

1 Comments re: County Wide Polling Place proposed resolution (title is misleading)

2 WHEREAS, Burnet County has participated in the Countywide Polling Place Program since 2020, utilizing 20 voting precincts and 19 polling locations; and

Is the proposed resolution approved by the County party chairs, precinct chairs, or Voters?

Attach the County Party Resolutions in support of this?

3 WHEREAS, many constituents benefit from the ability to vote on Election Day at a polling location of their choice without having to adjust their work schedules, thanks to the Countywide Polling Place Program; and

How many constituents (voters) vote outside of their voting precinct on Election Day? Please quantify.

How many voters don't have to "adjust their work schedules" to vote on Election Day? Please quantify.

4 WHEREAS, the implementation of the Countywide Polling Place Program has contributed to a reduction in the number of provisional ballots in Burnet County; and

How many less ("reduced") provisional ballots now versus before CWPP? Please quantify.

5 WHEREAS, the requirement for precinct-based voting locations in Burnet County poses significant expenses and hardships for both the county and its constituents, as not every voting precinct has public buildings available for polling sites, and private facilities are not obligated to allow their use; and

Is there any estimate of the "significant expenses" in taxpayer dollars (without CWPP)?

Please identify the hardships.

The voting precinct map shows a polling location in every voting precinct. Are some private facilities no longer available?

6 WHEREAS, the Texas Legislature has authorized the use of electronic poll books under Texas Election Code Section 31.014, which enable voters to sign in electronically while verifying their identity with official identification, and confirming that they have not already voted via absentee ballot or at another polling location, thus dramatically reducing voter fraud and improving wait times for voters; and

How much voter fraud has been reduced in Burnet County? Data please to support the statement of fact?

Have the waiting times improved for voters in Burnet County since the adoption of CWPP? What data can support this statement of fact?

7

WHEREAS, electronic ballot marking devices allow voters to cast their ballots with the assistance of electronics on a physical ballot. These devices do not store or tabulate votes but enable voters to review their choices before submitting their ballot, providing reassurance that their vote is recorded accurately; and

True statement however in Burnet County "cast their ballots with the assistance of electronics on a physical ballot" is done via the DRE's (direct recording equipment) storing our votes?

8

WHEREAS, the National Disability Rights Network (NDRN) asserts that any state or jurisdiction that ends the use of accessible voting systems is in violation of existing laws and may face significant litigation risks. The Americans with Disabilities Act (ADA) recognizes that hand-marked ballots are not accessible and do not enable voters with disabilities to cast a private and independent vote; and

Absentee Ballot By Mail(ABBM) is a paper ballot marked by hand: is the NDRN asserting that our ABBM is a violation of the ADA?

9

WHEREAS, all Texas counties that use electronic poll books and electronic ballot marking devices are required by law to obtain approval and annual certification from the Secretary of State to ensure the security of the voting process for the public; and

Does Burnet County get annual certification for electronic ballot marking devices?

10

WHEREAS, the Commissioners Court of Burnet County believes that reverting to precinct-based voting would negatively impact the voting community, decrease voter turnout, and potentially disenfranchise a significant number of voters, including those with disabilities; and

By signing you are confirming your belief that precinct-based voting would negatively impact the voting community, decrease voter turnout, and potentially disenfranchise a significant numbers of voters.

11

NOW THEREFORE, BE IT RESOLVED, that the undersigned elected officials oppose any efforts by the Texas Legislature to eliminate countywide polling places, electronic poll books, and electronic marking devices.

Why aren't all 3 included in the title of the Resolution?

To: Christina Adkins, Acting Director of Elections,
Texas Secretary of State's Office
Elections Division Secretary of State
P.O. Box 12060
Austin, Texas 78711-2060

And

To: County Judges, Election Administrators, and All Other Recipients of this
Declaration of Truth and Petition for a Redress of Grievances

**Declaration of Truth Regarding Blatant Violations of Voter Privacy and
Ballot Secrecy in Counties Participating in the Texas Secretary of State's
Countywide Polling Place Program**

I, Barry Wernick, the undersigned, make this Declaration of Truth of my own free will, as a member of the voting population of the Great State of Texas, and I hereby affirm, under the laws of the United States of America, and of this state, that I am of legal age and of sound mind and hereby attest that the statements, averments and information outlined in this Declaration of Truth are true and correct to the best of my knowledge.

This Declaration of Truth is lawful notification to you, and is hereby made and sent to you pursuant to the national Constitution, specifically, the Bill of Rights, in particular, Sections I, IV, V, X, and the Bill of Rights of the Texas Constitution, in particular, Article I, Section I, II, VIII, XXIX, XXX, and pursuant to potential violations of Article 6, Section 2(c) of the Texas Constitution, and requires your written rebuttal to me, in kind, specific to each and every point of the subject matter stated herein, within 10 days, via your own sworn or notarized affidavit using true fact, valid law and evidence to support your rebuttal of the specific subject matter in this Declaration.

- 1) I was a candidate in the Republican Primary election of March 5, 2024. I requested a recount which began on Tuesday April 2, 2024 at the Dallas County Elections Department located in Dallas County at 1520 Round Table Drive Dallas, Texas 75247.
- 2) Throughout the recount process, as a candidate on the ballot whose race for HD108 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.

- 3) 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 Recount Supervisor Jennifer Stoddard-Hajdu's appointed recount committee chairs and assistants.
- 4) These documents included: "Voter Rosters" 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 are now publicly available at the Dallas County Election website (<https://dallascountyvotes.org>) and the Texas Secretary of State website ([Welcome to Texas Elections \(state.tx.us\)](https://www.sos.state.tx.us)).
- 5) Due to this county's participation in the Texas Secretary of State's Countywide Polling Place Program, ballots are no longer required to be cast in-precinct but must still be reported by precinct, even though the ballot may be cast in another precinct within the county of the election being held. This 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" by Dallas County Election Administrator Heider Garcia. 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 the data.
- 6) The "Voter Roster" is simply the record of every voter who casts a ballot, the location where he casts a ballot, and his assigned voting precinct.
- 7) Simple visual comparisons of the Voter Roster, the Batch Report by Polling Location, and the paper ballots now publicly available facilitate an improper breach of voter privacy, without the voter's prior knowledge or agreement, via the creation of the "Batch Report by Polling Location" document.
- 8) Creation of this document allows for any state or private entity 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 in a particular polling location, or where more than one voter registered in the same house from a certain precinct voted together, i.e. married couples, roommates, caregivers, etc.
- 9) I witnessed ballot boxes from different polling locations opened and presented alongside "Batch Report by Polling Location" documents and the hand-written "Voter Roster" check-in sheets. I watched the recount committee members pull ballots that could immediately, decisively, certainly determine many voter selections from their very ballot, being that many "Batch Reports

by Polling Location” showed one, ten, and even over 30 voters who were the only voters from their precinct to vote at that polling location.

10) Blocking access to these paper records, which are part of an auditable paper trail mandated federally by the HELP AMERICA VOTE ACT and by State law, does NOT alleviate the severe violations witnessed. No state or private entity should be able to identify a ballot with a voter. To protect the secrecy of the ballot, you must immediately advise to OPT OUT of the Countywide Polling Place Program and return to in-precinct voting, or at the very least, to combined precinct voting, IMMEDIATELY.

11) VOTING SYSTEM STANDARDS of the Help America Vote Act (HAVA) provide for audit capacity requirements per U.S. Code Title 52 Sec. 21081 (a) (2).

a. *In general*

The voting system shall produce a record with an audit capacity for such system.

b. *Manual audit capacity*

i. *The voting system shall produce a permanent paper record with a manual audit capacity for such system.*

ii. *The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced.*

iii. *The paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used.*

12) Texas Government Code Sec. 552.001 POLICY: CONSTRUCTION.

a. *Under the fundamental philosophy of the American constitutional form of representative government that adheres to the principle that government is the servant and not the master of the people, it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. The provisions of this chapter shall be liberally construed to implement this policy.*

b. *This chapter shall be liberally construed in favor of granting a request for information.*

13) **Texas Election Code Sec. 122.001. VOTING SYSTEM STANDARDS.**

a. *A voting system may not be used in an election unless the system:*

10. *is capable of providing records from which the operation of the voting system may be audited.*

14) No in-person voter has been made aware, or been offered a waiver to sign, waiving his right to cast his ballot in secret and free from potential intimidation and exposure. The following Constitutional Law and corresponding state statutes outline the severe violations uncovered in Dallas County and confirmed to be occurring in each of the 96 counties who have opted in to the Texas Secretary of State's Countywide Polling Place Program.

15) **Texas State Constitution Article 6, Sec. 2 (c):**

The privilege of free suffrage shall be protected by laws regulating elections and prohibiting under adequate penalties all undue influence in elections from power, bribery, tumult, or other improper practice.

16) **Texas Election Code Sec. 1.0015. LEGISLATIVE INTENT.**

It is the intent of the legislature that the application of this code and the conduct of elections be uniform and consistent throughout this state to reduce the likelihood of fraud in the conduct of elections, protect the secrecy of the ballot, promote voter access, and ensure that all legally cast ballots are counted.

17) **Texas Election Code Sec. 62.0115. PUBLIC NOTICE OF VOTERS' RIGHTS.**

a. *The secretary of state shall adopt rules providing for publicizing voters' rights as prescribed by this section. The rules must require that a notice of those rights be publicized:*

1. *by being posted by an election officer in a prominent location at each polling place;*
2. *on the Internet website of the secretary of state;*
3. *through material published by the secretary of state; or*
4. *in another manner designed to give voters notice of their rights.*

b. *Except as revised by the secretary of state under Subsection (d), the notice must state that a voter has the right to:*

1. *vote a ballot and view written instructions on how to cast a ballot;*
2. *vote in secret and free from intimidation;*

18) **Texas Election Code Sec. 62.009. DISARRANGING BALLOTS FOR VOTERS' SELECTION.**

- a. *As needed for voting, an election officer shall disarrange a supply of the ballots so that they are in random numerical order.*
- b. *The disarranged ballots shall be placed face down on a table in a manner preventing an election officer or other person from ascertaining the number of a ballot selected by a voter.*

19) **Texas Election Code Sec. 122.001. VOTING SYSTEM STANDARDS.**

- a. *A voting system may not be used in an election unless the system:*
 - i. ***preserves the secrecy of the ballot;***

20) This immediate reversal to in-precinct voting must include the EARLY VOTING period as well.

21) **Texas Election Code 81.002. APPLICABILITY OF OTHER CODE PROVISIONS.** *The other titles of this code apply to early voting except provisions that are inconsistent with this title or that cannot feasibly be applied to early voting.*

22) All 96 Texas counties approved to participate in the Countywide Polling Place Program are aware of this phenomenon, but not one has alerted its citizens to the concerns outlined in this Declaration of Truth. The Texas Secretary of State and all 96 participating Texas county Elections Departments are aware of this violation and are sitting in violation of their oaths and citizens' rights.

23) The Texas Secretary of State is mandated by law to report on complaints or concerns regarding the Countywide Polling Place Program in **Texas Election Code 43.007 COUNTYWIDE POLLING PLACE PROGRAM.**

- (j) *Not later than January 1 of each odd-numbered year, the secretary of state shall file a report with the legislature. The report must include any complaints or concerns regarding a specific election that have been filed with the office of the secretary of state before the preparation of the report and any available information about voter turnout and waiting times at the polling places. The report may include the secretary of state's recommendations on the future use of countywide polling places and suggestions for statutory amendment regarding the use of countywide polling places.*

Violation of the above stated statutes may facilitate undue influence in Texas Elections, by obfuscating the lawful process and thereby rendering any attempt at an audit totally ineffective. You have taken an oath to support and uphold the Constitutions and are constitutionally mandated to abide by that oath in the performance of your official duties.

You have no constitutional authority, or any other form of valid, lawful authority, to oppose, and violate the very documents to which you swore or affirmed your oath and under which you were delegated by the people the limited authority to conduct the duties of your office.

The above stated positions are true, factual, lawful, and constitutionally ordained.

The issues arising from these violations of State statute are apparent, blatant, and egregious. I attest that the above listed State statutes have been violated, that you are standing in violation of Federal and State Laws, and violations of said statutes are inherently violations of my right to free suffrage, as above-stated election and ethics codes were drafted and codified in order to protect our elections from undue influence as outlined in the Article 6 Section 2(c) of the Texas State Constitution.

A lawful notification has been provided to you stating that if you do not rebut the statements, charges, and averments made in this declaration of truth, then, you tacitly agree with and admit to them. Pursuant to that lawful notification, if you disagree with anything stated under oath in this declaration of truth, then rebut to me that with which you disagree, with particularity, within 10 days of receipt thereof, by means of your own written, notarized declaration of truth, based on specific, true, relevant fact and valid law to support your disagreement, attesting to your rebuttal and supportive positions, as valid and lawful, under the pains and penalties of perjury under the laws of the United States of America and this Great State of Texas.

An un rebutted declaration of truth stands as truth and fact before any court.

US v Tweel, 550F2d. 297. *"Silence can only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading."*

Your failure to respond, as stipulated, is your tacit agreement with and admission to the fact that everything in this declaration of truth is true, correct, legal, lawful, and is your admission attesting to this, fully binding upon you in any court of law in America, without your protest, objection and that of those who represent you.

Declarant further sayeth naught.

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Barry Wernick

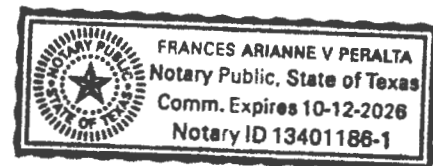
x Barry Wernick

Signed and sworn before me, a Notary Public, Barry Wernick personally appeared before me, and proved to me on the basis of satisfactory evidence to be the man whose name is subscribed herein. In the State of Texas, County of Dallas swear and affirm that on this day, May 16, 2024, the above named declarant, Barry Wernick, personally appeared before me, and of his own free will, sworn and signed before me this Declaration of Truth regarding issues found in the Countywide Polling Place Program of the March 5, 2024 Primary in the Great State of Texas. I swear under PENALTY OF PERJURY under the Laws of the State of Texas that the foregoing paragraph is true and correct. WITNESS my hand and official seal.

[Signature]
Notary Public/Jurat

My Commission Expires: 10/12/2026

Seal:



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

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

Plaintiffs,

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,

Defendants.

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. Throughout the recount process, 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.

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 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. I continue to 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>.

16. 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>)

17. 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>)

18. 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>)

19. 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>)

20. I have also shared these public testimonies on my "X" social media account where they have been viewed more than tens of thousands of times.

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

22. Because these 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.

23. 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).

24. 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.

25. 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.

26. 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.

27. 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%

28. 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%

29. There are currently 96 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.

30. 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.

31. 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.

32. 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.

33. 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.

34. 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).

35. 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.

36. An independent analyst, W. Joe Washburn, associated with the Dallas County Republican Party working in isolation 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.

37. 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. State Senators Angela Paxton, Royce West, Molly Cook, State Senate Candidate Joseph Trahan
- b. State Representatives Texas House Elections Committee Chair Reggie Smith, Venton Jones, Victoria Neave Criado, and State Representative Candidates Aimee Ramsey and myself – Barry Wernick
- c. US Congressmen and US Senate Candidate Colin Allred, US Congressional Candidate Ruth “the Truth” Torres, US Congressional Candidate Caroline Kane
- d. Court of Appeals Justices for the Fifth District: Bonnie Lee Goldstein, Erin E. Nowell, former Justice William Whitehill
- e. Dallas County Judges: Dominique Collins, Martin Hoffman, Eric Moye, Mary Brown, Nancy Purdy, Tonya Parker
- f. Former Dallas County Sheriff and 2024 Democrat Primary Candidate Guadalupe Valdez (Primary and Joint and General Early Voting)
- g. Dallas Mayors Tom Leppert, Eric Johnson (and his Security Detail)
- h. 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 Holly

- i. Dallas City Officials: Councilman Pastor Zarin Gracey, City Attorney Patricia Medrano
- j. 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 Preeti Malladi (Primary and Joint and General Early Voting).
- k. 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
- l. Harris County Officials: Commissioner Adrian Garcia, Constable Sherman Eagleton, School Board Candidate Joshua Wallenstein, Candidate for Harris County DA Dan Wayne Simons
- m. Texas Court of Appeal for the 14th District Justices: Frances Bourliot, Kenneth Price Wise
- n. Former Chief of the Texas Court of Appeals for the 1st District Justice Sherry Radack
- o. Harris County Judges: Juanita Alexandra Jackson, Michael Charles Englehart, Veronica M. Nelson, Kevin Albert Murray (Magistrate and News Anchor)

- p. Harris County Democratic Party Office and Staff: Roberto Alas, Michael Bouvier, Christian Mendiola, Alejandro Mier
- q. 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
- r. Other Prominent Figures: SMU Computer Science Associate Professor Richard Barr, Dallas Morning News Politics Reporter Dallas Bureau Everton Bailey, Jr., Dallas Morning News Politics Reporter Austin Bureau Phillip Jankowski, Former Republican Party of Texas Chairman Matthew Rinaldi, Bexar County Precinct Chair Political Consultant Podcaster Luke Macias, Former Texas Real Estate Commissioner Weston Martinez, Ted Cruz Campaign Northern District Director Michael Flusche, D'Andra Simmons, Les Weisbrod

38. 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.

39. 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>.

40. On September 30, 2024, a member of my team, Stuart Wernick, submitted 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..."

41. Aside from the fact that the redaction of this information may violate 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.

42. 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."

43. The requested CVR images were provided with none of the Secretary of State advised redactions. Because redactions are not required, it is possible for anyone who makes a public information request to receive the unredacted documents and trace a voter back to their

individual ballot, as I have done in many instances, including in my most recent request to Harris County.

44. 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.

45. 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

46. 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.

47. *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.”

48. 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

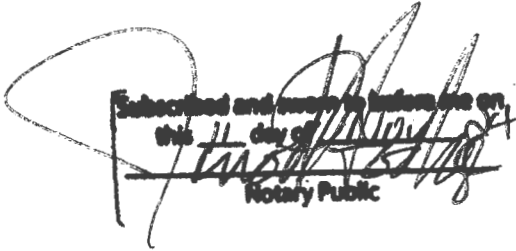
our government is dependent upon the honesty and purity of the ballot the secrecy of the ballot had better be scattered to the four winds, rather than have such secrecy shield corruption in elections, * * * better a thousand times that the individual's vote should be spread upon canvas under calcium 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.”

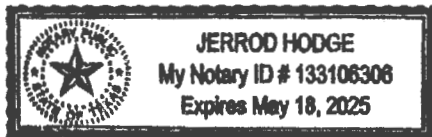
I declare under penalty of perjury that the foregoing is true and correct.

Executed this 11 day of November 2024.


Barry Wernick

NOTARY SEAL


Subscribed and sworn to before me on
this 11 day of November
Notary Public



REDACTION – EXERCISE IN FUTILITY
BALLOT SECRECY VIOLATED AT INCEPTION
By Barry Wernick

Redacting Information Is Not A Temporary Fix or Band-Aid.

It Does Not Preserve Ballot Secrecy.

It Makes Elections Even More Unauditable.

Countywide Voting Is Unlawful.

Covering Up A Crime By Redacting Is Unlawful.

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). (emphasis added.)

But redacting information from the public is not the solution because it does not allow for the ability for the public to audit as is legally required by federal and state law. Further, the redactors from the elections department are left being the only ones who retain the ability to audit. We shouldn’t allow the elections departments in any county to be the only ones to audit themselves. Would the IRS allow us to audit ourselves?

In terms of redaction, it is clear on its face 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 is permissible, it doesn’t eliminate the ability of the “redactors” from knowing a citizen’s ballot. This means that the inherent flaw in Countywide Voting is that it can never provide for ballot secrecy. It’s simply impossible. As a result, countywide voting is, in and of itself, unconstitutional because there is no way for it to ever provide ballot secrecy.

What is worse is the only ones who are privy to the information being redacted are those whose jobs the public has created and whose salaries the public pays – elected and non-elected government entities including the election department and even the third-party vendors whose electronic voting systems are used to administer such information. This is not only unjust. It is tyranny.

“AUDITABILITY TRUMPS SECRECY SINCE OUR FOUNDING”

Barry Wernick

If, as a result of Countywide Voting, such information that is required to audit an election is also personally identifiable, then we are put in a position where we must choose between transparent election auditability and ballot secrecy because there is no legal way to strike a balance between the two where voters are not assigned to in-precinct or combined precinct polling locations.

Due to the unique situation created by Countywide Voting, if such information on its own is considered by elections departments to be personally identifiable, County Attorneys representing counties in support of Countywide Voting have cited cases that only speak to ballot secrecy and not auditability, and therefore, those cases are inapposite to the instant situation. Instead, we must follow precedent in *Sewell v. Chambers*, 209 S.W.2d 363 (Tex. App. 1948) as it 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.”

For the basis of its reasoning, the court cites the 1911 Missouri Supreme Court case *Gantt v. Brown et al.*, 238 Mo. 560, 142 S.W. 422, 425, “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.”

The issue and importance of auditability of elections over ballot secrecy goes even further back to our Founding Father, Patrick Henry, who on June 5, 1788, proclaimed: “We are told that the yeas and nays shall be taken, and entered on the journals. This, sir, will avail nothing: it may be locked up in their chests, and concealed forever from the people; for they are not to publish what parts they think require secrecy: they may think, and will think, the whole requires it.”