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IN-DEPTH ANALYSIS OF THE  
2020 ELECTION IN HAYS  
COUNTY TEXAS

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White Paper

UPDATED AUGUST 2023

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## EXECUTIVE SUMMARY

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Voters need to not only think elections are “safe and secure” but also know the facts and numbers that lead to such statements. In an effort to back up this claim for the 2020 election in Hays County, Texas, a group of concerned citizens worked together for over a year and half. This white paper presents the results of this work. In our analysis we found many significant anomalies both in in-person and in absentee votes.

Our analysis is based on official data provided by the County, either from their website or in response to Open Data and Public Information Request/Freedom of Information Act (FOIA) submitted to Hays County for the November 3, 2020, election.

We analyzed the data using the Texas Election Code as a guide. As part of our analysis, we did population and voting trends analysis, physical and digital canvassing, absentee voting analysis, and analyzed the role of the machines in the voting process.

### MAIN FINDINGS

There were 67 Precincts in Hays County for the 2020 Elections. According to the Hays County website, Biden won in 46 precincts (69% of all precincts) with a total of 59,524 votes. Trump won in 21 precincts with a total of 47,680 votes.

Biden was responsible for **63.8%** of the increase in total Democrat votes between 2004 and 2020. This represents **115.2%** more votes than Obama’s vote increase in his first term and **142.1%** more votes than Hillary’s vote increase in 2016.

**Our findings indicate that 51% of the information in the Voter Roll is inaccurate** and underscores the urgency of cleaning up the Voter Roll to reflect the true and real information of the registered voters in Hays County.

In **27** Precincts, the County’s website has less votes reported than the County’s Voter Roll for a total of **666** votes.

In **38** Precincts, the County’s website reported more votes than the County’s Voter Roll for a total of **1,343** votes.

Based on the Voter Roll information we found the following serious anomalies contravening the Texas Election Code and indicate maladministration:

- **9,528** individuals who voted on November 3, 2020, **have an Eligible date less than 30 days before Election Day.**
- **3,811** individuals whose **Effective date was after Election Day on Nov 3<sup>rd</sup>, 2020, voted.**
- Of the above, **13,279** voters had either an Eligible or Effective date anomaly.

**All voters in the ePollbook (95,680) were checked-in at the top of every hour in batches happening within a span of 59 seconds.** This pattern happened every day, every hour, and in every polling place.

132 voters were checked-in in the ePollbook without an assigned time. They all voted on Nov 3<sup>rd</sup>, 2020, at the San Marcos Housing Center.

Up until May 4<sup>th</sup>, 2023, we had **4,803** missing Applications. As of that date (**a year and a half since we requested them**), the County started to give us those Applications. We still need to match the signatures with the envelopes for those applications which is a very cumbersome process because of the way the information was presented to us.

There are still **836** Mail in Envelopes for Absentee ballots that the County recognized first as non-existent or that disappeared without a valid explanation, and later claimed to have them. The County so far has not been able to deliver them and until they do, they should be considered potentially invalid votes.

**The fact that the County took so long to find 4,803 Applications and has not been able to find the 836 envelopes, proves there is a clear case of maladministration and faulty chain of custody to say the least.**

We have found so far **3,362** potentially invalid Absentee votes resulting from **Applications and Envelopes that do not meet the requirements of a valid vote according to the Texas Election Code.** This number is bound to increase once we finish checking for signatures that do not match between Applications and Envelopes.

**The number above represents 27.2% of the total individuals that voted Absentee from the voter roll.**

The operating system that Hart used in the November 2020 election, was Microsoft Windows 7. Microsoft stopped supporting Windows 7 in January 2020 and no security patches were made after that date. **This means the Hays Election system had security vulnerabilities during 10 months before the 2020 Election and during the Election itself.**

After the 2020 Election, Hart worked with Hays County to upgrade the voting system from Windows 7 to Windows 10. This critical event happened in July 2021. Because of the upgrade the County could not provide us the electronic records with the required software and hardware to access or read them as per the Texas Election Code. **This seems to have broken the Record Retention Election Code.**

**The hard drives of the election machines were sent to Hart Intercivic to be upgraded, creating a critical chain of custody anomaly by allowing them to be taken outside of the County's Office.**

## MAIN CONCLUSIONS

Everything points to a serious maladministration case of the election process. **The burden of proof to explain what really happened falls on the County's Election Office.**

Machines allow external profit-making companies to manage the election process. **The software source code and hardware design of their systems are kept as trade secrets and therefore difficult to study and investigate.**

## RECOMMENDATIONS

This is a bipartisan issue. Every legal vote must count. To ensure the integrity of our elections, we must work to remove these electronic systems. To that end, we offer the following recommendations:

1. Return to the following proven election practices according to existing election law in Texas:
  - Sequentially numbered paper ballots printed on secure paper (ELEC § 52.062)
  - Hand-marked ballots that are retained according to law.
  - Precinct voting only; no County-wide polling locations; reduce the size of precincts (ELEC § 43.001-43.062)
  - Federal Election Day is a federal holiday; local jurisdictions may opt for a local holiday (ELEC § 85.001-85.072)
  - Hand-count the paper ballots and produce results by 11 pm on Election Day by hiring and paying local election workers (ELEC § 67.001-67.017)
2. Discontinue using electronic machines for the voting process.
3. Withdraw Texas from ERIC, Inc. – this will take care of the ePollbooks that ARE connected to the Internet.
4. Clean the voter rolls.

Finally, we offer suggestions as to how citizens can get involved and help ensure election integrity and regain trust in the system.

# INTRODUCTION

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We are **residents** of Hays County, Texas and members of a non-partisan, informal group concerned about the integrity of our elections and voter registration records. We have been evaluating the November 2020 Hays County Elections for over two years and a half.

## Why is Election Integrity Important?

Election Integrity and trust in the system and the results are essential to have a functioning Republic.

Voters need to not only think elections are safe and secure, but also know the facts and numbers that lead to such statements. This white paper presents the results of this work. In our analysis we found many significant anomalies both in in-person and in absentee votes.

**We need to solve all the issues to ensure election integrity in Hays County.**

## Sources of Information

Our analysis is based on official data provided by the County, either from their website or in response to Open Data and Public Information Request/Freedom of Information Act (FOIA) submitted to Hays County for the November 3, 2020, election, asking for:

- Absentee Ballot Applications
- Envelopes from the submitted ballots
- Printed audits (real-time audit log)
- Electronic pollbook (ePollbook) reports for all polling centers
- Voter Roll dated November 3, 2020
- Digital Records to include:
  - All Digital items required by law to include, CVRs, Ballot Images, Audit Log, Batch files
  - *Configuration Report: Election, batch, and counter data*
  - *Batch Detail Report: Batch and ballot detail*
  - *Precinct Detail Report: Precinct, batch, and ballot detail*
  - *Deleted Ballots Report: Details about deleted ballots*

In addition to the FOIA data, we gathered information available in other sources of official public data:

- Reported election numbers from Hays County
- Reported election numbers from the Texas Secretary of State
- Hays County population and Voter registration trends
- Minutes and videos from the Hays County Commissioners' Court meetings
- Open Data Sources:
  - Publicdata.com
  - VoteRef.com
  - Hayscad.com
  - Echovita.com
  - Legacy.com
  - Mylife.com
  - Whitepages.com

## **How we Analyzed the Data**

We analyzed the data using the Texas Election Code as a guide. As part of our analysis, we did the following:

1. Physical canvassing: Knocking door to door, talked to voters to find out if the information on the Voter Roll is accurate.
2. Digital canvassing: using tools in Excel, we looked at different pieces of information including voters DOBs, Eligible and Effective Dates and method of voting among others.
3. Absentee votes: Counted, reviewed and whenever possible, matched Absentee Ballot Applications with Ballot Carrier Envelopes. We analyzed signatures, addresses, dates, Applications, and Envelopes among other things.

We compared the results of our analysis with public data information. This white paper presents the results of this analysis. Our findings are separated in six major sections:

- I. Hays County Population and Voter trends**
- II. Physical Canvassing**
- III. Digital Canvassing**
- IV. Absentee Voting - Ballots by Mail**
- V. Machines and the Elections**
- VI. Recommendations**

**Appendix 1** includes a list of relevant terms and their definitions.

**Appendix 2** includes a snapshot of selected precincts

**Appendix 3** includes responses provided by the Hays County Elections Administrator to some of the questions posed by members of the group to the Hays County Commissioners Court meetings.

We separated the white paper in these sections as each is unique and quite different from the others. The process to collect, analyze information also differs from each other. However, the Absentee voting- Ballots by-mail analysis differs even more so from the rest and thus has a set of recommendations and conclusions that are not applicable to the other sections.

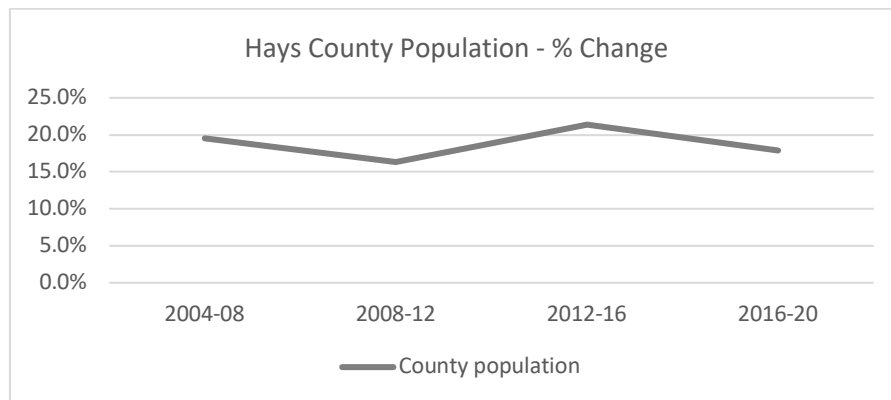
This version of the White paper includes all the sections with their corresponding Conclusions. It may be presented as single document or may be presented in sections. We continue to ask for FOIA data and do research on information. This document will be updated with findings as we receive, discover, and analyze information.

# I. POPULATION AND VOTER TRENDS

In this section we present population, voter registration and voter trends from 2004 to 2020. Our findings in this analysis are quite shocking and from a statistical point, highly improbable. This section also sets the baseline for the additional analysis (physical, digital, and mail-in ballots) which are presented in the following sections.

## Population

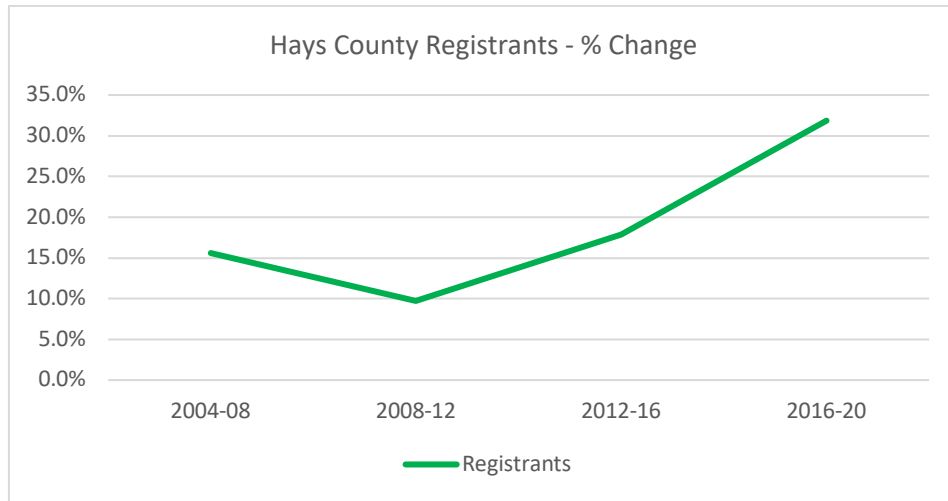
In 2020, the population in Hays County was 241,067. The County is one of the fastest growing Counties in the United States. From 2004 to 2020, the County’s population increased by 119,835 people, a 98.8% growth. Between 2016 and 2020 the population increased by 36,521, a 17.9% growth. Some periods have less growth than others but it’s always indicating a positive increase in population (more people are moving in than moving out).



## Registered voters

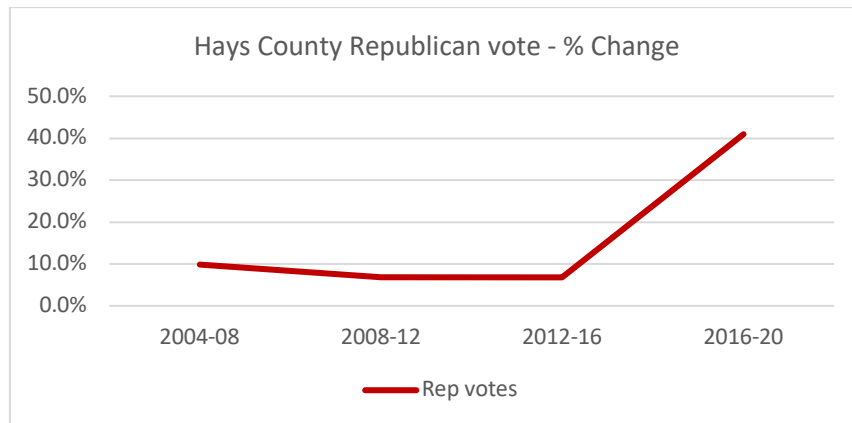
From 2004 to 2020, the number of registered voters in Hays County increased by almost 76,000 people, a 97.1% growth, similar to the County’s growth in population for the same period. The number of registered voters between 2016 and 2020 increased by 37,113, a 31.9% growth.





### Republican vote

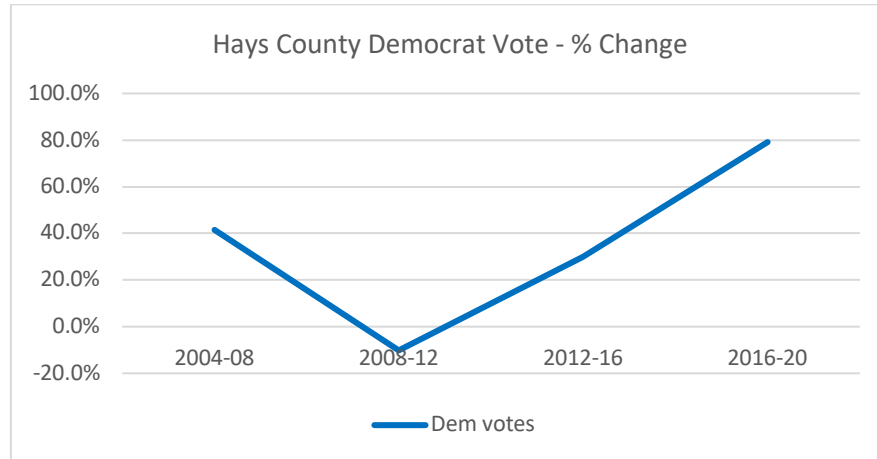
From 2004 to 2020, the number of Republican voters in Hays County increased by almost 21,000 votes, a 76.7% growth. The percent change increase in Republican votes grew steadily over the years in the single digits until 2016. From 2016 to 2020, the increase of Republican votes registered a significant growth of **40.9%**.



### Democrat vote

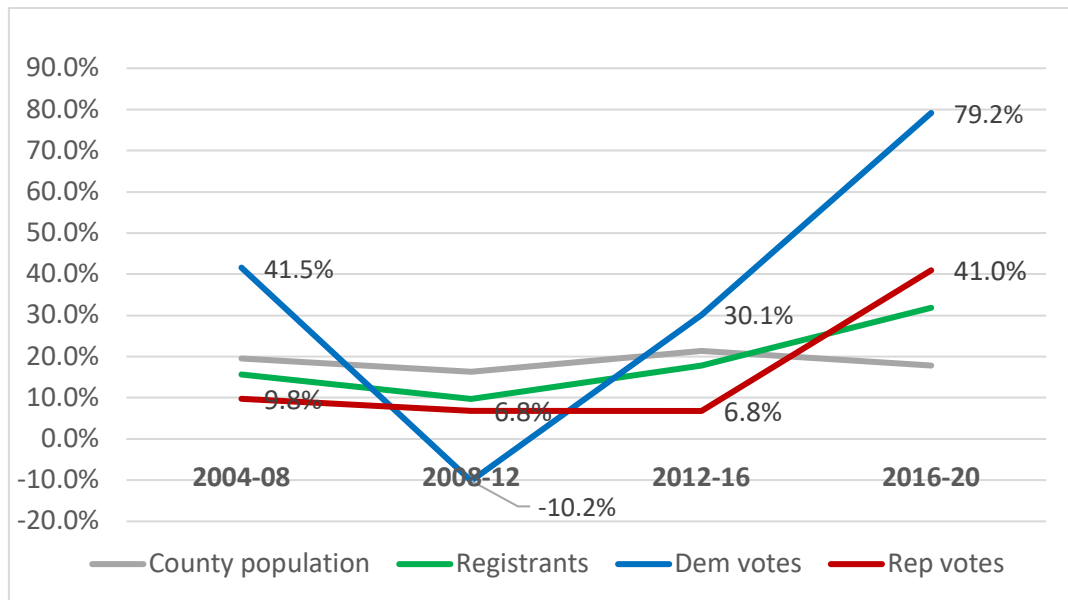
From 2004 to 2020, the number of Democrat voters in Hays County increased by 39,438 votes, representing a huge growth of **196.3%**. However, this Democrat vote has not registered a steady pace of change.

When Obama ran in 2004 the Democrat vote increased by 8,345 votes, a 41.5% growth. In 2008 it decreased by 2,894 votes, a -10.2% reduction. In 2016, it increased by 7,687 votes, a 30.1% growth. And in 2020, the Democrat vote increased by 26,300 votes, a 79.2% growth, while the population increased by 17.9% between 2016 and 2020.



When we analyze these trends together in a single graph, the inconsistencies reflecting the increase in Democrat vote seems highly improbable.

### Percent Change in Hays County Population and Voters



## Population and Voter Trends Anomalies

In 2020, the total number of registered voters was 153,614, representing **63.7%** of the County's total population. **This percentage is substantially higher than the national average of 50.8%.**

Between 2004 and 2016 the percentage of registered voters in relation to the growth in population was **46.3%, which is below the national average.** Between 2016 and 2020 the percentage of registered voters in relation to the growth in population was **101.6% which is double the national average.**

Trump was responsible for an increase of **13,854** new Republican voters. That was the equivalent to **29.1%** of the new registered voters between 2016 and 2020.

Biden was responsible for an increase of **26,300** new Democrat voters which is **90%** more than Trump's increase in new votes and the equivalent of **70.9%** of the new registered voters between 2016 and 2020.

**Biden was responsible for 63.8% of the increase in total Democrat votes between 2004 and 2020. This represents 115.2% more votes than Obama's vote increase in his first term and 142.1% more votes than Hillary's vote increase in 2016.**

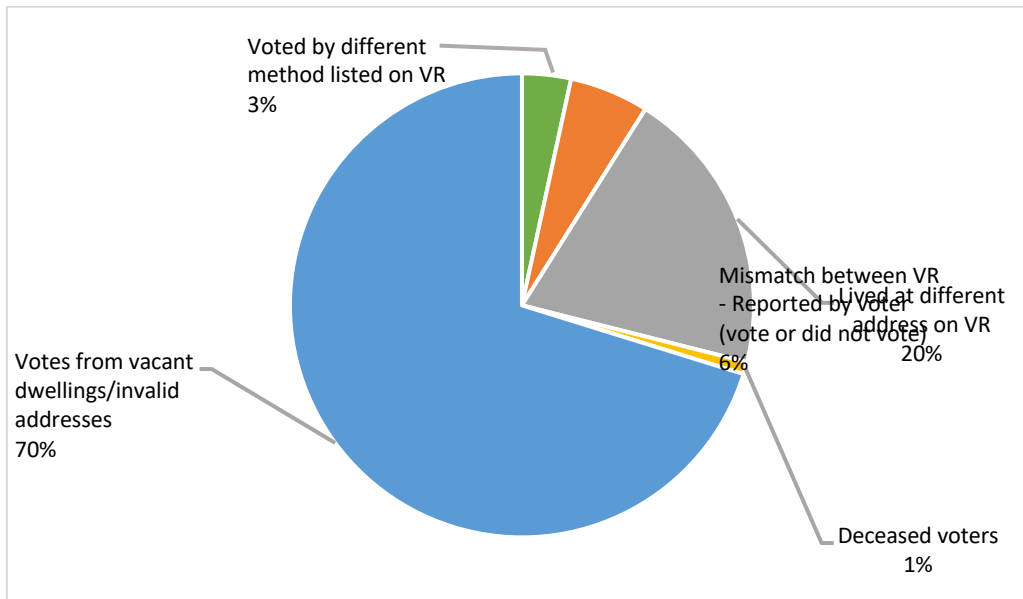
The big question remains on how a weak Democrat candidate can outperform by huge margins other stronger Democrat candidates and a very popular incumbent president.

## II. PHYSICAL CANVASSING

Using the Hays County Voter Roll, we generated walk lists for the members of the group. We were not always able to canvass some places, especially nursing homes and a few multi apartment units where we were not allowed to enter. However, most of the time and with only a few exceptions, the voters responded in a positive manner. We went door-to-door and spoke with voters at their homes confirming if the information in the Voter Roll was accurate. In particular, we confirmed if the voter(s) lived at the corresponding address, if the Voter Roll accurately reflected the manner of vote (Absentee, Early, in-Person) and if there were other voters registered to that address.

We did the physical canvassing from October 2021 to February 2022. We knocked on 1,001 doors and talked to 461 voters (46% success rate). With a confidence interval of 99%, our margin of error is 4%. This means there is a 99% chance that the real value of our findings is within  $\pm 4.05\%$  of the measured values.

We found **235 anomalies**, including vacant lots or dwellings, farmland, votes not recorded, did not vote but records show they did. The graph below summarizes the findings in our physical canvassing:



**Our findings indicate that 51% of the information in the Voter Roll is inaccurate and underscores the urgency of cleaning up the Voter Roll to reflect the true and real information of the registered voters in Hays County.**

### III. DIGITAL CANVASSING

There is a difference in Reporting Data in the Hays County website and the Hays County Voter Roll. This information must exactly match. Any analysis of the results is affected by this lack of consistency. However, it is important to consider these differences as they do not account for the gaps in our findings described further in this white paper.

There were 67 Precincts in Hays County for the 2020 Elections. According to the Hays County website, Biden won in 46 precincts with a total of 59,524 votes. Trump won in 21 precincts with a total of 47,680 votes.

Reporting Source	Registered	Voted	Absentee (A)	Early (E) In-person	Election Day (P) In-person	Total In-person (Early + ED)
Hays Co website	153,614	109,395	12,454	85,928	11,013	96,941
Hays Co Voter Roll	150,198	108,430	12,347	84,524	10,472	94,996
Difference	3,416	965	107	1,404	541	1,945

Further analysis of the County’s Precinct voting shows additional differences in the reporting. Highlights of the differences include:

- The number of registered voters in the County’s Website and the County’s Voter Roll is different in ALL Precincts except two.
- There are differences in the number of votes cast between the County’s Website and the Voter Roll in ALL Precincts except two.
- **In 27 Precincts, the County’s website has less votes reported than the County’s Voter Roll for a total of 666 votes.**
- **In 38 Precincts, the County’s website reported more votes than the County’s Voter Roll for a total of 1,343 votes.**

**Appendix 2** Includes an analysis of selected Precincts as examples.

## Red Flags

We found several red flags that merit investigation into possible anomalies and that should have been taken into consideration by the County's Election office:

- According to the Hays County Voter Roll, **18** individuals 100 years old or more voted in 2020. Of these, 5 were 120 years old or more in November 2020. Three have the same DOB of January 1, 1900.
- **23** people in the Voter Roll are deceased. Two of them voted in 2020.
- There was an 82% turnout rate of people over 70yrs old.
- **31,848 voters had not voted in the previous 39 election cycles.**

## Eligible and Effective Date

As per the Texas election code (ELEC § 84.001 Sec. 13.143), a citizen becomes eligible to vote once an approved registration is submitted to the registrar (Eligible Date). The Effective Date to begin voting is 30 days after the Eligible Date.

**Valid Registered Voters per the Texas Election Code should have an Eligible and Effective date:**

- **Eligible Date** – An individual becomes eligible to vote when a Registration is submitted and approved by the Registrar office **at least 30 days prior to the posted election date.**
- **Effective Date** – This date is 30 days after the Eligible Date and determines when the individual can vote which is basically 30 days after becoming eligible.

**There were 57,827 individuals that voted in November 2020 with the same Eligible and Effective date.** The County has been registering voters with the same Eligible and Effective dates since 2010 as per the table below:

Years	Voter s Added with same Eligible and Effective Dates
2020	19,912
2016 - 2019	27,365
2010 - 2016	10,551
<b>Total 2010 - 2020</b>	<b>57,828</b>

## Eligible Date Anomalies

We found several anomalies in Eligible Date that may represent potential invalid votes:

- **9,528 individuals who voted on November 3, 2020, have an Eligible date less than 30 days before Election Day.**
- **Of the above, 4,115 were registered on November 1, 2020, with the same Eligible and Effective date.**

## Effective Date Anomalies

We found several anomalies in Effective Date that may represent potential invalid votes:

- **3,799 individuals whose Effective date was after Election Day in Nov 3/2020, voted.**
- Of these, **247** have an Effective date in 2021.
- Of the 3,799 individuals, **60** had the same Eligible and Effective dates.
- **12** individuals with an Effective Date before the Eligible Date, voted in 2020.

## Limited Ballot Anomalies

**661** individuals voted with a Limited Ballot in the November 2020 election. We found several anomalies that may represent potential invalid votes:

- **All 661 have an Eligible date less than 30 days before Election Day.**
- Of these, **627** have an Eligible date of Nov 1/2020.
- **656** have the same Eligible and Effective date.
- Of these, **623** have the same Eligible and Effective date of Nov 1/2020 while **5** have an Effective date after Election Day.

## ePollbook

The Hays County Commissioners voted to include the County in the Countywide Polling Place Program on February 2019. By doing this, the County was then beholden to the rules set out by the Texas Secretary of State for this program, including that the ePollbook must be used.

On March 2020 Texas joined the nationwide program called ERIC (Electronic Registration Information Center) to have access to nationwide data bases by using the ePollbook tool. Member States must not only submit all details on inactive and active voters to ERIC every 60 days, but they must also provide every individual in their state's Motor Vehicle Department database. This data includes names, addresses, DOB, Driver's License number, the last 4 of the Social Security number, voter activity, phone, email, type of citizenship documentation, and much more. It also includes those approaching voting age and even those who entered the US illegally yet were issued an ID by the State.

### **ePollbook and Voter Roll Anomalies**

The Voter Unique Identifier (VUID) number in the Voter Roll and the ePollbook should match for all voters who vote in person Early or on Election Day. This was not the case:

- **674 voters were checked-in in the ePollbook but their VUID is not on the Voter Roll.** Of these – according to PublicData.com:
  - 458 live in counties other than Hays
  - 56 live in Hays
  - 160 do not have a record on PublicData.com and are not on the Voter roll.
- 174 voters were issued two different VIUDs (one in ePollbook and one in Voter roll).
- 2 different voters were checked-in in ePollbook with the same VUID.

### **ePollbook and Check-In Times Anomalies**

There were very serious anomalies related to check-in times shown in the ePollbook:

- 132 voters were checked-in in the ePollbook without an assigned time. They all voted on Nov 3/2020 at the San Marcos Housing Center.
- 5 voters were checked in the ePollbook more than once. One voter was checked in 8 times.
- 2 voters appear as having voted in the Voter Roll but have no record of check-in in the ePollbook.
- **All voters in the ePollbook (95,680) were checked-in at the top of every hour in batches happening within a span of 59 seconds.** This pattern happened every day, every hour and in every polling place. Below an example of one voting place in Buda on Election Day:



Buda City Hall - Nov 3/2020					
Time period		Voters checked-in	Time period		Voters checked-in
7:00:00 AM	7:00:59 AM	88	1:01:00 PM	1:59:59 PM	0
7:01:00 AM	7:59:59 AM	0	2:00:00 PM	2:00:59 PM	58
8:00:00 AM	8:00:59 AM	83	2:01:00 PM	2:59:59 PM	0
8:01:00 AM	8:59:59 AM	0	3:00:00 PM	3:00:59 PM	58
9:00:00 AM	9:00:59 AM	66	3:01:00 PM	3:59:59 PM	0
9:01:00 AM	9:59:59 AM	0	4:00:00 PM	4:00:59 PM	55
10:00:00 AM	10:00:59 AM	58	4:01:00 PM	4:59:59 PM	0
10:01:00 AM	10:59:59 AM	0	5:00:00 PM	5:00:59 PM	56
11:00:00 AM	11:00:59 AM	47	5:01:00 PM	5:59:59 PM	0
11:01:00 AM	11:59:59 AM	0	6:00:00 PM	6:00:59 PM	49
12:00:00 PM	12:00:59 PM	50	6:01:00 PM	6:59:59 PM	0
12:01:00 PM	12:59:59 PM	0	7:00:00 PM	7:00:59 PM	5
1:00:00 PM	1:00:59 PM	56	<b>CLOSED</b>		

## Update

The Hays County Elections Administrator provided some answers to our digital canvassing numbers. Her answers can be seen in **Appendix 3** along with our responses.

After looking at some of the answers it is clear the County chose a software that does not comply with Texas Election Code for the Voter Roll, making it impossible to distinguish between valid and invalid votes.

We can conclude that **the characteristics of the database management of the software vendor supersedes the Texas Election Code.**

If the votes in the answers were valid as the Elections Administrator claims, the question remains on how the County uses processes that allow for the system to report invalid votes that are counted as valid ones.

The Elections Administrator also claims that 174 individuals voted Provisional when in fact we have evidence they did not.

## Questions that Remain to be Answered

- Why are there 45.1% of voters with anomalies among the people that answered to us during our Physical Canvassing?
- Why did the County approved the use of a systems for voter registration, which does not distinguish between Eligible and Effective Dates as required by TX Election Code, resulting in 57,827 individuals with the same Eligible and Effective Dates in the Voter Roll?
- Why are there 9,528 individuals with an Eligible Date with less than 30 days before Election Day allowed to vote?
- Why are there 3,799 individuals with an Effective Date after November 3, 2020, allowed to vote?
- Why are there 661 individuals with Limited Ballots that have an Eligible date less than 30 days before Election Day?
- Why are there 674 voters that were checked in the ePollbook but are not in the Voter Roll?
- Why are there 174 voters with different VUID's in the ePollbook and the Voter Roll?
- Why are there 132 voters checked-in the ePollbook without an assigned time?
- Why are the 95,680 voters of the ePollbook checked-in at the top of every hour in batches happening within a span of 59 seconds?

There was an extremely poor chain of custody process and maladministration of the handling of the Voter Roll and/or the ePollbook. The result is a significant number of potentially invalid votes.

## Final Thoughts

Four main points are clear from the above:

- **Our analysis points to a serious maladministration case.**
- **The burden of proof to explain these anomalies falls on the County's Election Office.**
- **Machines only process information that is submitted to them. If one feeds inaccurate information to the machines, we will have an Election with results that cannot be verified and therefore not trusted.**
- **Under these circumstances, the County cannot guarantee the integrity of the elections.**

## IV. ABSENTEE VOTING - BALLOTS BY MAIL

The reported number of votes from Absentee ballots differs on the Voter Roll and the Hays County Website. These discrepancies hinder any analysis of an election and casts doubts on the voters.

Source	Absentee votes
Hays County website	12,454
Hays County Voter Roll	12,347
<b>Difference</b>	<b>107</b>

To be eligible to vote early by mail, a voter (in addition to being registered in a County in Texas), the voter must be:

- 65 years or older;
- sick or disabled;
- out of the County on Election Day and during the period for early voting by personal appearance;
- or expected to give birth within three weeks before or after Election Day;
- or confined in jail, but otherwise Eligible.

### Absentee Ballots

Texas election code (CH 84.001) for Absentee Votes requires a valid Application to be approved for a mail in ballot. Each valid Application must be supported by a valid Ballot Carrier Envelope to be used by the voter to deliver his vote to the County.

Through the Freedom of Information Act (FOIA), on November 5<sup>th</sup>, 2021, we requested all the Applications and Envelopes related to the Absentee votes in the 2020 Election.

Considering the **12,454** certified Absentee votes by the County, we should have received similar numbers of Applications and Envelopes. That was not the case. We received **15,444** Applications including **2,760** that could not have voted Absentee, and **11,680** Envelopes including 62 duplicates and Envelopes with no signatures. We also found that close to **15%** of the Applications were not dated by the applicant. **So far, we have found 3,362 potential invalid votes.**

## **Mail-in Applications for Absentee Votes**

On April 2<sup>nd</sup>, 2022, we received from the County **10,602** Applications, which was **1,852** less than the total Absentee votes certified by the County **and included 2,760 that cannot be considered as valid Absentee Votes.**

On May 4<sup>th</sup>, 2023, the County started to send to us **4,803** additional Applications. **It is worth mentioning that this took place a year and a half after we asked for the Applications. Furthermore, up until that date, we were told consistently by the County that we had already received all the Applications.** We also had to provide the County with the list of the missing Applications. **This last batch brought the total number of Applications received to 15,444.**

## **Applications that Cannot Be Considered as Valid Absentee Votes**

Of the **15,444** Applications received from the county, **2,760** are invalid Applications that cannot be considered as a valid Absentee Votes due to various reasons:

- **1,180** individuals filled an Application but voted in-person rather than Absentee.
- **408** individuals filled an Application but did not vote.
- **88** Applications had the wrong name and/or address.
- **26** were rejected Applications from individuals that voted.
- **1,058** were duplicate Applications.

## **Potential Invalid Votes Related to Eligible and Effective Dates**

We found a total of **345** Ballots that had Eligible or Effective Dates with anomalies that rendered them as potentially invalid. They are distributed as follows:

- **286** Applications belonging to individuals with an Eligible Date less than 30 days before Election Day.
- **59** Applications belonging to individuals with an Effective Date after Election Day.

## **Potential Invalid Votes Due Exclusively to Applications**

We found a total of **865** potentially invalid votes due exclusively to Applications distributed as follows:

- **730** Applications without a matching Envelope.
- **125** Individuals not In the Voter Roll that filled Applications and do not have matching Envelopes

- 7 Applications from individuals that voted from a nursing home via assistants w/o a matching Envelope.
- 3 Missing Applications from the Voter Roll.

### **Ballot Carrier Envelopes for Absentee Votes**

Between February 2nd, and March 8th, 2022, we received from the County **11,680** Ballot Carrier Envelopes, which is **774** less than the total Absentee votes certified by the County.

On June 26, 2022, we were told by the County they had no more Envelopes. On February 7<sup>th</sup>, 2023, the County said it had made a mistake and that they did have the missing Envelopes. **As of today, the County has not delivered any additional Envelopes.**

### **Envelopes that Cannot Be Considered as Valid Absentee Votes**

Of the Envelopes received, **62** were duplicates or were not signed. This number plus the **774** that were not delivered by the County, brings the total number of Envelopes that cannot be considered as valid Absentee Votes to **836**.

### **Potentially Invalid Votes Due Exclusively to Envelopes**

We found **1,018** potential invalid votes due exclusively to envelopes distributed as follows:

- **182** Envelopes without an Application.
- **836** Missing Envelopes needed to match the votes certified by the County.

### **Potential Invalid Votes Involving Applications and Envelopes**

We found **1,134** potential invalid votes involving Applications and Envelopes distributed as follows:

- **766** Envelopes matched to faulty Applications.
- **230** Envelopes whose signature did not match with the Application's signature.
- **45** Individuals not in the Voter Roll that filled Applications and had matching Envelopes.
- **93** Envelopes with Applications from individuals that voted from nursing homes via helpers and assistants.

### **Responses from the Hays County Elections Office**

#### *Missing Applications*

On June 26, 2022, we requested the County to provide the missing Absentee Ballot Applications. On July 14, 2022, their response was:

*“In order to process this request we will require a substantial amount of time to go through the records already processed and provided to you and to possible compare those records with what may have been left out of the first batch of records that were copied and redacted. I would attempt to give you a time estimate for this project, but it most likely would not be accurate being that our office is also working with the Election’s Office and their timelines”*

#### Missing Envelopes

On June 26, 2022, we requested the County to provide the missing Ballot Carrier Envelopes. On July 8, 2022, their response was:

*“After a diligent search of our records, please be informed that Hays County has no documents responsive to your request. Please consider the case closed by our office.”*

#### Missing Applications and Envelopes

On February 3<sup>rd</sup>, 2023, we gave the County a list of 4,803 missing Applications and requested again the missing Envelopes. On February 7<sup>th</sup>, 2023, their response was:

*“In a nutshell, the County has provided **all** applications to you. However, if you could please assist us in determining the approximately 836 ballot carrier envelopes that might be missing, we’d be most appreciative. I sincerely appreciate your cooperation with us, and I again apologize for the unclear correspondence on these matters.”*

#### Missing Applications

After February 7<sup>th</sup>, 2023 we kept insisting by different means that we had 4,803 missing Applications. On May 4<sup>th</sup>, 2023, we received the following response:

*“Hays County has reviewed its files and has located responsive records to your request, please note that due to the volume of information responsive to your request it will take time to process all of the relevant information. Please log in to the Hays County Public Information Request System at the following link to retrieve the responsive documents.”*

## **Where We Currently Stand**

**So far, we have found 3,362 potential invalid votes among the 2020 Absentee Ballots. This number represents 27.2% of the individuals in the Voter Roll that**

**voted Absentee. This is an unacceptable number that makes it impossible to claim there was election integrity in the 2020 Election.**

We still need to verify the signatures on the **4,803** Applications that we received in May 2023. Once we complete this task, the number of potential invalid votes should increase.

It is also worth mentioning that with the current information we have access to there is no way to verify whether the **2,760** Applications and the **74** Envelopes that we received, which due to different anomalies and reasons should not have voted were not tabulated and counted as valid votes.

**The fact that we cannot match the votes from the machine to the actual valid Application and Envelope of the individual that voted, is a big flaw in the election process which affects the integrity of the elections and undermines the trust of the people in the reported results.**

The only way to verify the validity of the Absentee votes is to be able to match the vote that was placed on the machine with the valid Application and Ballot Carrier Envelope that corresponds to that vote. The process which the County had in place for Absentee Ballots in 2020 plus our inability to access the machines and the CVR's do not allow that.

## **Questions that Remain to Be Answered**

Important questions remain to be answered:

- Why did it take so long to get the total amount of potentially valid Applications a?
- Why were the valid Applications so hard to find while the invalid ones were so readily available?
- What happened to the **836** missing Envelopes the County says they have but cannot find?
- Can the County provide a satisfactory answer to explain how **3,362** votes that do not meet the requirements of a valid vote as of today, could be considered valid?

## **Final Thoughts**

There was an extremely poor chain of custody process and maladministration of the handling of the Absentee Ballot process. The result is a significant number of potentially invalid votes.

Four main points are clear from the above:

- **Everything points to a serious maladministration case.**

- **The burden of proof to explain what really happened falls on the County's Election Office.**
- **If one feeds inaccurate information to the machines, we will have an Election with inaccurate results.**
- **Under these circumstances, the County cannot guarantee the integrity of the elections.**

## **Recommendations**

Texas Election Code requires a correctly completed Application for ballots by mail (ELEC § 86). To ensure that elections officials follow the law, we recommend the following changes:

1. Approve Applications only from individuals who meet the criteria for Absentee voting stated in the TX Election Code.
2. Attach the Application to its corresponding carrier Envelope
3. Sort the Applications and Envelopes by precinct, then alphabetically or by VUID number and file in such a way as to be able to go back and audit the records.
4. Generate a list of rejected Applications and start marking on the Application the reason for the rejection (ELEC § 86)

Follow statutes pertaining to witnesses and assistants (ELEC § 84.1.011)

We recommend replacing the machines by sequentially numbered paper ballots. Had we had sequentially numbered paper ballots counted by hand, most, if not all the mistakes we found in the Absentee Ballot process would not have occurred. Votes with missing Applications or Envelopes would not have counted and improperly filled Applications or Envelopes would have been rejected.

And what is most important, Applications and Envelopes would have been paired together preventing anomalies during the Election and enabling a proper recount/audit after the Election.



## V. MACHINES AND THE ELECTION

Hays County has been using the Hart InterCivic System (Hart) as the proprietary electronic voting system throughout the County with Windows as the operating system since 2004. The County's Election Office has no access to Hart's software.

### Operating System

The operating system that Hart used in the November 2020 election, was Microsoft Windows 7, Windows 7 was launched on October 22, 2009.

Microsoft stopped supporting Windows 7 on January 2020, ten months before the Election. There were no security patches made after that date for Windows 7. This means the Hays Election system had security vulnerabilities during 10 months before the 2020 Election and during the Election itself.

### Electronic Records of the 2020 Election

After the 2020 Election, Hart worked with Hays County to upgrade the voting system from Windows 7 to Windows 10. This critical event happened in July 2021. Regardless, Texas Election Code requires that records be preserved for 22 months.

### Records Retention

A summary of the Texas Election Code on Records Retention:

According to the SOS Election Advisory No. 2011-18 on Securing and Preserving Voting System Election Records, to comply with Section 129.023(f)(2) of the Texas Election Code, **the electronic records shall be secured for 22 months in a Federal election.**

Destruction of local government records contrary to the provisions of the Local Government Records Act of 1989 and administrative rules adopted under it, including this schedule, is a Class A misdemeanor and, under certain circumstances, a third-degree felony (Penal Code, Section 37.10). Anyone destroying local government records without legal authorization may also be subject to criminal penalties and fines under the Public Information Act (Government Code, Chapter 552).

Texas Election Code states that if records are stored electronically, they must remain **available and accessible** until the expiration of the retention period assigned by this schedule, along with any hardware or software **required to access or read them.**

Retention periods listed in this schedule apply to records in any medium. **If records are stored electronically, they must remain available and accessible until the expiration of the retention period assigned by this schedule, along with any hardware or software required to access or read them.**

## **Underivable Records**

We asked the County to provide the electronic records and the Cast Vote Records (CVR's) for the November 2020 Election

We were told the records were not available to be delivered to us after the software upgrade from Windows 7 to Windows 10 which took place 8 months after the Election. This seems to have broken the Record Retention Election Code. **To date, no one has been held accountable.**

The Windows upgrade in July 2021 should have maintained all election data and a machine environment to run the system in such a way as for the records to be **readable and accessible**. This did not happen and **to date, no one has been held accountable.**

It is important to mention that after the original response, the County through its Legal Counsel offered to send us raw data of the records. We did accept to receive this data. On the same day, October 5, 2022, we received access to this raw data and started the download. This consisted of 109,000 separate xml files as the "raw files". We are in the process of looking at this data. **In any case "raw data" is not the same as readable and accessible data.**

## **Responses from the Hays County Elections Office**

### *Electronic Records*

On June 3, 2022, we requested the County to provide the electronic records. On June 6, 2022, their response to our request was:

*"Pertaining to the following items you requested:*

- *Configuration Report: Election, batch and counter data*
- *Batch Detail Report: Batch and ballot detail*
- *Precinct Detail Report: Precinct, batch and ballot detail*
- *Deleted Ballots Report: Details about deleted ballots*

*Cannot be produced through our tabulation or central system due to the software upgrade in July 2021 to upgrade our operating system to Windows 10. You may remember this upgrade was discussed and approved in Commissioners Court on May 11, 2021."*

## CVR Records

On July 20, 2022, we made a FOIA request to the County requesting the Cast Vote Records (CVRs). The response to our request was as follows:

*“After a diligent search of our records, please be informed that Hays County has no documents responsive to your request, as the County does not have the cast vote record from the November 2020 election. If you have any questions or concerns, please contact Jennifer Doinoff, the Hays County Elections Administrator at (512) 393-7310. Please consider this request closed by our office.”*

On September 1, 2022, the Hays County Elections Administrator, Jennifer Doinoff, stated to the San Marcos Daily Record:

*She does have the CVRs and will produce them in the coming weeks.*

On October 5, 2022, the Hays County General Counsel, Jordan Powell, sent an email that stated that they could send us raw data that they were able to extract while trying to re-construct the CVRs.

*“As you're aware, Hays County does not have the CVRs responsive to your past request, as Hays County's current software does not provide a method to retrieve the CVRs due to a system upgrade performed by Hart InterCivic in the summer of 2021. However, we have recently extracted the raw data that could be utilized to re-construct a CVR if the County still had the proper operating software. The raw data, along with manually calculating the overvotes and write-ins for each race, can be utilized to reconcile vote totals and compare to the official reports. As a courtesy, we're reaching out to individuals that have previously requested the CVRs and are inquiring whether they have interest in receiving the raw data. If you have interest in such data, please let me know.”*

## **Acceptance of Funds from a Private Entity**

In addition to the unreadable electronic records, there were other anomalies related to the software upgrade which are concerning:

According to emails exchanged between the Elections Administrator and Hart InterCivic, the upgrade cost Hays County \$36,720. The invoice was paid to Hart InterCivic with funds from a grant of almost \$290,000 received from the Center for Technology and Civic Life (CTCL - Mark Zuckerberg's private foundation) to support elections in Hays.

We are concerned on how an individual, using a private NGO, was able to fund public elections and the reasons behind the County's approval of this grant and the use of these funds.

## Hard Drives Taken Out of the Election Office

An email from Hart InterCivic to the Elections Administrator, states that after the upgrade mentioned in the section above, the hard drives are to be taken to Hart InterCivic:

From: Rich Geppert [REDACTED]  
Sent: Monday, May 17, 2021 4:53 PM  
To: Jennifer Anderson <[REDACTED]>  
Subject: Hart 2.5 upgrade

*Hi Jennifer-*

*I'm putting together schedules for upgrades to 2.5 and wanted to check with you about possibly doing Hays County the week of June 14. It would take all week, and we'd have 4 to 5 people there. Of course we'll need your hard drives sent back to Hart and upgraded and returned to you by then.*

*And I know we'll have about 70 Duo Go's to Acceptance Test and train on. Just wanted to see if that week will work for you. Let me know what you think.*

*Thanks,*

*-Rich*

Rich Geppert, PMP, CERA  
Manager, Professional Services  
Hart InterCivic

We are concerned as to why the hard drives need to be sent to Hart to be upgraded. The machines or their components with information should never leave the Hays County public office where they need to be securely stored – **We consider this critical to ensure the chain of custody.**

## The Machines are Part of the Problem

Machines allow external profit-making companies to manage the election process. **The software source code and hardware design of their systems are kept as trade secrets and therefore difficult to study and investigate.**

**Not only are the companies largely free from public records requests, but they are also often asked to investigate or police themselves according to election law expert Candice Hoke.**

## VI. RECOMMENDATIONS

Where do we go from here? This is a bipartisan issue. Every legal vote must count. To ensure the integrity of our elections, we must work to remove these electronic systems. To that end, we offer the following recommendations:

1. Return to the following proven election practices according to existing election law in Texas:
  - Sequentially numbered paper ballots printed on secure paper (ELEC § 52.062)
  - Hand-marked ballots that are retained according to law.
  - Precinct voting only; no County-wide polling locations; reduce the size of precincts (ELEC § 43.001-43.062)
  - Federal Election Day is a federal holiday; local jurisdictions may opt for a local holiday (ELEC § 85.001-85.072)
  - Hand-count the paper ballots and produce results by 11 pm on Election Day by hiring and paying local election workers (ELEC § 67.001-67.017)
2. Discontinue using electronic machines for the voting process.
3. Withdraw Texas from ERIC, Inc. – this will take care of the ePollbooks that ARE connected to the Internet
4. Clean the Voter Rolls

### How Can Citizens Get Involved?

1. Participate in the election process as poll watcher, poll worker or any other position that helps ensure that the rules of the election code are met.
2. Participate in public forums and meetings relevant to elections and speak up about Election Integrity.
3. Email, call or meet with your County Commissioner and talk to him/her about your concerns on election integrity.
4. Choose your candidates well – go to events and ask them hard questions and their positions about election integrity. Hold them accountable for what they promise/say.
5. Vote whichever way you can, but Vote.
6. Sign the petition [www.vote4hays.com](http://www.vote4hays.com) which include the Recommendations above.

## Appendix 1 – Glossary and Definitions

- **Absentee Ballot**

Ballot cast by a voter unable to vote in person at his or her polling place on Election Day.

- **Cast Vote Record**

Permanent record of all votes produced by a single voter whether in electronic, paper or other form. Also referred to as ballot image when used to refer to electronic ballots. A CVR is a file, either text or excel format, which lists on each line information about one ballot in the order processed. This allows a data analyst to “replay” the election ballot by ballot to spot unnatural patterns of voting.

- **Direct-recording electronic** voting machine (DRE voting machine) records votes by means of a ballot display provided with mechanical or electro-optical components that can be activated by the voter. These are typically buttons or a touchscreen; and they process data using a computer program to record voting data and ballot images in memory components. After the election, it produces a tabulation of the voting data stored in a removable memory component and as printed copy. The system may also provide a means for transmitting individual ballots or vote totals to a central location for consolidating and reporting results from precincts at the central location.

- **Electronic Pollbook (ePollbook)**

Device that partially automates the process of checking in voters, assigning them the correct ballot style, and marking voters who have been issued a ballot. May be used in place of a traditional paper poll book. E-pollbooks can be stand alone at the precinct with a separate copy of the registration list or can be networked into a central voter registration system where they can check and update voter records in real time. Here are some highlights of the requirements of the ePollbook system:

- Capable of storing a local version of the County’s official list of registered voters to serve as a backup
- Capable of generating a timestamp for when each voter is accepted to vote at a polling place, including the voter’s unique identifier (VUID)
- Capable of identifying the correct polling location for a voter who has appeared to vote at the incorrect location
- Must allow an election worker to verify a voter’s eligibility to vote in a given election, including whether a voter:
  - Has already cast a ballot in the election
  - Requested a ballot by mail
  - Returned a ballot by mail
- Vendors are required to be Certified by January 1, 2020, then recertified annually. An interesting note is that the certification process for the ePollbook systems process was started in January 2020, final modifications

made by June 30, 2020, and implemented in November 2020. This rush for an electronic system might explain some of the problems encountered.

- **Electronic Voting System**

An electronic voting system is one or more integrated devices that utilize an electronic component for one or more of the following functions: ballot presentation, vote capture, vote recording, and tabulation.

- **Voter Roll**

The Secretary of State, as set out in Section 18.061 of the Texas Election Code, is required to implement, and maintain a statewide computerized voter registration list that serves as the single system for storing and managing the official list of registered voters in the state. A list of the individuals that have registered on an electoral roll where a voter resides, as a prerequisite for being entitled to vote. The list must contain the name and registration information of each voter registered in the state, assign a unique identifier to each registered voter, and be available to any election official in the state through immediate electronic access. Bottom line is that the statewide and County Voter Rolls must match.

- **Voter's Unique Identifier (VUID)**

This is a unique number that is assigned to each voter once the voter registration is approved. Each voter will have only one number

## Appendix 2 – Selected Precincts Snapshots

We selected four precincts (122, 228, 334 and 413) to highlight the differences mentioned in the Digital Canvassing section. This Appendix includes a set of tables comparing number of registered voters, the number of people who voted as reported by Hays County in different official sources. The other tables are specific to each one of the four precincts.

### Hays County - Registered Voters in selected Precincts

Precinct	Hays County Website	Hays County Voter Roll	Difference
121	2,501	2,403	98
228	3,793	3,941	-148
334	3,777	2,899	878
413	1,458	1,073	385

### Hays County – Number of Voters in November 2020 in selected Precincts

Precinct	Hays County Website	Hays County Voter Roll	Difference
121	1,342	1,385	-53
228	2,955	2,997	-42
334	1,696	1,218	478
413	717	451	266



## Snapshot Precinct 121

	Hays County Website	Hays County Voter Roll	Difference
Registered voters	2,501	2,403	98
Voted	1,342	1,385	-43

Hays County Website
Votes for Biden: 1,117
Votes for Trump: 189
Difference: 928 (491%)

Hays County Voter Roll
<b>239 who voted</b> had an Eligible date <b>less than 30 days</b> before Election Day.
<b>234 who voted</b> had an Effective date <b>after</b> Election Day
95% of the votes came from only nine (9) addresses, all of which are multi-family properties, rentals

## Snapshot Precinct 228

	Hays County Website	Hays County Voter Roll	Difference
Registered voters	3,793	3,941	-148
Voted	2,955	2,997	-42

Hays County Website
Votes for Biden: 1,822
Votes for Trump: 1,084
Difference: 738 (68%)

Hays County Voter Roll
<b>471 who voted</b> had an Eligible date <b>less than 30 days</b> before Election Day. Of these, 46 have an Eligible date on 2021.
<b>87 who voted</b> had an Effective date <b>after</b> Election Day.

## Snapshot Precinct 334

	Hays County Website	Hays County Voter Roll	Difference
Registered voters	3,777	2,899	878
Voted	1,696	1,218	478

Hays County Website
Votes for Biden: 1,290
Votes for Trump: 368
Difference: 922 (251%)

Hays County Voter Roll
<b>465 who voted</b> had an Eligible date <b>less than 30 days</b> before Election Day.
<b>87 who voted</b> had an Effective date <b>after</b> Election Day
62 voters who did not vote in previous 39 cycles voted in Nov 2020

## Snapshot Precinct 413

	Hays County Website	Hays County Voter Roll	Difference
Registered voters	1,458	1,073	385
Voted	717	451	266

Hays County Website
Votes for Biden: 583
Votes for Trump: 121
Difference: 462 (382%)

Hays County Voter Roll
<b>174 who voted</b> had an Eligible date <b>less than 30 days</b> before Election Day.
<b>16 who voted</b> had an Effective date <b>after</b> Election Day
99% of the votes came from only nine (9) addresses – all of which are student dorms at TSU

### Appendix 3 – Responses from the Hays County Elections Administrator

**Note:** The following are the responses submitted by the Hays County Elections Administrator to the Hays County Commissioners’ Court. These were read by the Court’s clerk during the Commissioners’ Court meeting on October 25, 2022. The item “Election Integrity” was added to the agenda by the Judge Ruben Becerra.

#### Hays County Elections Response to Citizen Comment Regarding The 2020 Election

*Concerns were expressed over what appears to be 57,829 Voters who voted in 2020 that have the same Eligible and Effective date.*

*Votec’s use of the term Eligible and Effective is not reflective of what those terms are defined as in the Texas Election Code. They are a national voter registration vendor, so the term is not specific to any state. Hays County has requested that the modify this reference, but that has not been resolved at this point in time.*

*Votec’s explanation of their formatting is that both dates will stay the same for all new registered voters, until which time the voter makes a change to their voter registration account and then the “Effective Date” will be amended to reflect the change.*

*To help make this clear, Hays County intends to add a column for “Original Registration Date” to help make the list easier to navigate. As stated above, Votec is also looking into a format change as well.*

**Our response:** The system the County currently has in place does not meet the requirements of the Texas Election Code.

To separate the Eligible and Effective Date in the Voter Roll as per the Texas law should have been a required feature in the software selection process. **The characteristics of the database management of the software vendor should not supersede the Texas Election Code.**

-----

*Concerns were expressed over what appears to be 9,628 voters who voted had an eligible date less than 30 days before the election.*

*This category of voters consists of 1) voters that have had changes made to their account, 2) voters that are registered at 17 and 10 months that are eligible by election day, and 3) voters that voted early, but are eligible by Election Day.*

**Our response:** By not complying with the Texas Election Code, the Voter Roll is an unreliable source of information and unable to distinguish between invalid ballots from valid ones.

**According to the Texas election Code all the 9,628 individuals who voted with an Eligible date less than 30 days before the Election should be considered as invalid. That is how they currently show up in the system. The question is how the County can prove each and everyone of those votes is valid.**

None of the three reasons stated by the Election Administrator make any sense to categorize these voters as valid.

**If the votes were valid as the County claims, the question also remains on how the County uses processes that allow for the system to report invalid votes that are counted as valid ones**

-----

*Concerns were expressed over what appears to be 3,799 individuals who voted had an Effective date later than Nov 3rd (including 247 whose effective date was in 2021).*

*This category of voters consists of voters that initiated a change in the system, which changed their effective date. The Elections Office starts processing changes, Statements of Residences, and new Voter Registration as soon as any election has concluded. To determine what change was made to a specific voter record, one would need to look at the records on a case-by-case basis.*

**Our Response:** It is unclear what a “change in the system” means and how it would trigger a change in the Effective date. The reasons stated by the Elections Administrator are not pertinent to the Effective date.

**According to the Texas election Code all the 3,799 individuals who voted with an Effective date later than November 3rd should be considered as invalid. That is how they currently show up in the system. The question is how the County can prove each and every one of those votes is valid.**

**If the votes were valid as the County claims, the question also remains on how the County uses processes that allow for the system to report invalid votes that are counted as valid ones.**

-----

*Concerns were expressed about 174 voters that had one VUID # in the Poll Book and a different one on the voter rolls.*

*For provisional ballots for voters that are not registered anywhere in Texas, they will not be issued a VUID during the check-in process. They get a Cert #. Only if their vote is accepted and counted will they get a VUID #, because that is when they are registered.*

**Our response:** The answer does not make any sense at all. **These voters did not vote Provisional.** The Voter Roll only includes Texas residents. Therefore, the statement that these voters “are not registered anywhere in Texas” does not apply.

-----

*Concerns were expressed about 662 individuals who did not have a VUID in the Voter Roll*

*This would be Provisional ballots that were never accepted for counting, so the individuals were never issued a VUID #.*

**Our response:** If all these votes were not accepted for counting, why is the total in person voting of the Hays County website (96,941) substantially higher than the ePollbook (95,681) when it should be lower by this amount?

The County therefore has the burden of proof to show these votes were not accepted for counting even if they are not in the Voter Roll.

-----

*Concerns were expressed about 459 Voters registered in counties other than Hays County.*

*This would be Provisional voters who were registered in other counties. Their votes were received, but not accepted and counted.*

**Our Response:** These votes are part of the 662 above so the same response applies.

**END OF DOCUMENT**