

Grumet: Travis elections chief says Texas attorney general tried 'to intimidate me'



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I am worried for our democracy.

So is Travis County Clerk Dana DeBeauvoir, the county's tough-as-nails elections chief for the past 35 years. Which is why DeBeauvoir is finally speaking publicly about a serious threat she faced this year: an effort by Attorney General Ken Paxton to charge her with a crime for her handling of the 2020 election.

“I don’t take kindly to being threatened and (feeling like) I can’t speak back,” DeBeauvoir told me last week.

To be clear, Paxton did not succeed. (Nor did his office return multiple requests for comment for this piece.)

Earlier this year, Paxton’s office tried to indict DeBeauvoir on a charge of unlawfully obstructing a poll watcher, a Class A misdemeanor that could bring up to a year in jail. It was a petty and trumped-up charge, and it did not fly, not even in Paxton’s hand-picked venue of Williamson County, known for its more conservative leanings. A grand jury there returned a “no bill” in April.

It all sounds so tidy in the past tense. But DeBeauvoir lived through months of uncertainty. Paxton pursued the complaints made by a few partisan poll watchers in November 2020, and it wasn’t until July that DeBeauvoir learned the grand jury had declined to charge her.

“There was nothing I could do to defend myself except to go hire — me, personally — go hire private attorneys. That was \$75,000 to me,” DeBeauvoir said.

Travis County commissioners voted in August to reimburse her, but early on she worried she might have to eat those bills. Had the case gone to trial, she said, her legal costs would have reached hundreds of thousands of dollars.

“Of course, part of the AG’s purpose in doing that was to intimidate me and financially bankrupt me,” she said. “It was a deliberate thing.”

And part of a deeply troubling trend.

Threats on the rise

Elections administrators and poll workers around the country faced an unprecedented wave of attacks last year, as Donald Trump pushed his big lie of a stolen election in a desperate bid to usurp the presidency. That lie put a massive target on election workers’ backs: An investigative report by Reuters found more than 100 threats of death or violence made to U.S. election workers and officials during the 2020 election.

Some of those threats involved nasty phone calls or angry looks showing up at election workers’ homes, which is terrifying enough. Separately, though, some

Trump allies are using their government positions to threaten election officials with *criminal* charges. The new election law that Texas Republican lawmakers passed this year creates more opportunities for election workers or people assisting voters to be charged with crimes over simple misunderstandings.

The strategy is twofold: Paint our elections as unreliable, providing justification for policies that make it harder to vote or easier to alter the outcome. And make the job of running elections so perilous that good, civic-minded people decide they cannot shoulder the risk — creating openings for new people with partisan motives to steer our elections.

Fed up with the misinformation and partisan rancor around the 2020 election, scores of county elections administrators around the country have quit or retired early. But DeBeauvoir emphasized that is not the case with her. She announced last month she will step down in late January, as she turns 68, to enjoy retirement and pursue other passions.

DeBeauvoir timed her announcement to ensure that other people interested in the job could run for it next year. She'll wrap up her term after running the Jan. 25 special election to fill the Austin City Council seat being vacated by Greg Casar, who is running for Congress.

The ordeal with Paxton is “not the reason I’m leaving,” she told me. “I don’t want my counterparts in other counties to think this was successful.”

The poll watchers’ complaints

Paxton’s office isn’t talking, and grand jury proceedings are secret. But there were documented disputes last November involving several partisan poll watchers who said they had difficulty observing the ballot counting activities at the clerk’s central counting station.

The tabulating process actually occurs in two neighboring rooms: Paper ballots run through counting machines in a large room, while the computerized tallies from each polling location’s ballot-scanning devices are compiled in another room. The process ensures the ballot counts from each voting site are verified multiple ways — producing results the public can trust.

A third room, called the media room, has large windows providing views into both counting rooms.

For years, DeBeauvoir said, partisan poll watchers could go pretty much anywhere in those three rooms to see whatever they wanted. Last November, however, presented two challenges.

The COVID-19 pandemic was going strong, and remember, there was no vaccine available then. So DeBeauvoir was concerned about maintaining social distancing for everyone's safety.

At the same time, she said, a few of the partisan poll watchers seemed intent on harassing the election workers. Her office policy required visitors to wear masks, but some poll watchers refused. DeBeauvoir showed me a picture of one poll watcher — unmasked — standing right over an elections worker at a computer.

In another incident, a poll watcher leaving for the day took off her own mask and tossed it in the face of an elections office staffer, who happened to have preexisting conditions, DeBeauvoir said.

“(The poll watcher) says, ‘Here, I’ve already had COVID. I’m *gifting* you with my antibodies,’” DeBeauvoir said, her voice steely with outrage.

“I had no problem with them coming in and looking at stuff,” DeBeauvoir continued. “They always have. That’s a good thing. But they were just being so ugly, and when (the poll watcher) threw her mask at (the staffer’s) face — any question in my mind that anything they said was legitimate was gone. I know exactly what they’re trying to do.”

DeBeauvoir limited the number of poll watchers who could stand in the smaller, computerized tally room, figuring she could promote social distancing while still ensuring a view for others through the windows of the media room. But some of the poll watchers in the media room said they couldn't fully see or hear what was happening next door. The Travis County Republican Party filed a complaint with the Texas Supreme Court, but the court declined to intervene.

Both sides quickly reached a settlement spelling out the details of where poll watchers could stand and how computer monitors would be positioned for future elections. It seemed like the matter was resolved. In a statement sent to reporters Nov. 11, 2020, and later posted to the party's website, the Travis GOP thanked “Dana DeBeauvoir and the Travis County Elections legal team for their hard work in coming to this agreement.”

But the poll watchers also registered complaints with the secretary of state's office, which referred the matter to the attorney general's office for a "criminal investigation," KXAN first reported last December.

Finding the silver linings

Paxton pursued the case, as well as a separate complaint from a poll watcher in Harris County who alleged that she was denied access to an election-related proceeding. As with DeBeauvoir's case, the Harris County case was presented in a more conservative neighboring county (Montgomery), where the grand jury also rejected charges.

A generous reading of his motives is that Paxton is the state's top law enforcement officer, and state law gives him the power to prosecute violations of elections law.

In reality, though, Paxton has used the powers of his office for clearly partisan purposes. The most brazen example, of course, was Texas' ill-fated lawsuit last December urging the U.S. Supreme Court to toss out the election results in four states, which would have kept Trump in power. Paxton filed that lawsuit in his role as attorney general, while also serving as co-chair of Lawyers for Trump, a coalition of GOP attorneys who offered to bring legal challenges to aid the campaign.

(Let's not forget Paxton remains under indictment for securities fraud, and last year the FBI launched an inquiry after whistleblowers accused Paxton of using his office to help a major donor.)

At any rate, it's not surprising that a partisan-minded AG would see an opportunity in DeBeauvoir's case to cast more doubt on our elections, feeding Trump's dishonest narrative about 2020. And Paxton, who is running for reelection next year, could energize his GOP base if he prosecuted the Democratic elections chief in Austin.

Of course, poll watchers should be able to see every step of the election counting process. The problems last November reflected the challenges of conducting an election during the pandemic.

It's hard for me to see any merit in the complaint against DeBeauvoir when a grand jury, having reviewed the evidence, saw nothing resembling a crime. The grand jury's fair-minded work provides one silver lining. Here is another:

Last week, the Court of Criminal Appeals, the highest court handling criminal cases in Texas, struck down the law that had allowed the attorney general's office to prosecute violations of election law. Paxton can no longer bring criminal charges against elections officials, unless a local prosecutor asks his office for help.

The 8-1 ruling by the all-Republican court, dealing with a different case out of Jefferson County, hinged on separation of powers. The attorney general is part of the executive branch. Prosecuting election-related crimes falls under the judicial branch.

The AG can't go outside his lane.

Thanks to the court's faithful interpretation of the state Constitution, the decision to prosecute election-related crimes will rest with district attorneys and county attorneys who are accountable to their communities, not a partisan AG looking to score points.

Let's hope that shuts down one avenue of threats against the dedicated election workers who make our democracy possible.

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