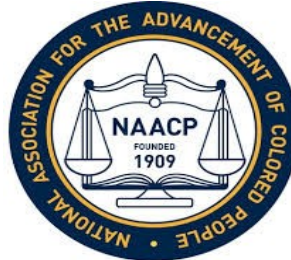




LAWYERS' COMMITTEE FOR
CIVIL RIGHTS
 UNDER LAW



October 7, 2019

VIA EMAIL OR FAX ONLY

City of Jonesboro City Council
 The Honorable Alfred Dixon, Mayor Pro Tem
 Email: adixon@jonesboroga.com
 The Honorable Bobby Lester, Councilman
 Email: blester@jonesboroga.com
 The Honorable Pat Sebo, Councilwoman
 Email: psebo@jonesboroga.com
 The Honorable Billy Powell, Councilman
 Fax: (770)-478-3775
 The Honorable Larry Boak, Councilman
 Email: lboak@jonesboroga.com
 The Honorable Ed Wise
 Fax: (770)-478-3775
 124 North Ave
 Jonesboro GA 30236

Clayton County Board of Elections
 And Registrations
 The Honorable Carol Wesley, Chair
 Email: ccwesley7@gmail.com
 The Honorable Dorothy Foster Hall, Vice-Chair
 Email: hallfosterd@hotmail.com
 The Honorable Patricia Pullar
 Email: pat.pullar@gmail.com
 The Honorable Darlene Johnson
 Email: ddgirl533@gmail.com
 The Honorable Diane Givens, Secretary
 Email: dianegivens3@gmail.com
 Ms. Shuana Dozier, Director of Elections
 Email: elections@claytoncountyga.gov
 Jonesboro Historical Courthouse,
 Main Floor
 121 South McDonough Street
 Jonesboro, GA 30236

**Re: Objections to the Relocation of Municipal Election Day
 Polling Location from the Firehouse Museum to Jonesboro Police Department and
 Georgia Open Records Act Request**

Dear Honorable Mayor of the City of Jonesboro, Members of the Jonesboro City Council,
 Members of the Clayton County Board of Elections and Registrations (“BOER”) and Director of

Elections:

On behalf of the Georgia Coalition for the Peoples' Agenda, Georgia State Conference of the NAACP, New Georgia Project and the Lawyers' Committee for Civil Rights Under Law, we are writing to voice our strong objections to the relocation of the sole polling location for the City of Jonesboro's municipal election day voting from the Firehouse Museum to the City of Jonesboro Police Department and demand that you rescind this decision immediately.

It appears that this action may have been taken in violation of O.C.G.A. §§ 21-2-265 and 21-2-266 and that the City Council and BOER failed to take into consideration whether this change was in the best interests of the voters – particularly whether this action would suppress turnout of the city's voters of color and voters who have experienced negative interactions with law enforcement who would be dissuaded them from casting their ballots at the Jonesboro Police Department.

First, it appears that this change may have been made in violation of O.C.G.A. §§ 21-2-265(a) and (b), which require that the governing authority of a municipality or superintendent of elections publish notice of any proposed polling location change for a period of once per week for two consecutive weeks in the legal organ of the city or county before holding a hearing on the proposed polling location change.

To date, we have been unable to find any evidence on the Georgia Press Association's Public Notice website (<https://www.georgiapublicnotice.com/>) or the Daily Report website (<https://www.law.com/dailyreportonline/public-notices/>) that the City of Jonesboro or the BOER published the required notice pursuant to O.C.G.A. §§ 21-2-265(a) and (b) before the city council voted to amend the city's municipal code on September 3, 2019 or before the BOER voted to approve this change on September 10, 2019.

Although we did find a news article dated August 21, 2019 in the Clayton News (https://www.news-daily.com/news/jonesboro-proposes-moving-poll-from-firehouse-museum-to-police-department/article_f3782bfe-c437-11e9-9f20-ff1365c495fe.html), which discusses the proposed change, this news article does not comply with the public notice provisions of O.C.G.A. § 21-2-265(a) and (b).

Because it appears the City of Jonesboro and BOER failed to comply with the public notice requirements of O.C.G.A. §§ 21-2-265(a) and (b), this change violates Georgia law and must be rescinded immediately. If you have any evidence showing that the city and BOER complied with the notice requirement, please provide copies of the notices to us, including the dates when the notices ran in the legal organ(s) for the city and county.

While the Clayton County BOER purported to vote for the change of this polling location to the Jonesboro Police Department on September 10, 2019, it is unclear on what authority the BOER acted since the change concerns a municipal election conducted by the city.

However, even if the Clayton County BOER complied with the public notice requirements of O.C.G.A. §§ 21-2-265(a) and (b), it appears this action nevertheless violated O.C.G.A. § 21-2-265(f), which imposes a sixty (60) day moratorium on polling location changes in advance of an election, except in the case of an emergency.

In this case, the Jonesboro municipal election is scheduled to take place on November 5, 2019. Therefore, the action taken by the Clayton County BOER on September 10, 2019 to change this location violated the sixty (60) day moratorium of O.C.G.A. § 21-2-265(f). As a result, the Clayton County Board of Election must rescind the approval of this polling location change immediately.

Finally, O.C.G.A. § 21-2-266(a) mandates that in selecting polling places, the superintendent of a county or the governing authority of a municipality *shall* give consideration to “the comfort and convenience those places to be selected will provide to both electors and poll officers.”

In this case, it appears that neither the City of Jonesboro City Council nor the BOER gave due consideration to the comfort of voters and poll officials of color before changing the sole polling location for Jonesboro’s municipal election day voting to the Jonesboro Police Department.

While we recognize that there are many outstanding law enforcement officers who risk their lives every day and provide exemplary service to the communities they serve in a non-discriminatory manner, the fact remains that many people of color have negative perceptions of law enforcement and with good reason. Law enforcement has unfortunately played a central role in the suppression of the African American vote through the course of our nation’s history. The horrific violence and intimidation tactics that law enforcement employed against unarmed and non-violent protestors who sought equal access to the ballot, particularly in the South during the years and months leading up to President Lyndon Johnson’s signing the Voting Rights Act of 1965, are seared in the minds of many African American voters.

Concerns have also been raised about negative interactions between members of the Jonesboro Police Department and people of color. In particular, it was reported that Jonesboro Police Chief, Franklin Allen, resigned in June 2018 following complaints about the mistreatment of an African American teen while in the custody of the Jonesboro Police Department by Black Lives Matter activists and others.

<https://www.11alive.com/article/news/local/jonesboro-chief-of-police-resigns-amid-allegations-of-mistreatment/85-564454926>

Prior to Chief Allen’s resignation, he also made it clear that he intended to issue citations to violators of the City of Jonesboro’s “sagging pants” law (Jonesboro Municipal Code Sec. 46-19(a)(25) (<https://www.wncn.com/article/news/social-media-reacts-to-georgia-ordinance-fine-for-sagging-pants/275-546445686>) despite the fact that similar laws have been denounced across the country as a tool for some law enforcement officers to racially profile and arrest

African American men. In fact, the City of Shreveport, Louisiana repealed its “sagging pants” law when it was shown that 96 percent of the individuals arrested under the law were African American men. <https://www.shreveporttimes.com/story/news/2019/06/02/black-men-make-up-96-percent-sagging-arrests-shreveport/1285063001/>

In 2016, Chief Allen also publicly criticized Walmart employees in McDonough, Georgia who refused to decorate a cake for a law enforcement retirement party with a “Blue Lives Matter” theme because they felt it sent a racist message.

In addition, the use of excessive and deadly force by law enforcement against African Americans and other people of color, including the use of deadly force by police that took the lives of Eric Garner, Tamir Rice, Eric Harris, Laquan McDonald, Walter Scott, Freddie Grey, Michael Brown and others, has increased the negative perception of law enforcement by many in the African American community. As you are undoubtedly aware, the Black Lives Matter movement grew from concerns in the African American community about the discriminatory treatment of people of color by law enforcement. Exacerbating the situation, law enforcement authorities have reacted to the Black Lives Matter movement with increased hostility in some communities.

The decision to move this polling location to the Jonesboro Police Department where turnout may be suppressed because voters of color and voters having experienced negative interactions with law enforcement may be deterred from casting a ballot, may give rise to claims by the affected voters under Section 2 of the Voting Rights Act.

In *Reynolds v. Sims*, 377 U.S. 533, 555 (1964), the United States Supreme Court recognized the “sacred nature of the right to vote” and that the “franchise is fundamental to our American way of life.” The Supreme Court also made it clear in *Perkins v. Matthews*, 400 U.S. 379, 387 (1971), that the location and accessibility of polling places can have a direct impact upon a voter’s ability to exercise their fundamental right to vote.

In *Brown v. Dean*, 555 F. Supp. 502, 504-506 (D.R.I. 1982), a class action lawsuit brought by African American voters under Section 2 of the Voting Rights Act challenging a polling location change in Providence, Rhode Island, the court enjoined the change because it would have undermined efforts in the African American community to increase voter turnout. The court in *Brown* enjoined the change even though the court did not find that Providence officials acted with bias or improper motivation since the plaintiffs are not required to prove discriminatory intent to prevail on a Section 2 claim. *Id.* at 506.

For the reasons discussed above, we strongly object to relocating this polling location to the Jonesboro Police Department and demand that the City of Jonesboro City Council and the BOER rescind their respective actions to approve this change.

Given the potential liability under Section 2 of the Voting Rights Act, coupled with the apparent lack of appropriate public notice by both the City and BOER before taking this action

in violation of O.C.G.A. Section 21-2-265, we sincerely hope that you will reconsider this change and select a more neutral and appropriate location, such as the Jonesboro City Hall, Jonesboro Historic Courthouse, schools, churches or other neutral facilities, for the relocation of the Firehouse Museum poll.

Accordingly, please confirm whether you will rescind your respective approvals of this change and, if so, when you intend to provide the required public notice for a new hearing on this matter **by no later than close of business on October 8, 2019.**

In addition, please consider this letter to constitute a request pursuant to the Georgia Open Records Act (O.C.G.A. § 50-18-70, *et seq.*) for the following records in the possession, custody and control of the City of Jonesboro, including in the possession, custody or control of members of the City Council, and the Clayton County BOER and Director Dozier:

1. All records evidencing when the City of Jonesboro and Clayton County BOER first learned that the Firehouse Museum would be unavailable for use as the election day polling location for Jonesboro municipal elections;
2. All records evidencing any and all public notices published in the legal organ(s) for the City of Jonesboro and Clayton County concerning the proposed change of the City of Jonesboro polling location for election day voting prior to the September 3, 2019 Jonesboro city council meeting and prior to the September 10, 2019 BOER meeting.
3. All records evidencing the reasons why the City of Jonesboro Police Department was selected as the election day poll location for municipal elections due to the unavailability of the Firehouse Museum instead of any other public or private facility in the City of Jonesboro.
4. All records evidencing all efforts made by the City of Jonesboro City Council and BOER to evaluate the suitability and availability of sites for the relocation of the Firehouse Museum polling location other than the Jonesboro Police Department prior to the Jonesboro City Council meeting on September 3, 2019 and before the BOER meeting on September 10, 2019.
5. All records evidencing any and all efforts made by the Jonesboro City Council and BOER to solicit input from voters about the change of the poll location to the Jonesboro Police Department prior to the Jonesboro city council meeting on September 3, 2019 and the BOER meeting on September 10, 2019.
6. All records evidencing all opposition to the polling location change from the Firehouse Museum to the Jonesboro Police Department.
7. All records evidencing all support for the polling location change from the

Firehouse Museum to the Jonesboro Police Department.

8. All records evidencing election day turnout, including demographic data showing turnout by race, gender and age and the poll location(s) for each City of Jonesboro municipal election for the past five years.
9. All records evidencing the current total number of City of Jonesboro registered voters (active and inactive) by name, address, year of birth, racial identification, gender and age.
10. All records evidencing the name, address, racial identification, age and gender of all persons who have filed complaints about members of the City of Jonesboro Police Department during the past five years.
11. All records evidencing the number, racial identification and gender of persons arrested or cited for violating the City of Jonesboro's "sagging pants" ordinance (Jonesboro Municipal Code Sec. 46-19(a)(25)) since the ordinance was first implemented.

Please provide your response to this request within three (3) business days pursuant to O.C.G.A. § 50-18-71(b)(1)(A). In the event that the City of Jonesboro and/or the BOER expect the cost for the production of these records will exceed \$50, please contact Julie Houk at jhouk@lawyerscommittee.org for approval in advance before incurring any charges above \$50.

Thank you for your attention and anticipated cooperation,

Julie M. Houk¹
Managing Counsel for Election Protection
Lawyers' Committee for Civil Rights Under
Law
1500 K Street NW, Suite 900
Washington, DC 20005
jhouk@lawyerscommittee.org

Helen Butler
Executive Director
Georgia Coalition for the People's Agenda
501 Pulliam St SW #410,
Atlanta, GA 30312
hbutlergcpa@gmail.com

Phyllis Blake
President
Georgia State Conference of the NAACP
2001 Martin Luther King Jr Drive, Suite 307
Atlanta, Georgia 30310
statepresident@naacpga.org

Nse Ufot
Executive Director
The New Georgia Project
165 Courtland St NE, Suite A-231
Atlanta, GA 30303
nse@newgeorgiaproject.org

¹Admitted to practice law in the District of Columbia, New Hampshire, Massachusetts and Illinois (voluntarily registered as inactive in Illinois).