



VOTING IN TEXAS IN 2014

By Mimi Marziani & James Slattery

ABOUT BATTLEGROUND TEXAS

Founded in 2013, Battleground Texas is a people-based, metrics-driven organization dedicated to the idea that volunteers, in their neighborhoods, can and do significantly impact electoral results. Through the neighborhood team model of grassroots organizing, Battleground Texas is working to expand and mobilize the Texas electorate. Through professional development and training, we are also empowering the next generation of political leaders in the Lone Star State. Our long-term mission is to turn Texas into a battleground state, where elections are competitive at all levels of government.

ACKNOWLEDGEMENTS

We are particularly grateful to Wendy Davis, whose hard-fought campaign inspired millions of Texas voters, tens of thousands of volunteers and the entire Battleground Texas team. We owe endless thanks to our tireless Voter Protection Program volunteers — without you, the 2014 Voter Protection Program would not have been possible. Special thanks are owed to volunteers John Barcus, Brittany Brantley and Elizabeth Beck-Johnson, who oversaw our public hotline on Election Day. The other members of our Voter Protection team were also instrumental to its success: Thank you, Colin Allred, Liliane Bedford and Sarah Harrison, for your hard work, leadership and passion for voting rights. Finally, we applaud the efforts of the Elections Division of the Secretary of State's office, the county election officials, and so many dedicated election workers for their countless hours of service to the voters of Texas.

INTRODUCTION

Texas is at its best when every eligible voter casts a ballot that counts. Unfortunately, too many factors have kept Texans from making their voices heard at the ballot box. As it stands now, Texas boasts one of the lowest voter turnout rates in the nation. Such low levels of engagement make it particularly important that we fight to protect every eligible vote.

That's why the work of our dedicated Voter Protection volunteers was so critical in 2014. They gave countless hours — undergoing rigorous training, arriving early in the morning and leaving late at night — to protect the voting rights of their fellow Texans. Between answering thousands of calls to our public hotline and watching over hundreds of polling locations, the work of our volunteers ensured that thousands of eligible votes were counted that might otherwise have been lost.

Battleground Texas did not do this alone. The Texas Democratic Party and many county parties, the Wendy R. Davis for Governor Campaign, and the Democratic National Committee all coordinated to protect Texans' right to vote. There was a statewide effort to not only educate voters and help resolve problems at the polls, but to document the issues that voters encountered. We look forward to continuing to work with our allies in 2015 and beyond as we improve and expand our efforts to protect voters.

To be sure: Much work remains before elections in Texas are truly competitive. But Texas' elected government cannot be by the people — or truly for the people — without unencumbered access to the ballot box. For too long, the elected officials making the laws and decisions that affect Texans' everyday lives have been accountable to only a select few. We must change that.

Battleground Texas will continue to fight for a Texas where every voice matters and every eligible vote is counted.

~ Jenn Brown, Executive Director of Battleground Texas

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I. EXECUTIVE SUMMARY

In 2014, Battleground Texas, the Texas Democratic Party ("TDP") and many county parties, the Wendy R. Davis for Governor Campaign and the Democratic National Committee ("DNC") ran a statewide, coordinated Voter Protection Program. Through this program, the Battleground Texas 2014 Voter Protection team compiled a unique data set on voting in Texas. Here, we describe and analyze that data.

Let us be clear: The reports we received reflect the experience of a small slice of the total Texas electorate. However, this data reflects trends in election administration that have been witnessed across the country — including inaccurate voter rolls, increasingly strict voter ID requirements, various inefficiencies at polling places, and antiquated voting machines.ⁱ Accordingly, by releasing this report, we hope to educate the public and policymakers and start a conversation about commonsense reforms in Texas.

We drew our data from several sources: From the 4,220 voters who called our Voter Protection hotline, 1-844-TXVOTES, to ask questions about voting or to report problems with the electoral process; from the specially trained volunteers — primarily lawyers or law students — we placed at more than 200 polling places on Election Day to observe the electoral process and record incidents; and, in many locations, from the local supporters with whom we worked closely. Of the thousands of inquiries and reports we received, there were a total of 1,315 unique reports that raised one or more significant issues with voting in Texas, including more than 500 incidents on Election Day alone.ⁱⁱ

Of the 1,315 unique, substantive reports we received:

- 28% related to the state's voter rolls;
- 21% related to the state's photo ID law;
- 12% related to the management of polling places; and
- 4% involved the state's voting machines.

The most worrisome reports suggest systemic problems with the state's voter rolls, as well as significant issues with the new, strict photo identification law. Our data set also raises concerns around the administration of polling places as well as with Texas' voting machines.

The remaining substantive reports involved a variety of issues that, in order to focus on the most common issues that affected voting in Texas in 2014, are not addressed in this report, such as voting by mail, unlawful electioneering, confusing ballot design, and so on.

Again, while this is an unprecedented snapshot of voting in Texas, it is also just a snapshot. Much of our data stems from voters' self-reports and from the observations of volunteers at select polling places and almost certainly does not capture the experiences of so many who were disenfranchised. There is no way to know, for instance, how many voters researched their voter registration status online and, due to inaccuracies within the rolls, mistakenly thought that they were not registered — and then never bothered to cast a ballot.

Our best guess is that the thousands of incidents recounted here represent just a fraction of the total problems with voting in Texas in 2014.

II. BACKGROUND

The Voter Protection Program

Battleground Texas launched its Voter Protection Program in May of 2014. The authors of this analysis led the program — Mimi Marziani, as the Voter Protection Director, and James Slattery, as the Deputy Voter Protection Director.

Through our partnership with the TDP, local parties, the Wendy Davis campaign and the DNC, our Program:

- Supported Battleground Texas' grassroots voter registration efforts;
- Empowered the electorate through voter education materials and a public hotline;
- Recruited, trained and deployed volunteers to monitor the election process; and
- Compiled information on the voting process in Texas.

On Election Day we placed approximately 230 specially trained volunteers at more than 200 polling places in 12 counties, supervised by a network of legal experts in eight boiler rooms.ⁱⁱⁱ In addition to observing the electoral process and attempting to resolve any problems that arose, our volunteers recorded incidents they witnessed in an electronic incident tracker developed by the DNC.

About 70 trained legal volunteers operated the Voter Protection hotline. Launched on September 29th and running through Election Day, the public, toll-free hotline received calls in English and in Spanish, with inquiries ranging from polling locations to reports of serious barriers to voting.

Methodology

This report draws from several distinct data sets: hotline calls; reports from our hundreds of volunteers at polling places; and 2014 general election provisional ballot data that we obtained from the five largest counties in Texas — Bexar, Dallas, Harris, Tarrant and Travis.

We received 4,220 calls to our hotline. The vast majority — more than two-thirds — involved questions about where or when to vote; the others alerted us to problems involving voting that voters had witnessed or experienced. Our trained hotline volunteers, primarily lawyers and law students, documented these calls.^{iv} Our polling place volunteers also recorded problems that they witnessed at the polls.

For each incident, we endeavored to collect the affected voter's name and contact information, where the incident occurred and, if applicable, whether a provisional or regular ballot was cast. Many voters reported their names and contact information to us, although others preferred to stay anonymous. In this report, wherever possible, we refer to affected voters by their initials; when the voter's name is unknown, we use the generic term "voter" (*i.e.*, "a voter" or "one voter").

As a general matter, we have done our best to include details about each incident described in this report. Since we are relying heavily on self-reported data, we make no guarantees as to the absolute accuracy of any given example. Nor do we claim that the incidents discussed here comprise the entirety of problems encountered by Texas voters in 2014, or that the issues documented by us are uniformly representative for all of Texas.

In drafting this analysis, we reviewed each record carefully to characterize the nature of the issue presented. This required us to make certain judgment calls, for which the authors assume full responsibility. Whenever possible, we looked to other available information to provide further support for our conclusions.

Our main purpose in releasing this report is to spur debate on necessary statewide reforms in election administration for future elections. Our purpose is not to criticize any election official, any particular county or any individual who served Texas voters at the polls as an election judge or clerk. Accordingly, to promote constructive debate and avoid unproductive finger-pointing, we have omitted location-specific information from the public version of this report unless the incident was reported by the news media. Indeed, the problems unveiled here deserve statewide solutions.

III. PROVISIONAL BALLOTS

...We received repeated anecdotal reports of voters being turned away without being offered a provisional ballot during the 2014 election...

Before delving into the incidents reported to our Voter Protection Program, it is helpful to briefly examine data on provisional ballots from the five largest counties in Texas.

Under federal law, election workers are required to provide the opportunity to cast a provisional ballot to every voter whose eligibility cannot be determined at the polls.^v In other words, if you show up to vote and — for whatever reason — are not permitted to vote a regular ballot, you must be given the chance to vote provisionally.

After the election, officials decide whether each provisional vote is eligible to be counted. Under Texas' photo identification law, any voter who does not provide acceptable ID at the polls is given a provisional ballot, which is then (with very few exceptions) only counted if that voter shows an acceptable ID to county election officials within six days of Election Day.^{vi}

Provisional ballots thus present another way to measure problems at the polls, because they indicate that something has occurred to prevent a person from voting normally. That being said, we received repeated anecdotal reports of voters being turned away without being offered a provisional ballot during the 2014 election,^{vii} indicating that compliance with the provisional balloting laws may fluctuate from polling place to polling place. Accordingly, there is reason to think that provisional ballot data in Texas does not fully represent the number of voters who were unable to vote a regular ballot.

The Secretary of State's Elections Division does not track the number of provisional ballots cast in Texas or any information on how many are ultimately counted or rejected. Thus, we had to submit requests to each county under the Texas Public Information Act to obtain this information.

Each county collects and records provisional ballot data in different ways, but we have synthesized this information in the charts that follow. Chart One shows, for each county listed, the total number of provisional ballots cast; the percentage of provisional ballots out of the total votes cast; the total number of provisional ballots rejected; and the percentage of provisional ballots rejected out of the total provisional ballots cast. The term "provisional ballots" is abbreviated as "PB."

CHART ONE

County	Total Votes Cast ^{viii}	Total PB Cast	Percentage PB Cast of All Votes	Total PB Rejected	Percentage Rejected of PB Cast
Bexar	300,950	438	0.15%	382	87%
Dallas	407,260	1,907	0.47%	1,436	75%
Harris	680,076	2,945	0.43%	1,994	68%
Tarrant	372,973	1,460	0.39%	1,338	92%
Travis	267,795	1,853	0.69%	1,365	74%
Totals	2,029,054	8,603	0.42%	6,515	76%

By comparison, the U.S. Election Assistance Commission reports that about 1% of Americans who voted in person in 2010 cast a provisional ballot, but only 17.6% of those provisional ballots were rejected nationwide.^{ix} This means that in 2014, Texas counties issued provisional ballots at a rate *significantly lower* than the national average and then rejected those ballots at a rate *significantly higher* than the national average. Put simply, **it appears that voters in Texas are both less likely to be offered a provisional ballot and more likely to have that provisional ballot rejected.**

In Chart Two, we examined the top reasons that provisional ballots in Texas were not counted, showing the total number rejected for registration problems, lack of acceptable ID and due to the voter casting a ballot in the wrong precinct. For each of these categories, we also calculated the proportion of provisional ballots rejected for that particular reason as a percentage of all provisional ballots rejected.

CHART TWO

County	Total PB Rejected for Registration Problems	Percentage of PB Rejected for Registration Problems	Total PB Rejected for Lack of Acceptable ID	Percentage of PB Rejected for Lack of Acceptable ID	Total PB Rejected for Wrong Precinct	Percentage of PB for Wrong Precinct
Bexar	193	51%	25	7%	131	34%
Dallas	818	57%	99	7%	507	35%
Harris	934	47%	249	12%	811	41%
Tarrant	782	58%	57	4%	474	35%
Travis	1,093	80%	197	14%	0 ^x	N/A
Totals	3,820	59%	627	10%	1,923	30%

Nationally in 2010, 45.2% of provisional ballots were rejected because the voter was not registered; 1.5% were rejected due to insufficient ID; and 10.8% were rejected because the voter was at the wrong precinct.^{xi} Texas stands out for rejecting a higher proportion of provisional ballots due to registration issues, lack of acceptable ID and for a voter's failure to appear at the correct polling location on Election Day. Indeed, hundreds of votes were not counted in the large counties due to a voter's failure to appear at the proper polling place on Election Day — a problem not experienced in Travis County, which permits voters to vote at any polling location countywide.

IV. VOTER ROLLS

In addition to the millions of unregistered but eligible voters in Texas, there is an unknown number of voters in Texas who are currently registered but whose registration — because of a name change or change of address — is inaccurate. This makes the reports we received of problems with the state's voter rolls especially troubling.

Inaccuracies within the Voter Rolls

...the Texas Election Administration Management system ("TEAM") — a central online portal for the state's voter registration records — broke down on Election Day.

We identified two systemic issues that led to inaccuracies within the state's voter rolls.

First, the Texas Election Administration Management system ("TEAM") — a central online portal for the state's voter registration records — broke down on Election Day. Poll workers use TEAM to verify a voter's registration when that voter's name does not appear on the rolls at a particular polling place. This database was not working for at least part of Election Day, potentially resulting in many registered voters being told, incorrectly, they were not on the rolls. As explained by Janice Evans, Director of Elections for Brazoria County, to MSNBC, "With the state TEAM system down, voter registration cannot look at all the voters in Brazoria County and try and find a person [who] may not be in the pollbooks."^{xii}

Issues with the TEAM system likely explain many reports we received, such as:

- I.L. attempted to vote at the proper polling location, only to be told he was not on the rolls. When he called our hotline, we verified via the Texas Secretary of State's website that he was, in fact, registered.
- M.D. was told by his county registrar's office that he was registered when he called in mid-October, but was not listed when he went to vote.
- A large number of provisional ballots being cast at one polling location, according to one volunteer poll watcher, as a result of many voters not being on the rolls.

Many of these voters should have been able to vote provisionally — though given reports that at least some election workers systemically failed to provide provisional ballots, there are undoubtedly voters who were disenfranchised.

Second, we received dozens of complaints from voters who claimed to have registered to vote or updated their registration information at the Department of Public Safety ("DPS") when they applied for or updated their driver's license. While DPS has an obligation to ensure that these voters are indeed properly registered under state and federal law,^{xiii} widespread problems had been reported in the past.^{xiv} Examples of the complaints we received from voters in 2014 include:

- M.P. and her husband went to a DPS office to update their driver's licenses and to register to vote. On Election Day, her husband was able to vote a regular ballot, but she was not. Instead, she had to cast a provisional ballot.

- R.G. and his husband went to a DPS office in June when they each got a new driver's license. They both also registered to vote. When the couple went to vote during Early Voting, R.G. was not on the registration rolls even though his husband was able to cast a regular ballot.
- R.C. moved within Texas, and was certain she re-registered when she renewed her license. When she went to vote, she was still registered at her former address.

In addition, several of our poll watchers noted pervasive problems with the voter rolls that were linked to DPS. For instance:

- After observing voting at one polling location, a volunteer noted that: "DPS's failure to update address changes impacted 10-12 voters."
- Another observed a voter who claimed to have registered at DPS but was not on the rolls, and then reported: "Judge called elections office and confirmed he was not registered. Per other worker this is a common problem with people who register at [DPS]."
- A third reported that "a fair number of folks seem to have had problems who claimed to have registered through DPS when getting new or renewing license..."

Our poll watchers' observations are confirmed by data from the Secretary of State. **In October and November of 2014 alone, the Elections Division counted 1,244 reports from voters who properly registered to vote at DPS but did not appear on the registration rolls.**^{xv} This number should be considered under-inclusive, as it only captures those who took the extra steps of attempting to vote and then also complaining to election officials when they were not found on the rolls.

Recent Movers

Unfortunately, although more than one in 10 Americans move annually,^{xvi} Texas law requires voters to completely re-register after moving between counties within the state.^{xvii} If a voter fails to do so, her ability to vote is dependent upon a seemingly irrelevant factor — whether that voter casts a ballot during Early Voting or on Election Day. If a voter has moved to a new county and the voter rolls have not been updated, she is only permitted to vote a so-called limited ballot for statewide offices, and can only do so during Early Voting or by mail.^{xviii} On Election Day, by contrast, that same voter cannot vote at all.

We received more than a hundred reports involving voters who had recently moved within Texas, yet whose address had not been updated on the voter rolls. On Election Day, several of these incidents involved voters who would otherwise have been able to cast a limited ballot had they voted just days earlier during the Early Voting period. For example:

- Although J.Q. attempted to update his voter registration in September after moving within Texas, he was not listed on the rolls in his new county. He knew about the limited ballot, but did *not* know that he had to vote during Early Voting, and thus lost his opportunity to cast a vote that counted by waiting until Election Day.
- H.D. moved just across the county line, but was still listed on the rolls in his former county, so his vote did not count on Election Day.
- One mother of a recent college graduate called, upset because she did not realize that her daughter needed to update her registration when she moved home after attending college in Austin. But by Election Day, it was too late.

V. VOTER ID

Background on Texas' Strict Voter ID Law

Deemed the strictest in the country,^{xix} the new Texas ID law requires voters to present one of the following forms of photo ID when voting in person:

- a Texas driver's license or personal ID card;
- a Texas election identification certificate;
- a Texas concealed handgun permit;
- a U.S. military photo ID;
- a U.S. citizenship certificate containing the person's photograph; or
- a U.S. passport or passport card.

Each form of ID must be current or expired only within the last 60 days, with the exception of citizenship certificates (which do not expire).^{xx}

When passed in 2011, this law marked a sharp break from Texas' prior framework, which allowed voters to present a number of more commonly available and easier-to-obtain IDs — such as out-of-state driver's licenses and licenses expired for more than 60 days, or a variety of non-photo ID such as utility bills, bank statements and paychecks. Initially, a three-judge U.S. District Court refused to clear the law under the Voting Rights Act, ruling that it “imposes strict, unforgiving burdens on the poor” and would disproportionately impact racial minorities.^{xxi} While Texas nonetheless implemented the new voter ID law after the U.S. Supreme Court's decision in *Shelby County v. Holder*, litigation is still ongoing.

Recently, in a 147-page decision issued in October 2014, a federal judge in Corpus Christi found that more than 600,000 registered voters in Texas lack an acceptable ID under the new law's strict requirements, and that a disparate number of those voters are African-American or Hispanic.^{xxii} She further concluded that the law constitutes “an impermissible poll tax,” because voters need to spend money on underlying documentation in order to obtain an ID, and that the law was purposefully designed to discriminate against racial minorities.^{xxiii} In the court's words: “It is too easy to think that everyone ought to have a photo ID when so many do, but the right to vote of good citizens of the State of Texas should not be substantially burdened simply because the hurdles might *appear* to be low. For these Plaintiffs and so many more like them, they are not.”^{xxiv}

The U.S. Fifth Circuit Court of Appeals is currently weighing the law's legality, and is expected to issue a decision in 2015.

The 2014 midterm election was the first major general election under Texas' strict voter ID law. **Of the substantive reports we received, 21% concerned the new law, shedding light on the actual experiences of Texas voters as they sought to exercise their franchise under these new requirements.**

Voters Who Lacked ID

Of note: Nearly one-tenth of the voters who reportedly lacked ID identified themselves as senior citizens or disabled.

Our data includes reports of incidents where individuals were disenfranchised either because (a) they did not possess an acceptable form of photo ID or, less commonly, (b) they failed to bring an ID with them to the polls.

Of these reports, one-third involved voters who reportedly possessed a form of ID that had been accepted in previous elections but is no longer allowed under the strict new law. Many of these voters had an expired Texas driver's license or personal identification card but told us that the renewal process was prohibitively burdensome. For instance:

- A.S. had an expired Texas driver's license, but indicated that she could not afford the \$25.00 renewal charge.^{xxv}
- H.G. reported that her driver's license could not be used at the polls because it was not up-to-date, but she was not able to visit DPS before Election Day due to her schedule.
- One voter reported that he has an expired driver's license but does not have a copy of his birth certificate — and cannot afford to pay for a new one because he is unemployed.

Other voters told us that they had an out-of-state driver's license, including the following:

- One voter, a senior citizen, told us she was not permitted to vote a regular ballot using her Georgia driver's license, despite having used this ID to vote in recent past elections. Unfortunately for this voter, obtaining a new ID was no easy matter: She was told she needed her Social Security card, her marriage certificate, her birth certificate, and two pieces of mail documenting that she receives mail at her home. To obtain her birth certificate, her 70-year-old husband had to drive across two states to retrieve it from a safe deposit box — though, when we last spoke with her, she did not know whether she could also find her Social Security card in time.
- In a separate incident, W.J. told us a similar story. His wife needed to get her birth certificate from Mississippi before she could trade in her out-of-state driver's license for a Texas driver's license.

Other voters reported that they no longer had a valid form of ID because of bad luck or theft. A series of voters called to report that they no longer had an acceptable ID due to random or malicious misfortune. Examples of these reports include:

- **Stolen IDs.** Two voters reported that their voter ID had been stolen. A blind voter had her ID and other identifying documents stolen by a former caregiver; another had his briefcase stolen, which contained his ID.
- **Destroyed ID.** J.H. ordered a new driver's license and, when she received it, accidentally cut up the new ID rather than the old one, leaving her without a valid form of ID.
- **Lost IDs.** About a tenth of the voters who reported that they had no ID had lost their ID. As an example, V.M. lost her driver's license and had only a temporary one with no photo on it, rendering it unusable at the polls.^{xxvi}
- **Temporarily Misplaced IDs.** One voter called because she had visited a friend in another town just before Election Day, and had mistakenly left her ID there.

Of note: Nearly one-tenth of the voters who reportedly lacked ID identified themselves as senior citizens or disabled.^{xxvii}

Voters with Valid ID Who Still Encountered Problems

We also received reports of voters with valid IDs who nonetheless encountered problems while voting, largely stemming from widespread confusion about the photo ID law. Unfortunately, despite mandatory training and the efforts of many election workers, reports of misunderstandings of the law were commonplace.

Reports of confusion about the law included:

- **Requiring more than one form of ID.** When he attempted to vote, G.H. was told that he needed to present two forms of identification. He knew this was incorrect, and eventually election workers relented and allowed him to vote, but there is no way to know how many other voters were turned away before him. Election workers in another county told a voter that he needed to present two forms of identification because he did not bring his voter registration card to the polls. He was only allowed to vote once he produced both a Texas driver's license and a U.S. military ID — something many other voters may not have been able to do.
- **Requiring a voter registration certificate.** There appeared to be significant confusion about the role of voter registration certificates. Though these certificates were acceptable forms of identification under the prior law, voters could still cast a regular ballot without showing one, and the new law did not change that. Nonetheless, some election workers tried to require voters to present a voter registration certificate in addition to an acceptable photo ID. Others wrongly believed you could vote with either a voter registration certificate or an acceptable photo ID.
- **Failing to credit acceptable IDs.** Voters in several counties told us that they were told they could not use their military or veteran ID cards to vote, including a voter who recorded the scene on video.^{xxviii} One voter reported that his wife's ID was rejected because it had been expired for 20 days, even though IDs that have been expired for up to 60 days are permitted.

- **Confusion about IDs with a different address.** The law does not require that the address on a voter's ID match their address on the registration rolls. Yet we received numerous reports that voters were being required to fill out a statement of residence form if their ID address did not match their voter registration address — even though, according to the Secretary of State's "Handbook for Election Judges and Clerks," this form is only to be used if the voter has recently moved or is on the "suspense" list.^{xxix} At least one voter allegedly was simply told that he could not vote using a regular ballot because his voter registration address did not match the address on his ID; election workers instructed him to come back with his voter registration certificate.
- **Refusing to accept IDs with a "substantially similar" name.** Texas law requires the name on the voter's ID to either exactly match, or be "substantially similar" to, the voter's name as it appears on the registration rolls. The Secretary of State has interpreted this requirement generously,^{xxx} but some election workers did not follow this interpretation. For instance, we received a report that one election worker refused to allow a woman to vote because her military ID listed only a middle initial ("M.") but her voter registration record contained her full middle name ("Megan").
- **Requiring an ID from people who were granted an exemption.** Voters are exempt from the ID requirement if the Social Security Administration or the U.S. Department of Veterans Affairs has determined that they are disabled, provided that they bring their voter registration certificate with them to the polls (which will have been marked with the letter "E" to indicate the exemption). But election workers are not always aware of this exemption: One voter told us that election workers would not accept her exemption because they were unfamiliar with it. She was able to vote only after county election officials were called.

VI. DISORGANIZED POLLING PLACES

Overall, we recorded 164 incidents related to organizational problems at polling places, each of which potentially impacted thousands of Texas voters.

Widespread reports of disorganized polling places caused delayed openings. They also resulted in long lines and other problems that interfered with voting in at least 69 polling places in the state's five largest counties on Election Day, according to reports we received. Overall, we recorded 164 incidents related to organizational problems at polling places, each of which potentially impacted thousands of Texas voters. Worse, our data captures the experience of just a small slice of the total electorate — it is safe to assume that many more voters were affected by polling place disorganization statewide.

Delayed Openings

Late openings or lines can deter voters, especially those who work full-time outside of the home, take care of young children or have other time constraints. For some, a delayed opening or long line of even a few extra minutes can be the difference between casting a ballot or not.

On Election Day, our volunteers monitored the voting process at roughly 200 polling places in the state's largest counties. By law, polling places must open at 7:00 a.m. local time and remain open until 7:00 p.m.^{xxxi} But we received reports of at least 19 polling places either opening late or opening without being able to process voters at 7:00 a.m. Indeed, our data reveals that one large county alone had seven polling places with significantly delayed openings.

Most commonly, polling places were said to have opened late because of a problem with voting equipment: Either one or more of the voting machines was broken, a piece of equipment such as a computer cord was missing, or the election workers simply did not know how to set up and use the equipment. Other reasons that polling places reportedly did not begin processing voters at 7:00 a.m. on Election Day are illustrated by the following reports:

- Election workers at one elementary school were locked out of the gym where the polls were located until 6:45 a.m., leaving them without enough time to set up the machines before polls were scheduled to open. By 7:19 a.m., voters were being told that it would be “a while” before voting could start, and voters were observed leaving without casting a ballot.
- Voting was significantly delayed at another elementary school because the election judge was unsure of how to set up the polls. For at least 19 minutes, not a single voter was able to cast a ballot.
- The wrong ballots were delivered to several major polling places in one county, significantly delaying the start of voting. At least one of those polling places was delayed nearly two hours until the correct ballots arrived at 9:00 a.m.

Long Lines

Lines are expected on Election Day. High volume during peak periods (such as the pre-work and post-work surges in the morning and evening, respectively) are common throughout the country. Throughout Election Day, we monitored reports of long lines — defined in this report as a wait time of at least 15 minutes.

While more than one-third of reports of long lines occurred during the morning and evening rushes, and appeared to have no other cause than high volume, nearly 60% of the incidents were reportedly caused by disorganization at polling places. To illustrate, long lines reportedly occurred when:

- The election judge at one elementary school lost the keys to the ballot box late in the day.
- A polling place at one high school ran out of ballots toward the end of the day.
- A voter at another elementary school started to vote on a machine in Spanish, but then wanted to switch back to English, and staff could not figure out how to reset the machine.

A number of long lines were also reported as the result of a lack of sufficient voting machines. We received repeated reports of polling places lacking the voting machines to sufficiently handle voter volume throughout the day — particularly in heavily populated urban areas.

Unclear Polling Locations

We received numerous reports of voters encountering difficulty voting due to the physical location of polls. Some polling places lacked proper signage — for instance, voters reported that the poor placement of a sign at one polling place in a library led voters to line up at the wrong location. For much of the morning, voters formed in a long line in the parking lot, believing incorrectly that the polling place was just closed.

Other polling places were listed with the incorrect address. For instance, one county's website listed the wrong location for one of its polling places, and voters arrived to find a building that was closed for remodeling. A volunteer we sent to stand outside and direct voters to the proper location encountered more than 20 confused voters within minutes of arriving.

Unclear street names also misled voters, particularly when combined with insufficient signage. For instance:

- We received a high number of phone calls concerning one senior center that served as a polling place. Typing the center's address into Google led voters to a *different* location — apparently with the same address — that is more than 10 miles from the actual polling place. This resulted in confusion among the voters in this precinct.
- One county used a city hall annex location across the street from the main city hall as a polling place. Voters reported visiting the main city hall location first, only to believe that polls were closed.
- Voters reported difficulty finding one polling location within a church because its official address was different than the commonly known address for the same location.

Disrupted Voting

Lastly, non-voting activities disrupted voting at some polling places. In particular, a number of polls in Texas were located at elementary, middle and high schools, but Election Day is not a school holiday. Thus, voters reported that voting was often disrupted when the schools let out for the day in late afternoon. Indeed, voters at two different elementary schools reported the doors to the polling place were blocked at the end of the school day, preventing voters from entering to vote.

VII. VOTING MACHINES

We received dozens of reports of serious problems with voting machines, affecting at least 44 polling places across the state. Like disorganized polling places, voting machine malfunctions have the potential to impact thousands of voters at each location.

The most common voting machine problem reported was that one or more machines at certain polling places were broken — constituting more than half of the total reports in this category.

Voting Machine Malfunctions

“People were discouraged. I saw several, several people leave and complain out loud about how it was running inefficiently, and saying, ‘If I don’t vote now, I can’t vote.’”

Reports of the number of machines broken, type of malfunction, and their impact on voting varied greatly from polling place to polling place. For instance, at one elementary school, voters reported that though a voting machine stopped working in the late morning, its effect on voting was minimal because of low volume and because the five other machines continued to function.

However, the majority of voting machine malfunctions reported appeared to have a significant impact on voting. For example, according to reports we received, eight out of the 10 voting machines were inoperable when the polls opened at one major urban polling place, creating a significant disruption in voting. Other similar reports include the following:

- Voting machine problems meant that, in one county, an entire polling place was closed for more than two hours in the middle of Election Day.
- At the only polling place located at one major university, voting did not begin until 9:00 a.m. due to machine malfunctions.
- In another county, voting machine malfunctions resulted in a one-hour wait.
- At one elementary school, voters reported that the check-in computers stopped functioning for at least 25 minutes — resulting in a line that backed up outside of the building.

The nature of the voting machine malfunctions took on different shapes. While, as noted above, in some places voters reported that the voting machines themselves broke down, in other places electrical power failed at the polling location. In addition, we received a report that at least one voting machine had its precinct counter stop working (although voters there were apparently still able to vote). And the machines at one fire station stopped accepting the numeric codes to access the ballot.

Election workers’ responses — and voters’ willingness to endure the long wait times — also seem to have varied. In places with countywide voting centers, voters reported that they were redirected to other polling places when problems ensued. In other areas, voters were not so lucky:

- When the ballot scanning machine stopped working at one elementary school, voters told us that they were instructed to leave their ballots in a box by the side of the machine. They were told the poll workers would scan them later once the machine was fixed, but left without any guarantee of that happening.
- At one high school, machines were down for part of the morning, and voters were reportedly turned away.
- At one city hall location, the voting machines were down in the morning and voters were seen “leaving in droves.”
- As reported in the media, due to a lack of a computer to verify the address of voters at one Fiesta Mart polling place, the election workers had to call the county election office to confirm each voter. This, combined with the failure of several voting machines, caused many voters to give up before voting: “People were discouraged. I saw several, several people leave and complain out loud about how it was running inefficiently, and saying, ‘If I don’t vote now, I can’t vote.’”^{xxxii}

Programming Issues

During Early Voting, we received vote-flipping reports from at least three counties and, on Election Day itself, we received similar reports from counties across the state.

Serious programming issues also reportedly caused some voting machines to switch votes from one candidate to another. We first heard of this issue during Early Voting, when a voter attempted to vote for Wendy Davis, but the machine switched her vote to Greg Abbott. The voter told us she went back to correct her vote, but the machine still would not accept her vote for Davis. Only on the fourth attempt did the machine correctly accept her vote. After the voter informed an election worker about the problem, the worker told her, “This machine has been wanting to vote Republican all day.” The problems were apparently affecting voters of all political persuasions: According to one local reporter, Greg Abbott’s campaign sent an email warning supporters that the machines in Jefferson County were flipping votes from Republican to Democrat.^{xxxiii}

Nor were such issues isolated to a single county. During Early Voting, we received vote-flipping reports from at least two other counties and, on Election Day itself, we received similar reports from counties across the state. The voters who reported this issue typically noticed the problem when they double-checked their selections before casting their vote. We have no way of knowing, however, how many other voters did not catch this mistake and accidentally voted for the wrong candidates.

Other assorted programming errors marred Election Day. It was widely reported that a voting machine displayed David Dewhurst’s name rather than Greg Abbott’s as the Republican nominee for Governor.^{xxxiv} In another county, the machines had to be reset on Election Day because they were still programmed for the Early Voting period. At yet another location, a technician appeared at the location because all of the votes at that polling place were showing up in the county election system as provisional ballots; upon examination, he reportedly determined that “the problem was not on the polling place end, but on the County’s end.”

VIII. CONCLUSION

Simple, commonsense changes to voting law and policy could remedy many of the problems described above. While an exhaustive review of every worthwhile improvement to voting in Texas is outside the scope of this report, we have compiled a list of ideas to spur initial debate.^{xxxv} Notably, many of the recommendations made by the bipartisan Presidential Commission on Election Administration — which was established to identify best practices in election administration — speak to Texas' most significant issues.^{xxxvi} Thus, we draw heavily from the Commission's report here.

Our recommendations are as follows:

Conduct a comprehensive review of election administration processes, including provisional ballot practices. Texas would be well-served by a bipartisan commission, charged with developing specific recommendations to improve Texas elections. Moreover, provisional ballot data should be consistently collected and analyzed on a statewide basis to ensure that problematic trends are readily identified and noncompliance with the provisional balloting rules is remedied.

Update the voter rolls. The Secretary of State should immediately seek to identify the factors causing inaccuracies within the voter rolls, and then work to update the state's practices accordingly. And, of course, the TEAM system must be fixed so that it can be relied upon during elections.

In addition, in light of the frequency with which Americans move residences, voter registration data should be portable too. In particular, it makes little sense that voters who have recently moved within the state can only vote by limited ballot in their new county during the Early Voting period. These voters should be permitted to cast a limited ballot on Election Day as well — or, even better, update their registration immediately and cast a full ballot, thereby instantly increasing the accuracy of the voter rolls.

Improve polling place organization. To be sure, proper polling place organization is a complicated task in Texas, given the diversity of needs and the range of available resources in every county. We urge county commissioners' courts to carefully review and evaluate their county's approach to four critical aspects of success at the polling place:

- Polling place location and design;
- Management of the flow of voters;
- Poll worker recruitment; and
- Poll worker training.

In doing so, counties should consider the best practices developed by the Commission in each of these areas, as well as the many resources available on the Commission's website, www.supportthevoter.gov.^{xxxvii}

Finally, given the significant number of votes lost when voters cast their ballot at the wrong polling place on Election Day, all counties should adopt the countywide voting system, allowing voters to go to any polling place in their county — already successfully in use in some high-population areas like Travis County.^{xxxviii}

Update Texas' voting machines. Texas' voting machines are old and outdated. The vast majority were purchased more than 10 years ago,^{xxxix} causing what the Commission deems an "impending crisis in voting technology."^{xl} Travis County is leading the state, and the country, in devising new and innovative solutions to improving Texas' voting machines.^{xli} The state should do everything it can to support the efforts of Travis County while, in the meantime, allotting sufficient resources to audit and properly certify existing machines as recommended by the Commission.^{xlii}

While the issues documented in this report are disheartening, this analysis is not meant to paint a gloomy picture of the future of Texas elections. Indeed, this report itself should be a cause for optimism — for at least two reasons. First, because it embodies the incredible work of hundreds of Voter Protection volunteers and allied organizations, who resolved many of the incidents described here. Second, identifying problems is the first step toward finding solutions.

We hope this analysis moves us toward a better democracy in Texas.

ⁱ See generally, e.g., Presidential Comm'n on Election Admin., *The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration* (2014), <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>, archived at <https://perma.cc/Z8TD-FL6R?type=pdf> [hereinafter Presidential Commission Report]; Wendy Weiser & Erik Opsal, *The State of Voting in 2014* (2014), http://www.brennancenter.org/sites/default/files/analysis/State_of_Voting_2014.pdf, archived at <https://perma.cc/B568-TN44>.

ⁱⁱ All others involved routine logistical questions about where or when to vote, which are not included in this total.

ⁱⁱⁱ Volunteer poll watchers were stationed at polls in the following counties: Bexar, Collin, Dallas, Denton, Fort Bend, Galveston, Harris, Hidalgo, Montgomery, Nueces, Tarrant and Travis. The Voter Protection Program used data about incidents in previous elections, as well as demographic information, to identify target precincts and then sought feedback from county party representatives and others who could contribute a local perspective to complement the data.

^{iv} Prior to November 1, 2014, problems reported on the hotline were recorded in a Google form which populated a shared, electronic spreadsheet. After that date, we used the electronic incident tracker developed by the DNC.

^v 52 U.S.C.A. § 21082.

^{vi} Tex. Elec. Code Ann. §§ 65.054; 65.0541.

^{vii} For example, one poll watcher volunteer lodged this report: "Numerous, at least six, people being turned away without being offered provisional ballots. Election Judge non-responsive to . . . informing voters about voting provisionally when pointed out by poll watcher."

^{viii} This column references total votes cast for the office of governor in 2014, as reported by the Secretary of State at <http://elections.sos.state.tx.us/> (last visited Feb. 24, 2015).

^{ix} U.S. Election Assistance Comm'n, *The 2010 Election Administration and Voting Survey: A Summary of Key Findings* 11–12 (Dec. 2011), http://www.eac.gov/assets/1/Documents/990-281_EAC_EAVS_508_revised.pdf, archived at <https://perma.cc/98NG-HUYZ?type=pdf> [hereinafter EAC 2010 Survey].

^x Travis County does not use precinct-specific polling places; instead, voters can cast their ballot at any voting location in the county.

^{xi} EAC 2010 Survey, *supra* n. ix, at 12.

^{xii} See Zachary Roth, *Problems Reported at Polls Vary from State to State*, MSNBC.com (Nov. 4, 2014, 1:10 PM), <http://www.msnbc.com/msnbc/problems-reported-polls-vary-state-state>, archived at <http://perma.cc/DD3G-D49Y> (last updated Nov. 4, 2014, 9:41 PM).

^{xiii} Under the National Voter Registration Act of 1993, every time an eligible state resident obtains, renews, or updates his or her driver's license, the state must simultaneously register the person to vote or update his or her voter registration file (unless the resident chooses not to register). 52 U.S.C.A. § 20504; see also Tex. Elec. Code Ann. § 20.063.

^{xiv} See Lise Olsen, *'Motor Voters' Missing on Rolls*, Hous. Chron. (Oct. 28, 2012), <http://www.chron.com/news/houston-texas/houston/article/Motor-voters-missing-on-rolls-3987151.php>,

archived at <http://perma.cc/3RBE-TYG8> (last updated Oct. 28, 2012, 11:01 PM); Jessie Degollado, *Veteran Reports Difficulty with Voter Registration*, KSAT.com (Nov. 6, 2012, 6:52 PM), <http://www.ksat.com/content/pns/ksat/news/2012/11/06/veteran-reports-difficulty-with-voter-registration0.html>, archived at <http://perma.cc/5KBZ-NL6J> (last updated Jan. 22, 2014, 4:05 PM).

xv Email from Keith Ingram, Dir., Elections Div., to Mimi Marziani (Dec. 9, 2014, 2:30 PM CST) (on file with author).

xvi See David Ihrke, U.S. Census Bureau, *Reason for Moving: 2012 to 2013*, at 1 (2014), <http://www.census.gov/prod/2014pubs/p20-574.pdf>, archived at <http://perma.cc/5APY-RY5E>.

xvii Tex. Elec. Code Ann. § 15.021; see also *Did You Change Something?*, VoteTexas.Gov, <http://votetexas.gov/register-to-vote/did-you-change-something/>, archived at <http://perma.cc/R34Y-FQX8> (last visited Feb. 17, 2015).

xviii Tex. Elec. Code Ann. §§ 112.001–.006.

xix See *Veasey v. Perry*, No. 13-CV-00193, 2014 WL 5090258, at *9 (S.D. Tex. Oct. 9, 2014).

xx Tex. Elec. Code § 63.0101.

xxi *Texas v. Holder*, 888 F. Supp. 2d 113, 144 (D.D.C. 2012).

xxii *Veasey*, 2014 WL 5090258, at *21 & *49-50.

xxiii *Id.* at *56-58 & *52-56.

xxiv *Id.* at *48 (emphasis added).

xxv See Tex. Dep't of Pub. Safety, Driver License Div., *Official Texas Driver License/ID Renewal and Change of Address*, Texas.Gov, <https://txapps.texas.gov/tolapp/txdl/welcome.dl>, archived at <http://perma.cc/U3EM-FN3G> (last visited Feb. 17, 2015).

xxvi See Texas Secretary of State, *Acceptable Forms of Identification for Voting in Texas* (2014) at PowerPoint Slide 10 ("Receipts [from DPS serving as a temporary driver's license] that do NOT have a photograph should be presented along with the person's expired ID.") (on file with author).

xxvii Although we explored with these voters the possibility of voting by mail — which is available to voters who are disabled or over the age of 65 and, in most cases, does not require voters to have a photo ID — this option is not available once the deadline to apply has passed (which was October 24 in 2014).

xxviii See John Franks, *Texas Voter ID Laws*, YouTube.com (Oct 29, 2014), <https://www.youtube.com/watch?v=UmkxyexS7XQ&feature=youtu.be>.

xxix Office of the Texas Secretary of State, Elections Division, *Qualifying Voters on Election Day Handbook for Election Judges and Clerks* 4 (2014) ("Statement of Residence. . . Voter signs this statement if the voter has moved within the county to another election precinct in the same county."); see also *id.* at 14 ("After determining that the voter is registered, the voter must be asked if the residence address on the list of registered voters has changed. An 'S' notation by a voter's name means that the voter may have moved. If the voter has moved within the county, or is on the S-list, the voter must sign the Statement of Residence before being permitted to vote.").

xxx See 1 Tex. Admin. Code § 81.71(c) (2014) (Office of the Sec'y of State).

xxxi Tex. Elec. Code Ann. § 41.031(a).

^{xxxii} Alice Ollstein, *Since Texas Implemented Voter ID, The Number of Provisional Ballots Doubled*, ThinkProgress (Nov. 5, 2014, 12:51 PM), <http://thinkprogress.org/election/2014/11/05/3588243/texas-voter-issues-recap/>, archived at <http://perma.cc/3XJT-9JUK>.

^{xxxiii} See Eric Besson, *County Races might Prove more Suspenseful than Statewide Elections*, BeaumontEnterprise.com (Nov. 4, 2014, 4:40 PM), <http://www.beaumontenterprise.com/news/article/County-races-might-prove-more-suspenseful-than-5869882.php>, archived at <http://perma.cc/Y9Y7-4X5M>.

^{xxxiv} See Bobby Blanchard, *Bexar County Voting Machine Omits Abbott*, Texas Tribune (Nov. 5, 2014) <http://www.texastribune.org/2014/11/05/bexar-county-voting-machine-omits-abbott-ballot/>, archived at <http://perma.cc/B2SP-PBZT>.

^{xxxv} As noted above, the state's strict photo ID law is being weighed by the courts. Given the chance that the law will be invalidated or altered as a result of the litigation in upcoming months, we do not address it here.

^{xxxvi} See *generally* Presidential Commission Report, *supra* n.i.

^{xxxvii} *Id.* at 31-54.

^{xxxviii} In 2014, a number of counties used vote centers, including: Andrews, Angelina, Armstrong, Callahan, Collin, Coryell, Erath, Floyd, Foard, Gaines, Galveston, Grayson, Irion, Jefferson, Loving, Lubbock, Madison, Midland, McLennan, Montague, Navarro, Nolan, Randall, Red River, Rusk, Taylor, Tom Green, Travis, Victoria, Wharton, Williamson, and Yoakum Counties.

^{xxxix} Presidential Commission Report, *supra* n.i., at 62; Eli Okun, *Travis County Forges New Territory in Voting Machines*, Texas Tribune (July 9, 2014), <https://www.texastribune.org/2014/07/09/travis-county-forges-new-territory-voting-machines/>, archived at <https://perma.cc/XE2F-45JJ>.

^{xl} Presidential Commission Report, *supra* n.i., at 62.

^{xli} Okun, *supra* n. xxxix.

^{xlili} Presidential Commission Report, *supra* n.i., at 64-66.

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