

PUBLIC INTEREST

— LEGAL FOUNDATION —

VIA EMAIL

January 17, 2018

ATTN: Clarkson F. Brown
Bexar County Assistant District Attorney-Civil Division
Paul Elizondo Tower
101 W. Nueva
San Antonio, TX 78205
Email: cbrown@bexar.org

RE: NVRA violation notice

Dear Mr. Brown:

We have received your letter dated January 5, 2018, in which you continue to deny our request to inspect records pursuant to the National Voter Registration Act (NVRA).

On December 20, 2017, we gave written notice to the Bexar County Elections Administrator that it is in violation of the public inspection provision of the National Voter Registration Act of 1993 (NVRA), 52 U.S.C. § 20501 *et seq.*, and informed Bexar County that it now faces federal litigation if it continues to deny access to the requested records.

With the hope that the County will work quickly to resolve its violation of the NVRA, this letter addresses matters contained in your January 5, 2018 letter.

Your letter states that the NVRA's public inspection provision is limited to those records described in 52 U.S.C. § 20507(i)(2):

The records maintained pursuant to paragraph (1) shall include lists of the names and addresses of all persons to whom notices described in subsection (d)(2) are sent, and information concerning whether or not each such person has responded to the notice as of the date that inspection of the records is made.

This argument was addressed head-on in *Project Vote / Voting for Am., Inc. v. Long* and was rejected. 682 F.3d 331, 336 (4th Cir. 2012). The Fourth Circuit prudently recognized that the NVRA “clearly states that ‘all records’ falling under Section 8(i)(1) must be publicly disclosed, not just those explicitly listed in Section 8(i)(2).” *Id.* at 337. “[T]he term ‘shall include’ sets ‘a floor, not a ceiling.’” *Id.* (citations omitted). The provision cited in your letter “merely describes a specific set of records that must be maintained—and not an exclusive list.” *Id.*

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Accordingly, the requested records are not beyond the scope of the NVRA as you state, but must be made available for inspection.

Bexar County is in violation of the NVRA as of December 20, 2017 and pursuant to the NVRA's private right of action provision, Bexar County is subject to federal litigation if the violation is not cured. 52 U.S.C. 20510(b).

Sincerely,



Logan Churchwell
Communications & Research Director
Public Interest Legal Foundation
lchurchwell@publicinterestlegal.org

CC: Elections Division
The Hon. Rolando Pablos
Texas Secretary of State
PO Box 12060
Austin, TX 78711-2060
Email: elections@sos.texas.gov