

# Texas Election Protection

**A Post-Election Report**

**February 2023**

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**2022**

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# Foreword

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As a former voting rights attorney, I know that our free and fair elections are what set American democracy apart, and we cannot take it for granted. We must protect it. It's why every day I fight so hard in Congress to protect and advance voting rights. And it's why I am proud to support the election protection work detailed in this report.

On January 6th, 2021 – we came dangerously close to losing our democracy. What we saw on that day was not only a fundamental attack on a core tenant to our democracy, the belief in a peaceful transition of power – but the shameful actions we witnessed also served to legitimize attempts to undermine trust in our very republic.

Months later, when protecting voting rights should have been a priority – state legislators in Texas passed some of the most restrictive and discriminatory voter suppression bills in the country.

Texas should be a leader in our commitment to freedom and representation. Instead, our state continually ranks as one of the hardest states to vote in the country. And instead of addressing that problem by passing laws that would make voting and elections more secure, convenient, and efficient, lawmakers in Texas continually seek to make voting harder – which disproportionately impacts seniors, students, and Black and Brown communities across Texas.

As the legislature seeks to go even further and erect new barriers between Texans and the ballot box, I'm proud to support the work being done by Common Cause Texas and the Election Protection coalition to help Texans navigate those barriers.



Last Congress we passed the bipartisan Electoral Count Reform Act to ensure something like January 6 never happens again. But rest assured our work is not done. I will not rest until we restore the Voting Rights Act and pass meaningful federal legislation to ensure every eligible voter can cast a ballot safely, securely, and free from intimidation.

*Congressman Colin Allred (Texas 32nd District)*

# About Common Cause Texas



Common Cause is a nonpartisan, grassroots organization dedicated to upholding the core values of American democracy. We work to create open, honest, and accountable government that serves the public interest; promote equal rights, opportunity, and representation for all; and empower all people to make their voices heard in the political process.

Common Cause Texas has an innovative, pragmatic, and comprehensive pro-democracy agenda. We're here to build a better democracy in our Lone Star State. Using a powerful combination of grassroots organizing, coalition building, policy development, public education, lobbying and advocacy, we work towards solutions that will reduce the influence of money in politics, end partisan gerrymandering and ensure our elections are free, fair and accessible.

Since 2012, Common Cause Texas has participated in the nonpartisan Election Protection Coalition. Election Protection is an initiative led nationally by the Lawyers' Committee for Civil Rights Under Law. As part of the state and national nonpartisan Election Protection coalitions, we have recruited, trained and placed grassroots poll monitors for every major election cycle.



# Author Acknowledgements

Our team at Common Cause Texas is grateful to partners in the Election Protection Coalition, our state staff, and our national team who were instrumental in protecting the freedom to vote for everyday Texans. We also thank our donors and funders for resourcing this critical program.

I also want to extend a big thank you to the team at Common Cause Texas; Marliza Marin & Anthony Gutierrez for the research and writing assistance, for tolerating my constant questions, and for leading the administration of the Election Protection field program (and the whole organization) as our work to protect Texas voters only continues to grow. Sofia Lozano, for your attention to detail and commitment to “yassifying” our reports, and more broadly for your commitment to making our content fun & accessible. Our fall Election Protection fellows (Abigail Avila, Alexis Kosloski, Dee Martinez, Haley Smith, Jocelyn Carrera, Pranav Jaganathan, and Reeves Mosely) for jumping in, excelling in a high speed environment, and being eager to share election protection resources on your campuses and in your communities. Thank you to our Spring Democracy Fellows (Alexis Kosloski, Donaldo Elias Elias, Haley Smith, and Pranav Janagathan) who have assisted in the critical background and policy research essential to the development of this report. Last, but not least, thank you to our friends in the Common Cause national office, Gino Nuzzolillo, Herb Meisner, Izzy Bronstein, Jack Mumby, Jesse Littlewood, Michael Mireles, Rob Kerth, Sarah Ovaska, and many others who helped build and execute tools used by our coalition to place volunteers, send tens of thousands of texts to alert voters of extended hours, administer the digital misinformation and social media monitoring program, assist with digital tools, and support our communications strategy. Finally, thank you to everyone who provided contributions and feedback to this report.

# EXECUTIVE SUMMARY

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The Texas Constitution makes clear that “all political power is inherent in the people.”<sup>1</sup> But, for decades, Texas has betrayed this promise as state lawmakers continually erect voting barriers in our elections process which inhibit power from reaching the hands of everyday Texans.

“*all political power is inherent in the people*”

Texas’ racial turnout gap has only widened in recent elections. The 2020 election marked the largest turnout gap between white and Black registered voters in nearly a quarter century, despite Texans of color accounting for 95 percent of the state’s population growth according to the 2020 census.<sup>2</sup> The newest Texans, mostly people of color, only face newer and more substantial barriers to casting their votes.

In 2021, emboldened by the Big Lie and without federal standards for fair elections in place, the Texas legislature and Gov. Greg Abbott passed one of the most strident anti-democracy laws in the country – Senate Bill 1. Advocacy organizations like ours warned of the dangers of this bill, while thousands of Texans protested, rallied, and testified in hearings at the Capitol to try and stop the bill. But an unprecedented number of dangerous and poorly-planned new processes were passed into law, causing high vote-by-mail rejection rates during the Spring primaries due to a crisis manufactured by then-Secretary of State John B. Scott's office failure to provide guidance to counties. Scott resigned from his position barely a month after the 2022 General Election.

**41<sup>st</sup>**  
**in voter turnout**

Despite the second largest number of registered voters, and the second largest voter eligible population – Texas ranks 41st in turnout.<sup>3</sup>

Texas' barriers to fair representation hold America back from leading the world in fulfilling the promise of our democracy. New rules, like 2021's anti-voter SB 1, designed to make voting more difficult and inconvenient, now directly contribute to America's status as 31st out of 50 countries in turnout of the voting-age population.<sup>4</sup> Texas was the 46th hardest state to vote in during 2022, a further downgrade from 2020 when the state came in 45th, according to a recent "cost-of-voting index" compiled by political scientists at Northern Illinois University.<sup>5</sup> While other states have moved ahead by passing measures improving the voting process, experts found that Texas "failed to keep pace with reforms like online voter registration, no excuse absentee voting, and automatic voter registration, which have taken place in other states."

These new barriers to voting and our chronically underfunded election made it difficult for some to vote in 2022.

Reports to the 866-OUR-VOTE nonpartisan hotline included reports of:

- Paper shortages at more than 20 Harris County polling locations on Election Day which led to delayed openings and hours long delays at 67 polling locations across 12 counties,
- Curbside voting issues at polling locations in 10 counties,
- Intimidation towards voters reported in nearly 80 counties,
- 30 voters with arrests or convictions called requesting information on their voter eligibility,
- Long waits on college campus polling stations in 23 counties, and poor signage or adequate parking at 15 different campuses.

These problems are not new. But their persistence shows how hyper-partisan politicians have neglected to address antiquated laws, such as the absence of online voter registration. Lawmakers' failures not only to contribute to voter suppression, but add to the burdens faced by Texans through new election changes designed to keep some people away from the polls.

We publish this report to warn Texas voters, and lawmakers, that we will see voter suppression and turnout worsen in upcoming elections unless overdue improvements are made.

# Overview of the 2022 Texas Election Protection Efforts

In 2022, Common Cause Texas responded to escalating voter suppression tactics by building on our previous work. We expanded options for volunteers to safely serve as roving or stationary poll monitors, amid COVID-19 concerns and increasing partisan tensions. Moreover, we provided virtual options to volunteers through our innovative online program where text bankers and social media monitors provided direct assistance to voters. We amplified accurate pro-democracy information and identified, tracked, and removed false online content about elections, voting, and democracy. Directly reaching voters with accurate, pro-democracy information and defending against online voter suppression efforts will be a critical task in the years to preserve trust in our democratic process.

Ahead of the 2022 election cycle, the Texas Election Protection Coalition worked on expanding to add over 20 new partners, including local & community-led organizations, labor unions, and interfaith groups. The 2022 Coalition members included American Civil Liberties Union of Texas, Anti-Defamation League, Asian Texans for Justice, Clean Elections Texas, Common Cause Texas, Common Ground for Texans, Disability Rights Texas, Houston in Action, Lawyers' Committee for Civil Rights Under Law, League of Women Voters of Texas, Mexican American Legislative Caucus, Mi Familia Vota, NAACP Legal Defense Fund, NAACP, NALEO, Our Vote Texas, Texas Civil Rights Project staff, Texas Civil Rights Project's Volunteer Attorney Task Force, Voto Latino, and many more.

Election protection efforts consist of two main components: (1) on-the-ground at polling locations, face-to-face support ("field volunteers"), and (2) over-the-telephone legal support ("help centers"). Volunteers are required to complete nonpartisan training administered by voting rights experts to ensure they understand how to help voters cast their ballots in Texas elections. Field volunteers also assist voters and report incidents or questions into the national, nonpartisan 866-OUR-VOTE hotline which was available in

an expanded number of languages in 2022 including English, Spanish, Mandarin, Cantonese, Korean, Vietnamese, Bengali, Urdu, Hindi, Tagalog, Arabic, and American Sign Language (through video calls) along with a secondary hotline managed by Disability Rights Texas.

For the 2022 election, the coalition recruited over 2,100 field volunteers from over 30 counties in Texas--making the grassroots volunteer operation this year nearly six times larger than in 2018. Field volunteers completed more than 1,900 hours of on-the-ground support for voters across Texas.

Since 2020, the Texas Election Protection coalition has offered a broader range of volunteer opportunities to account for the pandemic and online disinformation campaigns targeting our elections. In addition to stationary poll monitors, who answer questions from voters at assigned priority polling locations to help voters call into the hotline, we continued our successful roving poll monitor role. This contactless role allows volunteers to check on the accessibility of multiple polling locations in their area, and report issues back to our hotline and command center.

In total, 2,950 calls reporting incidents or questions were logged from Texas voters during the main General Election period, categorized as October 1st through November 15th, and 5,706 over the course of 2022. In instances where the caller self-identified their race/ethnicity – more than half identified as voters of color, a majority being Black or Hispanic.<sup>6</sup>

For the virtual help-centers, coalition partner Texas Civil Rights Project trained 418 volunteers of lawyers, law students, and paralegals, who completed over 1,100 shifts and provided more than 4,400 hours of live legal support for Texas voters and the nonpartisan Election Protection hotline.

**+ 2,100**

**FIELD VOLUNTEERS**

**+ 30**

**TEXAS COUNTIES**

**6X**

**LARGER THAN 2018**

# Introduction

Following the 2020 election, Texas lawmakers —many of whom subscribed to the widely spread misinformation about voter fraud — introduced over 450 new bills to change Texas’ elections in 2021 alone. Governor Abbot signed A dozen of these bills into law.

**Only 2 of the new laws improved the freedom to vote for eligible and registered Texas voters.<sup>7</sup>**

In addition to SB 1, Texas passed other anti-democracy laws, including anti-civics laws as well as unlawfully racially discriminatory redistricting maps that gave incumbent parties an unconstitutional advantage and diluted the voting power of Black and Brown Texans. Gov. Greg Abbott also tapped the Office of the Secretary of State to launch a politically-motivated probe into the 2020 elections targeting Harris and Dallas counties, two of the state’s most racially diverse communities. All of which makes our election protection work heading into the 2022 elections more vital and necessary than ever before.

The U.S. Supreme Court’s decision in *Shelby County v. Holder* (2013), which struck down the core of the Voting Rights Act, enabled Texas to pass anti-democratic laws like SB1. The Court opened the floodgates for states like Texas – who had previously been required to “preclear” any changes to their elections rules with the federal government due to a history of race-based voter discrimination – instead allowing them to pass previously blocked laws restricting voting access. Within 24 hours of the Shelby decision, then-Texas Attorney General Greg Abbott announced that Texas would implement a strict photo ID law — one previously blocked by the Federal Government for racial discrimination against African-American and Latino voters. 2023 marks one decade since this ruling, and SB 1 is just the most recent example of unlawful and discriminatory attempts by Texas lawmakers to suppress Texas voters.

# 18-24

**year old voters saw a**

# 14%

**increase since 2018**

# 8.1 million voters

**in 2022**

Undeterred Texans are still fighting to exercise their right to vote, and doing so at historic levels. The number of young voters, ages 18-24, also rose 14% for those who were registered to vote in Texas in November 2022 when compared with in November 2018.<sup>9</sup> Texas saw nearly half, or 8.1 million of the state's 17.7 million registered voters, cast ballots in the 2022 midterm election— higher turnout than all but one midterm election in the state's history for the last 20 years except 2018.<sup>10</sup> In the years leading up to the 2022 election, Texans saw a flurry of engagement and activism across the variety of issues being attacked in the increasingly polarized Texas legislature. Nevertheless, the total number of registered voters in Texas grew by nearly 2 million since 2018, climbing to the historic height of nearly 18 million Texans registered to vote.<sup>11</sup>

# SUMMARY OF PROBLEMS IN THE 2022 TEXAS MIDTERM ELECTION

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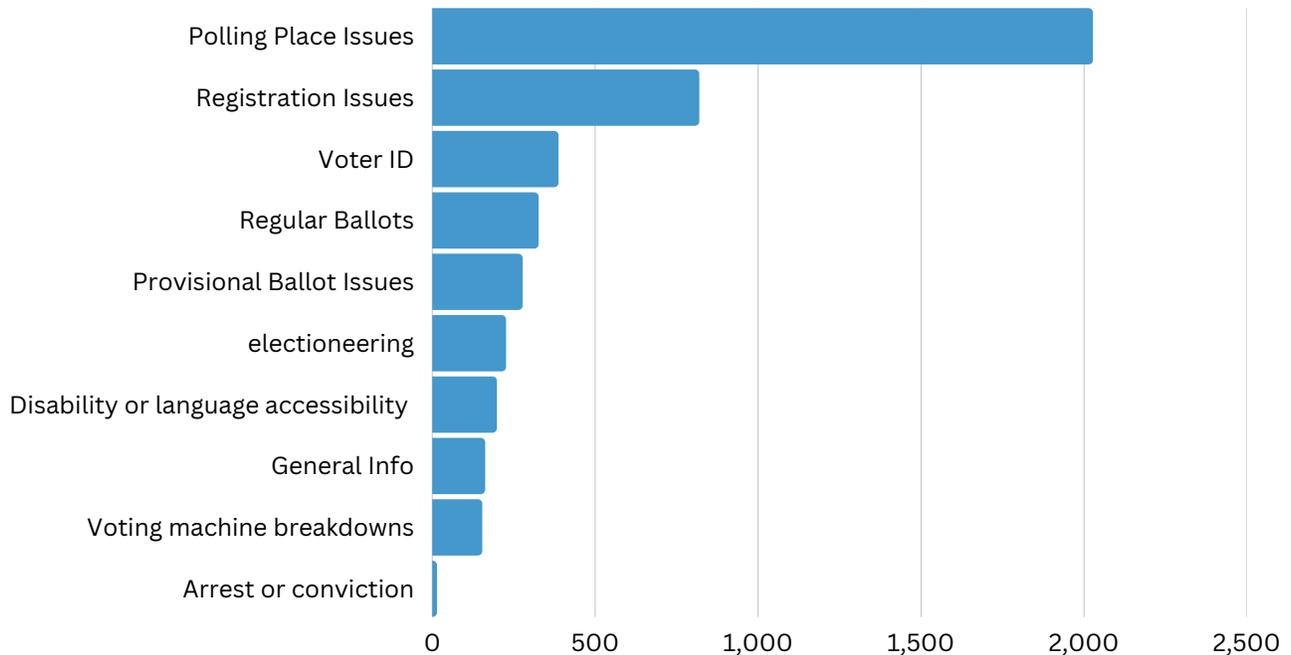
Texas' chronically-underfunded election infrastructure continued to fail Texas voters in addition to the challenges they faced navigating systemic barriers erected by SB 1 and past voter restriction laws.

The most predominant issues reported to the Texas Election Protection Coalition during 2022 include:

- **Insufficient paper for ballots during voting hours**
- **Poll worker shortages**
- **Late poll openings**
- **Long lines**
- **Widespread rejection of mail-in ballots and mail ballot applications**
- **Eligible voters missing registration deadlines**
- **Long lines and lack of adequate polling places on college campuses**
- **Intimidation of voters and election officials**
- **Inadequate accessibility for disabled voters**
- **Ongoing confusion on voting rules and procedures**
- **Wildly inaccurate wait time indicators**

Here, we've identified the top barriers that Texas voters faced in the 2022 Midterm Elections, based on our analysis of calls made into the nonpartisan Election Protection hotline and reports provided by nonpartisan poll monitors in the field.

## ELECTION PROTECTION HOTLINE TICKETS BY ISSUE



## MAIL-IN BALLOT CONFUSION AND REJECTIONS

A staggering 15% of mail-in voters in Texas' biggest counties had their ballots rejected during the March primary, a denial rate never seen before in Texas which affected more than 24,000 registered and eligible voters.<sup>12</sup> This number is far larger than anything Texas has ever seen before, as less than 2% of mail-in ballots were rejected statewide in the 2018 midterm election.<sup>13</sup> An analysis on the surge in rejected ballots in the 2022 March Primary also indicates a disproportionate race gap, with areas with large Black populations being 44% more likely to have ballots rejected than heavily white areas.<sup>14</sup>

Fewer mail-in ballots were rejected in the November general election, but there was still an overall rejection rate of 2.7% including at least 10,000 ballots from the state's largest counties.<sup>15</sup> Texas' most populous county reported that of the 36,878 mail ballots received in time for the 2022 primary, 6,888 were rejected specifically due to new ID requirements related to Senate Bill 1—in total affecting 19% of voters who cast a ballot by mail, 18.7% higher than the 2018 primary.<sup>16</sup>

The problem originates from SB 1’s change to the ID requirements for mail ballots, now requiring voters to provide the same drivers license, ID, or Social Security number that they used to register to vote, and list it on the back of the mail-in ballot application under a “secrecy flap” when returning the ballot by mail.<sup>17</sup> During the March Primary, the first election to operate with this change after SB 1, local election administrators reportedly weren’t initially given clear directives by the State on how to check the new ID reporting requirements on applications.<sup>18</sup>

Voters remain confused about the new rules. Voters in Bexar, Cameron, Collin, Dallas, Ector, Harris, Jefferson and Tarrant counties reported to the hotline questions about registration process for applying for a ballot by mail, how to track their mail in ballot to prevent rejections like those reported during the Primary, and expressed concerns that their ballot was not being marked as received weeks after being mailed.

### ***ISSUES BY NUMBERS***

<b>Total Amount of Tickets</b>	
4428	
<b>By County</b>	
HARRIS	1012
DALLAS	482
TARRANT	304
TRAVIS	295
BEXAR	271
FORT BEND	108
COLLIN	99
OTHER/UNSURE	150

The hotline also received numerous calls from disenfranchised voters in Collin, Hays and Starr counties reporting that mail in ballots never arrived by Election Day. This included some college students attending university out of state who were then unable to participate in the election despite taking every requisite step before the deadlines in order to have their voices heard. Finally, voters in Dallas, El Paso and Fort Bend counties contacted the hotline with concerns that they had received mail in ballots automatically every year but one did not come this year. This was a consequence of SB 1's prohibiting the solicitation of an application to vote by mail under threat of jail time or a \$10,000 fine. Many counties and volunteers called it a "chilling effect" on helping eligible voters vote by mail.<sup>19</sup> While some callers into the hotline were young Texans attending college out of state, Texas' strict eligibility criteria for voting by mail means the thousands of tossed votes most likely belonged to people 65 and older and people with disabilities.<sup>20</sup>

## **DELAYED OPENINGS**

Hotline and field volunteers reported delayed openings at polling locations in at least six counties, including multiple delays in Harris County, the state's largest county. Harris County election officials reported that all locations were operational by 11:30 a.m. on Election Day, over four hours after they were supposed to be open. One location located in the Second Ward – one of Houston's historically Black neighborhoods – opened late after workers reporting that they lost access to the keys and faced technical difficulties.<sup>21</sup> Voters and volunteers at other locations reported to our hotline that lines of voters waited well past 8 a.m. until they could be let in because paper for the ballots hadn't been delivered to the location yet. Meanwhile, a location in Bell County reported that their machines wouldn't turn on until 8 a.m. because of settings not being reflective of Daylight Savings Time which had taken place the weekend before Election Day.<sup>22</sup> Burnet and Milam counties expressed similar delays of up to an hour because of other mechanical issues with their machines.<sup>23</sup>

Some problems seen across the state had persisted through past elections, including staffing shortages and insufficient machines at high-traffic locations causing delays throughout the day. At one polling location, a field volunteer called the hotline reporting that all the machines stopped working mid-morning and most voters waiting in line were expressing concerns about if they could remain waiting given they were unable to take other time off from work but had no other polling locations close to their area. While some problems were beyond the control of elections offices, including the lunchtime power outages on Election Day in Tarrant County, the varied experiences at polling locations in some of Texas' biggest counties left some voters feeling "profoundly disenfranchised".<sup>24</sup>



**...the varied experiences at polling locations in some of Texas' biggest counties left some voters feeling "profoundly disenfranchised"**

Partners at Texas Civil Rights Project, the ACLU of Texas, and Texas Organizing Project took to the courts to extend voting hours on Election Day. Their attempts were successful, and voters were given more time to participate in the election after many were turned away or forced to leave due to the widespread delays in opening that morning. To help voters navigate these changes, Common Cause sent out over 80,000 text messages to Harris County residents to make voters aware of the change and help them access their guaranteed extended hour of voting. In the end, 2,073 ballots were cast in Harris County during the extended hour of Election Day voting granted by court order.<sup>25</sup> With research indicating that one out of five Election Day voters tend to cast their ballot before 9 a.m, opening delays and machine errors at a majority of polling locations could have impacted 69,500 voters in Harris County alone.<sup>26</sup>

## **IMPACT OF LONG LINES ON LOW INCOME AND STUDENT VOTERS**

Reports of long lines were called into the election protection hotline documenting issues across at least 11 counties in the state, including Bell, Bexar, Dallas, Fort Bend, Harris, Hays, Tarrant, Travis and Williamson counties. In 2020, one in five voters across the country spent more than 30 minutes in line waiting to vote, waits that can be too long for those who have caregiving responsibilities, school or work obligations, or are unable to wait for other reasons.<sup>27</sup> In the 2022 Midterm elections, some county leaders like Williamson County Judge Bill Gravell cited crowds and long lines on Election Day as reasons for the county to look at adding more sites in future elections.<sup>28</sup> Historically, those in line when polls close and in the period from 5 to 7 p.m. are primarily made up of voters attempting to cast their ballot after work. It is not a new phenomenon; recent election cycles show hours long lines at 7 p.m. on Election Day when voters rush to get in line before the polls close.<sup>29</sup>

With 11 of the counties where long lines reported into our hotline alone accounting for 8.7 million registered voters, the financial and electoral impact of lines in these counties is massive. If even 10 percent of the registered voters across the reported counties left their polling sites due to untenable lines, that is a disenfranchisement cost of 870,000 voters — nearly the margin of victory in 2022's Gubernatorial election. According to research compiled from the U.S. Bureau of Labor Statistics, the average hourly wage in Texas was about \$29/hr in 2021.<sup>30</sup> If only 1 percent of the voters in these counties were forced to miss an hour of work because they were stuck in line to vote, it would add up to an economic cost of \$2.5 million in lost wages. The economic cost of long lines is also potentially a constitutional crisis, given that our nation has already found financial fees to vote and poll taxes incompatible under the 24th Amendment.<sup>31</sup> Texas' counties must allocate more machines and polling locations to low income neighborhoods where voters are more likely to face long lines and are most impacted by the monetary costs of lost labor when trying to exercise their right to vote.

Additionally, our hotline received reports of voters leaving hours long lines at colleges and universities across Texas including University of Texas at Austin, Prairie View A&M, Texas State University, University of Houston–Downtown, University of Houston–Clear Lake, St. Edward’s University, and University of Texas at San Antonio. Long lines at campus polling locations are not because of the increasing youth vote across recent Texas elections. Rather, these discouragingly long lines stem from inequitable resources allocated to campus polling locations. One example occurred Travis County where the County Clerk had to increase the number of machines allocated to the University of Texas at Austin’s location on campus after students indicated continually long lines.<sup>32</sup>

Even more of an issue is the continued lack of campus polling locations on too many of our state’s college campuses. Only half of the 36 public universities had an on-campus early-voting location this election. This statistic drops to around 20 percent for Texas’ nine historically Black colleges and universities, with only two campuses having voting sites during early voting.<sup>33</sup>

Having adequate campus polling locations will decrease the concentration and lines reported across the state, especially at the close of polls on Election Day. Post-election analysis indicated that young voters, age 18-29, accounted for 11 percent of the 8.9 million voters who cast a ballot in the Texas midterms, totaling approximately 890,000 votes.<sup>34</sup> With 1.5 million students enrolled in public and independent two and four-year institutions in Texas in 2022, voter turnout among this population would likely go up if the inequitable distribution of voter access is addressed.<sup>35</sup>

## **ACCESS FOR DISABLED VOTERS**

The widespread rejection of mail in ballots during the 2022 election cycle disenfranchised not just older voters but also disabled voters, both groups that fall under the two main categories in Texas’ exclusionary vote by mail program.<sup>36</sup>

Advocates at Disability Rights Texas have described the additional voter restrictions passed by lawmakers as “downright inhumane”, done instead of adding mail-in ballot drop boxes, no-excuse absentee voting, expanding curbside voting requirements for polling locations, and extending registration periods, advocates at.

Texas law requires accessibility options for voters unable to enter polling locations without personal assistance or likelihood of injuring the voter's health.<sup>37</sup>

Additionally, protections under The Americans with Disabilities Act (ADA) prohibits poll workers from questioning or discouraging a voter asking to use curbside voting at a polling location. It also outlines the expectation that voters with disabilities should be able to access and use voting facilities freely & through services like curbside voting. However, compliance with these laws has continued to be low and obstructed by a lack of investment in accessibility training or requirements for poll workers and county election administrators writ large. Between the start of Early Voting on October 24th through Election Day November 8th, our hotline received reports from voters and field volunteers at over 40 polling locations across Bexar, Dallas, El Paso, Harris, Hidalgo, Galveston, and Travis counties where parking for curbside voting was minimal or undesignated, insufficient signage was posted to inform voters how to request curbside voting. In some instances - our field volunteers even reported that voters were yelled at by election workers for asking to vote curbside, and others were left waiting over 2 hours in their car before being serviced by a poll worker.

It's projected that in 2020 there was at least 2.87 million eligible voters with disabilities in Texas.<sup>38</sup> In 2020, 59.4% of Texas voters with disabilities voted in the election compared to 48.2% in 2018. Assuming turnout for voters with disabilities is consistent with overall turnout in the 2022 midterm compared to 2018, at least 1.5 million eligible disabled voters in Texas did not participate in this election, nearly double the 887,500 vote difference between Greg Abbott and Beto O'Rourke in the Gubernatorial election.

With the counties where accessibility or curbside voting problems were reported accounting for 41% of the state's total registered voters - an estimated 615,000 registered voters with disabilities could have been affected by and had their vote not cast or counted because of these problems.<sup>39</sup>

## ***INSUFFICIENT INVESTMENT IN ELECTION ADMINISTRATION***

Chronically underfunded and unprepared election administration in Texas is not a new issue, and is one that advocates have been warning about for decades while statewide leaders continue to politicize elections rather than invest in them. The 2022 Midterm Election is no different, and that can be most clearly seen with reports of paper shortages from at least 20 locations in Harris County during the November Election Day<sup>40</sup>, or with locations in Dallas, Tarrant, and Hidalgo counties having insufficient election staff during the March primaries.<sup>41</sup>

Despite a record number of voters being registered to vote, confusion around changes to the voting laws already disenfranchising tens of thousands of voters in the preceding March Primary elections, the Texas Secretary of State's office announced less money was going to be spent on voter outreach than in previous years which had previously totaled \$3.5 million.<sup>42</sup> Analysis of the Secretary of State's total biennial budget for 2022-2023 indicates that the spending towards voter education accounts for merely 2.8 percent of the office's annual budget, and boils down to an inadequate \$0.21 per registered voter.<sup>43</sup> A study from the 2014 Midterms indicated that one in five low income voters did not have an eligible form of voter ID necessary to cast a ballot.<sup>44</sup> Insufficient spending for voter outreach and public election education about requirements to get voter IDs not only falls hardest on the shoulders of low-income voters continuing to not have the requisite identification to vote, but continues complacency amongst a widening gap of registered non-voters.

Comparatively, Gov. Abbott announced an additional \$4 million being allocated to the Secretary of State's office to form an election audit

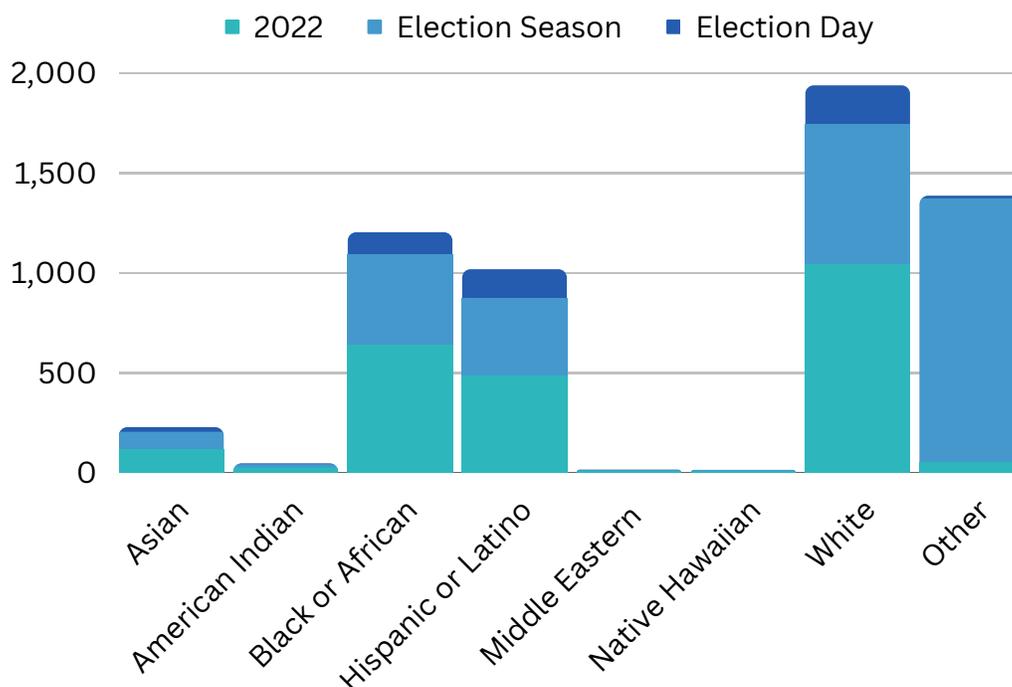
division, despite the office’s light workload with only 390 investigations into voter fraud opened over a two-year period, out of the nearly 25 million votes cast across all elections during that period. To put another way; 0.00001625% of votes cast in the last 2 years in Texas were investigated for voter fraud. Of those cases, only five resulted in convictions.<sup>45</sup> Yet, more money has been invested into a task force to investigate voter fraud rather than put towards funding voter outreach despite 9.7 million registered Texas voters not turning out in recent elections.

### **VOTERS FACED INTIMIDATION FROM PARTISAN AGENTS**

During the marathon committee hearing for SB 1, where everyday Texans waited up to 26 hours to testify, Common Cause Texas warned that the harmful poll watcher provisions would embolden partisan agents and could make it more difficult for election workers to do their job given the new freedom for partisan watchers.<sup>46</sup>

Voter intimidation can take many forms; scholars define it as “any behavior reasonably calculated to dissuade a person from participating in an election.” That disenfranchisement has historically being directed at people of color.<sup>47</sup>

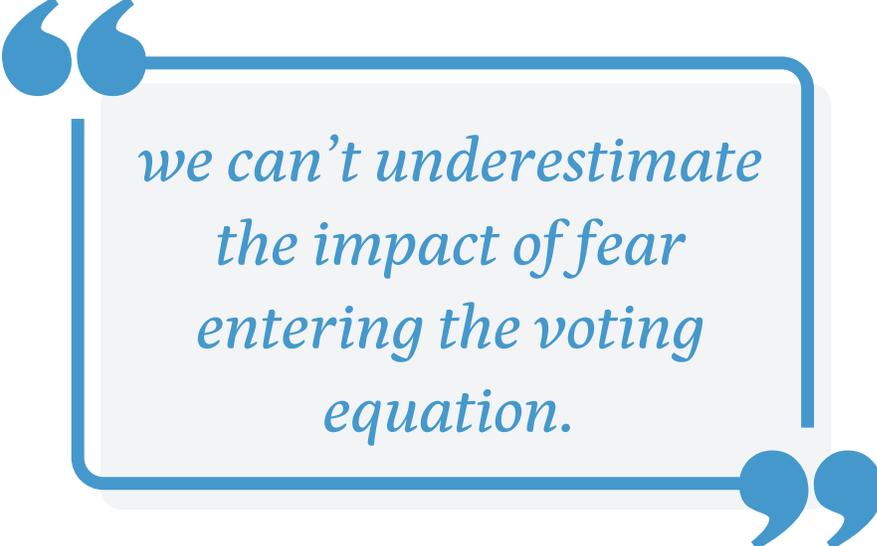
### **NUMBER OF ELECTION PROTECTION TICKETS BY RACE**



In the November 2022 election, Texas voters reported instances of intimidation ranging from receiving mailed letters at their residences from third party organizations questioning their eligibility status, to having their ballots unfairly watched and separated, experiencing unnecessary police presence outside polling locations, or being unnecessarily questioned or harassed in line to vote.

In total, 182 calls into the hotline were flagged as pertaining to voter intimidation - coming from 32 counties. Harris (33 reports), Dallas (23 reports) and Travis (23 reports) counties received the most reports of voter intimidation collectively totaling 43% of all intimidation calls recorded through the Election Protection hotline.

This data is especially alarming given the racial diversity in those counties. In Harris County, 71.2 percent of the population identify as Black, Asian or Hispanic, according to 2020 Census data. In Dallas County, Black, Asian and



*we can't underestimate the impact of fear entering the voting equation.*

Hispanic people account for 71.1 percent of the population while in Travis County, 50.4 percent of the population is Black, Asian and Hispanic.<sup>48</sup> Meanwhile, 300 miles east of Travis County, Black voters were reportedly followed by white poll workers in Beaumont— a predominantly Black city in East Texas, an incident that triggered intervention by a Federal Judge to prohibit the discriminatory conduct by poll workers.<sup>49</sup> We can never fully identify how many voters were impacted by isolated or unreported incidents of voter intimidation. But, as Emily Eby, a senior attorney at the Texas Civil Rights Project, explained, “we can’t underestimate the impact of fear entering the voting equation.”<sup>50</sup>

# A PATH FORWARD: NEEDED SOLUTIONS FOR TEXAS VOTERS

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The pattern of underfunding important programs, leading to failure that is then politicized to legislative changes that only exacerbate existing problems is a common ploy around Texas' elections. Rather than making any attempt to address our chronically underfunded election administration, Texas' legislature has opted to stifle the voices of our people by passing some of the worst anti-voter measures in the nation, and seems determined to do so again. But sensible solutions and a path forward is possible.

## ***INVESTING IN ELECTION ADMINISTRATION***

Following the disastrous effects for mail-in ballot voters in the 2022 Texas primary and general elections, it is clear that Texas needs to see increased funding for voter education on the methods and processes for voting. More than 60% of the calls made into our hotline during the general election were questions about navigating the elections process in Texas. As Texas saw the largest population increase since the last census - our budget towards voter outreach and registration costs should be increased proportionally, yet the Legislative Appropriations Request by the Secretary of State for the 2023-2024 year included their stagnant budget of \$4.5million for voter education & outreach. Comparatively, Texas' \$4.5 million spent on voter education as the 2nd largest state by population is still smaller than other states like New York who added \$15 million on public education just for city election reforms.<sup>51</sup>

One additional way to address confusion around voter participation, especially in addressing the frequent questions we received from voters

about which polling locations they had to visit when casting a ballot, is the expansion of the successful countywide polling place program. Burnet, Liberty, Somervell and Walker counties were added to the program in 2020 – contributing to the significant increase in turnout seen in the following elections.<sup>52</sup>

In addition to expanding the participation in the countywide polling place program to all counties, other legislative fixes to the program are needed to mitigate the confusion for counties who have countywide vote centers during early voting but still require voters attend a specific precinct on Election Day, and others who ended up closing polling locations in further parts of the county in a consolidation effort that stripped communities of their ties to politics.<sup>53</sup> Our partners at the Texas Civil Rights Project successfully challenged Bexar County in the courts over their decision to close more than 40 polling locations for the midterm elections. A separate challenge brought to the courts in 2022 ruled that counties with vote centers had to open and operate more polling locations for voters to have equitable access – a problem that requires a legislative solution instead of organizations asking courts to enforce the existing law.<sup>54</sup> Along with increased outreach to voters regarding how to participate in their elections – more funding for election worker pay and retention by counties, alongside more sustained and consistent guidance on election laws, are necessary to help local election administrators perform their critical jobs.

## ***STRENGTHEN TEXAS' VOTE BY MAIL SYSTEM***

In addition to investment in voter education, Texas lawmakers must use the 2023 legislative session to correct the damages made by SB 1 which led to voter confusion and mistakes. One recommended reform looks at other successful models of voting by mail already implemented in Texas – like the successful envelopes for military or overseas voters who have unique access to mailing or faxing their ballots, comparatively relaxed ID requirements on ballots, and more accessible inserts in ballot envelopes with instructions.<sup>55</sup>

Bexar County reported hundreds of ballots being sent to the wrong office in the county, yet officials were worried about contacting voters directly for fear of criminal penalty – an additional consequence of SB 1.<sup>56</sup> Harris County, which had doubled its staff dedicated to voter outreach and contacting voters about ballot errors, only had 849 people correct their ballots - ultimately causing 89% of their flagged ballots to be rejected.<sup>57</sup>

Texas' March primary was the first test of Senate Bill 1, and as a consequence every eighth person who voted by mail didn't get their vote counted. To prevent this in upcoming elections, counties can invest in more reliable outreach to voters needing to cure rejected ballots. Currently, notices are typically mailed to voters who cast an incomplete or incorrect mail-in ballot. However, counties can invest in temporary staff and tools to contact voters about the cure process via phone or email.<sup>58</sup> Moreover, the State can extend the current cure period from 6 to at least 14 days to give time for counties to alert voters of the issue with their mail-in ballot and also allow for more voters to correct any issues.

Texas must also take action to improve the accessibility of the online mail-in-ballot tracker, which many callers said was “hard to navigate” to the hotline and our field volunteers. Additionally, delays on uploading information about voters mail in ballot statuses caused problems for voters who heard about a defect with their mail-in ballot too late for them to mail a corrected envelope.<sup>59</sup> Some Texas students attending college out of state reported even receiving notice that their application to vote by mail was rejected. However, while the notice said the voter could correct an issue in their application – it was postmarked after the deadline to apply, leaving voters confused and frustrated.

## ***IMPROVING ACCESS FOR VOTERS WITH DISABILITIES***

It is unacceptable that in 2022, advocacy groups are still needing to plead for legislative action that ensures ADA compliance and accessibility for voters with disabilities to participate in Texas' elections. As we witnessed

through the dozens of calls from volunteers and voters across the state, the same problems outlined in TCRP's 2020 recommendations were heard again in the reporting of insufficient or missing signs, lack of language accessibility when signs are actually provided, and poll worker stress or shortages that led to long waits or aggression for voters seeking to utilize their curbside options.

Following the 2020 Election, our partners at the Texas Civil Rights Project outlined multiple recommendations for ensuring more effective curbside voting and polling place access, most remain unfulfilled.<sup>60</sup> Our recommendations continue to echo TCRP's calls for visible signs for curbside parking designation, procedural instructions, and a number for voters to call to receive their curbside ballot – all in accessible languages. In addition to visibility reforms, Texas must commit to expanding minimum required designated parking spots for curbside voters, and improving guidance for election judges to assign runners to serve curbside voters is critical to cutting down wait times for voters outside.

According to votetexas.gov, “all polling places in Texas must be accessible”.<sup>61</sup> Given the reported barriers to access received by our hotline – as well as the millions of eligible and registered disabled voters who have been missing in this and past elections, more work must be done to achieve this promise.

## ***MODERNIZE TEXAS' VOTER REGISTRATION SYSTEM***

January 2023 marks the beginning of the 88th Session of the Texas Legislature and it is imperative that legislators and state leaders take immediate action to rectify problems and systemic barriers before the next election cycle in 2024. First, with a majority of the calls into the 866-OUR-VOTE hotline being questions about a voter registration status or procedurally wondering how to register to vote - Texas should join the majority of states in adopting online and automatic voter registration. Not only has shifting to online voter registration been proven to increase cybersecurity and list maintenance and integrity of voter rolls according

to multiple studies, but it has saved money in every state that has modernized their voter registration systems.<sup>62</sup> In the first two years upon adopting online voter registration, Maricopa County in Arizona saved almost \$1 million in processing costs.<sup>63</sup> Maricopa County elections officials estimated that between 2008 to 2012, the transition to Arizona's EZ Voter online system slashed the cost of voter registration in the state's largest county by 96%, or \$0.80 per form.<sup>64</sup> Scaling that cost savings, the state of Texas would've saved over \$738,211 if they had adopted online voter registration systems when registering the nearly 1 million new voters between the 2020 Election and the 2022 General Election, and when accounting for the rate of inflation since Maricopa shared their savings in 2012. If every eligible voter that hasn't already registered in Texas opted to register to vote online, then Texas could save nearly \$3.2 million. Outside of the cost-saving benefits, moving to adopt online and automatic voter registration would cut wasteful spending and paper use, which already showed a shortage on Election Day, while also making voter lists more accurate, safe, and secure by limiting input error from handwriting voter ID numbers, and providing two-factor authentication like used in Colorado.<sup>65</sup>

Online and automatic voter registration would also go far in mitigating the problems uniquely facing younger voters who move, whether for school or work, and either do not know they need to update their voter registration manually upon moving or - like a few callers into our hotline - moved close-to or after the 30-day registration deadline and couldn't find a volunteer voter deputy registrar. Requisite data needed for voter registration exists in state systems already, and duplicated information increases the possibility for mistake, error, and wrongfully purging of eligible citizens from the voter rolls - which we saw occur in 2018. Automatic Voter Registration would register and update voter registration information automatically when voters interact with these secure government agencies, like the Department of Motor Vehicles, unless they opt-out.<sup>66</sup>

Additional remedies to modernize Texas' voter registration systems include expanding the VDVR certification to statewide, as opposed to the county-by-county certification process that currently exists, which would allow more Texans to create or update their voter registrations when interacting with the trained, Volunteer Deputy Voter Registrars.



Jocelyn Carrera  
2022 Election Protection Volunteer



Jerri Yoss  
2022 Election Protection Volunteer



Pranav Jaganathan  
2022 Election Protection Volunteer



Kendall Elaine Reaves  
2022 Election Protection Volunteer

# Conclusion

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The promise of Texas' Constitution – the belief that all power is inherent in the people – remains unfulfilled. We need urgent action by lawmakers to act on our recommendations and pass reforms that enable every eligible voter to cast their ballot easily, securely, and free from intimidation. The status quo does not fulfill this promise: 9.6 million registered voters cannot execute their power and millions more eligible to vote but not registered. Texas currently has as many registered but not voting Texans as the total populations of the 10 smallest states combined.<sup>67</sup>

Oregon, while a smaller state to organize and with considerably less expensive media markets, ranks first as the easiest state to vote in according to the 'Cost of Voting' index and saw 20% more of their eligible and registered voters turn out compared to Texas.<sup>68</sup> Instead of continuing to innovate systemic barriers with each election cycle – Texas lawmakers must act to put people over politics and help every eligible voter have their voice heard. At this moment in Texas history, our democracy is on the brink – and Texans deserve better.

Justice Ruth Bader Ginsburg wrote in her dissent that “throwing out preclearance when it has worked and is continuing to work ... is like throwing away your umbrella in a rainstorm because you are not getting wet.”<sup>69</sup> In the decade following Shelby County, Texas and voters are seeing the effects of this storm as anti-voter bills only to continue to flood our fight for democracy. Lawmakers must act before Texas voters find their heads below water, and before our democracy drowns.

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# Common Cause

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Texas

*Holding Power Accountable*