

TBTX Investigates

Texas's May 2022 Municipal and Constitutional Amendment Election - Tarrant County -

A Poll Watcher's Report

TBTX poll watchers were lawfully appointed to observe municipal elections in Tarrant County at six polling locations during Early Voting and at one location on Election Day. Cities included in this report are Haltom City, Arlington and Fort Worth. Races involved included: Mayors, city councils, ISDs, city charter amendments as well as propositions to amend the State Constitution and more.

Seven locations total were visited and they included the following:

- 1.) Tarrant County Sub Courthouse (Arlington, TX)
- 2.) Southside Library (Fort Worth, TX)
- 3.) Diamond Hill - Jarvis Library (Fort Worth, TX)
- 4.) Tarrant County Elections (Fort Worth, TX)
- 5.) Haltom City Library (Haltom City, TX)
- 6.) Elzie Odom Rec Center (Arlington, TX)
- 7.) Rufino Mendoza Elementary School (Fort Worth, TX)

Each early voting polling location visited by observers was staffed with anywhere from 4-6 election clerks and was operating without an election judge on site. Only Election day was staffed with clerks as well as judges who are to sign the official records. During early voting the county does not appoint election judges, but allows Heider Garcia (Tarrant County Elections Admin, Former SmartMatic employee) to observe the administration of the election remotely. So to be clear, there is no presiding judge present over polling locations throughout Early Voting.

Early Voting polling locations were equipped with the following:

- 1.) 2-3 Poll Books
- 2.) 1 Controller
- 3.) 1 Scanner/ Tabulator
- 4.) 10-12 Duos (Ballot Marking Devices)
- 5.) 2 EECs (Large Election Equipment storage lockers) - 1 Red, 1 Blue. Usually reserved for partisan elections.
- 6.) 7 boxes of blank ballots - 5 bundles of 200 in each box. Totalling 1,000 blank ballots per box.
- 7.) One Clear Election Judge Bag - All Reconciliation Forms Contained Herein

Every record produced at each polling location can be Open Records requested under the Public Information Act.

TBTX Poll Watchers observed a number of issues at polling locations and central count, including but not limited to technical difficulties, unlawful preparation of records, and what looks to be a voting process which is not auditable

Observations:

1. Fewer polling locations with CountyWide Polling Place program (CWPP)
2. Unlawfully prepared Ballots
3. An excess of materials provided to each location without explanation
4. Replaced election equipment during voting hours
5. MiFi (Wireless Internet for Poll Book Check-Ins) dropping signal regularly, requiring reboots
6. Restarting election equipment in the middle of the voting process
7. High provisional ballot totals/ Discovery of the Limited Ballot Voting Process
8. Inaccurate reconciliation forms/ Clerks unable to reconcile totals
9. Confirming totals with Elections office before close of polls
10. Clerks unsure of protocol due to lack of training on equipment and process
11. Poor security procedures for Election Records throughout the duration of Early Voting
12. Early Vote Result Tapes not being produced at any point of the process, despite statutory requirements
13. Unclear hand-off procedures at Central Count Rally Station/ Broken Chain of Custody

Notes from our Observers

All cities in Tarrant County, Texas opted for the County Elections to administer their elections, likely due to issues concerning budget, convenience and consistency. Cities needed to use County election equipment which could be universally programmed through the HART Controller using a custom election build which would pull the proper ballot style for each voter based on their "Access Code" provided to them once the barcode produced at check-in was scanned. This gives us a clear path, or chain of command, to follow when inquiring and reporting on complications arising in the administration of our local elections.

Another item of note is that the State Legislature opted to add these very serious propositions to the local elections which typically have a far lower turnout than the larger Mid-Term and General Elections held in November, where we usually find such propositions for voter's consideration. This may have significantly reduced the voter participation to amend the Texas Constitution. TBTX believes this is inherently a major concern. Amending our state Constitution should not be taken so lightly by legislators.

Fewer Polling Locations

The issue of fewer polling locations in Tarrant County since the adoption of the CountyWide Polling Place program during Early Voting was brought to the attention of observers by election judges, who did appear concerned about the lack of accessibility to polling locations. They expressed the belief that this issue reduces voter turnout and weakens our city and county citizens' control over local government. The concern was over campaigns and county officials not communicating clearly when and where voters should be turning out to vote. Little effort is put into informing the public of changing polling locations, and the lack of consistency is difficult for the working class voter to keep up with, effectively suppressing participation.

Unlawfully Prepared Election Records

Once again our poll watchers observed unlawfully prepared ballots being offered to voters. Texas Election Code 52.062 and 62.009 clearly explain ballot preparation requirements and the manner of presenting ballots at polling locations. The ballots are to be prepared by being numbered consecutively, beginning with the number one, and then placed number-side down and randomized on a table for voter's selection. Texas Election Code 62.007 explains what the Judges should do with unnumbered or otherwise defectively printed ballots.

They are additionally required to be signed or stamped with the presiding Judge's signature according to Texas Election Code 62.008. During Early Voting, the ballots are not pre-numbered, are not signed by the presiding Judge, though the workers do seem to feign the randomization of the ballots despite having no numbers to randomize. The selective compliance with State Law is very concerning.

The intent of our ballot numbering laws is to allow the voter, and only the voter, to know their unique ballot number. This covers both the voter's privacy as well as allows the voter a chance to note their ballot number in case of a recount, or other suspicion of erroneously handled records, arises. The voter may be able to recall their ballot to be sure it is properly recorded, stored and preserved. Ballots were signed "HG" for Heider Garcia, who couldn't possibly oversee every polling location on his own.

Excessive Materials Provided to Polling Locations

TBTX observers, along with several Early Voting and Election Day Clerks and Judges, noted an extreme excess of ballots being assigned to each polling location without clear indications of how to record the exact number allocated to each. Each polling location during Early Voting as well as Election Day polling locations were assigned seven boxes of blank ballots, with each location using only one for the duration of the municipal elections. Each box of blank ballots contains five bundles of ballots, each bundle containing 200 ballots each. This obviously equates to 7,000 blank ballots being assigned to each polling location for a municipal election cycle. Several Clerks and Judges expressed that they had never seen this volume of blank ballots being assigned to them. These ballots were stored in the EECs, the large Red or Blue lockers which were left in the Early Voting and Election Day polling locations when the Judges closed the polls, to be picked up by county workers or Sheriff Deputies at a later time. This issue is of concern to TBTX as there is no clear way to account for these ballots, as most Clerks and Judges were only recording the total ballots unused from the one box used throughout the duration of the municipal election cycle.

Election Equipment Replaced Often

Several locations reported equipment failures, requiring the County Election workers to provide replacements during the Early Voting and Election Day voting cycles. This issue can make it difficult for Election Judges to reconcile totals, as the new equipment will show numbers starting at zero again.

When the Controller or Scanners are replaced, the daily totals can easily become skewed. A Duo can go out and still allow voters a selection of BMDs to choose from, but a controller or scanner failure brings the voting process to a screeching halt. Adding to the concern of TBTX observers is that there appears to be a pandemic of Early Voting Judges failing to record accurate totals and serial/ seal numbers throughout the Early Voting process as well as when their equipment is replaced, rendering the results unauditible.

MiFi Wireless Internet Issues

According to one Early Voting Clerk, at least ten locations were having issues with their MiFi routers glitching and failing, causing the Poll Books to go offline. The poll books have a heart icon that indicates whether the unit is connected to the internet, and when the unit is offline the Clerks and Judges refer to it as being "broken-hearted" as the icon is not showing an active connection.

What might cause the failure of many MiFi wireless internet connections associated with our Tarrant County poll books? The weather was clear, though Clerks and Judges indicated that they had not experienced this issue even in much worse conditions. They were at a loss as to what could be the cause, but several Clerks attributed the issue to potentially downed Verizon or AT&T towers. No explanation was provided by the Elections Office when the Clerks inquired about the issue and how to handle the repeated failures. The Elections Office was aware of this issue, because they can apparently observe activity and check-ins on every Poll Book remotely from the main Elections office.

Equipment Shut-Downs Mid-Election Cycles

This particular issue seems to either be the result of poor training, or an underlying defect in the equipment itself. When a given piece of election equipment glitched, but didn't completely fail, the Clerks would often opt to improperly shut down the equipment by either unplugging it or otherwise forcing a shut down despite being in the middle of an election day. TBTX was unsure if this is protocol from training, or if the Clerks and Judges felt that they had no other option and acted out of desperate confusion. Either way, the issue is concerning due to the lack of documentation on part of Election Staff when these issues arise, therefore we have no way of knowing about or addressing any issues arising from the phenomenon.

High Totals of Provisional Ballots/ Limited Ballot Procedures

The Help America Vote Act (HAVA) mandated the process of provisional voting, allowing almost every resident of America to cast a ballot even if they are not properly registered, or do not have an ID. The numbers of Provisional ballots were a bit too high for TBTX observers to believe that the issues were simply errors in the Statewide Voter Database. We do believe the process is potentially being abused at every level, from the voter to the registrar and ballot board approvals.

Tarrant County uses a system called "Voting a Limited Ballot" which is similar to provisional voting, except their ballots are scanned and tabulated at the polling location in a separate poll book and network than traditional voters. This process allows for a voter who either isn't properly registered in the County, or who's registration hasn't met the deadline to vote in a given election, to cast a vote for races that cover larger areas of the State, but limiting them from voting in local races. This process is a bit convoluted and unclear, and we should all strive to understand the philosophy, the justification, and the process of Limited Ballots.

Inaccurate Reconciliation Forms/ Clerks Unable to Reconcile Totals

Early Voting Election Clerks seem to lack a thorough understanding of how and why the daily cast and scanned ballot totals must necessarily be accurate and recorded in detail, every morning and at the end of each Early Voting polling day. TBTX observers witnessed wholly inaccurate Early Voting Daily Reconciliation Forms from several polling locations, at least one using an extreme amount of white out, and another one changing totals as the observer pointed out the discrepancies between the previous day's cast and scanned ballot totals and the next day's opening totals. These forms can be Open Records requested by anyone and TBTX has already drafted up the request for several forms in the Early Voting process from several locations where this issue was documented in our observer's notes. Feel free to Open Records request any form from any polling location in the county noted in this or other reports.

Early Voting Clerks who didn't accurately record their daily totals, and who called in for equipment replacement, were left unable to reconcile their totals. This is a huge issue and means that those Early Voting polling locations cannot be properly audited. TBTX feels it necessary to Open Records request all logs and forms from the Early Voting and Election Day processes in these given polling locations to attempt a reconciliation of totals. Readers can also do the same so that you can see with your own eyes the issues in our local elections. Lack of training is not the fault of the worker, but a failure of County Election Officials to mandate and promote the training.

Confirming Totals with Elections Office

Early Voting Clerks, at the close of each day of polling, would call into the Elections Office and confirm totals of voters from that particular location. Observers believe the totals that were being confirmed were from the Poll Books exclusively, but that is merely due to the insistence that no other component of the HART Verity Voting System could connect to the internet. The only totals that the Elections Office might possibly have access to would be the Poll Book check-in totals. How these numbers can be reconciled given the issue of many Poll Books being taken offline for hours, some never coming back up before the close of polls, is as of yet unclear to TBTX observers.

Clerks Unsure of Protocol for Equipment and Records Transport

Early Voting Clerks made it clear that they were unsure who would be retrieving the election equipment and ballots upon closing of Early Voting polls. TBTX observers did not obtain a thorough explanation of the process of delivering the records and equipment to Central Count, nor was there named election Judge who held the sole responsibility for handling the records and delivering them to Central Count. It didn't seem to be anyone's job during Early Voting.

Poor Security Measures for Securing the Ballots During Early Voting

Ballots are stored on-site during Early Voting. TBTX Observers did not observe logs for seals used daily to confirm that tampering did not occur in the off hours, and the election equipment was not shut down each night, but left on.

TBTX observers noted that each night, during Early Voting, each polling location was left in each building, without a deputy on guard, and with Poll Books, Controllers, Duos, Scanners and blank ballots all in one building. Locations were not locked to prevent regular employees of the host buildings from entering the polling area. The concern here is clear and this is a great argument for abolishing Early Voting, along with every other issue noted in this report.

Early Vote Result Tapes Never Produced

The Texas Secretary of State's office issued TX SOS Advisory Code 2019-23, Section 6, sub section 5(b) which outlines that the Early Vote Result Tapes shall be printed at Central Count as opposed to the polling locations. The philosophy behind this is to comply with Texas Election Code 61.002 (c, d) while protecting the results from being released prematurely and affecting the decision of voters before Election Day. However, TBTX observers note that these Early Vote Result Tapes are NEVER being printed at all, leaving us to simply trust a digital aggregate of totals by polling location without any paper record from the machines used for Early Voting.

Heider Garcia flat out refuses to ever produce the tapes, and TBTX observers have tried to work out several options for producing the records. Heider's official position at this point is that he needs clarification from the Secretary of State's office stating that he has the right to refuse Poll Watchers the right to look at the Early Voting results, to prevent disclosure, without being charged with Obstruction, a Class A Misdemeanor. Of course, refusing to produce the records at all means that we cannot Open Records request them for an audit, as it is a requirement of the Public Information Act that any records requested must already be in existence.

Unclear Hand-Off Procedures/ Broken Chain of Custody

TBTX observers noted that the process of transporting the ballots, Judge's bags, and all other relevant election records is opaque and is not recorded on any Chain of Custody forms for which workers handle the records as they are checked into Central Count. TBTX observers, as well as other observers, were not permitted to observe the hand-off and check-in process independently, and the reasoning behind that is unclear. Heider Garcia expressed that the presence of observers would be too troublesome to allow each election cycle, though the observers tend to stay totally out of the way so as to observe the overall process, only occasionally exercising their right to observe a document in detail.

The fact that the County hires temporary workers to handle our election records, and none of them are complying with the Secretary of State's Chain of Custody Best Practices guidelines, is of great concern to TBTX observers. Lack of Chain of Custody totally destroys accountability for any missing items, damaged items or erroneously handled records. This procedure is one of the most important aspects of preserving our ability to audit our own elections, as required by State and Federal Law.

Conclusion

TBTX would like to thank each of our volunteers and observers for caring about identifying and documenting the actual issues on the ground-level of our State elections. This is the only pathway to regaining control of our own elections, and we must regain control. Returning to a system we can trust is the only way to preserve our Republican form of Government. We cannot continue down the road we are on, where there exists no trust in any aspect of participating in Elections, lest we lose our fledgling nation within the next decade.

Our group needs help. Please subscribe to our Substack and Locals.com, as well as our free Telegram channel. The website is also a great resource for anyone looking to get started regaining control over the elections in their respective counties.

Thank you, Patriots.

- Aubree

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