'Hare's statements on the day of the vote "announc[ed] his intent to discriminate based upon race." *See Veasey v. Abbott*, 830 F.3d 216, 230 (5th Cir. 2016) (*en banc*). More specifically, Defendant O'Hare stated that "[t]he policies of Democrats continue to fail Black people over and over, but many of them keep voting them in. It's time for people of all races to understand the Democrats are a lost party, they are a radical party, it's time for them to get on board with us and we'll welcome them with open arms." "Lone Star Politics: June 8, 2025," NBC DFW at 16:20 (June 8, 2025), https://perma.cc/THK9-MRAY. Defendant O'Hare's own words highlight the fact that Defendants undertook this action not for purely partisan reasons, but because of a dislike of Black residents' voting preferences—which is impermissible, even as one of many reasons. *See Veasey*, 830 F.3d at 230 (holding that "racial discrimination need be only one purpose, and not even a primary purpose" behind the challenged action).

112. On top of that, the Tarrant County GOP's weekly newsletter specifically argued that redistricting was necessary in part because of the County's changed "ethnic makeup," particularly the fact that "[t]he black population increased by nearly 100,000, and the Hispanic population increased by almost 150,000, while the white population decreased" since the last redistricting. Dkt. 1, ¶ 108; Ex. 15**,** *Tarrant GOP Roundup*, TARRANT CNTY. GOP (May 10, 2025), https://perma.cc/F4RA-5QFB. In other words, Defendant O'Hare and Commissioners Ramirez and Krause all belong to the local party that urged its supporters to back the redistricting plan to address Black and Latino population growth. This direct link between race and redistricting is a rare smoking gun, provided by the party on whose behalf Defendants purported to redistrict. *Cf.*, *Veasey*, 830 F.3d at 241 (noting that plaintiffs should not be penalized for lacking evidence "such as a 'let's discriminate' email"—which is exactly what Plaintiffs provided here).

113. Finally, Defendants' proffered reasons of population growth and partisanship are insufficient to undermine the evidence provided by Plaintiffs. Again, even if Defendants' explanations were reasonable—which they are not—under the federal framework that this Court may consider, "racial discrimination need be only one purpose, and not even a primary purpose" behind the challenged action. *Veasey*, 830 F.3d at 230.

114. Again, Defendants' purported reasons do not pass logical or legal muster. Defendants' claim that redistricting was necessary due to population growth is belied by the fact that adjusting population to zero is unnecessary. *See supra* at ¶ 58. Moreover, because Map 7 is based on the 2021 Census data, it in no way takes into account any demographic growth or changes since 2021, when the Original Map was upheld with bipartisan support.

115. This leaves partisanship as Defendants' only stated purpose. But under the Texas Constitution, partisanship alone cannot justify a county-level redistricting process that tramples on the "convenience of the people." As stated above, that would be an arbitrary and capricious basis for Defendants' actions. *See supra* at ¶¶ 59–61. Moreover, racial discrimination cannot be a reason to redistrict even if other reasons also existed. As the *en banc* Fifth Circuit has explained, accepting Defendants' weak reasons would "ignore the reality that neutral reasons can and do mask racial intent," and "would essentially give [Defendants] free rein to racially discriminate so long as they do not overtly state discrimination as their purpose and so long as they proffer a seemingly neutral reason for their actions." *Veasey*, 830 F.3d at 230.

B.5.3. Plaintiffs are likely to succeed in showing that Defendants' actions fail to survive strict scrutiny.

116. Finally, Plaintiffs are likely to succeed at the third step of the Article I, Section 3 and 3a analysis, by showing that Defendants' actions fail strict scrutiny. The strict scrutiny test is "an exacting standard that places the burden of proof on the government to demonstrate that its

restriction is narrowly tailored to achieve a compelling governmental interest." *Abbott v. Anti-Defamation League Austin, Sw., & Texoma Regions*, 610 S.W.3d 911, 919 (Tex. 2020). "The government carries this burden only by establishing a strong basis in evidence . . . beyond mere anecdote or supposition—demonstrating that the restriction on constitutional rights is the least restrictive means of achieving legitimate regulatory goals." *Id.* (cleaned up).

117. Here, Plaintiffs are likely to succeed in showing that Defendants have not carried their burden of proof under the strict scrutiny test.

118. First, the voting influence of Black Republicans was disproportionately diminished by the redistricting. Jones Report at 18, 20. This statistic indicates that Defendants could have achieved their partisan aims without creating such unconstitutional burdens on this discrete population. It is Defendants' burden to show their partisan aims could have been accomplished without this racial harm and targeting.

119. Furthermore, no redistricting was necessary at all to maintain population balance or to ensure a Republican majority on the Commissioners Court. The population deviation as of the 2020 Census was less than 2 percent between the smallest and largest precincts, a miniscule difference for such a dynamic county. *See supra* at ¶ 58; Jones Report at 25. Republicans would have retained a three-seat majority under the Original Map. Thus, *no redistricting at all* would be the least restrictive means to achieve Defendants' proffered goals without discriminating on the basis of race.

C. Plaintiffs have established a probable, imminent, and irreparable injury in the interim.

120. Without a temporary injunction, Plaintiffs will suffer probable, imminent, and irreparable injury as a result of Defendants' actions.

121. First, Plaintiffs are entitled to injunctive relief because they have shown violations of TOMA and Section 106.001, which specifically authorize injunctive relief. "Where a statute provides for a right to an injunction for a violation, a party does not have to establish the general equitable principles for a temporary injunction." *Marauder Corp. v. Beall*, 301 S.W.3d 817, 820 (Tex. App.—Dallas 2009, no pet.).

122. Because both TOMA and Section 106.001 explicitly provide for injunctive relief, Plaintiffs need not prove the element of irreparable injury for those claims. *See* Tex. Gov't Code. § 551.142(a) (stating that plaintiffs "may bring an action by mandamus or injunction to stop, prevent, or reverse a violation or threatened violation of this chapter by members of a governmental body"); Tex. Civ. Prac. Rem. Code § 106.002(a) (providing that plaintiffs "may sue for preventive relief, including a permanent or temporary injunction . . ."); *cf. Cook v. Tom Brown Ministries*, 385 S.W.3d 592, 599 (Tex. App.—El Paso 2012, pet. denied) (holding that a "statute's express language supersede[d] the common law injunctive relief elements such as imminent harm or irreparable injury and lack of an adequate remedy at law" when the statute in question used the language "entitled to appropriate injunctive relief").

123. Nevertheless, Plaintiffs have shown probable, imminent, and irreparable harm on *all* their claims.

124. First, Plaintiffs' deprivation of constitutional rights constitutes irreparable harm because the Plaintiffs cannot be adequately compensated in damages and damages cannot be measured by any certain pecuniary standard. *Butnaru*, 84 S.W.3d at 204; *see also T.L. v. Cook Children's Med. Ctr.*, 607 S.W.3d 9, 35 (Tex. App.—Fort Worth 2020, pet. denied) ("[If] the allegations of wrongful conduct—e.g., deprivation of constitutional rights—assert a viable right

to relief . . . and there is evidence to establish an imminent and irreparable harm . . . the party seeking temporary injunctive relief has established a right to such relief").

125. Defendants' failure to fulfill their constitutional duty to consider the "convenience of the people" under Article V, Section 18, has resulted and will continue to result in serious harm to Plaintiffs and their members. Plaintiffs' members are now forced to live in communities fractured by the unlawful boundary lines and in precincts whose resources have already been stretched thin by the contorted, noncompact maps. *See, e.g.*, Mattern Decl. ¶¶ 3, 17, 30; Dkt. 1, ¶¶ 89, 110, 120–23. Plaintiffs and their members are unconstitutionally inconvenienced by the confusion resulting from Defendants' rushed and opaque adoption of the maps. Dkt. 1, ¶ 124. As a result, Plaintiffs shoulder an additional burden as they must work harder to effectuate their mission of protecting the right to vote and encouraging their members' and the public's civil engagement. *Id.*

126. The constitutional injury under Article V, Section 18 is further underscored by Defendants' blatant abuse of discretion through their violation of TOMA, which deprived Plaintiffs of their right to transparent, accessible government.

127. In addition, Plaintiffs have been harmed because Defendants' unlawful and unprecedented adoption of an unconstitutional map violates Black and Latino voters' equal ability to participate in the political process and elect candidates of their choice. Those voters now have little to no opportunity to be represented by candidates fighting for their interests, including on the key issue of county budgets. *See id.* ¶¶ 50–62. In addition, Black and Latino voters have been unconstitutionally forced to wait significantly longer for the next election compared to Anglo residents of the County. Jones Report at 10.

128. Another form of imminent and irreparable harm tied to the adoption of Map 7 has also arisen since August 19, 2025, when the Commissioners Court decided, over public outcry, to dramatically reduce the number of early voting and election day polling places available for the upcoming November 4, 2025 constitutional election, local elections, and special election for Senate District 9 that covers a large portion of Tarrant County. Although Commissioner Simmons requested the Commissioners Court to consider reinstating some polling places across the County, particularly in predominantly minority parts of the County affected by those polling place closures, Defendant O'Hare and Commissioners Krause and Ramirez rejected efforts to open more polling places, severely inconveniencing voters. Ex. 16, Drew Shaw, *Republican Tarrant County Commissioners Vote Down Reinstating Election Day Voting Sites*, KERA NEWS (Sep. 4, 2025), https://perma.cc/WYG3-BYBA.

129. The only *legal* justification for such a reduction is the recently passed law, SB 985, which permits a county to consolidate large election precincts to "give effect to a redistricting plan," and thereby cut polling places. *See* Tex. Elec. Code § 42.0051. A county like Tarrant that participates in the Countywide Polling Place Program ("CWPP") must have no less than 50 percent as many Election Day polling locations as it has election precincts. *Id.* § 43.007(f)(1). For example, in 2024, the County had 844 election precincts, so it was required to have at least 422 polling locations. *See* Ex. 17, *Voting Precincts Maps*, TARRANT CNTY, https://perma.cc/RZY8-6PCD (last accessed September 8, 2025) (showing 844 election precincts). Ordinarily, a CWPP county like Tarrant County cannot combine precincts. *See* Tex. Elec. Code § 42.0051; Ex. 18, Christina Worrell Adkins, *Election Advisory No. 2023-11*, TEX. SEC'Y ST. (Aug. 18, 2023), https://perma.cc/D7KL-7EPG. But this new law gives the County the chance to consolidate

precincts with 3,000 or more voters, resulting in a halving of the number of precincts and thus reducing the number of polling places required. Tex. Elec. Code § 42.0051.

130. Accordingly, a return to the Original Map could result in a return to a higher number of voting precincts and thus trigger a return to a significantly higher number of polling places in November 4, 2025.

131. Without a temporary injunction entered in this case, Plaintiffs and their member voters will be severely inconvenienced when attempting to vote on November 4, 2025, due to the tiny number of polling locations across the large county. As demonstrated by the public outcry against the polling place reduction, members of the public—predominantly Black and Latino—will face more barriers to vote in the upcoming election due if so few polling places are required based on Defendants' redistricting.

D. The Court is justified in using its equitable powers to temporarily enjoin the County's use of the adopted Map 7.

132. "A request for injunctive relief invokes a court's equity jurisdiction." *In re Gamble*, 71 S.W.3d 313, 317 (Tex. 2002). "[W]hen exercising such jurisdiction, a court must, among other things, balance competing equities. *Id.* Balancing the equities involves weighing the injury to the parties from the grant or denial of injunctive relief against the public interest. *Int'l Paper Co. v. Harris Cnty.*, 445 S.W.3d 379, 395 (Tex. App.—Houston [1st Dist.] 2013, no pet.).

133. Here, the public interest aligns with Plaintiffs' requests. In other words, granting Plaintiffs' request for injunctive relief and enjoining the County's use of the adopted Map 7 will benefit the public. Returning to the pre-June 3 status quo will avoid voter confusion, reduce costs to the public to implement the new map, and ensure that the vote of each member of the public is counted equally in Tarrant County. In addition, returning to the pre-June 3 status quo does not burden Defendants. In fact, it will reduce Defendants' costs and allow them to refocus their time

and resources on the important work of serving the voters—not partisan interests—of Tarrant County. What's more, a defendant does not suffer harm where they are enjoined from illegal activity. *See, e.g.*, *Purl v. United States Dep't of Health & Human Services*, 760 F. Supp. 3d 489, 504 (N.D. Tex. 2024) (stating that when deciding whether to enter a preliminary injunction, a court may "consider an opposing party's harms, but they may not consider a party's desire or interest in continuing to engage 'in an alleged violation' of a statute"); *C.G.B. v. Wolf*, 464 F. Supp. 3d 174, 218 (D.D.C. 2020) (quoting *Open Cmtys. All. v. Carson*, 286 F. Supp. 3d 148, 179 (D.D.C. 2017)) ("It is well established that the Government 'cannot suffer harm from an injunction that merely ends an unlawful practice.'"). Thus, the balance of the equities weights in favor of granting the temporary injunction.

APPLICATION FOR PERMANENT INJUNCTION

134. After a full trial on the merits, Plaintiffs ask the Court to enter a permanent injunction granting the relief requested herein.

BOND

135. Plaintiffs are prepared to post a bond for the temporary injunction and request that the Court set a nominal bond because Defendants are acting in a governmental capacity, have no pecuniary interest in the suit, and no monetary damages are available. Tex. R. Civ. P. 684.

PRAYER

THEREFORE, Plaintiffs seek a temporary injunction and permanent injunction:

A. Enjoining Defendants from implementing the adopted commissioners' precinct map;

B. Enjoining Defendants from calling, holding, supervising, or certifying any elections under the adopted commissioners' precinct map;

C. Ordering Defendants to conduct the March 2026 primary elections for County Commissioners and subsequent elections related to County Commissioners using the precinct boundaries in place before June 3, 2025; and

D. Granting any additional or alternative relief to which Plaintiffs may be entitled.

Respectfully submitted this 10th day of September, 2025.

/s/ Nina L.M. Oishi
Nina L.M. Oishi

TEXAS CIVIL RIGHTS PROJECT
Nina L.M. Oishi (TX Bar No. 24142250)
Karla Maradiaga (TX Bar No. 24126746)
P.O. Box 1108
Houston, Texas 77251-1108
Telephone: (512) 474-5073
Fax: (512) 474-0726
noishi@texascivilrightsproject.org
kmaradiaga@texascivilrightsproject.org

Sarah Xiyi Chen (TX Bar No. 24144784)
Zachary Dolling (TX Bar No. 24105809)
P.O. Box 17757
Austin, Texas 78760
Telephone: (512) 474-5073
Fax: (512) 474-0726
schen@texascivilrightsproject.org
zachary@texascivilrightsproject.org

WILLKIE FARR & GALLAGHER LLP
Richard Mancino (pro hac vice forthcoming)
New York Bar No. 1852797
787 Seventh Avenue
New York, New York 10019
212-728-8000 (Telephone)
212-728-8111 (Facsimile)
rmancino@willkie.com

Soumya Dayananda (pro hac vice forthcoming)
New York Bar No. 4102166
1875 K Street, N.W.
Washington, DC 20006-1238
(202) 303-1000 (Telephone)
(202) 303-2000 (Facsimile)
sdayananda@willkie.com

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I certify that on September 10, 2025, a true and correct copy of the foregoing document was served on the following Defendants pursuant to the Texas Rules of Civil Procedure:

VIA E-FILE AND EMAIL

Stephen Lund
Assistant District Attorney – Civil Division
Tarrant County Criminal District Attorney's Office
Tim Curry Criminal Justice Center, 9th Floor
401 West Belknap Street
Fort Worth, Texas 76196
Phone: (817) 884-1651
Fax: (817) 884-1675
<salund@tarrantcountytx.gov>

ATTORNEY FOR DEFENDANTS

/s/ Nina L.M. Oishi
Nina L.M. Oishi

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LaToya Lane on behalf of Nina Oishi
Bar No. 24142250
latoya@texascivilrightsproject.org
Envelope ID: 105440440
Filing Code Description: Motion (No Fee)
Filing Description: PL Motion for Temp and Perm Injunction
Status as of 9/10/2025 12:59 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Georgina Guzman		georgina@texascivilrightsproject.org	9/10/2025 12:11:39 PM	SENT
Nina Oishi		noishi@texascivilrightsproject.org	9/10/2025 12:11:39 PM	SENT
Karla Maradiaga		kmaradiaga@texascivilrightsproject.org	9/10/2025 12:11:39 PM	SENT
Sara Chen		schen@texascivilrightsproject.org	9/10/2025 12:11:39 PM	SENT
Renetta Parham		Renetta@texascivilrightsproject.org	9/10/2025 12:11:39 PM	SENT
Richard Mancino		rmancino@willkie.com	9/10/2025 12:11:39 PM	SENT
Soumya Dayananda		sdayananda@willkie.com	9/10/2025 12:11:39 PM	SENT
LaToya Lane		latoya@texascivilrightsproject.org	9/10/2025 12:11:39 PM	SENT
Zachary Dolling		zachary@texascivilrightsproject.org	9/10/2025 12:11:39 PM	SENT