



AMERICAN CIVIL LIBERTIES UNION
FOUNDATION

Kansas

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October 16, 2018

By First Class Mail and Email to: dcox@fordcounty.net

Ms. Debbie Cox
100 Gunsmoke Street
Dodge City, KS 67801

Re: Expectations Regarding Dodge City Election Administration.

Dear Ms. Cox:

We are troubled by your decision to cancel our telephone call scheduled for October 5, 2018 and your subsequent unwillingness to set up another time to speak to us. We have continued to receive complaints from your constituents about the only polling location in Dodge City. These complaints have become more frequent as we approach the November 2018 general election. As a result, we strongly urge the following from your office. If voter access is not improved, we will consider taking further action, including but not limited to legal action.

I. Additional Notice for the Temporary Polling Location.

As expressed to you in our letter on October 3, 2018, you have selected a temporary polling location for all Dodge City residents that is outside city limits and inaccessible by public transportation. Invariably, this will make it harder for people to vote in the November 2018 election. Notice to voters about the change in polling location has also been inadequate.¹ Given that the election is just two weeks away, it is unfortunately no longer reasonable to change the polling location. However, we do expect that you will publicize the temporary change in polling location as follows:

- Publish notice to voters via print, electronic, and radio media at least three times per week leading up to the election, and every day from November 2 to November 6, 2018;

¹ We have learned from your emails with constituents that a large number of mail notices sent to voters about the change in polling location were returned to your office as undeliverable. Still, we do acknowledge that since our first letter, you began to reach out to some media outlets to publicize the change in polling location, and will now be offering free busing for voters to the new polling location upon request. These are important steps to ensuring that voters are able to cast their vote on election day.

- Notice must be provided in both English and Spanish, and care must be taken to select and engage Spanish-language media outlets;
- All notices should inform voters that they have a right under Kansas law to obtain leave from their employers in order to vote;²
- Signs must be posted at the ordinary polling location at the Civic Center informing voters of the change in polling location;
- All notices and signs should reiterate the County Executive’s offer to provide transportation to all voters who would otherwise not be able to travel to the Expo Center to vote.

Please report your plan for compliance with the above notice requirements as soon as possible. The efficacy of this notice will dramatically impact the turnout of voters to a new voting location that is outside the city, inaccessible by transportation, and—as the sole polling place for Dodge City this election—likely to have a wait time that will interfere with many people’s ordinary work schedules.

II. Expanding the Number of Polling Locations.

Following November’s general election, we expect the County Clerk’s office to immediately expand the number of polling locations throughout Dodge City. Contrary to your assertion in the media that you have never had a complaint about Dodge City’s sole polling location—the Civic Center—voters have told us that the disorganization and wait time during the last election were unacceptable.³ As previously stated, the Civic Center is also located in one of the only wealthy, vast majority-white neighborhoods in a city that is majority Hispanic, and freight trains make it impossible for many voters to travel across the city to vote at key times during the day. Regardless of intent, these additional burdens placed on Hispanic voters amount to vote denial under Section 2 of the Voting Rights Act.⁴ It is no wonder that Dodge City has an underrepresentation of Hispanic community members in public office.

You have stated publicly that the Americans with Disabilities Act (ADA) prompted Ford County to shutter every polling location in Dodge City but one. Yet it appears that for two decades the County Executive’s office has never attempted to replace those locations. The permanent polling location at the Civic Center is a public school building that the Superintendent of USD 443, Dr. Fred Dierksen, has permitted the

² See K.S.A. 25-418

³ See Mary Clarkin, *ACLU: Dodge City polling site limits voter access*, DODGE CITY DAILY GLOBE (Oct. 15, 2018), available at <http://www.dodgeglobe.com/news/20181015/aclu-dodge-city-polling-site-limits-voter-access>. As we noted in our last letter, the Civic Center in Dodge City is one of the most burdened polling sites in all of Kansas.

⁴ 52 U.S.C. § 10301(a) (“No voting [...] practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race.”); see *Navajo Nation Human Rights Comm’n v. San Juan Cnty.*, 281 F. Supp. 3d 1136, 1163 (D. Utah 2017) (“Section 2, unlike other federal legislation that prohibits racial discrimination, does not require proof of discriminatory intent”), citing *Moore v. Detroit Sch. Reform Bd.*, 293 F.3d 352, 363 (6th Cir. 2002); *Sanchez v. State of Colo.*, 97 F.3d 1303, 1309 (10th Cir. 1996) (internal quotations omitted).



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County Executive to use for elections. Dr. Dierksen has already told us he is concerned about there being only one polling place in Dodge City, and he is willing to work with you to use several ADA-compliant school buildings as polling places so that people will be able to access the polls in their own neighborhoods. We propose you take this opportunity to improve the aberrant voting conditions in Dodge City, and require that you designate five additional polling locations to serve Dodge City residents by January 2019.⁵

We welcome the opportunity to speak to you and provide guidance related to any of the above requirements. If you do not adopt the courses of action outlined above, we will take further legal action and pursue all available remedies under the law.

Best regards,

Zal Shroff
Staff Attorney
zshroff@aclukansas.org
Direct Dial: (316) 636-7303

⁵ Five additional polling places would at least bring Dodge City into parity with Garden City, which is of comparable size and currently has six polling locations for its residents. Information about the Garden City polling locations can be found at: <https://www.finnecounty.org/447/Polling-Locations>.