



Thank you for the opportunity to provide this testimony to the committee. My name is Jacqueline Doyer and I am the Legal Policy Director for the Honest Elections Project, a nonprofit organization dedicated to defending the right of every American to vote in free and honest elections. One of the ways our organization does this is by promoting model reforms and best practices for preserving election integrity and bolstering confidence in the voting process. Prior to joining HEP, I served the state of Texas as the Deputy and Legal Director of the Forensic Audit Division of the Texas Secretary of State. In that role, I audited the process of election administration to ensure that local jurisdictions were following Texas laws and good election practice.

Countywide voting presents unique challenges for post-election audits and transparency with the public. In sum, the current method of reporting data in Texas is both confusing and opaque. I would like to focus my testimony here today on how current reporting practices can affect efforts at reconciliation, thereby obscuring potential election administration issues in jurisdictions that utilize countywide voting. If Texas intends to continue using county wide voting, it would be wise to ensure data is reported in a way that makes sense to the public and to auditors.

According to the [National Conference of State Legislatures](#) (NCSL), there are several states<sup>1</sup> across the country that utilize countywide voting or vote centers on election day. Texas is one of those states. Generally, a person is required to vote in the precinct in which they reside when voting on election day.<sup>2</sup> If, however, the county in which the voter resides participates in the CWPP, the voter may vote at any approved location within the county on election day.<sup>3</sup> Only counties that use certain voting systems and a computerized voter registration list capable of verifying that a voter has not voted may participate in the program.<sup>4</sup> There are currently 96 counties in Texas that participate in the CWPP.<sup>5</sup>

Basic reconciliation is a core component of trustworthy elections. At its simplest, reconciliation is validation through comparison. This is common practice in auditing. It is a critical tool to validate data, thereby increasing transparency and accountability regarding how elections are administered. Reconciliation between the number of voters who voted in an election and the number of ballots cast in an election should be simple and straightforward. Indeed, the new election night countywide reconciliation forms required by Texas' Senate Bill 1, have already proven useful in identifying critical missteps in election processes *before* results were certified.<sup>6</sup>

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<sup>1</sup> Eighteen states and the District of Columbia use vote centers on Election Day: Arizona, Arkansas, California, Colorado, Hawaii, Indiana, Iowa (some elections), Kansas, Kentucky, Nevada, New Mexico, North Dakota, South Dakota, Tennessee, Texas, Utah, Washington and Wyoming. Additionally, Illinois is in the process of a vote center pilot program in Champaign County. See *Vote Centers*, NATIONAL CONFERENCE OF STATE LEGISLATURES (Jan. 19, 2023), <https://www.ncsl.org/elections-and-campaigns/vote-centers>.

<sup>2</sup> Tex. Elec. Code Sec. 11.003.

<sup>3</sup> Tex. Elec. Code Sec. 43.007.

<sup>4</sup> *Id.*

<sup>5</sup> *Counties Approved to Use the Countywide Polling Place Program (CWPP) for the May 28, 2024 Primary Runoff Election*, TEXAS SECRETARY OF STATE, available at: <https://www.sos.state.tx.us/elections/laws/countywide-polling-place-program.shtml>.

<sup>6</sup> Paul DeBenedetto, *Harris County missed 10,000 mail-in ballots, the latest reported 2022 primary snafu*, HOUSTON PUBLIC MEDIA (Mar. 7, 2022), available at: <https://www.houstonpublicmedia.org/articles/news/politics/2022/03/07/420548/harris-county-missed-10000-mail-in-ballots-in-the-latest-reported-2022-primary-snafu/>.



The audit we conducted of the 2020 General Election demonstrated some of the hurdles involved when reviewing data in countywide voting jurisdictions. We evaluated election processes and procedures in the four of the largest counties in Texas: Collin, Dallas, Harris, and Tarrant. All these counties were participants in the CWPP for the 2020 General Election. Records generated from the counties' electronic pollbooks reflected check-in data by polling location.<sup>7</sup> These counties then utilized a centralized counting or accumulation station to count ballots and accumulate vote totals.<sup>8</sup> Election results from these counties were—and currently are—required to be reported by precinct (in contrast to by polling location).<sup>9</sup> Many post-election reports available publicly online also report results by contest. Though data regarding the number of ballots cast at a particular polling location is captured and exists, this data is not required to be reported or published.<sup>10</sup> This data is critical to ensuring proper reconciliation is conducted and enhances transparency in counties that participate in CWPP.

As a preliminary step in the 2020 audit, the counties were asked to provide a list of any Early Voting or Election Day polling locations with a discrepancy of greater than 1% between the number of voters who checked into vote and the number of ballots cast.<sup>11</sup> This initial inquiry provided an opportunity to attempt to verify the number of voters and ballots tabulated balanced, and any discrepancies revealed an area that may require further in-depth review. As noted *supra*, because most final reporting and reconciliation processes are by precinct or countywide<sup>12</sup>, and not by polling location, this initial informational request to the counties was necessary. Although three of the counties were able to comply with this basic request, Harris County was never able to produce this data on its own. In other words, Harris County was not able to provide a report that showed, by polling location, the number of voters who checked in versus the number of ballots cast.

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<sup>7</sup> See *Final Report on Audit of 2020 General Election in Texas*, TEXAS SECRETARY OF STATE, <https://www.sos.state.tx.us/elections/fad/2020-Audit-Full.pdf> at 80-179.

<sup>8</sup> See Tex. Elec. Code Sec. 127.001.

<sup>9</sup> See Tex. Elec. Code Sec. 65.014; 67.017; 127.131.

<sup>10</sup> See *Preliminary Findings Report November 8, 2022 General Election Harris County*, TEXAS SECRETARY OF STATE, <https://www.sos.state.tx.us/elections/fad/harris-county-preliminary-findings-report.pdf> (at 115-121 describing reconciliation process and discrepancies between pollbook reports and polling location votes tabulated); *Final Report on Audit of 2020 General Election in Texas*, TEXAS SECRETARY OF STATE, <https://www.sos.state.tx.us/elections/fad/2020-Audit-Full.pdf> at 80-179 (same).

<sup>11</sup> *Final Report on Audit of 2020 General Election in Texas*, TEXAS SECRETARY OF STATE, <https://www.sos.state.tx.us/elections/fad/2020-Audit-Full.pdf> at 81.

<sup>12</sup> See, e.g., Tex. Elec. Code Sec. 67.004 (local canvassing authority “shall prepare a tabulation stating for each candidate and for and against each measure: (1) the total number of votes received in each precinct; and (2) the sum of the precinct totals tabulated under Subdivision (1).”); 67.017 (“...the county clerk shall prepare a report of the number of votes...received in each county election precinct for each candidate...”); 172.124 (in each primary election the county clerk “shall prepare a report of the number of votes, including early voting votes, received in each county election precinct by each candidate for an office, other than a party office, as provided by Section 67.017 for the report of precinct results for a general election.”); 127.131(a) (“After the automatic counting of ballots for each precinct is completed, the presiding judge of the central counting station shall prepare the election returns for that precinct and sign the returns to certify their accuracy”); 127.131(f) (“The presiding judge of the central counting stations shall provide and attest to a written reconciliation of votes and voters at the close of tabulation for election day and again after the central counting station meets for the last time to process late-arriving ballots by mail and provisional ballots.”).



The audit reconciliation process revealed significant issues in Dallas and Harris counties in the 2020 General Election. Because of the State’s authority and ability to request and review such data regarding check-ins and ballots cast by polling location, we were able to identify polling locations for which ballots had not been tabulated at all or for which there had been significant breaches in chain of custody. The use of this data by election administrators to verify totals can prevent issues like this from arising in the future. Requiring this data to be generated and reported can enhance transparency and accountability with the public. When the public attempts to use published data and it does not reconcile or is impossible to reconcile, it is corrosive to public confidence in elections.

By law, certain information regarding election results must be posted online after an election including: the results, the total number of votes cast, the total number of votes cast for each candidate or for or against each measure, the total number of votes cast by personal appearance on election day, the total number of votes cast by personal appearance or mail during the early voting period, and the total number of counted and uncounted provisional ballots cast.<sup>13</sup> While helpful and a step in the right direction, this countywide data leaves a gap where polling locations are concerned. In Dallas County, for example, reconciliation at the countywide level was fairly balanced. But when examined by polling location, it was anything but balanced. A deeper dive revealed an entire USB drive had not been tabulated and that voting equipment had been dispatched to the improper locations, yielding a discrepancy in the county’s own internal reconciliation.

To illustrate the limitations of the data that is publicly available and legally required, I have provided some data for review. This data is publicly available through a recent open records initiative announced by the Dallas County Elections Department.<sup>14</sup> The summary results reports, countywide reconciliation form, and precinct reports reflect data that is required and commonly published for public review. The remaining documents were made publicly accessible through Dallas County’s Open Records Initiative. These records reflect some recommended practices, namely capturing a snapshot of voter activity at various points in the election. They also illustrate how, while data that can be used for reconciliation to increase confidence in election results is captured, it often exists in many different records and can be difficult to piece together. There are opportunities for increased transparency and more efficient election administration in counties that participate in the CWPP through improvements to how data is reported and made publicly available. Some potential solutions to the gaps in how data is reported include requiring snapshots of pollbook check-ins at certain critical points in an election: after early voting, election night, and after provisionals and any late-arriving ballots have been processed and requiring reporting of results and ballots cast totals by polling location.

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<sup>13</sup> Tex. Elec. Code Sec. 65.016.

<sup>14</sup> *Press release: Dallas County Elections Launches Open Record Initiative*, DALLAS COUNTY ELECTIONS DEPARTMENT (May 5, 2024), available at: [https://mailchi.mp/dallascounty/presser\\_openelectionrecords](https://mailchi.mp/dallascounty/presser_openelectionrecords).