

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

KENNETH ZIMMERN, A Harris County
Registered Voter, WILLIAM SOMMER, A
Harris County Registered Voter, and CAROLINE
KANE, A Harris County Registered Voter,

Plaintiffs,

v.

Civil Action No. 4:24-cv-04439

JUDGE LINA HIDALGO, in her official
capacity as County Judge for Harris County, Texas
TENESHIA HUDSPETH, in her official
capacity as County Clerk for Harris County, Texas,

Defendants.

PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT AND
MEMORANDUM

INTRODUCTION

This Court is asked to answer an issue of first impression: Does the First Amendment’s rights of speech and association, protected by the Fourteenth Amendment, provide a privacy right to a secret ballot? If the Court finds there is a privacy right to a secret ballot, then summary judgment is merited on all of Plaintiffs’ claims. Even if the Court rules there is no constitutional right to a secret ballot, the Court must decide whether the lack of a secret ballot for some voters and not others is violative of the Fourteenth Amendment’s right to equal protection.

No material facts are in dispute. Harris County collects voter data in poll books, voter rosters, ballot images and cast vote records that allow both county employees and the public to access sufficient information to learn how a voter voted. Harris County admits that more than 200 election staff have access to look at poll books, vote rosters, ballot images, and cast vote records.¹ Access to those voting records, which are also subject to public disclosure via the Texas Freedom of Information Act, Tex. Gov’t Code § 552.001 *et seq.*, allow any person to learn how a voter has voted. It is undisputed that many Harris County voters’ votes are either known or knowable.

Plaintiffs request the Court to grant judgment and relief as pleaded.

¹ Defendants’ Responses to Plaintiffs Set of Interrogatories No. 10. Ex. 3.

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Plaintiffs move this Court for summary judgment because there are no genuine issues of material fact and they are entitled to judgment as a matter of law.

SUMMARY OF THE ARGUMENT

Plaintiffs present two core constitutional questions: whether the right to political privacy encompasses a right to a secret ballot and whether there is an equal protection violation in the disparity between voters whose ballot is secret and those whose ballot can be known.

The relevant facts are not in dispute. Plaintiffs identify specific, admitted, and ongoing practices that threaten the integrity of the electoral process and infringe upon personal constitutional rights. The requested injunctive and declaratory relief is narrowly tailored to redress these violations and enforce constitutional guarantees.²

I. CONSTITUTIONAL RIGHT TO A SECRET BALLOT

The right to political privacy is rooted in the First Amendment's protection of anonymous association and expression, safeguarded by the Fourteenth Amendment's Due Process Clause.

By collecting and disclosing voter data, Harris County is chilling the exercise of speech and association. It offers no compelling interest for collecting or retaining

² In Senate Bill 2753, now enrolled and effective September 1, 2025, the 89th Texas Legislature created a pathway for a court-ordered remedy, which is discussed on page 16 below.

information that can be used to identify voters' selections. The current system is functionally equivalent to publishing voters' individual ballots online in a searchable database. The right to a secret ballot should be universal. If the privacy right is not constitutionally protected, it is within a state's power to post all voters' votes online. That would be shocking, but lawful.

The right to associate privately is integral to the "liberty" protected by the Due Process Clause. *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 459 (1958). In *NAACP*, the Supreme Court invalidated Alabama's requirement that the NAACP disclose its membership lists because compelled disclosure violates the First and Fourteenth Amendments by exposing members to retaliation and intimidation. *Id.* at 462-63. The Supreme Court emphasized that privacy in group associations is indispensable to preserving the freedom of association. *Id.* at 466.

The First Amendment's right to speak anonymously is equally protected. In *McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334, 357 (1995), the Supreme Court struck down an Ohio law requiring disclosure of authorship on political leaflets. The Supreme Court held that the statute failed strict scrutiny because it was not narrowly tailored to serve an overriding state interest. *Id.* at 370.

The Supreme Court incorporated the First Amendment's protection of the freedom of speech to the States via the Fourteenth Amendment's Due Process Clause in *Gitlow v. New York*, 268 U.S. 652, 666 (1925). The Court expanded this protection

to the freedom of association and anonymous speech in *NAACP* and *McIntyre*, respectively. *See NAACP*, 357 U.S. at 460; *see also McIntyre*, 514 U.S. at 336 n. 1, 342. These incorporated rights form the foundation of political privacy.

The voting system employed in Harris County defeats any right to a secret ballot, thereby creating an obstacle to the right to vote subject to strict scrutiny. *See McIntyre*, 514 U.S. at 342; *Buckley v. Valeo*, 424 U.S. 1, 29 (1976); *Baker v. Carr*, 369 U.S. 186, 208 (1962); *Catholic Leadership Coal. of Tex. v. Reisman*, 764 F.3d 409, 423 (5th Cir. 2014).

Harris County has violated Plaintiffs’ First and Fourteenth Amendment rights by collecting, maintaining, and making publicly available voter-specific ballot information in the nature of poll books, voter rosters, ballot images and cast vote records. Plaintiffs seek declaratory and injunctive relief under 42 U.S.C. § 1983 to remedy these ongoing constitutional violations.

II. EQUAL PROTECTION VIOLATION

The Equal Protection Clause of the Fourteenth Amendment requires that individuals similarly situated be treated equally under the law. In the voting context, the Supreme Court has made clear that any burden on the right to vote must be carefully examined, as the franchise is “preservative of other basic civil and political rights.” *Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 667 (1966) (citing *Reynolds v. Sims*, 377 U.S. 533, 561–62 (1964)).

Contrary to the obligations imposed by the Equal Protection Clause, Harris County's voting system gives unequal protections and rights based on when and where a person votes. Voters using countywide vote centers, particularly in low-turnout elections or casting ballots far from home, face an exponentially higher risk of having their ballot being exposed. The exposure risk is a direct result of the system's design and the way voting data is collected and published. This unequal treatment cannot survive constitutional scrutiny because "once the franchise is granted to the electorate, lines may not be drawn which are inconsistent with the Equal Protection Clause of the Fourteenth Amendment." *Harper*, 383 U.S. at 665.

Protecting the right of privacy for most voters is not good enough. A secret ballot belongs either to all voters or to none. A system that protects some voters' ballot secrecy while exposing others', based solely on the mechanics of when and where they vote, violates the Equal Protection Clause. This policy-driven decision lacks any compelling justification.

STATEMENT OF ISSUES TO BE RULED UPON BY THE COURT

1. Whether the First and Fourteenth Amendments of the United States Constitution guarantees a voter the right to cast a secret ballot.
2. Whether Harris County's voting system, which permits ballots to be matched to individual voters through government collected and publicly available

election records, violates voters' constitutional rights to political privacy, anonymous political expression, and anonymous association.

3. Whether the Harris County voting system's disparate treatment of voters violates the Equal Protection Clause of the Fourteenth Amendment by providing ballot secrecy to some voters but not all.

4. Whether Plaintiffs are entitled to declaratory and injunctive relief under 42 U.S.C. § 1983 to remedy and prevent the ongoing constitutional violations caused by the challenged voting system.

STANDARD OF REVIEW

Summary judgment is warranted when the pleadings and record show “no genuine dispute as to any material facts and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). The evidence considered by the court must be viewed in the light most favorable to the nonmoving party. *United Fire & Cas. Co. v. Hixson Bros., Inc.*, 453 F.3d 283, 285 (5th Cir. 2006). “Once the moving party has initially shown ‘that there is an absence of evidence to support the non-moving party’s cause,’ the non-movant must come forward with specific facts showing a genuine factual issue for trial.” *TIG Ins. Co. v. James*, 276 F.3d 754, 759 (5th Cir. 2002) (quoting *Celotex Corp. v. Catrett*, 477 U.S. 317, 325 (1986)) (citation modified).

ARGUMENT

The undisputed material facts show that Harris County’s voting system violates voters’ constitutional right to a secret ballot under the First and Fourteenth Amendments. The County collects, maintains, and discloses voting records that—when combined—allow county employees and the public to determine how some voters voted. This system, which Harris County has adopted and continues to operate, compromises the secrecy of the ballot and imposes unconstitutional burdens on the fundamental rights of some, but not all, voters.³

UNDISPUTED MATERIAL FACTS

I. Harris County’s voting system generates a separate cast vote record for each individual ballot. Harris County admits it uses a voting system that creates a cast vote record for every ballot cast. Each cast vote record is an electronic record that reflects the selections made on a single ballot. These cast vote records are stored and can be retrieved following an election. *See* Defs.’ Answer ¶ 40, ECF No. 34.

II. Harris County admits that cast vote records include the polling place, precinct, and machine serial number, and further concede that the date of voting is included for ballots cast on election day. These data fields are embedded in every

³ Harris County admits in its answer “that it is currently expected that countywide polling locations will be used in Harris County in 2025 and 2026.” ECF 34, p. 6. ¶ 32.

cast vote record, making them traceable to specific locations and times. *See* Defs.’ Answer ¶ 39-40, ECF No. 34; Defs.’ Interrog. No. 3.

III. Electronic poll books used in Harris County elections record the name of each voter, the exact time of check-in, and the specific vote center where the voter cast their ballot. Harris County admits that electronic poll books track and store this voter-specific information at the time of voting. The system creates a precise log connecting individual voters to vote centers and timestamps, which can be used in combination with cast vote records. *See* Defs.’ Answer ¶ 39, ECF No. 34; Defs.’ Interrog. No. 3, 6.

IV. Voting rosters listing individual voters and their registered home precincts are made publicly available after each election. Harris County admits that voting rosters, which include voter names and home precinct information, are released following elections as public records. Tex. Gov’t Code § 552.001; Tex. Elec. Code § 66.001(1). This data serves as a foundation for cross-referencing voter identities with other election records. *See* Defs.’ Answer ¶ 37, ECF No. 34.

V. The County admits that “all Harris County Clerk’s Office election staff have access to look at the pollbooks [*sic*], voter rosters, ballot images and cast vote records.” Defs.’ Interrog. No. 10. Over 200 County Clerk’s Office election staff are then listed in the interrogatory answer as having access to the data which would allow them to learn how a voter votes. *Id.*

VI. The County makes the cast vote records, poll book data, and voting rosters available to the public upon request under Texas open records law. Harris County acknowledges that all three categories of records—cast vote records, poll book logs, and rosters—are accessible to the public under Texas open records laws. Although the County refers to “possible” redactions, it does not dispute that the data is collected and maintained by the County and is routinely provided to the public. *See* Defs.’ Answer ¶¶ 36–37, 63, 65–67, ECF No. 34; *see also* Compl. ¶ 71, ECF No. 33. Tex. Gov’t Code § 552.201(b); Tex. Elec. Code § 66.001(1).

VII. The data collected and disclosed by Harris County enables government employees and third parties to determine how specific voters voted. Harris County admits that the information it collects can be used to match voters to ballots. In its motion to dismiss, Harris County states: “It is the person who obtains the election records and attempts to extract and match [the data] who takes the steps necessary to ascertain how a voter voted.” ECF No. 8-1 at 4–5. This is an admission that Harris County’s system produces records that defeat ballot secrecy. *See id.*; Defs.’ Resp. to Interrog. No. 10.

VIII. Harris County intends to continue using the same voting system for future elections. Thus, the challenged conduct is not only ongoing but guaranteed to recur, reinforcing the need for prospective injunctive relief. *See* Defs.’ Answer ¶ 32, ECF 34.

IX. Barry Wernick's affidavit is attached as Exhibit 1 and incorporated as if set out in full.

X. Rick Weible's affidavit is attached as Exhibit 2 and incorporated as if set out in full.

XI. Harris County's Responses to Plaintiffs' Set of Interrogatories is attached as Exhibit 3 and incorporated as if set out in full.

XII. Kenneth Zimmern's affidavit is attached as Exhibit 4 and incorporated as if set out in full.

XIII. William Sommer's affidavit is attached as Exhibit 5 and incorporated as if set out in full.

XIV. Caroline Kane's affidavit is attached as Exhibit 6 and incorporated as if set out in full.

**HARRIS COUNTY HAS VIOLATED RIGHTS
SECURED BY THE CONSTITUTION**

To prevail on a claim under 42 U.S.C. § 1983, a plaintiff must show: (1) the deprivation of a right secured by the Constitution or laws of the United States, and (2) that the deprivation was committed by someone acting under color of state law. *See Valle v. City of Houston*, 613 F.3d 536, 541 (5th Cir. 2010). There is no genuine dispute of material fact as to either element.

First, the record establishes that Plaintiffs have suffered deprivations of rights secured by the First and Fourteenth Amendments by the lack of a secret ballot. *See*

NAACP, 357 U.S. at 462. These rights are central to a functioning democracy and are especially critical when disclosure of political affiliations or beliefs could expose individuals to retaliation, coercion, or social stigma. *See Harper*, 383 U.S. at 667. Harris County concedes that it and others may “extract and match” publicly disseminated voter data to individual ballots. Defs.’ ECF No. 8-1 at pp. 4-5.

The First Amendment protects the right to political anonymity and privacy. *See McIntyre*, 514 U.S. at 342. These protections extend to voting—the ultimate act of political expression. *See Reynolds*, 377 U.S. at 562. The Supreme Court has affirmed that anonymous participation in the democratic process is essential to preserving freedom of thought and action, particularly when disclosure invites retaliation, coercion, or social ostracism. *See e.g. Burson v. Freeman*, 504 U.S. 191, 200–06 (1992); *NAACP*, 357 U.S. at 460. Harris County’s system violates this principle. In *McIntyre*, the Supreme Court went so far as to say that this principle is **“perhaps best exemplified by the secret ballot, the hard-won right to vote one’s conscience without fear of retaliation.”** 514 U.S. at 343 (emphasis added).

The First Amendment prohibits government action that burdens political expression unless the restriction is narrowly tailored to serve a compelling state interest. *McIntyre*, 514 U.S. at 345-46 (citing *Meyer v. Grant*, 486 U.S. 414, 420 (1988)); *Buckley*, 424 U.S. at 25; *Catholic Leadership Coal. of Tex.*, 764 F.3d at 430-31. Harris County claims that “transparency” justifies its system, but it offers

no evidence or justification that its chosen method of collecting election data is the least restrictive means of achieving that interest. Harris County's system fails strict scrutiny. *McIntyre*, 514 U.S. at 345-46 (citing *Meyer*, 486 U.S. at 420).

Additionally, the Due Process Clause of the Fourteenth Amendment prohibits government conduct that violates fundamental rights. *NAACP*, 357 U.S. at 460. A system that forces voters to choose between casting a ballot or protecting their political privacy is constitutionally intolerable. *See Reynolds*, 377 U.S. at 554. The Equal Protection Clause likewise prohibits election practices that treat similarly situated voters unequally. *See Harper*, 383 U.S. at 665. Harris County's system violates the Equal Protection Clause by treating voters unequally. *See id.* Voters who cast ballots early at countywide vote centers are far more likely to have their ballots identified than voters who vote in their home precincts on Election Day. Compl. ¶ 89, ECF No. 33. This disparate treatment is unconstitutional. *See Harper*, 383 U.S. at 665.

These constitutional violations are not hypothetical. Plaintiff Kane's ballot was publicly exposed. Ex. 6. Plaintiff Sommer refrained from voting out of fear of exposure. Ex. 5. Plaintiff Zimmern faces an ongoing risk of retaliation from judges in whose court he appears regularly. Ex. 4. Harris County has not disputed the system malfunctions as Plaintiffs describe. Nor has it demonstrated the existence of

safeguards sufficient to prevent future harm. Accordingly, the ability to match ballots with voters is firmly established in the undisputed record.

Second, there is no dispute that Harris County acted under color of state law. Harris County is responsible for administering elections and managing voting records pursuant to authority granted by Texas law. *See* Tex. Elec. Code § 123.001 et seq. The challenged conduct—the design, operation, and maintenance of a voting system that enables vote traceability—is an official function carried out by Harris County under color of state law.

Section 1983 provides a cause of action for constitutional violations arising from election practices. *See Reynolds*, 377 U.S. at 566. The material facts demonstrating the deprivation of constitutional rights and state action are not in dispute. Consequently, Plaintiffs are entitled to judgment as a matter of law under 42 U.S.C. § 1983. *Ford v. Anderson Cnty.*, 102 F.4th 292, 306 (5th Cir. 2024) (citing Fed. R. Civ. P. 56(a)).

The dangers of a non-secret ballot are well established in jurisprudence. As the Supreme Court explained in *Burson v. Freeman*, 504 U.S. at 200–06, non-secret voting systems historically invited bribery, intimidation, employer coercion, and social ostracism. The Court emphasized that “[a]pproaching the polling place under this system was akin to entering an open auction place,” *id.* at 202, and praised the secret ballot as a reform that ended “battle, murder, and sudden death” on election

days. *Id.* at 203–04 (quoting W. Ivins, The Electoral System of the State of New York, 29th Ann. Mtg. N.Y. Bar Ass’n 316 (1906)). The constitutional values protected by ballot secrecy are not antiquated—they are essential to the modern democratic process.

Such government-imposed conditions on the right to vote are constitutionally impermissible. As the Fifth Circuit has recognized, “[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Croft v. Governor of Tex.*, 562 F.3d 735, 745 (5th Cir. 2009) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). The same principle applies here: requiring voters to sacrifice their political privacy in order to participate in elections is an unconstitutional burden on both First and Fourteenth Amendment rights.

Harris County’s system returns voters to a pre-reform era. It subjects voters to identification, scrutiny, and potential reprisal simply for exercising their right to vote. Government action that burdens political speech and association is subject to strict scrutiny. *See McIntyre*, 514 U.S. at 347; *see also Buckley*, 424 U.S. at 25.

While transparency in elections to assure election integrity is a legitimate governmental interest, it does not justify a system that enables the public exposure of individual votes. Harris County has not shown—and cannot show—that its method of collecting, maintaining, and releasing election records is narrowly tailored

to achieve election integrity. Harris County's failure to adopt privacy safeguards imposes a broad and unnecessary burden on voters' First Amendment rights.

Because there is no genuine dispute as to any material fact establishing burdens on anonymous political association and expression, and because Harris County has failed to offer a constitutionally sufficient justification, Plaintiffs are entitled to summary judgment on their First Amendment claims.

HARRIS COUNTY'S SYSTEM VIOLATES EQUAL PROTECTION

The Equal Protection Clause of the Fourteenth Amendment requires that similarly situated individuals be treated equally under the law. *See Baker*, 369 U.S. at 207.

The undisputed facts demonstrate that Harris County's voting system imposes unequal burdens on voters depending on whether they vote early at countywide vote centers or on Election Day in their assigned precincts. Compl. ¶ 89, ECF No. 33. Voters who cast ballots at vote centers face a significantly heightened risk that their ballot will be identified. This is due to the ability to cross-reference cast vote records, poll book logs, and voting rosters—publicly collected and released records that contain overlapping information about time, location, and precinct. Compl. ¶ 46, ECF No. 33.

Harris County has not disputed this risk. Former Texas House candidate and elections observer Barry Wernick has obtained nearly 30,000 Harris County voters'

ballots. Wernick Aff. ¶ 26, ECF No. 1-1; Ex. 1. Plaintiffs have also presented evidence, including unrebutted expert testimony of computer network engineer and data analyst Rick Weible, that the disparities are systemic and predictable. Ex. 2. The exposure risk is not incidental or speculative, it is a structural flaw embedded in the system's design and exacerbated by how data is collected and published. Weible Aff. ¶¶ 8-21, ECF No. 33-2; Ex. 3.

This unequal treatment cannot survive constitutional scrutiny. Ballot secrecy is an integral part of the franchise. A system that protects the secrecy of some voters' ballots while exposing others', based solely on the mechanics of when and where they voted, violates the Equal Protection Clause.

Harris County has not offered any compelling justification for this disparity. Because the disparate treatment is a direct consequence of the County's official policy, Plaintiffs are entitled to summary judgment on their Equal Protection claim.

HARRIS COUNTY'S SYSTEM VIOLATES DUE PROCESS

The Due Process Clause protects against arbitrary deprivations of fundamental rights. *Harper*, 383 U.S. at 667–68. The right to vote anonymously is fundamental to the integrity of democratic participation. Harris County's system ignores this right, requiring voters to choose between political privacy and political participation. Such a choice is incompatible with due process. It is arbitrary,

unnecessary, and repugnant to the principles the Fourteenth Amendment was designed to protect.

No material fact regarding the Due Process Clause is in dispute. Plaintiffs have demonstrated that the current voting system undermines ballot secrecy and imposes unequal and arbitrary burdens on their right to vote. They are therefore entitled to judgment as a matter of law on their due process and equal protection claims.

REMEDY

During an earlier hearing the Court asked about formulating a remedy. In this past session, the Texas Legislature passed Senate Bill 2753 (hereinafter “SB 2753”), now signed by the Governor, and enrolled and effective on September 1, 2025. Tex. S.B. 2753, 89th Leg., Reg. Sess. (Tex. 2025). Ex. 7. SB 2753 alters the election code to allow for any county, regardless of population, to withdraw from the countywide polling place program and require voters to vote in a combined precinct. A combined precinct may not contain more than 10,000 voters. Tex. Elec. Code. § 42.0051(c). This means that a voter, instead of voting at the countywide vote location, could be required to vote at the combined precinct. The Court may order Harris County to use combined precincts as a remedy, thereby protecting a voter’s vote from being discovered.

SB 2753 also altered the early voting period to be one continuous voting period beginning twelve days before election day and continuing through election day. Tex. Elec. Code. §§ 85.001(a) and (c). The continuous voting period includes Saturdays, Sundays, and holidays.

The use of combined precincts instead of countywide voting would eliminate the ability to discover how a voter has voted in the method discovered by Mr. Wernick available to both county employees and the public.

RESPONSES TO HARRIS COUNTY’S AFFIRMATIVE DEFENSES

I. FIRST DEFENSE - PLAINTIFFS’ COMPLAINT FAILS TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED.

Plaintiffs have not only stated a claim under 42 U.S.C. § 1983—they have supported it with undisputed facts demonstrating that Defendants, acting under color of state law, violated clearly established constitutional rights protected by the First and Fourteenth Amendments. Plaintiffs challenge a specific government practice that enables the identification of how individuals vote, burdening political expression, association, and the right to a secret ballot. No further factual development is necessary for adjudication. Summary judgment is appropriate.

II. SECOND DEFENSE - PURSUANT TO ARTICLE III OF THE UNITED STATES CONSTITUTION, THIS COURT LACKS SUBJECT-MATTER JURISDICTION OVER THIS ACTION BECAUSE: PLAINTIFFS LACK STANDING; PLAINTIFFS' CLAIMS ARE NOT RIPE; PLAINTIFFS' CLAIMS ARE MOOT; AND PLAINTIFFS' CLAIMS PRESENT A NON-JUSTICIABLE POLITICAL QUESTION.

Each component of this defense fails:

Standing: Plaintiffs have shown actual injuries—Plaintiff Kane’s ballot was exposed; Plaintiff Sommer declined to vote; Plaintiff Zimmern faces ongoing risk of exposure. These harms are traceable to Harris County’s conduct and redressable through injunctive relief. *See Clapper v. Amnesty International USA*, 568 U.S. 398, 409 (2013).

Ripeness: The challenged system is operational and being used in current elections. The legal questions are fit for judicial resolution, and withholding review would impose hardship. *Rosedale Missionary Baptist Church v. New Orleans City*, 641 F.3d 86, 91 (5th Cir. 2011) (citing *Nat’l Park Hospitality Ass’n v. DOI*, 538 U.S. 803, 808 (2003)).

Mootness: Harris County argues that Plaintiffs’ claims are moot on the theory that the harm has already occurred. The record confirms that Harris County continues to collect, store, and release election records—including cast vote records, poll book data, and voting rosters—that, when combined, allow a voter’s ballot to be identified. The data must be maintained for two years and is always

subject to disclosure. The constitutional harm is not a past event—it is ongoing and systemically embedded in the way the County conducts elections. Defs.’ Ans. ¶ 32, ECF 34. Plaintiffs’ claims are a classic example of harm that is capable of repetition yet evading review.

Mootness applies only when the issues presented are no longer “live” or when “the parties lack a legally cognizable interest in the outcome.” *U.S. Parole Comm’n v. Geraghty*, 445 U.S. 388, 396 (1980) (quoting *Powell v. McCormick*, 395 U.S. 486, 496) (1969)). Plaintiffs’ claims are neither abstract nor speculative. How a voter voted can still be discovered under the current system, and nothing in the record suggests Harris County has eliminated or even substantively changed the policies or practices that caused the violations at issue.

In election cases, the “capable of repetition, yet evading review” exception to mootness also applies with particular force. *FEC v. Wis. Right to Life, Inc.*, 551 U.S. 449, 462 (2007). This exception applies when (1) the disputed conduct is too short in duration to be fully litigated before it ceases, and (2) there is a reasonable expectation that the same party will be subject to the same harm again. *Id.* Both elements are satisfied here. Election cycles move quickly, yet the same voting system is scheduled to be used in future elections. Plaintiffs, as regular participants in the democratic process, will be exposed to the same risk of identification and constitutional injury each time they vote.

Moreover, even if the Court were to consider the possibility that Harris County might improve the system in the future, the Supreme Court has repeatedly held that voluntary cessation of unconstitutional conduct does not moot a case unless the defendant carries the “heavy burden” of showing that the challenged conduct will not recur. *United States v. W.T. Grant Co.*, 345 U.S. 629, 632-33 (1953). Harris County has offered no formal policy change, no redesign of the voting system, and no regulatory commitment to eliminate the ability to match ballots to voters. Instead, the County admits it will continue to use its current voting system. As a result, the risk remains real and immediate.

The relief Plaintiffs seek—prospective declaratory and injunctive relief to ensure ballot secrecy—directly addresses this ongoing harm. Without intervention from the Court, Plaintiffs remain at risk of continued violations of their rights to political privacy, anonymous expression, and equal protection.

Because the constitutional violations are ongoing, and because no evidence supports a conclusion that the system has been fixed or discontinued, Plaintiffs’ claims are not moot. Summary judgment is not only appropriate but necessary to prevent future harm.

Political Question: This case does not raise a political question. Plaintiffs ask the Court to determine whether a government-run voting system violates constitutional rights—precisely the type of legal question courts are competent and required to

resolve. *Reynolds*, 377 U.S. at 566 (stating that a “denial of constitutionally protected rights demands judicial protection.”).

III. THIRD DEFENSE - DEFENDANT JUDGE HIDALGO IS NOT A PROPER PARTY TO THIS ACTION.

Judge Hidalgo is sued in her official capacity as the chief executive officer of Harris County and is a final policymaker for the County under Texas law. She plays a central role in selecting and approving the County’s voting system and its budget. Judge Hidalgo has admitted that suing her in her official capacity is equal to suing Harris County. Defs. Memo 11, ECF 8-1. *See Kentucky v. Graham*, 473 U.S. 159, 166 (1985).

IV. FOURTH DEFENSE - PURSUANT TO THE ELEVENTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND THE PRINCIPLE OF SOVEREIGN IMMUNITY THAT IT EMBODIES, DEFENDANTS ARE IMMUNE FROM THIS SUIT, AND THIS COURT LACKS JURISDICTION.

The Eleventh Amendment does not bar this suit. *See Ex parte Young*, 209 U.S. at 155-56 (stating that government officials engaged in illegal or unconstitutional acts do not enjoy sovereign immunity.). Plaintiffs seek nominal damages, as well as prospective declaratory and injunctive relief against county officials in their official capacities to halt ongoing violations of federal law. These claims fall squarely within the *Ex parte Young* exception. *See id.*

Defendants cannot shield their unconstitutional conduct behind the Eleventh Amendment. While sovereign immunity generally protects states and state officials

from suits in federal court, the well-established exception articulated in *Ex parte Young* permits plaintiffs to seek nominal damages, as well as prospective declaratory and injunctive relief to halt ongoing violations of federal law by state officials in their official capacities. *Id.*

To fall within the *Ex parte Young* exception, a plaintiff must (1) sue a state official in their official capacity, (2) allege an ongoing violation of federal law, and (3) seek prospective relief. *Mi Familia Vota v. Ogg*, 105 F.4th 313, 325 (5th Cir. 2024) (citing *Green Valley Special Util. Dist. v. City of Schertz*, 969 F.3d 460, 471 (5th Cir. 2020)).

Each requirement is satisfied here. Plaintiffs bring suit against Judge Lina Hidalgo and County Clerk Teneshia Hudspeth in their official capacities as Harris County election officials.⁴ Plaintiffs allege ongoing constitutional violations—namely, that Harris County continues to collect, maintain, and publicly release data that permits identification of how individuals voted, infringing upon the First and Fourteenth Amendments. Plaintiffs seek only prospective declaratory and injunctive relief, not actual damages. They ask this Court to enjoin future use of the current voting system until safeguards are implemented to ensure ballot secrecy.

⁴ Harris County admits that suing the County Judge in her official capacity has the same legal effect as suing Harris County. Defs. Memo, ECF 8-1, p. 11 (“...because Zimmermann sues Judge Hidalgo in her official capacity, his claims against her are, in effect, claims against Harris County itself.”).

The Fifth Circuit has repeatedly applied *Ex parte Young* in election-related constitutional cases involving prospective relief. *See Tex. Dem. Party v. Abbott*, 961 F.3d 389, 400 (5th Cir. 2020); *see also Mi Familia Vota*, 105 F.4th at 325. Because Plaintiffs seek forward-looking remedies to prevent the recurrence of constitutional violations, Eleventh Amendment immunity does not apply.

V. FIFTH DEFENSE - AT ALL TIMES, DEFENDANTS ACTED IN GOOD FAITH AND HAD REASONABLE GROUNDS FOR BELIEVING THEIR ACTIONS WERE IN COMPLIANCE WITH FEDERAL AND STATE LAW.

Good faith is not a defense against prospective injunctive or declaratory relief under § 1983. Whether Defendants believed their conduct was lawful is irrelevant to the constitutional question before the Court. The focus is on the constitutionality of the ongoing practices, not the subjective intent of the officials.

VI. SIXTH DEFENSE - PLAINTIFFS ARE NOT ENTITLED TO DAMAGES IN THIS ACTION.

Plaintiffs are not seeking actual damages in this case. They seek only nominal damages, as well as declaratory and injunctive relief to prevent further constitutional violations. *See, e.g., Mi Familia Vota*, 105 F.4th at 325.

VII. SEVENTH DEFENSE - TO THE EXTENT PLAINTIFFS ASSERT CLAIMS AGAINST DEFENDANTS IN THEIR INDIVIDUAL CAPACITIES, DEFENDANTS ARE ENTITLED TO QUALIFIED IMMUNITY.

Qualified immunity does not apply. Plaintiffs do not assert claims against Defendants in their individual capacities. All claims are brought against Judge

Hidalgo and Clerk Hudspeth in their official capacities for prospective relief. As such, the doctrine of qualified immunity is inapplicable.

**VIII. EIGHTH DEFENSE - PLAINTIFFS HAVE NOT ALLEGED
SUFFICIENT FACTUAL OR LEGAL BASES FOR THEIR
REQUEST FOR COSTS AND ATTORNEY’S FEES.**

Plaintiffs are entitled to seek reasonable attorney’s fees and costs under 42 U.S.C. § 1988 if they prevail in establishing a violation of constitutional rights under § 1983. Plaintiffs have asserted viable constitutional claims and supported them with undisputed facts. This defense is premature and does not defeat Plaintiffs’ entitlement to relief under governing law.

CONCLUSION

For the foregoing reasons, this Court should grant the Plaintiffs’ Motion for Summary Judgment.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for a preliminary injunction, a permanent injunction, and a judgment:

1. Declaring that the Plaintiffs have the right to a secret ballot under the First and Fourteenth Amendments to the United States’ Constitution.

2. Declaring that Defendants are in violation of the First and Fourteenth Amendments of the U.S. Constitution in the manner of which the Defendants are conducting elections in Harris County.

3. Ordering the Defendants to refrain from collecting, maintaining and/or making public voter identifying information from poll books and ballot records.
4. Ordering the Defendants to abstain from viewing information that may lead to the discovery of a voter's ballot and from identifying to anyone a voter's vote or ballot.
5. Ordering the Defendants to eliminate use of the countywide vote system and replace it with combined precincts as allowed by with SB 2753.
6. Ordering the Defendants to pay Plaintiffs' nominal damages.
7. Ordering the Defendant to pay Plaintiff's reasonable attorney's fees, including litigation expenses and costs, pursuant to 42 U.S.C. § 1988; and
8. Granting Plaintiffs further relief that this Court deems just and proper.

Dated: July 10, 2025.

Respectfully Submitted,

Attorneys for Plaintiffs,

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CERTIFICATE OF SERVICE

I hereby certify that on July 10, 2025, a true and correct copy of the foregoing Amended Complaint was electronically filed using the Court's CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Joseph M. Nixon
Joseph M. Nixon

Dated: July 10, 2025.

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Appendix

- I. SECOND AFFIDAVIT OF MR. WERNICK
(EXHIBIT 1)
- II. AFFIDAVIT OF MR. WEIBLE (EXHIBIT
2)
- III. HARRIS COUNTY'S RESPONSES TO
PLAINTIFFS' INTERROGATORIES
(EXHIBIT 3)
- IV. AFFIDAVIT OF MR. ZIMMERN
(EXHIBIT 4)
- V. AFFIDAVIT OF MR. SOMMER (EXHIBIT
5)
- VI. AFFIDAVIT OF MS. KANE (EXHIBIT 6)
- VII. SENATE BILL 2725, ENROLLED, 89TH
TEXAS LEGISLATURE (EXHIBIT 7)

Exhibit 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

KENNETH ZIMMERN, <i>et al</i> ,)	
)	
<i>Plaintiffs,</i>)	
)	
v.)	Civil Action No.
)	
JUDGE LINA HIDALGO, in her official)	
capacity as County Judge for Harris County, Texas)	
TENESHIA HUDSPETH, in her official)	
capacity as County Clerk for Harris County, Texas,)	
)	
<i>Defendants.</i>)	
)	

Second Affidavit of Barry Wernick

My name is Barry Wernick, I am over 18 years of age, of sound mind and state that the following facts are based upon my personal knowledge and are true and correct.

1. I am an attorney-mediator and arbitrator and have been a member in good standing of the State Bar of Texas since 1998, after graduating from the SMU Dedman School of Law that same year. I am a TMCA Credentialed Distinguished Mediator, and member of the Association of Attorney Mediators, Texas Association of Mediators, and Texas Bar College. I have served as the Chair of the Alternative Dispute Resolution Section of the Dallas Bar Association and have served on the State Bar of Texas ADR Council since 2021.

2. I was a candidate in the Republican Primary election of March 5, 2024 for House District 108 in Dallas County. After the Primary Election, I requested a recount which began on Tuesday April 2, 2024, at the Dallas Election Department located in Dallas County at 1520 Round Table Drive Dallas, Texas 75247.

3. As a candidate on the ballot whose race was directly affected by the joint primary election system conducted countywide by the Dallas County Elections Department, I carefully and lawfully observed and reported on election irregularities throughout the recount process.

4. During my observations, I witnessed a series of documents being provided by Dallas County Elections Administrator Heider Garcia and his staff being laid out on each counting table by County Supervisor Jennifer Stoddard-Hajdu's appointed recount committee chairs and assistants. These documents included: "Voter Roster" by location, a "Batch Report by Polling Location" showing how many HD 108 ballots per precinct were contained in each ballot box and the paper ballots cast at each location. All of these records were publicly available at the Dallas County Election Website (<https://www.dallascountyvotes.org/>) and the Texas Secretary of State Website (Welcome to Texas elections (<https://www.sos.state.tx.us>)).

5. Due to Dallas County's participation in the Texas Secretary of State's Countywide Polling Place Program (CWPPP) authorized by Texas Election Code §43.007, where ballots are no longer required to be cast by voters in-precinct but, by statute, must still be reported by precinct. This is true even though the ballot may be cast in another precinct within the county of the election being held.

6. The CWPPP necessitates the creation of a database showing all precincts from which a vote was cast and how many votes from each precinct were cast at each polling location. This document is referred to as the "Batch Report by Polling Location." This document is printed from the Dallas County Central Election Management Server (EMS) and is accessible by elections department staff as well as any state or private entity who requests data. All counties opting in to the CWPPP would have to make the same documents publicly available for purposes of election auditability.

7. The “Voter Roster” is a simple record of every voter who casts a ballot, the location where he casts a ballot, and his assigned voting precinct. Each county in Texas has a Voter Roster.

8. Simple visual comparisons of the Voter Roster, the Batch Report by Polling Location, and the paper ballots (the images of which are publicly available 60 days after an election) allow any person to find a voter’s ballot, resulting in a breach of voter privacy, without the voter’s prior knowledge or agreement. The creation of the “Batch Report by Polling Location” document allows for exact matches and logical deductions of which voter belongs to which ballot and vice-versa.

9. Creation of this document allows for a state or county employee or any private person to match ballots and ballot selections to voters in polling locations where a voter is the only voter from a precinct to cast a ballot at a particular polling location during a particular voting period – either during Early Voting or on election day.

10. My team of Poll Watchers and I witnessed ballot boxes from different polling locations being opened and presented alongside “Batch Report by Polling Location” documents and the handwritten “Voter Roster” check-in sheets. I watched the recount committee members pull ballots that could immediately and decisively determine many voter selections from their very ballots, being that many “Batch Reports by Polling Location” showed one, ten, and sometimes even over 30 voters who were the only voters from their precincts to vote at that specific polling location.

11. On May 17, 2024 I sent a Declaration of Truth and Petition for Redress of Grievances to the 96 CWPPP counties’ election administrators/clerks, county judges, and the Texas Secretary of State regarding the CWPPP and the modified version of it called “Early Voting” with a demand to end Countywide Voting, whether on election day or during Early Voting, because

the CWPPP and its modified version, Early Voting, violate the United States constitutional and Texas state rights to a secret ballot.

12. My Declaration of Truth and Petition for Redress of Grievances regarding the lack of voter privacy caused by Countywide Voting gave notice to both state and county election officials throughout Texas.

13. The application of the current system of Countywide Voting's violation of the constitutional right to a secret ballot is well known to *all* election officials in Texas. On June 6, 2024, the Texas Secretary of State's Director of Elections issued Election Advisory No. 2024-20. This advisory says that "if an election official receives a public information request for specific election records and/or ballot images and the county election official determines that producing the records in their original form could compromise a voter's right to a secret ballot, the official should consider additional redactions in consultation with their county or district attorney and public information coordinator."

14. The advisory from the Texas Director of Elections is an admission that the current system of countywide voting defeats a voter's right to privacy. The redaction of information from a public request may make it more difficult for the public to learn how a voter has voted, but the county election officials always have access to the unredacted identifying markers on a ballot.

15. On March 6, 2025, Texas Secretary of State Director of Elections, Christina Worrell Adkins, in her public testimony in front of the Texas Senate Committee on State Affairs admitted that "there is a constitutional protection for a right to a secret ballot" (<https://x.com/Wernick4Dallas/status/1898933873163071764>)

16. On March 6, 2025, Texas Secretary of State Director of Elections, Christina Worrell Adkins, in her public testimony in front of the Texas Senate Committee on State Affairs addressed

the problem with Advisory 2024-20 is that redacting information is merely a “short term solution to a bigger issue.” <https://x.com/Wernick4Dallas/status/1898933873163071764>

17. I share with the public and public officials by posting extensively on the unlawful nature of Countywide Voting on my social media account at <https://x.com/wernick4dallas>.

18. I have also shared numerous public testimonies on my “X” social media account where they have been viewed more than tens of thousands of times.

19. I provided public testimony to the Texas Senate Committee on State Affairs on May 29, 2024, regarding Countywide Voting and its violation of the constitutional right to ballot secrecy and lack of audit capacity and there being no legal way to strike a balance between the two. (<https://x.com/Wernick4Dallas/status/1796300964825100439>)

20. I also provided public testimony to the Dallas County Election Commission on June 20, 2024, regarding Countywide Voting and its violation of the constitutional right to ballot secrecy and lack of audit capacity and there being no legal way to strike a balance between the two. (<https://x.com/Wernick4Dallas/status/1805110864053211209>)

21. I also provided public testimony to the Dallas County Commissioners Court on October 1, 2024, regarding Countywide Voting and its violation of the constitutional right to ballot secrecy and lack of audit capacity and there being no legal way to strike a balance between the two. (<https://x.com/Wernick4Dallas/status/1841261943178342561>)

22. I also provided public testimony to the Dallas City Council on October 20, 2024, regarding Countywide Voting and its violation of the constitutional right to ballot secrecy and lack of audit capacity and there being no legal way to strike a balance between the two. (<https://x.com/Wernick4Dallas/status/1848020907958116733>)

23. Currently there are at least 18 US States that offer or require Countywide Voting.

24. Because election records must be made available for public inspection at the request of any member of the general public to fulfill the state and federal legal requirements of election auditability, I have been able to request these documents from many of the Texas counties that offer Countywide Voting without assigning voters to specific precinct based on ballot style. As a result, I have been able to match individual voters to their ballots in each of these counties. To date, my team and I have requested these documents from at least 15 Texas counties, including Harris County.

25. My team and I have submitted Public Information Act (PIA) requests with respect to the March 2024 Primary elections for images of ballots and/or CVRs to several counties across Texas including Harris, Dallas, Tarrant, Bexar, Travis, Collin, Grayson, Lubbock, Deaf Smith, Parmer, Swisher, Potter, Randall, Hays, Williamson, and more (including Denton County for Early Voting records because it did not opt in to the CWPPP).

26. As a result of the PIA requests, I have obtained unredacted CVR images from Harris and Deaf Smith and unredacted CVR and ballot images from Dallas, Bexar, and Parmer. Dallas and Bexar provided the unredacted images prior to the Texas Secretary of State Advisory 2024-20 which called on Election Administrators to redact information that could tie a voter to his ballot selections. Harris provided unredacted CVR images after the Advisory, as did Parmer (both CVR and ballot images) and Deaf Smith (only CVR images). All other counties redacted valuable information needed for election auditability by relying upon the Texas Secretary of State Advisory 2024-20.

27. I have been able to conclude from my research of the publicly available data of the 96 Texas counties that opted into the CWPPP based on the method of sorting and filtering precinct

and polling location data that 4.54% of Republican voters and 10.58% of Democrat voters had their constitutional rights to a secret ballot violated on the March 5, 2024, primary election day.

28. I have been able to tie 17,845 Dallas County March 2024, primary voters to their actual ballots and 28,608 Harris County March 2024 Primary voters to their actual Cast Vote Record (CVR) ballot selections.

29. My research of publicly available data, shows that ballot secrecy violations on the March 5, 2024, primary election day in the 5 largest Texas counties most often affected Democrat voters at higher percentages than Republicans:

- a. Harris – Democrats: 15.3%, Republicans: 9%
- b. Dallas – Democrats: 13.4%, Republicans: 8.6%
- c. Tarrant – Democrats: 10.56%, Republicans: 5.81%
- d. Bexar – Democrats: 15.03%, Republicans: 9.28%
- e. Travis – Democrats: 8.75%, Republicans: 8.82%

30. My research also reveals that since the time the following Texas counties opted in and instituted CWPPP, there has been a major drop in voter turnout between 2018 and 2022:

- a. Harris - Down 10.2%
- b. Dallas - Down 16.6%
- c. Tarrant – Down 6.6%
- d. Travis – Down 4.8%
- e. El Paso – Down 23.3%

31. There are currently 99 Texas counties that have opted into and instituted the CWPPP (Cameron, Comanche, and Uvalde Counties recently opted in and have been approved by

the Texas Secretary of State but have not administered it yet) and approximately 200 that administer a modified version of it called Early Voting.

32. I have identified 78,281 voters on election day from the 96 CWPPP counties and another 21,965 from 7 CWPPP counties (Harris, Dallas, Tarrant, Travis, Randall, Potter, and Lubbock) Early Voting period who had their constitutional right to a secret ballot violated. The numbers are substantially higher when including counties that did not opt in to the CWPPP but administer a modified version of it by offering its voters an Early Voting period in which voters are not assigned to a specific polling location.

33. Denton County is one such county that has not opted into the CWPPP. As a result, when I tried to tie Republican Primary voters to specific ballots on election day, of the 38,000 plus voters, I could not tie one voter to his ballot. But because Denton County does offer a modified version of the CWPPP in the form of its Early Voting, I discovered that Texas Secretary of State Jane Nelson and her husband James Nelson were among the approximate 900 Denton citizens who had their constitutional rights to a secret ballot violated.

34. The overall totals I offer in this affidavit do not include the multitude of instances when more than one voter from a particular precinct vote in a particular polling location, but whose ballots can still be identified by corroborating cast vote record numbers and the date and time the voters voted.

35. I was not able to obtain the data regarding the other Texas counties which offered Early Voting to its voters because the Secretary of State removed that information from its website after its 2024-20 Advisory.

36. I have looked into the Early Voting and election day voter rosters for numerous Texas counties for the November 5, 2024 General and Joint Election. The Texas Secretary of State

and all other counties, except for Dallas County, have removed critical polling place location information from the rosters. However, by removing the polling place location from the voting record, those counties' elections have become unauditable and unverifiable.

37. Dallas County still provides the required information necessary to begin an audit into its election: Voter Legal Name and corresponding VUID, Precinct and Ballot Style, Time and Date of Check-In to Vote, and Polling Location (sometimes referred to as Vote Center or Site ID).

38. For the Dallas County November 5, 2024 General and Joint Election I have identified 12,119 out of 632,932 (1.9%) in-person early voters whose constitutional rights to a secret ballot were violated. I have also identified 23,863 out of 187,661 (12.7%) in-person election day voters whose constitutional rights to a secret ballot were violated.

39. Working in isolation, W. Joe Washburn, an independent analyst associated with the Dallas County Republican Party, wrote a python script open-source program that produces a list of compromised ballots from the Dallas County November 5, 2024 General and Joint Election that exactly matches my calculations.

40. Some of the voters whose ballots I have identified as not secret from the 2024 primary elections and the general and joint elections include:

- a. Governor Greg Abbott
- b. State Senators: Angela Paxton, Royce West, Molly Cook, and State Senate Candidate Joseph Trahan
- c. State Representatives: Texas House Elections Committee Chair Matt Shaheen, Venton Jones, Victoria Neave Criado; Former Representative and Texas House Elections Committee Chair Reggie Smith; and State Representative Candidates Aimee Ramsey and myself – Republican Precinct Chair Barry Wernick

- d. US Congressman: US Senate Candidate Colin Allred; US Congressional Candidate Ruth “the Truth” Torres; and US Congressional Candidate Caroline Kane
- e. Texas Court of Appeals Justices for the Fifth District: Bonnie Lee Goldstein, Erin E. Nowell; and former Justice and current Texas Business Court Judge William “Bill” Whitehill
- f. Dallas County Judges: Dominique Collins, Martin Hoffman, Eric Moye, Mary Brown, Nancy Purdy, Tonya Parker
- g. Former Dallas County Sheriff and 2024 Democrat Primary Candidate Guadalupe Valdez (Primary and Joint and General Early Voting)
- h. Dallas Mayor Eric Johnson (and his Security Detail) and former Mayor Tom Leppert
- i. Dallas County Officials: County Judge Clay Jenkins, County Clerk John F. Warren, County Tax Assessor John R. Ames, County Democrat Party Chair Kardal Coleman, County Commissioner Dr. Elba Garcia, County Commissioner Candidate Jason Metcalf, County Commissioner Candidate Derek Avery, District Clerk Felicia Pitre, Former City Councilwoman and County Treasurer Pauline Medrano, County Republican Party Executive Director Dee Holley
- j. Dallas City Officials: Councilman Pastor Zarin Gracey, City Attorney Patricia Medrano
- k. Dallas County Republican Party Precinct Chairs: Erica Person, Jillian Zhorne, Jennifer Lee Jenkins, Melanie Jennings, Brian Bodine, Richard Mastin, Christopher McHatton, Vernon Norris, Cory Connolly, William Underhill, Anthony Torres,

Tami Brown Rodriquez, Legislative Priorities Committeewoman and DCRP Resolutions Committeewoman Dr. Preeti Malladi

- l. Dallas County November 5, 2024 General & Joint Election Early Voting Ballot Board: Alternate Judge Patricia Clapp, Sandra Denton, Bonnie Dickinson, Michael Hall, Mathis Perkins, Jose Plata, Katherine Whitehill
- m. Harris County Officials: Commissioner Adrian Garcia (Former Houston City Council Member, Mayor Pro-Tem, and Harris County Sheriff), Constable Sherman Eagleton, School Board Candidate Joshua Wallenstein, Candidate for Harris County DA Dan Wayne Simons
- n. Texas Court of Appeal for the 14th District Justices: Frances Bourliot, Kenneth Price Wise
- o. Former Chief of the Texas Court of Appeals for the 1st District Justice Sherry Radack
- p. Harris County Judges: Juanita Alexandra Jackson, Michael Charles Englehart, Veronica M. Nelson, Kevin Albert Murray (Magistrate and News Anchor)
- q. Harris County Democratic Party Office and Staff: Roberto Alas, Michael Bouvier, Christian Mendiola, Alejandro Mier
- r. Harris County Republican Party Precinct Chairs: Lee Krause, James Honey, Bernardo Obando, Jr., Jesse Saldana, Jr., Gina Luther, Yolanda Andrade, Walter Zivley, Nicholas Hughes, Steven Parkhurst, David Dick, John Auman, Jr., Leslie Shatto, Clinton Thornburg, Amanda LaBrie, Rosendo Gonzalez, Jeffrey MacGeorge, John Ulrey, Andrew Chad McCartney, Christina Taylor, Prophet Mbong, James Simmons, Deborah Carr, Maria Cavazos, Roger Rangel, William

Ely, Elizabeth Perez, Yvette Llorance, Rev. Thomas Herold, Stephen Smith, Elizabeth Ferrell-Thomsen, Veronica Rosas, Daniel Hudson

- s. Other Prominent Figures: Daniel DiNardo (Former President of the United States Conference of Catholic Bishops and Archbishop of Galveston-Houston from 2006 to 2025), Professor Daron Shaw (University of Texas at Austin Distinguished Teaching Professor & Frank C. Erwin, Jr. Chair of State Politics), Richard Barr (Associate Professor SMU Computer Science), Everton Bailey, Jr. (Dallas Morning News Politics Reporter Dallas Bureau), Phillip Jankowski (Dallas Morning News Politics Reporter Austin Bureau), J. Scott Herod (Smith County Commissioner), Matthew Rinaldi Former Republican Party of Texas Chairman and former Texas State Representative), Luke Macias (Bexar County Precinct Chair Political Consultant Podcaster), Weston Martinez (Former Texas Real Estate Commissioner), Michael Flusche (Ted Cruz Campaign Northern District Director), Royce Poinsett (Lobbyist), D'Andra Simmons, Les Weisbrod, Professional Hockey Player Solag Bakich

41. Through conversations my team and I have had with election administrators and county clerks in various counties that have opted into the CWPPP, it has been confirmed that it is possible for them and any election employee of the county, as well as the public, to match voters to their individual ballots using the aforementioned required publicly available records. The records are all in the care, custody, and control of county clerks, election administrators, their employees, and third-party vendors that are necessary to administer CWPPP.

42. On September 18, 2024, I informed Dallas County Elections Administrator Heider Garcia at the Lake Highlands Conservatives Monthly Meeting of the fact that redacting

information from ballots does not preserve secrecy of the ballot when he and his elections department have and would retain access to what is legally required to be voters' private information. He agreed with my assertion. His acknowledgement can be viewed on a video at my social media account on X at <https://x.com/Wernick4Dallas/status/1836844508170076606>.

43. On September 6, 2024, I asked a member of my team, Stuart Wernick, to submit a request for access to public records to Parmer County Director of Elections in an email worded as follows: "Pursuant to Texas Election Code Section 1.012 Public Inspection of Election Records as part of TEC Code 1.002 which supersedes Government Code, Ch. 552, I am requesting the following records, specifically from the March 5th, 2024 Joint Primary Election in Parmer County, Texas: 1. Electronic copies of all Democrat Party Ballot Images and its accompanying Cast Vote Record images from the Lazbuddie Methodist Church on Election Day (March 5th, 2024). The redaction of each voter's personal identifier will be acceptable for this request."

44. After numerous emails from Stuart Wernick prompting the Parmer County Election Administrator for the requested records and informing her that the Attorney General's office had already ruled on her request in January, on March 6, 2025 the election administrator responded that she had not been notified of the ruling until she received Wernick's email. Then she proceeded to admit "I have redacted the votes from the ballot as per the AG's response to protect the voter's right to a secret ballot." Attached to her email were pdf images of one ballot and its corresponding cast vote record that could be tied to a specific voter. The images reflected where the election administrator had taken a black "Sharpie" and marked through the vote selections. She did not mark through the races the voter had not selected a candidate or measure thereby making those votes, otherwise known as "undervotes," no longer secret to the public. It was a futile attempt to

preserve ballot secrecy because the election administrator had already violated the voter's privacy rights as she admitted to being the one who had tasked herself to manually redact the selections.

45. On September 30, 2024, I asked Stuart Wernick to submit a request for access to public records to Harris County Director of Elections in an email worded as follows: "Pursuant to Texas Election Code Section 1.012 Public Inspection of Election Records as part of TEC Code 1.002 which supersedes Government Code, Ch. 552, I am requesting the following records: Electronic copies of the Ballot and CVR Images from Election Day of the March 5th, 2024 Joint Primary Election..."

46. Aside from the fact that the redaction of this information violates the public disclosure statute and federal laws requiring access to public records, this guidance from the Director of Elections Christina Adkins was not followed by the Elections Department Deputy Director of Compliance Du-Ha Kim Nguyen in the Office of Harris County Clerk, Teneshia Hudspeth.

47. On October 2, 2024, we received the following response in an email from Nguyen: "Per your request, please find all CVR reports from March 5, 2024 Primary Elections in Harris County on our Dropbox folder."

48. The requested CVR images were provided with none of the information listed in the Secretary of State Advisory 2024-20 redacted that could possibly tie a voter to his ballot. Because redactions are recommended and not required, it is possible for anyone who makes a public information request to receive the unredacted documents and trace voters back to their individual ballots, as I have done in many instances, including in my most recent request to Harris County.

49. In order to protect the secret ballot, “[p]ublic policy requires that the veil of secrecy should be impenetrable, unless the voter himself voluntarily determines to lift it[.]” *Carroll v. State*, 61 S.W.2d 1008 (Tex. Crim. App. 1933). But redacting information from the public is not the solution. The government still is able to trace voters to ballots and visa-versa. Redaction of identifying information from the public does not resolve the problem that each county clerk and the election section employees may discover each voter’s ballots.

50. Further, redaction does not allow for the ability for the public to audit elections as is required by federal and state law. Redaction of necessary identifying information creates the dilemma that elections departments are the only ones who retain the ability to audit an election

51. In terms of redaction, it is clear that regardless of how much or how little redacting of information there is, or how much or how little the Secretary of State or Attorney General rules redaction is permissible, the state and county election officials retain the ability to know a voter’s ballot. This means that the inherent flaw in Countywide Voting is that it can never provide for ballot secrecy. Whether the public can learn a person ballot or not, the government will always know.

52. *Sewell v. Chambers*, 209 S.W.2d 363 (Tex. App. 1948) is the only case law in Texas that addresses the same issue that arises in the instant situation where an actual conflict arises between ballot secrecy and election auditability. In *Sewell*, the court is explicit that “...there are public interests which outweigh the individual’s right to have his ballot kept secret.”

53. For the basis of its decision, the *Sewell* court cites the 1911 Missouri Supreme Court case of *Gantt v. Brown et al.*, 238 Mo. 560, 142 S.W. 422, 425, which reasoned, “The stability of our government is dependent upon the honesty and purity of the ballot the secrecy of the ballot had better be scattered to the four winds, rather than have such secrecy shield corruption in

elections, * * * better a thousand times that the individual's vote should be spread upon canvas under calcium light, than that fraud should be locked up within the lids of official ballot boxes and poll books with no known legal method of exposing such fraud.”

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 11 day of April 2025.


Barry Wernick

NOTARY SEAL

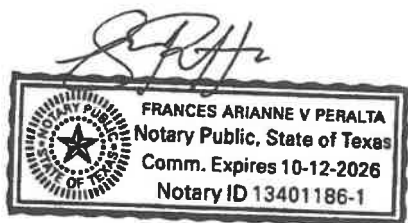


Exhibit 2

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

KENNETH ZIMMENN, A Harris County
Registered Voter, and WILLIAM SOMMER, A
Harris County Registered Voter,

Plaintiffs,

v.

JUDGE LINA HIDALGO, in her official
capacity as County Judge for Harris County, Texas)
TENESHIA HUDSPETH, in her official
capacity as County Clerk for Harris County, Texas,)

Defendants.

Civil Action No.

Affidavit of Rick Weible

I, Rick Weible, being first duly sworn upon my oath state as follows:

1. I am of sound mind, over eighteen years of age, and competent to testify to the facts contained in this affidavit. These facts are based upon my personal knowledge and are true and correct.
2. I currently reside at 803 Elk Street, Elkton, SD 57026.
3. I am a certified computer network engineer and data analysis expert with over 25 years of industry experience.
4. I am also the owner of a small computer consulting company that has been in business for over 25 years providing compliance certifications, desktop support, programming, network management and security, web development and hosting.
5. I founded the United States Council on Accurate and Secure Elections in 2023 and have been analyzing elections in multiple states helping both election officials and voters

better understand the election systems in an effort to have better oversight and security in our elections by following Federal and State Laws.

6. I have been retained to serve as an expert in other election matters and have been asked to serve as an expert in this matter as well.

7. Through my previous work in election matters, extensive research into election machine software and hardware, and personal experience having reviewed election machine equipment, software, reports, results and tests throughout the country, including Harris County, Texas, I have specialized knowledge and expertise that I believe will be helpful to address certain matters in the above-captioned litigation.

8. I am aware of the security risks that on-line digital voter rolls present, in that there are time stamps in the backend systems as to when a voter signed in as well as what location and pollbook was used to enter in data.

9. I am aware of the risks that voter centers present in creating unintended markers for data when a unique voter votes a unique ballot from another precinct, that is, a ballot that is different from most of the other ballots voted on in a precinct, and then inserted into a tabulator.

10. Using these unintended markers can expose how the randomization process works when reviewing multiple precincts across a county. One unintended marker is the grouping in a one hundred ballot scenario, and then exposing the lack of randomization, as the voting system provides for the saving of ballot images and cast vote records.

11. Think of markers in a deck of cards that if I mark the back of the cards for all aces with a blue pen on all four corners and then mark all kings with a red pen on all four corners and we play poker and I am the one with the knowledge of where those cards are, I have a better chance of knowing when to bet and fold, that in the end I would win the card game with that

knowledge. At the same time it would also make it easier to count cards knowing what is left in the last hand at the end of the deck, and make a significant bet in my favor.

12. For advanced systems think of it like a 100-piece puzzle with no picture on the box, we look for markers to start solving that puzzle. The first 4 markers would be the corners and then the edges. When it comes to voters, that would be the party identifications of voters and known people in the precinct, they are my corners and edges. Then as you look at the rest of the puzzle you can see things that go together in pairs and styles. Just like a puzzle as you get closer to completing the picture of the puzzle, it all fits together.

13. So any time a unique voter votes outside of their precinct they create markers that identify unique ballots, and the more unique ballots created across the county with unique voters is way of giving me the code of the combination of the lock to unlock and to know what the randomization pattern, otherwise knows as the combination of how they are randomizing the ballots.

14. When a voter checks in to the voter registration system, and then is handed a unique ballot the time date stamp of that moment, the ballot style, the precinct, and location of where he is voting is all logged into the voter registration system.

15. Then when that voter votes on a paper based ballot and then inserts the ballot into the tabulator, the tabulator takes a picture of both sides the ballot, at the same time, creating an image, and then it creates an interpretation file of how it read the ballot, called a cast vote record, CVR, both of those files are time stamped with the time and date of the opening of the election on that tabulator. These files are saved in the tabulator, and on the USB thumb drives at the same time, during the election.

16. As other voters are voting, once the grouping of the 100 votes has been processed, the tabulator randomizes the file names, and it does this process every 100 ballots in these groups.

17. At the end of the voting session, election officials take the thumb drives, and insert them into the Election Management System, where the ballot images and the cast vote records are then decrypted and loaded into the system for reporting, reviewing, and exporting.

18. When exporting these ballot images and cast vote records, one can export all of the ballots by the precinct, or by the tabulator, into their named folders. In evaluating by tabulator, one can easily figure out randomization process and look at the voter registration system and start tying the unique ballots from a precinct back to the one person who voted in another precinct.

19. Once you have mapped out the unique ballots, you can start mapping out the randomization process and see if there are any correlations. Once that is established, you can then map the rest of the voters' ballots to the voter registration check in system.

20. I have deduced voter's ballots even without using the ballot images and cast vote records, in unique precincts in Minnesota. The systems in Minnesota are similar to the one used by Harris County. It is possible to determine a person's vote by simply looking at the precinct results and the registration of the unique voter.

21. I have reviewed cast vote records and registrations in other states using systems similar to Harris County's and have been able to identify voters' ballots when they were unique voters in a vote center. In non-vote center locations, it is much more difficult to determine the order, since the markers of ballot variations is minimized to prevent detection of the randomization process being used. If I can discover the algorithm used for the county, I can

determine more of the voters' ballots. I have decoded the algorithm used for randomization in other states.

22. At this point I have not reviewed the Harris County records, but I would be willing to review the records if permitted and asked. I believe, based upon my prior experience with Harris County's voting system used in other states, that I will be able to discern Harris County voters' ballots in the 2024 General Election because it is similar the other systems in which I have discovered the algorithms they use for randomization.

23. I further believe, based upon my work in other states, that I can develop an algorithm which will allow me to discern many more voters' ballots beyond the unique voter deduction method.

DATED this 8th day of November 2024.


Rick Weible

SUBSCRIBED and SWORN to before me by Rick Weible on this 8 day of ^{Nov}~~October~~ 2024


NOTARY



10/6/28

Exhibit 3

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

KENNETH ZIMMERN; WILLIAM
SOMMER; and CAROLINE KANE,

Plaintiffs,

v.

Civil Action No. 4:24-cv-04439

JUDGE LINA HIDALGO, *in her official
capacity as County Judge for Harris County,
Texas*; and TENESHIA HUDSPETH, *in her
official capacity as County Clerk for Harris
County, Texas*,

Defendants.

DEFENDANTS' RESPONSES TO PLAINTIFFS' SET OF INTERROGATORIES

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Defendants Judge Lina Hidalgo and Teneshia Hudspeth (collectively, "Defendants") state their responses to Plaintiffs' Set of Interrogatories to Defendants as follows:

RESPONSES

INTERROGATORY NO. 1: Describe in detail the process by which a voter in Harris County is issued a ballot during in-person voting, including what identifying information is associated with the voter's ballot at every point in the process.

Response:

The Texas Election Code requires persons to go through a qualification process before being accepted to vote (TEC, Title 6, Chapter 63). At a polling location, during the qualification process, a 1) voter is asked to provide an acceptable form of government issued photo identification or complete a Reasonable Impediment Declaration which allows the use of a secondary form of identification if the voter does not possess a required photo ID. 2) The voter's identification is scanned, or manually entered, into an electronic poll book (i.e. voter registration roll) which exists

on an iPad. 3) The voter's registration information appears on the screen. 4) The Voter verifies information, signs and presses "ACCEPT." 5) The Qualifying Clerk presses "Accept Signature." 6) A bar code appears on the screen with a ballot style number. The bar code is read using a bar code reader which produces an access code. 7) The qualifying process concludes when the voter is handed the access code and a blank sheet of ballot paper.

The information provided during the qualification process confirms a person's eligibility to vote a regular ballot and simultaneously identifies the political jurisdictions that are connected to the address where a voter is registered to vote. Neither the personally identifiable information provided to a poll worker during the qualification process, nor the numbers on the access code provided to a voter to access their ballot on the voting machine screen, appear on the Printed Vote Record (i.e., the ballot).

Pursuant to Texas Election Code Section 31.014, the functionality of the e-pollbook employed in the qualification process throughout the conduct of an election is certified by the Texas Secretary of State's Office.

INTERROGATORY NO. 2: Identify all unique identifiers (e.g., serial numbers, ballot style codes, timestamps) printed or embedded on a voter's ballot at any stage of the voting process.

Response:

In the Hart InterCivic Verity voting system, the ballot unique ID consists of the following components: digits representing the Device Type; digits representing the Device ID; digits representing the Session Number; and a Random Number. These identifiers do not link data to a voter.

The Device Type. The first digit of the Unique ID represents which type of device issued the ballot: 0 for Build workstations, 1 for Touch Writer, 2 for Duo/Controller, and 3 for Print.

The Device ID. The next 6 digits of the Unique ID represent the unique serial number of the device that issued the ballot (Controller, Print, or Touch Writer).

The Session Number. The next 4 digits of the Unique ID represent the “session ID”. This number increments each time an election is loaded on a specific device. This differentiates ballots printed in different polling places using the same device. For example, if an election worker sets this device up for Early Voting and it has a session number of “5”, that number will increment to “6” if an election worker reconfigures the device for Election Day.

A Random Number. The last 8 digits are a random number that is unique for this device in this session.

The Ballot Style.

Timestamp: There is no timestamp identifier on the Printed Vote Record.

INTERROGATORY NO. 3: Explain whether each voter’s check-in time or sequence is recorded and retained by Harris County, and if so, how that information is stored and used.

Response:

To comply with Section 43.007 of the Election Code, an electronic poll book used at polling locations must produce a time stamp showing when each voter is accepted to vote. The time stamp is recorded in the e-pollbook at the voting center where a voter cast a ballot. It is also synced to all e-pollbooks employed during the conduct of an election, thereby allowing election officers to verify whether a voter has already voted in the on-going election.

The voter’s check in time and sequence was recorded and retained by Harris County prior to November 2024, at which time the Texas Secretary of State issued Election Advisory No. 2024-20, Emergency Guidance on Voter Privacy, on June 6, 2024. For elections conducted since

November 2024, the voter's sequence is not retained by Harris County, but the voter's check-in time is retained by Harris County and is only stored and is not available for public inspection.

INTERROGATORY NO. 4: Describe any logs or records maintained by Harris County during the election that link the time a voter checked in to the time a ballot was printed or cast.

Response:

There is no log or record that links the time a voter checked in to the time the voter printed or cast a ballot.

INTERROGATORY NO. 5: Explain whether the Harris County voting system uses individualized ballot styles or precinct-specific identifiers that differ among voters.

Response:

Harris County uses the Hart InterCivic voting system, which provides the Precinct and Ballot Style to produce a Voter's ballot. These precincts and styles are programmed into the voting system. They are not unique to the Voter but unique to the Precinct and Precinct Sub the voter resides in. They are typically a combination of a Precinct and many Precinct Subs combined as one.

INTERROGATORY NO. 6: Describe how the Cast Vote Records (CVRs) are generated, stored, and whether they are linked to time or location of ballot casting.

Response:

The CVRs are generated from the Hart Verity systems and are currently stored on a Harris County secured network drive. The CVRs do not have, and are not linked to, the time of when the ballot was cast. The CVRs do list the polling location where a ballot was cast.

INTERROGATORY NO. 7: Explain which third party contractors Harris County uses regarding election software or hardware and whether those systems store identifying data alongside votes.

Response:

Harris County uses the following third party contractors regarding election software or hardware:

- Content Active is used for the Electronic PollBooks). This system does not store any identifying data alongside votes.
- Hart InterCivic is used for the voting system, which is made up of various components. None of those components store identifying data alongside votes. One component of the voting system, the Verity Central Scan, stores ballot by mail and provisional ballot images, logs and reports. Some of these ballot images might include notes made by a voter that may identify the voter.
 -
- Votec is used for its Votec Election Management and Compliance System. That system does not store identifying data alongside votes. It houses the voter roll and provides exports of the data needed to identify which ballot style each voter is eligible to receive.

Title 8, Chapter 122, of the Texas Election Code provides that “Before a voting system or voting system equipment may be used in an election, the system and a unit of the equipment must be approved by the secretary of state [SOS].” All above mentioned systems have been deemed compliant with standards outlined in section Sec. 122.001 of the Election Code and have been certified by the Texas Secretary of State.

INTERROGATORY NO. 8: Describe any audits or analyses conducted by or on behalf of Harris County concerning the secrecy of the ballot, including any findings related to the ability to trace ballots to individual voters.

Response:

Harris County has not conducted, nor has it coordinated with any third-party entity to conduct, an audit or an analysis concerning the secrecy of the ballot, including the ability to trace a ballot to an individual voter.

INTERROGATORY NO. 9: Identify any voter complaints, legal inquiries, or internal discussions related to concerns about ballot secrecy or the traceability of individual votes in the 2022 2023, or 2024 elections.

Response:

Defendants can only address questions related to elections conducted beginning September 1, 2023, when SB 1750 returned elections administration to the Harris County Clerk's Office. Since September 1, 2023 when the County Clerk assumed election administration duties, the number of voter complaints, legal inquiries or internal discussions related to concerns about ballot secrecy or the traceability of individual votes have been limited to one inquiry from a Dallas County candidate who inquired about ballot secrecy after seeing reports in Dallas County (document titled "Declaration of Truth Regarding Blatant Violation of Voter Privacy and Ballot Secrecy in Counties Participating in Texas Secretary of State's Countywide Polling Place Program" received on May 17, 2024 from Barry Wernick via email).

Defendants have not had any internal discussions related to concerns about ballot secrecy or the traceability of individual votes since September 1, 2023.

INTERROGATORY NO. 10: Identify by name and position (or title) all employees who have access to look at the pollbooks, voter rosters, ballot images, and cast voter records.

Response:

In the process of carrying out functions required by the Texas Election Code, all Harris County Clerk's Office election staff have access to look at the pollbooks, voter rosters, ballot images and cast vote records. A list of all elections staff is listed below, but it does not assure that any of those individuals will access the information.

Employee Name	Title
Abbas,Syed Adeel	Tech, Election Tech Ctr
Abdullah, Tateana	Recruitment Coordinator
Abramyan,Victoriya	Clerk, Rec Logistics
Ackfeld,Andrew Jolly	Specialist, Voting By Mail

Aguilar,Margarita B	Manager, Loc Operations
Aguilar,Stephanie Michelle	Coordinator, Purchasing
Ali,Arish Rahim	Programmer, IT
Allen Jr.,Alonzo Drury	Tech, Election Tech Ctr
Alvarez,Josefa Yunuen	Clerk, Rec Logistics
Andrade Ramirez, Guadalupe	Call Center Clerk
Andrews, Michael	Data Entry Clerk
Anthony,Christopher Dante	Tech, Election Tech Ctr
Antwi,Olayinka Oluwakemi	Director, Finance
Arenas,Marcos	Tech, Election Tech Ctr
Autenreith,Edwin Bernard	Analyst, IT
Avery,Craig Jermaine	Clerk, Rec Logistics
Ayala,Patricia	Coordinator, Compliance
Badal,Nitesh	Manager, IT
Bailey, LaTravia	Recruitment Coordinator
Ballard,Jennifer Lee	Advisor, Elections
Baltazar, Mario	Election Supply Clerk
Bannon,Benjamin Semni	Director, Election Services
Berman,Erika A	CSR, Call Ctr
Berry,Gwendolyn Latoyila	Tech, Election Tech Ctr
Bird,Roy Daniel	Clerk, Compliance-ADA
Bonilla, Kimberly	Election Supply Clerk
Bradley,Elijah D'ray	Lead Tech, Election Tech Ctr
Brigance,Trenton Devon	Tech, Election Tech Ctr
Brown, Lori	Data Entry Clerk
Bruce,Jason S	Deputy Dir, IT
Brymer, Kenneth	Quality Control Assistant
Bui,Ricky Anh	Tech, Election Tech Ctr
Calarco,Marc Anthony	Tech, Election Tech Ctr
Callender,Donald Paul	Clerk, Rec Logistics
Candelaria,Rene Rodriquez	Tech, Election Tech Ctr
Cardenas Pico,Alexis Andrey	Tech, Election Tech Ctr
Cardenas,Esther	Chief Deputy
Carreon,Silvia Y	Clerk, Voting by Mail
Carry, Whittney	Election Supply Clerk
Castillo,Cristal Anay	Tech, Election Tech Ctr
Champagne,Michelle Denise	Supply Lead, Operations
Chandler,Warner S.	Tech, Election Tech Ctr
Chavez Jr.,Frank	Tech, Election Tech Ctr
Combs,Mark D	Dir, Facilities/Emerg Mgmt
Contreras,Crystal Amanda	Analyst, IT
Correa,Juan Felipe	Clerk, Compliance-ADA
Cummins,Kyle Evan	Coordinator, Comms
Davidson, Tyler	Instructor
Davis, Mia	Election Supply Clerk

Davis, Wesleyunia	Call Center Clerk
Deleon,Hector	Sr Adv Gov Affairs & Pub
Dramola, Natalie	Engmt
DuPont,Amanda Renee	Data Entry Clerk
Eastland,Earnest Cristen	Dep Dir, HR Elections
Ellis,De'Andre	Clerk, Rec Logistics
Elson,Huong Tran	Tech, Election Tech Ctr
Engelbrecht,Andrew Spencer	Coordinator, Compliance
Estevez,Cristian Y	Tech, Election Tech Ctr
Falchetti,Marccelo Alberto	Tech, Election Tech Ctr
Foreman,Shimeika Marcel	Clerk, Compliance-ADA
Fuselier,Aaron Ashley	Clerk, Rec Logistics
Gaines,Breia Diamond	Coord, Comms
Galvan, Rosa	Lead Clerk, Rec Logistics
Garcia Carrera,Alba Lucia	Vote Center Coordinator
Garcia,Joshua Arturo	Coord, Comms
Garcia,Juan M	Tech, Election Tech Ctr
Garcia,Karina Renee	Clerk, Security & Facilities
Garza,Abel Anthony	Sr Clerk, Compliance-ADA
Garza,Desiree Nichole	Clerk, Compliance-ADA
Gervais,Cynthia Villarreal	Lead Clerk, Voting By Mail
Golston, Hope	Clerk, Compliance-ADA
Gomes,Camille Ishelle	Instructor
Gomez,Bertha	Director, Operations
Gonzalez,Edward	Lead Clerk, Voting By Mail
Goodman, Shaniquia	Clerk, Rec Logistics
Gorina, Laquesia	Call Center Clerk
Govea,Alexander	Recruitment Coordinator
Green, Wontura	Coord, Comms
Hammerl,Shana Lee	Vote Center Coordinator
Hardy,Antonio Jermal	Manager, Training
Hazlewood,Austin Michael	Tech, Election Tech Ctr
Hernandez,Juan Andres	Tech, Election Tech Ctr
Hernandez,Steven James	Tech, Election Tech Ctr
Hilliard,Christopher Clark	Specialist, Voting By Mail
Ho,Anh-Cat Khoa	Lead Tech, Election Tech Ctr
Hongkham,Keonarin Karen	Specialist, Admin
Hopkins,Mark R	Specialist, Voting By Mail
Hoskins,Christopher Edwin	Analyst, IT
Hudspeth,Teneshia E	Programmer, IT
Huff, Takerra	County Clerk
Ibarguen-Londono,Zuanny	Recruitment Coordinator
Susana	
Infante Savigne,Oscar	Coord, Comms
	Clerk, Compliance-ADA

Islam,MD Rumman UL	Clerk, Rec Logistics
Jackson,Adrian Micheaux	Lead Tech, Election Tech Ctr
Jackson,Tanicholas Nicole	Clerk, Voting By Mail
Johnson, Amiee	Election Supply Clerk
Johnson,Mark E	Supv, Operations
Johnson,Roynesha Jarvette	Clerk, Compliance-ADA
Johnson,Vernon LeRoy	Manager, Supplies
Jones,Donnella	Clerk, Voting By Mail
Joshua,Cassandra Jackson	Clerk, Rec Logistics
Kirkwood,Priscilla Alaysia	
Rajhria	CSR, Call Ctr
Krebs,Rebecca Anne	Clerk, HR Admin
Lam,Choi Fat	CSR, Call Ctr
Lawson,Ashley Shaya	Coord, Comms
Lee,Jennifer Peichii	Deputy Dir, Voting By Mail
Lemons, Marguerite	Instructor
Lin, JiaJing	Call Center Clerk
Lopez,Kenneth Ray	Tech, Election Tech Ctr
Lott,Bria Denise	Supv, Comms
Manley, Chilton	Election Supply Clerk
Mar Lara, Margarita	Trainer
Martinez Gonzalez,America	Manager, Call Center
Martinez,Francisco R	Manager, Election Tech Ctr
Mathews,Brianna Danielle	Tech, Election Tech Ctr
Maxie,Shannon Derrell	Tech, Election Tech Ctr
McDonald,Jamarkus	Tech, Election Tech Ctr
McFarland,Joseph D	Tech, Election Tech Ctr
McKenna,Alicia Y	Deputy Director, Recruitment
Mendez,Lizbeth	Tech, Election Tech Ctr
Mendoza, Antonio	Election Supply Clerk
Miler, Kyesha	Election Supply Clerk
Montgomery,Kortni Orelia	Coordinator, Comms
Munford,Lynn Nicole	Director, Outreach
Naqvi,Asim Hadir	Clerk, Compliance-ADA
Nash, Tyra	Instructor
Nasiri,Shakil Akhtar	Clerk, Compliance-ADA
Neal,Joy Kelice	Clerk, Rec Logistics
Nguyen, Ha	Election Supply Clerk
Nguyen, Vu	Case Analyst
Nguyen,Billy Bui	Coord, Comms
Nguyen,Duha Kim	Deputy Director, Compliance
Nguyen,Phillip Phi Hoang	Deputy Director, Operations
Nguyen,Tara Yen-Xuan	Coord, Comms
Nino,Marlon C	Tech, Election Tech Ctr
Nkrumah, Samuel	Election Supply Clerk

Obakozuwa,Rachelle Lorraine	Director, Recruitment
Orona,Christian Daniel	Tech, Election Tech Ctr
Ortiz Jr.,Armando	Analyst, IT
Ortiz,Christina Lopez	Clerk, Rec Logistics
Owens,Merissa Ann	Lead Clerk, Voting By Mail
Palacios,Elizabeth	Lead Clerk, Voting By Mail
Palmer,Erroll P	Clerk, Compliance-ADA
Perry, Tanyaniki	Recruitment Coordinator
Pineda,Jesus	Loc Coordinator, Operations
Poole,Glen Thomas	Tech, Election Tech Ctr
Pope, Solomon	Recruitment Coordinator
Ramirez,Karla	Lead Clerk, ADA
Rangel,Nathan Li	Clerk, Compliance-ADA
Rather,Terrence D.	Sr Specialist, Purchase
Reinhart,Cynthia Marie	Lead, Records Tech
Reinhart,Ian Jacob	Tech, Election Tech Ctr
Revilla, Camilio Rosario	Election Supply Clerk
Reyes, Angela	IT Analyst
Rivera,Gloria Renteria	Clerk, Voting By Mail
Robinson,Niambi Kilolo	Supply Lead, Operations
Rodriguez, Tino	Election Supply Clerk
Rodriguez,Christopher H.	Tech, Election Tech Ctr
Rodriguez,Judy Ann	Admn, Election Tech Ctr
Rodriguez,Kennedy Marie	Coord, Comms
Rogers,Jennifer Ann	Specialist, Comms
Romero Aparicio,Humberto Jose	Tech, Election Tech Ctr
Ruiz Resendiz,Moises	Clerk, Compliance-ADA
Ruiz, Lessle Ann	Recruitment Coordinator
Samudio,Melissa Marie	Admin Asst
Sandoval, Cecile	Call Center Clerk
Santos,Johana Elizabeht	Tech, Election Tech Ctr
Schouten,Bryan D.	Director, Election Tech Ctr
Scott Jr.,Lawrence Michael	CSR, Call Ctr
Selman,Angelita Renee	Clerk, Rec Logistics
Simon,Kermit D.	Deputy Dir, Election Tech Ctr
Smith,Dellanecia Shantela	Training Lead, Ops
Soto,Gabriel A	Tech, Election Tech Ctr
Spears,Hope Celeste	Coordinator, Comms
Spence,Malkia Renate	Supv, Comms
Stewart,Mya Celeste	Tech, Election Tech Ctr
Tankersley,L Marc	Director, IT
Thai,Thomas	Tech, Election Tech Ctr
Thomas, Joycelyn	Vote Center Coordinator
Tibbs,Elijah Maliek	Tech, Election Tech Ctr
Tice,Marc Allen	Director, Voting By Mail

Tran, Melinda	Vote Center Coordinator
Tran, Doan Dinh Khanh	CSR, Call Ctr
Tristan, Emily Marie	Coord, Content
Vanegas, Carlos Alfonso	Programmer, IT
Vasquez, Amanda Cecelia	Director, HR Elections
Vlach, Richard A	Clerk, Lead FPCA
Vuong, Christine	Supervisor, Recruitment
Washington, Angela	CSR, Call Ctr
Watson, Sierra Nicole	Tech, Election Tech Ctr
Webb, Linda	Call Center Clerk
Weekly, Victoria	Recruitment Coordinator
Williams, Tiffany	Case Analyst
Wilson, Jerod	Clerk, Compliance-ADA
Winn, Arilia	Recruitment Coordinator
Winston, Walter Nathan	Clerk, Rec Logistics
Wong, Muyu	Coordinator, Compliance
Wong, Sze Y	Coord, Comms
Woods, Shanequa	Recruitment Coordinator
Wycoff-Phelps, Dawnique	Clerk, Rec Logistics
Wyrick, Ayanna Naazia-Raine	Specialist, HR
Yarborough, Chanel	Recruitment Coordinator
Zavaleta, Rocio Crystal	Clerk, Compliance-ADA

Dated: June 16, 2025.

By:



Teneshia Hudspeth
Harris County Clerk



Kathryn Kase
Legal Counsel
Office of Harris County Judge Lina Hidalgo

CHRISTIAN D. MENEFEE
HARRIS COUNTY ATTORNEY

JONATHAN G.C. FOMBONNE
DEPUTY COUNTY ATTORNEY AND FIRST ASSISTANT

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ATTORNEYS FOR DEFENDANTS

VERIFICATION OF INTERROGATORY ANSWERS

I, Teneshia Hudspeth, am County Clerk for Harris County, Texas. I verify, under penalty of perjury under the laws of the United States of America, that the foregoing Responses to Plaintiffs' Set of Interrogatories are, to the best of my knowledge, true and correct.

Executed on June 16, 2025.



Teneshia Hudspeth
Harris County Clerk

VERIFICATION OF INTERROGATORY ANSWERS

I, Kathryn Kase, am Legal Counsel in the Office of Harris County Judge Lina Hidalgo.

I verify, under penalty of perjury under the laws of the United States of America, that the foregoing Responses to Plaintiffs' Set of Interrogatories are, to the best of my knowledge, true and correct.

Executed on June 16, 2025.



Kathryn Kase
Legal Counsel
Office of the Harris County Judge Lina Hidalgo

Exhibit 4

AFFIDAVIT

THE STATE OF TEXAS

§

§

COUNTY OF HARRIS

§

BEFORE ME, on this day did personally appear Kenneth A. Zimmern, who being known to me through personal knowledge, and his driver's licence or other identification card, to be the person who did depose under oath, and stated as follows:

1. My name is Kenneth A. Zimmern. I am over the age of eighteen (18) years; fully competent to make this affidavit; I am of sound mind, and personally acquainted with the facts herein stated, and they are true and correct.


2. I am a Plaintiff in the cause of action styled Civil Action No. 4:24-cv-04439; *Kenneth Zimmern; William Sommer; and Caroline Kane v. Judge Lina Hidalgo, in her official capacity as County Judge for Harris County, Texas; and Teneshia Hudspeth, in her official capacity as County Clerk for Harris County, Texas*, in the U.S. District Court of the Southern District of Texas, Houston Division.

3. I am licensed to practice law in the state of Texas, and I am in good standing with the State Bar of Texas. I have been admitted to practice before the United States Supreme Court, the U.S. Court of Appeals for the Fifth Circuit and the U.S. District Court for the Southern District of Texas. I have been practicing law in Texas for thirty-four years since 1991. My practice includes practicing throughout the state of Texas. My practice is primarily in the areas of personal injury law, torts, contract disputes and business litigation. I am an experienced trial attorney, and my practice regularly requires that I appear before state district judges in Texas on behalf of clients.

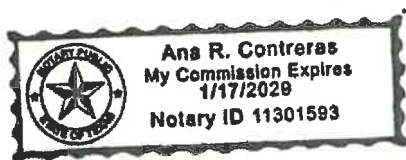
4. State district judges are elected in Texas. I am an active voter and I vote in almost every election. I consistently vote in the Texas primaries and all general elections. I want my votes in these elections to be secret and confidential. I do not want my votes discovered by, or distributed to, third-parties. When Harris County fails to preserve the confidentiality of my voting history, such information may be used against me. Specifically, if my vote is leaked to an elected judge or an elected administrative official, such judge or elected official may resent my vote, and retaliate against me or my clients during proceedings. If a judge, in front of whom I'm representing a client, disapproved of my voting history, there's a strong

chance that my client or I will suffer a reprisal. This prospect is a real threat and not theoretical. I am fearful that Harris County's failure to maintain the secrecy of my ballots will have negative consequences for me and my clients.

FURTHER AFFIANT SAYETH NOT.


Kenneth A. Zimmer

SUBSCRIBED AND SWORN TO BEFORE ME, on this the 7th day of July 2025, to certify which witness my hand and official seal of office.



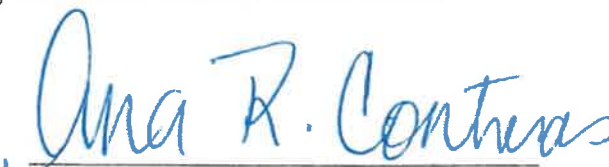

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

Exhibit 5

AFFIDAVIT OF WILLIAM F. SOMMER III

I am William F Sommer, III, over 18 years of age, of sound mind and legally competent to make this affidavit and have personal knowledge of the facts stated herein.

I am resident of Harris County, Texas, and citizen of the United States of America, a retired Petroleum Engineer with a career in the Oil and Gas Industry that spanned 45+ years in the Gulf of America and included multiple international and domestic assignments across all principal phases of industry-oriented engineering: Drilling, Production and Reservoir Engineering.

My professional preparation includes a Bachelor of Science in Mechanical Engineering (BSME), followed by a Master of Science in Petroleum Engineering (MSPetE) and baseline courses in a Master in Business Administration (MBA). I am a Registered Professional Engineer in the State of Texas and have been since 1995. My License is current.

My work with computers and Computer Sciences began as a undergraduate in 1973 on keypunch cards and with the use handheld calculators and then into the DOS world in 1986 with specific engineering applications. My knowledge base in applications grew and included acceptance as applications matured. I have designed and specified computer component requirements for workstations and laptop computers.

I am a long-time voter who cast my first ballot in 1974.

Since May, 2022, I have worked every election in Harris County as a Clerk, Alternate Judge and a Presiding Judge during Early Voting and Election Day with the sole exception of one special election in 2023. My status as an Election Judge through June 2026 is current.

As an Election Worker, I have been through multiple training classes. These training classes are designed to familiarize Election Workers with the equipment, setup, voting process, process a voter, and the handling of certain unique circumstances (e.g. provisional voters, damaged or spoiled ballots, etc).

The voter process commences with a voter entering the Vote Center with the intent to cast a ballot. He is asked to turn off any electronic device capable of audio and video recording (e.g. cell phone) and provide a document which provides proof of identity and includes a photo for comparison (e.g. Texas Drivers License). Upon presentation of the Photo ID a search is made via an epollbook for the voter, signature is confirmed, and if eligible, the voter receives a blank piece of ballot paper and an access code through the Controller, good for any terminal (DUO) with a similar color code. The controller is a computer or device connected to the voting terminal.

The voter selects a desired voting terminal available, inserts the ballot paper, enters the access code generated by the Controller, selects an appropriate language and starts making voting selections. After all the desired selections are made, the voter then selects the print option. The terminal will print the ballot on the reverse side, after which the voter can review all selections. If satisfied, the voter proceeds to the SCAN unit. If unsatisfied, or wants to make a change, that ballot can be spoiled and issued a new ballot and access code to repeat the process. The printed ballot includes the candidate preference and includes a QR code with voter details, which I have been advised includes Name, Date, Time, and Location.

At the scan unit, the ballot is inserted into a sealed unit until it is read. A scan of the ballot is recorded and sent to a thumb drive locked behind an access door. The paper ballot is then dropped into the locked and sealed scan unit box.

After the close of the Vote Center (either the last day of Early Voting period, or on Election Day), a strip is run to indicate the ballots submitted, the Ballot Box is unsealed, opened, and placed into a Ballot Bag. Damaged, Spoiled or Provisional Ballots are handled in a similar manner.

Ballot counts on the SCAN unit, Controllers, and epollbook are compared for match and all ballots are accounted for. Ballot Bags are sealed, and SCAN units are resealed and prepared for transport to a ballot collection center.

All paper ballots (pristine, damaged, spoiled, etc) remain available as back up information.


Ballots Bags, SCAN units, and other important pieces of equipment are then transported to a collection center by either a Harris County Sheriff's Officer or Constable after Early Voting period, or by a Vote Center Presiding Judge on Election Day. At the collection center, the SCAN units access doors are unlocked,

then the thumb drives are removed and inserted into a tabulator. It is at this point in the process that a ballot becomes a vote.

I am unfamiliar with any activities performed by County personnel from this point in time other the general knowledge that the voting equipment is prepare for the next election cycle.


William F. Sommer III

SUBSCRIBED AND SWORN TO BEFORE ME, on this 9th day of July, 2025, to certify which witness my hand and official seal of office.


NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

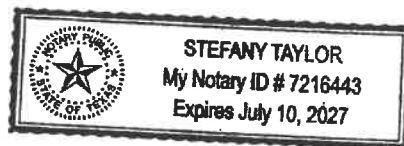


Exhibit 6

Affidavit

Statement of Facts Sworn Under Oath

Affidavit

I, Caroline Kane, Republican nominee for TX CD 7 2024, being duly sworn, do hereby make this affidavit and state as follows:

1. Personal Information

- Full Name: Caroline W Kane
- Address: 11902 Foxburo Dr, Houston, TX 77429
- Contact Number: 713.851.1388
- Date of Birth: 06.19.1970
- Occupation: CEO

I am the deponent in this matter and make this statement of my own knowledge, unless otherwise stated.

2. Introduction

I understand that by making this affidavit, I am swearing that the facts set out below are true to the best of my knowledge, information, and belief, and that I am aware of the consequences of making a false statement under oath.

3. Statement of Facts

I make the following statements of fact:

- On March 5, 2024, I was present at the Houston Metropolitan Multi-Center Polling Center at 1475 West Gray, Houston, TX and cast my ballot for the 2024 Republican Primary.
- This location is 15+ miles from my precinct.
- It later came to my attention that I was the only person from my precinct voting that day at the West Gray location and because of this, my ballot was available to be viewed.
- This has given me great distrust of the election process and made me apprehensive about voting in the future.

4. Notarization (if required)

On this 7th day of July, 2025, before me, the undersigned notary public, personally appeared Caroline W Kane, who is known to me or has provided satisfactory identification, and who signed and affirmed the truthfulness of this affidavit.

- Signature of Notary Public:

• Susana Bee

- Seal of Notary:

• _____

- Printed Name of Notary: Susana Bee

- [Insert Notary Name]

- My commission expires: 08/25/2026

- [Insert Expiration Date]



5. Closing Statement

I, Caroline W Kane, acknowledge that I have read and understood the contents of this affidavit, and that I voluntarily sign this document, fully aware of its legal significance.

Sworn to and subscribed before me on this 7 day of July, 2025.

Caroline W Kane

Signature of Deponent

Susana Bee

Signature of Notary Public

[End of Affidavit]

Exhibit 7

AN ACT

relating to the integration of early voting by personal appearance and election day voting, including the manner in which election returns are processed and other related changes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 12.004(d), Election Code, is amended to read as follows:

(d) If early voting by personal appearance is required to be conducted for extended hours under Section 85.005(c) ~~[or for weekend hours under Section 85.006(e)]~~, the registrar's office shall remain open for providing voter registration information during the extended hours ~~[or weekend hours]~~ that the main early voting polling place is open for voting.

SECTION 2. Section 19.004(a), Election Code, is amended to read as follows:

(a) Except as provided by Subsection (d), state funds disbursed under this chapter may be used only to:

(1) defray expenses of the registrar's office in connection with voter registration, including additional expenses related to:

(A) implementation of the National Voter Registration Act of 1993 (52 U.S.C. Section 20501 et seq.);

(B) complying with weekly updating requirements; and

(C) the employment of temporary voter registration personnel for not more than 39 weeks in a state fiscal year; and

(2) if the registrar's county has a population of less than 55,000, defray the cost to the registrar's county of keeping the polling places in the county open during the early voting period as required under Section ~~[Sections]~~ 85.005(c) ~~[, 85.006(e), and 85.064(d)]~~.

SECTION 3. Section 42.0051, Election Code, is amended to read as follows:

Sec. 42.0051. COMBINING CERTAIN PRECINCTS. (a) If changes in county election precinct boundaries to give effect to a redistricting plan result in county election precincts with fewer than 3,000 registered voters, a commissioners court for a general or special election, or for a primary election, the county executive committee of a political party conducting a primary election, may combine county election precincts notwithstanding Section 42.005 to avoid unreasonable expenditures for election equipment, supplies, and personnel [This section applies only to a county with a population of less than 1.2 million that does not participate in the countywide polling place program described by Section 43.007].

(b) A combined precinct under Subsection (a) is subject to the maximum population prescribed for a precinct under Section 42.006.

(c) [(a-1)] In a county that does not participate in the countywide polling place program described by Section 43.007, for a general or special election for which use of county election precincts is required, the commissioner's court [may,] on the recommendation of the county election board, or for a primary election for which use of county election precincts is required, the county executive committee of a political party conducting the primary election, may combine county election precincts notwithstanding Section 42.005 if:

(1) the commissioners court cannot secure a suitable polling place location under Section 43.031; and

(2) the location of the combined polling place adequately serves the voters of the combined precinct.

(d) [(e)] A combined precinct under Subsection (c) [this section] may not contain more than 10,000 registered voters.

(e) [(d)] A combined precinct may not be established if it:

(1) results in a dilution of voting strength of a group covered by the federal Voting Rights Act (42 U.S.C. Section 1973c et seq.);

(2) results in a dilution of representation of a group covered by the Voting Rights Act in any political or electoral process or procedure; or

(3) results in discouraging participation by a group covered by the Voting Rights Act in any political or electoral process or procedure because of the location of a polling place or other factors.

(f) For the purposes of appointing a presiding election judge and an alternate presiding judge to a county election precinct combined under this section, the combined precinct shall be considered a single precinct and the judges shall be appointed in accordance with the procedures provided under Chapter 32.

SECTION 4. Subchapter A, Chapter 43, Election Code, is amended by adding Section 43.0015 to read as follows:

Sec. 43.0015. DESIGNATION OF LOCATION: USE OF EARLY VOTING POLLING PLACE ON ELECTION DAY. The authority responsible for designating polling places under this subchapter shall, at a minimum, designate as locations for polling places on election day:

(1) the location designated as the main early voting polling place under Section 85.002;

(2) each location designated as a permanent branch polling place under Section 85.061; and

(3) each location designated as a temporary branch polling place under Section 85.062.

SECTION 5. Section 61.002(a), Election Code, is amended to read as follows:

(a) Immediately before opening the polls for voting on the first day of voting at a polling place during early voting or ~~and~~ on election day, the presiding election judge or alternate election judge shall confirm that each voting machine has any public counter reset to zero and shall print the tape that shows the counter was set to zero for each candidate or measure on the ballot.

SECTION 6. Section 62.005, Election Code, is amended to read as follows:

Sec. 62.005. EXAMINING BALLOT BOXES. On the first day of voting at a polling place during early voting or on election day, an ~~An~~ election officer shall open and examine the ballot boxes and remove any contents from the boxes.

SECTION 7. Section 65.002(a), Election Code, is amended to read as follows:

(a) Subject to Subsection (b), the presiding judge may direct the counting of ballots to occur on election day at any time after the polls have been open for one hour.

SECTION 8. Section 65.014(b), Election Code, is amended to read as follows:

(b) The returns must state:

(1) the total number of voters who voted at the polling place during early voting by personal appearance and on election day as indicated by the poll list; and

(2) the total number of votes counted for each candidate and for and against each measure.

SECTION 9. Sections 65.016(a) and (b), Election Code, are amended to read as follows:

(a) A county that holds or provides election services for an election and maintains an Internet website shall post on its public

Internet website for an election of public officials or of a governmental entity authorized by law to impose a tax administered by the county:

- (1) the results of each election;
- (2) the total number of votes cast;
- (3) the total number of votes cast for each candidate or for or against each measure;
- (4) the total number of votes cast for each candidate or for or against each measure at each polling location;
- ~~(5)~~ the total number of votes cast by personal appearance ~~[on election day];~~
- ~~(6)~~ ~~[(5)]~~ the total number of votes cast by personal appearance or mail ~~[during the early voting period];~~ and
- ~~(7)~~ ~~[(6)]~~ the total number of counted and uncounted provisional ballots cast.

(b) A city or independent school district that holds an election and maintains an Internet website shall post on its public Internet website for the city or independent school district, as applicable:

- (1) the results of each election;
- (2) the total number of votes cast;
- (3) the total number of votes cast for each candidate or for or against each measure;
- (4) the total number of votes cast for each candidate or for or against each measure at each polling location;
- ~~(5)~~ the total number of votes cast by personal appearance ~~[on election day];~~
- ~~(6)~~ ~~[(5)]~~ the total number of votes cast by ~~[personal appearance or]~~ mail ~~[during the early voting period];~~ and
- ~~(7)~~ ~~[(6)]~~ the total number of counted and uncounted provisional ballots cast.

SECTION 10. The heading to Section 66.0021, Election Code, is amended to read as follows:

Sec. 66.0021. ~~[ELECTION DAY]~~ VOTE TOTAL FOR CERTAIN ELECTIONS.

SECTION 11. Section 66.0021(b), Election Code, is amended to read as follows:

(b) The general custodian of election records for a primary election or the general election for state and county officers shall maintain a list that states the total number of votes cast in each precinct by personal appearance ~~[on election day]~~ that is available for public inspection not later than the day after election day.

SECTION 12. Sections 67.004(b) and (b-1), Election Code, are amended to read as follows:

(b) The 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 total number of votes received in each polling location; and
- ~~(3)~~ the sum of the precinct totals tabulated under Subdivision (1).

(b-1) The tabulation in Subsection (b) must also include for each precinct and for each polling location the total number of voters who cast a ballot for a candidate or for or against a measure in the election. The secretary of state shall prescribe any procedures necessary to implement this subsection.

SECTION 13. Section 67.017(a), Election Code, is amended to read as follows:

(a) After each election for a statewide office or the office of United States representative, state senator, or state representative, a district office, a county office, or a precinct office, the county clerk shall prepare a report of the number of votes, including ~~[early voting]~~ votes cast by mail and ~~[early~~

~~voting votes cast]~~ by personal appearance, received in each county election precinct and in each polling location for each candidate for each of those offices. In a presidential election year, the report must include the number of votes received in each precinct and in each polling location for each set of candidates for president and vice-president of the United States.

SECTION 14. Section 84.032(c), Election Code, is amended to read as follows:

(c) An applicant may submit a request ~~[after the close of early voting by personal appearance]~~ by appearing in person and:

- (1) returning the ballot to be voted by mail to the early voting clerk; or
- (2) executing an affidavit that the applicant:
 - (A) has not received the ballot to be voted by mail;
 - (B) never requested a ballot to be voted by mail;

or

(C) received notice of a defect under Section 87.0271(b) or (c) or 87.0411(b) or (c).

SECTION 15. Sections 85.001(a) and (e), Election Code, are amended to read as follows:

(a) The period for early voting by personal appearance begins on the 12th ~~[17th]~~ day before election day, ~~[and]~~ continues through the ~~[fourth]~~ day before election day, and includes Saturdays, Sundays, and holidays, except as otherwise provided by this section.

(e) For an election held on the uniform election date in May and any resulting runoff election, the period for early voting by personal appearance begins on the ninth ~~[12th]~~ day before election day, ~~[and]~~ continues through the ~~[fourth]~~ day before election day, and includes Saturdays, Sundays, and holidays.

SECTION 16. Sections 85.005(a), (b), and (c), Election Code, are amended to read as follows:

(a) Except as provided by Subsection (c), in an election in which a county clerk is the early voting clerk under Section 83.002, early voting by personal appearance at the main early voting polling place shall be conducted on each day ~~[weekday]~~ of the early voting period ~~[that is not a legal state holiday and]~~ for a period of at least nine hours, except that voting may not be conducted earlier than 6 a.m. or later than 10 p.m.

(b) In an election to which Subsection (a) does not apply, early voting by personal appearance at the main early voting polling place shall be conducted at least nine hours each day ~~[weekday]~~ of the early voting period ~~[that is not a legal state holiday]~~ unless the territory covered by the election has fewer than 1,000 registered voters. In that case, the voting shall be conducted at least four hours each day. The authority ordering the election, or the county clerk if that person is the early voting clerk, shall determine which hours the voting is to be conducted.

(c) Voting in a primary election, ~~[or]~~ the general election for state and county officers, or a special election ordered by the governor shall be conducted at the main early voting polling place for at least 12 consecutive hours on each [weekday] of the last four days ~~[week]~~ of the early voting period except that voting shall be conducted for at least nine consecutive hours on a Sunday, ~~[and the voting in a special election ordered by the governor shall be conducted at the main early voting polling place for at least 12 consecutive hours on each of the last two days of the early voting period]~~. Voting under this subsection may not be conducted earlier than 6 a.m. or later than 10 p.m.

SECTION 17. Sections 85.007(a) and (b), Election Code, are amended to read as follows:

- (a) The election order and the election notice must state:
- (1) the date that early voting will begin if under Section 85.001(d) the early voting period is to begin later than the

prescribed date; and

(2) the regular dates and hours that voting will be conducted under Section 85.005(b), including ~~and~~ ~~the dates and hours that~~ voting on Saturday or Sunday ~~[is ordered to be conducted under Section 85.006(a)]~~.

(b) The early voting clerk shall post notice for each election stating the dates and hours that voting on a Saturday or Sunday will ~~[is ordered to]~~ be conducted ~~[under Section 85.006(b)]~~.

SECTION 18. Section 85.032, Election Code, is amended by amending Subsection (d) and adding Subsection (g) to read as follows:

(d) Each custodian shall retain possession of the key entrusted to the custodian until it is delivered to, as applicable, the presiding judge of:

- (1) the central counting station;
- (2) the early voting ballot board; or
- (3) an election day polling place.

(g) Voted early voting ballots to be counted manually shall be kept in a separate ballot box from voted early voting ballots to be counted using automatic tabulating equipment.

SECTION 19. Section 85.033, Election Code, is amended to read as follows:

Sec. 85.033. SECURITY OF VOTING MACHINE. At the close of early voting each day, the early voting clerk shall secure each voting machine used for early voting in the manner prescribed by the secretary of state so that its unauthorized operation is prevented. The clerk shall unsecure the machine before the beginning of ~~[early]~~ voting the following day.

SECTION 20. Section 85.071, Election Code, is amended to read as follows:

Sec. 85.071. DELIVERY OF BALLOTS TO MAIN POLLING PLACE. (a) During the period for early voting by personal appearance, the ballots voted at a branch polling place ~~[, other than those cast on a voting machine,]~~ shall be:

- (1) retained securely at the branch polling place in a locked room accessible only to election officers; or
- (2) delivered by an election officer or designated law enforcement officer to the main early voting polling place at the close of voting each day.

(b) The unvoted ballots at the branch polling place ~~[, other than voting machine ballots,]~~ shall be retained or delivered with the voted ballots of the same ballot style but in a separate locked container.

(c) ~~At [All voted and unvoted ballots shall be delivered by an election officer or designated law enforcement officer to the main polling place at]~~ the close of early voting ~~[on the last day of voting]~~ at a ~~[the]~~ branch polling place:

(1) unvoted ballots shall be retained or delivered in the manner described by Subsection (b);

(2) voted ballots to be counted using automatic tabulating equipment shall be retained or delivered in the manner described by Subsection (a); and

(3) voted ballots to be counted manually shall be:
(A) delivered by an election officer or designated law enforcement officer to the main early voting polling place; and

(B) set aside for subsequent delivery to the early voting ballot board under Section 87.021.

(d) At the close of the polls on election day, voted early voting ballots to be counted using automatic tabulating equipment shall be delivered with the ballots voted on election day at the same polling place to the central counting station according to Section 87.129 and the procedures under Subchapter C, Chapter 127.

SECTION 21. Section 87.021, Election Code, is amended to read as follows:

Sec. 87.021. BALLOTS AND OTHER MATERIALS DELIVERED TO BOARD. The early voting clerk shall deliver to the early voting ballot board:

(1) in an election in which regular paper ballots are used for early voting by personal appearance, each ballot box, in accordance with Section 85.032(b), containing the early voting ballots voted by personal appearance to be counted manually and the clerk's key to each box;

(2) the jacket envelopes containing the early voting ballots voted by mail, regardless of the ballot type or voting system used;

(3) the poll lists prepared in connection with early voting by personal appearance;

(4) the list of registered voters used in conducting early voting; and

(5) a ballot transmittal form that includes a statement of the number of early voting ballots voted by mail, regardless of the ballot type or voting system used, that are delivered to the early voting ballot board, and in an election in which regular paper ballots are used for early voting by personal appearance, the number of names appearing on the poll lists prepared in connection with early voting by personal appearance.

SECTION 22. Section 87.022, Election Code, is amended to read as follows:

Sec. 87.022. TIME OF DELIVERY: GENERAL RULE. Except as provided by Section 87.0221 or ~~[7]~~ 87.0222, ~~[87.023, or 87.024,]~~ the materials shall be delivered to the early voting ballot board under this subchapter during the time the polls are open on election day, or as soon after the polls close as practicable, at the time or times specified by the presiding judge of the board.

SECTION 23. Section 87.0241(b), Election Code, is amended to read as follows:

(b) The board may not count early voting ballots until:

(1) the polls open on election day; or

(2) in an election conducted by an authority of a county with a population of 100,000 or more, or conducted jointly with such a county or conducted with such a county through a contract for election services, the fourth day before election day ~~[end of the period for early voting by personal appearance]~~.

SECTION 24. Section 87.103, Election Code, is amended to read as follows:

Sec. 87.103. COUNTING BALLOTS AND PREPARING RETURNS. (a) The ~~[early voting electronic system ballots counted at a central counting station, the]~~ ballots cast by personal appearance ~~[at precinct polling places,]~~ and the ballots voted by mail shall be tabulated separately and shall be separately reported on the returns.

(b) The ~~[early voting]~~ returns prepared at the central counting station must include any ~~[early voting]~~ results obtained by the early voting ballot board under Subchapter D.

SECTION 25. Section 87.104, Election Code, is amended to read as follows:

Sec. 87.104. DISPOSITION OF EARLY VOTING BALLOT BOARD RETURNS AND OTHER RECORDS. Returns ~~[Early voting returns]~~ or other early voting election records to be delivered to the central counting station under Section 87.063(b) ~~[or 87.084(b)]~~ shall be delivered to the appropriate authorities with the counting station records.

SECTION 26. Section 87.1231, Election Code, is amended to read as follows:

Sec. 87.1231. EARLY VOTING BY MAIL VOTES REPORTED BY PRECINCT. Not later than the time of the local canvass, the early voting clerk shall deliver to the local canvassing authority a report of the total number of early voting votes by mail for each candidate or measure by election precinct. ~~[The report may reflect~~

~~the total for votes by mail and the total for votes by personal appearance.]~~

SECTION 27. Subchapter G, Chapter 87, Election Code, is amended by adding Section 87.129 to read as follows:

Sec. 87.129. DISPOSITION OF CERTAIN BALLOTS VOTED BY PERSONAL APPEARANCE. Voted early voting ballots retained or delivered to the main early voting polling place under Section 85.071(c)(2) shall be treated as ballots voted on election day at the same polling place for purposes of processing and tabulation under Chapter 65.

SECTION 28. Section 102.003(b), Election Code, is amended to read as follows:

(b) An application must ~~[may]~~ be submitted ~~[after the last day of the period for early voting by personal appearance and]~~ before 5 p.m. on election day.

SECTION 29. Section 127.131(a), Election Code, is amended to read as follows:

(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 each ~~[that]~~ precinct and each polling location and sign the returns to certify their accuracy.

SECTION 30. Section 172.124(a), Election Code, is amended to read as follows:

(a) For 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.

SECTION 31. The following provisions of the Election Code are repealed:

- (1) Chapter 103;
- (2) Section 43.007(i);
- (3) Section 85.006;
- (4) Section 85.008;
- (5) Section 85.064(d);
- (6) Section 85.068;
- (7) Section 87.023;
- (8) Section 87.024;
- (9) Section 113.004(c); and
- (10) Section 129.057.

SECTION 32. As soon as practicable after the effective date of this Act, but not later than August 1, 2027, the secretary of state shall:

- (1) adopt rules and prescribe procedures required for the implementation of this Act; and
- (2) publish a report in the Texas Register stating that the secretary:
 - (A) has consulted with county election officials in this state; and
 - (B) is confident that the counties in this state are prepared to implement the provisions of this Act.

SECTION 33. The changes in law made by this Act apply only to an election ordered on or after the date the secretary of state publishes the report required by Section 32 of this Act.

SECTION 34. This Act takes effect September 1, 2025.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 2753 passed the Senate on May 6, 2025, by the following vote: Yeas 20, Nays 11; May 29, 2025, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 30, 2025, House granted request of the Senate; June 1, 2025, Senate adopted Conference Committee Report by the following vote: Yeas 20, Nays 11.

Secretary of the Senate

I hereby certify that S.B. No. 2753 passed the House, with amendments, on May 28, 2025, by the following vote: Yeas 111, Nays 20, one present not voting; May 30, 2025, House granted request of the Senate for appointment of Conference Committee; June 1, 2025, House adopted Conference Committee Report by the following vote: Yeas 84, Nays 45, three present not voting.

Chief Clerk of the House

Approved:

Date

Governor

SB 2407, SB 2431, SB 2443, SB 2477, SB 2514, SB 2515, SB 2520, SB 2543, SB 2544, SB 2569, SB 2570, SB 2580, SB 2581, SB 2587, SB 2601, SB 2610, SB 2615, SB 2781, SB 2786, SB 2790, SB 2798, SB 2801, SB 2807, SB 2885, SB 2900, SB 2965, SB 2972, SB 2986, SB 2995, SB 3031, SB 3034, SB 3039, SB 3059, SB 3070, SCR 3, SCR 5, SCR 8, SCR 9, SCR 18, SCR 21, SCR 30, SCR 32, SCR 49, SCR 53

FILED WITHOUT SIGNATURE OF GOVERNOR

June 20, 2025

SB 243, SB 458, SB 528, SB 670, SB 739, SB 777, SB 912, SB 963, SB 1036, SB 1252, SB 1302, SB 1307, SB 1313, SB 1371, SB 1455, SB 1493, SB 1498, SB 1534, SB 1677, SB 2069, SB 2073, SB 2137, SB 2367, SB 2480, SB 2589, SB 2778, SB 2835, SB 3047, SB 3048, SB 3050, SB 3052, SB 3053, SB 3056

SIGNED BY GOVERNOR

June 22, 2025

SB 1 (Line item veto), SB 25, SB 646, SB 785, SB 1362, SB 2206, SB 2753

FILED WITHOUT SIGNATURE OF GOVERNOR

June 22, 2025

SB 22, SB 650, SB 973, SB 1758, SB 1968, SB 2078

VETOED BY GOVERNOR

June 22, 2025

SB 1 (Line item veto), SB 3, SB 268, SB 614, SB 648, SB 974, SB 1032, SB 1253, SB 1278, SB 1838, SB 1937, SB 2111, SB 2501, SB 2878

VETO PROCLAMATIONS

The following Veto Proclamations by the Governor were filed in the Office of the Secretary of State:

PROCLAMATION

BY THE

GOVERNOR OF THE STATE OF TEXAS

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Senate Bill No. 1, the General Appropriations Act, from the Eighty-Ninth Texas Legislature, Regular Session, having been duly certified by the Comptroller of Public Accounts pursuant to Article III, Section 49a of the Texas Constitution, has been presented to me for action.

Today, I sign a two-year state budget that stays under all four constitutional spending limits and the statutory limit to spend less than the growth in population and inflation. The priorities funded in this budget include: \$51 billion in property relief funding; a historic \$2.6 billion investment in water infrastructure and additional ongoing revenues for water projects; \$5 billion for the Texas Energy Fund to create more