

BATTLEGROUND FOR ACCESS

CIVIC ENGAGEMENT IN THE GREATER HOUSTON REGION

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EXECUTIVE SUMMARY

BACKGROUND

Commissioned by the Houston Endowment, this report assesses systemic barriers and opportunities for civic engagement in Greater Houston. It provides a landscape analysis of federal, state, and local statutes, government websites, and other policy documents pertaining to elections and election administration as well as voting and registration. This report updates our 2018 report with county-level data on a comprehensive set of political, civic, and election administration indicators from the 2018 and 2020 elections, and in many areas, provides information on changes over the past decade. In addition, this report focuses not only on Harris County, but the other counties in the Houston metro area as well: Brazoria, Chambers, Fort Bend, Galveston, Montgomery, Waller, and, where possible, Austin and Liberty.

The original 2018 Take Action Houston report provided up-to-date, comprehensive, and easy to access facts, figures, and resources that helped inform the organizing, mobilization, and advocacy work of Houston in Action and other stakeholders in Harris County. Partly in response to the success of measures implemented by Harris County and other local governments to increase voter access and protect Texans' voting rights, over the past couple of years, the state legislature and state elected officials have erected new barriers to voter participation and civic education and have taken a more aggressive stance toward disenfranchising and diluting the votes and voices of people of color, youth, disabled and low-income Texans. In this new report, we include both comprehensive analyses and recommendations stemming from these analyses that may help inform future organizing and advocacy work within the region. We focus specifically on local and state-level recommendations that may help to expand electoral access and participation, particularly among communities that have often been underrepresented in electoral processes.

This report includes several chapters that focus more specifically on substantive areas that have emerged from the work of Houston in Action partners in recent years: electoral participation among those who have been involved with the criminal justice system, youth, and individuals experiencing language barriers, as well as issues surrounding local redistricting. The objective of this report is to frame discussions with community

leaders and local stakeholders about potential ways to address specific barriers to participation and strengthen and improve the civic health of Greater Houston.

This report also explores the potential effects of the Covid-19 pandemic on both the administration of elections and the electoral participation of voters in Greater Houston, as well as across Texas and the U.S. The Covid-19 pandemic necessitated a number of changes to the way elections are administered and run. For example, the need to accommodate social distancing and slow the spread of the virus among voters, poll workers, and election officials and staff meant that many states took action to expand the availability of absentee or vote by mail as well as in-person early voting. At the local level, some jurisdictions, like Harris County, implemented new innovations like 24-hour voting and drive-thru voting.

The Texas Legislature and state elected officials have erected new barriers to voter participation and civic education.

DATA SOURCES

We utilized a wide range of sources to conduct the research for this report. These included statutes, government websites, newspapers, research reports, academic papers, as well as policy analyses and state-level comparisons produced by reputable policy organizations. For most of the descriptive data presented on voting, registration, and election administration, this study relies primarily on one data source, the Election Administration and Voting Surveys (EAVS). These surveys are administered after each federal election by the U.S. Election Assistance Commission (EAC). The EAC publishes its own report summarizing findings for the country as a whole, and importantly, makes county-level data available after each report is published. These biennial surveys include state-by-state and jurisdiction-by-jurisdiction data on a wide variety of election administration topics, including voter registration, military and overseas voting, domestic civilian by-mail voting, polling operations, provisional ballots, voter participation, and election technology.

For this report, we extracted and summarized EAVS responses for all Texas Counties and compared these to responses for the seven Greater Houston counties for which reliable data were available: Brazoria, Chambers, Fort Bend, Galveston, Harris, Montgomery, and Waller. Because of its status as the most comprehensive survey of election administration in the United States, the 2020 EAVS provides extensive data on the efforts by the nation's election officials and poll workers to ensure that the 2020 general election was conducted in a safe and secure manner. Comparing survey responses from 2020 to earlier election years (especially 2018) allows us to evaluate not only changes in election administration, but also whether and how voting and registration in Greater Houston, Texas and the U.S. were affected by the Covid-19 pandemic and the changes made by election officials to accommodate public health concerns by voters, state officials, and public health experts

KEY FINDINGS

Covid-19 did not dampen turnout in Greater Houston

While the Covid-19 pandemic affected the process of voting, overall, it showed no sign of dampening turnout in 2020.

+ Turnout of registered voters was higher in 2020 compared to 2016 across all counties in Greater Houston. The average increase across the seven counties was just over eight percentage-points, with Waller County seeing the largest increase (10 percentage-points) and Brazoria County registering the smallest (6.7 percentage-points). Brazoria County was the only county that saw an increase smaller than the Texas average (7.3 percentage-points).

+ Covid-19 led to significant increases in absentee voting in 2020. In Greater Houston, all but one county (Chambers) saw increases, and in three counties (Brazoria, Fort Bend and Harris), the increases were greater than 25 percent (26%, 40% and 32% increases respectively). Absentee voting also increased by 30 percent in Texas. Despite these increases, there continued to be an enormous gap in the percentage of voters who cast ballots absentee in the U.S. versus Texas and the Greater Houston counties. Pre-Covid, on average 23 percent of Americans cast ballots absentee, while in

2020 this increased to 43 percent, an increase of 86 percent. Texas and Greater Houston lag significantly behind the rest of the country in this mode of voting. Only one county (Harris) crossed the 10 percent threshold of voters casting absentee ballots in 2020, and on average, only 8.6 percent of Texas voted absentee in 2020.

+ The number of registered voters increased in all seven counties in the region between 2016 and 2020. Counties with the largest increases include Fort Bend and Montgomery, at nearly 20 percent. The state of Texas also witnessed a significant increase (18%).

However, when we compare the new registrations received in 2020 versus 2018, we find a rather significant decline. Decreases were seen in five out of the seven counties, including the four largest. The most significant declines were reported in Montgomery (-29%) and Fort Bend (-21%) counties. That said, with the exception of Montgomery County, the region experienced smaller declines in registration applications than the state as a whole (-25%). Galveston County and Chambers County reported slight increases in registration applications (2% and 6% respectively), but these were much lower than the national increase in registration applications over this period (30% increase).

Recent electoral policy changes have had mixed effects on voting processes in Greater Houston

Our findings suggest that recent changes in state and county laws and procedures related to elections have had a mixed effect on the processes involved in voting across the region.

+ Four of the seven counties that shifted to county-wide voting between 2010 and 2020 did not see a decline in the number of provisional ballots cast, despite the fact that this change removed a key reason (attempting to vote in the wrong precinct) for submitting a provisional ballot.

+ The implementation of the strict voter ID law (SB 5) is associated with a sharp increase in the number of provisional ballots cast in 2018 across all seven counties. However, this spike did not persist in 2020, which may suggest that voters are becoming more aware of ID requirements. Data from EAVS shows not only that very few provisional ballots in Greater Houston are rejected due to ID issues, and that these numbers of rejected ballots changed very little after the implementation of SB 5.

Greater Houston counties comply with laws not followed by some other Texas counties

Some of our findings suggest that Greater Houston counties are fully complying with federal and state laws that many other counties in Texas are not.

+ Federally required translated ballots appear to be provided for recent elections by all nine Greater Houston counties, based on our review of sample ballot information currently available on the nine Greater Houston elections websites (translated to Spanish for all nine counties, and also to Chinese and Vietnamese in Harris).

Some Greater Houston counties engage in outreach and take steps to increase access

We also find that counties are engaging in outreach and taking actions not necessarily required by law to make information easier to access and more readily available.

+ Counties report that obtaining a sufficient number of poll workers has become easier over the last three federal elections. In 2016, four out of six Greater Houston counties responding to the EAVS survey said it was somewhat difficult to recruit a sufficient number of poll workers, while

in 2020 only one county responded that it was difficult (Waller). In 2020, five of seven counties responded that it was either somewhat or very easy to obtain a sufficient number of poll workers; one county, Montgomery, said it was neither easy nor difficult.

The targeted recruitment of student election workers in Harris County as well as having a dedicated page about election workers on county election websites, which Brazoria, Fort Bend, Galveston, and Harris counties all have, have likely helped increase applications for poll workers. In turn, this makes it easier for counties to hire a sufficient number of poll workers to cover their needs.

+ Harris County's elections website provides in-depth information about absentee voting and the application process. Guidance provided by Harris County includes a FAQ for voters that provides explicit directions on how to meet voter identification requirements on one's application for a ballot. The FAQ also provides a phone number for multilingual support to voters with questions about completing their absentee vote application, and outlines ways applicants can avoid delays in receiving their ballot.

+ There has been a steady increase in the number of polling locations on college campuses. Election Day polling locations on college campuses for general elections taking place in Greater Houston between November 2016–2020 have increased from 9 (2016) to 12 (2018) 25 (2020). Only two counties in Greater Houston had polling locations on college campuses in 2016 (Harris and Waller), however, in 2018, two additional counties added campus polling locations (Galveston and Montgomery).

+ The total number of early voting polling locations has generally been increasing across the Greater Houston region, though there are exceptions. The three most populous counties, Fort Bend, Harris, and Montgomery, as well as Galveston, saw relatively large increases in the number of early voting polling locations in 2020.

+ There has been a meaningful decline in the number of provisional ballots rejected for the 'wrong precinct' reason among Greater Houston counties adopting county-wide voting. Though data reported by counties was limited, available evidence supports this conclusion.

Greater Houston counties lack sufficient information on their elections websites

There are a number of areas where it appears that county registrars and election officials are not doing enough to make voting accessible to all of their citizens/ voters via their websites:

- + **Little public description of language assistance and interpretation support** is posted directly on the nine Greater Houston county elections websites. In reviewing all nine county websites, Harris and Montgomery appear to be the only counties to mention the availability of language assistance at their polling locations.
- + **Several Greater Houston counties include no information about how to cast an absentee ballot** on their website. This includes Liberty, Montgomery, and Waller, while others (Chambers, Brazoria, Austin) link voters directly to a Secretary of State site or flier that provides only a simple overview of the absentee balloting process. Many counties in the region (Chambers, Liberty, Fort Bend, Montgomery, Austin, Waller) do not provide voters with any information about how they can physically deliver their absentee ballot on Election Day if they choose to do so.
- + **Just four Greater Houston counties specifically address student poll workers** in their elections websites: Brazoria, Galveston, Harris, and Liberty. The remaining five counties do not appear to include any mention of student poll workers on their county elections sites.
- + **Some counties include very limited information or guidance about voter registration eligibility and processes** directly on their websites. This includes Austin, Liberty, and Waller counties. In particular, the only registration-related guidance Waller provides is a link to the TXSOS English-language online voter registration portal (which the voter must print and then mail to the county), as well as a link to a form for canceling one's registration.

Simple steps could help increase voting access in Greater Houston

Based on our analyses, we identify 25 state and local-level recommendations to help expand electoral access and participation, particularly among communities that have often been underrepresented in electoral processes. Included among these are a number of simple steps that the state legislature and/or county election officials can take to increase access to voting:

- + **Adding the response option “detained in jail” to the Reasonable Impediment Declaration form** would allow incarcerated individuals to complete this form accurately. This could help reduce fears that falsely answering this question would risk further

criminal penalties, since the state's voter ID law can pose a challenge for incarcerated individuals whose IDs are not in their possession while incarcerated.

+ **Adopting an opt-out approach so that senior citizens, voters with disabilities, and out-of-state college students can automatically receive absentee ballots would facilitate increased access to absentee voting.** Absentee voting in Texas and in the Greater Houston counties lagged significantly behind the rest of the U.S. during Covid. Only one county (Harris) saw its share of absentee ballots cast exceed 10 percent in 2020. Outside of Texas, average turnout via mail/absentee voting in 2020 was 43 percent. Instead of easing restrictions on this mode of voting however, the state has since passed two laws (HB 1299 and SB 1) that make it more difficult for Texans to vote absentee or by mail. While repealing these laws would put Texas back to where it was, new legislation that loosens other restrictions would increase Texans' access to absentee voting.

+ **Voluntarily expand county language assistance to provide** translated election materials and election-focused language assistance in languages spoken by large local communities, even when not required to do so under federal law. Currently, beyond translatable websites, Greater Houston counties do not appear to provide language assistance outside of federally mandated languages. The large and growing Asian population in Greater Houston suggests increased demand for language-accessible election support; this might include Chinese and Vietnamese language support and bilingual poll worker outreach in Fort Bend and Korean language support in Harris County. When election materials are created in new languages, these could also be made more widely available by the Texas Secretary of State so that non-mandated counties and voters in those counties can use those materials.

+ **Increase accessibility of opportunities for public comment on local redistricting processes** could help expand public engagement in drawing districts that meet the representational needs of diverse communities. During the 2020 redistricting cycle, among Greater Houston counties, only Harris County offered either an evening or virtual opportunity for public comment on county-level redistricting.

+ **Create opportunities for eligible inmates in county jails to cast ballots in person in order to reduce the disenfranchisement of incarcerated citizens.** Of the nine counties in the region, only Harris County offers a polling location in its jail. Its pilot jail-based voting program, started in November 2021, was the first such program in Texas. Other counties could provide polling locations in their jails to increase access to voting for incarcerated voters.

CHAPTER 1

HOUSTON METRO

REGIONAL OVERVIEW

HOUSTON METRO REGIONAL OVERVIEW

Population and Demographic Characteristics

The Greater Houston area refers to the metropolitan (metro) area within which the city of Houston and Harris County are centered. While the term does not include a precise definition, for the purposes of this report, we will use the Census Metropolitan Statistical Area (MSA), The Houston-The Woodlands-Sugar Land Metropolitan Statistical Area, which defines the metro area as the nine counties that encircle Houston: Montgomery, Liberty, Chambers, Galveston, Brazoria, Fort Bend, Austin, and Waller. However, most of the empirical data presented in this report includes only seven counties since election and election administration data collected by the U.S. Election Assistance Commission (EAC) was largely missing for two counties: Austin and Liberty.

FIGURE 1.1: THE GREATER HOUSTON METROPOLITAN AREA



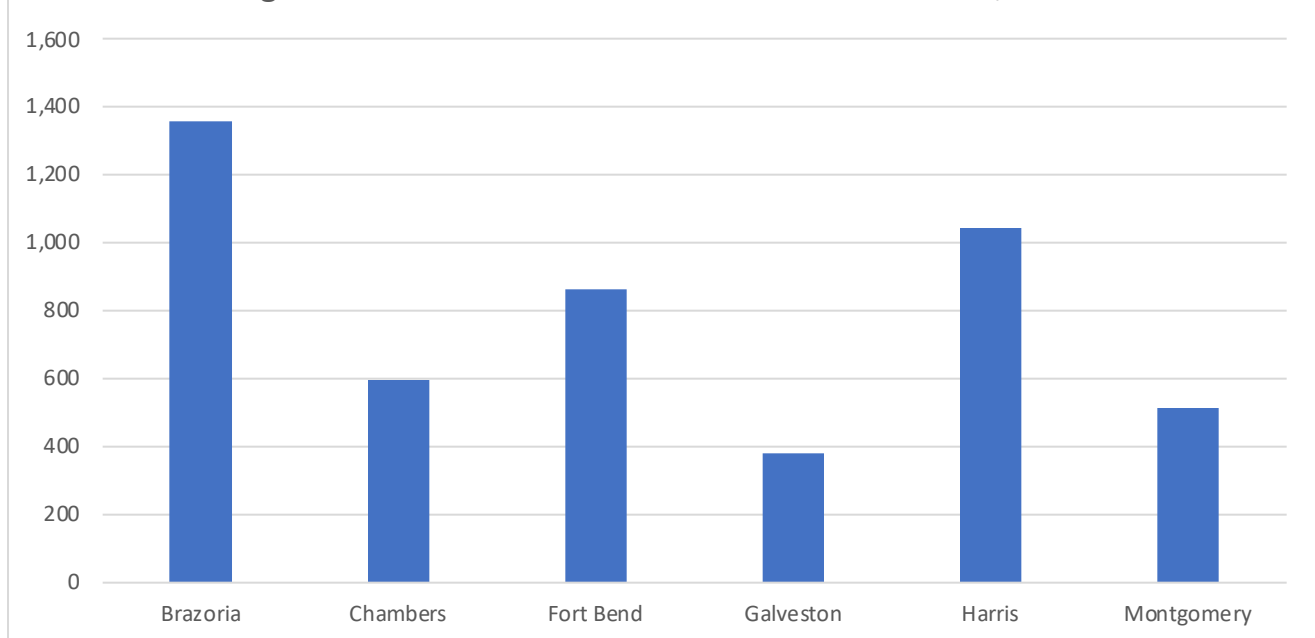
Source: Greater Houston Partnership (2022)

Land Area and Commute Times

The nine-county metro area covers a combined area of 9,444 square miles, which is larger than five states: New Hampshire, New Jersey, Connecticut, Delaware, and Rhode Island. Figure 1.2 provides information on the size of each county. Harris County has the largest land area with 1,707 square miles, followed by Galveston and Brazoria counties (1,502 and 1,363 square miles respectively). Chambers County has the smallest land area (597). Despite its large land area, Harris County is the most densely populated, with 2,777 people per square mile. The next most densely populated county is Fort Bend, with 955 people per square mile. The counties furthest away from the urban centers of Houston, Chambers and Waller, have the lowest population density with 78 and 111 people per square miles. Population density in Brazoria, Galveston, and Montgomery counties ranges from 274, to 927, to 596 people per square miles respectfully (Texas Association of Counties, 2020).

County land area is relevant for elections and voting for a number of reasons. For starters, larger counties may need to have more polling locations to service residents who may live further distances from each other. Alternatively, residents may need to travel longer distances to reach polling locations, particularly if population density is low. Land area and other spatial features of counties have more general implications for residents' mobility and time spent commuting. Obviously, the more time residents spend commuting, the less time they may have for other activities, including voting or other forms of civic involvement. In 2019, the average one-way commute in the U.S. was 27.6 minutes, marking a new high (Burd, Burrows & McKenzie, 2021). Average commute times for all counties in the Houston metro area exceeded this national average. Fort Bend County's was the highest with 33 minutes, while Galveston County had the lowest average commute with 28 minutes. Montgomery County had the second highest commute time with 32 minutes. Brazoria, and Chambers counties had average commute times of 31 minutes, while Harris and Chambers counties' average commute was 29 minutes in 2021 (U.S. Census Bureau, 2021). Over the past decade average daily commutes to work have increased in every county except Chambers County (U.S. Census Bureau, 2021; 2010).

Figure 1.2: Land Area of Greater Houston Counties, 2020



Source: Texas Association of Counties (2020)

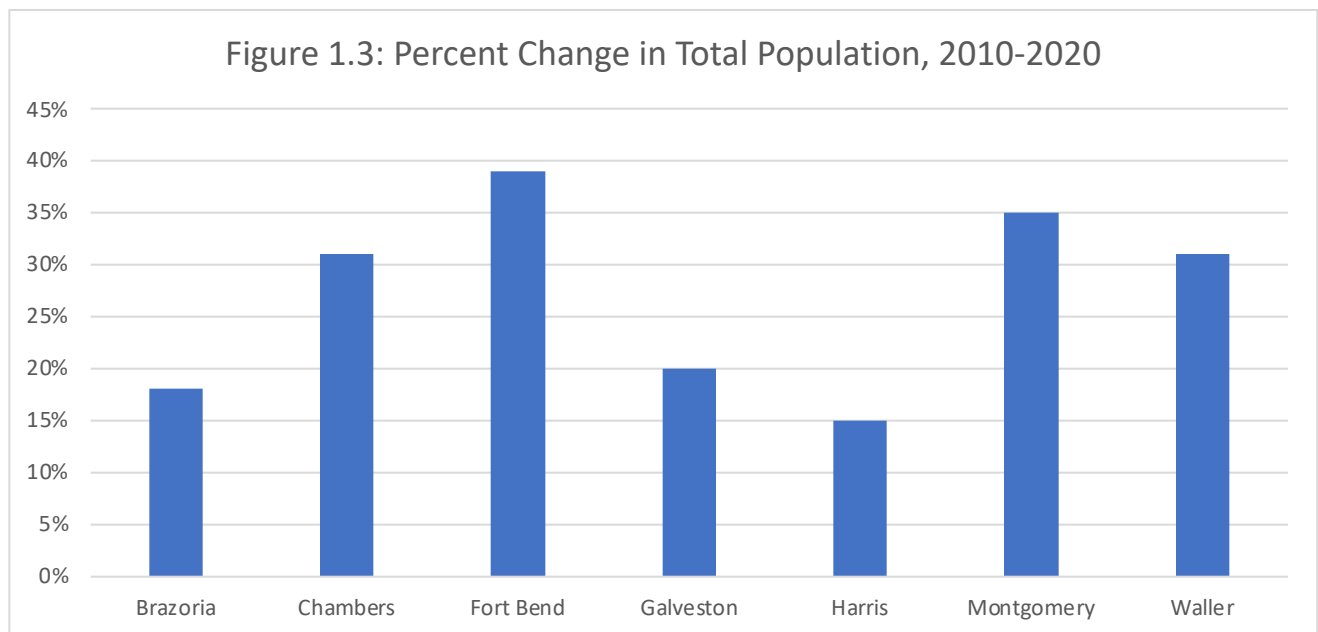
Population Characteristics

The nine-county Houston metro area has a population of some 7.2 million residents (Greater Houston Partnership, 2022), making it larger than 31 U.S. states

and roughly equal to the population of the state of Arizona (U.S. Census Bureau, 2022). Table 1.1 displays the total population from 2010–2020 (even years) of each of the seven counties being analyzed in this report.

TABLE 1.1: TOTAL POPULATION BY COUNTY, 2010–2020

COUNTY	2010	2012	2014	2016	2018	2020
Brazoria	314,428	324,224	337,570	353,155	368,887	372,031
Chambers	35,456	36,508	38,296	40,163	42,227	46,571
Fort Bend	590,253	624,824	684,048	744,160	788,081	822,779
Galveston	292,484	301,049	313,367	328,820	337,858	350,682
Harris	4,107,666	4,263,094	4,455,994	4,623,960	4,680,045	4,731,145
Montgomery	459,208	484,565	517,146	555,216	589,770	620,443
Waller	43,519	44,335	46,765	50,046	53,512	56,794
Total	5,843,014	6,078,599	6,393,186	6,695,520	6,860,380	7,000,445



Source: U.S. Census Bureau (2020a, 2020b)

Harris County is the biggest county by far, with over 4.7 million residents in 2020. It represents more than half of the total MSA population and is about four times larger than the next largest county, Fort Bend, which had about 822,000 residents in 2020. The more rural counties of Chambers and Waller are the least populated of all the counties in the metro area with populations roughly around 50,000 in 2020.

The Houston metro area has long been known for its pro-growth, pro-business politics. The Greater Houston metro area, currently the largest in the state of Texas, also saw the second highest growth rate of all metros in the U.S. in 2021-22. The strong local economy and relatively low (but growing) cost of living have long served as pull factors, attracting residents from across and outside the U.S. to move to the area in the hopes of finding better jobs and a more affordable lifestyle. Figure 1.3 reports the percent change in the total population from 2010 for all the counties being analyzed for this report.

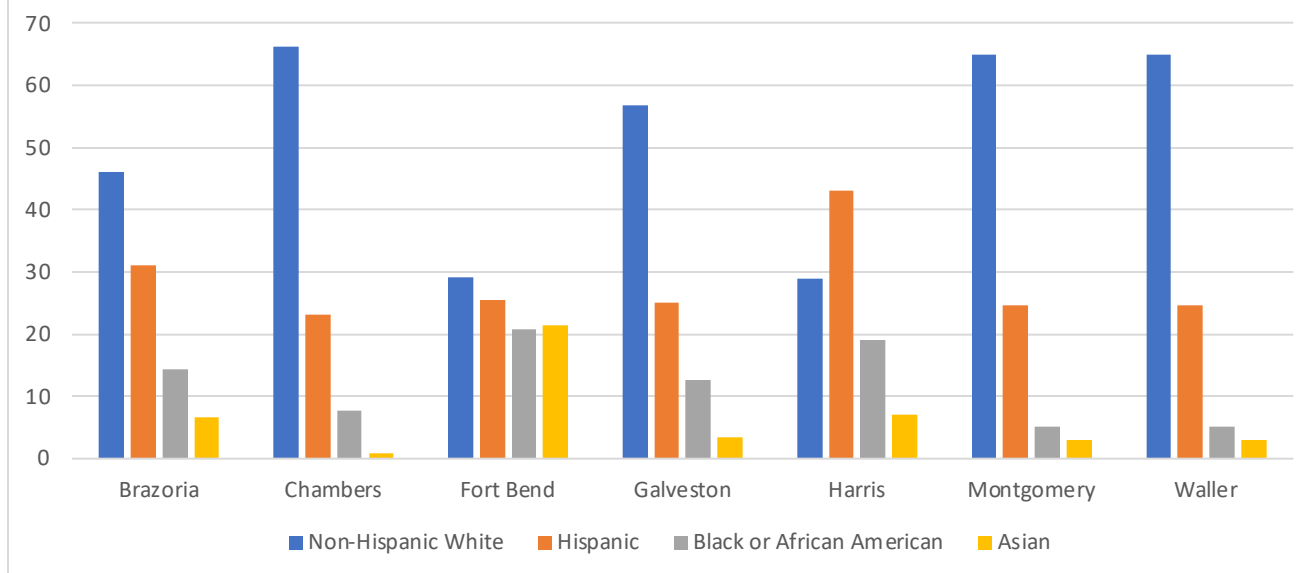
Fort Bend County has the highest percent increase from 2010 at 39 percent with Montgomery County being close behind at 35 percent. Chambers and Waller County are tied for third at a 31 percent

increase in population since 2010. Galveston County is behind these counties with a 20 percent change, and Brazoria and Harris counties report the smallest percent changes in population at 18 and 15 respectively.

County Racial and Ethnic Composition

The population growth and in-migration of residents from all over the world has contributed to the increasing diversity of Greater Houston's population overtime. The city of Houston and Fort Bend County are increasingly cited for their diversity. For example, a 2021 report by WalletHub ranked Houston first out of 501 cities in diversity based on 13 metrics that tapped cultural, economic, household, socio-economic, language, and other factors (Manzanetti, 2021). The [fortbendcounty.com](https://www.fortbendcounty.com) website boasts that Fort Bend County is the most diverse county in Texas and the third most diverse county in the U.S. (see also DeLisle, 2021; MacLaggan, 2013). Figure 1.4 reports the racial and ethnic make-up of the seven counties in 2020.

Figure 1.4: County Racial-Ethnic Characteristics, 2020



Source: U.S. Census Bureau (2020c)

Fort Bend stands out in Figure 1.4 as county where each of the four racial/ethnic groups represent a similar share of the population, ranging from 21 (black/African American) to 29 (non-Hispanic white) percent. Harris and Brazoria are the two other counties where no racial/ethnic group comprises a majority. In Harris County, Hispanics are the largest group with 43 percent of the population, while in Brazoria County non-Hispanic whites represent the largest group with 46 percent of the population. In the four other metro counties—Chambers, Galveston, Montgomery and Waller—non-Hispanic whites are a majority group, ranging from 57 percent in Galveston to 66 percent in Chambers County. For the seven counties, the average racial/ethnic composition is: 51% non-Hispanic white, 28% Hispanic, 12% black/African American and 6% Asian.

Variation in the racial/ethnic composition of the county populations has as number important implications for voting and civic engagement. For example, some racial/ethnic groups have a longer history in the metro area, which means that neighborhood and civic organizations serving these communities may be more plentiful and established. In addition, length of time in the community could have implications for the extent to which individuals from different racial/ethnic groups are represented among those running for and holding county elective office. Finally, racial/ethnic groups vary in terms of their resources (education, time, money) and barriers (language, transportation) they face in participating in elections and civic activities.

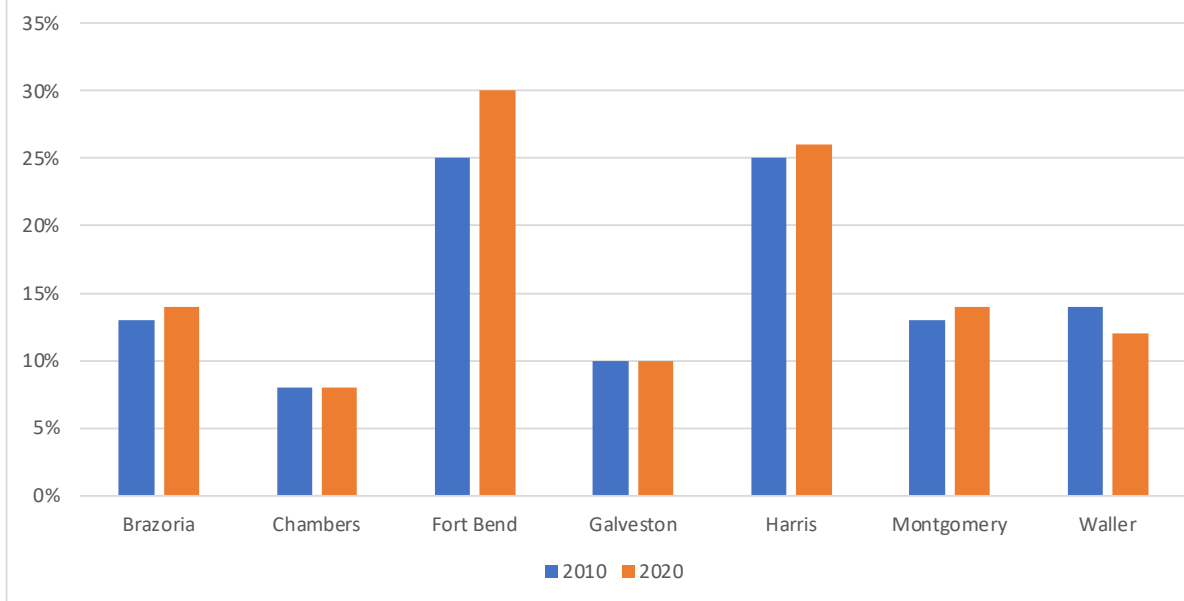
Nativity and Language

Beyond racial/ethnic identity, residents' nativity status is a key indicator to consider with regard to electoral and other participation. Figure 1.5 displays the percentage of the county population that was foreign born in 2010 and 2020.

As the data in Figure 1.5 show, Fort Bend and Harris counties stand out from the rest of the counties in Greater Houston when it comes to the size of their foreign-born populations. More than one in four residents in both counties was foreign-born in 2020, compared to less than one in seven in the other five counties. Fort Bend not only had the largest foreign-born population in 2020, but also registered the largest increase between 2010 and 2020, at 5 percentage points. Chambers County has the lowest percentage of foreign-born residents at eight percent, and along with Galveston County, has seen no change in its foreign-born population over the last decade. Waller County is the only county that had a decrease (2 percentage points) in its foreign-born population from 2010-2020 (U.S. Census Bureau, 2020; 2010).

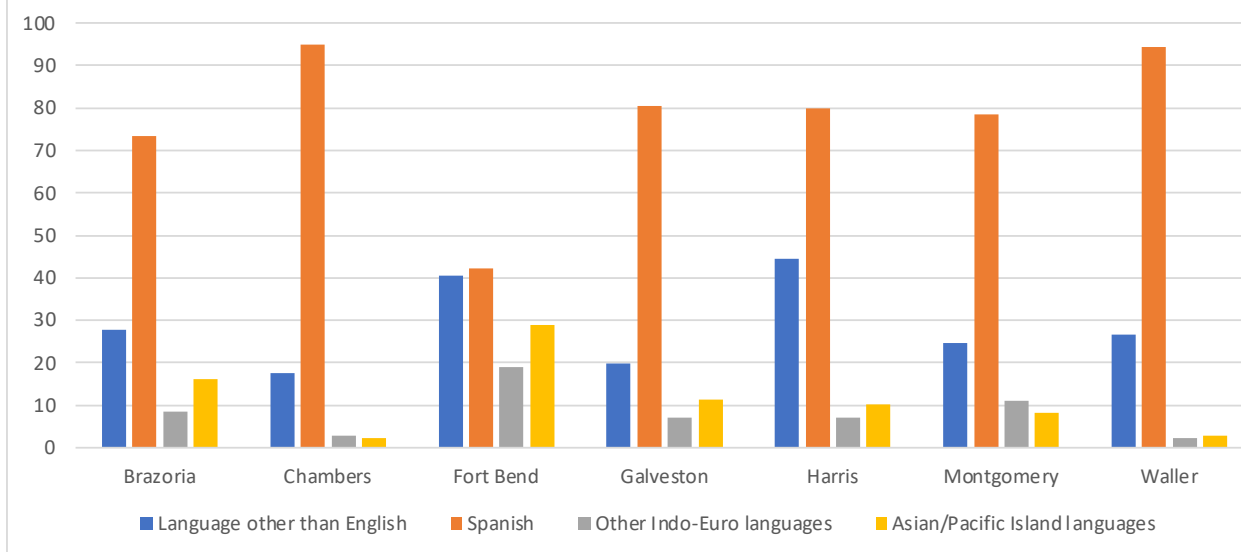
The size of the foreign-born population has implications for electoral participation because it reduces the size of voting eligible population. And, for the foreign-born who have naturalized, their political socialization in the U.S. may be more limited, which can mean weaker partisan attachments and higher costs of electoral participation due to lower levels of political knowledge. Another demographic feature that can point to higher costs of voting is language. People whose native language is not English or who lack English language fluency can face barriers navigating the process of getting registered to

Figure 1.5: Foreign Born Population, 2010 & 2020



Source: U.S. Census Bureau

Figure 1.6: Language Spoken at Home, 2020



vote and casting their ballot. In Figure 1.6 we report both the percentage of county residents who speak a language other than English at home and the breakdown of what these languages are.

Perhaps not surprisingly, Harris and Fort Bend counties stand out in Figure 1.6. In both counties at least 40 percent of the population speaks a language other than English at home. Other counties average 23 percent, with a high of 28 percent in Brazoria County and a low of 18 percent in Chambers County.

On the other hand, Harris County looks much more like the rest of the counties when it comes to which language other than English is most often spoken at home: Spanish. In all six of these counties, between 74 percent (Brazoria) and 94 percent (Waller) of non-English speakers speak Spanish. In Fort Bend County on the other hand, a much smaller percentage speak Spanish (42%), and a much larger percentage speak Asian and Pacific Islander languages (29%) and other Indo-European languages (19%).

County Offices, Elections and Election Administration

County Elected Officials

Elections in the United States are administered at the local level in a highly decentralized manner. In Texas, as in most states, counties are responsible for running and funding most elections. Among other duties, it is the county clerk in most Texas counties who serves as the chief elections officer. In this role, the county clerk conducts countywide special and general elections, handles absentee voting, oversees the allocation of voting machines, manages polling locations, ensures the accessibility, integrity and efficiency of the polling process, and many other tasks to ensure elections run smoothly (Hurley, 2018).

In addition to the county clerk, other elected county officials include the county treasurer, attorney, sheriff, tax assessor-collector, and the county judge, who is the presiding officer of the commissioner's court, the legislative body of the county. All Texas counties have four precincts and four corresponding county commissioners. The four commissioners are elected from a quarter of the county's population, serve along with the county judge on the commissioner's court and have broad policy-making authority.

All county elected officials serve four-year terms. The positions of county judge, county clerk, and county treasurer are elected during the midterm election cycle (e.g., 2010, 2014 and 2018) while the positions of county attorney, county sheriff, and county tax assessor-collector are elected during the presidential election cycle (e.g., 2012, 2016 and 2020). The position of county commissioner is elected during both the midterm and presidential elections since different precincts are up for election every two years. For example, in Harris County precincts 1 and 3 are typically elected at the same time, during the presidential election cycle, while precincts 2 and 4 are elected during the midterm cycle (with the county judge).

At the time of election and/or appointment, county officials have to be U.S. citizen, a resident of Texas for at least 12 consecutive months, a resident of the county for at least six consecutive months, registered to vote in the county (and in the commissioner's precinct if running for county commissioner), be at least 18 years of age, not have been finally convicted of a felony from which they have not been pardoned or otherwise released from the resulting disabilities, not have been determined by a court with probate jurisdiction to be totally mentally incapacitated or

FIGURE 1.7: THE 9-COUNTY AREA OF GREATER HOUSTON



Source: Greater Houston Partnership (2022)

partially mentally incapacitated without the right to vote, and for the position of county attorney, they have to be a practicing lawyer or judge.

To get a better idea of some of key characteristics of these county elections, Table 1.2 provides summary statistics on the total number of candidates, contests (races) and some indicators of the competitiveness of these contests from 2010-2020.

The counties are quite similar in terms of the presence of incumbents on their ballots. Between 2010 and 2020, all but one county (Waller), saw more than half of all races with an incumbent. This ranged from a high of 84 percent of races with incumbents in Galveston County, to a low of 55 percent in Harris County. Waller County had incumbents in only 43 percent of its county races between 2010 and 2020. The counties are also similar with respect to partisan competition. Across all seven counties, Republican candidates won the overwhelming majority of races. In two counties, Brazoria, and Montgomery, not a single Democratic candidate won. Harris County saw the lowest percentage of Republican electoral wins, however even here, Republicans won nearly two-thirds of all contests. To say that the Republican party dominates county elections in the Greater Houston area would not be an overstatement.

TABLE 1.2: CHARACTERISTICS OF COUNTY OFFICE GENERAL ELECTIONS: 2010-2022

COUNTY	TOTAL CANDIDATES	NUMBER OF CONTESTS	PCT UN-OPPOSED RACES	PCT RACES W/ INCUMBENTS	PCT RE-PUBLICAN WINNERS
Brazoria	38	27	70%	74%	100%
Chambers	36	31	87%	70%	97%
Fort Bend	49	30	32%	76%	70%
Galveston	21	18	81%	84%	89%
Harris	67	32	4%	68%	65%
Montgomery	38	30	76%	55%	100%
Waller	44	27	39%	43%	85%

TABLE 1.3: DEMOGRAPHICS OF CANDIDATES FOR COUNTY OFFICE, 2010-2022

COUNTY	AFRICAN AMERICAN	AAPI	HISPANIC	FEMALE
Brazoria	1.9%	0.0%	0.0%	39%
Chambers	8.9%	0.0%	0.0%	23.0%
Fort Bend	19.4%	16.0%	4.2%	24.0%
Galveston	11.3%	5.0%	0.0%	9.5%
Harris	16.5%	16.1%	1.4%	19.4%
Montgomery	2.8%	0.0%	2.1%	18.0%
Waller	28.2%	9.6%	0.0%	40.0%

Source: County Election Returns. *Limited data available.

The one indicator in Table 1.2 where we see some variation is the percentage of uncontested races. On this dimension, Harris County is an outlier with only 4 percent of races having only a single candidate between 2010-2020. This is a much healthier sign of electoral competition compared to the other counties in Greater Houston. That said, the remaining six counties fall in roughly two groups, one with extremely high levels of uncontested races, between 70-87 percent (Brazoria, Chambers, Galveston, and

Montgomery), and one with more moderate levels, 32-39 percent (Fort Bend and Waller).

In Table 1.3 we summarize some key demographic characteristics of the candidates for all county elected offices over the 2010-2022 period (general elections only). Specifically, we provide summary statistics for the percentage of all candidates who are: African American, Asian American/Pacific Islander, Hispanic and female.¹

¹ Candidates did not self-identify their racial/ethnic or gender identification. Instead, our research team coded candidates based on surnames, photos and pronouns used in their websites or candidate materials.

The data in Table 1.3 show quite a bit of variation in the racial/ethnic and gender make up candidates across the seven counties. On the one hand, one group of counties—Brazoria, Chambers, Galveston, and Montgomery—have very little racial/ethnic diversity across candidates who run for county office. Especially when it comes to AAPI and Hispanic candidates, several counties did not have a single candidate of either racial/ethnic identity run over the twelve-year period. On the other hand, there is a second group of counties—Fort Bend, Harris, Waller—that have some degree of diversity in their candidate racial/ethnic makeup. Waller County had the higher percentage of African American candidates (28%), while Fort Bend and Harris counties each had 16 percent AAPI candidates run for office between 2010 and 2022. No county had much Hispanic representation in its candidate pool. Four counties (Brazoria, Chambers, Galveston and Waller) did not have a single Hispanic candidate run for county office during this period.

There is more diversity when it comes to gender. On average, one in four candidates for county office in the seven counties was female over the twelve-year period. And, the percentage of female candidates ranged from a low of 9.5 percent (Galveston County) to 40 percent (Waller County). Though we don't report

summary statistics by office, there are some clear gender patterns in the data. Specifically, the office of County Clerk tends to be dominated by female candidates (and female winners), while the office of sheriff is dominated by male candidates and winners.

Given the central role that many county clerks play in election administration, in Table 1.4 we provide additional information on this office. Specifically, we provide data on the percentage of clerks elected to office who are female and Republican.

What the data in Table 1.4 show is an almost complete monopoly on the clerk's office by Republican office holders. At least for the 2010-2022 period, only in Harris County has a Democratic clerk ever been elected. This happened in 2018 with the election of Dr. Diane Trautman. However, she left office early, and in the special election in 2020, fellow Democrat Teneshia Hudspeth was elected. For the most part, most clerk races are uncontested.

While women have had a monopoly on the clerk's office in more than half of the counties, two counties show the opposite pattern (Montgomery and Galveston, though we have limited data for the latter). And, in Harris County Stan Stanart won both the 2010 and 2014 elections.

TABLE 1.4: PERCENT OF WINNING FEMALE/ REPUBLICAN CONTY CLERK CANDIDATES, 2010-2022

COUNTY	FEMALE	REPUBLICAN
Brazoria	100%	100%
Chambers	100%	100%
Fort Bend	100%	100%
Galveston	0%	100%
Harris	50%	50%
Montgomery	0%	100%
Waller	100%	100%

Source: County Election Returns. *Limited data available.

TABLE 1.5: DISTRIBUTION OF COUNTY OFFICES RESPONSIBLE FOR ELECTIONS IN TEXAS

OFFICE TYPE	NUMBER OF COUNTIES	PERCENT OF TX COUNTIES
County Clerk	59	23.4%
District & County Clerk	49	19.4%
Election Administration	134	53.2%
Interim Election Administrator	1	.4%
Tax Assessor-Collector	9	3.6%

Source: Texas Secretary of State (n.d.)

Election Administration

In Texas, as in much of the United States, county officials have the primary responsibility for administering elections, regardless of whether the elections are federal, state, or local. In this decentralized system, while no two states administer elections in exactly the same way, local governments typically perform most of the functions that go into the running of the election (selecting and staffing polling locations), as well as tabulating, reporting, and certifying results (National Conference of State Legislatures [NCSL], 2022).

While most local election administration structures are uniform across a state, 16 states have varied structures within the state. In many cases this variation is based on jurisdictional size, with smaller jurisdictions being more likely to have elected election officials (county clerk, recorder, registrar) serve as the election official in addition to conducting other county duties, and larger jurisdictions being more likely to have an election administrator or supervisor whose sole responsibility is the administration of elections (NCSL, 2022).

Texas is one of the 16 states that allows for variation in which county official(s) oversee elections. Table 1.5 reports the different offices and how many Texas counties rely on each type of officer to run their elections. The most popular office is the election administrator, with just over half of Texas' 254 counties (53%) relying on this office to run their elections. Most of the remaining counties rely on either the county clerk (23%) or the district and county clerk (19%) to

oversee elections. And, in Harris County Stan Stanart won both the 2010 and 2014 elections.

When it comes to the counties in Greater Houston, the split is a slightly different. Currently four counties rely on a county clerk to run their elections: Brazoria, Chambers, Galveston, and Harris. The remaining three counties (Fort Bend, Montgomery, and Waller) have an election administrator. It is worth noting that Harris County established an election administrator position in 2020 and switched to from a county clerk. This happened after a democratic candidate, Diane Trautman, was elected to county clerk in 2018. However, the election administrator's office in Harris County was short lived. In May 2023, the Texas legislature passed Senate Bill 1750, which required Harris County to transfer all election-related duties from election administrator Clifford Tatum, who was appointed just before the November 2022 elections, to the county clerk and the county tax assessor-collector. Though challenged, the law went into effect on September 1, 2023, just weeks before early voting starts for the November elections in the state's largest county (Salhotra, 2023).

Unlike the county clerk or county registrar, which are partisan, elective position, the county elections administrator is a non-partisan, appointed position. Elections administrators are appointed by the county election commission, which consists of the county: (1) judge, (2) clerk, (3) tax assessor-collector, (4) chair of each political party that made nominations by primary election for the last general election for state and county officers preceding the date of the meeting at which the appointment is made (Tex. Elec. §31.032).

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CHAPTER 2

**CIVIC
ENGAGEMENT**
AT A GLANCE

Why It Matters

The system of governance in the U.S. is based on democratic self-governance and thus depends importantly on civic engagement. Our federal republic derives its power from the people. Citizens elect government officials at the federal, state, and local levels and these elected officials represent the concerns, needs, and preference of the citizenry. While civic engagement takes many forms, political participation through registering to voting and casting a ballot is just one of many important ways that we can participate in our democracy.

When citizens vote they communicate their preferences about candidates and issues, thereby investing in the collective good. This not only empowers individuals by helping give them a sense of agency over what goes on in their communities, but also strengthens democratic processes and

institutions.

This report focuses on voting and electoral participation. In this chapter, we start with some baseline information about patterns and trends in both voter registration and voter turnout across Greater Houston.

VOTER REGISTRATION

Voter registration is a critical piece of the civic engagement story. To participate in the electoral process, citizens must be registered to vote. To do this, they must meet eligibility requirements, which vary slightly across states, and they must update their voter registration in a timely fashion if and when they change their name and every time they move. For the voter who never changes residences or relocates, the voter registration process may appear relatively straightforward. However, for the typical voter, who has moved at least once in their lifetime, the process is more complicated. Indeed, roughly 15 percent of Americans change residences in a given year. Based on a Pew Research survey in 2008, 42 percent of Americans have lived in two or more states (Cohn & Morin, 2008). Since the 2013 Supreme Court case *Shelby v. Holder*, purging of voters from rolls has been more prevalent.

For the typical voter, who has moved at least once in their lifetime, the process is more complicated.

Pew Research

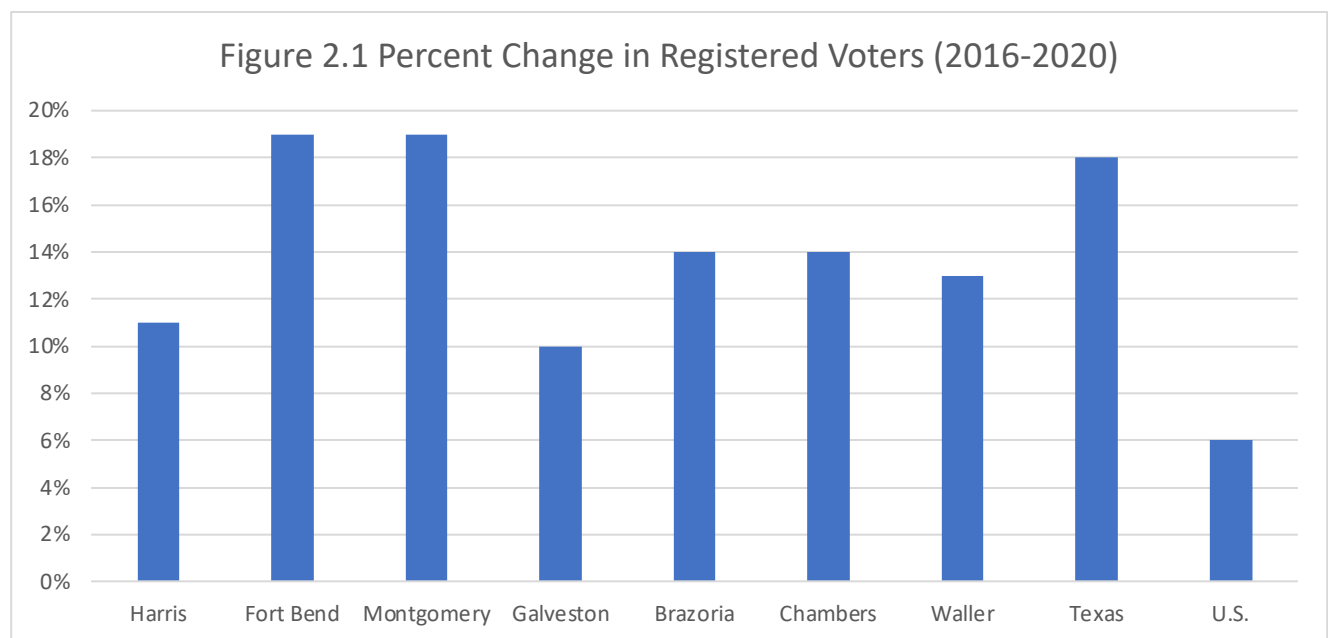
TABLE 2.1: TOTAL NUMBER OF REGISTERED VOTERS: 2014-2020

COUNTY	2014	2016	2018	2020
Brazoria	183,488	196,507	210,087	224,256
Chambers	25,128	26,930	26,882	30,709
Fort Bend	363,147	404,035	428,679	482,368
Galveston	191,961	208,232	206,534	228,482
Harris	2,062,792	2,234,671	2,357,199	2,480,522
Montgomery	281,496	311,880	327,629	370,060
Waller	29,871	31,132	31,952	35,116
Texas	14,020,405	14,382,387	15,615,925	16,955,519
U.S.	190,669,632	214,109,367	211,601,918	228,004,364

Source: Texas Secretary of State (county data); Election Administration and Voting Survey – U.S. Election Assistance Commission (Texas and U.S. data)

Since it is hard to compare the magnitude of the increases in registered voters across units that vary so

dramatically in size, in Figure 2.1 we report the percent change in registered voters between 2016 and 2020.



Source: Texas Secretary of State (county data); Election Administration and Voting Survey – U.S. Election Assistance Commission (Texas and U.S. data)

Registrations Received Since Last Election

In Table 2.2 we compare the total number of registration forms received since the last election for the seven counties and both Texas and the U.S. over the 2010-2020 period. Overall, population increases over the decade were paired with significant increases in registration applications. Half of the counties in

the region doubled registrations with another three counties increasing registrations by at least 60% from 2010 to 2020. Only Chambers County is an exception to this trend with a mere 5 percentage-point increase in registrations from 2010 to 2020.

TABLE 2.2: TOTAL NUMBER OF REGISTRATION FORMS RECEIVED FROM ALL SOURCES, BY COUNTY

COUNTY	2010	2014	2016	2018	2020	2018-20
Brazoria	35,721	8,893	NA	79,469	66,556	-16%
Chambers	8,503	3,574	5,656	8,418	8,932	6%
Fort Bend	55,847	158,549	151,501	191,908	150,859	-21%
Galveston	34,775	45,788	53,110	68,356	69,872	2%
Harris	342,633	710,541	883,997	869,898	775,413	-11%
Montgomery	57,968	105,085	134,209	146,648	103,651	-29%
Waller	7,676	NA	15,274	14,919	12,315	-17%
Texas	2.4 million	5 million	5.7 million	6.7 million	5.1 million	-25%
U.S.	44.7 million	49.4 million	77.5 million	79.9 million	103.7 million	30%

Note: Red denotes a decrease in registrations forms received between 2018 and 2020

Source: 2014, 2016, 2018, and 2020 Election Administration and Voting Surveys; 2010 NVRA Datasets (U.S. Election Assistance Commission). From close of registration in prior November even-year election to the close of registration for the current November election.

Since we are also interested in potential effects of Covid on registration trends, we computed the percent change in registrations received between 2018 and 2020 and reported this in the last column of Table 2.2. As the data show, the region as a whole experienced a relatively significant decline in registration forms received between 2018 and 2020, likely due in large part to Covid. Decreases were seen in five out of the seven counties including the four largest. The most significant declines were reported

in Montgomery (-29%) and Fort Bend (-21%) counties. With the exception of Montgomery County, the region experienced fewer declines in registration applications than the state as a whole (-25%). Though Galveston County and Chambers County reported increases in registration applications, these increases were slight (2% and 6% respectively) and much lower than the national increase in registration applications over this period (30% increase).

Registration Application Types and Sources

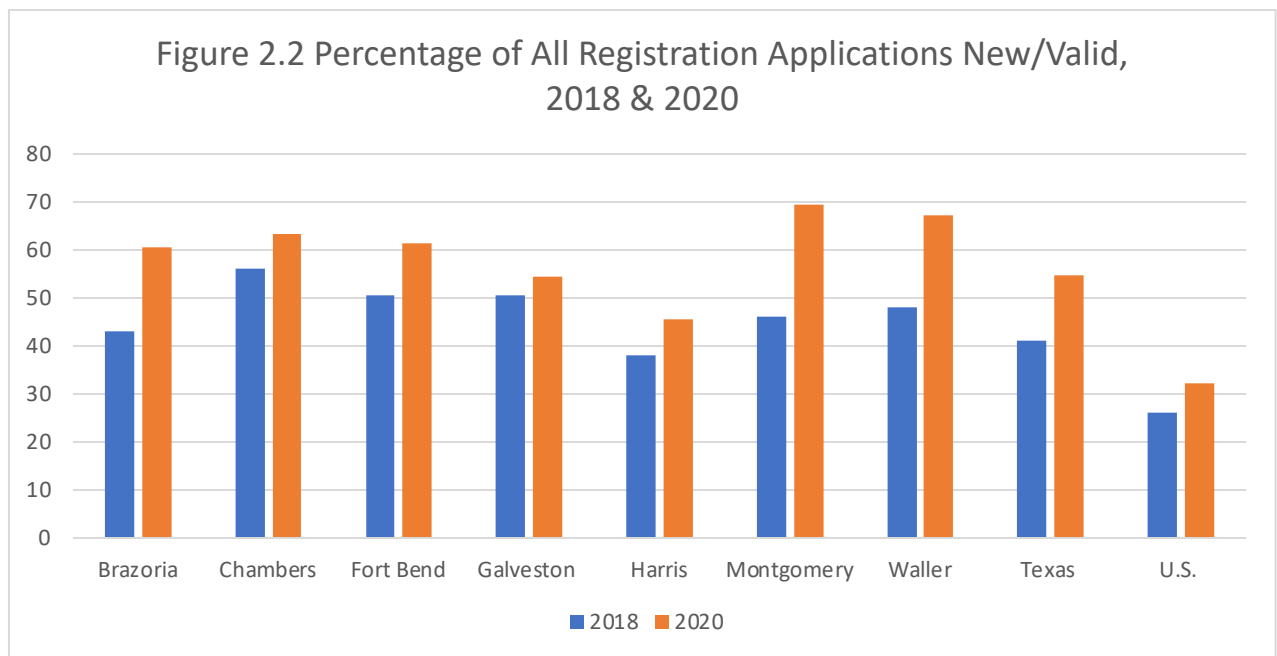
Registration applications fall into three categories:

- (1) new valid registrations,**
- (2) registration changes for those already registered, and**
- (3) duplicate forms.**

Figures 2.2 and 2.3 report data on new valid registrations and applications to change information for existing registrations across the seven counties, Texas, and the U.S. (data on duplicate forms was

unavailable in 2020).

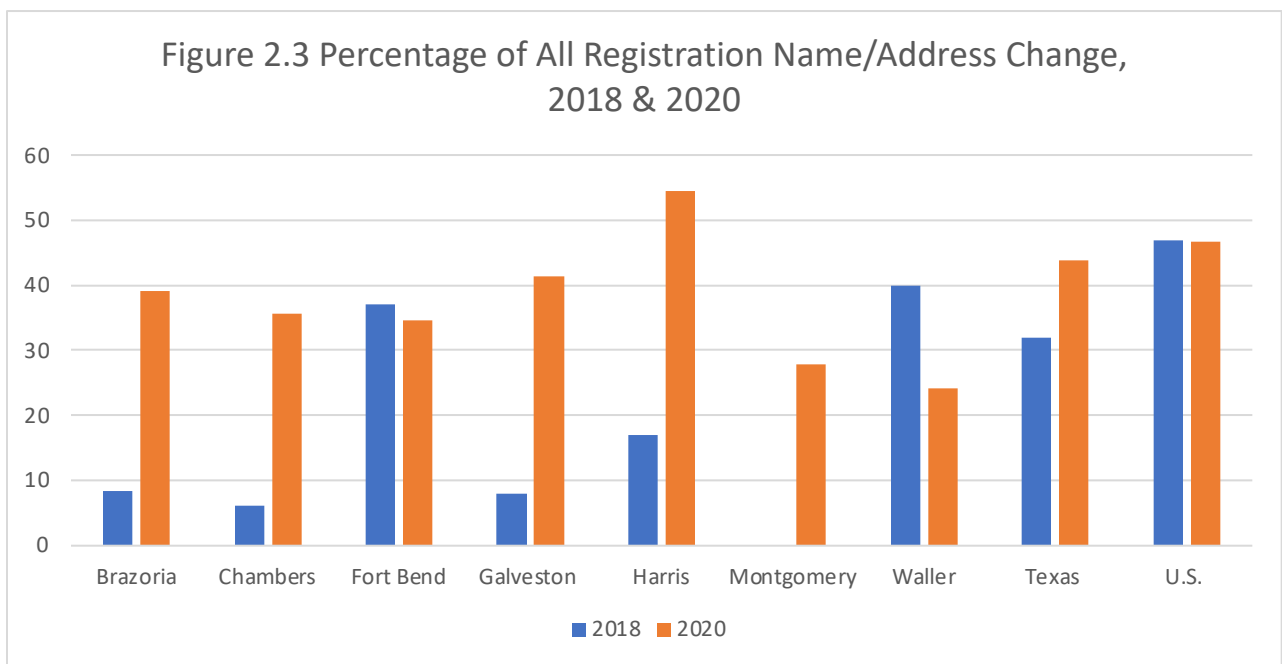
Starting with valid new registration applications, Figure 2.2 shows that Harris County received the smallest percentage and was the only county of the seven that had a smaller share of new valid registrations as a percentage of all registration applications than Texas did (45% compared to 55%). The other six counties received more valid registration applications than both Texas and the U.S. overall. Montgomery and Waller counties had the largest share of new valid applications at 69.5% and 67.2% respectively.



Source: Election Administration and Voting Survey (U.S. Election Assistance Commission).

In Figure 2.3 are the data on voter application forms requesting name or address (and party for the U.S.) changes. In all but two counties (Waller and Fort Bend), the percentage of registration forms requesting name/address changes in 2020 was less than for 2018 (no data was reported by Montgomery County for 2018). This is not surprising since voter registration drives were much less common in 2020 due to Covid and

because DPS offices were closed for some of this period as well. In only one county (Harris) were more than half of all registration forms submitted for name/address changes, and this was also in 2020. It is also worth noting that generally, counties in Greater Houston have a lower percentage of registration applications for name/address changes than either the state of Texas or the U.S. overall, especially in 2020.



Source: Election Administration and Voting Survey (U.S. Election Assistance Commission). Note: For the U.S., the application changes category also includes party for some states that include this in their voter registration (Texas is not one of them).

As noted above, data on duplicate registrations was not available for 2020, and this information is much less consistently reported in general. In 2018, five of the seven counties reported this information to the EAC. Across these five counties, duplicate registrations ranged from 4.9 percent of all registration forms submitted (Harris County) to 53.8 percent (Montgomery). The figure for Montgomery is an

outlier, and given prior years' responses, possibly an error. Without Montgomery, the average for the other four counties is 12 percent. In general, duplicate registration forms represent a relatively small share of total application forms submitted. For Texas, the average in 2018 was 15.3 percent and for the U.S. it was 8.3 percent.

Rejected Registration Applications

In addition to asking counties to report on the number and type of registration applications they receive, the EAC also asks counties to provide data on the number of invalid and rejected registration applications they

receive and process prior to each election. Table 2.3 below displays the number of invalid registration applications for each county across the last decade, and includes data for Texas and the U.S.

TABLE 2.3: TOTAL INVALID AND REJECTED REGISTRATIONS, 2010-20

COUNTY	2010	2014	2016	2018	2020
Brazoria	940	N/A	N/A	385	329
Chambers	151	272	164	98	81
Fort Bend	2,035	2,513	4,627	5,130	5,991
Galveston	1,984	4,967	5,090	3,748	2,868
Harris	16,289	31,164	N/A	43,694	31
Montgomery	1,395	1,468	N/A	868	2,725
Waller	762	N/A	289	430	1,070
Texas	91,337	108,576	144,346	179,161	68,937
U.S.	1.4 million	987,741	2.3 million	2.5 million	2.8 million

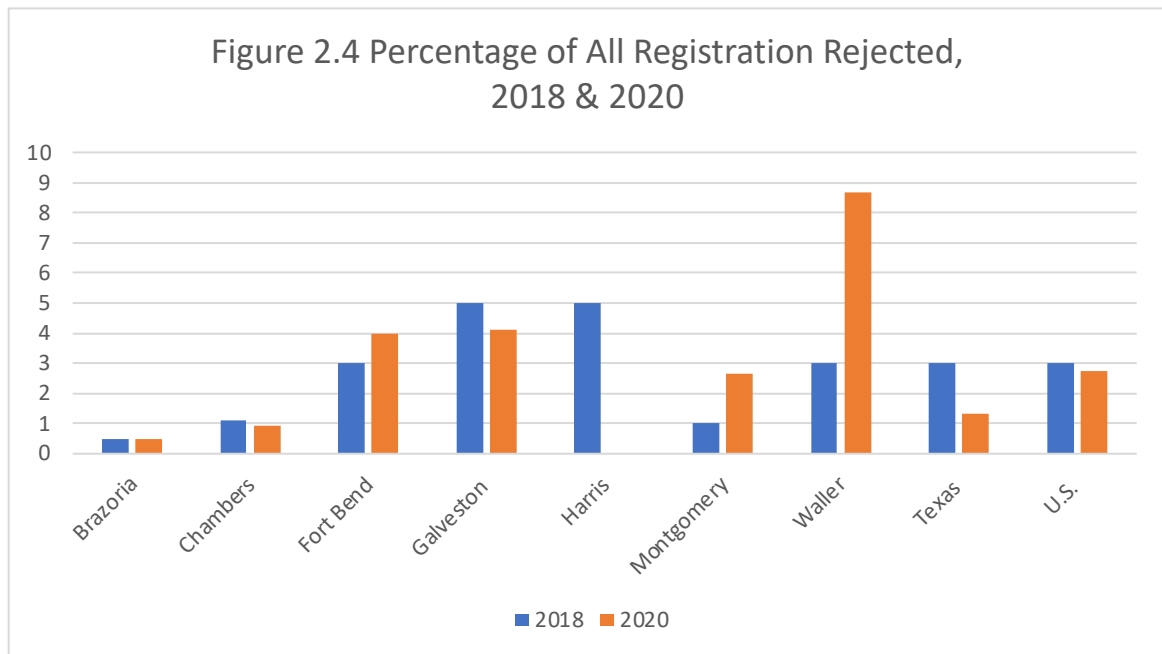
Source: Election Administration and Voting Survey (U.S. Election Assistance Commission)

Given that the population of all counties in Greater Houston is increasing over time, all things equal, we might expect to see an increasing trend in the number of registration applications that are rejected. However, this is not what the data show. While true for some counties, namely Fort Bend and Montgomery counties (and with the exception of 2016, Waller County), two counties, Brazoria and Chambers, as well as Texas

overall, have a clear downward trend. Galveston County has also been trending downward since 2016, and Harris County registered a huge decline between 2018 and 2020. One possible explanation for this dramatic change in Harris County could be the partisan shift in the County Clerk's office and the transfer of responsibility for voter registration from the Tax Assessor's Office to the Election Administrator.

To provide a little more context, in Figure 2.4 we report invalid and rejected registration applications as a

percentage of new registration applications for each county. We also include data for both 2018 and 2020.



Source: Election Administration and Voting Survey (U.S. Election Assistance Commission).

As the data in Figure 2.4 clearly show, the percentage of invalid and rejected registration applications is small across all seven counties, as well as in Texas and the U.S. Three counties in Greater Houston rejected more registration applications in 2020 compared to 2018: Fort Bend, Montgomery, and Waller. In fact, Waller County rejected three times more registration applications in 2020 with a rate that was also more than six times the rate of rejection for Texas. As we saw in Table 2.3, Harris County rejected only 31 registration applications in 2020, which was less than half a percent and too small to appear in the graph. It is also worth noting that Brazoria and Chambers also had very

small percentages of rejected registration applications in both 2018 and 2020—at or less than 1 percent.

While counties are asked to report data on the source of rejected and invalid registration applications, they do not ask counties about the reasons registration applications were classified as invalid or why they were rejected. It may be due primarily to applicant errors. If applicants systematically make mistakes in filling out or submitting application forms, it suggests the possibility that forms, process, or instructions might be confusing or complicated for voters.

Casting Ballots

According to the 2020 EAVS report, voter turnout for the 2020 general election was 67.7 percent of the citizen voting age population (CVAP), the highest level documented in any of its reports to date (EAC 2021: 1). More than 161 million Americans cast valid ballots in the 2020 election. Nationwide turnout was up 6.7 percentage points in 2020, compared to 2016. Nearly all states, including Texas, reported an increase in turnout between the 2016 and 2020 Presidential elections. In fact, the increase in turnout (CVAP) in Texas was 11 percentage points, considerably higher than the national average. While the growth in turnout is great news for Texas, the state still has a long way to go. In 2020, Texas' average turnout of 60.7 put it among the lowest turnout states, with only 6 reporting

CVAP turnout rates lower (AR, HI, MS, OK, TN and WV). The state with the highest turnout was Minnesota, with 79.1 percent (CVAP). Other states like Colorado, Maine, New Hampshire and Washington were not far behind with turnout greater than 75 percent (EAC 2021: 28).

In Tables 2.4 and 2.5, we report turnout as a percentage of registered voters in the last three midterm and presidential elections. In addition, except for figures reported for the U.S., we use data from the Texas Secretary of State rather than EAVS since there were gaps in their reporting. Finally, it is important to note that using registered voters rather than the citizen voting age population (CVAP) generally means that turnout rates will be slightly higher.

TABLE 2.4: PRESIDENTIAL TURNOUT OF REGISTERED VOTERS BY COUNTY, 2012-2020

COUNTY	2012	2016	2020
Brazoria	60%	62%	69%
Chambers	60%	62%	70%
Fort Bend	65%	65%	74%
Galveston	60%	60%	67%
Harris	59%	58%	66%
Montgomery	62%	66%	73%
Waller	53%	54%	64%
Texas	59%	59%	67%

Source: Texas Secretary of State, for U.S. only, Election Administration and Voting Survey (U.S. Election Assistance Commission).

Looking first at the data from the presidential elections, we see that across all counties in Greater Houston, turnout was higher in 2020 compared to 2016. The average increase across the seven counties was just over eight percentage points, with Waller County seeing

the largest increase (10 percentage-points) and Brazoria County registering the smallest (6.7 percentage-points). Brazoria County was also the only county that saw an increase smaller than the Texas average (7.3 percentage points).

TABLE 2.5: MIDTERM TURNOUT OF REGISTERED VOTERS BY COUNTY, 2010-2018

COUNTY	2010	2014	2018
Brazoria	41%	34%	53%
Chambers	43%	33%	53%
Fort Bend	45%	37%	60%
Galveston	42%	34%	54%
Harris	41%	33%	52%
Montgomery	46%	37%	59%
Waller	34%	29%	52%
Texas	38%	34%	53%

Source: Texas Secretary of State, for U.S. only, Election Administration and Voting Survey (U.S. Election Assistance Commission).

What is also notable in Table 2.5 is the significantly higher turnout in the 2018 Midterm election compared to the 2014 or 2010 midterm elections. The average increase in turnout from 2014 to 2018 was nearly 21 percentage-points, which is at least twice as large

as the average increase between the 2016 and 2020 Presidential elections. In fact, in 2018 turnout across all three jurisdictions (county, state and federal) exceeded 50 percent, a figure not reached by any of the three jurisdictions in 2010 or 2014.

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CHAPTER 3

**VOTER
REGISTRATION
IN GREATER HOUSTON**

Why It Matters

The U.S. has a long history of structural – and often violent – barriers to registering to vote, with long-lasting impacts on voter registration in the South even today (Williams, 2022). Ricca and Trebbi (2022) find that jurisdictions previously subject to federal preclearance have seen a reduction in registration among voters of color as compared to white voters since the U.S. Supreme Court's *Shelby v. Holder* ruling in 2013. In the face of these historic and modern challenges, access to voter registration is a critical consideration in the U.S. electoral process, as it is required before being able to cast one's ballot.

Texas voter registration rates are among the lowest in the country, with Texas ranked 42nd at the time of the November 2022 midterm election. In that election, 65.2% of Texas' eligible voter population was registered to vote, below the national average and nearly 20% lower than the state with the highest registration rate (Kaiser Family Foundation, 2022). U.S. Census Bureau Current Population Survey data compiled by the Kaiser Family Foundation also demonstrate racial gaps in Texans' registration rates. In the 2022 election, higher percentages of eligible Asian (68.6%) and white (66.1%) Texans were registered to vote than Black (59.1%) and Hispanic (58.2%) Texans.

These comparatively low registration rates and the state's racial gaps in registration cannot be separated from the ways in which Texas has often been described as one of the most difficult states in the country for voter registration. Using policy measures

related both to voter registration and casting a ballot, the 2022 Cost of Voting Index ranked Texas as the 46th most restrictive state for voting in the U.S. (Schraufnagel et al., 2022).

Across the U.S., citizens must meet state-specified eligibility requirements to become a registered voter. These registrations also must be updated when voters change their name or when they move, as just under 15 percent of Americans do each year (Palarino et al., 2023). As the Cost of Voting Index highlights, a range of policy factors influence whether voter registration is accessible to a state's citizens; these include restrictions on who is permitted to register, how far in advance of an election a voter must be registered, requirements placed on those who help voters register, whether automatic registration is an option, as well as whether 16 or 17 year olds may pre-register to vote (Schraufnagel et al., 2022).

FEDERAL LAW AND THE BROADER CONTEXT OF VOTING IN THE U.S.

Two laws establish the federal context through which voter registration is implemented across the U.S. **The Voting Rights Act (VRA)**, enacted in 1965, grants federal protections for all aspects of the voting process, including voter registration. As part of its efforts to eliminate discrimination on the basis of race, language and literacy barriers, and disability in all aspects of the voting process, the VRA allows for federal oversight and review of complaints related to voter registration. From 1975 until Shelby, this law required Texas and other local and state jurisdictions with a history of voting discrimination to receive preclearance from the U.S. Department of Justice (DOJ) before adopting any new law impacting voting rights, including laws related to voter registration.

Enacted in 1993, the **National Voter Registration Act (NVRA)** is the central law guiding voter registration across the U.S. The NVRA seeks to strengthen accessibility to voter registration and to strengthen states' registration list maintenance.

The NVRA requires three paths for voter registration:

- + **All states must offer voter registration at the time individuals apply for or renew their driver's license**
- + **Any statewide office that provides public assistance or programs for persons with disabilities must offer registration opportunities and assistance completing registration forms**
- + **Individuals must be able to use state-developed forms to register to vote by mail**

The NVRA also outlines minimum procedures states must follow in maintaining their voter registration lists. These include setting voter registration deadlines no earlier than 30 days prior to a federal election, timely processing of all received voter registration application forms, and notifying individuals whether their applications are accepted or rejected.

SUBMITTING AND UPDATING A VOTER REGISTRATION APPLICATION

State Policies

Eligibility and Deadlines

To register to vote in Texas, residents must be at least 17 years and 10 months old (see [Chapter 7](#) for further analysis of age-related eligibility criteria). Tex. Elec. §13.001 outlines that a registrant also must be a U.S. citizen, not mentally incapacitated, and finished with any applicable felony punishment. Individuals also must be a resident of the Texas county in which they register.

Tex. Elec. §13.143 specifies that an applicant's voter's registration becomes effective on which ever comes last: their 18th birthday, or 30 days after they submit their application to their county registrar. This means that all registrants must submit their application 30 days prior to an election in order to be allowed to vote in that election. If a voter's registration will be effective on Election Day, Texas law permits the voter to vote during that election's preceding early voting period.

Texas shares this 30-day registration deadline, the

strictest deadline permitted under the NVRA, with eight other states (National Conference of State Legislatures [NCSL], 2023c). All other states and Washington, D.C. allow registrants to submit their applications closer to Election Day. Fifteen of these states have a voter registration deadline between 20 and 29 days before an election, and seven have a deadline between one and 15 days pre-election. The remaining 19 U.S. states and Washington, D.C. all offer same-day registration directly on Election Day.

Registration Process

In contrast to 24 states and Washington, D.C., Texas statute does not permit automatic voter registration, a mechanism through which states automatically register eligible residents to vote when they engage in certain activities, such as interacting with a department of motor vehicles (NCSL, 2023b). Since 2016, as technology has shifted to allow electronic data transfers between different state agencies, an increasing number of states have adopted automatic voter registration.

Instead, Tex. Elec. §13.002 requires each individual registrant to submit a signed paper voter registration application to the specific county in which they reside. Texas is one of just eight states where fully online voter registration is not permitted (NCSL, 2023a). Arizona was the first state to adopt online registration in 2002; in the ensuing years, online registration has become commonplace across the U.S. The large majority of states have adopted and implemented new statutory provisions and online voter registration application portals that enable applicants to both register and update their existing registration online (U.S. Election Assistance Commission, 2021; NCSL, 2023a).

New Texas registrants can now use an online website provided by the Texas Secretary of State (TXSOS) to type in their required voter registration information. However, while this populates an online registration form, the new registrant must then print it in hard copy, sign it, and then directly submit the hard copy version to their local county registrar.

While Texas statute does not provide for online voter registration, a recent judicial ruling forced the state to allow Texans to update their voter registration online when they simultaneously update their driver's license information. In 2016, voting rights advocates and aspiring Texas registrants sued Texas, arguing that it violated the NVRA by not providing applicants with an online voter registration option (Lopez, 2021). As a result of a federal judge's ruling and a subsequent legal settlement, Texas voters may now update their voter registration when they update their drivers' licenses, an option that was utilized by 1.5 million Texans within its first year and a half (Rice, 2022). In addition, a TXSOS online portal now provides an online mechanism through which voters can update the name and address listed on their voter registration.

A registrant may receive assistance with completing, signing, submitting, and approving their application, as well as with submitting corrections and/or receiving their certification of registration, through a mechanism outlined in Tex. Elec. §13.003. The applicant is permitted to appoint an agent to assist them in any or all of these steps. This appointed agent must be a spouse, parent, or child of the voter, and must be a qualified voter in the same county as the registrant.

Of note, SB 1111, passed in 2021, introduced changes to how the state defines residence in relation to voter registration. With the expressed purpose of preventing voters from establishing residence to influence an election's outcome, the bill amended Tex. Elec. §15.051-054 to prohibit a voter from establishing a residence at

an address where the person does not or has not lived. The bill also introduced a new address confirmation process and documentation requirements for when there is concern that an address does not match the individual's residence.

In Greater Houston

Texas counties are responsible for managing voter registration and for making registration information available to their residents. This information is often provided via county websites. Examining the availability and adequacy of information provided on county elections websites is an important tool for assessing how active citizen participation is supported; the League of Women Voters (LWV) has most notably used this approach to annually assess the information provided to voters across Texas (LWV, 2022).

The extent to which the nine Greater Houston counties provide information on voter registration varies. Some provide substantial information and resources, while others provide more limited information. LWV's (2022) analysis found that almost all counties in Greater Houston met LWV's baseline threshold for providing general voter registration information; however, Liberty and Waller were identified as not meeting baseline expectations for providing clear, up-to-date information relating to online mechanisms to update one's voter registration information.

Eligibility and Deadlines

We conducted a deeper examination of each Greater Houston county's website to assess the specific information provided regarding both voter registration eligibility and processes for registering and updating one's registration. The categories listed in Table 3.1 were identified based on this review, and demonstrate the wide range of information provided by counties across the region.

The extent to which the nine Greater Houston counties provide information on voter registration varies.

TABLE 3.1: COUNTY WEBSITE INFORMATION REGARDING REGISTRATION ELIGIBILITY AND PROCESSES

	AUSTIN	BRAZORIA	CHAMBERS	FORT BEND	GALVESTON	HARRIS	LIBERTY	MONTGOMERY	WALLER
LINKS RESIDENTS TO A TXSOS SITE FOR REGISTRATION INFORMATION	X	X	X		X		X	X	
REGISTRATION ELIGIBILITY		X	X		X	X		X	
NARRATIVE GUIDANCE ON WAYS TO REGISTER TO VOTE		X	X			X		X	
NARRATIVE GUIDANCE ON HOW TO UPDATE REGISTRATION				X	X	X			
COUNTY # TO CONTACT SPECIFIC ALLY FOR REGISTRATION QUESTION		X	X		X	X	X		
APPLICATION DOWNLOAD OR LINK		X	X	X	X	X		X	X
LINK TO TXSOS ONLINE PORTAL FOR UPDATING REGISTRATION QUESTIONS		X	X	X		X		X	
SPECIFIC INFO ABOUT REGISTERING WHEN RENEWING/ UPDATING DRIVER LICENSE			X						
COUNTY-SPECIFIC DATABASE SEARCH FOR RESIDENTS TO CONFIRM REGISTRATION INFO				X		X		X	
LINK TO TXSOS SITE FOR CONFIRMING REGISTRATION STATUS		X	X	X	X	X			
FORM TO CANCEL VOTER REGISTRATION						X			X
ADDITIONAL RELEVANT WEBSITE INFO		Explicitly offers phone assistance in English/ Spanish		Provides county-specific registration search in English/Spanish	Application PDF provided in English/ Spanish	Application PDF/portal in English/Spanish/ Mandarin/ Vietnamese; phone assistance in same languages			

Some of the nine counties' links direct potential registrants to the TXSOS website, while others send residents to the TXSOS's Vote Texas website. Some counties' voter registration links send residents directly to a page providing statewide registration info, while others send residents to a general page where they can then navigate additional links to statewide information and resources related to voter registration and voting.

While other mechanisms may be used to provide voter registration information to county residents, it is notable that some counties, like Austin, Liberty, and Waller, include very limited information or guidance about voter registration eligibility and processes directly on their websites. In particular, the only registration-related guidance Waller provides is a link to the TXSOS English-language online voter registration portal (which the voter must print and then mail to the county), as well as a link to a form for canceling one's registration.

In contrast, several Greater Houston counties provide a broader range of information for potential registrants. Of interest, despite recent changes that require Texas to allow voters to simultaneously update their registrations when they renew or update their driver license, only Chambers explicitly notifies voters of this option. The nine counties also vary in the extent to which they provide voter registration information in non-English languages via their websites. Further discussion of language accessibility in each county's voter registration processes can be found in the [Language Access chapter](#).

Registration Process

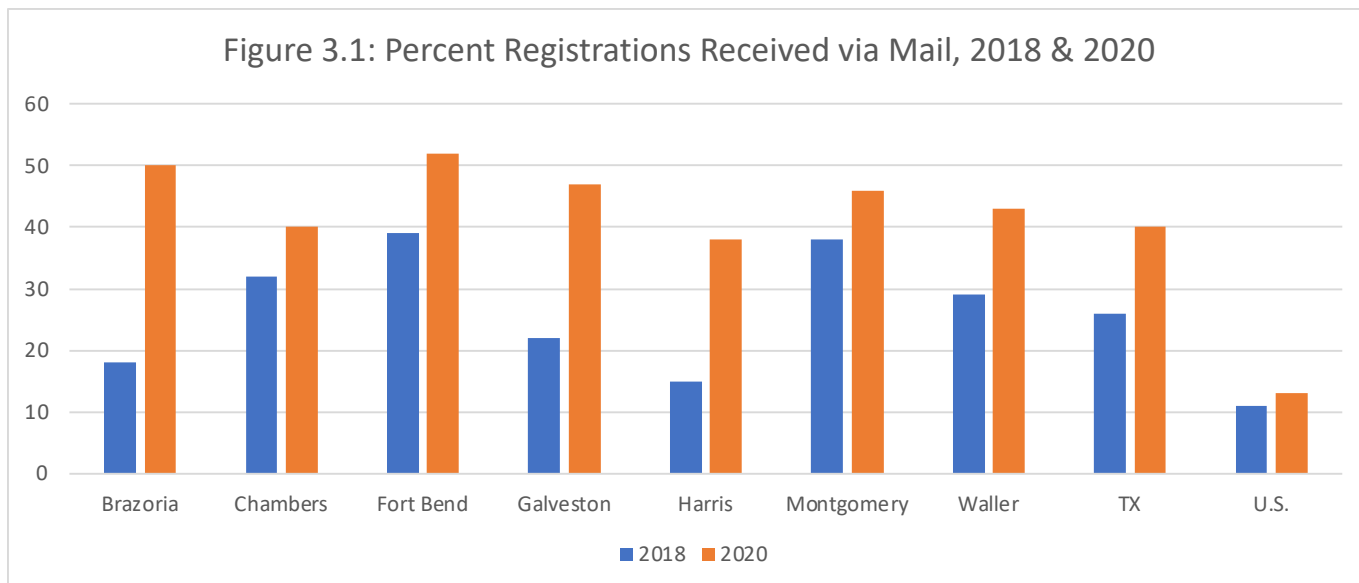
While individuals seeking to register to vote can access registration applications both in person at certain county locations and via their county or state websites, in all cases, they must then submit a hard copy of the application, either by mail or in-person at a specified county office.

Registering By Mail

When we look at how residents across the Greater Houston area actually went about submitting their registration forms (whether first-time registrants or name/address changes to an existing registration record), we find that in general, less than half of these forms are submitted via mail. (Of note, the data we are analyzing here examines 2018 and 2020, before the online update options were made available.)

Figure 3.1 shows the percentage of all registration forms submitted to county clerks by mail across the Greater Houston counties, compared to both Texas and the U.S. for 2018 and 2020. Though not shown here, the time series prior to 2018 reveals a pattern very similar to 2018 with only minor fluctuations in the percentage of registration forms submitted via mail. Prior to 2020, typically less than a third of all registration applications in Houston metro counties were submitted via mail. However, as the data in Figure 3.1 show, in 2020 all of the metro counties and the state of Texas itself saw a significant increase in mail-in registrations. Mail-in registrations averaged roughly 45 percent, a figure slightly higher than the 40 percent recorded statewide in Texas. Interestingly, this uptick in mail-in registrations was not manifest in the U.S., where the increase was only two points, from 11 to 13 percent.

Figure 3.1: Percent Registrations Received via Mail, 2018 & 2020

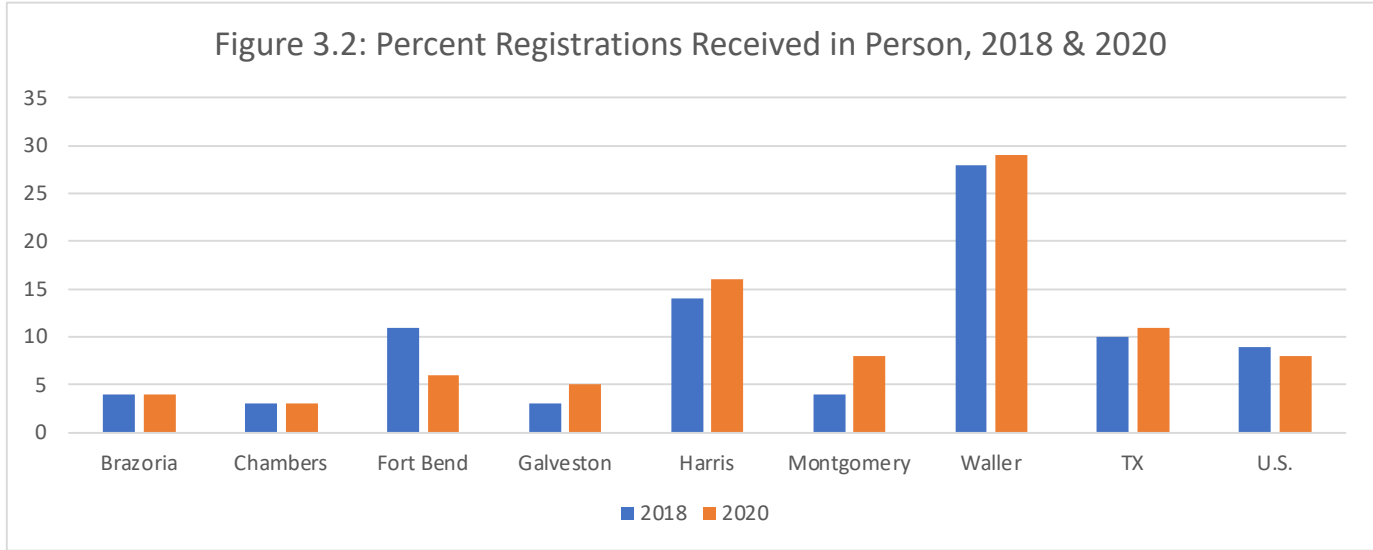


Source: Election Administration and Voting Survey (U.S. Election Assistance Commission)

Registering In Person

Figure 3.2 reports data on the percentage of registration applications submitted in person, once again comparing Houston metro counties to each other as well as to the state of Texas and the U.S. The first thing to note here is the relatively low rate of in-person submissions. Apart from Waller County, which reached nearly 30 percent in both years, on average, fewer than 10 percent of applications in

Houston metro counties were submitted in person. A second thing to note in Figure 3.2 is that unlike mail-in applications, in-person registrations saw almost no increase between 2018 to 2020. The largest increase was four percentage points, recorded by Montgomery County. Furthermore, one county, Fort Bend, actually saw fewer in-person registrations in 2020 compared to 2018, in fact, a decline of five percentage points. The U.S. also witnessed a decline, however, only by one percentage point (from 9 to 8 percent).



Source: Election Administration and Voting Survey (U.S. Election Assistance Commission)

To be sure, part of the variation among counties in in-person registration applications may depend on how easy it is for would-be voters to actually deliver the application forms. Obviously, the number of drop-off locations matters as does the distance residents would need to travel to get to them. Finally, the availability of information on where to go and the ease with which would-be voters can access this information

are also important ingredients in determining how many applicants decide on this option for submitting their voter registration application. Table 3.2 provides information on the number and location of application drop-off locations across the Houston metro counties based on current (2023) information we were able to find on the county websites.

TABLE 3.2: VOTER REGISTRATION APPLICATION DROP-OFF LOCATIONS

COUNTY	LOCATIONS WHERE VOTER REGISTRATION APPLICATIONS CAN BE SUBMITTED IN PERSON (PER WEBSITE)
Austin	1 location - the County Tax office
Brazoria	5 locations - any County Clerk’s office location
Chambers	1 location - the Voter Registrar’s office
Fort Bend	1 location - the Election Administrator’s office
Galveston	1 location - the County Tax Office’s Voter Registration Department
Harris	10 locations - any Election Administrator’s office
Liberty	Not addressed
Montgomery	1 location - the Election Administrator’s office
Waller	1 location - the Elections Office

In addition to information on where residents may drop off voter registration applications, we also examined additional information Greater Houston counties provided specifically regarding how to receive and submit a hard-copy registration application. While we see limited in-person submission information on the Chambers, Liberty, and Waller websites, we see more extensive information and support on some of the larger counties' sites. For example, Montgomery County informs residents that they may fax an application as long as applicants also submit a hard copy within four business days, and provides a map and driving directions to the office's physical location. Harris County specifically includes website text encouraging voters to submit their completed application in person at any county election office.

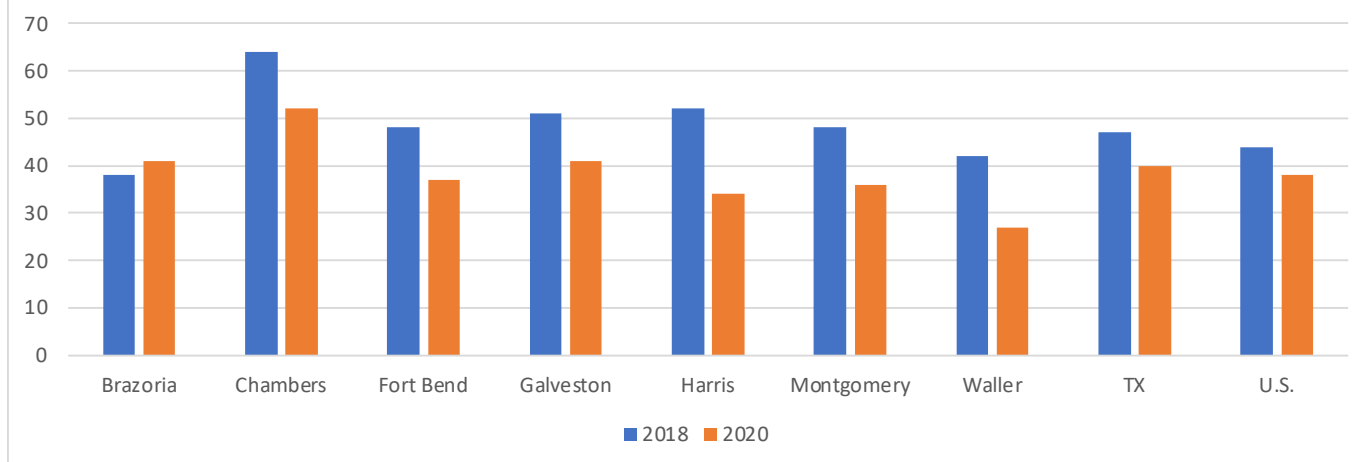
Several counties also provide more specific guidance about how residents may request to receive a hardcopy voter registration application to complete. Both Brazoria and Harris inform residents that they may request an application via email from the county election office and have a paper application mailed to them. Brazoria and Harris also provide residents with information about specific locations where residents may pick up applications in person (e.g., post offices, libraries, and high schools). Harris County offers residents the opportunity to request county staff support for in-person voter registration drives.

Registering At DPS

While county governments in Texas are responsible for registering their eligible residents to vote and devoting resources and staff to disseminate information about the process, the fact of the matter is that the most common source of voter registration in Houston metro counties, the state of Texas and the U.S. is actually a state agency—the motor vehicle office, or the Texas Department of Public Safety (TDPS) as it is known in Texas. According to the U.S. Election Assistance Commission (2021), this has been true since 2006.

As the data in Figure 3.3 reveal, in 2018 more than 40 percent of all registration applications received in the U.S., across Texas, and in every county in the Houston metro area except Brazoria were submitted via the motor vehicle office. Chambers County reported the highest percentage (64%), with Harris and Galveston also passing the 50 percent threshold. That said, in 2020, Houston metro counties saw an average decrease of almost 11 percentage points (from 49 to 38 percentage points), while Texas and the U.S. saw more modest declines of 7 and 6 percentage points respectively. In Texas, this decline was directly caused by the closure of motor vehicle offices, announced by TDPS on March 18, 2020. Driver license offices remained closed until Texas Governor Greg Abbott directed them to reopen on May 26, 2020. The reopening followed a phased approach and was by appointment only (TDPS, 2020). This policy remained in effect through 2021.

Figure 3.3: Percent Registrations Received at Motor Vehicle Office, 2018 & 2020



Source: Election Administration and Voting Survey (U.S. Election Assistance Commission)

HELPING OTHERS REGISTER: THE VDVR PROCESS

State Policies

Texas is home to a unique system of county-based Volunteer Deputy Voter Registrars (VDVR). Outlined in Tex. Elec. §13.031-13.048, this system establishes a network of county-based individuals appointed by each county's registrar to encourage voter registration. Texas has had a VDVR system since 1985. Most states that once had volunteer registrar policies eliminated these policies in 1993, after the NVRA was enacted (Kasdan, 2012). In contrast, Texas has maintained its system, and is the only state to continue to make participation in this system mandatory for any individual or group registering voters. Currently, Texas is one of 23 states that permit third party voter registration drives, but place restrictions on them (Movement Advancement Project, 2023b).

A core mechanism through which voter registration drives take place, Texas statute requires a county VDVR appointment to be able to distribute and collect in-person voter registration applications to/from other individuals. VDVRs are required to review the application's completeness in the presence of the applicant, provide a receipt to the applicant, and then deliver the application to the county registrar (Tex. Elec. §13.039-.042).

In 2011, Texas substantially tightened its VDVR laws, including adding new county-level training and certification requirements, placing new limits on who can be a VDVR, banning compensation tied to the number of registration applications collected, and prohibiting completed applications from being mailed in. Many of these new provisions were challenged in court; five provisions were initially struck down by a federal district court, but were ultimately upheld by the Fifth Circuit (Marziani & Landicho, 2018).

Tex. Elec. §13.008, adopted as part of the 2011 changes, outlines a misdemeanor charge tied to voter registration activity, therefore impacting the functioning of organizations that employ individuals to register voters. It prohibits any individual who registers voters in Texas from being compensated based on the number of completed applications they support, and also forbids tying compensation or employment to meeting a specific quota of completed applications.

Tex Elec. §13.042 requires a VDVR who collects a completed voter registration application to hand

deliver this application to the county registrar no later than five days after receiving the application. As of 2011, VDVRs must deliver all received applications in person, and cannot mail in any completed applications. Texas is one of only a small number of states that require voter registrations collected by third-party individuals or groups to be submitted within five or fewer days (Movement Advancement Project, 2023a).

Eligibility

Tex. Elec. §13.031 outlines eligibility criteria for a county-level VDVR appointment, and Tex. Elec. §13.032 bars county registrars from refusing to appoint anyone who meets these criteria. Texas VDVRs must be:

- + at least 18 years old;**
- + must meet all requirements to be a qualified voter in the state, including U.S. citizenship and Texas residency requirements, but are not required to be registered themselves**
- + must have fully completed any terms associated with a felony conviction**
- + must not have been convicted of identity theft**

These stipulations prevent out-of-state volunteers, legal permanent residents, and non-deputized Texas residents from registering voters in the state. No VDVR may accept a voter registration application until they complete a training meeting explicit standards established by the TXSOS (Tex. Elec. §13.031; §13.047). Any individual who acts as a VDVR when not appropriately certified can be charged with a misdemeanor (Tex. Elec. §13.044). VDVR appointments last for no more than two years, concluding at the end of each even-numbered year (Tex. Elec. §13.031). All VDVRs who wish to continue serving in this capacity must be re-appointed at that time.

Training

Texas is one of very few states that requires training for all volunteers who register voters; most of the small number of other states that require training do so only for drive organizers (Movement Advancement Project, 2023a). Texas has been the only state to require volunteers to be certified by a local county in order to register voters in that jurisdiction (Rice, 2016).

Tex. Elec. §13.047 requires the TXSOS to adopt VDVR training standards and to develop a standardized

training curriculum for use across the state. It also allows counties to require VDVRs to pass an examination after the training.

As outlined in Tex. Elec. §13.047-.048, counties have two primary options for how they approach VDVR training:

1) Counties can directly deliver TXSOS' standardized training curriculum to interested VDVRs. Counties taking this approach are permitted to include a post-training examination, but are not required to do so.

Counties that do this must set a regular training schedule, with a minimum of one training session per month, preferably with some offered outside of business hours (TXSOS, 2023). Trainings are permitted to be delivered in-person or via synchronous online video meetings, if incorporating practices that confirm attendees' presence during the training. Counties must notify appointed VDVRs of the times and places where the training is being offered.

2) The second option, adopted by the legislature in 2015, provides counties with an alternative to in-person training sessions.

Counties can instead allow VDVRs to review training materials and examination questions provided on the Secretary of State's website. After an individual reviews these materials, the person must appear in person at the county voter registrar office during regular business hours to take and successfully complete the TXSOS open-book examination.

A county following the first option may create their own additional training materials or exam. Neither can be implemented without prior TXSOS approval (TXSOS, n.d.).

Reciprocity

Tex. Elec. §13.031-.035 require VDVRs to be appointed by a specific county's registrar in order to be able to receive applications from that county's residents. A VDVR cannot receive applications from voters who live in a county to which they have not been appointed.

However, there is no statutory limit on the number of counties to which an individual may be appointed a VDVR. According to the TXSOS (n.d.a), a VDVR who has received a certificate of appointment in one county can complete a request for appointment in another county. This certificate should be honored, with the VDVR being appointed in the new county and advised on any county-specific registration procedures they should be aware of. If the VDVR has already successfully completed the TXSOS exam in one county, they are not required to take the exam in

another county.

In Greater Houston

Within the framework enacted by Texas state law, counties have latitude in how they publicize the VDVR process, and in the procedures they follow for training and certifying VDVRs. Across the Greater Houston region, the extent to which counties provide information about becoming a VDVR varies widely. While small counties like Chambers and Austin provide either no or extremely limited information about the VDVR process, the information provided by counties like Fort Bend and Galveston is more extensive. Table 3.3 compares the information each county provides on their website about the process for becoming a VDVR in that county.

Training

There is also regional variation in the process by which each county expects individuals to become trained and certified as VDVRs. Table 3.4 outlines the different approaches each county takes to training and certifying VDVRs.

Austin, Montgomery, and Waller rely exclusively on the online training provided by the TXSOS on its site. By the absence of county-specific information provided on both websites, it is likely that Chambers and Liberty also rely on this online training. Once potential VDVRs complete the online training, they are required to successfully pass an in-person examination before they can become certified. Austin, Chambers, and Liberty do not provide any information on their websites about how to complete this requirement; Montgomery and Waller ask applicants to call their elections offices to schedule their exam.

Four counties in the region incorporate training delivered directly by county staff into their VDVR process. In Brazoria and Fort Bend, applicants are given the option of attending an in-person VDVR training or completing the online Secretary of State training. Only those Brazoria applicants who completed the online training are required to pass an in-person exam; however, in Fort Bend, even those applicants who attend an in-person training must pass the exam.

Among the counties that incorporate county-delivered training into their VDVR process, the frequency and accessibility of these trainings differ. Fort Bend offers in-person training quarterly, alternating between two county locations. Brazoria and Galveston both offer in-person training monthly, each at a single location; they also offer additional training by request. In contrast to the other counties in the region, Harris County substantially exceeds

TABLE 3.3: COUNTY-SPECIFIC VDVR WEBSITE INFORMATION

COUNTY	INFORMATION ABOUT THE VDVR PROCESS	VDVR TRAINING INFORMATION AND/OR MATERIALS	NON-ENGLISH INFORMATION, APPLICATION, TRAINING CONTENT	INFORMATION ABOUT VDVR RECIPROCITY
Austin	No	Solely via a link to SOS training	No	No
Brazoria	Yes	Yes	Not on county site; information and training in Spanish is included on linked SOS page	Yes; bring other county's certificate in person to main office
Chambers	No	No	No	No
Fort Bend	Yes	Yes	Application available in Spanish	Yes; bring other county's certificate in person to main office
Galveston	Yes	Yes	Application, training materials available in Spanish on website; website specifies in-person training in Spanish by request	Yes; submit application in person, via email, or fax; can attend in-person or review training online
Harris	Yes	Yes	No	No
Liberty	No	No	No	No
Fort Bend	Yes	Yes	Not on county site; information and training in Spanish is included on linked SOS page	Yes; call the office for information
Waller	Yes	Yes	Application available in Spanish	Yes; mail in other county's certification, or call to schedule an appointment to bring it in person

the minimum threshold established in Texas law for VDVR training. During at least part of each year, Harris County offers live trainings both in-person and remotely multiple times each week. These trainings are offered at different times throughout the day and at locations across the county; the county also offers additional trainings by request.

In the 2018 *Take Action Houston* report, we were able to assess the extent of multilingual VDVR trainings offered in Harris County. Unfortunately, we could not replicate these analyses here, as none of the counties currently provide public information about specific trainings they have delivered in Spanish, Mandarin, Vietnamese, or other languages commonly spoken in the Houston area on their websites. We discuss related issues of language accessibility in [Chapter 8](#).

Reciprocity

As VDVR certification must take place on a county level

and must correspond with the county in which a voter seeks registration, some VDVRs, especially in a multi-county region like Greater Houston, are interested in becoming certified in multiple counties. As outlined in Table 3.3, just five of the region's nine counties explicitly address reciprocity of VDVR certification on their websites.

To gain reciprocal certification, Brazoria and Fort Bend ask interested VDVRs to bring certification from another county in person to their main elections office to then become certified in their county. Waller asks VDVRs to either make an appointment to bring the other county's certification in person, or to mail in the other county's certification. Galveston allows VDVRs to submit an application in person, by email, or by fax and asks them to attend an in-person training or to review online training materials. Montgomery County does not describe the reciprocal process and instead asks VDVRs to call their office for more information.

TABLE 3.4: COUNTY-SPECIFIC VDVR TRAINING AND CERTIFICATION INFORMATION

COUNTY	VDVR TRAINING FORMATS OFFERED	FREQUENCY OF IN-PERSON VDVR TRAININGS	IN-PERSON VDVR EXAM
Austin	Online via SOS site	N/A	Not addressed
Brazoria	Attend in-person training or complete online via SOS site	Monthly at the same location and time, or off-site by request; must reserve a seat	Yes; only if complete SOS online training
Chambers			
Fort Bend	Attend in-person training or complete online via SOS site; training materials sent to all applicants by email	Quarterly, alternating between two locations and times; must reserve a seat	All applicants; must email or call to schedule an exam appt; specifies 18/20 correct answers required to pass
Galveston	Must attend in-person training	Monthly at same location and time; additional trainings in Spanish by request	No
Harris	Must attend in-person or live remote training	In-person: Multiple days weekly prior to an election, at different times and locations across the county, or by request; Remotely: Multiple times weekly prior to an election	No
Liberty			
Montgomery	Online via SOS site	N/A	Yes; must call to schedule in-person exam; specifies 18/20 correct answers required to pass
Waller	Online via SOS site	N/A	Yes; must call to schedule exam appt

APPLICATION REVIEW AND REJECTED/INVALID REGISTRATION FORMS

State Policies

Tex. Elec. §13.071 outlines the review that a county registrar must conduct of all submitted voter registration applications, within 7 days, in order to determine eligibility for registration. Applications that do not comply with all requirements on the application form, that include information that would make the applicant ineligible, or that were received from a VDVR whose appointment has been terminated may be rejected. Tex. Elec. §13.002 makes clear that an application cannot be rejected on the basis of an

omitted middle name, former name, or zip code.

Within two days of the rejection, Tex. Elec. §13.073 requires the county registrar to notify the applicant of the rejection and its reason. If the rejection is due to an incomplete application, the applicant can resubmit the application. All rejected applications must be maintained on file for two years.

A county registrar who believes that an applicant is ineligible to register to vote, even when all application requirements are met, may “challenge” the application (Tex. Elec. §13.074). The registrar must notify the

applicant, in writing, within two days of rejection of the application. Tex. Elec. §13.076 outlines an applicant's right to request a hearing on the challenge.

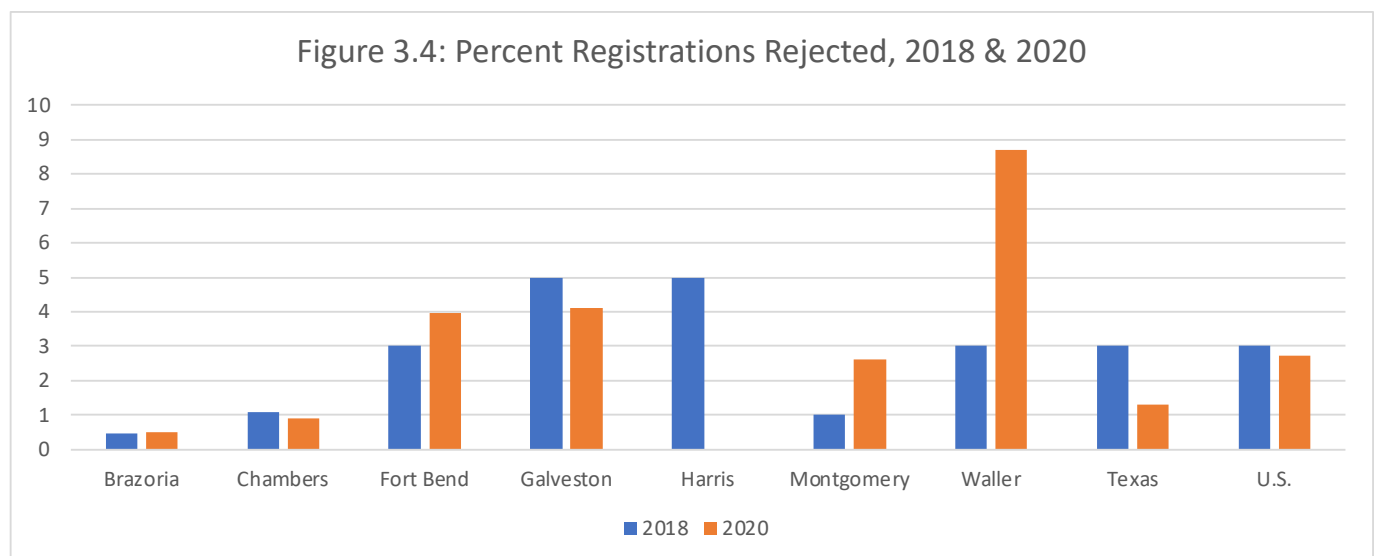
If a county registrar receives a voter registration application that is clearly from an applicant living in a different county, the registrar must forward the application to the appropriate county within 2 days (Tex. Elec. §13.072). If the applicant lives in a non-neighboring county, the county registrar must explicitly inform the applicant within 7 days that the application has been forwarded, using the state's "Notice of Rejection" form (TXSOS, 2023b).

In Greater Houston

Not all registration forms received by county election administrators result in the creation or the update of an actual registration record. Instead, some applications are rejected. In the purely innocuous cases, county registrars reject applications because they are duplicates. In other cases, they are rejected because they contain incorrect information, information that cannot be validated against existing state records, or are from persons who do not meet eligibility requirements. The EAVS collects information

on the number of duplicate and otherwise rejected registration applications, but does not require election administrators to share information on the reasons for these rejections. Figure 3.4 reports the percentage of non-duplicate rejected registration applications out of all applications received for Greater Houston counties, Texas, and the U.S. in 2020. While these percentages that are rejected are relatively small across the Houston metro counties, averaging only 3 percent, Waller County stands out with a rejection rate of 9 percent. Harris County stands out on the other side, with only 31 total registration applications reported as rejected in 2020 in the EAVS survey in 20. This is less than one-tenth of one percent.

Given the substantial variation in population size across the metro area counties, the percentages reported in Figure 3.4 can be hard to interpret. Roughly how many would-be voters does the .5 percent of rejected applications in Brazoria County representor the 9 percent of rejected applications in Waller County? In Table 3.5 we report total numbers of rejected registration applications across our jurisdictions of interest over the 2010-2020 period.



Source: Election Administration and Voting Survey (U.S. Election Assistance Commission)

TABLE 3.5: TOTAL INVALID AND REJECTED REGISTRATIONS, 2010-2020

COUNTY	2010	2014	2016	2018	2020
Brazoria	940	NA	NA	385	329
Chambers	151	272	164	98	81
Fort Bend	2,035	2,513	4,627	5,130	5,991
Galveston	1,984	4,967	5,090	3,748	2,868
Harris	16,289	31,164	NA	43,694	31
Montgomery	1,395	1,468	NA	868	2,725
Waller	762	NA	289	430	1,070
Texas	91,337	108,576	144,346	179,161	68,937
U.S.	1.4 mil	987,741	2.3 mil	2.5 mil	2.8 mil

Source: Election Administration and Voting Survey (U.S. Election Assistance Commission).

Note: We excluded 2012 as reporting for this year was inconsistent and included missing data.

The data in Table 3.6 show consistent increases in the percentage of voter registration applications rejected by mail between 2018 and comparable decreases in rejected applications received by DPS offices. For the Greater Houston counties, the average increase in rejections by mail was 15 percentage points, while the average decline in rejections from DPS offices was 19 percentage points. There are some outliers in these counties. For example, Chambers County is the only county that saw an increase in the percentage of DPS applications rejected between 2018 and 2020 (from 18% to 28%). All other counties saw either no change (Galveston at 4% and Montgomery at 0%) or declines ranging from 9 to 60 percentage points. Not surprisingly, Chambers is also an outlier when it comes to the change in rejected registration applications by mail, where it saw a 32 percentage point decline, while all other counties saw increases ranging from 9 to 41 percentage points. Fort Bend and Galveston counties are the two

counties with relatively substantial changes here (41 percentage points). Finally, when it comes to changes in rejected registration applications submitted in person, we see a more mixed pattern. Three counties (Chambers, Fort Bend, and Montgomery) all recorded very small declines (by one or two percentage points), while three counties saw small to modest increases (Brazoria, Galveston and Harris) and one county registered a relatively large increases (Waller).

The takeaway here is that under typical circumstances (2018) the most common mode of rejected registration applications is by mail. In normal times, mail is also the second most commonly used method of submitting registration applications (behind DPS). However, during Covid, more citizens in the Houston metro counties submitted their registration application by mail. This led to the increased proportion of rejected registration applications by this mode.

TABLE 3.6: PERCENT REJECTED REGISTRATIONS BY SOURCE, 2018 & 2020

COUNTY	MAIL		IN-PERSON		DPS	
	2018	2020	2018	2020	2018	2020
Brazoria	67%	76%	2%	12%	14%	5%
Chambers	76%	44%	2%	1%	18%	28%
Fort Bend	45%	86%	12%	11%	42%	0%
Galveston	32%	73%	3%	8%	4%	4%
Harris	22%	39%	35%	52%	31%	0%
Montgomery	59%	73%	17%	15%	0%	0%
Waller	28%	40%	11%	59%	60%	0%
Texas	30%	58%	12%	26%	24%	2%
U.S.	12%	16%	10%	11%	48%	35%

Source: Election Administration and Voting Survey (U.S. Election Assistance Commission).

LIST MAINTENANCE

State Policies

Accuracy of voter registration rolls is an important component of the election process, required by federal law to be uniform and non-discriminatory (NCSL, 2023d). Accurate list maintenance protects voters' access to the ballot, while also enabling election officials to effectively budget for ballots, voting machines, polling places, and poll workers.

In recent years, Texas has been a member of the Electronic Registration Information Center (ERIC), a bipartisan data-sharing partnership that was designed to help member states share information and maintain accurate voter rolls, and which also required states to engage in outreach efforts with individuals who are eligible to vote but not yet registered. As a result of the 2023 passage of SB 1070, Texas has left ERIC, without a specific replacement plan. Instead, this new law envisions Texas cooperating with other states and jurisdictions to develop other systems to compare voters, voter history, and voter registration lists. The law also stipulates initial and continuing operation costs and a requirement that any new vendor may not require any additional responsibilities, like voter outreach, from the state.

States use various sources to maintain current voter address information. The U.S. Postal Service's National Change of Address program used in Texas is the most popular of these programs (NCSL, 2023d).

Voter registrars in Texas use this information, along with information gathered when a voter submits a change in registration information, submits a provisional ballot due to moving to a new jurisdiction, or requests a ballot with a federal postcard application with an address outside the voter's current county of registration to make corrections in registration records. When a registrar becomes aware that a person is no longer residing in the county where they have been registered, the registrar must notify the registrar in the county where the voter now resides (Tex. Elec. Code § 15.021-.022). Once a registration is received in the new county of residence, it must be canceled in the previous county of residence.

In Texas, an individual voter's registration remains effective unless there are specific statutory grounds for cancellation (Tex. Elec. §13.143). Aside from physical moves, there are several specific situations for which voters may be removed from the voter rolls in Texas, including death, mental incapacity, and felony conviction. Tex. Elec. §16.001-.003 outline specific procedures whereby the TXSOS and local voter registrars are notified of these events, and then must immediately cancel the respective voter registrations. The NVRA permits states to eventually remove inactive voters from the registration rolls, though it explicitly prohibits voter inactivity as the sole reason for removal (NCSL, 2023d). In some states, voter inactivity can trigger a lengthy process that ultimately results in removal; however, voter inactivity on its own is not a trigger for voter removal in Texas (Voting Rights Lab, 2023).

In Greater Houston

The EAVS survey asks counties to provide data on the number of voters they remove from the rolls each federal election cycle. These data are reported from 2010 to 2020 for our metro counties, the state of Texas and the U.S. in Table 3.6.

Overall, the data reported in Table 3.6 shows a generally increasing trend in the number of voters removed from the rolls, however this is not uniform across counties. For example, some counties saw a decline in 2020 (Fort Bend and Montgomery), while others showed more variability over time (Brazoria,

Galveston and Waller). This is generally true of Texas as the U.S. as well. The overall trend is increasing, but it is not completely linear between 2010 and 2020. The EAVS questionnaire asks county election officials to indicate the reasons voters were removed from their voter rolls in the period after the prior federal election and the month before the election in question. In Table 3.7 we report responses to the four most popular reasons based on the most recent EAVS (2021), so the period after the 2018 November election and October of 2020. Note that other reasons not included in Table 3.7 include: voter's request, felony, and other.

TABLE 3.6: NUMBER OF VOTERS REMOVED FROM THE ROLLS, 2010-2020

COUNTY	2010	2014	2016	2018	2020
Brazoria	13,195	32,354	NA	11,955	22,166
Chambers	1,495	NA	1,582	1,109	3,035
Fort Bend	15,530	39,186	20,623	46,850	42,055
Galveston	19,035	24,869	14,784	18,464	23,521
Harris	140,546	205,564	NA	212,685	223,853
Montgomery	16,485	28,471	34,124	50,266	37,242
Waller	1,580	NA	5,147	843	5,696
Texas	1.3 mil	1.7 mil	1.2 mil	1.6 mil	1.75 mil
U.S.	15 mil	14.8 mil	16.7 mil	17.3 mil	18.8 mil

Source: Election Administration and Voting Survey (U.S. Election Assistance Commission).

Note: We excluded 2012 as reporting for this year was inconsistent and included missing data.

The data in Table 3.7 indicate that the most common method of removing voters from the voter roll is via voters' failure to respond to confirmation mailers. All of the Greater Houston counties as well as both Texas and the U.S. averaged roughly between 20–30 percent, with Harris County having the largest percentage of voters removed via failure to respond (36%) and Chamber County having the lowest (20%). Note that when county registrars suspect voters are no longer eligible to vote in the jurisdiction in which they are registered, they send postage pre-paid and pre-addressed return cards. If the voter does not return this confirmation mailer, the voter can be added to the inactive voter list and would be asked to provide proof of residence before voting. If the voter fails to return the confirmation notice and does not participate in the subsequent two consecutive federal elections, states may remove the voter from the voter roll (based on the NVRA). In other words, if the voter

has not moved out of the voting jurisdiction, they must complete and return the confirmation notice no later than the registration deadline of the next election to remain on the list of active voters (U.S. EAC 2021, p. 133).

There is considerable consistency in the other modes of voter removal from the registration rolls. The second most common way across all seven counties and the state of Texas is death, ranging from 9 to 16percent of all voters removed from the registration rolls. Note that the percentage is higher for the U.S. (21%), but that this reason is slightly less common than the moved outside jurisdiction response (28%). Moved outside the jurisdiction was the third most common response for Harris metro counties and ranged from 6 percent (Montgomery County) to 11 percent (Fort Bend and Galveston counties).

TABLE 3.7: NUMBER OF VOTERS REMOVED FROM ROLLS BY REASON, 2020

COUNTY	FAILURE TO RESPOND TO CONFIRMATION MAILINGS	MENTALLY INCOMPETENT DISQUALIFIED FELONY VOTER REQUEST	DEATH	MOVED OUTSIDE JURISDICTION
Brazoria	24%	0%	15%	9%
Chambers	20%	1%	16%	7%
Fort Bend	23%	1%	12%	11%
Galveston	25%	1%	16%	11%
Harris	36%	0%	14%	8%
Montgomery	30%	2%	15%	6%
Waller	23%	1%	9%	7%
Texas	29%	1%	16%	8%
U.S.	32%	5%	21%	28%

Source: Election Administration and Voting Survey (U.S. Election Assistance Commission).

SUMMARY AND RECOMMENDATIONS

Texas has been described as one of the most difficult states in which to register to vote due to the range of state-level policies that impede access to voter registration (Rice, 2016), reflected in voter registration rates that are among the lowest in the nation (Kaiser Family Foundation, 2022). In terms of state policy, potential registrants face comparatively long registration deadlines, paper-only application requirements, and limitations that impact how voter registration drives can take place that are rarely seen in other states. Such restrictions on voter registration can discourage electoral participation (Center for Information & Research on Civic Learning and Engagement [CIRCLE], 2022), while state investments in modernizing their voter registration processes can instead increase registration rates, while also saving states money (Brennan Center for Justice, 2023).

Across Greater Houston, we see differences in the extent to which counties provide information and guidance about registration eligibility and processes, drop-off locations for hard copy applications, and how individuals can become certified VDVRs in that county. Together, these state and local policies set a context in which confusion around voter registration processes can emerge. According to Common Cause, the majority of calls to Texas' 866-OUR-VOTE election protection hotline in 2022 were about voter registration status or how to register to vote (Ehresman, 2023).

The analyses in this chapter suggest a need to revisit both state and local infrastructures for voter registration in Greater Houston, as voter registration is a critical entry point into electoral participation. It is also especially relevant given the mobility of Americans; as Table 3.7 notes, 28% of voters were removed from the voter rolls across the country in 2020 due to moving outside of the jurisdiction. While these percentages are lower within Greater Houston, moving affected between 6-11% of voters in the region that same year. Renters are more likely to move frequently; given the substantial racial gap in home ownership in the U.S. and recent drops in Black homeownership in Texas (Henderson, 2022), strengthened registration infrastructures could directly benefit communities of color in the state.

Recommendation 1: Provide Clear, User-Focused Information about Voter Registration Processes on County Websites

To ease access to voter registration and updating registration information, counties can re-examine the voter registration information they provide to voters on their website. In particular, taking a user-based approach, and providing clear, resident-focused information about processes by which voters can register or update their registration could be helpful to potential voters.

One example of this stems from voter interest in the recent mechanism that now allows Texans to update their voter registration at the same time as updating their driver license (Lopez, 2021). Despite this being a fairly new option, one that can potentially provide more efficiency for voters, only one Greater Houston county currently includes information about this option on their website. Further, when counties rely solely on linking residents to the TXSOS site, with no additional guidance, residents are then left having to navigate the TXSOS site, with little county-specific direction (for example, the correct county address to send their completed voter registration application). We suggest counties in the region look to each others' sites and learn from each other about the kinds of information that can help voters.

Recommendation 2: Increase the Accessibility of VDVR Reciprocity Across Counties

Because a VDVR must become certified by the appropriate office in each separate county in which they want to register voters, this limits the ability to facilitate voter registration drives across a multi-county region like Greater Houston. In this context, where VDVRs are likely to connect with potential voters living in multiple counties, straightforward access to reciprocity information and processes would help build connections and ease access to voter registration across counties.

In addition to clear information about how to gain reciprocal VDVR appointments in counties across the region, Greater Houston counties could learn from initiatives in other parts of the state that make VDVR reciprocity easy. For example, Travis County offers both synchronous and asynchronous online trainings, available to anyone in the state, and specifically tailors language on its website to explain how these trainings are accessible to potential VDVRs living in other counties to facilitate reciprocity (Travis County Tax Office, 2023).

Recommendation 3: Incorporate Flexibility into VDVR Training Options

The ways in which individuals can become certified VDVRs varies substantially across the region. As a result, it appears easier for residents to go through the process to become a VDVR in some counties than in others. While it may be more cost effective for counties to take advantage of the TXSOS's online training and exam alternative, requiring potential VDVRs to come to a single county location during business hours to take the exam may impede access for interested Greater Houston residents.

Counties like Brazoria and Fort Bend that offer potential VDVRs an option between attending an in-person training or taking an in-person exam provide flexibility to residents interested in helping to register their neighbors and community members. Counties like Harris that incorporate live remote training, without an exam, offer another approach. The support from TXSOS for counties to provide live remote trainings offers a potential opportunity for Greater Houston counties to increase the flexibility of the VDVR trainings offered to their residents.

Recommendation 4: Modernize Texas' Voter Registration System

Voter registration modernization in many states has incorporated changes such as online registration, same-day registration, automatic registration, and/or connected electronic systems where automatic address updates in other state systems trigger updates to voter registration (Brennan Center for Justice, 2021). In Texas, an important starting point in modernizing the states' voter registration system would be to adopt fully online voter registration, alongside the other 42 states that already have fully online registration systems in place.

According to the U.S. Election Assistance Commission (2021), across the country, online registration accounts for 28.2% of applications, and is an increasingly common source of voter registrations. Since Texas has already instituted online systems for voters to update their voter registration information in the case of an address or name change, expanding this to allow fully online registration is the logical next step to modernizing Texas' voter registration system.

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CHAPTER 4

VOTING PROCESS IN GREATER HOUSTON

Why It Matters

The 1870 ratification of the 15th Amendment to the U.S. Constitution specifically prohibited states from denying citizens the right to vote based on race; in doing so, it granted Black men the right to vote for the first time in the United States. Yet, the limits of this amendment's language and the nation's deep-seated racism led to an onslaught of efforts to disenfranchise Black voters, and then, over time, to efforts to also deny the vote to Hispanic citizens in states with large Hispanic populations. For example, "white primary" elections, initially instituted to prevent Black citizens from voting in party primaries, also barred Hispanic Texans.

While the 1965 VRA, followed by its 1975 expansion to directly protect the voting rights of Hispanic citizens and other language-minority groups, heralded a major shift in the face of voting in the U.S., county and state-level disenfranchisement efforts have continued. In the aftermath of the Supreme Court's 2013 Shelby ruling, waves of new laws were passed to restrict voting (Brennan Center for Justice, 2018), disproportionately affecting voting access for Black and Hispanic voters, particularly in counties with large Black and Hispanic communities (Billings et al., 2022).

Texas has consistently been home to one of the lowest voter turnout rates in the country. Even as the state saw its highest voter turnout in almost 30 years in 2020 and its second-highest midterm election turnout in two decades in 2022, Texas' turnout was still comparatively low. Texas tied for 42nd in turnout in the 2022 midterms, with turnout about five percentage points lower than the national average and 23 percentage points lower than the highest-turnout state (Kaiser Family Foundation, 2022). U.S. Census Bureau Current Population Survey data compiled by the Kaiser Family Foundation suggests

racial disparities in Texas voter turnout: a greater percentage of white (47.9%) Texans voted than Asian (42.2%), Black (41.5%), and Hispanic (36.9%) Texans in the 2022 midterms. Even as the 2020 census indicated that 95% of Texas' recent population growth was made up of people of color, the gap in turnout that same year between Texas' white and Black registered voters was the widest it had been in 25 years (Ehresman, 2023).

Texas voters face an array of challenges in casting a ballot, including late poll openings, poll worker shortages, intimidation of voters and election officials, and confusion around voting rules and procedures (Ehresman, 2023). McClendon et al. (2019) find that infrastructure and process challenges such as these may be more likely to emerge at polling locations in low-income communities and in communities with higher percentages of Black residents. While voting infrastructure and process challenges may not always be intentional, they function as a form of voter suppression when they discourage eligible voters from ultimately casting their ballot (Pitzer et al., 2021).

FEDERAL LAW AND THE BROADER CONTEXT OF VOTING IN THE U.S.

Three federal laws set much of the overall context and guidelines through which elections, voting, and other voting-related activities across the U.S. are structured and implemented.

As one of the nation's major pieces of civil rights legislation, the **Voting Rights Act (VRA)** seeks to protect voting rights for minority and non-English speaking voters and allows for federal oversight and review of complaints related to all aspects of the voting process, including the power for the federal government to observe elections across the U.S. Until the 2013 Shelby ruling, it granted the federal government the authority to preclear any new law impacting voting rights in certain jurisdictions with a history of discrimination in voting, including the state of Texas. Added to the VRA in 1982, Section 208 permits voters who need assistance, whether for disability, language, or literacy reasons, to receive assistance from a person of their choice (as long as the assistant is not the voter's employer or a representative of the employer or union).

Enacted in 2002 as a response to voting irregularities in the 2000 election, the **Help America Vote Act (HAVA)** outlines provisions for administering federal elections and, as the first federal election grant program, provides funding to improve voting processes. HAVA requirements include equipment

that enables voters with disabilities to privately and accessibly vote at each polling location, centralized state-wide voter registration databases, and making a "voters' bill of rights" available at polling places. HAVA requires access to provisional ballots to record the vote of a voter whose eligibility is in question, outlines minimum standards for these provisional ballots, and requires election officials to provide provisional voters with a free-access system to track whether their vote was counted. HAVA also established a new federal ID requirement, requiring first-time registrants to provide ID when they register, at their polling location, or when they mail in their first ballot.

The **Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)**, enacted by Congress in 1986, and amended by the Military and Overseas Voter Empowerment (MOVE) Act of 2009, establishes procedures for absentee voting in federal elections for members of the United States Uniformed Services, merchant marines, and their family members, as well as United States citizens residing outside the U.S. Using the Federal Postcard Application (FPCA), eligible persons can simultaneously register to vote and request an absentee ballot. The law currently requires ballots to be sent overseas at least 45 days prior to Election Day to ensure enough time for the ballots to be returned, and enables voters to track the status of their ballots.

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ABSENTEE VOTING: APPLICATIONS, CASTING BALLOTS, BALLOT REVIEW

State Policies

Eligibility Criteria

Texas' voting by mail system is an absentee voting system, specifically designed for absentee voters who have a specified, approved excuse preventing them from voting in person. This contrasts with the approach of 27 states and Washington, D.C., which offer voters "no excuse" voting by mail through which voters can request a mail-in ballot for any reason (National Conference of State Legislatures [NCSL], 2022b). An additional eight states offer "all mail" elections through which all registered voters in the state are automatically sent ballots.

To vote absentee in Texas, a voter must either meet requirements outlined in the federal UOCAVA law or meet one of a set of specified eligibility criteria outlined in Chapter 82 of the Texas Election Code. These are:

- + 65 years or older;**
- + sick or disabled;**
- + out of the county on Election Day and during early voting;**
- + expected to give birth within three weeks before or after Election Day; or**
- + confined in jail, but eligible to vote, e.g.:**
 - serving a misdemeanor sentence for a term that ends on or after Election Day;
 - pending trial after denial of bail;
 - without bail, pending an appeal of a felony conviction;
 - pending trial or appeal on a bailable offense and unlikely to be released before Election Day;
 - involuntary civil commitment.

In June 2021, Tex. Elec. §82.002 was amended to add language specifying circumstances under which the state explicitly will not allow voters to absentee vote. These include:

- + not having transportation**
- + a sickness that does not require personal assistance or does not risk injuring the voter's health**
- + requirement to go to work on Election Day**

Applying to Absentee Vote

While voters eligible to absentee vote via the federal UOCAVA law may apply to vote through the FPCA procedures outlined in that law, voters seeking to vote absentee for any of the reasons outlined in Texas law must follow procedures outlined in the Texas Election Code.

Voters must submit an application for each separate election during which they want to vote absentee, unless the voter is over 65 or has a disability. Tex. Elec. §86.0015 specifies that voters over 65 or with a disability may apply to receive mail ballots for multiple elections or for all elections in the upcoming calendar year. This stands in contrast to the five states (plus Washington, D.C.) in which voters can apply to join a permanent mail ballot voting list for all future elections, to the 11 states that allow this specifically for voters with permanent disabilities, and to the three states that make this option available specifically to seniors (NCSL, 2022a).

To apply to absentee vote based on the criteria outlined in Texas law, a voter must either print an Application for Ballot by Mail (ABBM) via the Secretary of State's website or order it online. Tex. Elec. §84.001 prohibits counties from processing applications with electronic or photocopied signatures, requiring applications to be submitted in writing and signed in ink. On its website, the Texas Secretary of State (TXSOS) notifies voters that completed applications can be mailed, faxed, scanned or emailed to the local county elections office (TXSOS, n.d.). However, because electronic and photocopied signatures are not permitted, the website also notifies voters that if they submit a faxed, scanned, or emailed application, they must also mail the original hard copy in order to receive an absentee ballot, no later than the 4th business day after the application was initially submitted.

Tex. Elec. §84.007 requires that absentee voting applications be submitted at least 11 days before Election Day. Texas is one of 15 states that requires such applications to be submitted more than 7 days prior to an election. All other states accept applications up to one week before an election (7 states) or less than a week before an election (20 states), while eight states hold all-mail elections (NCSL, 2022a).

The 2021 Texas Legislature added new restrictions to the absentee voting application process via SB1, after Harris County sought to send absentee applications to all registered voters in the county in advance of the 2020 presidential election (Platoff, 2020). In response, the Legislature created Tex. Elec. §276.016 and §84.0111, which prohibit county election officials from distributing or soliciting absentee applications from any individual who did not request an application. Any county election official who does so may face termination of employment or benefits as well as up to six months in prison and fines of up to \$10,000. In 2022, a federal judge ruled these new restrictions to be in violation of the First Amendment and requested a preliminary injunction; however, the lawsuit was ultimately dismissed (Brennan Center for Justice, 2022).

Casting an Absentee Ballot

Tex. Elec. §86.007 places limitations on when an absentee ballot must be received by the voter's county in order to be counted, and Tex. Elec. §86.015 and §87.121 require the Secretary of State to provide an online tool on their website so that voters can track the status of their absentee ballot. Absentee ballots must be cast and received by the voter's county before the polls close on Election Day, or be received no later than 5 p.m. the day after Election Day – but only if the postmark on the carrier envelope reflects the election's location and a time no later than 7 p.m. on Election Day.

HB 1299 (Texas Legislature Online, 2023), passed in 2023, added new restrictions to the process for casting an absentee ballot. This law, reflected in Tex. Elec. §86.005-.0051, specifies that the carrier envelope containing an individual's mail-in ballot must have a "wet signature," meaning signed in ink, by the voter or person assisting a voter. Electronic or photocopied signatures are not permitted. This wet signature is used to verify the ballot.

Voters around the country, including in Texas, are generally allowed to hand deliver absentee ballots to a county election official's office (NCSL, 2022a). Tex. Elec. §86.006 allows hand delivery of absentee ballots specifically to an election official at the early voting clerk's office only on Election Day, and with approved identification. Thirteen states, not Texas, have statutes that allow voters to submit absentee ballots at early voting and/or Election Day polling locations. Twenty-three states, also not including Texas, have specific statutes that explicitly permit the use of ballot drop boxes at which absentee ballots can be submitted (NCSL, 2022a). During the COVID-19 pandemic, Harris County and other Texas counties opened multiple drop-off sites for hand-

delivering absentee ballots in person during the 2020 presidential election. This was followed by an order by Gov. Abbott, upheld by the Texas Supreme Court, that limited counties to a single drop-off location for hand delivery of absentee ballots (McCullough, 2020).

Some voters who request absentee ballots ultimately choose instead to cast a ballot in person. SB 1599, passed in 2023, now requires election officers to maintain a register of absentee ballots that are surrendered at polling stations, including the name of the person surrendering the ballot and the ballot number.

Identity Verification for Absentee Ballot Applications and Ballots

Through SB 1 in 2021, the Texas Legislature added new identification requirements to the absentee ballot application process; previous law had not required identification as part of the absentee ballot application process. Tex. Elec. §84.002 now requires absentee voters to write one of the following on their ballot application and the return envelope:

- A. the number associated with their driver's license, election identification certificate, or personal identification card issued by the Department of Public Safety,**
- B. the last four digits of their Social Security number if A is not applicable, or**
- C. a statement that they have not been issued a number described in A or B.**

Also part of SB 1, Tex. Elec. §86.002 now requires each absentee ballot return envelope to include a hidden space where voters provide this same information when they cast their mail ballot. Tex. Elec. §87.041 now further requires that this information match the identification information provided by the voter when they registered to vote. These changes, all adopted as part of SB 1, led to the rejection of large numbers of absentee ballots across the state in subsequent elections; in essence, these changes meant that a voter who registered with a driver's license number but wrote their social security number on their absentee ballot would have their ballot be rejected.

In response to these large numbers of rejections, the legislature adopted two new laws (SB 1599 and HB 357) in 2023. As a result, Tex. Elec. §86.008 now allows voters to correct the identification provided on their absentee ballot application or ballot if county officials notifies them they are at risk of being rejected for a technical error. If an error is discovered on the application while the voter still has time to correct

the ballot prior to the voting deadline, county officials must return the application to the voter or send a new application with instructions for correcting the error. If county officials believe that there is insufficient time to correct the error, they may notify the applicant by phone or email about how to correct the error.

Voter Assistance

Absentee voters who would have been eligible to receive assistance while voting in-person due to specific physical disabilities or language barriers may receive assistance both when completing an application to vote absentee and when casting their ballot. In accordance with Tex. Elec. §84.011, the ABBM includes space where an assistant must confirm that they have assisted the applicant and provide their name, signature, and address; failure to do so constitutes a misdemeanor offense.

Tex. Elec. §86.010 permits absentee voters to receive assistance both in preparing their absentee ballot and in having their ballot (in a sealed carrier envelope) deposited in the mail. Tex. Elec. §86.0051 and §64.034 require the assistant to provide their name, wet signature, address, relationship to the voter, and information about any compensation received (none is permitted) on the ballot's carrier envelope, and to also sign a written oath on that envelope. Any assistant who knowingly violates these requirements can be charged with a felony offense.

In 2023, the Texas Legislature approved a new law (HB 3159) to allow voters with disabilities who require personal assistance or who risk injury to their health when voting in person at a polling location to vote early using an accessible and electronic absentee system that allows them to vote without assistance. This system is already used by some Texas counties for military voters overseas. Despite strong bipartisan support, Governor Abbott vetoed this bill (Contreras et al., 2023a).

Many state statutes address voting and assistance in long-term care facilities, with some outlining specific nursing home voting programs (Kohn & Smith, 2023). In some states, election officials are required to personally bring absentee ballots to long-term care facilities, ensuring that residents have direct access to voting facilitation and assistance at the facility where they reside.

Texas briefly had such a law: HB 658, passed in the 2017 regular session, required bipartisan election judges to directly deliver absentee ballots and oversee voting at any residential care facility where five or more absentee ballots were requested. County election officials who saw this new law as a burden persuaded lawmakers to repeal this law at the next

special session, leaving this law in effect for only one election before it was fully repealed (Malewitz, 2017).

In Greater Houston

Each county is responsible for making information about how to cast an absentee ballot available to its residents. Across Texas, the extent to which counties provide this information varies substantially. Emphasizing the importance of counties making election information easily accessible to voters via their websites, the League of Women Voters of Texas (LWV) annually assesses the elections information provided on all 254 county elections websites. LWV (2022) found that 26.38% of counties provided voters with "outstanding" or "very good" website information, while 32.68% of counties provided voters with the "bare minimum" or "inadequate" website information. The remaining 40.94% of websites were rated as "good" or "fair."

Who is eligible to vote by mail and the methods for doing so are prescribed by state policies; however, voters often start close to home in their counties to learn about the steps they must follow. The LWV's (2022) evaluation included assessments of whether counties provided up-to-date absentee vote information (68.9% of counties do) and a vote by mail tracker (42.1% of counties do). Among the nine counties in Greater Houston, the LWV found that six (Austin, Brazoria, Chambers, Fort Bend, Harris, and Liberty) provide voters with both updated absentee voting information and a tracker. Three offer updated absentee information, but do not provide information about how to track one's absentee ballot (Galveston, Montgomery, and Waller).

Eligibility Criteria

While the specific conditions under which a voter may request and receive an absentee ballot are set at the state level and therefore should be uniform across Texas' 254 counties, we see substantial variance across the nine Greater Houston counties in the amount of guidance provided to potential absentee voters on their websites.

For example, Liberty County does not provide voters with a list of absentee ballot eligibility criteria on its website. Instead, Liberty voters must first open a linked application to see who is eligible to cast an absentee ballot. Within this application, Liberty lists five criteria that permit an absentee ballot request: age 65 or older, disability, anticipated birth on or around Election Day, expected absence from the

county, and confinement in jail or involuntary civil commitment. Waller County also appears to only provide eligibility information inside a link to the absentee ballot application; however, as of September 14, 2023, this link was broken.

In contrast, Chambers County lists absentee ballot criteria directly on its website. Chambers provides the criteria listed above, but also specifies that these criteria include members of the National Guard or their dependents, and specifically informs voters that those in the Attorney General Address Confidentiality Program are also eligible to apply to vote by mail. For each criterion, Chambers County also specifically lets voters know whether they must use the state's application for ballot by mail (ABBM) or the federal postcard application (FPCA). The county also provides a list of instructions to guide voters through the absentee ballot application process.

Applying to Absentee Vote

County-level differences also emerge in how the websites instruct voters about how they can access and return the ABBM form. Liberty County, for example, lets voters know that they can access the ABBM in one of three ways: online, in person at the County Clerk's office, or by calling to place a request for an application to be mailed directly to them. The Liberty County website tells voters they must then return the completed application to the Clerk's office, with all further instructions provided on the ABBM form.

On Chambers County's website, voters are told that they can access the ABBM in one of two ways: online or by emailing a request for an application to be mailed to them. The Chambers County website gives voters instructions to mail, fax, or email their completed application, but information about the state requirement that a hard copy application must be submitted even when voters have faxed or emailed their application can only be found on the ABBM form.

Unlike most of the other counties in the region, Harris County's elections website provides in-depth information about absentee voting and the application process. Guidance provided by Harris County includes a FAQ for voters that provides explicit directions to meet voter identification requirements on one's application for a ballot. The FAQ also provides a phone number for multilingual support to voters with questions about completing their absentee vote application, and outlines ways applicants can avoid delays in receiving their ballot.

Absentee ballot processes, including accessing and completing an application to vote by mail, must meet

all language accessibility requirements required by the federal Voting Rights Act; however, not all Greater Houston counties provide clear access to absentee voting application or voting information in Spanish or other non-English languages on their websites. Specific assessment of the language accessibility of absentee ballot processes in each county is addressed in more detail in [Chapter 8](#).

Casting an Absentee Ballot

Requirements for casting an absentee ballot are set at the state level; therefore, we focus on county-level differences in information provided to voters. While it is possible that some or all of these counties provide hard-copy guidance to absentee ballot voters along with their ballots, we are unable to assess this, and instead focus on information the counties provide to voters on their websites.

Several Greater Houston counties (Liberty, Montgomery, Waller) include no information about how to cast an absentee ballot on their website, while others (Chambers, Brazoria, Austin) link voters directly to a Secretary of State site or flier that provides a simple overview of the absentee balloting process. Many counties in the region (Chambers, Liberty, Fort Bend, Montgomery, Austin, Waller) do not provide voters with any information about how they can physically deliver their ballot on Election Day if they choose to do so.

In contrast, while this information lacks a separate heading which can make it hard to find, Fort Bend's website provides information about deadlines by when absentee ballots must be received or postmarked in order to be counted. Galveston's website uses a separate heading to similarly provide information on deadlines for receiving absentee ballots. Harris County's website provides the most comprehensive guidance in the region for casting absentee ballots, with specific information for how voters should seal and return their ballot, a description of multiple mechanisms for returning one's absentee ballot, deadlines, and an absentee ballot FAQ page.

In Table 4.1 we report the total number of absentee ballots returned for each of the seven counties in Greater Houston over the 2010-2020 period. As the data show, the numbers are relatively small, but generally increasing over time. We would expect to see a spike in 2020 given the desire of many residents to avoid voting in person, and this is indeed what we see in Table 4.1 On average, there was a 65 percent increase in the number of absentee ballots returned between 2018 and 2020. Fort Bend County saw the largest increase at 92 percent, while Chambers County registered the smallest increase at only 22 percent.

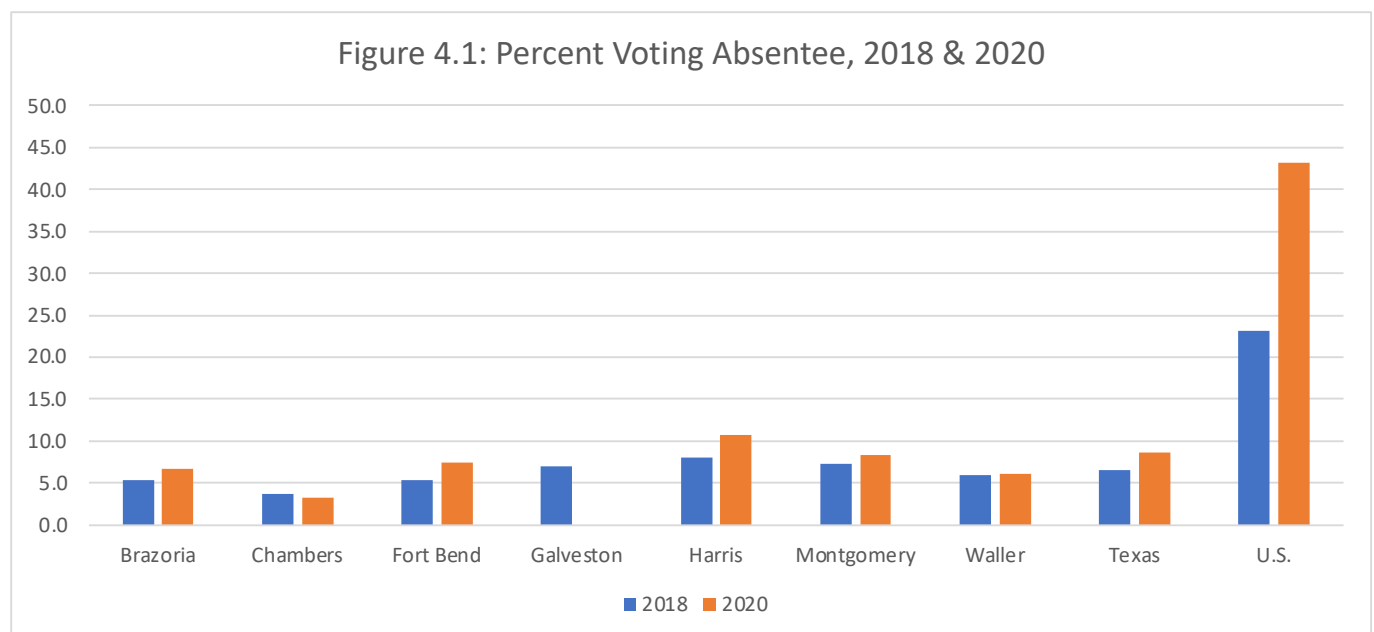
TABLE 4.1: TOTAL ABSENTEE BALLOTS RETURNED, 2010-2020

COUNTY	2010	2012	2014	2016	2018	2020
Brazoria	1,526	3,874	3,689	4,649	6,050	10,531
Chambers	19	27	258	415	572	699
Fort Bend	6,763	N/A	8,381	12,479	14,184	27,263
Galveston	5,478	6,513	6,062	7,925	8,071	N/A
Harris	53,248	69,815	71,747	95,291	96,233	179,150
Montgomery	2,579	8,163	11,580	7,595	14,025	22,631
Waller	479	22	815	825	1,168	1,776

Source: Election Administration and Voting Survey (U.S. Election Assistance Commission)

Since these numbers are hard to interpret without also considering the total number of ballots cast, in Figure 4.1 we report percentages of all ballots cast (and counted) that were absentee, or, in other words, the percentage of voters who voted absentee. We focus here on 2018 and 2020 to assess the extent to

which absentee voting truly increased during Covid. We also add data for Texas and the U.S. to compare absentee voting in Greater Houston counties to this form of casting ballots statewide and across the country.



Source: Election Administration and Voting Survey (U.S. Election Assistance Commission)

The data in Figure 4.1 confirm that the increases in absentee voting in 2020 are real. All but one county (Chambers) saw increases, and in three counties (Brazoria, Fort Bend and Harris), the increases were greater than 25 percent (26%, 40% and 32% increases respectively). Absentee voting also increased by 30 percent in Texas. Waller and Montgomery counties saw considerably smaller increases, 3% and 14% respectively.

What is perhaps most striking in Figure 4.1 however is the enormous gap in the percentage of voters who cast ballots absentee in the U.S. versus Texas and the Greater Houston counties. Pre-Covid, on average 23 percent of Americans cast ballots absentee, while in 2020 this increased 86 percent, to 43 percent. Texas and our region lag significantly behind the rest of the country in this mode of voting.

Rejected Absentee Ballots

Once an absentee ballot is received, election officials review it and determine whether or not the ballot can be counted or rejected. As Table 4.1 showed, there has been a steady growth in the number of absentee ballots transmitted across most of the counties in Greater Houston. However, when it comes to the number of absentee ballots that are rejected, we do

not see a similar trend. Instead, as the data in Table 4.2 indicate, the number invalid and rejected absentee ballots doesn't really exhibit any pattern, especially when we compare across Presidential and Midterm elections separately. Obviously, we would expect a larger number of rejected ballots during higher turnout elections (Presidential), which the data does reveal.

TABLE 4.2: TOTAL ABSENTEE BALLOTS REJECTED, 2010-2020

COUNTY	2010	2012	2014	2016	2018	2020
Brazoria	22	116	27	43	86	89
Chambers	4	0	3	N/A	11	13
Fort Bend	14	N/A	6	392	433	316
Galveston	101	105	307	278	96	N/A
Harris	123	118	680	1,095	1,500	552
Montgomery	35	189	59	40	72	56
Waller	12	1	0	9	11	0

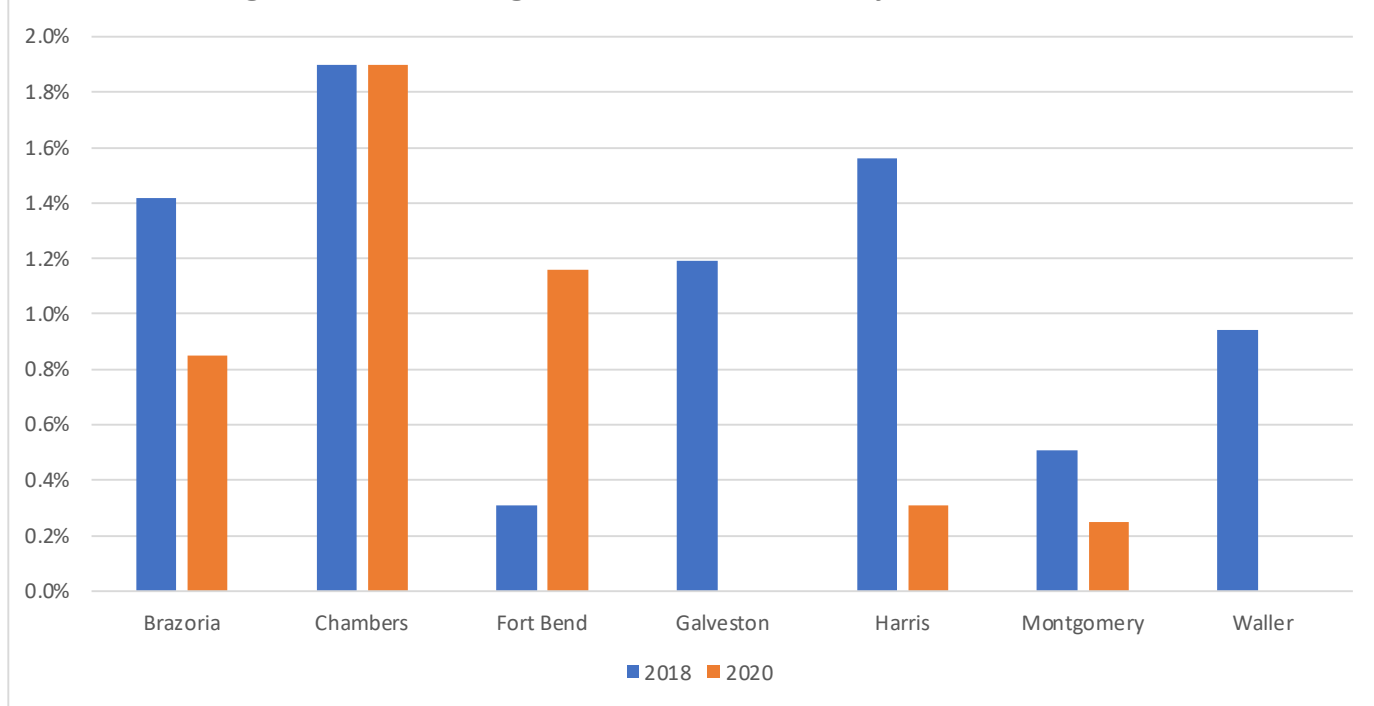
Source: Election Administration and Voting Survey (U.S. Election Assistance Commission)

In Figure 4.2 we compare the percentage of rejected absentee ballots in 2018 and 2020 to again explore any changes that might have occurred during Covid. There were missing data for two counties in 2020 (Galveston and Waller), so finding a pattern here is a bit more challenging. What we see however, is actually a decrease in the percentage of absentee ballots rejected from 2018 to 2020 in three out of the five

counties (Brazoria, Harris, and Montgomery). There was essentially no change in Chambers County. Only in Fort Bend County was there an increase in the percentage of absentee ballots rejected between 2018 and 2020. However, this increase of one percentage-point was substantial given the low rates of rejected ballots. Similarly, the decrease in Harris County also appears significant, from 1.6% to .3%.

Pre-Covid, on average 23 percent of Americans cast ballots absentee, while in 2020 this increased to 43 percent. Texas and the Greater Houston region lag significantly behind the rest of the country in this mode of voting.

Figure 4.2: Percentage of Absentee Ballots Rejected, 2018 & 2020



Source: Election Administration and Voting Survey (U.S. Election Assistance Commission)

While EAVS data for 2022 were not available for this report, following implementation of Senate Bill 1 in 2021, large-scale spikes in county rejection of absentee ballot applications were identified across the state in the lead-up to the March 2022 primary elections. While these spikes have not continued since this election, contemporaneous media reports suggested that such spikes in absentee ballot application rejections were present in Greater Houston. For example, news reports in January 2022 indicated that Fort Bend had rejected approximately 50% of all absentee ballot applications because the applicant failed to meet the requirements stipulated in Senate Bill 1 (Wiley, 2022). Further reports suggested that approximately one-third of Fort Bend voters whose applications were rejected ultimately successfully submitted an absentee ballot in that

election (deGrood, 2022).

News reports also captured widespread absentee ballot rejections across the state in this same 2022 primary election, the large majority of which were attributed to new requirements contained in SB 1. Reports during that election indicated that Texas voters of color were 47% more likely to have their ballots rejected (Morris & Grange, 2022). Local Greater Houston media coverage published articles about widespread ballot rejections in the March 2022 primary, in Harris (Gardner, 2022), Fort Bend (Goldenstein, 2022), and Galveston (Weeks, 2022). While these reports reflect data shared publicly at the time, subsequent reporting to the EAC by counties, outlined in our analyses, show a more complex story.

Large-scale spikes in county rejection of absentee ballot applications were identified across the state in the lead-up to the March 2022 primary elections.

Voter Assistance

As Table 4.3 shows, few counties in Greater Houston include information on their websites about

how a voter might receive assistance in applying for an absentee ballot or casting an absentee ballot, nor who might qualify for such assistance.

TABLE 4.3: COUNTY WEBSITE GUIDANCE FOR VOTERS NEEDING ASSISTANCE WITH ABSENTEE VOTING

County website provides no apparent guidance about receiving assistance for applying for or casting an absentee ballot
<ul style="list-style-type: none"> • Brazoria • Galveston • Liberty • Montgomery • Waller
County website provides clear link to TX SOS webpage with guidance related to assistance when applying for an absentee ballot (not for casting a ballot)
<ul style="list-style-type: none"> • Austin
County website provides guidance related to steps a witness/assistant must take in helping a voter apply for an absentee ballot
<ul style="list-style-type: none"> • Chambers • Fort Bend • Harris

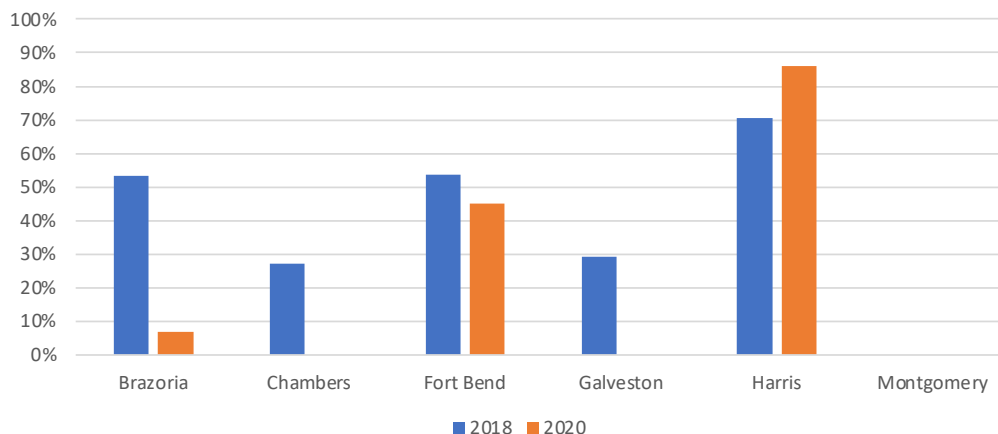
Because the process of requesting and filling out an absentee ballot can be confusing for voters, assistance provided by county election officials is important. While information is available from multiple sources, it is often the county's election page that voters go to for instructions and answers to FAQs (frequently asked questions). In the EAVS surveys that we have relied on heavily for this report, county election officials are asked to provide data on the number of absentee ballots rejected for a set of specific reasons. In Figure 4.3 we report the percentage of absentee ballots that were rejected because voters missed the deadline. What look like missing data is actually 0, since no county failed to report data for this question.

What the data in Figure 4.3 clearly show is that Harris County in particular rejects the lion's share of its absentee ballots due to missed deadlines by voters. In 2018, 71 percent of rejected absentee ballots were due to this reason and in 2020 this had increased

to 86 percent. Fort Bend and Brazoria counties each passed the 50 percent mark in 2018, but saw decreases in 2020. In Brazoria County, the decline was especially sharp, from 53 to 7 percent. Montgomery County also stands out since it reported 0 rejected absentee ballots due to missed deadlines for both 2018 and 2020 (Chambers also reported 0 rejected absentee ballots due to missed deadlines in 2018). This figure might need to be interpreted with care since the most popular reason given in Montgomery County both years was "other" (71% and 57% in 2018 and 2020 respectively). Often if counties don't keep sufficient record keeping, they report "other" on survey questions like this one that ask for relatively specific information.¹

¹ Note that Waller County did not report data for this part of the EAVS questionnaire in 2018 and reported 0s for all categories of reasons for rejected absentee ballots in 2020.

Figure 4.3: Percent Absentee Ballots Rejected Due to Missed Deadline, 2018 & 2020



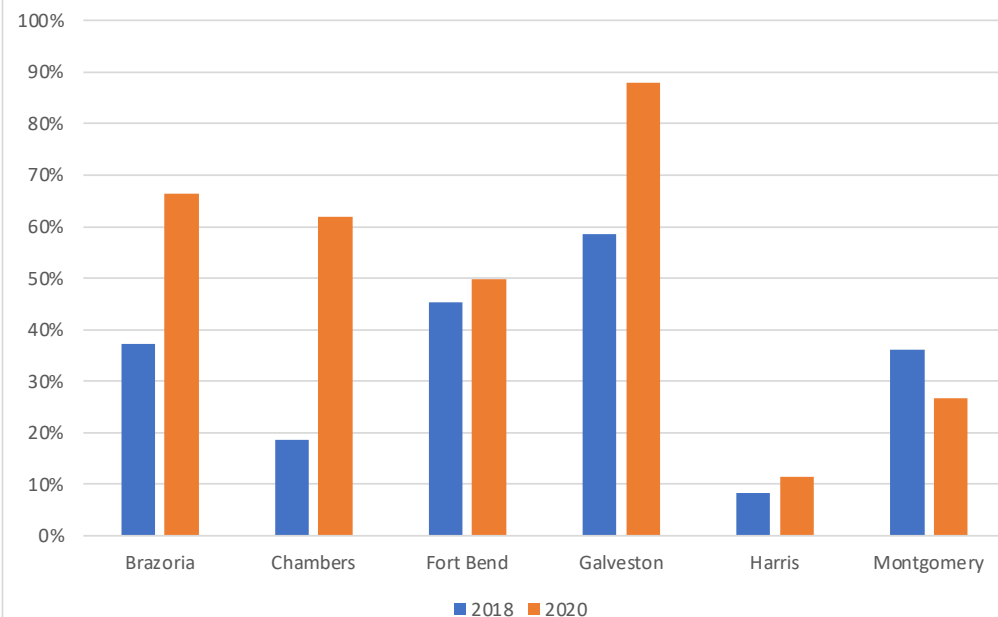
Source: Election Administration and Voting Survey (U.S. Election Assistance Commission)

In Figure 4.4 we present data on another reason absentee ballots are rejected by county election officials. This one has to do with how ballots are returned and includes deficiencies in some of the requirements associated with filling out and returning the ballot, such as signing the ballot, sealing it, actually including the ballot in the envelope, etc. Obviously instructions are included with the absentee ballot, but deficiencies here speak to what may seem like a set of complicated steps that voters must follow very carefully in order to comply.

What we see in Figure 4.4 is a pretty consistent

increase in the percentage of absentee ballots rejected due to one or more of these deficiencies from 2018 to 2020, Montgomery County is an exception. In 2020 this reason accounted for at least 50% of rejected absentee ballots in Brazoria, Chambers, and Galveston. On the other hand, only a small percentage of absentee ballots was rejected for this reason in Harris County in both 2018 and 2020 (8 and 11 percent respectively). The other two of the larger counties in Greater Houston, Fort Bend and Montgomery, fall somewhere in the middle with Fort Bend closer to 50 percent and Montgomery hovering around 30 percent in both 2018 and 2020.

Figure 4.4: Percent Absentee Ballots Rejected Due to Missing Signature, Seal, Ballot, 2018 & 2020



Source: Election Administration and Voting Survey (U.S. Election Assistance Commission)

VOTING IN-PERSON: HOURS, VOTER ID, CASTING BALLOTS

State Policies

Below, Texas' laws guiding in-person voting are described. Penalties related to voter fraud are specifically codified in Texas state law. While lawmakers had reduced Texas' penalty for voter fraud to a Class A misdemeanor in 2021, this reduction was reversed in the next legislative session, via HB 1243.

Tex. Elec. §64.012 now provides a second-degree felony for "knowingly or intentionally" participating in an election in which a voter is ineligible; a second-degree felony is punishable by up to 20 years in prison and a fine of up to \$10,000. This language reflects a legislative compromise, after lawmakers initially sought for this penalty to include voters who unintentionally cast an illegal ballot (Huseman & Votebeat, 2023). Voting rights advocacy groups raised concerns that this change would intimidate voters such as formerly incarcerated individuals and non-English speakers who already face confusion over voter eligibility requirements (Contreras, 2023). Prior to the passage of this law, 0.00001625% of votes cast between January 2020 to September 2022 (390 votes) were investigated for potential voter fraud, and five votes were prosecuted (Ehresman, 2023).

Voting Days and Hours

In Texas, in-person voting takes place either on Election Day or during an early voting period. Texas was the first state to offer in-person early voting to anyone qualified to vote on Election Day, starting in 1987.

Tex. Elec. §85.001 provides, with rare exceptions, for a specific **early voting** period between the 17th day before Election Day and the 4th day before Election Day.

In direct response to efforts like those from Harris County, which offered 24-hour early voting locations during the 2020 presidential election so that shift workers could more easily cast their ballots, the Texas Legislature introduced substantial changes to required early voting hours as part of SB 1, passed in 2021 (Flores, 2021). As outlined in Tex. Elec. §85.005-6, early voting can now start no earlier than 6 a.m. (9 a.m. on the final Sunday) and end no later than 10 p.m. SB 1 also amended Tex. Elec. §85.005 to allow people who are in line after early voting polls close to still vote, a provision that previously applied only to Election Day.

The amended Tex. Elec. §85.005 now requires early voting at a county's main location to be conducted for a period of at least 9 hours on weekdays. It also requires that all counties with a population of 55,000 or more open their main polling location for at least 12 hours of voting during the second week of early voting in county and state elections. Counties with a population below 55,000 must provide these same voting hours if at least 15 registered voters make a written request to the early voting clerk (TXSOS, 2022).

While Tex. Elec. §85.006 allows counties to determine whether they will offer weekend early voting hours in some elections, HB 1217, passed in 2023, now requires all counties to provide 12 consecutive hours of voting at their main location on the last Saturday of early voting and six consecutive hours of voting on the last Sunday for all elections where state and county officers are on the ballot.

Tex. Elec. §85.007 and §85.067-.068 require that counties continuously post notice of election dates and hours at least 72 hours before the early voting period; for all counties that maintain a website, notice of early voting must be posted on the county elections website and also must be provided to the public when requested. Notice must also be posted on the Secretary of State's website for primary and general elections for state and county officers.

Tex. Elec. §41.001 specifies specific uniform election dates for **Election Day voting**. Tex. Elec. §41.031 requires that all Election Day polling locations open at 7 a.m. and close at 7 p.m., except for extremely small jurisdictions or when all votes have been cast. Tex. Elec. §41.002 stipulates that voters who are already inside a polling location at 7 p.m. may vote.

Tex. Elec. §4.003 requires counties to post notice of elections no earlier than the 30th day and no later than the 10th day before an election. Notice may be posted via newspapers, mailings to each registered voter, and/or in a public place in each election precinct. No later than the 21st day before an election, counties must post notice of each polling place on the county website (or a public bulletin board if the county does not maintain a website).

Identity Verification

Texas is one of 36 states that requires in-person voters to show proof of identification (NCSL, 2023c). Nineteen of these states, including Texas, require a photo ID to vote; the other states accept non-photo IDs.

Tex. Elec. §63.0101 outlines a specific list of IDs accepted from voters. These must be current or expired only within the past four years. These are:

- + a Texas driver's license or Texas ID card issued by DPS,
- + a US passport,
- + a US military ID,
- + a Texas handgun license issued by DPS,
- + a US citizenship certificate, and
- + a Texas election ID certificate issued by DPS.

Voters who do not have one of these approved forms of photo ID available to them, can use the alternative **Reasonable Impediment Declaration** process. Outlined in Tex. Elec. §63.001, voters can complete a Reasonable Impediment Declaration form stating that they are experiencing a reasonable barrier to acquiring an approved ID. A voter must identify one from a specified set of approved impediments to utilize this process. These approved impediments are as follows:

- + not having transportation,
- + not having a birth certificate or other document necessary to obtain the required photo ID,
- + a work schedule that impedes accessing the required photo ID,
- + lost or stolen photo ID,
- + having a disability or illness,
- + family responsibilities that impede accessing the required photo ID, or
- + have applied for required photo ID, but have not yet received it.

Once a voter claims a reasonable impediment, they may use one of a second list of supporting documents to prove their identity, as follows:

- + a government document showing the voter's name and address (this can include a voter registration certificate),
- + a current utility bill,
- + a bank statement,
- + a government check,
- + a paycheck, or
- + a certified birth certificate or document confirming birth admissible in a court of law.

Voters with a disability may apply for a permanent exemption from showing acceptable photo ID or from following the Reasonable Impediment Declaration procedure. Outlined in Tex. Elec. §13.002, only voters who have specified forms of federal documentation attesting to their disability and who do not have a required photo ID may pursue this option. The request must be made with the county voter registrar, after which documentation is added to the voter's voter registration certificate.

Provisional Balloting

Tex. Elec. §63.011 outlines specific circumstances under which an individual who believes that they are both eligible to vote and a registered voter in the precinct where they seek to cast an in-person ballot may cast a provisional ballot. These include:

- + an individual who was sent a mail ballot but did not submit it during early voting,
- + an individual who is unable to provide an acceptable form of photo ID or an acceptable Reasonable Impediment Declaration,
- + an individual whose name is not on the precinct's list of registered voters and who does not present a voter registration certificate, and
- + an individual who casts a ballot after the polling location is supposed to close, due to a state or federal court order.

At the voting location, such a voter completes a provisional ballot and signs an affidavit created by the TX Secretary of State. The affidavit must be printed on the envelope in which the voter's ballot is placed. Tex. Elec. §65.0541 specifies that if a voter casts a provisional ballot due to not having appropriate identification, the voter has six days after the election to present appropriate photo identification to the voter registrar. Alternatively, the voter may sign an affidavit in the presence of the voter registrar claiming a religious objection to being photographed or a loss of ID due to experiencing a declared natural disaster.

Each county's early voting ballot board is responsible for reviewing provisional ballots and affidavits and determining whether they can be accepted based on guidelines outlined in Tex. Elec. §65.054. All provisional ballots must be counted no later than 13 days after the election.

Voter Assistance

Tex. Elec. §64.031 specifies that certain voters may receive **assistance with casting their ballot**. As Tex. Elec. §64.032 and §64.0322 outline, a voter may receive assistance either from two election officers representing different political parties or, at a voter's request, from an assistant of their choosing. An assistant chosen by the voter must complete a form providing their name, address, relationship to the voter, and whether they have received any form of political compensation or other benefit in exchange for their assistance. Tex. Elec. §64.034 requires the assistant to take an oath stating that the voter requires assistance due to a disability or because they are unable to read the ballot language.

SB 1, passed in 2021, revised this section of state statute substantially, placing restrictions on the types of voting activity for which an assistant can help a voter. Specifically, this law limited assistance to “reading the ballot to the voter, directing the voter to read the ballot, marking the voter’s ballot, or directing the voter to mark the ballot.” It also expanded the oath an assistant takes, adding these restrictions as well as a penalty of perjury to the oath. In Summer 2022, a federal court struck down these and other provisions of SB 1 that limit assistance to voters with disabilities and limited English proficiency. As a result, Texas is not permitted to limit voting assistance or to require the portion of the new oath language that references limits to voting assistance (Surtees, 2022). Additional litigation that includes these provisions is in progress (Contreras et al., 2023b). SB 1 also added a new restriction, enacted as part of Tex. Elec. §64.009, placing new guidelines related to helping voters who seek to vote curbside. Any individual who transports seven or more voters other than close relatives to a polling location for curbside voting must complete and sign a form including their name, address, and whether they provided specific assistance to these voters.

Voters whose ability to move around is substantially impaired also may receive assistance from election officials in the form of **voting order priority**. Prior to 2023, voting order priority was presented as an option in the Texas Election Code, but with the adoption of SB 477 in 2023, it is now a requirement across the state for all elections. Tex. Elec. §63.0015 requires election officials to move a voter with mobility challenges to

the front of the line, if the voter agrees to this. Notice of this voting order priority policy must be posted on the state elections website, each county elections website, and at the entrance to each polling location – all accommodations and supports for voters with disabilities are now also required to be posted in an accessible manner on the county elections website.

In Greater Houston

The LWV’s (2022) assessment of county elections websites included evaluation of the extent to which counties provided voters with information about specific information related to in-person voting, including voting dates, hours, and locations, voter ID requirements, and information for voters with disabilities; these evaluations will be incorporated below into our analyses of how counties implement in-person voting. Among the 9 Greater Houston counties’ websites, two (Brazoria, Fort Bend) were identified as “outstanding.” Three (Austin, Chambers, and Harris) were identified as “very good,” and four (Galveston, Liberty, Montgomery, Waller) as “good.”

Early Voting Hours

Among Greater Houston counties, LWV’s assessment found that only Liberty County did not provide information about early voting dates, hours, and locations. In the chart below, we outline the early voting hours for each of the nine counties in Greater Houston during the November 2022 midterm election. At that time, the minimum early voting hours required

TABLE 4.4: NOVEMBER 2022 EARLY VOTING HOURS

	POPULATION BELOW 55,000			POPULATION ABOVE 55,000									
	AUSTIN		CHAMBERS	BRAZ-ORIA	FORT BEND		GALV.	HARRIS	LIB-ERTY	MONT.	WALLER		
Locations (#)	1	1	5	10	15	13	25	99	4	10	4	3	1
Week 1 hours (Oct. 24-28: Monday-Friday)	8-5:30	9-6	8-5	8-5	7-7	7-7	8-5	7-7	7-7	8-5	8-5	8-5	
Saturday (Oct. 29)	8-1	8-1		7-7	7-7	7-7	7-7	7-7	7-7	7-7	7-7		
Sunday (Oct. 30)				11-5	12-6		1-7	12-7	12-6	11-5	10-4		
Week 2 hours (Oct. 31-Nov. 4: Monday-Friday)	8-5:30	9-6	7-7	7-7	7-7	7-7	7-7	7-7, 7-10	7-7	7-7	7-7		8-5
Total EV hours at main location	100		105	123	138		123	142	138	123	123		

¹Austin, Fort Bend and Waller have multiple columns, because different groupings of locations were open for different hours during early voting.

of counties differed based on their population size which has now changed. As Table 4.4 indicates, voters in Greater Houston see a wide range of early voting hours available to them, depending on where they live.

During the November 2022 election, counties with a population below 55,000 were required to offer at least nine hours of early voting on weekdays. Both of the two smaller counties in Greater Houston exceeded this minimum, with Chambers offering 12 hours during the last week of early voting and Austin offering 9.5 hours daily at its main location during that same week. No weekend early voting hours were required of smaller counties; however, Austin County offered five weekend hours for early voting.

In contrast, counties with a population of at least 55,000 were required to offer a minimum of twelve voting hours daily during the final week of early voting. Six Greater Houston counties offered exactly this amount at all of their permanent locations; while Harris County offered its residents one longer weekday, with 13 hours of voting on the final Thursday night, extending until 10 p.m.

These larger counties were also required to offer at least 12 voting hours on the final Saturday of early voting and at least 6 hours on the final Sunday. All

seven larger counties met the minimum 12 hours of Saturday voting. Six offered the minimum 6 hours of Sunday voting, while Harris County offered 7 hours of Sunday early voting at each of its locations.

Of particular note, the Harris County early voting hours in the 2022 midterms reflect a substantial increase (22.5 hours) over the early voting hours available during the 2018 midterm elections. At that time, as the initial Take Action Houston report outlined, Harris County closed its polls earlier than each of the other 14 Texas counties with the largest numbers of registered voters during the first week of early voting, and offered the minimum number of required hours on all other days (Pritzker et al., 2019).

We also examined how counties implement early voting hours during the smaller May municipal elections, and similarly saw extensive variance among counties in terms of the number of early voting hours available to their residents. In May 2023, among the two smaller Greater Houston counties, Austin County met the minimum requirements for nine hours of early voting each weekday during the May 2023 elections, while Chambers County offered longer, 12-hour voting days on the two final early voting days. As Table 4.5 shows, no weekend early voting hours were required, and neither county offered weekend voting hours.

TABLE 4.5: MAY 2023 EARLY VOTING HOURS

	POPULATION BELOW 55,000		POPULATION ABOVE 55,000									
	AUS-TIN	CHAM-BERS	BRAZ-ORIA	FORT BEND ¹			GALV.	HARRIS	LIB-ERTY	MONT.	WALLER ¹	
Locations (#)	1	Not verified	11	18	4	3	20	29	4	8	4	1
Week 1 hours (April 24-28: Monday-Friday)	8-5	8-5	8-5	7-7	7-7	8-5	8-5	7-7	9-6	8-5	8-5	8-5
Saturday (April 29)			7-7	8-5	8-5	8-5		7-7		8-5	8-5	
Sunday (April 30)				12-6				12-7				
Week 2 hours (May 1-2: Monday-Tuesday)	8-5	7-7	7-7	7-7	7-7	7-7	7-7	7-7	7-7	7-7	7-7	
Total EV hours at main location	63	69	81	99			69	103	57	78	78	

¹Fort Bend and Waller have multiple columns, because different groupings of locations were open for different hours during early voting.

Among the seven larger counties, the biggest areas of variance involved the number of daily hours of voting offered during the first week of early voting and the number of weekend hours offered. Each county offered at least nine daily hours of weekday voting at their main location during the first week; however, Fort Bend and Harris offered 12 daily hours at most of their locations. Of note, only Fort Bend, Harris, and Liberty offered residents the opportunity to vote after 5 p.m. on a weekday during the first week of early voting.

For elections that do not involve state or county officers, there are no weekend election requirements; however, all larger Greater Houston counties except for Galveston and Liberty offered Saturday voting hours during the May 2023 elections. Two counties offered Sunday voting hours at many (Fort Bend) or all (Harris) of their locations.

Election Day Hours

All Texas counties, including those in Greater Houston, are required to operate elections over the same 12-hour period (7-7) on Election Day. However, counties in Greater Houston have seen delays and resulting court-ordered extensions in Election Day voting hours in recent years.

Harris County has consistently experienced delayed openings at some of its polling locations. In the 2018 midterm elections, 18 locations were either not open or only partially open at 7 a.m. on Election Day, with the Texas Civil Rights Project and the Texas Organizing Project ultimately suing to keep nine of these locations, locations that primarily serve communities of color, open late in order to provide 12 full hours of voting (Ura, 2018). During the 2022 midterm elections, Common Cause Texas reported multiple calls to its elections hotline about delayed openings in the county (Ehresman, 2023). Harris County election officials did not report all locations open and able to take voters until more than four hours after polls were scheduled to open, at 11:30 a.m. The delayed openings in 2022 were attributed to technical issues, delayed delivery of paper ballots, and workers not having access to facility or equipment keys. Houston's Second Ward, a well-known historically Black neighborhood, was the site of one of these delayed openings.

Fort Bend polling locations also experienced some delays during the 2022 midterm elections. One news report indicated that a combination of technology issues and first-time poll workers led to brief delays. We did not find evidence of delayed Election Day poll openings in the other seven Greater Houston counties.

Identity Verification

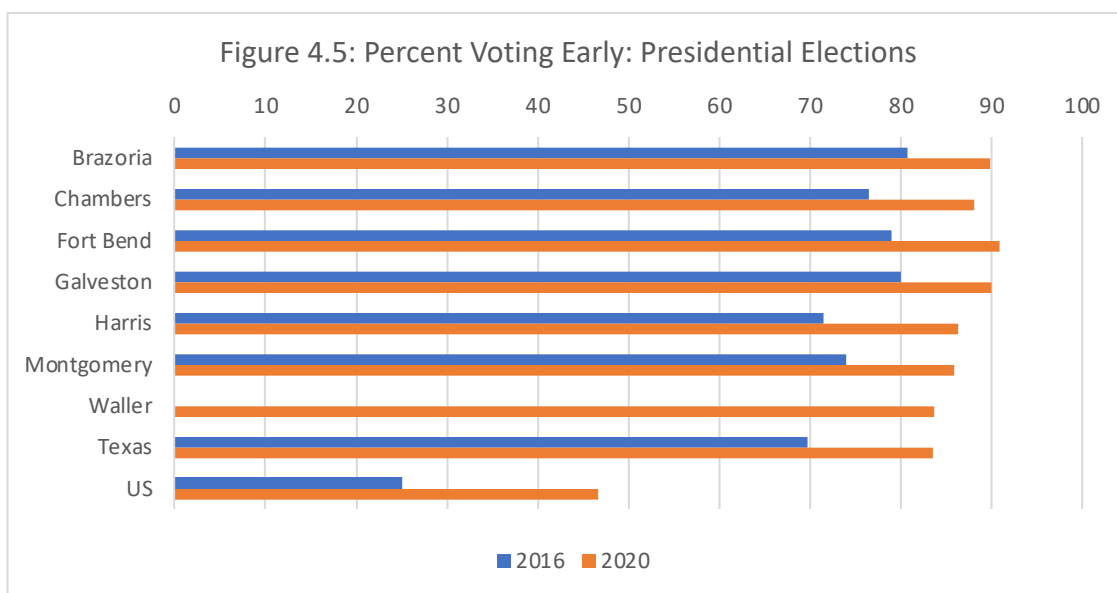
LWV's (2022) assessment of county's websites found that eight Greater Houston counties included information to voters about the state's Voter ID requirements and the photo IDs that are considered acceptable. Waller County was the only county to not include this information.

Voting In-Person

As we saw in Figure 4.1, only a small fraction of voters in Greater Houston counties cast absentee ballots—on average, about six percent in 2018 and seven percent in 2020. Statewide county averages are only slightly higher at 6.6 percent (2018) and 8.6 percent (2020). This means that the overwhelming majority of voters in Greater Houston, and in Texas, cast their ballots in person. Averages for counties in Greater Houston ranged from a low of 88 percent (Houston) to a high of 99 percent (Galveston) in 2020. There was not much change from 2018, where the lowest in-person turnout was 92 percent (Galveston, Houston and Montgomery) and the highest was 96 percent (Chambers). This pattern looks quite different compared to the U.S. overall, where average in-person turnout in 73 percent in 2018 and 55 percent in 2020.

Early Voting Ballots

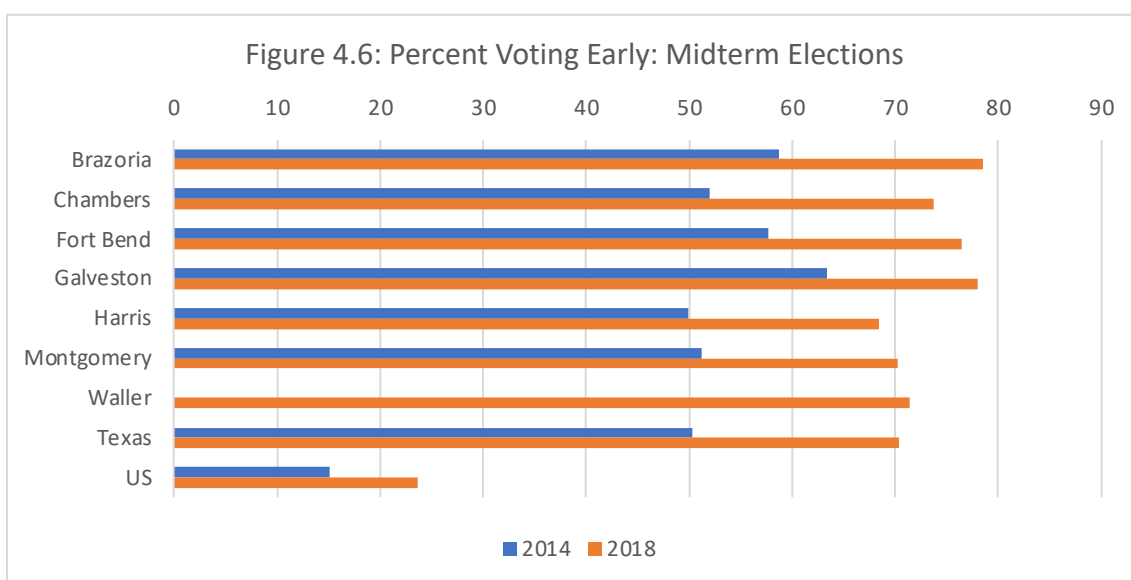
Since there is only marginal variation in the mode of voting across Greater Houston counties, a more interesting question is perhaps whether counties vary with regard to the percentage of their voters who cast ballots early vs. on Election Day. In Figures 4.5 and 4.6 we display data on the percentage of in-person voters who cast their ballots during early voting in Presidential and Midterm elections. We also report data for Texas and for the U.S. overall. Starting with the Presidential elections (Figure 4.7), we can see that among those voting in-person, early voting is clearly the dominant form of casting ballots in Greater Houston counties and within the state of Texas more generally. In 2018, on average 77 percent of in-person voters cast ballots during early voting and this increased to nearly 88 percent in 2020. Harris County actually registered the largest increase among counties in Greater Houston (14 percentage points), while Brazoria County saw the smallest increase (9.1 percentage points) in early voting. The largest gains however, were seen in the U.S. overall. Starting at a much lower level, the percentage of U.S. voters who cast ballots in-person during early voting increased from 25 percent in 2016 to nearly 47 percent in 2020.



Source: Election Administration and Voting Survey (U.S. Election Assistance Commission)

Turning to the data on early voting during Midterm elections (Figure 4.8), we see a similar trend overall. However, the percentage of in-person voters casting ballots early is lower in Midterm elections than it is in Presidential elections. In addition, the increase in early voting was considerably larger between 2014 and 2018 than between 2016 and 2020. Across the counties of Greater Houston counties, the percentage of in-person voters casting ballots early in 2014 was only 55.5 percent. This increased by more than 16 percentage

points to nearly 74 percent in 2018. No county reached 80 percent in any Midterm election, though by contrast, all counties in Greater Houston passed the 80 percent threshold in the 2020 Presidential election. We also see the average across the U.S. even further behind Texas and the Greater Houston counties when it come to in-person early voting in the Midterms. In 2014 only 15 percent of Americans who voted in-person voted early and by 2018 this had only increased to just under 24 percent.



Source: Election Administration and Voting Survey (U.S. Election Assistance Commission)

Provisional Ballots

In Table 4.6, we present data on the number of all ballots cast in Greater Houston counties that were provisional over the 2010–2020 period. The number of provisional ballots is relatively small and we generally see more provisions ballots cast in Presidential vs Midterm elections since turnout is considerably higher in these elections. The data in Table 4.6 generally bear this out. The mean number of provisional ballots cast in Midterm elections for the Greater Houston counties was just under 1,000 while the mean for Presidential elections was just over 2,000—slightly more than double.

Given the implementation of Texas’s strict voter ID law after the 5th U.S. Circuit Court of Appeals upheld SB

5 in April 2018, we might expect to see an increase in the number of provisional ballots cast in the 2018 November election. With increased scrutiny and more voters potentially coming to the polls without one of the seven forms of ID allowed under the law, it is possible that more voters found themselves in the position to cast a provisional ballot than in previous elections. One way to investigate this possibility is to compare the number of provisional ballots cast in 2018 to the number cast in the prior Midterm election (2014). This comparison provides rather strong evidence, since the number of provisional ballots cast increased in every single one of the seven Greater Houston counties. The percentage change was, on average, 150 percent, and ranged from a low of 66 percent (Fort Bend) to a high of almost 400 percent (Montgomery).

TABLE 4.6: TOTAL PROVISIONAL BALLOTS SUBMITTED, 2010–2020

	2010	2012	2014	2016	2018	2020
Brazoria	350	951	590	2,180	1,432	2,530
Chambers	50	135	53	340	127	214
Fort Bend	423	1,123	242	643	401	337
Galveston	785	1,988	655	1,576	1,378	1,851
Harris	2,122	5,719	2,946	6,747	7,066	13,835
Montgomery	288	956	197	1,217	973	1,249
Waller	83	238	94	136	150	144

Source: Election Administration and Voting Survey (U.S. Election Assistance Commission)

Another question we can investigate with the data in Table 4.6 is whether the increase in provisional ballots persists. In other words, do we find an upward trend, perhaps in response to SB 5? Or, do we see a return to more typical numbers of provisional ballots as voters become familiar with the new law, ensure that they bring the appropriate ID with them when the vote in person, and perhaps acquire one of the seven approved IDs if they did not previously have one. To assess this question, we can compare the total number of provisional ballots in 2020 to the total number in 2016. Doing this, we find evidence more supportive of the latter. In two counties (Chambers and Fort Bend) we actually see a decrease in the number of provisional ballots cast between 2016 and 2020 and in four other counties (Brazoria, Galveston, Montgomery and Waller) we see increases, but none greater than 20 percent

and two smaller than six percent. It is only in Harris County that we see a substantial increase, of about 100 percent: from 6,747 in 2016 to 13,155 in 2020.

In Table 4.7 we report the number of provisional ballots that were rejected. We see the same pattern here with a larger number of provisional ballots generally being rejected during Presidential elections compared to Midterms. While most counties do see increases over time, in every county but Montgomery, there was a decrease in the number of rejected provisions ballots in the 2020 Presidential election compared to 2016 Presidential election. However, when we compare the change in the number of rejected provisional ballot between 2014 (pre-SB5) and 2018 (immediately following SB5), we see a totally different pattern. In all but one county (Galveston), we see an increase in the number of rejected provisional ballots.

TABLE 4.7: TOTAL PROVISIONAL BALLOTS REJECTED, 2010-2020

	2010	2012	2014	2016	2018	2020
Brazoria	306	800	443	1,941	1,116	1,663
Chambers	42	102	42	270	121	205
Fort Bend	385	1,043	206	540	351	323
Galveston	543	1,184	396	1,247	370	1,053
Harris	1,494	4,632	1,995	5,246	5,699	5,113
Montgomery	244	845	129	1,088	870	1,126
Waller	80	201	61	124	117	113

Source: Election Administration and Voting Survey (U.S. Election Assistance Commission)

To make comparing across counties with different populations easier, in Table 4.8 we present data on the percentage of provisional ballots rejected across the counties in Greater Houston. Here we also denote in red, years during which counties were operating under county-wide voting (where relevant). While the implementation of the strict voter ID law in 2018 increased the need for provisional ballots, the adoption of county-wide voting has the opposite effect. Specifically, it eliminates one important reason for submitting a provisional ballot (voters being in the wrong precinct). In Table 4.8 we can also look for possible effects of this change in voting procedures on the casting of provisional ballots. Recall that two

counties (Montgomery and Waller) have not adopted county-wide voting and Chambers County (as well as Austin and Liberty, not included in this analysis) adopted after the 2020 elections.

Though the data in Table 4.8 is suggestive, it does not provide definitive evidence that the adoption of county-wide has led to dramatic or consistent declines in the percentage of provisional ballots being rejected. It is also worth noting that as the percentage of early voting has increased over time, the percentage of voters casting ballots on election day at precincts has also decreased.

TABLE 4.8: PERCENT PROVISIONAL BALLOTS REJECTED, 2010-2020

COUNTY	2010	2012	2014	2016	2018	2020
Brazoria	87%	84%	75%	89%	78%	66%
Chambers	84%	76%	79%	79%	95%	96%
Fort Bend	91%	93%	85%	84%	88%	96%
Galveston	69%	60%	60%	79%	27%	57%
Harris	70%	81%	68%	80%	81%	37%
Montgomery	85%	88%	65%	89%	89%	90%
Waller	96%	84%	65%	91%	78%	78%

Source: Election Administration and Voting Survey (U.S. Election Assistance Commission)

In terms of whether the percentage of rejected provisional ballots may have changed with the adoption of SB5, we don't find much evidence in the data reported in Table 4.8. The mean percent rejected in 2014 was 71 percent, which is only slightly lower than the mean rejected in 2018, 76 percent (immediately following implementation). On the other hand, comparing 2016 to 2020 reveals the opposite: a decline of 85 percent on average, to 74 percent. It could be that the strict voter ID law is simply discouraging eligible voters who don't have one of seven approved forms of IDs from voting. Or, it could be that voters are more informed over time and taking steps to ensure that they have the required ID with them when they vote in person.

Since the EAVS asked counties to report not only on the total number of rejected provisional ballots but also the reasons provisional ballots were rejected, we have some purchase on answering this question. Specifically, election officials were asked to provide data on the number of provisional ballots rejected for nine specific reasons, including: not registered in the state, wrong jurisdiction, wrong precinct, insufficient ID, incomplete/ineligible ID, ballot missing from envelope, no signature, non-matching signature, already voted, and other. In Table 4.9 we report responses for the insufficient and incomplete/ineligible ID for the counties in Greater Houston as well as for the state of Texas and the U.S.

TABLE 4.9: TOTAL PROVISIONAL BALLOTS REJECTED DUE TO INSUFFICIENT, INCOMPLETE OR INELIGIBLE ID, 2010-2020

COUNTY	2010	2012	2014	2016	2018	2020
Brazoria	2	0	23	26	10	N/A
Chambers	0	0	N/A	6	N/A	10
Fort Bend	88	N/A	44	3	0	3
Galveston	N/A	N/A	N/A	N/A	12	16
Harris	24	328	249	115	116	169
Montgomery	2	0	12	11	16	16
Waller	2	1	7	N/A	5	3
Texas	2,153	3,716	4,195	4,859	6,211	1,452
US	23,029	48,036	29,714	27,099	26,164	24,348

Source: Election Administration and Voting Survey (U.S. Election Assistance Commission)

The most notable thing about the data in Table 4.9 is the very small number of provisional ballots rejected for insufficient, incomplete or ineligible IDs. Further, while there is an increase in 2018, compared to 2014 statewide, in Greater Houston every county except for all but Montgomery County, registered a decline in the number of provisional ballots rejected due to issues with voter IDs. Missing data makes the comparison between 2020 and 2016 more difficult, however, all three counties with data for both years do see increases, albeit slight ones in Chambers and Montgomery counties (of 4 and 5 respectively) and more modest in Harris County (54). Overall, the data in Table 4.10 does not support the claim that the strict voter ID law adopted in 2018 led to increases in the number of provisional ballots rejected for reasons related to voter IDs.

In Table 4.10 we report data responses to the EAVS

asking for the number of provisional ballots rejected because of the 'wrong precinct' in Greater Houston, Texas and the U.S. We include numbers in red for years for which counties operated under county-wide voting systems, since as noted above, there should be limited need for provisional ballots for wrong precinct to begin with, and in theory, even fewer provisional ballots rejected for this reason. Unfortunately, data reporting on this survey questions is spottier and some counties (Brazoria, Chambers, and Galveston) have multiple missing data points. There does not appear to be any clear pattern or trend for the set of counties that have reported data. However, what stands out in Table 4.10 is Harris County. The sharp decline in the number of provisional ballots rejected because voters checked in at the wrong precinct in 2020, the first year the county operated under county-wide voting, is quite striking (from 2,414 rejected ballots in 2018 to 27 in 2020).

TABLE 4.10: TOTAL PROVISIONAL BALLOTS REJECTED DUE TO WRONG PRECINCT, 2010-2020

COUNTY	2010	2012	2014	2016	2018	2020
Brazoria	25	86	115	1	N/A	N/A
Chambers	3	5	N/A	N/A	13	15
Fort Bend	77	N/A	36	N/A	0	0
Galveston	N/A	N/A	N/A	N/A	223	63
Harris	5	1,041	811	1,262	2,414	27
Montgomery	21	10	10	N/A	76	41
Waller	6	8	7	N/A	0	0
Texas	2,058	3,645	2,909	4,267	5,577	648
US	20,137	34,703	15,607	17,976	17,842	12,138

Source: Election Administration and Voting Survey (U.S. Election Assistance Commission)

When Dr. Diane Trautman was elected Harris County Clerk in the 2018, she told reporters after the election that, “We know for sure in the 2018 election that 2,500 provisional ballots were cast by voters that just showed up at the wrong location” (Rice, 2019). The number reported to EAVS by Harris County for 2018 though slightly lower (2,414), bears this out. Indeed, in 2018, 42 percent of rejected provisional ballots were due to “wrong precinct,” the second most popular reason behind it was “not registered,” which accounted for 53.5 percent of rejected provisional ballots. Data for 2020 tell a totally different story, with only 27 provisional ballots rejected for the ‘wrong precinct’ reason. This represented less than 1 percent of all of the rejected provisional ballots in 2020.

Voter Assistance. LWV’s (2022) assessment of county websites specifically examined the extent to which counties provided specific information about

voting to voters with disabilities. Their website review included factors such as whether the county linked to the TXSOS’ resources for voters with disabilities, whether information on the website was provided in an accessible form and whether the website provided a clear title and link to information on curbside voting, voter assistance, and voting order priority. Among the nine Greater Houston counties, four counties (Brazoria, Galveston, Montgomery, and Waller) were not found to have sufficient information for voters with disabilities based on these criteria, while five (Austin, Chambers, Fort Bend, Harris, and Liberty) were.

We further examined each county’s elections website, specifically looking for guidance about voting order priority, as well as other information specifically intended to support voters with disabilities, outlined in Table 4.11.

Among the nine Greater Houston counties, four counties (Brazoria, Galveston, Montgomery, and Waller) were not found to have sufficient information for voters with disabilities.

TABLE 4.11: COUNTY WEBSITE GUIDANCE FOR VOTERS NEEDING ASSISTANCE WITH IN-PERSON VOTING

County website provides no apparent guidance about voting order priority
<ul style="list-style-type: none"> • Waller
County website provides information about voting order priority; no county-specific guidance
<ul style="list-style-type: none"> • Brazoria – links to TX SOS notice of voting order priority, in English and Spanish • Fort Bend – links to TX SOS notice of voting order priority, in English and Spanish • Galveston – links to TX SOS notice of voting order priority, in English and Spanish • Liberty – includes text of voting order priority notice directly on its website, in English • Montgomery – links to TX SOS notice of voting order priority, in English and Spanish
County website provides information about voting order priority and a link to the TX SOS website for voters with disabilities; no county-specific guidance
<ul style="list-style-type: none"> • Austin – links to TX SOS notice of voting order priority, in English and Spanish • Chambers – includes text of voting order priority notice directly on its website, in English
County website provides information about voting order priority and county-specific guidance related to casting a ballot for voters with disabilities
<ul style="list-style-type: none"> • Harris – links to TX SOS notice of voting order priority, in English, Spanish, Mandarin, and Vietnamese; also includes county-specific text in English describing voting equipment and accessibility aids at vote centers, a Disability Complaint Form in English, and other guidance for voters with disabilities

POLL WORKERS, POLL WATCHERS, VOTER INTIMIDATION

Additional Federal Context for Voter Intimidation

In addition to the federal laws outlined earlier in this chapter, several other federal laws specifically seek to protect voters from intimidation during elections. Voter intimidation refers to behaviors actively designed to keep people from participating in an election, and has been directed primarily at people of color throughout U.S. history. These can include such actions as filing voter registration challenges, harassing voters at polling locations, destroying individuals' political signs, falsely telling people they are ineligible to vote, and the presence of armed individuals or law enforcement officers stationed outside of polling locations.

The **Enforcement of Act of 1871**, known as the Ku Klux Klan Act, prohibits state officials from violating a person's constitutional right to vote and specifically prevents two or more persons from conspiring to

use force, intimidation, or threat to interfere with federal elections. The **Civil Rights Act of 1957** includes provisions to protect against actual or attempted intimidation, threats, or coercion for voting or attempting to vote. To protect against mass voter challenges, the **National Voter Registration Act of 1993** also prohibits the systemic removal of voters from voting rolls within 90 days of a federal election.

State Policies

Poll Workers

Poll workers are individuals paid to perform various duties during an election period. These include precinct judges and precinct election clerks.

Tex. Elec. §32.001-.002 stipulates that each county's Commissioners Court, on the recommendation of the county clerk, must appoint a **presiding judge and alternate** for each election precinct in that county. The judge and alternate must be aligned with different political parties, and should be qualified voters in the precinct where possible.

Tex. Elec. §32.031, §32.033-.034, §32.051, and §32.052-.0552 outline procedures related to the appointment of **precinct election clerks**. Each precinct's presiding judge is responsible for appointing at least two clerks reflecting different

political parties (up to a maximum number set by the entity holding the election) to assist in conducting that specific election. Clerks must be qualified voters in the county or political subdivision holding the election, cannot hold or be a candidate for elective office, cannot be a close relative, employee, campaign manager, or treasurer of a candidate, and cannot have been previously convicted of an election offense.

Both election judges and precinct clerks must take an Oath of Election Officers and an Oath of Assistance, swearing that they will not seek to persuade any voter, nor suggest how any voter should vote. According to Tex. Elec. §32.091-3, election judges and clerks, including student clerks, are entitled to compensation for training and their service at the polls. The rate is determined by each county's commissioners court or other jurisdiction ordering the election, and must be equal to or exceed the federal hourly minimum wage.

Poll Watchers

Poll watchers are individuals appointed to observe and monitor elections, with the expectation that they not interfere in the election process. Across the country, states variously permit partisan or nonpartisan citizen observers. Federal or international nonpartisan observers may also observe elections; however, in a 2012 letter, Texas Gov. Greg Abbott threatened to arrest any international election observer who entered within 100 feet of the entrance of a polling location in the state.

Tex. Elec. §33.001 defines poll watchers as individuals appointed to observe an election on behalf of a candidate, political party, or ballot measure. They may be appointed by a candidate on the ballot or on the declared write-in candidate list, by a political party, or by 15 registered voters (or 5% of registered voters in the jurisdiction) on behalf of a write-in candidate not on the declared list. Accordingly, all poll watchers in Texas are partisan observers. This contrasts with nine states (and Washington D.C.) that explicitly outline processes for nonpartisan citizen poll watchers, nine states that allow informal election observation from general members of the public, and 16 states that do not explicitly address nonpartisan watchers but allow them in practice (NCSL, 2022d).

Up to two citizen poll watchers per precinct polling location and no more than seven watchers per early voting polling location may be appointed in order to observe an election. Poll watchers must meet the following criteria outlined in Tex. Elec. §33.031-.035 in order to be appointed, and then must be issued a written certificate of appointment signed by the appointing candidate or group:

- + **be registered to vote in the county where**

- they will serve as a poll watcher and in the jurisdiction where the election is being held,**

- + **not be an employer, employee, or close relative of an election officer,**

- + **not currently hold elective office or be seeking elective office in the same election, and**

- + **not have been convicted of an election-related offense.**

Poll watchers must complete a training created by the TX Secretary of State in order to serve. Tex. Elec. §33.008, added in 2021 via SB 1, requires that this training be available entirely online and be accessible at all times without any registration requirement. Tex. Elec. §33.051, also added via SB 1, creates a misdemeanor offense for any election officer who knowingly or intentionally does not accept an appointed poll watcher at their polling location; similarly Tex. Elec. §33.061 creates a misdemeanor offense for any election officer who restricts a poll watcher's permitted activities, including restricting their view or distancing them from election activities.

When a poll watcher reports for service, they must take an oath swearing that they will not disrupt the voting process or harass voters. While the presiding judge is responsible for preserving order in the conduct of elections at their assigned polling location, Tex. Elec. §32.075 prohibits presiding judges from removing a poll watcher for violating election laws, unless either the judge or an election clerk has directly observed this violation.

In recent years, 20 states have passed bills attempting to expand the authority given to poll watchers, with Texas introducing the largest number of bills (Sweren-Becker, 2021). SB 1, adopted in 2021, specifically added a new statutory section, Tex. Elec. §33.0015, summarizing the purpose and duties of poll watchers. This section specifies that the chapter of Election Code devoted to poll watchers serves to "preserve the integrity of the ballot box in accordance with Section 4, Article VI, Texas Constitution" and therefore that watchers are "allowed to observe and report on irregularities in the conduct of any election," as long as they do not interfere in an election's conduct. SB 1 created misdemeanor charges for election officials who knowingly obstruct a poll watcher's view of these election activities (Tex. Elec. §33.061).

Tex. Elec. §33.056 **allows poll watchers** to observe and participate in election-related activities at their specified polling location including vote counting and tallying, inspecting returns and other records, and taking written notes. SB 1 in 2021 added additional activities poll watchers may observe, including election activities relating to closing the polling place

such as the sealing and transfer of a memory card, flash drive, hard drive, or data storage device (Tex. Elec. §33.0605). Watchers also may now follow the transfer of election materials from the polling place to the regional tabulating center, central counting station, or other election processing location.

SB 1 further added language to Tex. Elec. §33.065, now stating that poll watchers “may not be denied free movement where election activity is occurring” and permits poll watchers to sit or stand close enough to see or hear any election activity. Poll watchers are also now permitted to observe any activity under the “Assistance of Voters” section of the election code (Tex. Elec. §64.009). This includes observing at an individual voting station only when an election officer is assisting the voter at the station; in such situations, poll watchers may examine the ballot before it is officially cast to assess whether it was prepared according to the voter’s wishes.

Tex. Elec. §33.058 **prohibits poll watchers** from communicating with voters and election officers except to report an irregularity or occurrence believed to be in violation of the law. Poll watchers also may not have on them a device that can record images or sound, unless the device is disabled or deactivated (Tex. Elec. §33.006). In some states, poll watchers, other election observers, and even other registered voters of the same local jurisdiction can challenge a voter’s eligibility on Election Day. Until its repeal in 2003, a 160-year old Texas law permitted private citizens to challenge a potential voter’s qualifications at the polls; a challenged voter had to provide a witness who would swear that the individual was qualified to vote. Currently, Texas is one of just four states, along with Oklahoma, Oregon, and Washington, that does not allow anyone to challenge a voter’s right to vote on Election Day (Sullivan, 2022).

Activities at Polling Locations

An extensive set of **activities are forbidden** at Texas polling locations. Tex. Elec. §61.001 prohibits any bystander not specifically permitted by state law to be in a polling place from doing so; this includes candidates, other than for voting or for official business in the building where voting is taking place. Peace officers and, in some cases, presiding judges are the only individuals permitted to bring a firearm to a voting location. Tex. Elec. §61.014 bans wireless communication devices and devices that record sound or images within 100 feet of a voting station; this includes cell phones, cameras, computers, and sound recorders, and applies to both voters and poll watchers. Across the U.S. a tension has emerged between maintaining a secret ballot and the motivations ballot selfies may provide for engaging young people in voting (NCSL, 2022c). During the 2022 election cycle, in-person ballot selfies were permitted in 25 states plus Washington, DC.; in contrast, Texas forbids this act through its image-recording ban (Ballotpedia, 2022).

Tex. Elec. §61.003 addresses electioneering which refers to expressing preference for a candidate, party, or ballot measure near a polling place. The extent of electioneering restrictions at voting locations varies from state to state. While different states limit signs from 25-300 feet away from polling locations, Texas’ 100-foot restriction is comparable to many other states (NCSL, 2023a). Voters are permitted to bring written materials with them to voting stations, but they may not wear badges, insignia, or emblems relating to a candidate, party, or ballot measure inside the polling place or within 100 feet of the polling location Tex. Elec. §61.010. Sound amplification devices are not permitted within 1,000 feet of the polling place (Tex. Elec. §61.004).

SB 1 added language to Tex. Elec. §33.065, stating that poll watchers “may not be denied free movement where election activity is occurring” and permits poll watchers to sit or stand close enough to see or hear any election activity.

TABLE 4.12: TOTAL NUMBER OF POLL WORKERS, 2010-2020

	BRAZO- RIA	CHAMBERS	FORT BEND	GAL- VESTON	HARRIS	MONT- GOMERY	WALLER
2010	449	71	672	599	5,030	662	N/A
2012	418	122	N/A	341	5,842	651	114
2014	298	58	425	306	4,700	587	256
2016	344	67	539	325	6,352	839	71
2018	N/A	81	465	251	5,438	N/A	74
2020	223	69	793	N/A	9,287	855	64

Source: Election Administration and Voting Survey (U.S. Election Assistance Commission)

In Greater Houston

Poll Workers

Counties across the country have faced staffing challenges in recent years as they seek to recruit a sufficient number of judges and clerks to operate local elections sites (NCSL, 2023b). The EAVS asks election officials to report on how many poll workers their counties utilized during each federal election. In Table 4.12, we report responses from Greater Houston election officials from the 2010 to 2020 period.

Comparing across Presidential and Midterm election years, the data in Table 4.12 show poll worker declines in most of the smaller counties, namely Brazoria, Galveston and Waller. While nearly all counties had what appears to be an unusually large number of poll workers in 2010 (Chambers County is an exception), these three counties also see declines compared to 2012 or 2014. In the larger counties, there does not appear to be a downward trend in the number of poll workers, comparing across Presidential or Midterm elections. Harris County in particular, registered significant increases in the total number of poll workers during this time period, increasing from nearly 6,000 in the 2012 Presidential election to almost 9,300 in the 2020 Presidential election.

We also reviewed each county's website for information they used to recruit poll workers. While poll worker recruitment information may be available from different sources (e.g., political parties, third-party organizations, media outlets), there is substantial variance in the ease in which registered voters can find out about becoming an election worker across the Greater Houston region.

Chambers County does not appear to have any information on its website about becoming a poll worker. While Waller County has a specific tab on its

website called "election workers," as of October 2023, when clicking on that tab, the screen comes up blank.

Austin County does not include any county-specific text about becoming a poll worker, but does provide a link to the Secretary of State poll worker training site. Liberty County also does not include any county-specific text about becoming a poll worker, but includes a link to the Secretary of State training site, as well as a poll worker handbook from the Secretary of State and a link to a secure county site for those who have already been selected as poll workers.

Montgomery County has two separate website tabs related to poll workers. A very visible link at the top of the page directs residents to information about becoming a poll worker, but requires entering one's personal voter registration information prior to seeing any additional information about becoming a poll worker. A separate tab titled "bilingual poll workers needed" links directly to a recruitment flier that lists a number voters can call if interested in learning more.

The poll worker information provided by Brazoria, Fort Bend, Galveston, and Harris counties is far more comprehensive. Each has a dedicated election worker page, with county-specific text about why and how to become a poll worker, direct requests for bilingual workers, poll worker requirements, applications, and phone numbers to call for more information. These four counties also include information about poll worker hours and compensation. Brazoria and Galveston list poll worker compensation at \$12/hour, while both Harris and Fort Bend compensate clerks at \$17/hour and precinct judges at \$20/hour.

Four Greater Houston counties (Brazoria, Galveston, Harris, and Liberty) also provide specific information about student election workers in a dedicated section on their websites; this information and related recruitment efforts are discussed in more depth in [Chapter 7](#).

The EAVS asks two questions that provide some insight about poll worker recruitment. The first is the ages of poll workers and the second is a question about how easy or difficult it was for the county to obtain a sufficient number of poll workers for the election. Unfortunately, most counties do not report data on the ages of their poll workers. For those that reported between 2016 and 2020, the vast majority

(between 61 and 98%) were over the age of 40, and in all but two counties, the majority were over the age of 61. On the other hand, only one county (Harris) report at least a quarter of its poll workers under the age of 26. In Table 4.13 we report the percentage of poll workers who were either under 18 or between 18 and 25 years of age for the last three elections.

TABLE 4.13: PERCENT POLL WORKERS LESS THAN 18 OR 18-25 YEARS OF AGE, 2016-2020

COUNTY	2016	2018	2020
Brazoria	N/A	N/A	8.1%
Chambers	7.5%	N/A	13%
Fort Bend	N/A	3.9%	N/A
Galveston	N/A	0.8%	N/A
Harris	N/A	8.3%	25%

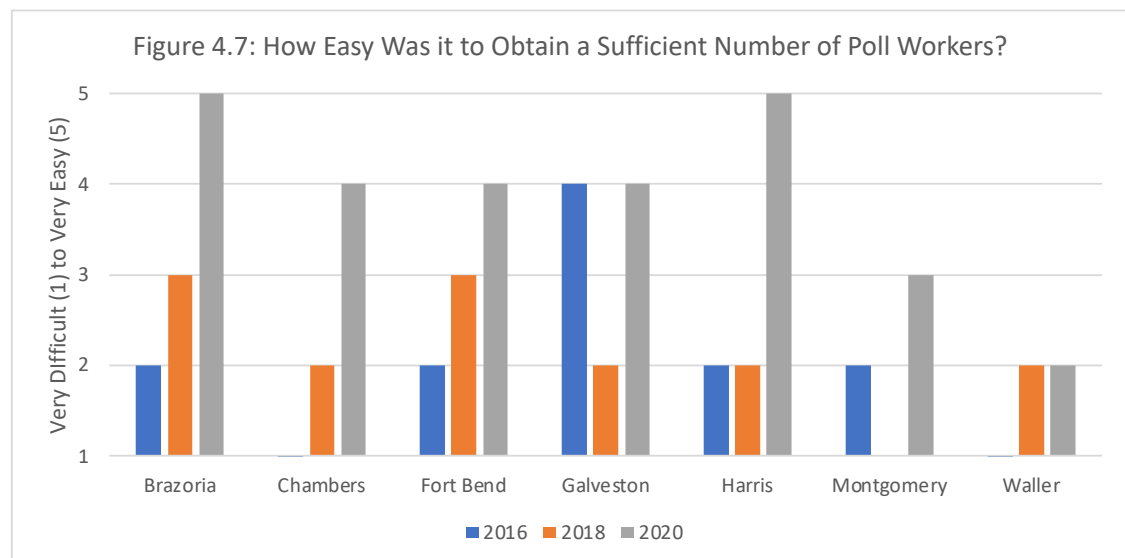
Source: Election Administration and Voting Survey (U.S. Election Assistance Commission)

Based on these data, it does appear that the targeted recruitment of student election workers in Harris County, discussed in more depth in [Chapter 7](#), is having an effect. The percentage of youth poll workers increased from 8.5 percent in 2018 to 25 percent in 2020. Chambers County also saw a significant increase, from 7.5 percent in 2016 to 13 percent in 2020.

In Figure 4.9 we report additional data on poll worker recruitment, this time looking explicitly at how easy or difficult counties find it to obtain a sufficient number of poll workers for the election. As a point of comparison, in a 2022 report to the U.S. Congress, the EAC reported that since 2018, a majority of election officials across the U.S. have reported having difficulty

recruiting a sufficient number of poll workers in every election (NCSL, 2023b).

The response categories range from very difficult (1) to very easy (5). The modal category for the 2016 and 2018 elections was “2” or somewhat difficult. In 2016 four of the five counties responding said it was somewhat difficult, while one county (Galveston) said it was somewhat easy. The same number responded somewhat difficult in 2018, two counties said it was neither easy nor difficult, and one county (Montgomery) said it was very difficult to obtain a sufficient number of poll workers. Interestingly, there was a significant shift in responses in 2020. In this election five of seven counties responded that it was either somewhat or very easy to obtain a sufficient



Source: Election Administration and Voting Survey (U.S. Election Assistance Commission)

number of poll workers. One county (Montgomery) said it was neither easy nor difficult and one county (Waller) said it was somewhat difficult.

In the open-ended responses to this question in 2020, Harris County added, “We had almost 50,000 people apply to be election workers for the November 2020 Presidential election.” In 2016 Harris County included this note: “It is always challenging to secure poll workers. All of our polls were adequately staffed. It would be desirable to procure more qualified staff and to do it earlier in the process.” The other county to provide an open ended response was Waller County. In 2020, it stated simply: “With Covid-19.” We might interpret this to mean that the reason they found it somewhat difficult to obtain a sufficient number of poll workers in 2020 was due to Covid.

Poll Watchers

Recruitment of poll watchers is often facilitated by local political parties or independent organizations. For example, events posted on social media show that the Ballot Integrity Committee of the Brazoria County Republican Party has hosted poll watcher trainings, as has the Montgomery County Democratic Party. Brazoria’s Angleton Republican Women encourages its members to become poll watchers, and the Fort Bend County Republican Party hosts information about becoming a poll watcher on its website.

Greater Houston counties’ websites take different approaches to sharing information about poll watching. There appears to be no discussion of poll watchers on the Brazoria, Chambers, Galveston, Harris, Montgomery, or Waller county elections websites. Among the three counties (Austin, Fort Bend, Liberty) that provide information to voters about the poll watching role, none directly offer their own narrative explanation or guidance, and all rely solely on links to information from the TX Secretary of State. Liberty links to a poll watcher’s guide, Austin links to information about poll watcher requirements and training, and Fort Bend links to both the poll watcher’s guide and training, as well as a poll watcher certificate of appointment form.

Voter Intimidation

While state statute specifies an important monitoring role for partisan poll watchers, in Greater Houston, partisan poll watchers have also been linked with voter intimidation, especially of voters of color. For example, in 2010, the US Department of Justice (DOJ) sent federal election monitors to Harris County to monitor potential voter intimidation and discrimination conducted by local poll watchers (Knight, 2011). *Lupe v. State of Texas*, a lawsuit filed after the passage of SB 1 in 2021, argues that the law’s expanded role for partisan poll monitors may fuel increased voter intimidation (Brennan Center for Justice, 2023).

In their analysis of election protection issues during the 2018 midterm election, Texas Civil Rights Project identified several reports of voter intimidation in Greater Houston (Eby & Stevens, 2019). In advance of that election, one individual filed challenges to the voter registration of over 4,000 Harris County voters; as a result 1,735 of these voters were mistakenly placed on the county’s suspension list. In addition, reports of armed officers outside of polling locations were received from Montgomery County.

In that same election, a Harris County poll worker was dismissed and charged with a misdemeanor after physically and verbally challenging a Black voter (Banks & Miller, 2018). In another incident, Harris County blocked voters wearing shirts with the names of one of three progressive organizations from entering within 100 feet of a polling location (Dempsey, 2018). As the Houston Chronicle reported at the time, the county clerk’s office indicated that they did so to prevent electioneering, but ultimately reversed course and allowed such individuals to vote as long as they covered up their shirt or turned it inside out.

In November 2020, a “Trump Train,” which included loud speakers and military-style trucks, was reported at a polling location in Fort Bend (Texas Public Radio, 2021). That same year, during the COVID pandemic, a Galveston County judge signed an order preventing poll workers from turning away voters who did not wear a mask in the polling location; as a Newsweek article reported, the judge found that some poll workers had denied ballot access to voters who were not willing to wear a mask (Watts, 2020).

Incidences of voter intimidation appear to have been particularly visible during the 2022 midterm election, after the passage of SB 1, including actions in one Texas’ county just outside of Greater Houston that resulted in that county (Jefferson County) being placed under an emergency federal court order prohibiting intimidation of Black voters (Selzer, 2022). In a subsequent report after this election, Common Cause Texas described voter intimidation reports from nearly 80 Texas counties (Ehresman, 2023). These included 33 reports of intimidation from Harris County.

Over the last four presidential and midterm elections, the U.S. DOJ has sent election monitors to both Harris and Waller County to ensure voters’ rights are being protected; these were the only two counties to have federal monitors in the 2020 presidential election (U.S. DOJ, 2020), and two of the three Texas counties that received federal monitors in the 2022 midterm election (U.S. DOJ, 2022). In prior years, the DOJ has also sent federal monitors to other Greater Houston counties, including Fort Bend and Galveston in 2010 (U.S. DOJ, 2010). During the 2022 midterm election, the TXSOS and the Texas Attorney General also sent monitors to Harris County (Fanning & Martinez, 2022).

SUMMARY AND RECOMMENDATIONS

In recent years, Texas has seen extensive legislative changes to the voting process, especially through the passage of SB 1 in 2021. Among these recent changes are new limitations around distributing or soliciting absentee ballot applications; new absentee balloting identification requirements; new guidelines around voting order priority and curbside voting; new hours for early voting, including new weekend hour requirements; and new, expanded permissions for poll watchers.

Across the region, we see substantial variance in the extent of information provided to potential voters about the voting process on county elections websites. In some Greater Houston counties, information about eligibility, processes, and requirements associated with different ways of casting a ballot is readily available and in clearly organized ways; in other Greater Houston counties, this information is either not available or can be very difficult to find. Incomplete information may contribute to some of the challenges we see in the region, like the high percentages of absentee ballot rejections due to voters missing specific requirements connected with filling out and returning the ballot.

This analysis highlights Texas' reliance on absentee ballots as the only form of vote by mail, in contrast to 27 other states that offer "no excuse" mail voting. In 2020, 43% of Americans cast ballots by mail, whether absentee or otherwise. While there appears to be an overall nationwide shift to voting by mail, in Greater Houston that same year, no county saw more than 11% of its voters casting absentee ballots, even as all of these counties received more absentee ballots than ever before. While voters across the U.S. are showing increased interest in voting by mail, as recently as 2021, Texas has instead introduced new restrictions to this practice – specifically not permitting voting via an absentee ballot due to lack of transportation, work obligations, or sickness that does not require personal assistance or risk further injury to the voter's health.

Texas was the first state to offer early voting, and the long-standing availability of this voting option is reflected in our analyses that find that nearly 88% of in-person Greater Houston voters cast early vote ballots in the 2020 Presidential election, as compared to 47% of in-person U.S. voters. We do see differences, however, in how counties implement these processes; for example, in the variance in

total early voting hours offered at each county's main location, especially during elections that do not involve state or county offices.

The shift to county-wide voting among four of the region's counties in the period between 2010 and 2020 (three additional counties shifted to county-wide voting after these data were collected) does not seem to have led to a decline in the number of provisional ballots cast, despite the fact that it removed a key reason (attempting to vote in the wrong precinct) for needing to submit a provisional ballot. On the other hand, the implementation of the strict voter ID law (SB 5) is associated with a sharp increase in the number of provisional ballots cast in 2018 across all of the seven measured counties. However, the leveling out of this spike in 2020 may suggest that voters are becoming more aware of ID requirements. Data from EAVS also shows that very few provisional ballots are rejected due to ID issues, and that these numbers changed very little after the implementation of SB 5.

Recruiting poll workers has been a national problem. In contrast to the experiences of many counties across the U.S. (NCSL, 2023b), counties in Greater Houston generally reported some ease in recruiting poll workers during the 2020 election, though many faced challenges in prior elections. While some counties (namely Harris and Fort Bend) have shown large scale increases in the numbers of poll workers they recruit, other counties seem to have experienced declines. Here, too, we see wide variance across counties in terms of information related to poll worker outreach on their websites, as well as differences in whether counties have successfully recruited younger poll workers.

Recommendation 1: Provide Clear, User-Focused Information about Voting Processes on County Websites

Considering the wide variance among counties in terms of the information they provide to voters about voting processes on their website, we recommend that counties revisit their websites to strengthen the information they provide about eligibility, processes, and requirements for the different methods of casting a ballot. We recommend that counties take a user-based approach to providing this information, using organized structures and headings that enable residents to clearly access information about the steps needed to cast a ballot.

This includes information about eligibility criteria to submit an absentee ballot and explicit county-specific instructions on where and how to submit an absentee ballot. Although only a small portion of absentee

ballots are rejected (less than 2 percent on average for Greater Houston counties), they are rejected for reasons that are entirely avoidable, and could be addressed by clear, simple, and prominently displayed instructions on county election websites. Nearly all rejected absentee ballots are rejected due to missed deadlines, missing signatures, seals or even the ballot inside the envelope itself.

We also recommend that counties more clearly present explicit county-specific guidance to voters with disabilities about how they can secure the assistance and accommodations they are eligible for when voting.

Recommendation 2: Expand the Use of County Websites to Recruit Poll Workers

Across Greater Houston and across different elections, we see varying levels of ease in recruiting poll workers. Evidence presented in this chapter suggests that counties with more comprehensive information provided on county websites about why and how to become a poll worker may be more successful in obtaining a sufficient number of poll workers. We recommend that all counties add a dedicated page on their election websites with this information, looking to the more comprehensive information provided by Brazoria, Fort Bend, Galveston, and Harris for examples. This page should include information about why and how one might become a poll worker and what a poll worker does, direct outreach for bilingual workers and student poll workers, eligibility requirements, applications, hourly rate of pay, and a phone number to call for more information.

Recommendation 3: Expand Accessibility of Absentee Voting

While substantial percentages of U.S. voters cast mail ballots (43% in 2020), Texas and Greater Houston (11% in 2020) lag far behind. As less than two percent of all absentee ballots submitted in 2018 or 2020 were rejected in the region, it is not clear that additional restrictions to this mode of voting are justified. Instead, we recommend facilitating accessibility of absentee voting, especially for individuals with long-term needs for absentee ballots. In particular, for seniors and people with disabilities, whose eligibility to cast absentee ballots is unlikely to change, an opt-out approach would facilitate the ease of absentee voting, rather than the current opt-in approach through which these voters must reapply every year. We also recommend examining the feasibility of extending an opt-out process to other groups with longer term needs for absentee balloting beyond a single election; for example, to students enrolled in out-of-state colleges.

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CHAPTER 5

POLLING LOCATIONS AND ACCESSIBILITY

Why It Matters

Electoral participation rests on several factors that can impact both public perception and the reality of whether elections are free and fair, including the accessibility, infrastructure, and conditions of polling locations. Since the *Shelby v Holder* (2013) Supreme Court decision, Texas has seen the highest number of polling location reductions nationally, with 750 locations closed between 2012-2018 (Wermund, 2019). Of the six largest county polling location closures the Leadership Conference Education Fund (2019) identified across the U.S., five were in Texas, including two in Greater Houston (Harris County and Brazoria County).

Texas has widely implemented countywide voting centers in place of precinct-based locations, enabling voters to be able to cast a ballot at any location they choose within their county. This, in turn, has allowed counties to reduce their overall number of polling locations. According to the Leadership Conference Education Fund (2019), Texas counties that have implemented vote centers were at least twice as likely to have closed polling locations as those with precinct-based voting. In the absence of preclearance, counties can use vote centers to reduce polling locations without protocols to ensure that Black and Brown communities are not negatively impacted by these changes.

When polling locations with sufficient machines and staffing are located in densely populated areas near high concentrations of eligible voters, voter turnout tends to be higher. On the other hand, polling locations in areas that are difficult to reach, overcrowded or understaffed may yield longer wait times, frustration and discouragement for voters, and lower voter turnout rates (Fullmer, 2015). The specific location where a polling place is housed also may matter for voter turnout, for example, the

lack of campus polling locations has been identified as a barrier for college student voting. Further, the Texas Advisory Committee to the U.S. Commission on Civil Rights (2018) expressed concerns that polling locations in law enforcement offices may discourage participation from Texas voters in marginalized communities.

The physical accessibility of polling locations is an important consideration for electoral participation for individuals with disabilities. While individuals with disabilities may choose to cast a ballot either through absentee voting or in-person, physically accessible locations are required by federal law. Across the U.S., physical impediments inside or outside the voting area that could limit access to voting have been identified in 83% of early voting and Election Day polling locations (U.S. Government Accountability Office, 2017). The heavy reliance by states like Texas on absentee balloting for individuals with disabilities, rather than promoting and supporting voting at a polling place, has been criticized for “sending a harmful signal about their full inclusion in larger society” (Waterstone, 2004).

FEDERAL LAW AND THE BROADER CONTEXT OF VOTING LOCATIONS AND ACCESSIBILITY

Four federal laws are particularly relevant when considering issues related to polling locations and their accessibility.

In setting the overall context for how election processes must protect the voting rights of minority voters, the **Voting Rights Act (VRA)** specifically addresses polling locations. It requires that both the availability of voting locations and their specific selection must not place a disparate burden on racial and language minority voters.

Although Title II of the **Americans with Disabilities Act (ADA)** does not specifically address polling locations, its provisions that prohibit government entities from excluding or denying benefits to individuals with a disability apply directly to polling locations. States and counties must enable voters with disabilities to participate in elections in a similar manner as other voters, therefore voters with disabilities must have access to polling locations

consistent with minimum accessibility requirements adopted by the DOJ (U.S. Department of Justice, Civil Rights Division, 2020).

The **Voting Accessibility for the Elderly and Handicapped Act (VAEHA)** requires that all polling locations used for federal elections be physically accessible to both elderly voters and voters with disabilities, and requires election administrators to provide accessible voting aids. While exceptions can be made to these polling location requirements, counties must then reassign affected voters to another polling location or provide them with another way to vote on Election Day.

The **Help America Vote Act (HAVA)** requires each polling location in a federal election to offer at least one private voting system that is accessible for people with physical disabilities, with features designed to help voters with disabilities and provide assistance for people with visual impairments.

NUMBER AND PLACEMENT OF POLLING LOCATIONS

State Policies

Texas law outlines specific methods by which counties must determine polling locations during early voting and on Election Day and provide notice of any location changes. Tex. Elec. §43.061 requires that in state or county elections, notice of location changes must be provided no later than 24 hours after the location is changed or 72 hours before polls open on Election Day, whichever comes first.

Physical Locations

Tex. Elec. §43.031 states that all polling locations must be located inside a building. Prior to 2019, Texas law allowed counties to host temporary early voting locations and to move them to different county locations during early voting. Six states (Illinois, Indiana, Iowa, Kansas, Oregon, and Vermont) currently allow for the establishment of satellite, mobile, or temporary voting locations (NCSL, 2023). However, in 2019,

Texas HB 1888 eliminated this option. Current law now prohibits polling locations from being located in a temporary moveable structure and requires that each location remain in one fixed place during the full early voting period.

Tex. Elec. §43.031 explicitly forbids counties from allowing voters, except those with a disability, to cast a ballot from inside a motor vehicle. Multiple counties, including Harris County, used drive-thru voting in elections in 2020 (Ura, 2021). In response, the Texas Attorney General issued an Elections Guidance Letter on Drive-Thru voting on October 16, 2020, stating that state law does not provide for drive thru voting except in the case of curbside voting for individual who are physically unable to enter a polling location without risk of injury (Paxton, 2020). Subsequently, SB 1 was voted into law by the Texas Legislature in 2021, codifying this prohibition.

Early Voting

Tex. Elec. §85.002 outlines requirements for a county's "main" early voting location, while Tex. Elec. §85.061-2 outline requirements for the county's "branch" early voting locations. Counties with at least 400,000 residents must place at least one branch location in each state representative's district within the county, except where a specific exception is outlined in statute. Counties with 120,000-400,000 residents must place at least one branch location in each county commissioner's precinct. In an election covering the whole county, a county may locate no more than twice as many early voting locations in one commissioner's precinct than in another commissioner's precinct.

Election Day

Counties are permitted to determine Election Day polling locations in one of two ways: through a precinct-based model or through countywide vote centers.

In the **precinct-based model**, each precinct is assigned to a different polling location. Tex. Elec. §42.006 specifies that counties with a population size under 100,000 must have at least 50 voters in each precinct (voters in counties smaller than 50,000 may petition to allow fewer voters in a precinct). Counties larger than 100,000 must have between 100-5,000 voters in each precinct. Certain counties (those with less than 1.2 million voters and not participating in the vote center program) can combine precincts when a suitable location cannot be found, or when the combined location adequately serves the precincts' voters; however, a combined precinct cannot be established if it will dilute the voting strength or representation of a VRA-covered group or if it will discourage participation by a VRA-covered group (Tex. Elec. §42.0051).

Tex. Elec. §43.002 specifies that a county with a population of more than 175,000 cannot designate a polling location that requires a voter to travel more than 25 miles between their residence and the polling location, even when precincts are consolidated.

In the **countywide voter center model**, counties can apply to the Texas Secretary of State to replace precinct-specific polling locations with countywide polling locations ("vote centers") when both political parties agree to do so (Texas Secretary of State, 2016). The countywide polling place program, outlined in Tex. Elec. §43.007, has been an option in Texas since 2005 and was converted from a pilot program into a permanent program in 2009. To apply, each county must hold a public hearing and provide public comments to the Secretary of State. Applicant counties must demonstrate specific technological capabilities, and must agree to a Secretary of State audit of their

voting system equipment before, during, and after the election. Approved counties must develop a methodology for identifying, changing, and notifying voters of polling locations, and are required to seek input from individuals/ organizations who represent minority voters in doing so.

Based on information on the Texas Secretary of State's website (Texas Secretary of State, n.d.a) there are currently 95 Texas counties approved to use the Countywide Polling Place Program. The first six counties to adopt this program, in 2012, were: Erath, Gaines, Galveston, Lubbock, Midland, and Travis. The most recent counties to adopt the program, as of 2023, are: Blanco, Bowie, Cherokee and Orange.

Tex. Elec. §43.007 requires at least one vote center in each county commissioner precinct, and stipulates that one commissioner's precinct may have no more than twice the number of vote centers as another commissioner's precinct. In the first election after a county is approved for the countywide polling program, it must offer at least 65% of the number of locations that would be located in the county under the precinct-based model. In subsequent elections, the number of countywide polling places can be no fewer than 50% of the precinct-specific locations that would otherwise have existed.

Joint Elections

Tex. Elec. §271.002-.006 permit overlapping political subdivisions to enter into joint election agreements to establish shared polling locations for elections held on the same day. Joint election agreements are a requirement for Independent School Districts (ISDs). ISD trustees must work with a county or a city within its boundaries to hold joint elections (Tex. Educ. §11.0581; see also Texas Secretary of State, n.d.b). Because political subdivisions may have differing borders, state joint election laws have resulted in voter confusion around polling locations, including voters needing to cast ballots at multiple locations during a single election. A 2015 law, HB 2027, sought to end this confusion.

In Greater Houston

Precinct vs Countywide Election Polling Places

Among the nine counties in Greater Houston, just two use the long-standing precinct-based model: Montgomery County and Waller County.

Polling Locations and Accessibility

The experiences of Liberty County, just before adoption of countywide voting, illustrate potential limitations of traditional geographic precinct-based voting. A March 2022 primary election in Liberty County had to be voided after it was discovered that at least 22 voters cast a ballot in the wrong precinct, casting doubt over the results of an election won by a mere five votes (Johnson, 2022).

In recent years, countywide polling has become widespread in Greater Houston. Table 5.1 includes the counties in Greater Houston that have adopted countywide voting and the year each adopted countywide voting. Galveston was the first county in Greater Houston to apply and be selected to participate in this program, and in subsequent years, six other counties in the region have each applied and been selected.

TABLE 5.1: COUNTIES IN GREATER HOUSTON WITH COUNTYWIDE POLLING PLACE PROGRAMS

COUNTY	YEAR OF ADOPTION
Austin	2022
Brazoria	2015
Chambers	2021
Fort Bend	2016
Galveston	2012
Harris	2019
Liberty	2022

Total Number of Polling Locations Over Time

Table 5.2 reports the total number of early voting polling locations across the seven Greater Houston counties of focus. In general, the trend over time is increasing, though there are exceptions. Brazoria County has remained constant at 10 or 11 early voting locations over the past seven elections, while Waller County saw an increase from 4 to 9 between 2012-2018, a return to 4 in 2020, and then a return to 8 in 2022. Other counties have also seen variability in the number of early voting locations over time.

It is interesting that the three most populous counties, Fort Bend, Harris, and Montgomery, as well as Galveston, saw relatively large increases in 2020. This could have been a response to Covid, given peoples' desire to avoid crowds and the possibility that election administrators were anticipating even larger numbers of voters during the early voting period. The return to more 'normal' numbers of early voting locations in 2022 is consistent with this hypothesis, though Harris County is an outlier here. While it too saw a drop post-Covid, the number of early voting locations in 2022 was more than double the number in 2018.

TABLE 5.2: EARLY VOTING POLLING LOCATIONS, 2010-2022

	BRAZORIA	CHAMBERS	FORT BEND	GALVES- TON	HARRIS	MONT- GOMERY	WALLER
2010	10				36		4
2012	10	4		17	37	7	4
2014	11	4	19	17	41	7	9
2016	10	4	21	17	46	8	9
2018	30**	5	22	21	46	8	9
2020	11	5	31	31	122	11	4
2022*	10	6	28	26	100	10	8

Source: *Election Administration and Voting Survey (U.S. Election Assistance Commission)* *Based on data from counties since EAC data for 2022 was not available at the time this research was conducted. **Possibly a reporting error in the EAC data.

Table 5.3 reports the number of election day polling locations from 2010-2022 for seven Greater Houston counties. Numbers in red denote years for which countywide voting was in place for the counties that switched to this system. What we see in Table 5.3 is that the adoption of countywide voting generally leads to a decline in the number of Election Day polling locations. However, the decline is not linear, and like early voting polling locations, there may be a Covid

effect for Election Day polling locations. All counties except Brazoria reported an increase in the number of polling locations in 2020 compared to not only 2018, but also 2016, the prior presidential election. Harris County also appears to be an outlier once again. It adopted countywide voting for the 2020 election but recorded an increase in the number of Election Day polling locations for both 2020 and 2022.

TABLE 5.3: ELECTION DAY POLLING LOCATIONS, 2010-2022

	BRAZORIA	CHAMBERS	FORT BEND	GALVESTON	HARRIS	MONTGOMERY	WALLER
2010	68				736		18
2012	63	12		45	776	86	19
2014	64	14	101	34	770	89	19
2016	39	13	83	38	765	90	19
2018	26	13	79	35	730	95	19
2020	35	15	85	46	797	99	20
2022*	39	7	80	28	809	107	16

Source: *Election Administration and Voting Survey (U.S. Election Assistance Commission)* *Based on data from counties since EAC data for 2022 was not available at the time this research was conducted.

The two counties without countywide voting show a different trend. Montgomery County is the only county to witness a steady increase in the number of Election Day polling locations, from 86 in 2012 to 107 in 2022. On the other hand, Waller County reports very little change over time, with 19 polling locations from 2012-2018, a slight increase in 2020 to 20, and a decline to 16 in 2022.

In Brazoria, polling locations dropped substantially after the county adopted countywide polling in 2015. As Morrison (2020) describes, while Brazoria was home to over 60 polling locations in 2012, by 2020, the county had 35 locations. At one point during this time – 2018, as reflected in Table 5.3 – the number of locations in Brazoria dropped so much that the county fell below the minimum required number of polling locations (33 at the time) (Salame, 2020).

While these data show fluctuations in the number of polling locations in Galveston County, there are some differences between the EAC data shared here and contemporaneous media reports about the county's polling locations. A 2015 Houston Chronicle article describes the number of Galveston polling locations reducing by almost half – a data point not reflected here – with the county clerk explaining that the vote centers enabled the county to save money by reducing

polling locations, while offering more opportunities for voters (Horswell, 2015). Of note, however, Galveston does show a substantial reduction of polling locations in 2022, to 28. In criticizing this move, the Texas Civil Rights Project (TCRP) calculated that Galveston needs to offer at least 41 locations based on its population size and statutory requirements, and expressed concerns that the county had offered fewer locations than required in both 2018 and 2020 (Williams, 2022).

Total Number and Location of Polling Locations

Regardless of whether a county operates a precinct- or countywide-voting model, the county has considerable discretion over both the number and the placement of its polling locations. We geocoded all polling locations for both early voting and Election Day for the November 2022 election in the seven primary counties of focus in Greater Houston. We then created maps to show their locations within the county. The maps also report the number of voting age residents across all precincts in the county. These maps are reported in Figures 5A.1-5A.14 in the Appendix. In Table 5.4 below, we provide a summary of the total number of early voting and Election Day polling locations along with the total number of precincts in each county in 2022.

TABLE 5.4: POLLING LOCATIONS & PRECINCTS, 2022

	BRAZORIA	CHAMBERS	FORT BEND	GALVESTON	HARRIS	MONTGOMERY	WALLER
Early voting	10	6	28	26	100	10	8
Election Day	39	7	80	28	809	107	16
Precincts	67	15	160	92	1,012	111	20

We also examined how counties approach polling locations during the smaller May 2023 municipal elections. Table 5.5 outlines the number of early voting

and Election Day locations for each Greater Houston county during the May 2023 municipal election.

TABLE 5.5: MAY 2023 POLLING LOCATIONS

COUNTY	EARLY VOTING		ELECTION DAY	
	Permanent/Branch Locations (#)	Temporary Locations (#)	Vote Centers or Precincts	Election Day Locations (#)
Counties with population below 55,000				
Austin	1		Vote Center	6
Chambers	Not verified		Vote Center	Not verified
Counties with population above 55,000				
Brazoria	11		Vote Center	23
Fort Bend	25		Vote Center	61
Galveston	20		Vote Center	Not verified
Harris	29		Vote Center	126
Liberty	1	3	Vote Center	14
Montgomery	8		Precinct	17
Waller	3	2	Precinct	7

At times, the Greater Houston region has seen challenges related to polling locations in joint elections. In 2020, Fort Bend County administered municipal elections for Missouri City, a city which crosses Fort Bend and Harris County lines, through a joint election agreement. In implementation, this meant that Harris County residents of Missouri City could only vote early at one location, while Fort Bend residents could choose among multiple locations to cast their ballot

(Modrich, 2021b). Missouri City officials initiated legal action against Fort Bend County, arguing that the county deprived Missouri City residents who live in a predominantly-Black Harris County precinct of their voting rights by allowing them to vote early at only one location. We were unable to find any information about the status of this lawsuit.

DISABILITY ACCESS

State Policies

Accessing Voting Booths

Tex. Elec. §43.034 requires each polling location to be physically accessible for elderly voters and voters with physical disabilities. This statute outlines specific requirements related to the location and structure of each polling location, and prohibits any barrier that impedes the path of a person with disabilities from accessing a voting booth.

Tex. Elec. §61.012 further requires at least one voting booth at each location that complies with federal accessibility requirements such that a voter with physical disabilities can cast a secret ballot. Tex. Elec. §61.013 allows for specific exemptions to these requirements only for small counties with a population less than 20,000.

Curbside Voting

For voters who are physically unable to enter a polling location without personal assistance or are at risk of injury if they do so, Tex. Elec. §64.009 outlines procedures for an election officer to deliver a ballot to the polling location entrance or curb. Current law now requires that at least one curbside parking space be reserved and clearly marked at each polling location; counties also must provide readable guidance at this space for how curbside voters can request assistance to cast their ballot, including the phone number they must call or text.

Texas Secretary of State Election Advisory No. 2023-16 (2023) underscores that curbside voters have the same right to cast their ballot privately as those who vote at an indoor voting booth. SB477, passed in 2023 (Texas Legislature Online, 2023), requires counties to post procedures for voters with disabilities, specifically including curbside voting procedures at polling locations, on the county clerk's website.

In Greater Houston

Accessing Voting Booths

Harris County has faced legal challenges related to the accessibility of its polling locations. In 2016, the U.S. Department of Justice filed a lawsuit against Harris County, claiming that structural and architectural barriers made the county's polling locations inaccessible to those with physical or visual impairments. The DOJ found that just 29 of 86 county polling locations met accessibility standards (*United States Of America v. Harris County, Texas*, 2016). The following year, a federal judge suggested that these DOJ claims of accessibility

violations were so substantial that an independent review might be needed. Ultimately, the DOJ and Harris County reached a settlement agreement in March 2019 (U.S. DOJ, Office of Public Affairs, 2019); this agreement ended in March 2023. Under a heading, "Voters with Disabilities," the Harris County Elections website includes multiple public reports by an external expert assessing the county's compliance with this agreement.

As recently as October 2023, a Houston Chronicle analysis found that 25 of 58 early voting locations and 300 of 701 Election Day locations to be used by Harris County in the November 2023 elections were not compliant with the ADA and could not be made temporarily compliant (Zdun, 2023). Only a handful of the county's Election Day locations and none of its early voting locations were assessed as fully ADA compliant. However, this same analysis noted that Harris County's locations are more accessible than in other large jurisdictions across the U.S. and quotes the county's external expert explaining that full ADA compliance in Harris County could result in removing access to polling locations with historical importance to local communities (Zdun, 2023).

In the Greater Houston region, the DOJ has also entered into a settlement agreement related to polling location accessibility with Galveston County. This settlement, entered into in 2015, included specific stipulations that Galveston County would only use polling locations that are accessible to voters with disabilities (U.S. DOJ, 2015). Further, the county agreed to survey all new polling locations to assess any accessibility barriers, and to remedy these before using the polling location.

Curbside Voting

During the 2020 presidential election, a Texas Civil Rights Project (2020) daily digest of election protection calls it was receiving included a report of multiple calls from voters in Galveston County with concerns about inadequate signage and access related to curbside voting. According to this digest, TCRP and the Coalition of Texans with Disabilities sent a letter to Galveston County in October 2020, reminding the county of its legal obligations to provide curbside voting at each polling location.

While state law now requires county elections websites to provide information outlining procedures and accommodations for voters with disabilities including curbside voting, as of October 2023, most Greater Houston counties provide limited county-specific guidance regarding curbside voting, as outlined in Table 5.6.

TABLE 5.6: INFORMATION COUNTIES PROVIDE ON CURBSIDE VOTING

County provides no apparent guidance about curbside voting
<ul style="list-style-type: none"> Fort Bend Montgomery Waller
County links directly to information on the TX SOS website; no county-specific guidance
<ul style="list-style-type: none"> Austin - directs residents to a SOS website that describes services including curbside voting, using a link entitled "Voters with Special Needs." (It should be noted that this terminology is outdated and considered stigmatizing, according to the National Center on Disability and Journalism (2021). Chambers - directs residents to a SOS website that describes services including curbside voting, using a link entitled "Services Available to Voters with Disabilities in Texas"
County provides county-specific information for when the voter reaches the polling location
<ul style="list-style-type: none"> Brazoria - links to a SOS bilingual (English-Spanish) curbside voting flyer, with a county-specific phone number to call when the voter reaches the polling location Galveston - links to a county-specific bilingual (English-Spanish) curbside voting flyer, with a county-specific phone number to call when the voter reaches the polling location Liberty - provides curbside voting information directly on its website, with a county-specific phone number to call when the voter reaches the polling location
County provides county-specific guidance related to curbside voting
<ul style="list-style-type: none"> Harris - provides voters with specific information about the curbside voting process, tips, and a video outlining how to vote curbside, along with information about a curbside buzzer and a county-specific phone number to call when the voter reaches the polling location

CROSS-CUTTING IMPLICATIONS

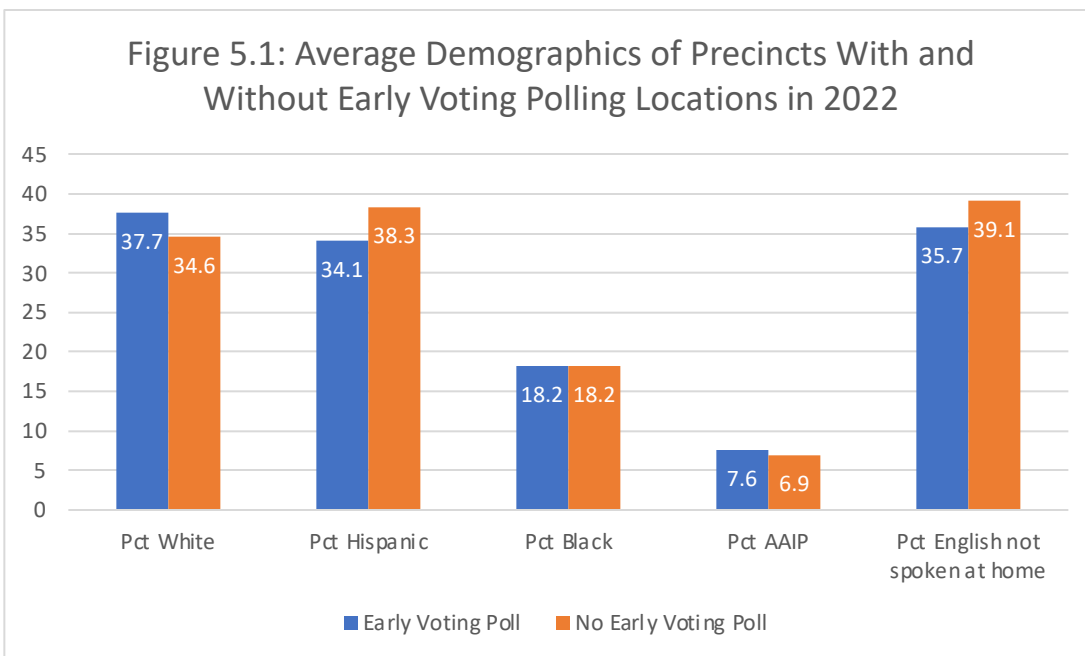
Through our analyses both in this chapter and in [Chapter 4](#), we identified several cross-cutting implications that connect together issues stemming from policies surrounding the voting process, polling locations, and accessibility. In this section, we share evidence and data related to three key implications: (1) the location, closures, and equitable access to polling locations; (2) transportation accessibility of polling locations; and (3) wait times at polling locations.

Polling Locations, Closures, and Equitable Access

Since Shelby, Texas counties have closed large numbers of polling locations (Leadership Education Fund, 2019). Counties where the majority of locations have closed are also counties which have seen large population increases, in contrast to population declines among the counties with limited closures. Further, these closures have specifically impacted Black and Brown communities in the state (Leadership Education Fund,

2019). The 50 Texas counties that gained the most Black and Hispanic residents between 2012 and 2018 are reported to have closed 542 polling locations, compared to just 34 closures in the 50 counties that have gained the fewest black and Hispanic residents. Some of these closures may be connected to county shifts to countywide polling (Leadership Education Fund, 2019), as seven of the nine Greater Houston counties have done in recent years.

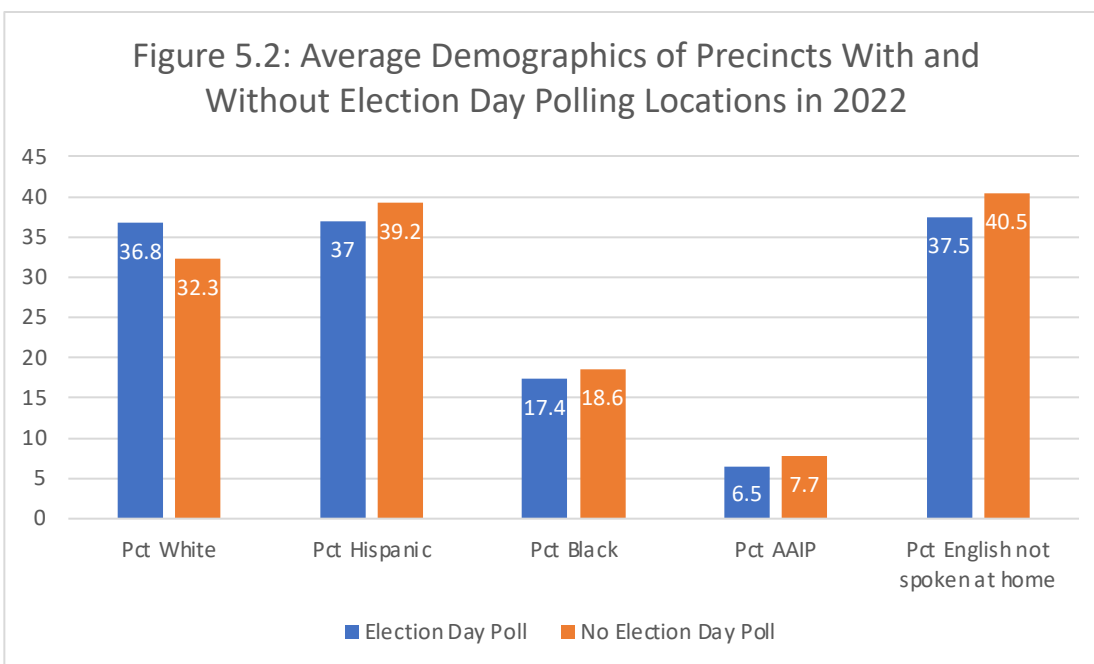
To investigate the claim that access to polling locations in Greater Houston may not be equitable for low-income residents and/or communities of color, we analyzed precinct-level data for the seven Greater Houston counties of focus and compared demographic characteristics of precincts with and without polling locations. We conducted this analysis for both early voting and Election Day polling locations. In Figures 5.1–5.6 we present this comparison for seven counties across several census indicators based on polling locations for the November 2022 election.



Source: County election polling location reports and American Community Survey (2017-2021, 5-year estimates)

As the data in Figure 5.1 above shows, whereas there is no difference in the mean percentage of Black residents (18.2%) in precincts with and without early voting locations, precincts with early voting locations have slightly larger non-Hispanic white (37.7%) and AAPI (7.6%) populations compared to precincts without early voting locations (34.6% and 6.9%, respectively). On the other hand, precincts with early

voting locations have smaller Hispanic populations, on average, than precincts without early voting locations (34.1% vs 38.3%). The same is true for households where English is not spoken at home, where precincts with early voting locations have smaller populations on average than precincts without (35.7% vs 39.1%).

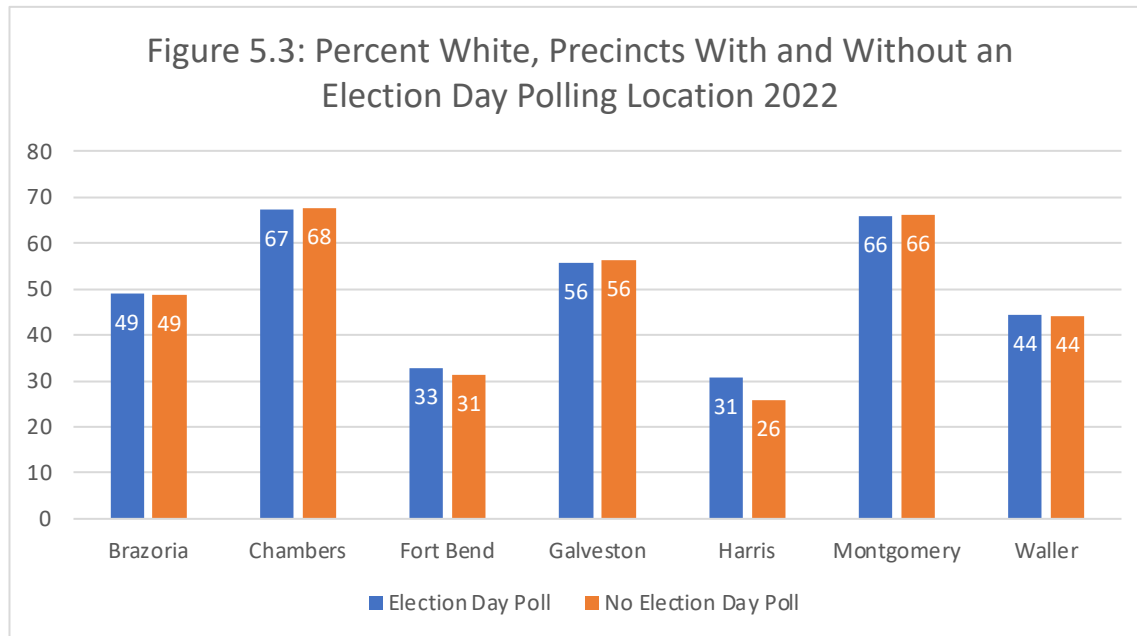


Source: County election polling location reports and American Community Survey (2017-2021, 5-year estimates)

Turning to the data on Election Day locations in Figure 5.2, we see a pattern that more consistently shows precincts with polling locations have smaller minority populations, on average, than those without polling locations. The percentage of Hispanic, Black, AAPI, and non-English speaking residents is higher in precincts that do not have Election Day polling locations compared to precincts that do. And, these precincts have larger non-Hispanic white populations, on average, than the precincts without Election Day

polling locations.

Looking at the average demographic composition of precincts across all seven counties may hide important variation within counties. For this reason, in the next set of graphs we compare the racial/ethnic composition of precincts with and without Election Day polling locations in the November 2022 election by county. We start with the percentage of non-Hispanic whites (Figure 5.3).

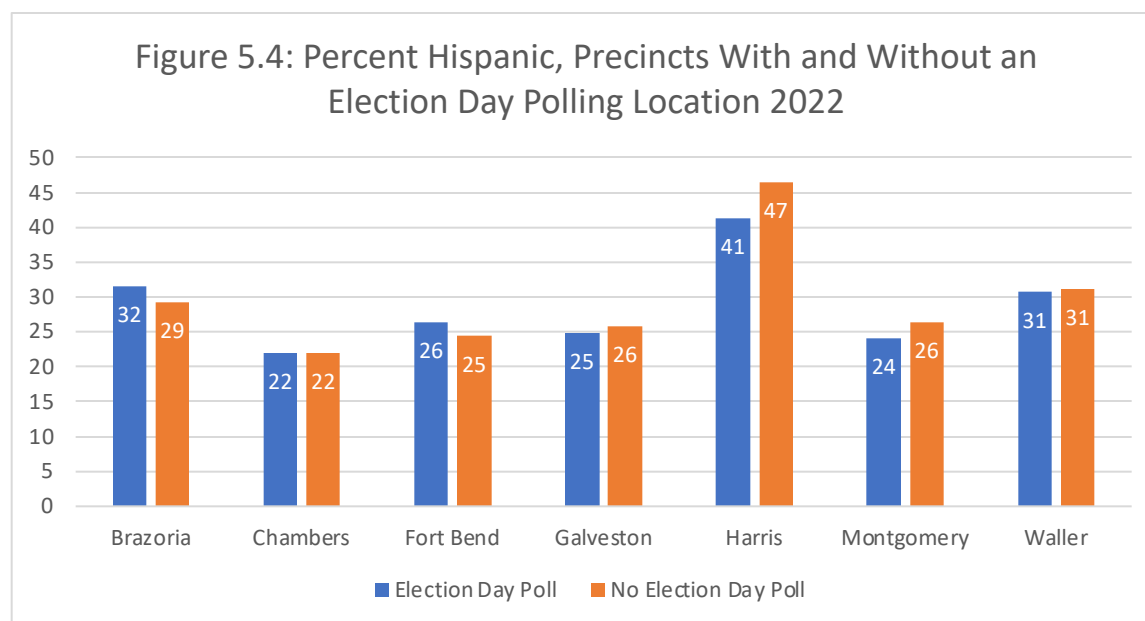


Source: County election polling location reports and American Community Survey (2017-2021, 5-year estimates)

For the most part, the data in Figure 5.3 show limited if any difference in the mean percent non-Hispanic white residents in precincts with and without Election Day polling locations. Four counties have larger mean non-Hispanic white populations in precincts with Election Day polling locations: Brazoria, Fort Bend, Harris, and Waller. Harris County has the largest gap, with a five-percentage point difference, however the other three counties range from .2 percent (Brazoria) to 1.7 percent (Fort Bend).

In Figure 5.4 we provide a similar comparison, this time across the mean percent Hispanic. Recall that the Leadership Education Fund (2019) report found that counties in their study that had the largest increases in Hispanic and Black populations had the largest number of polling location closures. We therefore

might expect to see larger gaps in the percent Hispanic and Black populations in precincts with and without Election Day polling locations. All seven counties in Greater Houston experienced growth in their Hispanic populations between 2010-2020 (see Table 5.7), with Chambers and Montgomery having the largest growth in their Hispanic populations between 2010 and 2020 (24% and 27% respectively). While the gap in the percent Hispanic population in Montgomery across precincts with and without polling location is consistent with this expectation, there is no gap in Chambers County. However, it is only in Harris County that we see much of a gap in the Hispanic population across precincts with and without Election Day polling locations: 41 percent versus 47 percent.



Source: County election polling location reports and American Community Survey (2017-2021, 5-year estimates)

Overall, precincts with and without Election Day polling locations have roughly the same proportion of Hispanic residents, on average, which does not suggest inequity in access. That said, just as the average for the seven-county metro area could have hidden variation across counties, the county-wide averages could be masking variation within counties.

Before we turn to the comparison for the Black population in precincts with and without Election Day polling locations, it is worth noting that the Black population in four of the seven counties decreased between 2010 and 2020. As Table 5.7 indicates, Brazoria, Montgomery and Harris counties were

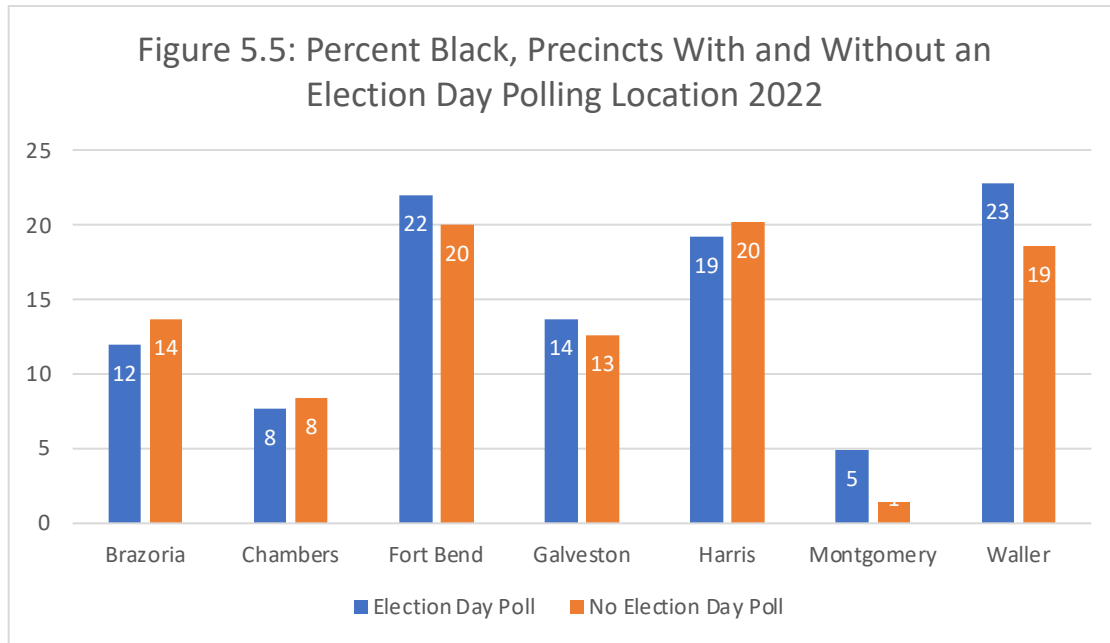
the three counties with increases in their Black populations—percent changes that ranged from 12 (Harris) to 46 (Montgomery) percent. These are the three counties where we might expect to see the biggest gap in Election Day polling locations.

The data in Figure 5.5 show more variation in the average percent Black across precincts with and without Election Day polling locations. While two of the three counties that experienced growth in their Black populations do have smaller Black populations in precincts with polling locations than without, the county with the largest percent change in its Black population (Montgomery), has the opposite pattern.

TABLE 5.7: ELECTION DAY POLLING LOCATIONS, 2010-2022

COUNTY	PERCENT HISPANIC			PERCENT BLACK		
	2010	2020	PERCENT CHANGE	2010	2020	PERCENT CHANGE
Brazoria	27.7	31.0	11.92	16.3	20.9	28.3
Chambers	18.9	23.5	24.39	9.9	8.8	-10.7
Fort Bend	23.7	24.1	1.67	27.6	26.9	-2.6
Galveston	22.4	25.3	12.81	17.4	16.5	-5.2
Harris	40.8	44.6	9.31	18.4	20.6	12.0
Montgomery	20.8	26.4	27.28	5.1	7.5	45.9
Waller	29.0	32.5	12.18	34.4	31.6	-8.0

Source: U.S. Census Bureau, 2020 & 2010 Census Redistricting Data (Public Law 94-171)

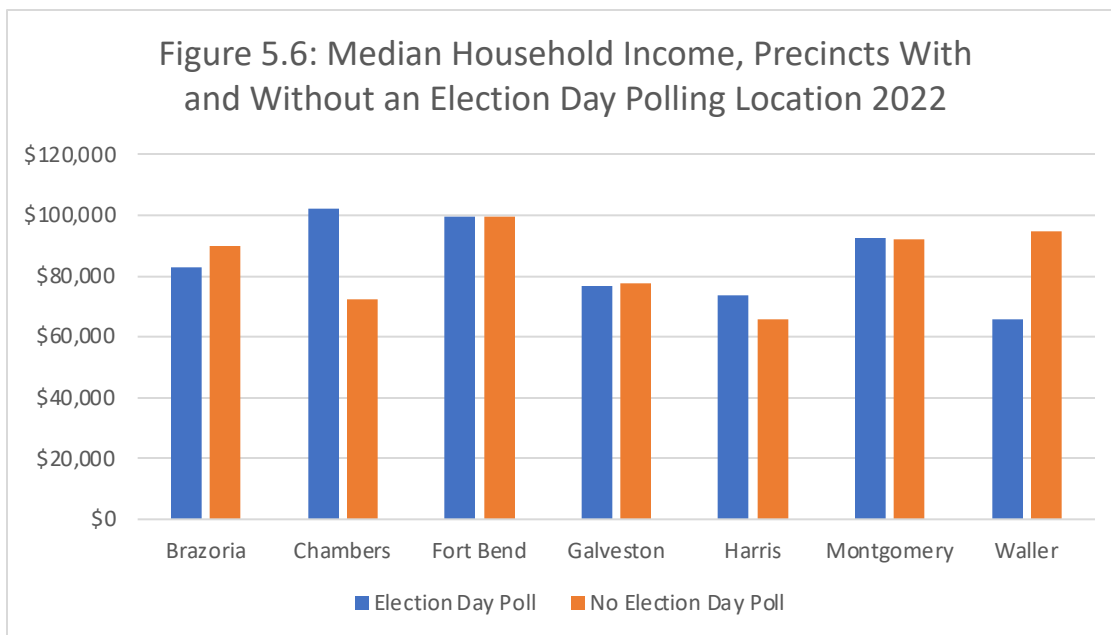


Source: County election polling location reports and American Community Survey (2017–2021, 5-year estimates)

Precincts with a polling location have considerably larger Black populations than those without. Fort Bend, Galveston and Waller counties also have larger Black populations, on average, in precincts with Election Day polling locations than those without. Overall, the data presented here do not provide evidence of inequities in access across the racial/ethnic makeup of precincts.

For a final look at the issue of equity in access to Election Day polling locations, we present data that compares the median household income of precincts with and without locations in 2022. As the data in Figure 5.6 show, in three counties—Fort Bend, Galveston and Montgomery—there is essentially no

difference: Precincts with and without Election Day locations have roughly the same median household income. On the other hand, striking differences exist in Chambers and Waller counties. In Chambers County, precincts with an Election Day polling location in 2022 had median household incomes that were on average, roughly \$30,000 higher than precincts without a polling location. In Waller County, we see the exact opposite. Precincts without polling locations had median household incomes that were about \$29,000 larger than precincts with polling locations. Finally, Brazoria and Harris counties had opposing patterns as well, with differences of about \$7,000.



Source: County election polling location reports and American Community Survey (2017–2021, 5-year estimates)

Transportation

A key polling location consideration is the distance one must travel to vote. The farther an individual must travel to a polling location, the lower the percentage chance that the individual will vote (Cortina & Rottinghaus, 2021). As polling locations are closed, it increases the distance one must travel to vote in Texas by an average of 4.3 miles (Cortina & Rottinghaus, 2021). A one-mile increase in distance to a polling location reduces voter turnout from districts with residents of color by 19%, as compared to 5% for predominantly white communities (Cantoni, 2020).

When a county's polling locations are at a substantial distance from each other or from residents' homes, the need for transportation options becomes increasingly important. Statewide, 5.2% of households do not have access to a vehicle (Understanding Houston, 2023). In Greater Houston, this ranges from 2.4% of households without a vehicle in Montgomery County to 7.1% in Harris County.

While transportation is not among the top reasons non-voters give for their non-voting, transportation problems were identified as a factor in both the 2016 and 2022 Survey of the Performance of American Elections (Stewart III, C., 2017; Stewart III, C., 2022). The 2016 survey specifically included analysis of transportation challenges for Texans, finding that 17% of Texas respondents considered transportation a major factor and 23% of respondents as somewhat of a factor in why they did not vote.

Wait Times

Polling location closures can contribute to long wait times at polling locations, in addition to election administration challenges like limited staffing and technology issues. Long lines are most common during Presidential elections, although across the country, these seem to center on a small percentage of polling locations. Long lines result in inconvenience and cost to voters, and may ultimately discourage voters from voting. According to the Bipartisan Policy Center (Weil et al., 2019), the half hour benchmark recommended by the Presidential Commission on Election Administration (Presidential Commission on Election Administration, 2014) is generally accepted as the maximum acceptable wait time for voters. Delays are further exacerbated when county trackers designed to track lines at polling locations and help voters assess the best times and locations for voting, like those in Harris County and in other counties across the state, malfunction (Ehresman, 2023a).

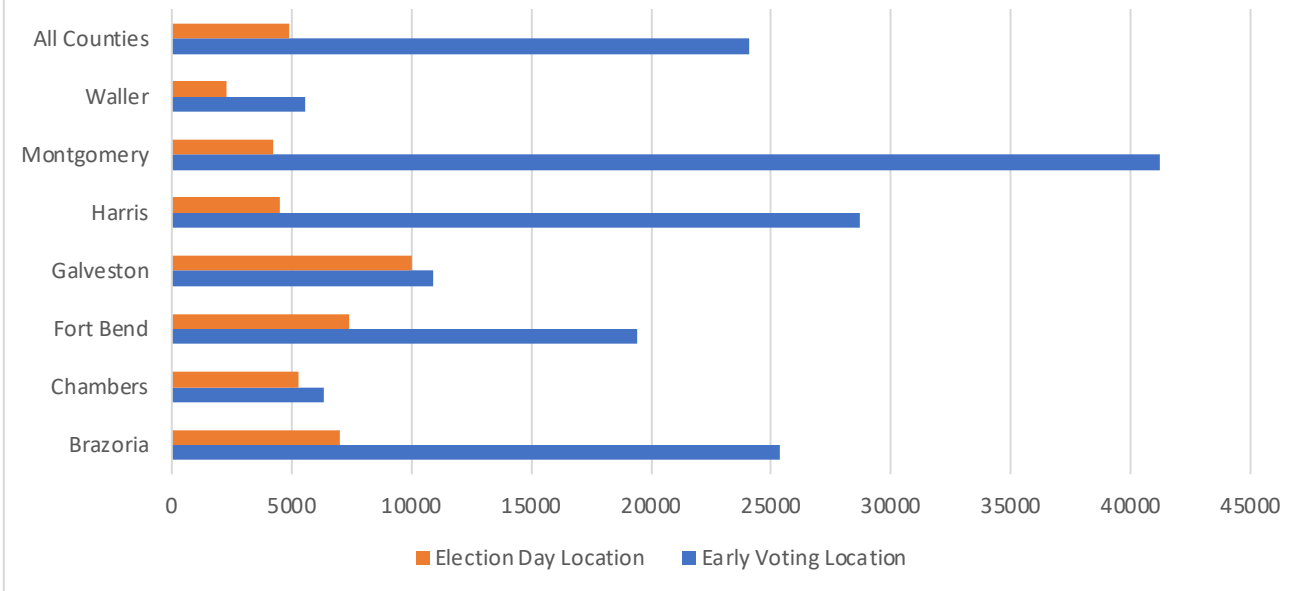
Both nationally and in Texas, voters of color consistently

experience longer wait times (Ehresman, 2023a; Klain et al., 2020). In its analysis of barriers Texans reported in the 2022 midterm elections, Common Cause Texas identified long wait lines in 11 counties, home to a total of about 8.7 million registered voters – including Fort Bend and Harris. The organization calculated that just 10 percent of these registered voters leaving without voting would result in 870,000 fewer votes (Ehresman, 2023a). In Greater Houston, long waits appear to be most prevalent in Harris and Fort Bend counties, though long lines were also present at Prairie View A&M in Waller County during the November 2022 elections. The paper ballot shortages and operational issues many Harris County polling locations experienced during the November 2022 midterm election contributed to both long wait lines and delayed openings, with some locations sending hundreds of voters to other polling locations (Ehresman, 2023a). In the same election, the Fort Bend County Elections Administrator reported long lines at polling locations during early voting and indicated a need for additional working voting machines and/or IT teams capable of repairing them (Scinta, 2022).

Some Harris County voters waited in line for many hours at some locations during the prior 2020 primary and general elections as well, with especially long wait times in Black and Brown communities (Ura, 2020). For example, during the 2020 primary elections, voters at Texas Southern University, a historically Black College in Harris County, faced exceptionally long lines, with some voters having to wait over six hours before they could cast their ballot and hundreds of voters in line until almost midnight (DeBenedetto et al., 2020). During the 2020 general election, Fort Bend voters faced a wait of over an hour on the first day of early voting due to a technical issue, in which the county's electronic poll book check-in system had been incorrectly programmed with the wrong date (Edwards & Downing, 2020). Fort Bend also saw widespread waits from delayed openings at multiple polling locations because voting machines had not been fully updated to reflect Daylight Savings Time (Carter, 2020).

While some counties report wait time data, these data are not available for all counties and the EAVS survey does not ask county election officials any questions specifically about wait times. In place of wait time data, in Figure 5.7 we report the number of eligible voters (citizen, voting age population) per early voting and Election Day polling location in the 2022 elections. Data for this graph come from the official lists of polling locations provided by the counties and 2020 Census data. Unfortunately, these polling location lists are not archived for many counties making it difficult to analyze over time trends.

Figure 5.7: Number of Eligible Voters per Polling Location:
November 2022



Source: County election polling location reports and 2020 Census data

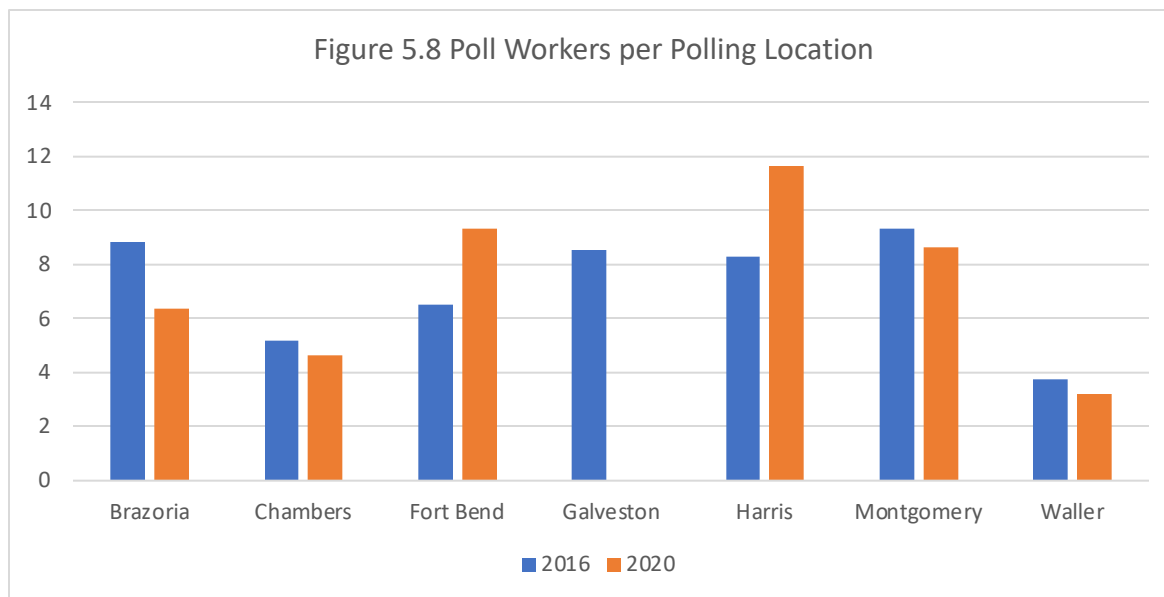
The data in Figure 5.7 allow comparisons across county, but do not provide direct information about how long, if at all, voters in different counties might have waited to vote in 2022. For example, Figure 5.7 shows there are significantly more eligible voters per early voting location (40,000) in Montgomery County than anywhere else. On the low end are Waller and Chambers counties, with around 5,500 and 6,500 eligible voters per early voting location. The average across the seven counties is just over 25,000 eligible voters.

When it comes to Election Day polling locations, we see significantly lower numbers of eligible voters across the board, as we would expect given laws regarding the placement of these polling locations. The average number of eligible voters per Election Day polling location across all seven counties was about 5,000 in 2022. Galveston had more than double this average,

and Brazoria and Fort Bend counties ranged between 7,000 and 7,500 voters per location. Chambers, Harris and Montgomery counties were close to the seven-county average, while Waller County was significantly below the average, with only 2,300 eligible voters per Election Day polling location.

A second way we can systematically compare counties in the Greater Houston area is by looking at the number of poll workers per polling location. These data are provided by counties in their reporting to the Election Assistance Commission, however, the Election Administration and Voting Survey does not ask election administrators to provide numbers by Election Day and early voting locations. In Figure 5.8 we report the average number of polling workers per polling location for the Presidential Elections in 2016 and 2020.

¹Austin, Fort Bend and Waller have multiple columns, because different groupings of locations were open for different hours during early voting.



Source: Election Administration and Voting Survey (U.S. Election Assistance Commission).

Perhaps not surprisingly, there tend to be more poll workers per polling location in the three most populous counties: Fort Bend, Harris, and Montgomery. Brazoria and Galveston, however, stand out in 2016 and Fort Bend had fewer poll workers per location than both. What Figure 5.8 also shows is that, with the exception of Fort Bend and Harris counties, all counties saw a decline in the number of poll workers per polling

location from 2016 to 2020. The increase in both early and absentee voting during Covid could partly explain this decline. Note too, that 2020 was Harris County's first federal election under a Democratic County Clerk and the newly established Election Administrator position.

SUMMARY AND RECOMMENDATIONS

In recent years, the Greater Houston region has experienced two main shifts that have shaped the landscape in which decision-making about polling locations has taken place: the increasing adoption of countywide polling places in the region and the COVID-19 pandemic. In the past decade, seven of the region's nine counties have adopted countywide voting. In general, the region's counties have seen an overall trend of increased early voting locations over time, while the adoption of countywide voting has generally led to a decline in Election Day polling locations - with some exceptions during the height of the pandemic. Where closures have taken place, our analyses suggest that there is not a clear and consistent pattern across the region of racial or economic gaps between precincts with early voting or Election Day locations and those without.

Our analyses do show that there are some wide variations across the region in terms of the numbers of eligible voters per polling location, especially during the early voting period, where, for example, eligible voters per location in 2022 ranged from 5,500 in Waller to 40,000 in Montgomery. We also see some notable

differences in the numbers of poll workers per polling location in the region, ranging from 3.2 in Waller to 11.7 in Harris. While we were not able to fully assess wait time data across the region, these analyses can offer insight into potentially varying experiences at polling locations in the region.

In terms of physical accessibility, we found that there is room to improve both information about polling location access for voters with disabilities and the accessibility of the locations themselves. Several counties in the region provide very limited information about polling location accommodations and procedures for individuals with disabilities on their websites. In recent years, two counties in the region (Galveston and Harris) have faced federal challenges regarding the accessibility of their polling locations to voters with disabilities; both counties entered into settlement agreements with the DOJ to increase the accessibility of polling locations.

Recommendation 1: Continue to Expand Countywide Voting, while Exploring Refinements to the Program

While we have seen reductions in Election Day polling locations in some counties since their adoption of the countywide polling program, countywide voting has been welcomed by most of the counties across the region. We recommend the expansion of countywide voting to the two remaining Greater Houston counties, Montgomery and Waller, with specific consideration of how each county can maintain its voting locations.

Moving forward, we recommend further refinement made to this program to balance the increased accessibility countywide locations offer with the risk of removing access to polling locations relied on by community members. Currently, despite research indicating that the farther an individual must travel to a polling location, the less likely they are to cast a ballot (Cortina & Rottinghaus, 2021), the Texas Election Code does not require counties to take into account travel distance or public transit access in outlining the requirements a county must meet to adopt or implement countywide voting. Rather than eliminating a tool that can help facilitate voting accessibility, we

recommend tighter restrictions on the extent to which counties can reduce polling locations, specification that travel distance be considered, as well as more specific language requiring counties to consult with communities of color before consolidating locations.

Recommendation 2: Continue to Expand Information about Polling Location Accessibility on County Websites

In 2023, the Texas legislature adopted a new policy requiring counties to post procedures to guide voters with disabilities on their county elections websites. While this step can help voters with disabilities to better navigate the voting process, Greater Houston counties have not all consistently posted these procedures. When they do, the information provided is often limited, and is not user-friendly in terms of helping voters to plan for how they will cast their ballot once they arrive at the polling location. We recommend that counties dedicate a specific section of their website to provide user-friendly, easy-to-follow, county-specific guidance for the process voters with disabilities must follow to either vote curbside or to access assistance inside the polling location.

APPENDIX

FIGURE 5A.1: EARLY VOTING POLLING LOCATIONS, BRAZORIA COUNTY, 2022

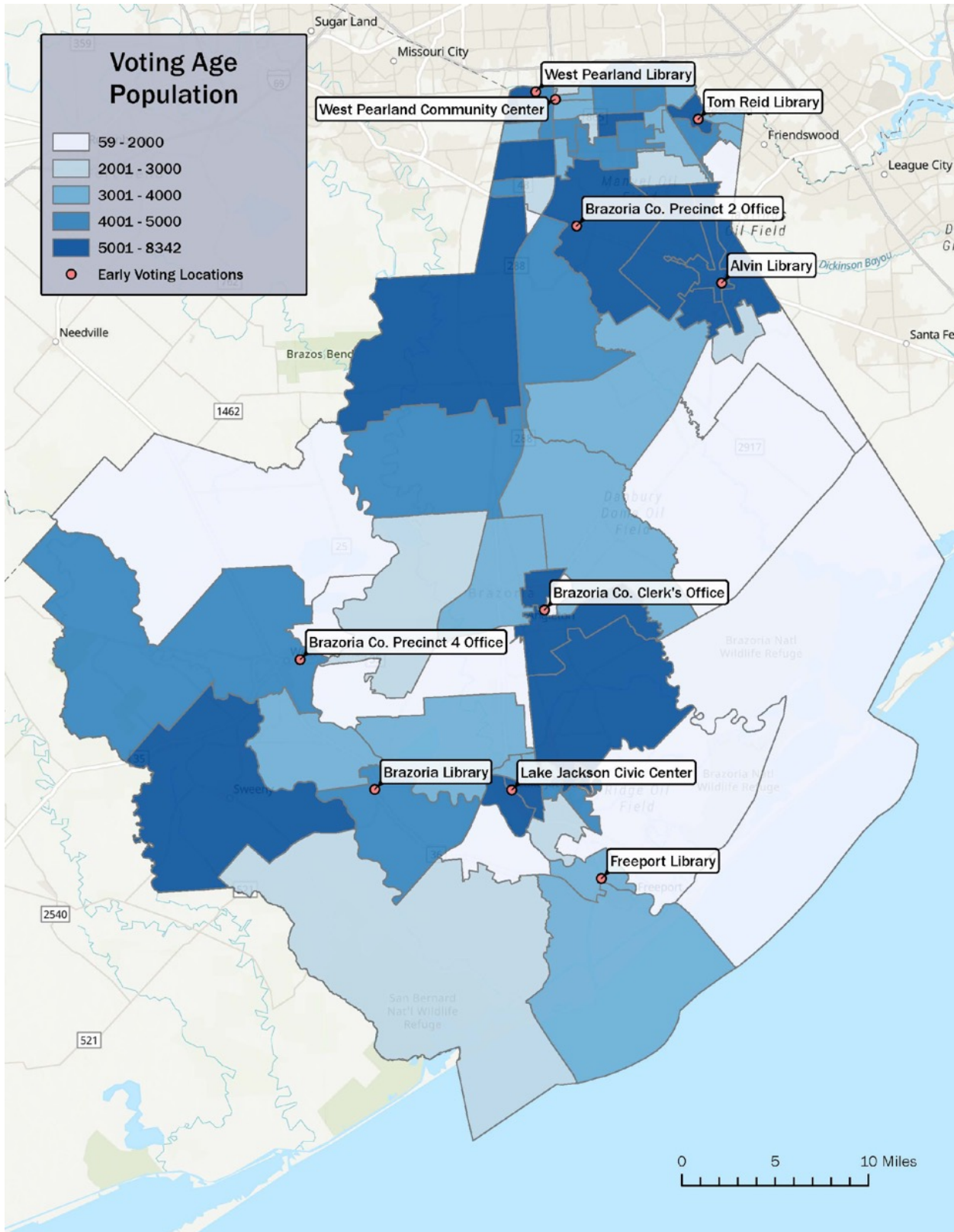


FIGURE 5A.2: ELECTION DAY POLLING LOCATIONS, BRAZORIA COUNTY, 2022

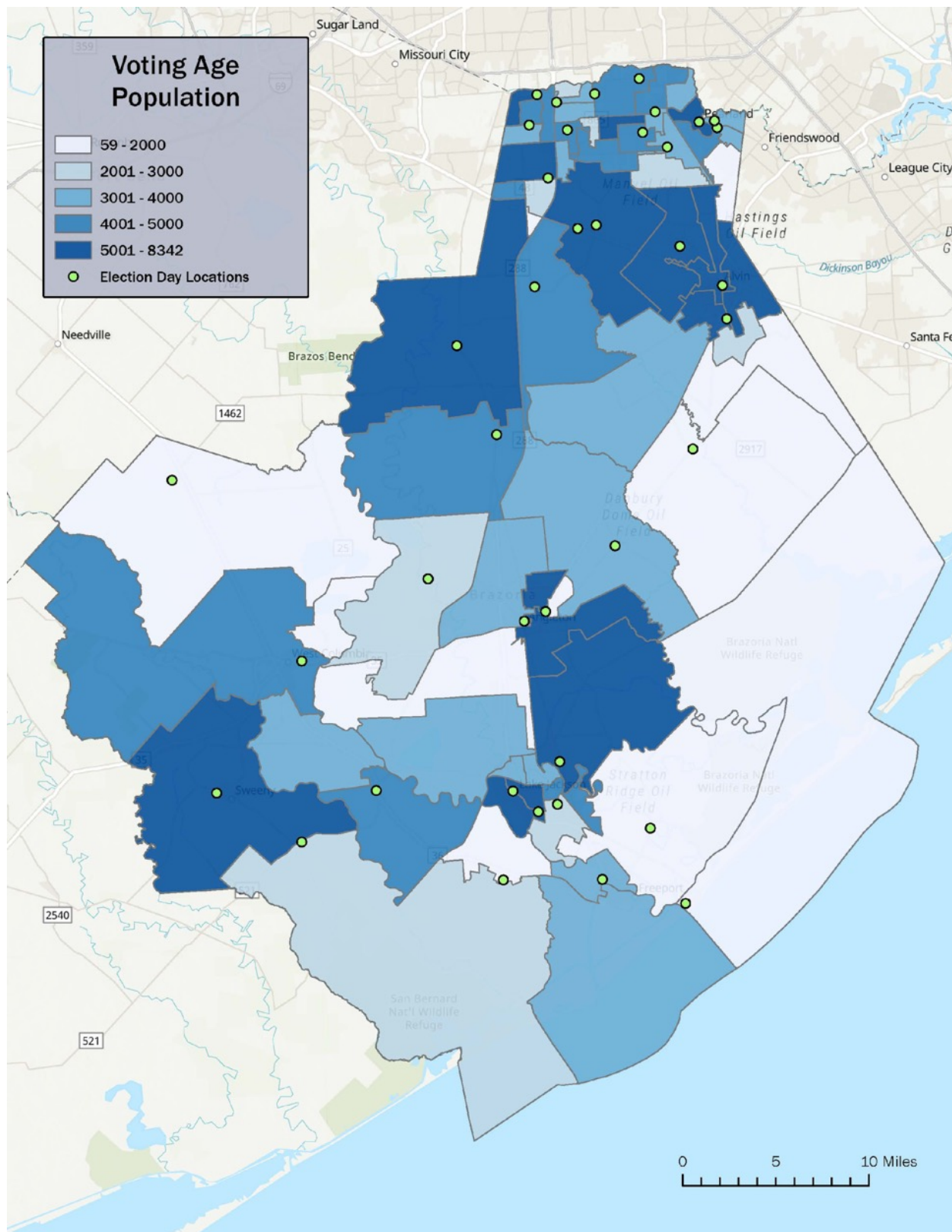


FIGURE 5A.3: EARLY VOTING POLLING LOCATIONS, CHAMBERS COUNTY, 2022

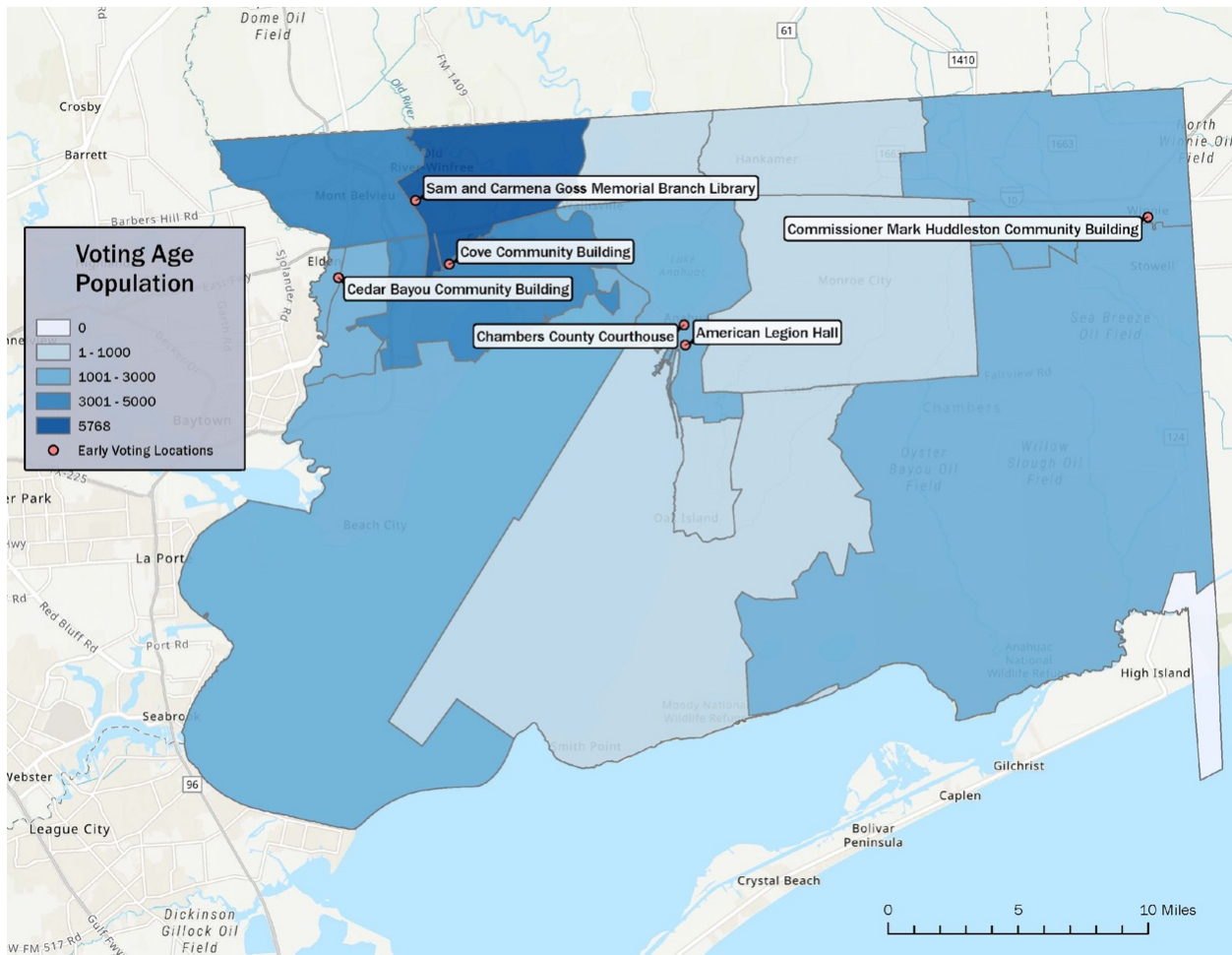


FIGURE 5A.4: ELECTION DAY POLLING LOCATIONS, CHAMBERS COUNTY, 2022

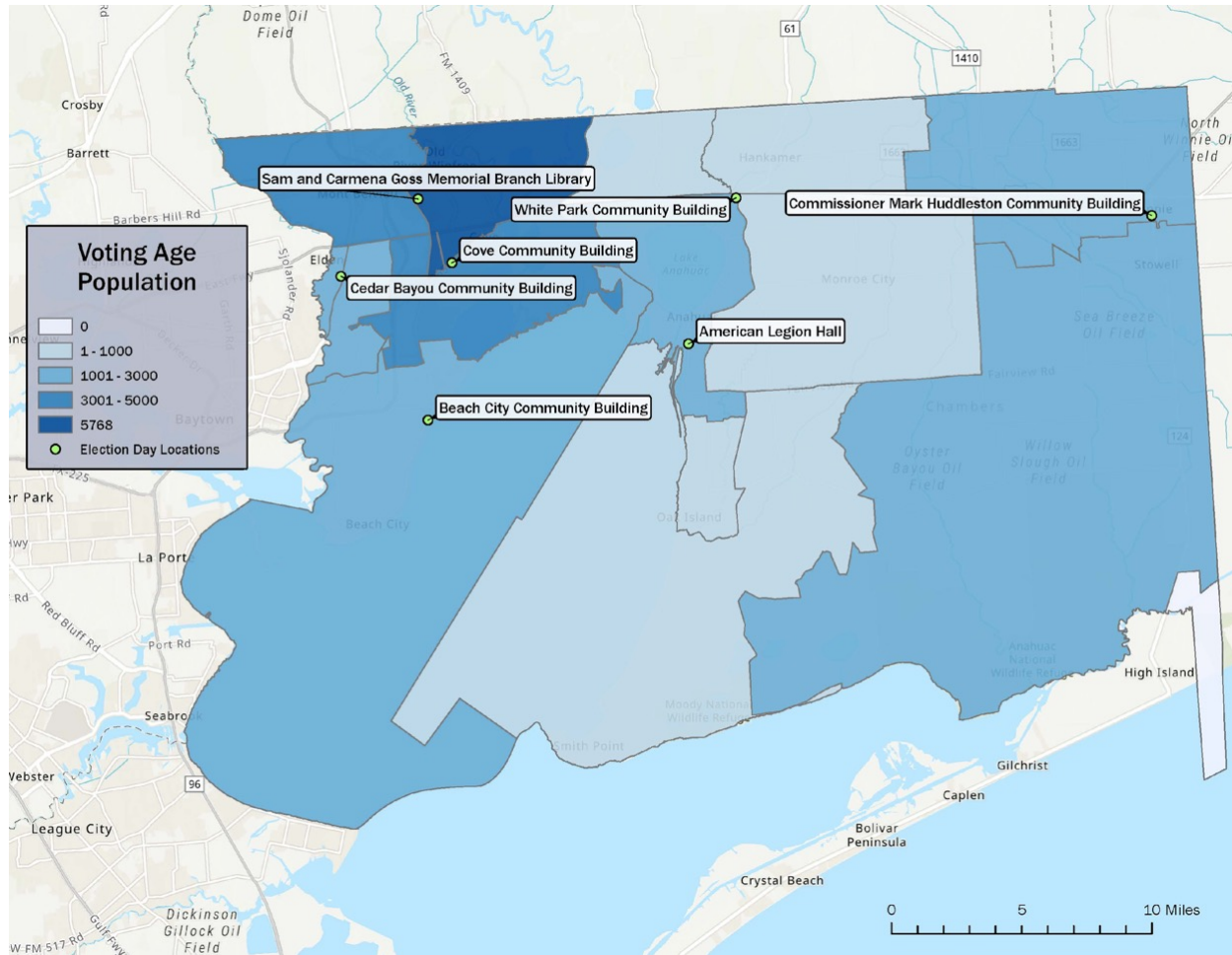


FIGURE 5A.5: EARLY VOTING POLLING LOCATIONS, FORT BEND COUNTY, 2022

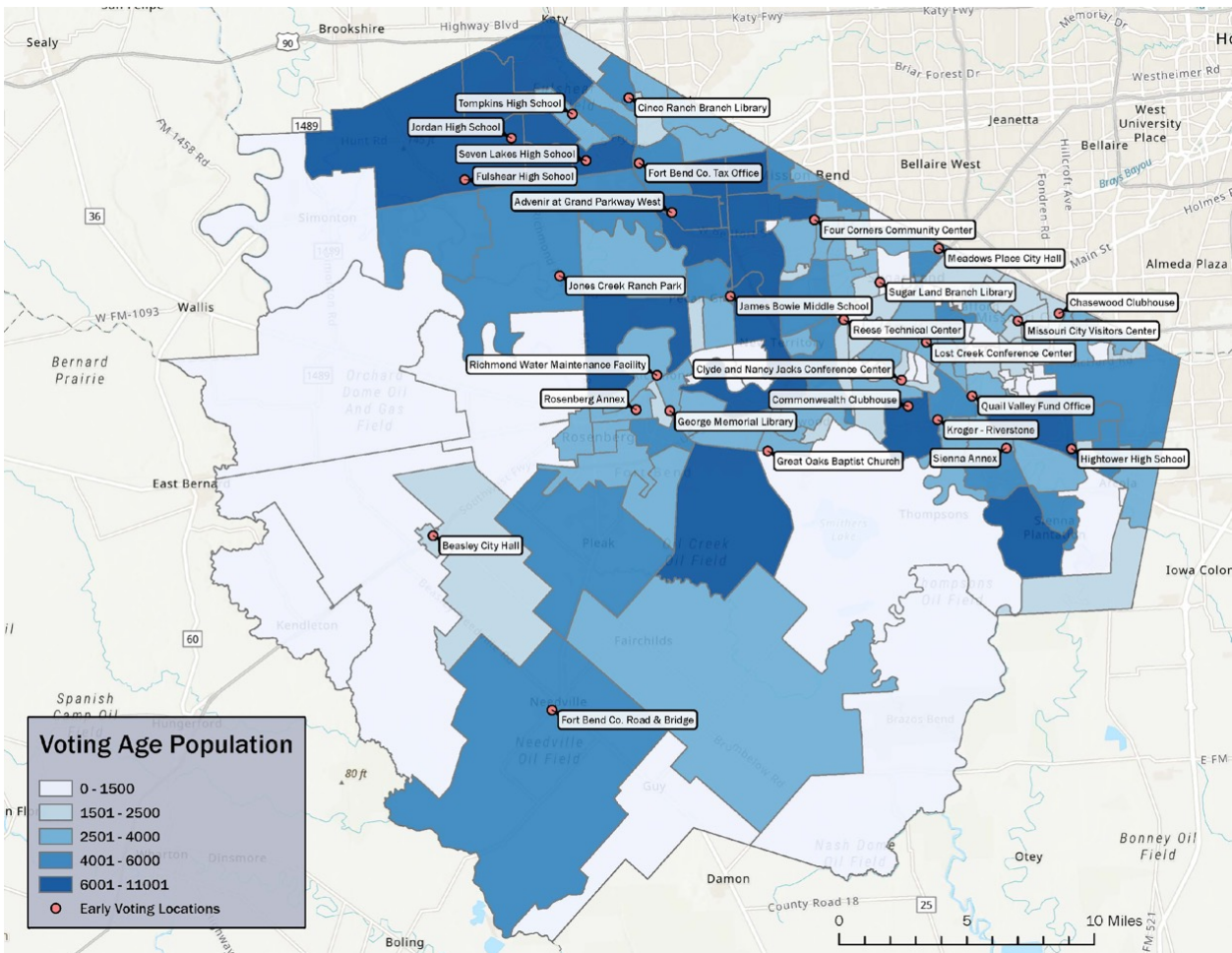


FIGURE 5A.7: EARLY VOTING POLLING LOCATIONS, GALVESTON COUNTY, 2022

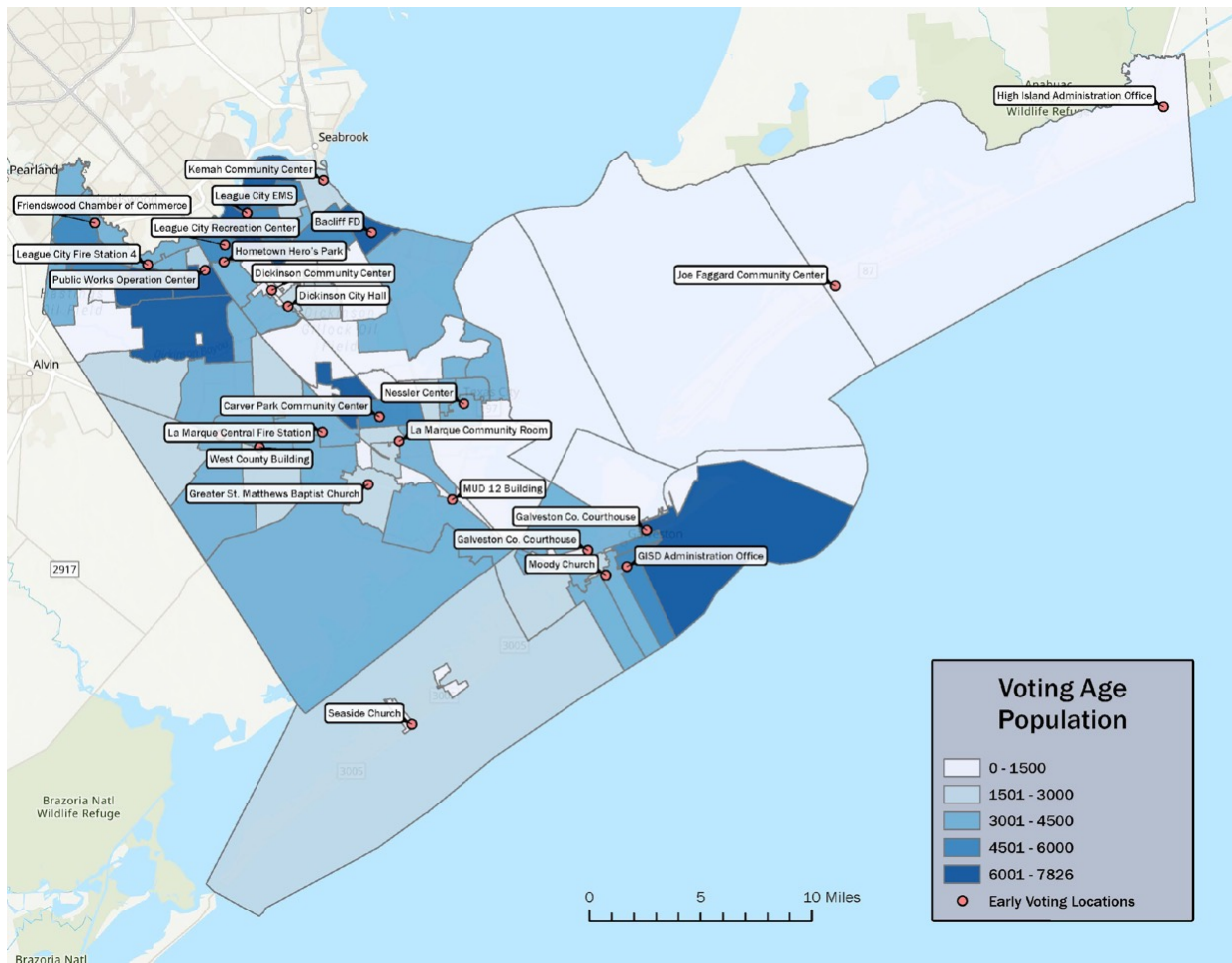


FIGURE 5A.8: ELECTION DAY POLLING LOCATIONS, GALVESTON COUNTY, 2022

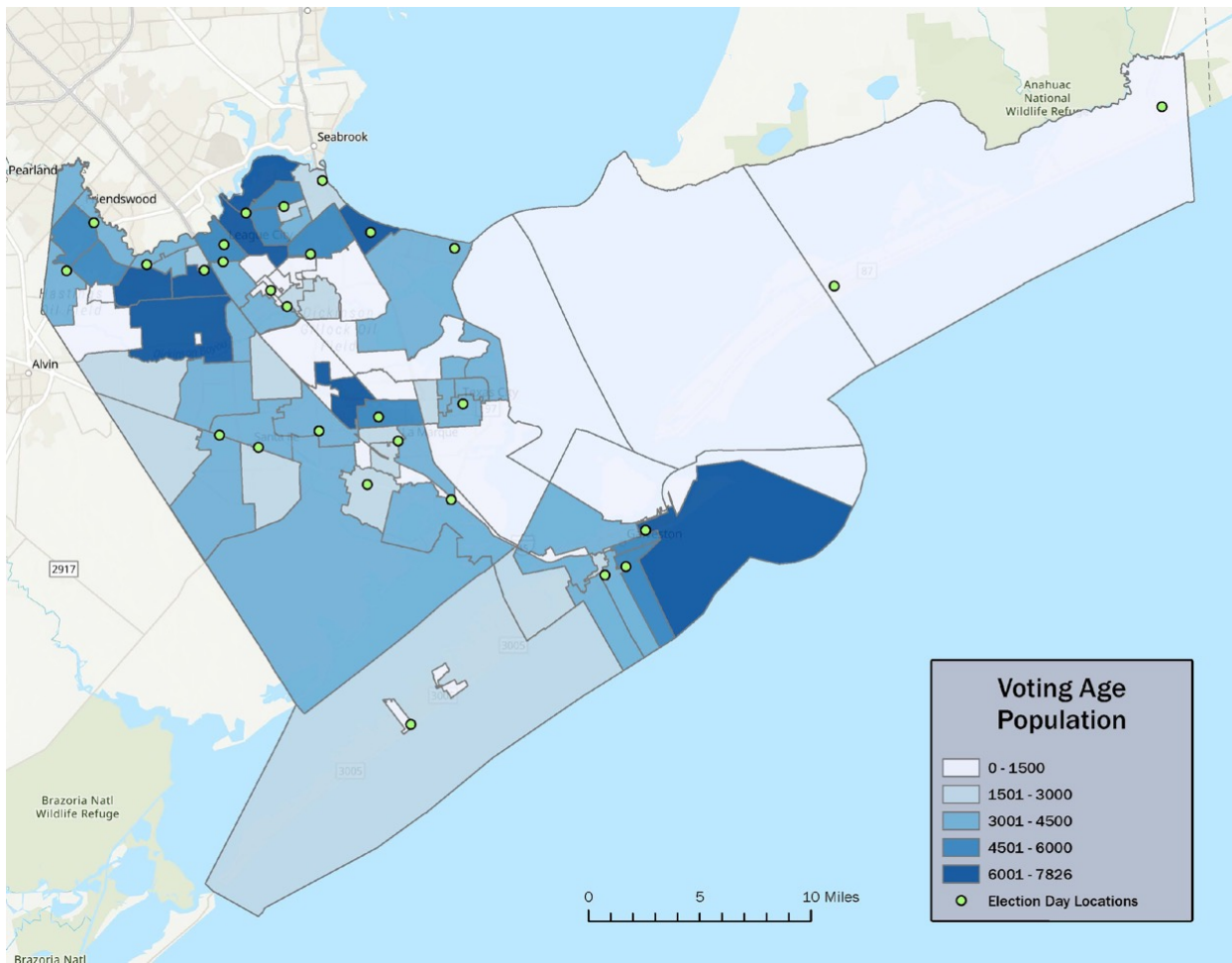


FIGURE 5A.9: EARLY VOTING POLLING LOCATIONS, HARRIS COUNTY, 2022

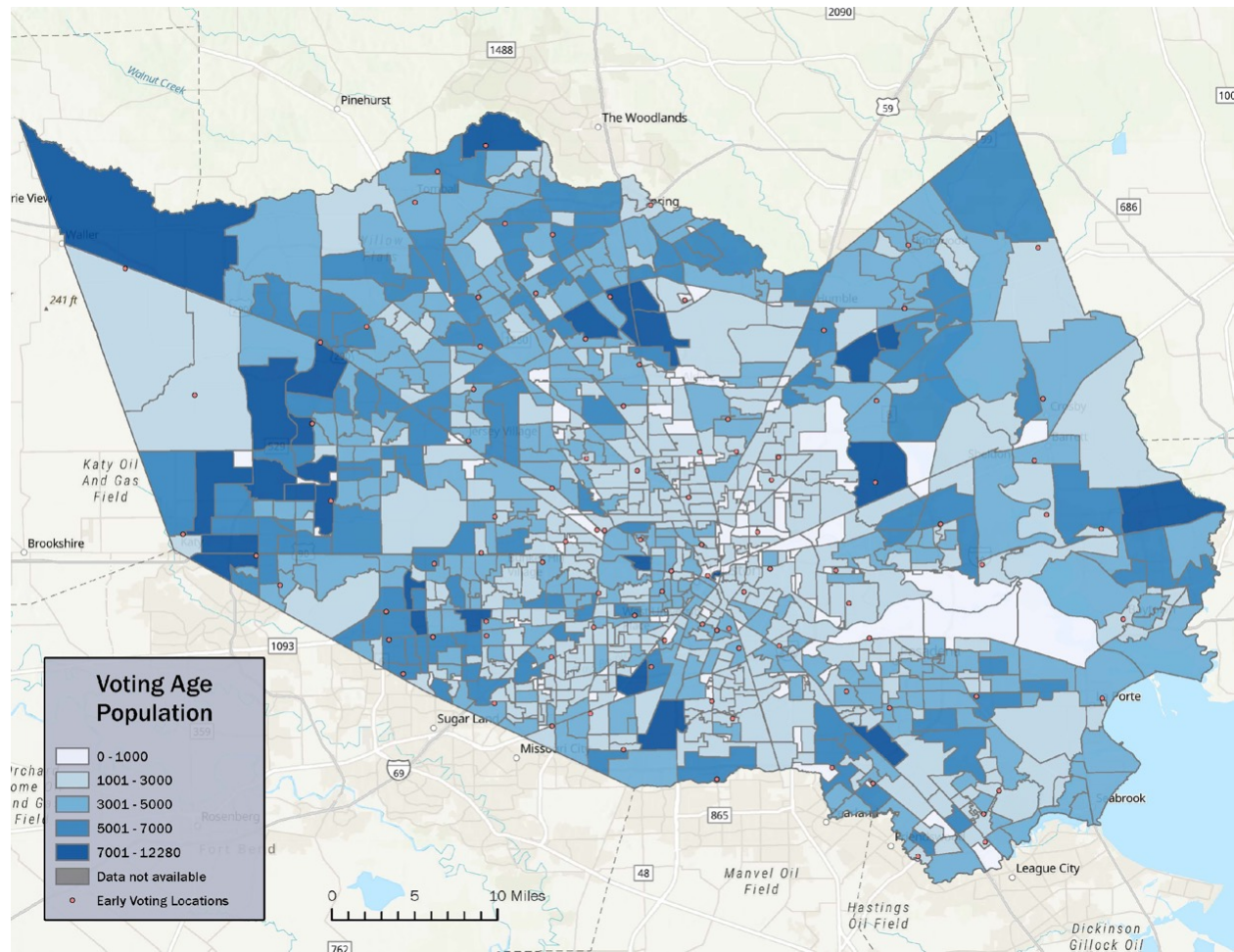


FIGURE 5A.10: ELECTION DAY POLLING LOCATIONS, HARRIS COUNTY, 2022

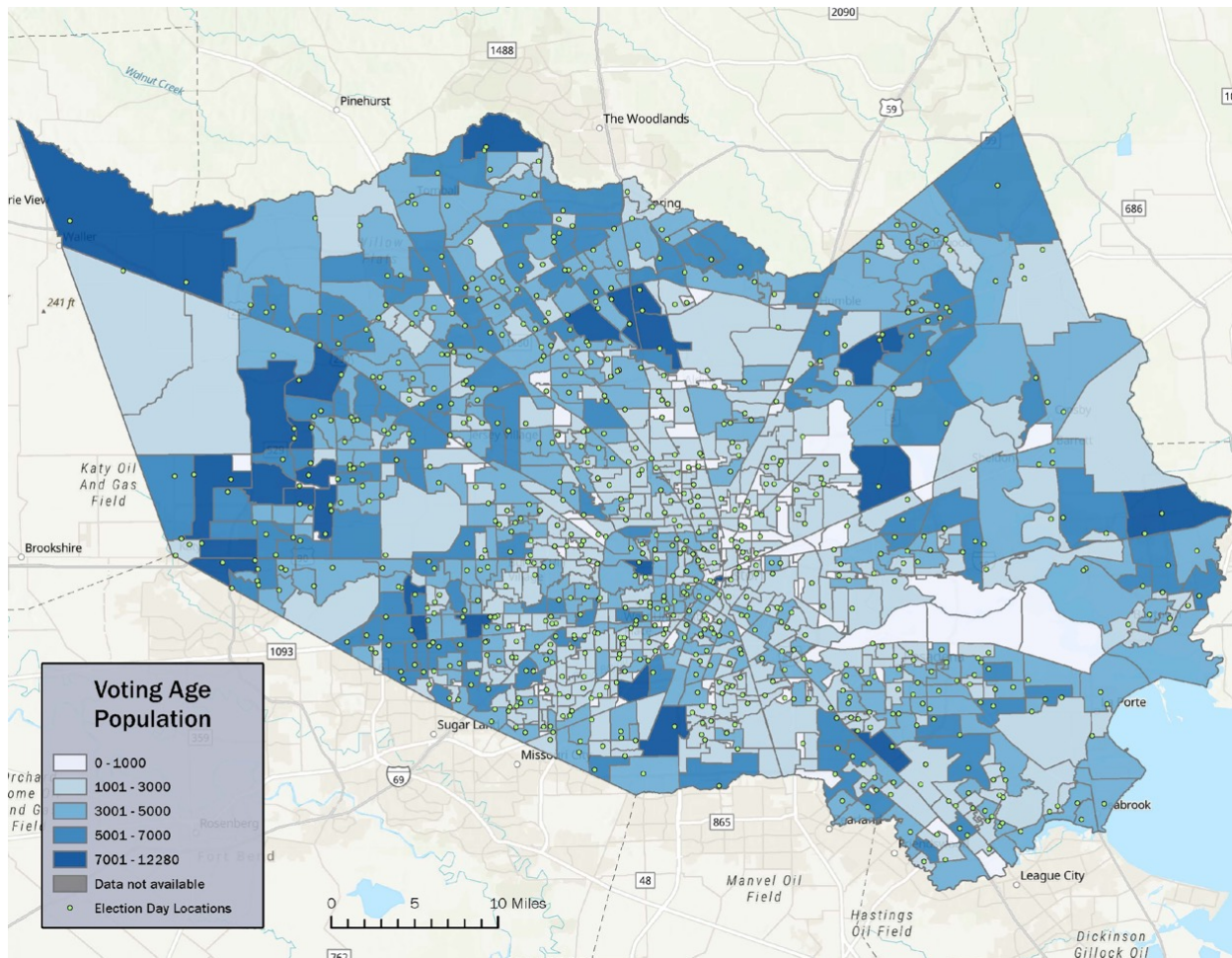


FIGURE 5A.11: EARLY VOTING POLLING LOCATIONS, MONTGOMERY COUNTY, 2022

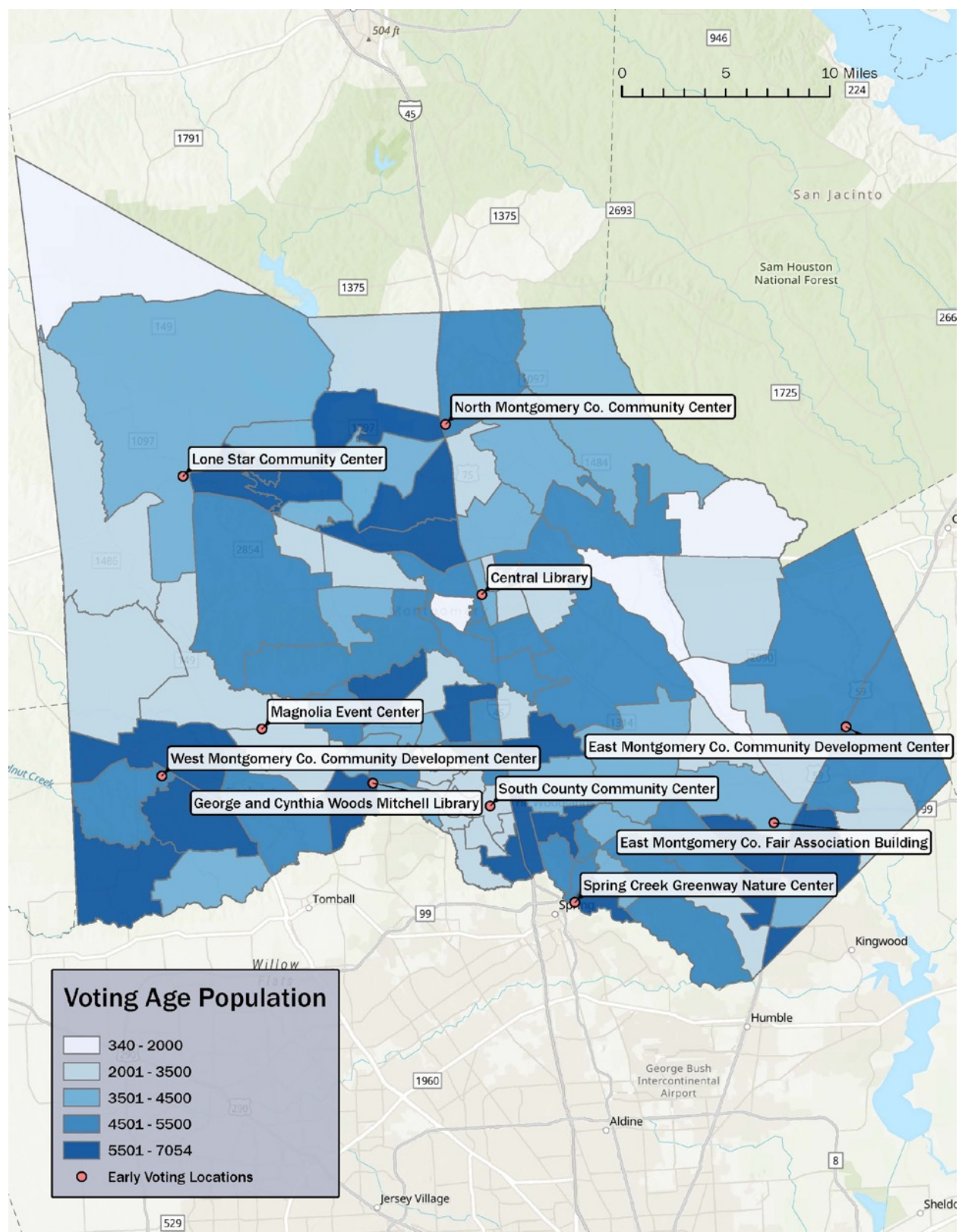


FIGURE 5A.12: ELECTION DAY POLLING LOCATIONS, MONTGOMERY COUNTY, 2022

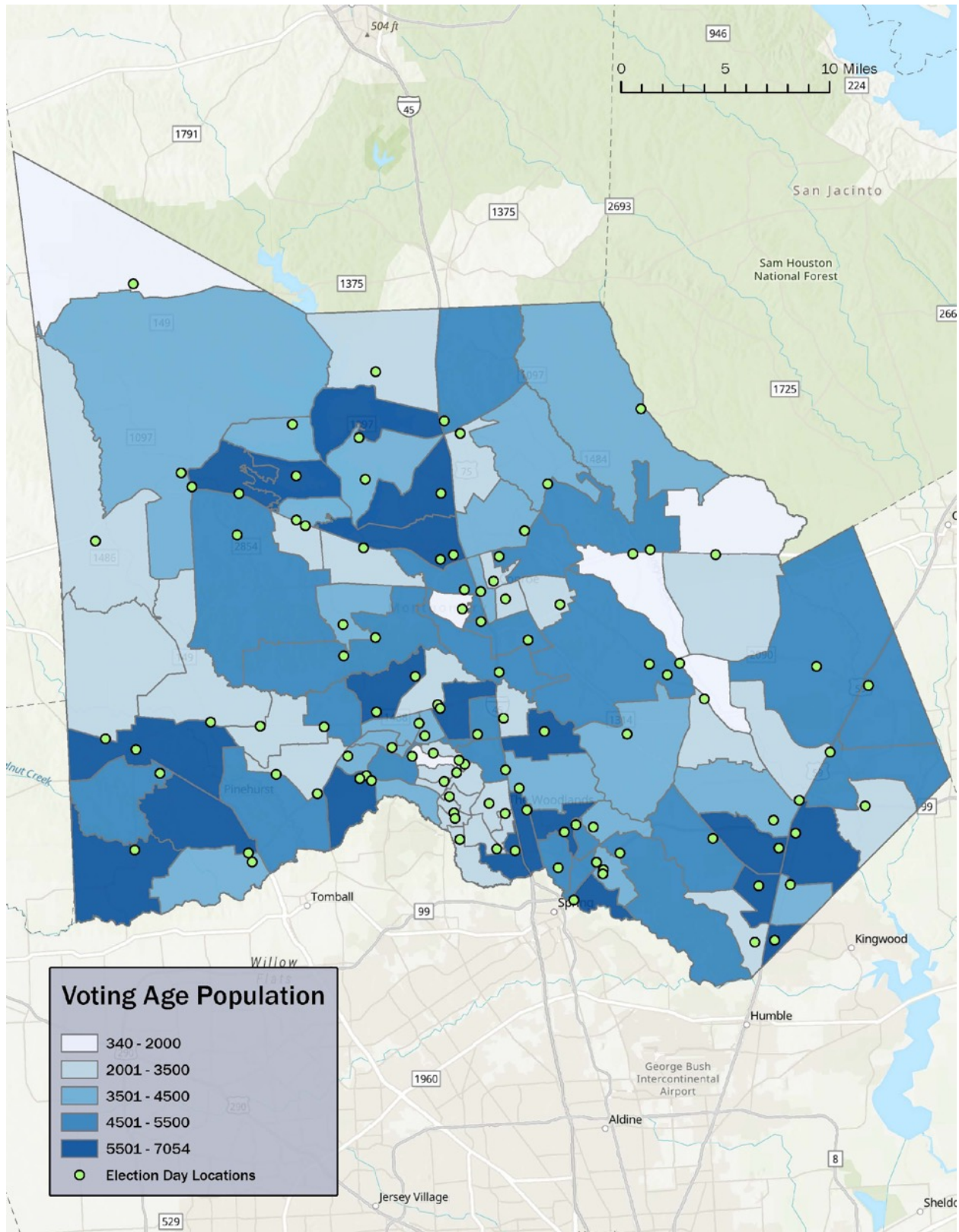
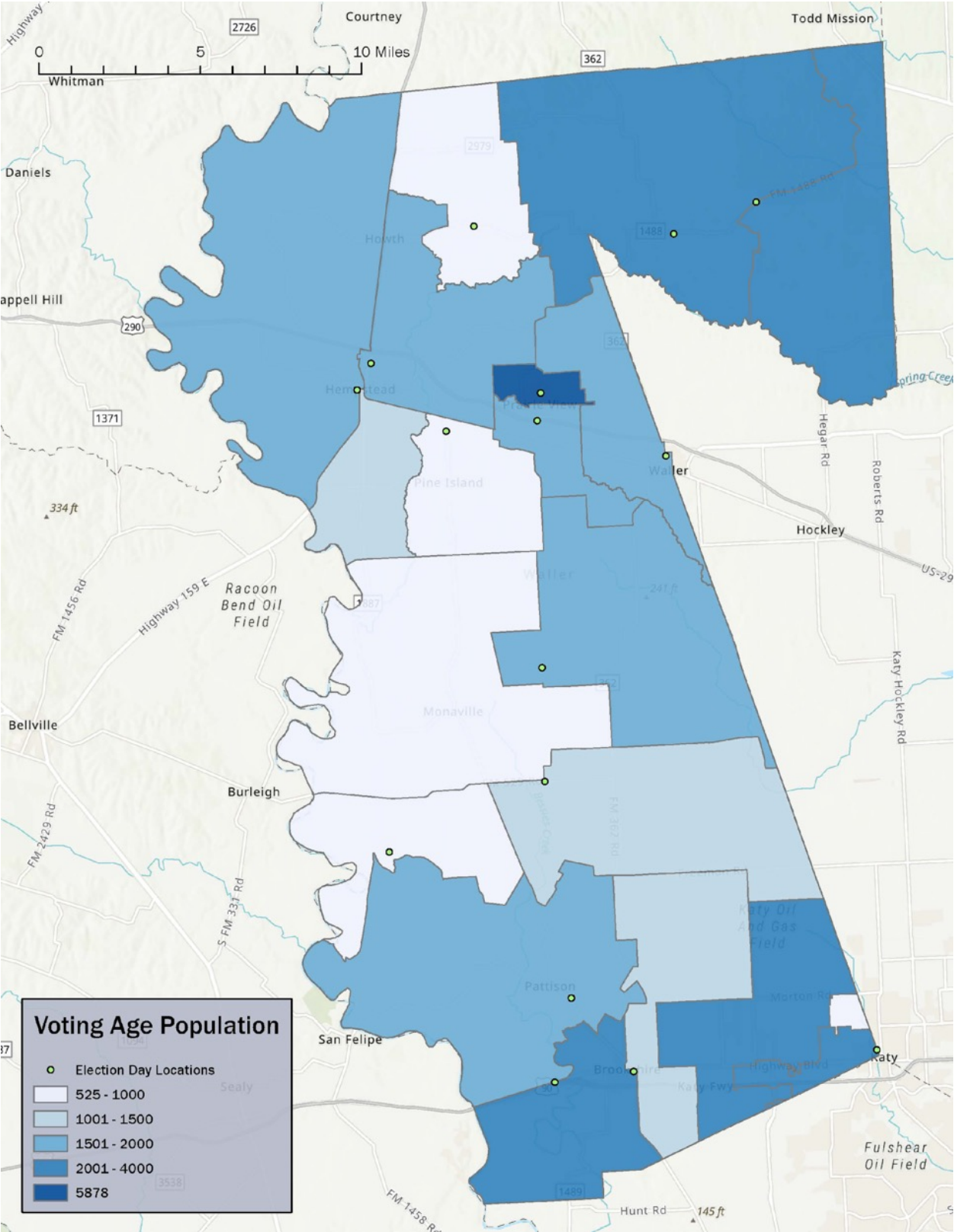


FIGURE 5A.14: ELECTION DAY POLLING LOCATIONS, WALLER COUNTY, 2022



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CHAPTER 6

BATTLEGROUND:
**CIVIC ENGAGEMENT
AND THE CRIMINAL
JUSTICE SYSTEM**

Why It Matters

The United States has a widely recognized mass incarceration problem (Nellis, 2023). Racial disparities within the criminal justice system, in which communities of color are disproportionately subject to harsh and unjust sentencing and policing practices, have been well documented (Nembhard & Robin, 2021). This means that policies that directly connect voting and the criminal justice system, like the presence (or lack) of jail polling locations, felony disenfranchisement, and criminalization of election-related behaviors, can disproportionately impact communities of color, contributing to cycles of civic disenfranchisement and marginalization.

This can have detrimental impacts both for democracy and specifically for individuals connected with the criminal justice system who are less likely to participate in social and civic activities, and, for whom, civic engagement and participation in the democratic process can promote healthy reintegration (Gutierrez & Pettit, 2018; Wood, 2009).

Since 1845, Texas has disenfranchised people convicted of felonies, maintaining lifetime felony disenfranchisement until 1983 (The Sentencing Project, 2023). As of 2022, Texas had the third highest percentage of persons convicted of felonies in the U.S. behind Florida and Tennessee. An estimated 455,160 Texans with prior felony convictions are unable to vote, resulting in the exclusion of about 2.5 percent of Texas' voting age population from participating in the electoral process. Around 63% of these disenfranchised voters in Texas are Black or Hispanic.

Additionally, more than 70,000 people are held in county jails in Texas (Flahive, 2023). Since the 1970s, the country has seen a significant increase

in the number of pretrial detainees, all of whom are legally innocent; as of 2017, nearly two-thirds of the individuals incarcerated in U.S. jails were pretrial detainees (Porter, 2020). Most of the remainder of incarcerated individuals in Texas are in jail for a misdemeanor offense. While in jail, eligible voters face distinct challenges including an absence of jail-based polling locations, limited access to registration opportunities and voting information, and obstacles in obtaining and submitting absentee ballots (Das & O'Neil, 2023).

Further complicating the intersection of civic engagement and the criminal legal system are the increased criminal penalties Texas has adopted associated with voting and elections, outlined in previous chapters. Confusion about voting laws, and possible prosecution if mistakes are made, may deter formerly incarcerated people from voting (Uggen et al., 2022). This chapter examines three key ways in which criminal justice and voting access intersect in Texas and in the Greater Houston region: voting while incarcerated, felony disenfranchisement, and prison gerrymandering.

FEDERAL LAW AND THE BROADER CONTEXT OF CIVIC ENGAGEMENT AND THE CRIMINAL JUSTICE SYSTEM

The **National Voter Registration Act**, enacted in 1993, explicitly permits states to remove individuals from their official list of registered voters for a criminal conviction. It is up to each state to determine whether and when an individual loses their right to register to vote due to a criminal conviction, as well as to outline any process for voting rights reinstatement.

No current federal law provides parameters for how or when voting rights for people convicted of a crime should be lost or reinstated. However, some members of Congress have proposed the Democracy Restoration Act. This bill, which has seen many iterations since 2008, would restore voting rights upon release for all persons convicted of a felony, regardless of whether they have completed other post-release conditions of their sentence (Petrov-Cohen, 2023). The most recent version of this bill was introduced in Congress by a representative from Texas, Rep. Jasmine Crockett, in July 2023.

The 1974 Supreme Court *O'Brien v. Skinner* ruling determined that pretrial detainees who are otherwise eligible to vote cannot be denied the right to vote simply because they are detained. In the almost 50 years since this decision, courts have focused on whether detainees have the right to vote, rather than their ability to vote (Das & O'Neil, 2023). This has resulted in what some legal experts describe as de facto disenfranchisement, the combination of misinformation, complex voting laws, and registration challenges that limit detainees' ability to vote (Wood & Bloom, 2008). Since the court did not place obligations on states with regard to detainees' ability to vote, these barriers to voting while incarcerated persist.

While federal law does not codify prison gerrymandering, a system in which incarcerated individuals are counted in redistricting as residents of the areas in which they are imprisoned rather than their home communities, even when the jail or prison is not in the same county or state, this system is based in how the decennial U.S. Census counts incarcerated individuals. The 2020 Census official questionnaire, for example, specifically states that it conducts counts in institutions and therefore asks that households not include anyone living in a jail, prison, or detention facility in their count (Census, 2020; Prison Policy Initiative, 2023).

The Census counts incarcerated individuals where they are imprisoned, rather than at their home, based on its "usual residence" rule, established by the **Census Act of 1790**, defined as where an individual spends most of the time living and sleeping (Prison Policy Initiative, 2023). However, the U.S. Census Bureau's Final Census Residence Criteria and Residence Situations (2018) outline specific other groups, such as boarding school students, who can be counted at their home address even as they temporarily live in another location. Leading up to the 2020 Census, the U.S. Census Bureau received nearly 78,000 public comments calling for the Census to similarly count prisoners at their home or pre-incarceration address.

VOTING WHILE INCARCERATED

State Policies

Eligibility Criteria

Texas Elec. §82.004 outlines parameters under which someone confined in jail is eligible to cast an absentee ballot, but provides no further guidance about the process of doing so. While all other Texas voters are eligible to vote in person, if a jailed individual is eligible to vote early, Texas Elec. §82.004 prohibits that individual from voting in person, unless approved by the jail. Outside of this specific statute, the Texas Election Code includes limited additional discussion of how state registration and voting procedures apply specifically to an individual in jail. There are several references to the address a person confined in jail may use to apply for an absentee ballot. Additionally Texas Elec. §84.009 outlines a process by which an incarcerated individual may submit their absentee ballot through the authority in charge of the jail.

Other state policies can impact the ability of incarcerated individuals to cast a ballot. For example, Tex. Elec. §84.007, discussed in more detail in [Chapter 4](#), stipulates that absentee voting applications must be submitted at least 11 days before an election. Accordingly, anyone entering jail after this deadline could only vote in person, if such an option is available (Das & O'Neil, 2023).

Texas is one of 31 states that requires return postage for mail-in ballots, so an incarcerated individual seeking to cast an absentee ballot also must be able to secure postage while in jail (NCSL, 2022). Even when an incarcerated person is able to navigate this barrier, other state level factors can impact their ability to cast a ballot. For example, in 2022, Texas' Secretary of State handed out significantly fewer voter registration applications to voter registration groups due to a paper shortage; this ultimately impacted the work of jail-based outreach teams who are reliant solely on paper documents (Das & O'Neil, 2023).

Additional relevant Texas statutes that can impact voting among incarcerated individuals are Tex. Elec. §63.0101, which requires a photo ID to vote, and its companion Reasonable Impediment Declaration process outlined in Tex. Elec. §13.002 (see [Chapter 4](#) for further discussion of these statutes). For incarcerated individuals whose IDs are often confiscated when they are booked into jail, this voter ID requirement can pose a challenge (Das & O'Neil, 2023). While the Reasonable Impediment Declaration process provides an alternative path, its form requires voters to select a reason for not having an ID from a pre-set list which does not include an option for being detained in jail. Accordingly, incarcerated Texans are left having to check an inaccurate box, which could risk additional criminal charges (Lerner, 2022).

In Greater Houston

Each county in the Greater Houston region runs its own county jail (Texas Jail Project, 2022). Table 6.1 reports the number of incarcerated individuals in each county in the Greater Houston region as of December 2023. These data are self-reported by counties and shared through the County Jail Population report collected by the Texas Commission on Jail Standards (2023). These data show that nearly 13,500 residents of Greater Houston were incarcerated at that single point in time. While the number of incarcerated individuals can vary throughout a year, these data provide some insight into how many residents of Greater Houston may be incarcerated during an election. The average stay of about 200 days in Harris County jail, by far the largest jail in the region, substantially exceeds both the state and national average (Banks & Umanzor, 2022). Approximately 80% of Harris County inmates cannot make bail (Blanck, 2023).

Of note, at this particular point in time, over 12% of incarcerated Chambers County residents were incarcerated outside of their county and therefore subject to decisions about information and access to absentee ballots made by another county's

government; likewise, over 14.5% of incarcerated Harris County residents were jailed outside of their county, and, in some cases, outside of Texas. When Harris County inmates are 'outsourced,' it often has been to jails in Louisiana and West Texas (Banks & Umanzor, 2022). A 2022 Houston Chronicle article described almost 600 Harris County inmates housed in a single prison in Louisiana at one time, at around the same time that Harris County entered into a \$25 million contract to send county inmates to a prison in West Texas to address overcrowding (Rice, 2022).

Little information is available about how counties in Greater Houston manage the processes involved with absentee voting for those incarcerated inside their county jails. Of the nine counties in the region, only Harris County offers a polling location in its jail. Harris County's pilot jail-based voting program was the first such program in Texas (Love & DeBenedetto, 2021). It is one of only eight such programs across the U.S. (Das & O'Neil, 2023).

After identifying solutions to several logistical barriers to creating a jail-based voting location, Harris County first began allowing eligible inmates in its jail to cast ballots in person in November 2021 (Scherer & Barned-Smith, 2021). Only inmates who met the following criteria were eligible to vote in the initial pilot program: qualified to vote and already registered to vote, not on probation or parole, and arrested on or after that election's 11-day pre-election deadline for requesting an absentee ballot (Awan, 2022). In the location's first election, 96 inmates out of the nearly 8,000 eligible to vote cast a ballot. While this is a small percentage of those incarcerated on Election Day, the jail also saw an increase in the number of inmates who cast an absentee ballot in that election (Scherer & Barned-Smith, 2021). Subsequently, the county has communicated that it plans to continue this program (Little, 2022).

Prior to the jail-based voting location program, only absentee balloting was feasible within the Harris County jail, as is the case for all other counties in the region. However, rather than relying only on the limited information and access related to casting a ballot that is common for incarcerated voters, Harris County began to partner with Project Orange, an advocacy group that works to register incarcerated voters, during the 2018 and 2020 elections (Scherer & Barned-Smith, 2021). Project Orange distributed voter registration forms and absentee ballot applications within the jail in advance of these elections. Over time, this partnership between the county and Project Orange has shown increases in the numbers of ballots requested and cast by people incarcerated at the jail (Barajas, 2020).

Even as Harris County appears to offer more support for voting in its jail than other Greater Houston counties, it faces issues related to local-level policy implementation that can impede access to voting for inmates. These county-level decisions include the length of incarceration (which can limit one's ability

to identify a clear voting plan or meet registration deadlines), unreliable mail in jail, confiscation of photo IDs, and a lack of processes for incarcerated individuals to confirm whether they are registered (Love & DeBenedetto, 2021; Mendelson, 2022).

TABLE 6.1 GREATER HOUSTON JAIL POPULATION (DEC. 2023)

COUNTY	POPULATION IN COUNTY JAIL	POPULATION INCARCERATED OUTSIDE COUNTY	TOTAL COUNTY POPULATION INCARCERATED
Austin	63	1	64
Brazoria	898	0	898
Chambers	152	21	173
Fort Bend	813	0	813
Galveston	834	0	834
Harris	7,876	1,344	9,220
Liberty	262	5	267
Montgomery	1,052	0	1,052
Waller	148	0	148
Total Greater Houston	12,098	1,371	13,469

FELONY DISENFRANCHISEMENT

State Policies

As noted previously, it is up to each state to determine how it navigates voting eligibility for individuals with criminal convictions. In a small number of states, people convicted of misdemeanors lose their right to vote; this is not the case in Texas, where a misdemeanor conviction has no legal impact on one's voting rights. Individuals in a few such states lose voting rights while incarcerated for any misdemeanor, while in other states, individuals lose voting rights only when the misdemeanor is related to voting (U. S. Department of Justice, Civil Rights Division, 2022). A subset of these states institute steep barriers to voting rights restoration, such as requiring a gubernatorial pardon or a petition to the state supreme court, when the misdemeanor is connected with voting.

It is more common for states to **remove the right to vote from individuals convicted of a felony**, as Texas does. Texas is one of 14 states that does not

restore voting rights until all sentencing conditions are complete, including parole and probation (NCSL, 2023). This removal of rights is embedded into the Texas Constitution; Article 6, Section 1 states that anyone convicted of a felony is considered a "class of persons not allowed to vote." Tex. Elect. §11.002 and §13.001 further stipulate that anyone convicted of a felony cannot be eligible to vote until their sentence has been fully discharged (including incarceration, parole, supervision, and probation) or they have been pardoned.

In contrast, 23 states remove voting rights from individuals convicted of a felony while incarcerated, but automatically restore voting rights upon release. Two states never remove the right to vote from a person convicted of a felony. Eleven states restrict voting rights longer than Texas, either instituting additional waiting periods after the completion of parole and probation, removing these rights indefinitely, or requiring a gubernatorial pardon (NCSL, 2023).

In addition, Texas is one of 20 states that either explicitly or implicitly require individuals convicted of a felony to pay fines, fees, or restitution before their voting rights can be restored (Campaign Legal Center, 2019). While Texas statutes do not explicitly connect such payments with the restoration of voting rights, fines and supervision fees imposed by Texas Criminal Code §43.01 must be fully paid as a condition of supervised release.

In addition to voting rights, Tex. Elect. §13.031 also **removes the right to be appointed as a county Volunteer Deputy Voter Registrar (VDVR)** from individuals convicted of a felony. Individuals convicted of a felony are ineligible to serve as a VDVR until all terms of the felony conviction have been completed, including parole and probation. Once Texans convicted of a felony have been discharged from prison, the Texas Department of Criminal Justice (TDCJ) provides a “Notice to Offenders”, letting them know that state **restores their voting rights once they complete parole and/or probation** (Smith, 2016). The Texas State Law Library (2023) hosts a website with resources specifically for individuals with a prior felony conviction who are seeking to learn about their voting rights. In 2007, the Texas Legislature passed a bill that would require TDCJ to notify individuals of their voting rights and to provide them with a voter registration card when they complete parole and/or probation, but the governor at that time vetoed the bill (House Research Organization, 2007).

In Greater Houston

Although local prosecutors often have responsibility for making decisions about which crimes to charge, the removal of voting rights is explicitly a state-level policy. Table 6.2 presents data collected by the Texas Center for Justice & Equity (formerly known as the Texas Criminal Justice Coalition [TCJC]) (TCJC, 2017a, 2017b, 2017c, 2017d, 2017e). The table reports the populations in the five largest Greater Houston counties who, as of 2016, had not yet completed all the terms of their felony conviction.

While the size of these populations likely differ at the time of this current report, these data can still offer insight into the number of people impacted by felony disenfranchisement in Greater Houston. At the time these data were reported, at least 58,553 residents of the Greater Houston area were disenfranchised due to their felony convictions

In [Chapter 3](#) we presented data on the four most common reasons voters across Greater Houston, Texas and the U.S. were removed from the voter rolls. Removal from the voter rolls due to a felony conviction is included in the EAVS response options. Table 6.3 reports the number of people with felony convictions reportedly removed from voter rolls across Greater Houston counties, Texas and the U.S. for each election year during the period 2010 to 2020.

TABLE 6.2 COUNTY POPULATIONS WITH FELONY CONVICTIONS IN GREATER HOUSTON, AS OF 2016

COUNTY	INDIVIDUALS SENTENCED TO STATE-LEVEL FELONY CONFINEMENT	INDIVIDUALS ON FELONY PROBATION	TOTAL WITHOUT COMPLETED FELONY CONVICTION TERMS
Brazoria	1,407	1,936	3,343
Fort Bend	1,121	1,983	3,104
Galveston	1,478	1,749	3,227
Harris	25,137	19,587	44,724
Montgomery	2,315	1,840	4,155

The data in Table 6.3 show a decline in the number of felons removed from voter rolls across most counties from 2014 to 2020. The exceptions are Fort Bend and Galveston counties, which have seen more variability. The state of Texas has also seen a steady decline over time, from nearly 37,000 in 2010 to less than 5,000 by 2020. It appears that 2020 was a relatively unusual year in that all counties in Greater Houston as well as Texas and the U.S. saw declines in the number of felons removed from voter rolls.

We are not able to assess whether and how Greater Houston counties provide information to, or support, individuals seeking to understand their voting rights post-release. However, the removal of voting rights and unclear or inconsistent support in restoring these rights has the potential to shape local county-level decisions, especially as people return to their home communities after incarceration. In advance of the 2020 election, Reichman (2019) calculated that over 30,000 people living in Harris County were ineligible

to vote due to incarceration, parole, or probation stemming from felony convictions. Modeling voter turnout, he estimated that restoration of voting rights could have resulted in over 3,800 additional voters in

a municipal election and over 18,000 additional voters in a presidential election. Further, he found that these disenfranchised Harris County residents live primarily in majority Black census block groups.

TABLE 6.3: NUMBER OF FELONS REMOVED FROM THE ROLLS, 2010-2020

COUNTY	2010	2014	2016	2018	2020
Brazoria	646	663	N/A	6	8
Chambers	21	N/A	4	2	2
Fort Bend	701	583	465	790	447
Galveston	1,094	85	284	80	8
Harris	1,940	8,909	N/A	5,095	48
Montgomery	5	N/A	96	30	28

Source: Election Administration and Voting Survey (U.S. Election Assistance Commission).

Note: We excluded 2012 as reporting for this year was inconsistent and included missing data

PRISON GERRYMANDERING State Policies

Given the population size differentials between Texas' large and small counties, many incarcerated Texans come from the state's largest, more diverse counties. Through prison gerrymandering, Texas counties that have a high number of individuals incarcerated outside of their county boundaries do not count these individuals towards their county population for the purpose of statewide and federal redistricting. Instead, those prisoners are included in the population counts of the smaller, more rural communities that house prisons.

Historically, states' ability to avoid engaging in prison gerrymandering has been limited by the U.S. Census Bureau. As described above, the U.S. Census Bureau initially counts prisoners where they are incarcerated; therefore, states could not reapportion incarcerated populations back to their home counties without access to a specific Census dataset. This dataset was not provided to Texas and other states within the statutory time frames required of their federal and state redistricting processes (see more details about Texas' statutory time frames for redistricting in [Chapter 9](#)) (Gonzalez et al., 2021). Beginning with the 2020 Census, however, the Census Bureau has refined its processes both to release these data in a time frame that fits Texas' redistricting processes and to provide states with a new tool to help them with

reapportionment if they so choose (Gonzalez et al., 2021)

In Greater Houston

Prison gerrymandering essentially inflates the political power of rural counties that house prisons, while decreasing the representation and political power of urban counties with higher numbers of incarcerated residents. This is the case in Texas, where analyses conducted by the Texas Civil Rights Project [TCRP] find that prison gerrymandering unfairly benefits a small group of Texas' rural counties, with negative effects on more urban areas of the state, as well as on rural regions without prisons (Gonzalez et al., 2021).

To date, the Texas legislature has not enacted any policies related to prison gerrymandering. There are no statutes that require Texas to consider inmates as residents of their prison jurisdictions (Gonzalez et al., 2021). In fact, Tex. Ann. §1.015 explicitly defines residence as a fixed place where a person will return after a temporary absence, and states that an inmate's penal institution is not considered to be their residence.

Although prisoners are counted in the community where the prison is located, prisoners are rarely connected to that community, nor viewed as part of that local community. Yet, they are still counted towards legislative representation for those counties, even as many incarcerated Texans will return to their home communities before the next census (Gonzales et al, 2021). TCRP analyses show that, by far, the largest number of incarcerated individuals, not only

in Greater Houston, but also across Texas, are Harris County residents. The eighth highest number of incarcerated individuals in the state are residents of Montgomery County, also in Greater Houston. Digging deeper into these analyses, Gonzalez et al. (2021) find that while Harris County accounts for almost 15% of the state's prisoner population, less than 2% of the state's prisoner population are imprisoned within Harris County boundaries. In contrast, the Prison Policy Initiative (2010) specifically identifies Brazoria as a county that contains a large prison population relative to its actual population.

Looking back to tables shared previously in this chapter, Table 6.2 outlines county-level data regarding individuals in jail for felonies, many of whom are likely to be housed in prisons outside of their home counties. If we then add Table 6.1 to this discussion, we see that two counties in the region, Chambers and Harris, also incarcerate portions of their jail population outside of their home county, further impacting prison gerrymandering.

Demonstrating how prison gerrymandering can distort political representation in Greater Houston, Gonzalez et al. (2021) report that Harris County lost a seat in the Texas House of Representatives in 2011 due to where the county's prisoners were counted for the purposes of redistricting. Lawmakers then combined two districts in Harris County with large Black and Hispanic constituencies to account for the lost seat, ultimately lessening the political power of these communities.

SUMMARY AND RECOMMENDATIONS

Incarcerated individuals face an array of challenges when seeking to vote. Those in county jails are typically only able to vote via absentee ballot, and face information, process, time, and even cost barriers to casting that ballot. Even in those rare counties, like Harris County, that offer in-person Election Day voting, incarcerated Texans face additional challenges connected with state laws, such as limitations to the Reasonable Impediment Declaration process and fears associated with further criminal consequences for incorrectly filling out voting-related forms. Laws and practices that specifically introduce additional barriers for justice-involved individuals disproportionately affect low-income voters and voters of color, suppressing the right to vote of these eligible citizens (Barber, 2023)

Individual Texans with felony convictions face both

explicit disenfranchisement during their sentence and additional barriers to voting post-sentence, such as difficulty finding clear and accurate information and having limited access to outreach around navigating the state's voting restoration process (D'Ostilio, 2020; Smith, 2016). Understanding one's voting rights after a felony sentence has been discharged is further complicated by Texas' criminal consequence for voting when ineligible; in 2023, the Texas Legislature upgraded this to a second-degree felony punishable by up to twenty years in prison (Brower, 2023). In the context of recent public cases like that of Texas resident Crystal Mason, who, unaware of her ineligibility, cast a vote while on supervised release and was subsequently arrested and sentenced to five years in prison (Cheng, 2023), individuals completing felony convictions would benefit from clear information and outreach from both the state and their home counties.

Further, the inclusion of both Harris and Montgomery among the state's counties with the largest numbers of convicted residents living in prison highlights the potential implications of prison gerrymandering in Greater Houston, and calls attention to the importance of exploring ways to remedy this misallocation of incarcerated individuals' representation (Gonzalez et al., 2021). The substantial percentage of individuals in both the Chambers and Harris county jail systems – without felonies – who are also housed outside of their home county compounds this imbalanced representation.

In Texas, intersections between the criminal justice system and civic engagement may be exacerbated by increasing criminalization of election-related activity, outlined in [Chapter 3](#) and [Chapter 4](#). This includes increased risk of charges for election-related conduct previously not viewed as an infraction, such as sending an absentee voting application to someone who didn't ask for one, or new penalties associated with language assistance

Recommendation 1: Expand jail-based voting access and outreach across the region

As this chapter outlines, individuals who are incarcerated face specific and unique barriers to voting access that can essentially function as de facto disenfranchisement (Das & O'Neil, 2023). Without intentional outreach efforts to support potential voters who are incarcerated, these individuals may struggle to confirm voter registration or eligibility and to access information and paperwork needed to cast a ballot (Barajas, 2020; Das & O'Neil, 2023). Intentional efforts to expand voting access to incarcerated

individuals across Greater Houston can be bolstered through the kind of volunteer-based county-community partnership implemented in recent years in the Harris County jail between Harris County and Project Orange that helps individuals in jail obtain and cast an absentee ballot (Barajas, 2020). As Das and O'Neil (2023) note, however, these partnerships require the commitment of both community partner organizations and jail leadership.

As such initiatives grow, counties in Greater Houston also may want to consider implementing pilot programs parallel to the jail-based voting location recently adopted in Harris County. As contemporaneous reports suggest, the Harris County sheriff's office worked extensively with the county elections office and Project Orange to navigate logistical challenges before opening this location (Scherer & Barned-Smith, 2021). These planning processes and identified solutions can be instructive for other counties in the region.

Recommendation 2: Add a detained-in-jail option to the Reasonable Impediment Declaration form

Even where in-person jail-based voting is possible, as in Harris County, the state's voter ID law can pose a challenge for incarcerated individuals whose IDs are not in their possession while incarcerated. Multiple sources, both in Harris County and in a broader set of reports and analyses, suggest that the lack of voter ID is a barrier to voting for incarcerated individuals (Das & O'Neil, 2023; Lerner, 2022; Love & DeBenedetto, 2021).

Texas has a mechanism – the Reasonable Impediment Declaration form – that enables a voter to cast a ballot without a voter ID. However, this form requires voters to select a reason from a pre-approved list as to why the voter does not have their ID. Because this form does not include detainment in jail as an option, it is difficult for an incarcerated individual to complete this form accurately, creating fears that the voter may be risking further criminal penalties. The easy fix of adding detainment in jail as an option can help reduce this barrier.

Recommendation 3: Explore legislation to end prison gerrymandering in Texas

As outlined in this chapter, U.S. Census Bureau data release processes have recently changed, opening up the possibility for states to revisit whether prison gerrymandering should remain part of their redistricting processes. These changes stemmed from

large-scale public comment from across the country demonstrating substantial concerns about prison gerrymandering. Shifting redistricting processes in Texas to count prisoners in their home districts would allow prisoners to be represented by elected officials accountable to, and reflective of, their home communities.

As of 2021, 16 states had begun to take action to shift away from prison gerrymandering in federal and state redistricting (Fenster, 2021). Interestingly, at least 14 Texas counties that house large prison populations have previously not calculated inmates when drawing local county-level districts; this is because some of these counties would have ended up with commissioners precincts comprised almost entirely of inmates (Prison Policy Initiative, 2010). Further action in Texas can build both on national momentum to change this approach (Prison Policy Initiative, n.d.), as well as from these models we already see in local Texas communities, as the state prepares for the 2030 Census.

Recommendation 4: Adopt clear and consistent state and county mechanisms that provide outreach and information about rights restoration to previously convicted felons

Anecdotal information suggests that large numbers of Texans formerly convicted of felonies, as well as many community organizations that serve this population, are not aware that they regain eligibility to register to vote after their sentence is discharged (becoming "off paper") (Smith, 2016). Individuals with felony convictions may be less likely to register and vote even after their voting rights have been restored, underscoring the need for more state and county efforts to increase their participation in democratic processes (Lewis & Calderón, 2021).

As Wood and Bloom (2008) outline, even state and local election officials can struggle to understand eligibility rules and registration procedures for people who have received criminal convictions, in some cases, sharing inaccurate information that can prevent eligible individuals from casting a ballot. In a challenging information environment, formerly convicted individuals can struggle to access clear and accurate information about their voting rights (D'Ostilio, 2020). Clear, easily accessible notice when individuals are eligible to register and vote after their sentences are discharged, training for election and criminal justice staff about this aspect of state law, and voter registration support from staff involved with supervised release are mechanisms that experts in

this area recommend to help facilitate access to voting for this population (Wood & Bloom, 2008).

Recommendation 5: Loosen felony disenfranchisement laws

Changes to Texas law that make it easier for voters to have their rights restored – and that improve communication about these rights – would enable more Texans to participate in democratic processes. Currently, 23 other states remove voting rights, but automatically restore those rights as soon as an individual completes their jail time. Automatic rights

restoration after completion of jail time might be a realistic step for Texas, and is also consistent with the approach taken by the proposed federal Democracy Restoration Act (Brennan Center for Justice, 2023).

Texas might also review the fines and supervision fees related to supervised release that, in effect, require a formerly incarcerated individual to be able to afford to pay fees to the state before their voting rights can be restored (Campaign Legal Center, 2019). The majority of U.S. states do not either explicitly or implicitly require fees to be paid before a voter's rights can be restored.

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CHAPTER 7

BATTLEGROUND:
**YOUTH CIVIC
EDUCATION
AND VOTING**

Why It Matters

Youth civic engagement refers to the ways in which young people express their civic opinions, support causes they care about, solve community challenges, and actively participate in our democracy. This is of particular significance in Texas, home to one of every 10 young people in the U.S. under the age of 18 (Garza et al., 2020). Between 2010-2020, a time when the nation's youth population decreased, Texas saw the nation's second highest youth population growth. Through 2050, the Texas Comptroller projects that Texas' youth population will continue to grow at a much higher rate than that of the country as a whole.

Analyses conducted by the Center for Information and Research on Civic Learning and Engagement (CIRCLE), a leading research center studying youth civic engagement, find recent increases in the rates of Texas youth registering and voting in midterm elections (Booth, 2022). Registration rates among Texas youth ages 18-24 increased by 12% between 2018 and 2022. Comparing voter turnout in midterm elections in states where age-specific voter file data was available, Texas was ranked 39th in 2014 (8.2% of eligible voters voted), 26th in 2018 (25.8% of eligible voters voted), and 21st in 2022 (21.5% of eligible voters voted). As a point of comparison, in the most recent 2022 midterm election, turnout among eligible youth voters across states ranged from a low of 12.7% (Tennessee) to a high of 36.5% (Michigan).

Even with recent increases, in all three of the most recent midterm elections, Texas' youth voter turnout fell below the turnout rate for the U.S. as a whole (Booth, 2022). Similarly, in the 2020 presidential election, Texas' youth voter turnout rate was one of the lowest in the country, despite a large overall increase in the state's overall youth turnout (CIRCLE,

2019).

Based on over two decades of research on youth civic engagement, CIRCLE has characterized types of state policies as facilitative or restrictive for youth participation in the electoral process (CIRCLE, 2022a). Facilitative policies are identified as those that expand access, are efficient, and are equitable; these include pre-registration, same-day registration, automatic voter registration, online registration, high school-based registration, voting by mail, and electoral opportunities prior to age 18 (like voting in primaries or serving as election clerks). Restrictive policies are those that limit access and create barriers and confusion for youth participating in the electoral process. de Guzman et al. (2022) finds that states with facilitative policies tend to have higher youth turnout, while states with more restrictive measures can have lower youth participation. For example, CIRCLE (2021b) suggests Texas' comparatively low turnout rate in 2020 may be linked to the absence of facilitative election policies (e.g., online voter registration and expanded absentee ballot access) that can support youth turnout.

FEDERAL LAW AND THE BROADER CONTEXT OF YOUTH CIVIC ENGAGEMENT IN THE U.S.

The 26th Amendment to the U.S. Constitution, ratified in 1971, lowered the right to vote in all U.S. elections to age 18. This Constitutional change built upon a series of other changes over the past several decades, including: Congress lowering the minimum military draft age to 18 in 1942; some individual states lowering the voting age to 18 in state and local elections in the ensuing years; and Congressional passage in 1970 of an amendment to the Voting Rights Act (VRA) lowering the federal, state, and local voting age to 18. Congressional passage of this VRA amendment triggered lawsuits from a range of states including Texas (Rock the Vote, 2023).

In its 1970 *Oregon v. Mitchell* ruling stemming from those lawsuits, the U.S. Supreme Court determined that Congress did not have the power to lower age requirements for state or local elections, as it had done in amending the VRA. Soon after, Congress sought an alternative path, proposing the **26th Amendment**. It was quickly ratified by the states, and youth aged 18 and older became eligible to vote in all

U.S. elections (Rock the Vote, 2023). Still, because the federal government has limited power over elections, states and local jurisdictions can make individual decisions to further lower their voting age. In recent years, some cities have lowered the voting age in municipal elections to 16, while several states – not Texas – allow 17 year olds to vote in primary elections (National Youth Rights Association, 2023).

Major federal laws discussed elsewhere in this report, including the **Voting Rights Act** and the **National Voter Registration Act**, govern the election processes in which young people engage. At the federal level, a Youth Rights Voting Act bill was introduced in both the U.S. House and Senate in 2022. This bill would seek to strengthen access to voting for young people through mechanisms such as designating higher education institutions as voter registration agencies, requiring polling locations at colleges and universities, and requiring states to allow student IDs to meet voter ID requirements (Warren, 2023).

Because the federal government has limited power over elections, states and local jurisdictions can make individual decisions to further lower their voting age. In recent years, some cities have lowered the voting age in municipal elections to 16, while several states – not Texas – allow 17 year olds to vote in primary elections (National Youth Rights Association, 2023)

CIVIC ENGAGEMENT OPPORTUNITIES PRIOR TO AGE 18

State Policies

Civic Education

K-12 schools are a critical space in youth's lives, providing them with the opportunity to learn about voting and elections (Kiesa et al., 2022). Civic opportunities in these settings are especially critical given that less than half of young people will pursue higher education (CIRCLE, 2023a). However, students are exposed to school-based civic education to varying degrees, with research finding that students in rural areas and those from lower socioeconomic backgrounds report less exposure to civic education in their schools.

Coursework

Within K-12 schools, one way youth are exposed to civic engagement is through coursework (Kiesa et al., 2022). Texas statute outlines specific educational standards that the state's public schools must teach to K-12 students. Tex. Educ. §4.001, §28.002, and Tex. Admin. Code §113.12-.44 spell out these different standards for social studies, with requirements that school districts educate students about citizens' rights, participating in civic life, and participating in voting and electoral processes. The Texas Essential Knowledge and Skills (TEKS) for Social Studies were supposed to be fully revised in 2022; however, controversies around the content of these standards ultimately resulted in the State Board of Education delaying a more comprehensive update and instead adopting a smaller set of changes to go into effect for the 2024-2025 school year. Specific to voting and civic participation, these new grade-level TEKS standards (Texas Education Agency [TEA], 2023) include:

- + 1st – 3rd grade: “identify characteristics of good citizenship, including...participation in government by educating oneself about the issues, respectfully holding public officials to their word, and voting.”**
- + 7th grade: “explain civic responsibilities of Texas citizens and the importance of civic participation.**
- + 8th grade: “identify examples of responsible citizenship, including... staying informed on public issues, voting” “understands the importance of voluntary individual participation in the democratic process”**

- + High school: “explain the responsibilities, duties, and obligations of citizenship such as... voting;” “describe the voter registration process and the criteria for voting in elections**

During the 2021 legislative session, the Texas Legislature amended Tex. Educ §28.0022, with direct implications for the ways in which Texas students can learn about civic participation through coursework. Through HB 3979, the legislature explicitly introduced new restrictions on the types of civic participation for which students are permitted to receive course credit (including extra credit), and that teachers are permitted to incorporate into courses. This statute now prohibits schools from allowing students to engage in activism or direct persuasive communications with elected or executive branch officials at any level of government as part of a course, even when voluntarily selected by the student. It also prohibits course-based participation in internships that involve social or public policy advocacy.

Statewide Mock Election

Outside of classroom education, Texas offers an optional civic education mechanism through which students may learn about electoral processes within the school setting. Through a partnership with Project V.O.T.E., a national nonpartisan civic education nonprofit, the Texas Secretary of State (TXSOS) implements a statewide school-based mock election program (TXSOS, 2022). Schools are encouraged to participate in mock elections; a TXSOS website provides resources to school staff and an after-election tally of how students across the state voted in the mock election. Previously, partner schools were listed on a designated Secretary of State mock elections website, but this listing is not currently available.

GOTV in Schools

Seven states directly mention school-based “Get out the Vote” (GOTV) activities in schools as permitted in their statutes, with some of these requiring GOTV activities to take place in schools; Texas is not one of these (CIRCLE, 2023c).

Historically, some Texas schools supported youth voting by providing student transportation to polling locations. Following an effort by Texas Educators Vote, a non-partisan advocacy organization, to encourage school boards to authorize the utilization of district vehicles to transport students and/or employees to polling locations (Swaby, 2018), the Attorney General

determined in a 2018 opinion (KP-0177) that public funds could not be used to support transporting students or employees to polling locations (Texas Attorney General, 2018). Putting an end to this practice, the Attorney General argued that there is no explicit academic purpose for transporting students to the polls, and therefore spending school district funds in this way violates the Texas Constitution and is not permitted.

Student Election Clerks

Texas is one of 44 states, plus the District of Columbia, in which youth are permitted to serve as poll workers (CIRCLE, 2023c). Despite widespread adoption of youth poll worker policies across the U.S., in only a small number of states do youth constitute more than five percent of a state's poll workers. Texas is one of just six states where this is the case. As of 2022, California had the highest percentage of youth poll workers, with 13% of poll workers under age 18.

How states approach their youth poll worker programs differs. In some states, youth can be appointed as poll workers as early as 15 years old, in others, not until they are 17 (American Constitution Society [ACS], 2018). Tex. Elec. §32.0511 outlines that Texas student poll workers must be at least 16 years old. Prerequisites vary across states as well, with some states introducing requirements like minimum grade point averages. According to Tex. Elec. §32.0511 and §83.012, prerequisites for Texas youth poll workers are U.S. citizenship, completion of a county training program, attendance at a public or private secondary school or be home-schooled, and consent from either their school principal or parent/guardian if home-schooled (TXSOS, 2020). Students must also complete and submit an application to county election officials.

A Texas student may be excused from school for serving as an election clerk for up to two days within a school year (TXSOS, 2020). Tex. Educ. §33.092 allows a student to apply time spent as an election clerk toward a school project or advanced academic course service requirement at the discretion of a teacher or sponsor. Tex. Elec. §32.0511 requires student election clerks to be compensated, as other election clerks are; this contrasts with a small number of other states that limit or prohibit youth poll worker compensation (ACS, 2018).

Several states place limits on how many youth poll workers may serve at a polling location; in some cases, this limit is as low as one student at a precinct, in other cases, this may be as high as five (NCSL, 2020). In Texas, each early voting polling location may have up to four student election clerks and each Election Day location may have up to two student

election clerks (Tex. Elec. §32.0511; §83.012).

In Greater Houston

Civic Education

In Greater Houston, there are over 60 different school districts, in addition to a large number of charter schools and private schools (Greater Houston Partnership, n.d.). Over 1.3 million students are enrolled in public schools and charter schools across the nine-county region. With this large number of districts, we were not able to conduct county-level analyses of how civic education is taught in Greater Houston, or analyze how HB 3979 is being implemented across schools and districts in the nine-county region. With participating school districts no longer listed on the TXSOS mock elections website, we also cannot assess how widespread participation in this program is across the region.

Student Election Clerks

In Greater Houston, just four counties specifically address student poll workers in their elections websites: Brazoria, Galveston, Harris, and Liberty. The remaining five counties do not appear to include any mention of student poll workers on their county elections sites, although Fort Bend ISD includes a link to the TXSOS student election clerk application on its website. Among the counties that provide information on this program, the information varies, as outlined in Table 7.1.

Of note, connected to the language accessibility analyses in [Chapter 8](#), Harris County's student election clerk application specifically asks students whether they are fluent in Mandarin Chinese, Spanish, or Vietnamese. The TXSOS permission form linked by the other counties does not request this information.

Prior to 2019, Harris County had struggled to hire substantial numbers of interested students because Texas law allows precinct judges to hire their own poll workers, and these judges were hesitant to hire unfamiliar student workers (Longoria, 2021). To strengthen student involvement in elections and respond to growing technology needs at polling locations, Harris County created a new Electronic Support Specialist Program and recruited and trained students specifically for this new function. As Longoria (2021) explained, the county sought to hire a student specialist for every polling location with an emphasis on recruiting students with Chinese, Vietnamese and Spanish fluency. This has resulted in increased student worker applications and increased hiring of student workers during early voting and Election Day. The Harris County Elections

Administrator's office won a national award for this program (U.S. EAC, 2022).

Previously reported in Table 4.13, we share here relevant EAVS data focused on the percentage of poll workers either under 18 or between 18-25 years old in the 2016, 2018, and 2020 elections. These

data highlight the apparent impact of targeted youth worker recruitment efforts in Harris County. Interestingly, Chambers County, which does not currently mention student election clerks on its county elections website, saw a substantial increase in young poll workers in 2020.

TABLE 7.1: INFORMATION REGARDING STUDENT POLL WORKERS ON COUNTY WEBSITES

	COUNTY ELECTIONS WEBSITE INCLUDES INFORMATION AND/OR OUTREACH TO RECRUIT STUDENT POLL WORKERS
County	Student Poll Worker Information
Brazoria	<ul style="list-style-type: none"> • Separate heading for "Student Poll Workers" at bottom of poll worker page • Lists requirements: 1) able to attend training at specific single location, 2) able to work 14-hour day, 3) permission forms from principal and parents • Link to TXSOS information, FAQs, permission form
Galveston	<ul style="list-style-type: none"> • Separate tab for "Student Poll Worker" under poll workers menu • Link to TXSOS information page
Harris	<ul style="list-style-type: none"> • Separate section for "Student Election Workers" under election workers menu • Lists description, benefits, responsibilities, qualifications • Explicitly discusses student election workers serving as interpreters • Link to county-specific application form (includes question about language fluency)
Liberty	<ul style="list-style-type: none"> • Includes link to "Student Election Clerk Information" under "Sign up to help with elections" section • Link to TXSOS information page

TABLE 7.2: PERCENT STUDENT POLL WORKERS AND POLL WORKERS 18-25 YEARS

COUNTY	2016	2018	2020
Brazoria	N/A	N/A	8.1%
Chambers	7.5%	N/A	13%
Fort Bend	N/A	3.9%	N/A
Galveston	N/A	0.8%	N/A
Harris	N/A	8.3%	25%

Source: Election Administration and Voting Survey (U.S. Election Assistance Commission).

YOUTH VOTER REGISTRATION

State Policies

CIRCLE's (2022a) identification of state policies that are facilitative of youth participation in the electoral process include several policies specifically focused on voter registration: pre-registration, same-day registration, automatic voter registration, online registration, and high school-based registration.

Facilitative Registration Timelines and Processes

With the goal of increasing youth turnout, state pre-registration laws allow young people to register to vote before they turn 18. Pre-registration enables young people to be prepared to vote at the time when they are eligible to vote in their first election. State policies on pre-registration vary widely. Currently, 17 states and Washington, D.C. allow youth to pre-register once they turn 16 years old, and three states allow pre-registration beginning at age 17 (National Conference of State Legislation [NCSL], 2023b). An additional 24 states do not explicitly set a minimum age in statute, and instead permit youth to register at the point when they will turn 18 by the next election (usually referring to the next general election).

The remaining six states, of which Texas is one, set other specific ages when youth may register (NCSL, 2023b). Of these, Texas is the latest, allowing youth to pre-register beginning at 17 years and 10 months, as outlined in Tex. Elec. §13.001.

[Chapter 3](#) outlines the state policy landscape as relates to registration processes, including the automatic and online voter registration that CIRCLE (2022a) suggests are facilitative for youth voting. Unlike 24 states and Washington D.C., Texas does not offer automatic voter registration, a process in which citizens are automatically registered to vote when they use specified state agency services (typically the department of motor vehicles) (NCSL, 2023a). Texas is one of just eight states that does not offer fully online voter registration, and is one of nine states with the strictest voter registration deadline allowable under federal law. By way of contrast, Michigan introduced automatic voter registration in 2019, along with online voter registration and same-day registration, and subsequently witnessed a substantial increase in youth voter registration between 2018 and 2022, and the highest nationwide youth turnout in the 2022 elections (CIRCLE, 2023b).

Voter Registration in High Schools

Texas is one of 24 states, plus Washington, D.C., that specify that schools can serve as sites where voter registration takes place, and one of 23 states that specifically identify schools as a site for voter registration activities within state law (CIRCLE, 2023c). Texas is also one of 16 states in which state statute specifically addresses making voter registration forms available in schools.

Texas has a high school voter registration law which has been in effect for approximately 30 years, outlined in Tex. Elec. §13.046 and Tex. Admin. Code §81.7. In every Texas public and private high school, the principal or designee is identified as a deputy registrar in the county where the school is located. State law requires this individual to distribute applications twice a year to every student who will be 18 or older during that semester, and to receive and review completed applications. This deputy registrar must provide a form letting students know they may return the application directly to the deputy registrar, or deliver it on their own to the county voter registration office. Each deputy registrar must deliver any applications they receive to the county registrar within 5 days of receipt; failure to do so constitutes a Class C misdemeanor.

Of note, Texas law does not require the TXSOS to proactively provide voter registration application forms to high schools; instead each school's voter registrar is asked to request application forms directly from the TXSOS, via either a mail or online request. TXSOS affixes a special code to the high school voter registration form it distributes; however, schools are also not required to track the source of the forms they use (i.e., whether they are from TXSOS, from third party organizations, or secured directly from the county registrar). State law does not require TXSOS to monitor if and how high schools implement this law (Common Cause Texas, n.d.).

Texas has seen some recent legislative efforts that have proposed to eliminate the high school voter registration program. For example, during the 2021 legislative session, H.B. 1026 proposed to eliminate this program and repeal existing election code provisions for high school volunteer deputy registrars; however, this bill was left pending in committee.

In Greater Houston

Facilitative Registration Timelines and Processes

Policies surrounding pre-registration and the timelines and mechanisms by which young people can register are determined at a state level. [Chapter 3](#) outlines some of the differences we identified across the Greater Houston region in terms of how residents register to vote and how the counties provide information about registration eligibility and processes to county residents, including young people.

In terms of pre-registration, four Greater Houston counties include eligibility content directly on their elections websites that informs residents that they can register at 17 years and 10 months: Brazoria, Chambers, Harris, and Montgomery. On the eligibility criteria listed on Galveston's voter registration site, residents are told they must be 18 on Election Day to register, but they are not notified that they can specifically register beginning at 17 years and 10 months. No other county's elections website addresses pre-registration.

Voter Registration in High Schools

School principals or their designee are identified as deputy voter registrars of the county in which they are located; however, we were unable to find any information about how these school-based deputy registrars interface with local county voter registrar or elections offices in Greater Houston.

Individual principals are responsible for implementing Texas' high school voter registration law, and they may or may not be encouraged to comply by their local school districts. The extent to which high schools comply seems to vary each year. Common Cause (2023) found that just 18% of high schools across the state requested voter registration applications from TXSOS in 2021-22. A statewide analysis conducted by the University of Houston Election Lab focused on several prior years and found that about one-fourth of public high schools in Texas offer voter registration to eligible students at least once (Rottinghaus et al., 2021). Most likely to comply with this law are high schools with larger average social studies class sizes, while high schools with higher percentages of English language learners or female students, two groups who have been historically marginalized from the voting process, are less likely to comply (Rottinghaus et al., 2021).

Implementation of this law appears to be more prevalent in some areas of the Greater Houston region. According to Rottinghaus et al. (2021), the Houston Education Service Center, encompassing

much of the nine-county Greater Houston area (Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Waller), is the state Education Service Center most compliant with this law. Looking at the map that the Own Our Vote (2020) coalition hosts on its website of high schools that complied in 2019-20, however, just two high schools in Liberty and no high schools in Austin County appear to have requested forms from the SOS office in 2019-2020.

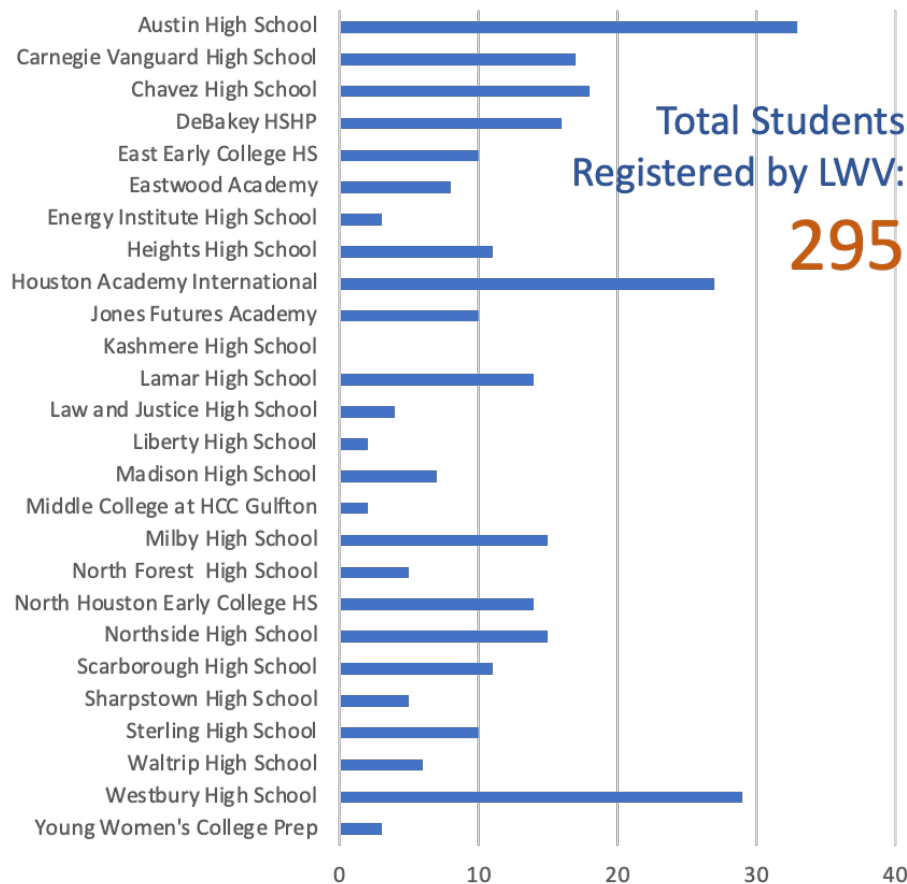
In a recent Education Week article, a Fort Bend ISD administrator described that principals receive little guidance about how to implement this law, nor is there a system that supports implementation (Schwartz, 2022). In response, the district created a centralized system to track voter registration plans at individual schools and implemented a district wide messaging campaign to encourage school participation.

TCRP identified Harris County as having high rates of compliance with the state's high school voter registration law during the 2019-20 academic year, in part because of its partnerships with community grassroots organizations (Gomez, 2020). For example, a 2022 Houston Public Media article reported on a partnership between HISD and the League of Women Voters of Houston to support week-long voter registration efforts at 39 HISD schools (Zuwanich, 2022). Prior to the start of the 2022 school year, the HISD Chief Engagement Officer contacted the League of Women Voters and asked if they would oversee voter registration in 40 HISD high schools during the fall semester. The League agreed and recruited coordinators for each school and worked to fill in volunteer slots for all 40 schools. Coordinators contacted principals to make arrangements and oversaw logistics for the registration events in their high schools.

During the first week of school, August 22-26, the League held registration events in 39 of the 40 high schools and collected 400 completed long form registrations from HISD high school students, while also giving out 265 short forms. Marschall and Zarate (2022) contacted LWV VDVR coordinators at 32 schools after their registration events via phone interview or short survey. Figure 7.1 reports the number of students registered by school.

The fact that the LWV was able to secure the cooperation of principals to schedule voter registration events in 39 of 40 high schools during the first week of classes demonstrates the potential of grassroots community organization partnerships together with the support of district officials to conduct voter registration events with high schools. Key findings from coordinators include that tabling

FIGURE 7.1: NUMBER OF STUDENTS REGISTERED BY HIGH SCHOOL AT LWV REGISTRATION EVENTS, AUGUST 2022



Source: Marschall & Zarate (2022)

in the cafeteria was by far the most popular format for these events, with 81% of events happening in the cafeteria. Volunteer coordinators reported that in 85% of schools, someone was there to meet them when they arrived, and that in 70% of schools, faculty or staff made an announcement and/or actively encouraged students to get registered.

Based on the interviews with LWV coordinators, there were several lessons learned that may be informative for other school-organization partnerships to support high school voter registration:

- + Advance planning and notification to students and parents about when the registration event will occur and what information students need to register can ensure that more eligible students have the necessary drivers' license or Social Security information to be able to register during HSVR events.**
- + In addition to registering voters on site, LWV VDVRs were able to give out many short**

forms, as well as materials about becoming poll workers. Having more than one volunteer at each table can facilitate these important civic education opportunities and enable students to ask questions and get additional materials.

- + Pre-planning to have Spanish speaking VDVRs available is essential for schools where a large share of students are English language learners.**
- + In many schools, teachers and staff were very supportive of the LWV VDVRs, suggesting the importance of buy-in from school administrators in order to sustain efforts like this over time.**
- + Future fall campaigns should take place closer to the registration deadline to allow more students to be old enough to be eligible to register. Hosting a second event in the spring is also critical since many more high school students will be 18 in their second semester of their senior year.**

YOUTH VOTING

State Policies

CIRCLE (2022a) also identifies several state policies focused on casting a ballot that it characterizes as facilitative of youth electoral participation. These include options for voting by mail and opportunities to vote in primaries prior to age 18. Fair Elections Center and Campus Vote Project (2022) outline a number of additional policy areas that can also support youth voting, including voter ID laws that include student IDs, supportive residency rules, and on-campus polling locations.

Facilitative Voting Timelines, Processes, and Residency Requirements

Nineteen states and Washington, D.C. permit youth under age 18 to vote in the primary election prior to the general election at which they will first be 18 years old. While young people in Texas can pre-register before they turn 18, they are not permitted to vote in primary elections before they turn 18.

[Chapter 4](#) outlines the state policy landscape as it relates to absentee and mail-in voting. Texas does not permit “no excuse” mail-in voting, in contrast to 27 states and Washington, D.C., plus the eight states where all registered voters are automatically sent mail ballots (NCSL, 2022). Three of the eight states that automatically sent mail-in ballots to all registered voters (Colorado, Oregon, and Washington) had among the highest youth turnout in the 2022 midterm elections (CIRCLE, 2023b).

In terms of residency requirements to vote, Tex. Elec. §1.015 specifies that one must be a resident of the county in which one seeks to register to vote. “Residence” is defined as a home or fixed place to which a person plans to return after any brief absence, not a place where one is living temporarily without planning to make it their home. Interestingly, the 1979 Supreme Court case (*Symm v. United States*) that establishes college students’ right to register and vote where they attend college if they so choose originated in Greater Houston; the lawsuit was filed after a voter registrar refused to register students living on campus at Prairie View A&M in Waller County, unless they proved intent to remain in the county after graduation (Ge, 2023).

In the Texas Attorney General’s (2004) Opinion GA-0141, the Texas Attorney General relies on judicial precedent to further clarify that state determination of “residence” relies both on physical presence in a county and the applicant’s intention to make that “residence” home. Accordingly, if a Texas student is physically present at college and intends to make the county in which they are attending college their home,

then the student may register at that location. If the student intends to remain elsewhere in the state (i.e., a parent’s home), then the student is expected to register at that address instead and may request an absentee ballot from that locality.

Voter ID Requirements

Tex. Elec. §63.001 specifies that an in-person voter must present an approved form of identification in order to vote; these required IDs are discussed in more detail in [Chapter 4](#). The approved forms of ID, outlined in Tex. Elec. §63.0101, do not include a school or university ID card. Of the 35 states that require voter ID, 23 states explicitly list student IDs as an acceptable form of ID when voting; the remaining 15 states do not require an ID to vote (Campus Vote Project, 2023). This means that Texas is one of 12 states that require voter ID, but do not permit use of a student ID.

Across the states that accept student IDs, there are varying requirements placed on these IDs, related to which institutions’ IDs are accepted, whether the ID includes an expiration date, and whether the ID includes the student’s photo (Campus Vote Project, 2023). Of the 12 states that do not permit use of a student ID to vote, six are considered “strict voter ID” states, where a voter’s identity cannot be verified using alternative (non-ID) means. Texas is one of these.

College Polling Locations

Prior to 2019, state law permitted Texas counties to host temporary early voting sites that moved around to different locations in the county during early voting. This offered short periods of early voting in locations where a county might have found it difficult or costly to maintain a site throughout early voting. In some counties, this allowed counties to open polling locations on college campuses for one or more days during early voting. HB 1888, passed by the legislature in 2019, eliminated temporary voting locations, as legislators argued that counties had abused this option to selectively prioritize some voters in some elections.

Polling locations on college campuses are permitted in Texas; in recent years, there have been a series of bills proposed in Texas and elsewhere focused on polling locations on campus. In Texas, we have seen contrasting legislative attempts to both restrict and expand polling locations. For example, during the 2023 legislative session, H.B. 2390 sought to prohibit polling locations on college campuses throughout the state, while H.B. 644 sought to require college locations with more than 8,000 students to have at least one polling location (Noel, 2023).

In Greater Houston

Facilitative Voting Timelines, Processes, and Residency Requirements

Policies surrounding voting timelines and processes for casting a ballot are determined at a state level. Some of the differences in how Greater Houston counties implement these policies are outlined in [Chapter 4](#). We also outline the minimal differences in how counties in Greater Houston provide information about voter identification requirements, with only Waller County not informing voters of these requirements on its county election website.

In [Chapter 4](#), we also outline how counties share information about how young people may participate in absentee balloting if they are temporarily living away from their declared permanent residence. Confusion about how college students can navigate issues around residence have arisen in Greater Houston, particularly in Waller County. For example, during the 2018 midterm elections, large numbers of students living on campus at Prairie View A&M in Waller County had been given incorrect information about which campus address to use on their registration applications when initially registering to vote (Zdun, 2018a). Students had been instructed to use one of two campus shared addresses; however, one of these addresses was located in a different precinct than where the students lived on campus. Students were subsequently informed that they could not cast a ballot in the appropriate precinct without completing a change-of-address form. As controversy grew over the additional paperwork requirements that some feared would harm student turnout, the Texas Secretary of State ultimately determined that the students did not need to complete change-of-address forms.

College Polling Locations

A Texas Tribune analysis notes that just half of Texas' 36 public universities offered an on-campus early voting location during the 2022 midterm elections, and that only two (approximately 20%) of the HBCUs in the state had early voting locations (Nguyen, 2022). A slightly higher percentage, 55%, of public universities and four HBCUs hosted polling locations on Election Day 2022. In our review of polling locations in the Greater Houston region, we found that Galveston, Harris, Montgomery, and Waller had each assigned polling locations to at least one public community college or four-year college/university sites in recent years.

Table 7.2 includes a list of Election Day polling locations on college campuses for general elections taking place in November 2016–2020. Over these

three elections, there has been a steady increase in the number of polling locations on college campuses: from 9 (2016) to 12 (2018) to 25 (2020). In addition, only two counties in Greater Houston had polling locations on college campuses in 2016 (Harris and Waller), however, in 2018, two additional counties added campus polling locations (Galveston and Montgomery). In 2020, Waller County did not operate the polling location at Prairie View A&M University that had been open in the prior two elections.

In Greater Houston, issues involving polling locations on college campuses have emerged particularly in two counties. Students at Prairie View A&M, an HBCU in Waller County, have advocated for decades for voting rights – whether related to the voter registration denials and residence issues described above, countering charges of illegal voting, limiting voter registration drives, or cutting early voting locations in and near the campus (Ge, 2023). Following these many decades of advocacy, Prairie View A&M first achieved a voting location on campus in 2013 (Hamilton, 2013).

During the 2018 election, however, concerns emerged again over limited access to early voting on campus (Zdun, 2018a). Five students at Prairie View A&M, represented by the NAACP Legal Defense and Educational Fund (LDF), filed a federal lawsuit against Waller County, alleging that their voting rights were being suppressed in a discriminatory manner and in violation of the Voting Rights Act and the U.S. Constitution, when the county offered no first-week or weekend early voting hours on campus or in the predominantly-Black city of Prairie View where the college is situated (Ura, 2018). After the suit was filed, the county expanded some campus early voting hours for the remainder of that election (Zdun, 2018b); however, in 2022, a federal district court ruled against the students (Legal Defense Fund, 2022). While the case was winding through the court system, Waller County opted not to place an early voting location on campus during the 2020 presidential election (Felton, 2020).

Challenges involving campus polling locations in Texas are not exclusive to Waller County, and have emerged in other counties with a substantial college/university presence (Barajas, 2022). Until 2019, Harris County was home to the largest university in the state without an early voting polling location and to a major HBCU that also lacked voting access (Pritzker et al., 2019). While early voting and Election Day locations were placed on the campuses of both the University of Houston and Texas Southern University in 2019, long polling lines have been witnessed at both universities, including a six-hour long line at TSU during the 2020 primary election. Further, in Common Cause's analysis of election protection hotline calls

during the 2022 midterm elections, several reports of hours-long waits were reported at polling locations on Texas college campuses, including several in Harris

County. (Ehresman, 2023). Harris County locations reported to their hotline include University of Houston-Downtown and University of Houston-Clear Lake.

TABLE 7.2 ELECTION DAY POLLING LOCATIONS ON COLLEGE CAMPUSES, 2016-2020

2016	2018	2020
Harris	Galveston	Galveston
Cy Fair College Library at Lone Star	College of the Mainland	College of the Mainland
HCC Southeast College Building C Parking Garage	Harris	Texas A & M
Lone Star College Victory Center	Cy Fair College Library at Lone Star	Harris
Rice Memorial Center	HCC Southeast College Building C Parking Garage	Cy Fair College Library at Lone Star
San Jacinto College Central Campus Library	Houston Community College Alief Center	DTV134W - HCC West Loop South
SJC South Campus Fine Arts Center Building 15	Lone Star College Cypress Center	DTV149H - HCC Alief Center
Waller	Lone Star College Victory Center	HCC North Forest Campus
Willie A. Tempton, Sr. Memorial Student Center	Rice Memorial Center	HCC Southeast College Learning Hub
	San Jacinto College Central Campus Library	HCC West Loop South
	SJC South Campus Fine Arts Center Building 15	Houston Community College Alief Center
	University of Houston Recreation and Wellness Center	Houston Community College Alief Hayes Campus
	Montgomery	John P. McGovern Texas Medical Center Commons
	Lone Star College System	Lone Star College Creekside
	Waller	Lone Star College Cypress Center
	Willie A. Tempton, Sr. Memorial Student Center	Lone Star College North Harris
		Lone Star College Victory Center
		Prairie View A&M University North-west
		Rice Stadium (Gate 1)
		SJC South Campus Fine Arts Center Building 15
		University of Houston
		University of Houston Clear Lake
		University of Saint Thomas
		Montgomery
		Lone Star College - Kingwood, Performing Arts Center
		Lone Star College System

SUMMARY AND RECOMMENDATIONS

Young people's active participation, especially around issues that most immediately impact them, can help shape Texas' political landscape and the policies that are adopted. While Texas youth experience some opportunities that are supportive of their civic engagement – for example, the opportunity to serve as youth poll workers beginning at age 16, with few restrictions on eligibility, and a codified high school voter registration program – they also encounter some restrictive policies that can limit the inclusivity and accessibility of voting (CIRCLE, 2023c).

On a state level, Texas lacks policies like automatic registration, same-day registration, and no-excuse mail balloting can support young voters and spur higher youth voter turnout (CIRCLE, 2023c). Also on a state level, recent changes to the Texas Education Code that restrict students' engagement with elected officials and their exposure to advocacy in the school setting can limit students' opportunities to gain practical understanding of the political system, critical thinking and research skills necessary for engagement, and to build appreciation for the importance of civic participation. Such restrictions on students' school-based civic engagement may leave students feeling like their voice and participation are stifled and that their sense of agency is being challenged (Marzia, 2021).

On a county level in Greater Houston, we see opportunities for increased support for youth engagement with the electoral process. Currently, only four counties address student poll workers on their website, suggesting limited outreach to youth to serve in this regard. As the success of Harris County's Electronic Support Specialist Program suggests, targeted efforts by counties to recruit student poll workers may both support student learning and help address poll worker shortages (U.S. EAC, 2022). Partnerships between school administrators and grassroots organizations can help expand participation in the state's high school voter registration program (Gomez, 2020). As on-campus polling locations help support youth voting (Fair Elections Center and Campus Vote Project, 2022), increased attention to placing polling locations on campuses, with sufficient numbers of voting booths to minimize long lines, can help increase accessibility for students who may face barriers in accessing other polling locations away from campus.

Recommendation 1: Support K-12 Educational Environments that Foster Youth Civic Engagement

Young people who are taught the voter registration process and encouraged to vote in high school are more likely to not only vote, but to engage civically in other ways as they grow older (CIRCLE, 2020). Building off successful models demonstrated at some schools in Harris County (Gomez, 2020), we encourage schools throughout the broader Greater Houston region to seek out increased collaborations with grassroots community organizations to help support school-based civic engagement efforts, including high school voter registration.

The TXSOS also can help support K-12 efforts to foster youth civic engagement by working with TEA to maintain a list of school contacts and proactively providing them with voter registration application forms (with special high school voter registration codes), rather than waiting for high school voter registrars to request these forms (Gomez, 2020). Connected with our discussions about language accessibility in [Chapter 8](#), TXSOS can expand beyond providing these coded application forms in English and Spanish to also make them available to schools in Chinese and Vietnamese.

Recommendation 2: Expand Local Recruitment for Student Election Clerks

Research conducted nationally finds that recruiting and supporting youth poll workers can benefit youth poll workers and youth voters generally, but can also support counties with election administration as they work to address poll worker shortages (CIRCLE, 2021; 2022b). Yet, just four of the nine counties in Greater Houston address student poll workers directly on their elections websites. The remaining counties can increase their youth poll worker recruitment efforts through explicit outreach and recruitment efforts, including addressing this opportunity directly on their websites. Given the increasing language accessibility needs in Greater Houston, discussed in [Chapter 8](#), Harris County's successful outreach to youth fluent in Spanish, Chinese, and Vietnamese can be instructive for other counties in the region.

Recommendation 3: Explore Statewide Policies that Support Youth Registration and Voting

Research focused on youth voter turnout suggests that state-level policies that expand access to voter registration, like fully online registration, and no-excuse absentee voting can help support youth turnout. Such policies are not currently adopted in Texas, but could be beneficial in expanding youth turnout across the state. As one of just six "strict ID"

states that do not permit use of a student ID for voting (Campus Vote Project, 2023), Texas might also explore adding student IDs as an acceptable option in its voter ID law.

Recommendation 4: Strengthen Support and Infrastructure for Voting on Local College Campuses

Greater Houston counties should continue to consider public community colleges and four-year colleges and universities as early voting and Election Day polling locations. Given the long lines that have emerged especially at campuses in Harris County and Waller County, counties should consider expanding the numbers of voting booths at campus locations that regularly see large lines during midterm and presidential primary and general elections.

Where on-campus locations are not feasible, counties can partner with colleges and local public transportation services to support students in navigating transportation barriers, especially where campus transportation may not provide convenient access to off-campus polling locations. In addition, some local institutions, such as Texas A&M University at Galveston and University of Houston – Clear Lake, have developed action plans to enhance student engagement in voting; counties can partner with other colleges and universities to help support them in connecting students with accurate information about voter registration and the voting process.

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CHAPTER 8

BATTLEGROUND:
**LANGUAGE ACCESS
AND VOTING**

Why It Matters

Even after the initial passage of the Voting Rights Act (VRA), voter intimidation efforts targeted toward Hispanic citizens were common in Texas and other southwestern states. Congressional testimony organized by the Mexican American Legal Defense Fund (MALDEF) in 1974 detailed efforts to disenfranchise Hispanic Texans through state legislative actions, county-level discriminatory decision-making, and violent acts of voter intimidation (MALDEF, 2020). As a result, in 1975, Congress expanded the VRA to directly protect the voting rights of Hispanic citizens and other language-minority groups.

Texas is one of only two states to surpass 30 million people in its population, with communities of color driving 95% of the population growth between 2010 and 2020 (Ura et al., 2021; Wilder, 2023). Hispanic Texans accounted for nearly half of this overall growth. Members of the AAPI community constitute Texas' fastest growing racial or ethnic voting group, with Texas having the country's third highest AAPI population (Wong, 2023).

Texas is home to extensive language diversity. Over 3 million Texans speak Spanish at home and describe themselves as speaking English less than very well (U.S. v. State of Texas and John Scott, 2021). An additional nearly 560,000 Texans speak another language at home, while also describing themselves as speaking English less than very well. Among the state's adult AAPI residents, 82% speak a non-English language at home, most commonly

Vietnamese, Chinese, Tagalog, Hindi, or Urdu, and 34% are considered Limited English Proficient (APIA Vote & AAPI Data, 2022).

The extent of Texas' language diversity underscores the importance of policies that take into account language justice in ensuring access to civic rights. For example, among Asian Americans nationwide who speak a non-English language in their home, 11% report language access as a barrier to voting (APIA Vote & AAPI Data, 2022). Over 40% of these individuals report interest in using voting assistance in their primary language. Even in the context of the VRA, county-specific requirements and implementation of language minority provisions vary substantially across the state, resulting in inconsistent language access related to voter registration, ballot casting, and election administration.

FEDERAL LAW AND THE BROADER CONTEXT OF LANGUAGE ACCESSIBILITY

First enacted in 1965, the federal **Voting Rights Act** (VRA) was subsequently amended in 1975 to add provisions to protect the voting rights of historically excluded groups of language-diverse citizens. These provisions explicitly prohibit selecting voting locations that place a disparate burden on voters belonging to 'language minority groups' and permit voters to bring interpreters with them when they vote. The law also enumerates a set of criteria by which specific states and local jurisdictions become required to provide language-accessible election-related information and oral assistance in one or more non-English languages to identified language minority groups with limited English proficiency.

The **VRA's Section 203** specifies a formula for determining 'covered' jurisdictions subject to these language requirements (VRA Amendments of 2006, Determinations under Section 203, 2021). The federal government determines language minority coverage based on whether the percentage of voting-age citizens within a single language group that has limited English proficiency in a local jurisdiction exceeds either 5% or 10,000 people, and whether the rate of single language group voting-age citizens with limited English proficiency and less than a 5th-grade education in that jurisdiction is higher than the national rate. Jurisdictions may be covered for one or more specific language minority groups based on these criteria. An entire state, like Texas, must meet the 5% threshold in order to trigger statewide language minority requirements.

In a covered jurisdiction, all oral and written voting materials, including those related to voter registration, casting a ballot, and common polling location

questions, must be provided in both English and the language spoken by the applicable minority group. Specifically, VRA's Section 203 states:

"Whenever any [jurisdiction] provides registration or voting notices, forms, instructions, assistance, or other materials or information related to the electoral process, including ballots, it shall provide them in the language of the applicable minority group as well as in the English language."

U.S. Department of Justice (DOJ) regulations state that this requirement "should be broadly construed to apply to all stages of the electoral process," including materials for all primary and general elections, candidate and issue ballots, at all levels of government (Implementation of the Provisions of the Voting Rights Act, 1976). Reauthorization of the VRA in 2006 extended the law's language provisions until 2032, and included two key changes: requiring that coverage determinations must now be conducted every five years instead of the previous ten years, and that the **Census Bureau's American Community Survey (ACS)** be the primary data source for these determinations (U.S. Census Bureau, 2022b). The ACS is considered an important source for national demographic and socio-economic information. Collected through an ongoing nationwide survey and utilizing a combination of in-person interviews, phone interviews, and online responses, the ACS provides detailed information about the characteristics of the population, including language use, education, income, and other socio-economic factors. The ACS written questionnaire is available in English and Spanish, with telephone assistance available in approximately 15 languages, including Spanish, Chinese, Vietnamese, and Korean (U.S. Census Bureau, 2022a).

The most recent set of federal coverage determinations were released in 2021, with the largest number of covered jurisdictions since Section 203 was enacted. Currently, three states and approximately 330 local U.S. jurisdictions are required to provide language assistance under these determinations.

In a covered jurisdiction, all oral and written voting materials, including those related to voter registration, casting a ballot, and common polling location questions, must be provided in both English and the language spoken by the applicable minority group. (VRA, Sect. 203)

LANGUAGE-ACCESSIBLE ELECTION MATERIALS

State Policies

Covered Jurisdictions

Texas is one of just three states, in addition to Florida and California, that are fully covered under the VRA's language minority provisions, in both cases, for Spanish language speakers. This means that, in Texas, all statewide election-related materials must be available in both Spanish and English. As a result of this statewide determination, all Texas counties have been federally required to provide bilingual election materials and clerks for federal and state elections since 1975. Tex. Elec. §272.001 codifies this on a state level, requiring election materials printed in English and Spanish to be used in the state's elections.

Connected with the statewide coverage, any precinct within a Texas county with 5% or more residents of Hispanic origin must provide bilingual election materials during early voting and on Election Day (Tex. Elec. §272.002). Tex. Elec. §272.003 provides a process for a precinct to request exemption from this requirement if Hispanic-origin residents comprise fewer than 5% of the precinct's population.

In addition to the statewide coverage requirement, VRA's language determinations identify many counties across Texas as covered local jurisdictions (VRA Amendments of 2006, Determinations under Section 203, 2021). This includes 104 of the state's 254 counties, in which Spanish language access is required for all election-related materials, as well as three counties where Vietnamese is required, one county where Chinese (including Taiwanese) is required, and two counties where access for languages of "all other American Indian tribes" are required. The current count of five Texas counties that require language-accessible election materials beyond Spanish reflects a recent increase.

Bilingual Voting Materials

Unless exempt, Tex. Elec. §272.005-.006 require precincts across Texas to provide a specific set of election materials in both English and Spanish, including the materials listed below:

- + ballot instructions,
- + official affidavit forms, and
- + written instructions, applications and balloting materials associated with mail-in ballots, early voting, and Election Day voting.

Tex. Elec. §272.007 requires many of these bilingual materials to be prepared by the TX Secretary of State (TXSOS). If a county is required under the VRA to provide voting materials in any language other than English and Spanish, then these statutory guidelines apply to that language as well (Tex. Elec. §272.011). Further, when a Texas county is covered for a language other than Spanish (as is the case for five Texas counties, including Harris County), this statute requires TXSOS to prepare translated versions of certain state-required election materials in that language. This includes the voter registration application form, the voting instruction poster, the Reasonable Impediment Declaration form, the provisional ballot affidavit, and the application for a ballot by mail.

Bilingual Voter Registration Materials

State laws about the language accessibility of election-related materials also apply to the voter registration process. Tex. Elec. §272.010 requires TXSOS to create a Spanish-accessible voter registration application form. As described above, Tex. Elec. §272.011 applies in the case of a non-Spanish local coverage determination; when this is triggered, as is the case for Vietnamese, Chinese, and certain tribal languages, TXSOS is required to create the voter registration application form in that language as well.

Tex. Elec. §272.010 requires that each county registrar post a notice in their office in Spanish letting registrants know that they can access the Spanish-language voter registration application form. Further, state voter registration agencies are required to make bilingual assistance available for completing voter registration forms to the same extent they would provide bilingual assistance for completing other agency forms (Tex. Elec. §20.005).

In Greater Houston

Covered Jurisdictions

The most recent federal determinations of which jurisdictions qualify under Section 203 were made on

September 8, 2021 (Voting Rights Act Amendments of 2006, Determinations under Section 203, 2021). Although all counties in Greater Houston are impacted by Texas' statewide coverage, only two of the nine counties within the Greater Houston region are independently identified as covered jurisdictions under Section 203: Harris County (Spanish, Chinese, Vietnamese) and Fort Bend County (Spanish).

Statewide coverage means that all Greater Houston counties must provide election information and support in Spanish for all federal and state elections; however, none of the seven other counties, even suburban counties like Brazoria and Montgomery which have shown large increases in the diversity of their populations in recent years, are required to support non-English proficient voters in local elections and in locally-developed election information. Few U.S. counties that are not legally required to provide such materials do so proactively, even where they are home to a significant and increasing number of voters with limited English proficiency (Klain et al., 2020).

At this time, Harris County is one of only three counties across Texas required to provide election materials in an Asian language – it is one of three counties required to provide materials in Vietnamese, and the only county required to do so in Chinese. Harris County's Vietnamese-language requirement was added in 2002, and Chinese was added in 2011. Even as one-fifth of Texas' foreign-born population are Asian immigrants and as counties across Greater Houston have seen substantial increases in their Asian populations, Harris County stands alone in the region in this regard.

While Harris County has the largest number of AAPI residents in Texas, the entire nine county Greater Houston region has seen substantial growth in its Asian population (Bauman, 2021). Between 2010 and 2020, the Asian population of seven Greater Houston counties grew at a faster rate than any other racial or ethnic group. Fort Bend is the Texas county with the highest percentage of AAPI residents (approximately 22% of the county). While not yet required via the most recent federal determinations, the UCLA Voting Rights Project wrote a 2020 letter to the Fort Bend County Judge arguing that the sizes of the county's growing Chinese and Vietnamese populations were sufficiently large to require language support under VRA's Section 203 (Waknin, 2020).

Bilingual Voting Materials

As a result of U.S. Justice Department complaints about responsiveness to language minority provisions, within the past 15 years, two Greater Houston counties have been under federal consent

decrees stipulating specific language assistance requirements. The consent decrees against Galveston County (ending in 2010) and Fort Bend County (ending in 2012) were each based on federal government complaints that alleged, in part, that each county did not sufficiently provide election materials to Spanish-speaking voters (U.S. Department of Justice, Civil Rights Division, 2022).

More recently, MALDEF and the League of Women Voters (LWV) conducted an extensive review in 2016 of Texas county websites to assess whether counties offered an option for voters to access election information translated into Spanish, even just by providing a link to translated voting information offered by the TXSOS (Lopez, 2016). At that time, MALDEF and LWV identified each of the nine Greater Houston counties as meeting this baseline measure, but urged counties across Texas to go further to directly provide language-accessible information about elections and voting on their websites.

A subsequent analysis by LWV (2017) found that 59% of Texas county websites did not provide either a link to the TXSOS Spanish-language website or post Spanish-language election and voter ID information on their own website. Today, of the nine counties in Greater Houston, eight clearly provide an option to translate their county elections website into Spanish, as outlined in Table 8.1. Only Chambers does not.

Although eight county elections websites can be translated into Spanish and, in some cases, into additional languages, Greater Houston counties do not consistently provide translated versions of many of the English-language downloadable election-related documents they post directly on their websites. One exception to this are applications to vote by mail. Six Greater Houston counties clearly host non-English applications to vote by mail on their websites. However, in the case of Chambers, which does not otherwise translate their website, a voter who cannot read English will need to first navigate an English-language menu to the vote by mail page, before being able to access the Spanish-language application.

In an advisory memorandum, the Texas Advisory Committee to the U.S. Commission on Civil Rights (2018) reported that a large number of Texas counties did not provide translated ballots or translators, despite being required to do so. This was the case even though the Texas Secretary of State publishes election advisories to county elections leaders reminding them of the language minority requirements that apply to Texas elections (the most recent one was issued in 2020; TXSOS, 2020). In our review of sample ballot information currently available on the nine Greater Houston elections websites, all

TABLE 8.1: LANGUAGE ACCESSIBILITY OF VOTING MATERIALS ON COUNTY ELECTIONS WEBSITES

COUNTY ELECTIONS WEBSITE PROVIDES CLEAR OPTION TO TRANSLATE SITE CONTENT TO NON-ENGLISH LANGUAGE(S)	
County	Language(s)
Austin	Spanish
Brazoria	12 language options, including Chinese, Spanish, Vietnamese
Fort Bend	Extensive list of language options
Galveston	Spanish, Vietnamese
Harris	Chinese, Spanish, Vietnamese
Liberty	Spanish
Montgomery	Spanish
Waller	Spanish
COUNTY ELECTION WEBSITE DIRECTLY HOSTS TRANSLATED BALLOT BY MAIL APPLICATION	
County	Language(s)
Brazoria	Spanish
Chambers	Spanish (must first navigate to “Vote by Mail” in English)
Fort Bend	Spanish
Galveston	Spanish
Harris	Chinese, Spanish, Vietnamese
Montgomery	Spanish
COUNTY ELECTION WEBSITE LISTS SPECIFIC NON-ENGLISH-LANGUAGE COUNTY TELEPHONE ASSISTANCE FOR MAIL BALLOT APPLICATIONS	
County	Language(s)
Harris	Chinese, Spanish, Vietnamese

nine appear to provide federally-required translated ballots for recent elections (translated to Spanish for all nine counties, and also to Chinese and Vietnamese in Harris).

Notably, as recently as the 2023 mayoral elections, members of the Korean community in Harris County directly requested bilingual ballots in Korean. In a Houston Landing article, advocates explain that they have repeatedly been told by the county that Korean-language ballots could not be provided because the population does not currently meet Section 203 thresholds (Welch, 2023).

Bilingual Voter Registration Materials

Across the counties in the region, some host their own information about voter registration on county elections websites, while others primarily direct residents to voter registration information on TXSOS websites. In some cases, this means that Spanish-speaking registrants are directed to a general Spanish-language TXSOS elections site with a large number of hyperlinks to navigate, and not directly

to voter registration information or to a Spanish-language voter registration application.

When counties point residents to the TXSOS websites, it is important to note that the state’s voter registration information and online registration portal are provided only in English and Spanish. One TXSOS page where Texans can request voter registration applications includes downloadable registration application forms in Vietnamese and in Chinese, but with text specifically stating that these are for use only by Harris County residents (TXSOS, n.d.a).

Table 8.2 outlines language accessibility of the voter registration information available via the nine Greater Houston counties’ websites. Of note, four of the nine counties provide residents either with a non-English voter registration application or link explicitly to the TXSOS Spanish-language voter registration portal. Just two counties explicitly inform voters that they can receive non-English telephone assistance from their county to support them in completing the voter registration application.

TABLE 8.2: LANGUAGE ACCESSIBILITY OF VOTER REGISTRATION MATERIALS ON COUNTY WEBSITES

COUNTY ELECTIONS WEBSITE HOSTS TRANSLATED VOTER REGISTRATION APPLICATION OR INCLUDES EXPLICIT LINK TO NON-ENGLISH VOTER REGISTRATION PORTAL	
County	Language(s)
Brazoria	Spanish
Galveston	Spanish
Harris	Chinese, Spanish, Vietnamese
Liberty	Spanish

COUNTY WEBSITE EXPLICITLY LISTS NON-ENGLISH-LANGUAGE COUNTY TELEPHONE ASSISTANCE FOR VOTER REGISTRATION	
County	Language(s)
Brazoria	Spanish
Galveston	Spanish

LANGUAGE-ACCESSIBLE VDVR TRAINING

State Policies

Tex. Elec. §13.031–13.048 outlines Texas’ unique Volunteer Deputy Voter Registrar (VDVR) system, through which individuals appointed by each county’s registrar distribute and collect in-person voter registration applications (see [Chapter 3](#)). Nowhere in this statute is there explicit discussion about language accessibility as relates to the VDVR process.

While Section 272 of the Texas Election Code specifically requires election materials to be provided in both English and Spanish across the state, a 2016 Austin American Statesman article reported that the TXSOS did not believe that the VRA’s language requirements applied to VDVR trainings and materials used by VDVRs (Schwartz, 2016). At that time, voting rights advocates expressed concerns that not making Spanish-language VDVR training materials available risks denying Spanish-speaking residents equal opportunity to be part of voter registration drives. The current TXSOS (n.d.b) website now includes a Spanish-language VDVR guide, training presentation,

application, and FAQs. However, this site does not include VDVR materials in Vietnamese or Chinese.

In Greater Houston

Based on our review of Greater Houston counties’ election websites, Galveston is the only county to devote explicit space on its website to opening the VDVR process to non-English speakers, as outlined in Table 8.3. Galveston County’s Tax Assessor/Collector offers all VDVR materials in Spanish directly on its website and includes instructions for potential VDVRs who would like to complete a VDVR application in Spanish. Potential Galveston VDVRs interested in a Spanish-language training must specifically request the training by email.

Harris County offered its first two non-English VDVR trainings between July 2017 and October 2018; both of these were held in Spanish (Pritzker et al., 2019). In 2019, after advocacy from local Asian-serving civic engagement organizations, Harris County introduced VDVR training to the general public in languages spoken by its two other covered language minority groups: Chinese and Vietnamese (Trovall, 2019). At the time of this report, however, only an English-language VDVR application is available on Harris County’s elections website, and there does not appear to be information about VDVR trainings in Spanish, Chinese or Vietnamese.

TABLE 8.3: LANGUAGE ACCESSIBILITY OF VDVR INFORMATION

COUNTY WEBSITE PROVIDES NON-ENGLISH VDVR MATERIALS	
Austin	No
Brazoria	Not on county site; linked TXSOS page includes information and training in Spanish
Chambers	No
Fort Bend	VDVR application includes Spanish translation
Galveston	Separate Spanish-language application, renewal application, guide available on website; explicitly offers in-person training in Spanish by request
Harris	No
Liberty	No
Montgomery	Not on county site; linked TXSOS page includes information and training in Spanish
Waller	VDVR application includes Spanish translation

LANGUAGE SUPPORT AND INTERPRETATION AT POLLING LOCATIONS

State Policies

Bilingual Poll Workers

Texas election officials are required to use English when performing official election duties (Tex. Elec. §61.031). Only when a voter is unable to communicate in English can an election official use a non-English language that the voter understands. When an election official communicates with a voter in a language other than English, other election officials or a poll watcher may request that the election official translate the communication into English (Tex. Elec. §61.036).

To address non-English language needs at the state's polling locations, Tex. Elec. §272.009 requires presiding judges at each covered election precinct to take "reasonable efforts" to appoint "a sufficient number" of bilingual election clerks, fluent in both English and Spanish. This can include student election clerks.

State law does not specify how many bilingual election clerks are considered sufficient, leaving this determination up to each county. To meet this requirement, TXSOS (2020) recommends that counties appoint a minimum of one bilingual election clerk in each Election Day precinct in which at least 5% of the population have Spanish surnames. TXSOS recommends that counties using the countywide polling place program also conduct a historical analysis of voters with Spanish surnames at each location in order to determine a number of needed bilingual election clerks.

If a county cannot identify enough bilingual clerks to meet the needs of the precinct's Spanish-speaking voters, Tex. Elec. §272.009 requires the county to appoint at least one English-Spanish bilingual clerk to serve at a central polling location. TXSOS (2020) explicitly requests that counties using countywide polling also make language interpreters available by phone to support voters at locations without an available bilingual clerk.

Language Assistance and Interpretation

Texas statutes address both assistance to voters who cannot prepare or read the ballot and access to an interpreter to help non-English-speaking voters communicate with an election official. A voter's right to receive assistance with their ballot is outlined in Chapter 64, Subchapter B of the Texas Election Code. Tex. Elec. §61.032 codifies a voter's right to select their own interpreter; new statutory language added in 2021 allows an election official to appoint an interpreter if the voter has not selected one themselves.

Despite these rights, Texas has long sought to enact limitations to language assistance in the voting process. These limitations have emerged in three ways:

- + **limiting who is eligible to serve as an interpreter**
- + **limiting the extent to which a voter may receive assistance, and**
- + **placing additional requirements on those providing assistance**

In recent years, Texas' state laws regarding assistance and language interpretation have been the subject of multiple federal lawsuits and resultant court orders.

Eligibility to Serve

Statutory language in place for approximately 30 years had limited interpreters solely to registered voters of the county in which the voter resides. Voting rights advocates challenged this limitation in 2015; ultimately, a federal court placed a permanent injunction prohibiting Texas from enforcing this provision (*OCA Greater Houston v. State of Texas*, 2018). In striking down this provision, the court ruled that Texas voters must be able to receive assistance from a person of their choosing, regardless of that individual's place of residence or whether the voter identifies that individual as an 'assistant' or 'interpreter'.

In 2021, the legislature amended this section of statute, Tex. Elec. §61.033. In a new restriction, it prohibits voters from selecting the following as interpreters: their employer, an agent of their employer, or an officer or agent of a labor union to which they belong. Consistent with the federal court's injunction, the legislature removed any geographic limitation on the interpreter a voter selects. However, it added a new provision in the case that a voter does not have an interpreter. When an interpreter is instead appointed by an election official, then the election official must select an interpreter who is a registered voter either in the voter's county or in an adjacent county.

Extent of Assistance

Tex. Elec. §64.0321 includes language specifically restricting the stages of the voting process where a voter may seek assistance to: reading the ballot, marking the ballot, and instructing the voter to read or mark the ballot. The 2018 permanent injunction discussed above (*OCA Greater Houston v. State of Texas*, 2018) also permanently prohibited Texas from enforcing this statute. The court ruled that these restrictions contradict the VRA, and that Texas may not limit voters' right to seek language assistance at any point throughout the entire voting process.

In 2021, via SB 1, the Texas Legislature introduced new provisions which again sought to restrict the assistance that an assistor or interpreter could provide to a voter, despite the 2018 injunction. Subsequently, in 2022, the federal court modified this injunction to strike down new restrictions that the legislature had incorporated into Tex. Elec. §64.031 and §64.034, and to reiterate its ban on enforcing Tex. Elec. §64.0321 (*OCA Greater Houston v. State of Texas*, 2022). The modified injunction explicitly bans Texas from placing any limitations on the scope of language assistance that can be provided to a voter (Lopez, 2022).

Requirements for Assistors/interpreters

As part of SB 1, the Texas Legislature revised and expanded the oath it requires of interpreters or other individuals who provide ballot assistance (Tex. Elec. §64.034). The expanded oath introduced the risk of legal consequences for those assisting other voters, including voters with language assistance needs. Punishable by perjury, the oath includes statements in which assistants affirm that they did not use undue influence or intimidation to be chosen as the assistant and that the voter has indicated to them the voter's eligibility for assistance.

The expanded oath also included language specifying that the assistant "will confine [my] assistance to reading the ballot to the voter, directing the voter to read the ballot, marking the voter's ballot, or directing the voter to mark the ballot." As part of its modified injunction (*OCA Greater Houston v. State of Texas*, 2022), the federal court struck down this specific portion of the expanded oath, because of the limitations it placed on voter assistance. While this phrase has been removed, all other aspects of the new, expanded oath adopted in 2021 are now in effect and required of all assistors and interpreters.

In Greater Houston

Bilingual Poll Workers

Across the nine-county Greater Houston region, five counties specifically include outreach to bilingual poll workers on their website, as Table 8.4 outlines. Of these counties, most list a specific language(s) for which they seek poll workers. Only Harris County explicitly recruits poll workers who are fluent in Vietnamese or Chinese, although Fort Bend specifically mentions its openness to workers fluent in languages other than Spanish.

Harris County specifically mentions language needs in its recruitment of student election clerks, and appears to be the only county to explicitly incorporate this into its outreach. In Harris County's submission to be considered for an award that it ultimately won from the U.S. Election Assistance Commission [U.S. EAC] (2022a), it specifically describes that its student poll worker program outreach targets students who speak Spanish, Chinese, and Vietnamese. It further describes how the county uses social media posts to recruit bilingual students for the new student poll worker Electronics Support Specialist Program for which it won the award.

Language Assistance and Interpretation

Acknowledging that counties may use many other outreach venues to connect with voters about the voting process, we note that there is little public description of language assistance and interpretation support directly on the nine Greater Houston county elections websites. In reviewing all nine county websites, Harris and Montgomery appear to be the only counties to mention the availability of language assistance at their polling locations. As part of a set of election information FAQs, Harris County's website informs voters of the languages in which the ballot will be available and that it offers remote interpreters for voters needing language assistance. Similarly, under its FAQs, Montgomery County's website notifies voters that they may use an interpreter to help communicate with election officials and to help read the ballot.

As referenced in its FAQs, in March 2020, Harris County election officials implemented a remote translator service at some of its polling locations. This service uses an iPad connection to remote interpreters for residents who speak Spanish, Chinese, Vietnamese, American Sign Language, or two dozen other languages (Despart, 2020). In the November 2023 election, this service was available at all early voting centers and on an as-needed basis at Election Day vote centers, although local advocates have identified limitations to the adequacy of this service (Welch, 2023).

Over the past five years, Harris County has faced some public challenges regarding voters’ access to

language assistance at polling locations. For example, in October 2018, election workers at an early voting location did not permit translators to ask Korean-American voters waiting in line whether they needed election-related assistance; instead the County determined that translators were ‘loiterers’ and prohibited them from helping voters within 100 feet of the polling stations (Ura, 2019). Ultimately, advocates worked with Harris County elections officials to hire several paid volunteer Korean translators as poll workers in subsequent elections. In the November 2023 election, the county hired one English-Korean poll worker to work during early voting (Welch, 2023).

TABLE 8.4: INFORMATION REGARDING BILINGUAL POLL WORKERS ON COUNTY WEBSITES

COUNTY ELECTIONS WEBSITE INCLUDES INFORMATION AND/OR OUTREACH TO RECRUIT BILINGUAL POLL WORKERS	
County	Language(s)
Brazoria	Explicitly specifies need for bilingual poll workers in: English/Spanish Poll worker application can be translated into Spanish
Fort Bend	Explicitly specifies need for bilingual poll workers in: Eng-lish/Spanish Expresses interest in workers “fluent in another language” Poll worker application only available in English
Galveston	Explicitly specifies need for bilingual poll workers in: English/Spanish Poll worker application only available in English
Harris	Explicitly specifies need for bilingual poll workers in: Eng-lish/Spanish; English/Vietnamese; English/Chinese Poll worker application only available in English Student election clerk page explicitly discusses student election workers serving as interpreters
Montgomery	Explicitly specifies need for bilingual poll workers in: no language specified

SUMMARY AND RECOMMENDATIONS

Structural barriers that challenge the capacity of non-English speakers and those with limited English proficiency to understand and exercise their voting rights can limit their full democratic participation. For example, individuals with limited English proficiency may struggle to navigate English-language voter registration forms, ballots and voting instructions, as well as English-language elections information such as lists of polling locations and changes to those locations.

Non-English speaking voters also may face insufficient bilingual election personnel or interpreters, as well as limitations on who is eligible to provide language assistance, like those that have been adopted – and then struck down – in Texas in recent years. For example, the Asian-American Legal Defense and Education Fund (2022) argued that the restrictions on language assistance incorporated within Texas’ 2021 SB 1 law disproportionately impacted Asian-American Texans with limited English proficiency, many of whom rely on their children to help translate. Further, inadequate non-English language assistance and resultant language-based confusion may contribute to racial disparities in wait times to vote between Black and Latino voters and their white counterparts (Klain et al., 2020).

These barriers align with research that suggests the need for comprehensive language assistance measures beyond what is legally mandated to address language barriers faced by voters with limited English proficiency and reduce racial disparities in Election Day experiences. For example, traditional media outreach, as well as community visits and training for third-party registration drives targeted to language minority voters, can increase voter registration (Merivaki & Suttman-Lea, 2023). Further, policies that mandate or incentivize community engagement focused on strengthening language assistance can strengthen the quality of outreach communications and public awareness of language accessibility programs (Asian Americans Advancing Justice et al., 2018).

It is also important to consider potential limitations associated with the ways in which federal language minority coverage is determined. While the ACS seeks to collect comprehensive data on language use across the U.S., several limitations could impact the accuracy of its language minority estimates. First, the ACS written questionnaire is only available in English and Spanish (U.S. Census Bureau, 2022a).

While the Census Bureau offers respondents language assistance and translation guides, individuals who speak or read languages other than English or Spanish may face challenges in completing the survey. Second, the ACS captures language minority data by asking respondents to self-identify based on several questions focused on race and ethnicity, and then uses these as proxies to identify a respondent’s language minority group, rather than directly asking about respondents’ language use. Further, distrust and low participation can lead to undercounting of communities of color in Census Bureau data collection (Stanford, 2020); these undercounts may also impact the ability to accurately determine of whether a jurisdiction’s language-minority communities meet the Section 203 thresholds.

These limitations may be particularly relevant considerations in Greater Houston, particularly as its Asian community continues to grow, along with increased advocacy for language minority coverage. The Section 203 coverage formula specifically considers both the size of a language minority group and its literacy levels (i.e., rates of limited English proficiency and less than a 5th grade education), with both factors needing to be met in order to trigger these protections. For example, UCLA’s Voting Rights Project has argued that its data analyses show that Fort Bend’s Chinese and Vietnamese language communities should both meet the Section 203 determination criteria (Waknin, 2020), while language coverage for Fort Bend, home to the state’s third largest Asian population (estimated at 182,776), was not expanded in 2021 (Wong, 2023). In Harris County, advocates within the Korean community have argued that ACS calculations do not accurately represent the county’s Korean population and therefore result in a substantial unmet need for a Korean-language ballot, other Korean-language election materials, and polling location support (Welch, 2023).

Recommendation 1: Broaden TXSOS Dissemination of Non-Spanish Bilingual Election Materials

Increased centralized state support for developing materials in non-Spanish languages frequently spoken in Texas counties can help reduce costs for individual counties as additional language determinations are made, and can make it easier for counties to offer language-accessible materials to voters even if a community’s population does not yet meet federal thresholds. TXSOS creating and disseminating materials related to voter registration and voting in multiple languages commonly spoken in Texas could also help reduce some of the differentials in access to voting resources that appear to exist across counties, so that, for example, a Chinese-speaking

resident of Fort Bend does not face substantially more barriers to voting than a Chinese-speaking resident of neighboring Harris County.

Vietnamese is the third most common language in Texas, with three counties already mandated to offer election materials in this language (Nguyen, 2022), including Harris County. Because these counties are federally mandated to provide Vietnamese-language elections materials, the Texas Election Code requires TXSOS to produce Vietnamese translations of several key elections documents. However, TXSOS offers very few Vietnamese-language election materials on its website. As these materials are already created, TXSOS might consider posting these on its website. Further, taking steps like making the already-existing Vietnamese-language VDVR training module easily available on the TXSOS website could help expand VDVR access in counties that have substantial Vietnamese populations, but lack the resources to offer separate Vietnamese-language VDVR trainings.

Recommendation 2: Voluntarily Expand County Language Assistance

Given the region's diversity, multiple Greater Houston counties include large communities of voters with language access needs that are not included within the federal Section 203 language minority coverage determinations. The large and growing Asian population in Greater Houston suggests increasing need for language-accessible election support beyond Spanish. For example, Chinese and Vietnamese voters in Fort Bend and Korean voters in Harris County constitute substantial groups of voters with expressed language access needs.

Across the U.S., a number of local jurisdictions have voluntarily provided translated election materials and election-focused language assistance in languages spoken by large local communities that do not meet the Section 203 coverage thresholds (Minnis, 2021). For example, DeKalb County, GA has provided elections materials in Spanish and Korean despite not being required to do so under Section 203. Similarly, Fairfax County, VA provides assistance for its growing Korean-language voting population (U.S. EAC, 2019).

Counties do not need to wait to be added to the federal covered jurisdiction list before they offer ballots and other materials in different languages. Even without federal or state action, local jurisdictions can voluntarily enact ordinances that lower thresholds for language-accessible materials, or can voluntarily produce election-related materials in additional languages widespread in their communities (Vasilogambros, 2022). Greater Houston counties, like Fort Bend, with large Asian-language speaking communities that do not yet meet federal thresholds

should seek out opportunities to voluntarily provide language assistance and translated materials in these languages.

Accurate assessment of local language assistance needs also could be supported via stronger data collection. A U.S. Government Accountability Office (2008) report emphasized the importance of counties gathering information to determine residents' needs for bilingual assistance in elections and outlined ways that counties across the U.S. gathered information to determine these needs. For example, the report highlighted examples of counties that assessed requests for bilingual assistance based on a question about language assistance needs on voter registration forms. In discussing this recommendation, Harris County was specifically cited as an example of a county that could not track requests for bilingual assistance in this way because state-issued voter registration forms do not ask registrants to provide a preferred language; this is still the case in 2023.

Recommendation 3: Improve Availability and Accessibility of County Information Regarding Language Access

As this analysis demonstrates, Greater Houston counties vary substantially in terms of the availability and accessibility of elections information in non-English languages. While many of the region's websites could be directly translated into Spanish, many documents on these websites were not available in Spanish. While most websites offer a translation option, we recommend that counties also consider including a specific tab on each county's website providing clear information regarding language accessibility related to different aspects of the elections process. This tab could specifically include guidance around language assistance in casting a ballot, something currently available only on the Harris and Montgomery county elections websites.

Further, while we were not able to fully assess counties' pre-election outreach regarding language assistance outside of their websites, a recommended best practice is for jurisdictions to provide clear public notice in advance of an election, outlining voters' rights to request language assistance (Lee et al., 2014). This public notice can be posted on county elections websites, but should also be made available through other communications methods such as social media, advertisements in local ethnic media, and/or targeted outreach through translated one-pagers on voters' language assistance rights. The notifications can be provided in multiple common languages in the jurisdiction, not only those meeting Section 203 coverage thresholds.

Recommendation 4: Increase Access to Non-English VDVR Training

Texas is home to a unique system in which in-person support for voter registration must be conducted by individuals trained and deputized as county-level VDVRs. As a result, the VDVR process is integral in making person-to-person voter registration inclusive and accessible. The availability of training and testing opportunities (where required) in languages other than English are therefore important considerations. If potential volunteers cannot be trained in their primary language, this can limit who becomes VDVRs as well as who receives direct voter registration outreach. However, while the TXSOS site does offer Spanish-language VDVR training materials, many Greater Houston county elections websites do not provide any information about the process for VDVR training in Spanish, nor do they point residents to the TXSOS Spanish-language resources.

No county in Greater Houston includes information about VDVR training opportunities in any language other than English or Spanish. Harris County has been previously approved to offer Vietnamese and Chinese-language VDVR trainings for Harris County (Trovall, 2019). As we suggest above, making this training information publicly available to potential VDVRs across the state via the TXSOS website can help facilitate language-accessible voter registration for Texas' substantial Vietnamese communities.

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CHAPTER 9

BATTLEGROUND: REDISTRICTING

Why It Matters

In 2021, the U.S. Census Bureau released its decennial Census data, triggering a once-every-decade redistricting of Congressional, state, and local legislative districts. **This was the first time in 40 years that redistricting would happen without federal preclearance. This is especially relevant in Texas, with a federal court noting in 2022 that “in every decade since 1970 Texas has passed one or more redistricting plans after the [decennial] census that have been declared either unconstitutional or violations of the VRA” (Johnson v. Waller County, 2022).**

Between 2010 and 2020, U.S. Census data show that the Texas population grew by nearly 4 million residents, an increase driven largely by people of color, with the AAPI community experiencing a remarkable increase of 65% (Ura et al., 2021; Rudensky & Limón, 2021). Three Greater Houston counties – Fort Bend, Harris, and Montgomery – represent one-fourth of the state’s population growth over that time (Understanding Houston, 2021), giving weight to the relevance of state and local policies related to redistricting in shaping the broader political landscape.

District maps that outline Texans’ representation in different levels of government are drawn by elected state and local government bodies. The Texas legislature is responsible for drawing maps for federal and state electoral districts, while local governments are responsible for drawing maps for districts for local

elected officials.

In this chapter, we focus especially on local districts drawn on the county level in Greater Houston. The ways in which counties and cities draw boundaries impact how their different communities are represented and resourced. Local officials often wield more power over the daily lives of Texans than members of the U.S. Congress. On a county level, the makeup of a county’s Commissioners Court can affect election security and access, the setting of tax rates, and how billions of federal dollars, such as with COVID relief, are allocated (Jaspers, 2021).

FEDERAL LAW AND THE BROADER CONTEXT OF REDISTRICTING IN THE U.S.

Federal law requires state legislatures to draw federal and state districts every 10 years, upon completion of the Census. All states must comply with the **Apportionment Clause** of Article I, Section 2, of the U.S. Constitution, which requires districts to be as nearly equal in population as practicable. ‘One person, one vote’ is the guiding principle that is intended to equalize voting power. This means that districts allocated by population (i.e. not at-large districts) within a state must have close to equal population size. Also influential in redistricting considerations are the Constitution’s 14th and 15th Amendments, under which deliberately discriminatory racial gerrymandering is prohibited.

The **Voting Rights Act** (VRA) requires federal oversight and review of state and local redistricting processes and outcomes. Section 2 of the VRA (52 U.S.C. §10301) protects voters from practices and procedures that deprive them of an effective vote because of their race or membership in a particular language minority group. Accordingly, it prohibits drawing district boundaries to dilute the voting strength of racial or language minority groups; practices that deprive minority groups of an equal opportunity to elect the candidate of their choice are considered to be vote dilution (U.S. Department of Justice, 2021).

Clarification and refinement of how federal law applies to state and local redistricting efforts has emerged through a series of federal court rulings. Established in the U.S. Supreme Court’s **Thornburg v. Gingles** (1986) ruling, courts first examine three “Gingles Preconditions” to determine whether a redistricting plan violates Section 2 (Gingles, 478 U.S. at 50-51):

- + whether a racial or language minority group is both sufficiently large and geographically compact, such that it would constitute a majority in a district represented by a single elected official;
- + whether the racial or language minority group is politically cohesive; and

+ whether bloc voting by white voters usually prevents the racial or language minority group from being able to elect their preferred candidate.

Once these preconditions have been established, courts extensively examine a broad set of circumstances in that jurisdiction, including histories of voting-related discrimination, the extent of racial polarization in voting, and broader experiences of discrimination in the jurisdiction (U.S. Department of Justice, 2021). Courts then use their review of the facts of the case and these circumstances to determine whether the redistricting plan has denied racial or language minority group voters equal opportunity to participate in electoral processes and elect their preferred representatives.

When the Supreme Court’s **Shelby v. Holder** (2013) ruling stripped the VRA of its preclearance provision, this directly impacted state and local redistricting processes. Previously, the provision had required certain states and jurisdictions with a history of discrimination to seek federal approval before implementing any changes to their election laws, including redistricting plans. As a result of Shelby, redistricting processes in Texas, including alterations to federal, state, and local district maps, unfold in an environment without pre-approval.

The Supreme Court’s 2019 landmark redistricting ruling in **Rucho v. Common Cause** (2019) has further shaped the current redistricting landscape. Rucho determined that while partisan gerrymandering may be “incompatible with democratic principles,” federal courts cannot review such allegations. This means that state lawmakers can shape electoral boundaries to maintain political influence without review by the courts. Together with the removal of preclearance, this has opened the door for state legislators to use political justifications to manipulate and concentrate communities of color (processes referred to as “cracking” and “packing”) for their own gain (Kirschenbaum & Li, 2023).

SETTING NEW BOUNDARIES, EQUALIZING VOTING POWER

State Policies

Federal and State Redistricting

In Texas, the state legislature is responsible for redistricting both state and congressional districts every 10 years. Across the U.S., state legislatures remain the predominant body that draws legislative and congressional maps. However, 15 states have shifted primary responsibility to a state commission external to the legislature (NCSL, 2021b). Six states have adopted an advisory commission to provide support to the legislature in drawing its maps, while five states – including Texas – have authorized a backup commission to draw maps if the legislature cannot reach agreement on its maps.

Texas' backup commission is the Legislative Redistricting Board (LRB), a group of five elected state officials (the lieutenant governor, House speaker, attorney general, comptroller, and land commissioner). Only state-level redistricting can become the responsibility of the LRB, through a process outlined in Tex. Const. art. III, §28. This can happen solely if the decennial redistricting process is not completed during the legislative session immediately after Census data is released.

Timeline

Tex. Const. art. III, §28 requires the legislature to agree to redrawn state districts during the first regular legislative session after Census data is reported. If the legislature does not do so – or if a governor vetoes the maps without a legislative override or a court overturns the maps – the LRB must convene within 90 days of the end of the legislative session. Within 60 days of convening, the LRB must complete drawing state legislative districts.

Because redistricting must be completed before the filing deadline associated with the next round of state primary elections, this leaves about 6 ½ months after the conclusion of the regular legislative session to fully complete the redistricting process (Graves, 2020). This includes any gubernatorial action on redistricting legislation, LRB meetings and re-convening of the legislature if needed, any county changes to precincts required by redistricting, and any relevant court actions.

Process

Prior to beginning redistricting, the Texas Legislature must determine the number of state representative

seats each county is entitled to, so that it can allocate representatives among the counties. Tex. Const. art. III, §26 specifies that this allocation must be based on the ratio of representatives to the state's population based on the most recent U.S. Census.

In drawing state-level districts, to adhere to the 'one person, one vote' principle, Texas House and Senate districts may deviate in size by no more than 10 percent (from most to least populous) from the district population size if all districts were populated equally. This legal requirement was set by a Texas case that reached the U.S. Supreme Court in 1973 (*White v. Regester*, 412 U.S. 755).

Texas Senate districts must be contiguous and represented by only one senator per district (Tex. Const. art. III, §25). Tex. Const. art. III, §26 outlines the following rules for drawing Texas House districts:

- + If its population is sufficiently large, a county must form a single district.**
- + If not, the county must remain intact when combined with one or more contiguous counties. must have fully completed any terms associated with a felony conviction**
- + A county with sufficient population for two or more whole districts must be divided accordingly, without any district extending into another county.**
- + A county with a population large enough for two or more whole districts, plus a portion of an additional district, must be divided into whole districts, with any excess population combined with a district in a contiguous county(ies).**

Local Redistricting

Across the country, local governments where representatives are elected from single member districts are expected to redistrict every so often to respond to changing population sizes (NCSL, 2022). State requirements for local redistricting processes are much less clear than for state-level redistricting. State law in some states outlines requirements for local redistricting, like setting a timeline or establishing specific criteria that local governments must use, while other states offer minimal guidance.

In Texas, the responsibility for drawing districts for county commissioners court, constable, and justice of the peace precincts lies with each Texas county. Tex. Const. art. V, § 18(a-b) indicates that these districts should be divided, “from time to time,” using data from the most recent U.S. Census. Other local entities in Texas may have responsibility for drawing other local-level districts (e.g., cities like Houston draw their own city council districts).

When redistricting takes place and new boundaries are approved, Tex. Govt. §81.021(a) requires subsequent county elections to be held under the new boundaries, even before the official effective date of the change in boundaries. According to Tex. Govt. §81.021(b), the term of a commissioner, justice of the peace, or constable who was already holding office when a boundary change becomes effective should not be affected by the change, even if the official’s residence is no longer located in the precinct in which they were previously elected.

Commissioners Precincts

Tex. Const. art. V, § 18(b) requires each county to be divided into four commissioner precincts, with one commissioner elected from each precinct. A 1968 U.S. Supreme Court ruling, *Avery v. Midland County*, determined that the U.S. Constitution’s ‘one person, one vote’ requirements apply specifically to commissioners courts in Texas, and specified that there could be no more than a 10% difference in population between the smallest and largest commissioners’ precincts (Allison, 2017).

While the Texas Constitution does not require any specific frequency for redistricting commissioner court precincts, nor any statutory deadline for doing so, the *Avery* ruling means that Texas counties must complete commissioner court redistricting in a timely fashion after decennial Census data is released if there is more than a 10% population difference between precincts. As a result, any county redistricting is completed prior to the candidate filing period for the next primary election.

Justice of the Peace and Constable Precincts

There is not a parallel court ruling requiring Texas justice of the peace (JP) and constable precincts to follow the one person, one vote principle (Advancement Project, 2011). However, Texas counties are required to use Census population data to determine the number of JP and constable precincts within their boundaries. Tex. Const. art. V, §18(a) specifically outlines the relationship between a county’s population, the number of precincts it may have, and the number of JPs and constables associated with each precinct.

In Greater Houston

In the post-Shelby environment, and as the region’s population has grown and become more diverse, the Greater Houston region has encountered challenges related to redistricting and equalizing voting power. Following *Avery v. Midland County*, county commissioners court redistricting is expected to follow the ‘one person, one vote’ principle and adhere to racial fairness principles espoused by VRA’s Section 2; however, Texas does not outline specific criteria for local governments to apply when engaging in redistricting processes. Therefore, it is up to local county commissioners’ courts to set any criteria they may follow.

In Texas, it is typical for local jurisdictions to hire law firms specializing in redistricting to educate elected officials and their offices, provide data analyses and lead the public participation process based on criteria the jurisdiction establishes. In general, local jurisdictions schedule a redistricting workshop where elected officials hear a presentation on population data from redistricting consultants. From there, if the county exceeds the 10% deviation threshold between districts, the local jurisdiction will go forward with redistricting. If this threshold is not exceeded, elected officials will determine whether there are other reasons to redistrict districts, or, as in the case of Austin County in 2021, will not move forward with redistricting.

Table 9.1 outlines criteria Greater Houston counties adopted to guide their 2021 redistricting processes, as identified via media sources or on county websites as of Dec. 2023. Most counties adopted public redistricting criteria in 2021, although these were not necessarily hosted on county websites at the time of this report. It is unclear whether Fort Bend or Chambers adopted criteria in this cycle – while both counties adopted new redistricting plans, we were unable to locate approved criteria on county websites or in Fall 2021 meeting agendas, packets, or minutes available online. Fort Bend still hosts its 2011 criteria on its website, but does not list any criteria specifically for 2021.

TABLE 9.1: COUNTY-ADOPTED LOCAL REDISTRICTING CRITERIA (2021)

COUNTY	COUNTY REDISTRICTING CRITERIA
Austin	Meeting minutes show commissioners “not redistricting at this time.”
Brazoria	<p>Adopted criteria 9/21/21; criteria are as follows:</p> <ul style="list-style-type: none"> • Follow easily identifiable geographic boundaries where possible • Maintain communities of interest in a single precinct; avoid splitting neighborhoods • Keep whole precincts together where possible, ensure adequate polling place facilities in each voting precinct • Base on existing precincts where possible • Relatively equal precinct populations, with a deviation no more than 10% • Compact and contiguous • Consider preserving incumbent-constituency relations • Not impede voting access for racial and language minorities • Not fragment a geographically compact minority community or pack minority voters
Chambers	Criteria could not be located for 2021
Fort Bend	<p>Criteria could not be located for 2021; however, 2011 criteria are still posted on website:</p> <ul style="list-style-type: none"> • Adhere to provisions of the U.S. and Texas Constitutions, the VRA, and the Texas Election Code • Address/maintain minority representation • Preserve minority communities of interest • Avoid joining geographically remote minority populations into a single precinct • Seek compact and contiguous political boundaries • Retain well-recognized precinct boundaries • Ensure election precincts conform with state law • Ensure continuity in leadership during remaining term of incumbents • Address fundamental and necessary governmental functions • Ensure election precincts do not contain territory from more than one commissioners, justice, congressional, state representative, state senatorial district to provide harmonious administration of various election jurisdictions • Locate polling places in convenient, well-known locations accessible to disabled voters
Galveston	No criteria were adopted publicly for 2021 redistricting

COUNTY	COUNTY REDISTRICTING CRITERIA
Harris	<p>Adopted criteria 7/20/21; criteria are as follows:</p> <ul style="list-style-type: none"> • Meet the one-person, one-vote requirement with total population variance below 10% • Comply with all provisions of the U.S. Constitution, VRA • Respect population increases and decreases within commissioner precincts • Ensure commissioner precincts take into account results of elections held within Harris County over the last decade • Preserve communities of interest • Maintain whole voting tabulation districts in commissioner precincts. • Ensure geographic contiguity • Plans should adhere to these criteria, and include boundaries of all commissioner precincts
Liberty	Adopted criteria 9/28/21; criteria could not be located
Montgomery	<p>Adopted criteria 11/3/21; not currently listed on website, but printed in Nair (2021):</p> <ul style="list-style-type: none"> • Follow easily identifiable geographic boundaries • Maintain communities of interest in a single commissioner precinct, attempt to avoid splitting neighborhoods • Commissioner precincts should be composed of whole voting precincts. Where not possible or practicable, draw precincts that create practical election precincts, avoid splitting census blocks unless necessary • Plan should be based on existing commissioner precincts • Precincts should be relatively equal according to the 2020 federal census; populations within 10% • Precincts should be compact and contiguous • Preserve incumbent-constituency relations • Narrowly tailor the plan to avoid racial gerrymandering • Not fragment a geographically compact minority community or pack minority voters
Waller	<p>Adopted criteria 9/29/21; not currently listed on website, but summary in Miller (2021) includes the following:</p> <ul style="list-style-type: none"> • Easily recognized precinct boundaries based on geographic landmarks • Precincts relative equal to each other, populations within 10% • Compact and contiguous precincts • Limit remapping precincts • Avoid gerrymandering along racial lines • Keep communities of interests together, including groups with shared sense of community

Contrasting the approach of most of the region's counties, Galveston did not adopt public redistricting criteria during the 2021 redistricting cycle. A federal District court's ruling regarding Galveston's commissioner precinct redistricting includes several findings related to redistricting criteria (*Terry Petteway v. Galveston County*, 2023). First, the court notes that the U.S. Attorney General observed that the county had not adopted a specified set of criteria to guide its process during the 2011 redistricting cycle, as part of the Attorney General's objection to the process of creating that cycle's precinct maps. The Attorney General specifically contrasted this with the county's 1991 and 2001 redistricting cycles where the county had adopted redistricting criteria. Further, the federal District court found that in 2021, Galveston once again did not publicly adopt redistricting criteria.

Among the counties whose publicly adopted criteria we could review, we see substantial similarities in content of the criteria across counties, but also some differences. For example, guidelines in Brazoria, Montgomery, and Fort Bend (2011) specifically recommend considering incumbents in redistricting. Brazoria and Montgomery both prioritize preserving incumbent-constituency relationships, while Fort Bend prioritizes protecting continuity of leadership during incumbents' terms. Harris does not explicitly mention incumbents, but suggests considering recent years' election results.

Commissioners Precincts

Across the region, counties have seen various challenges related to county commissioner precinct redistricting, particularly as regards equal representation of communities of color.

The largest such controversies in Greater Houston in recent years have taken place in Galveston. In 2011, the county was accused of violating the VRA and diluting the voting power of Hispanic and Black residents as it drew its four county commissioner precincts. After legal proceedings, the county agreed to redraw its electoral maps (*Statement of Interest*, *Petteway v. Galveston*, 2012); the county's new map included a precinct in which Hispanic and Black voters would have more voice in local elections. Following Shelby's elimination of preclearance, controversy again emerged during Galveston's 2021 redistricting cycle. Joined by voting rights organizations and individual voters, the U.S. Department of Justice filed a federal lawsuit challenging Galveston's 2021 redistricting plan (*Schneider*, 2022), claiming that the county's plan violated VRA's Section 2 and the U.S. Constitution when it eliminated the county's minority-majority district.

In October 2023, a federal district judge determined that Galveston's 2021 redistricting plan violated the

VRA in "den[ying] Black and Latino voters the equal opportunity to participate in the political process and the opportunity to elect a representative of their choice to the commissioners court" (U.S. DOJ, 2023). The court found that the county removed a longstanding district where Black and Latino voters had been able to choose a preferred candidate for many years, and determined that this action was unjust, with no justification for significantly altering the district from its prior existence. Ultimately, the court found that the county's elimination of this district silenced representation of the Black and Latino communities in its commissioners court, despite these groups constituting 38% of Galveston County's overall population. The court ordered the county to file a revised redistricting plan in compliance with the VRA, with at least one majority-minority district (*Wilburn*, 2023). At the time of this report, this order is currently on hold as this case continues to wind through federal courts.

In Fort Bend, home to the state's highest proportion of Asian residents, decennial state redistricting of Congressional seats had divided areas with concentrated Asian populations and merged them with white, rural populations (*Bohra*, 2021). As the county conducted its parallel redistricting process for county commissioner precincts, advocacy groups such as the Texas Organizing Project and Texas Asian American Democrats criticized the county's map options for dividing established communities without meaningful community feedback (*Vasquez*, 2021). The county process was subsequently extended to allow community engagement and additional time for the public to submit proposed maps.

Waller County has a long history of legal claims arguing that it has disenfranchised Black voters through voter suppression and racial gerrymandering (*Johnson v. Waller Cnty*, 2022). During the 2021 redistricting cycle, the NAACP Legal Defense and Education Fund (LDF) expressed concerns about maps under consideration, including whether they complied with the VRA and the 14th Amendment (*NAACP Legal Defense Fund*, 2021a; 2021b). NAACP LDF urged the Commissioners Court to consider creating districts with a majority of Black and Hispanic voters to address unequal representation resulting from county demographic shifts between 2010 and 2020.

Over the past decade, Harris County also has experienced issues surrounding local-level redistricting. While not specific to commissioners precincts, a mere month after the U.S. Supreme Court struck down the VRA's preclearance requirements in *Shelby*, Pasadena replaced two of nine City Council districts with at-large seats and merged two Hispanic-majority districts into one. A federal court judge ruled that this violated the VRA and applied preclearance requirements to

the city for subsequent election-related proposals. In October 2021, Harris County commissioners adopted new precinct boundaries. As a new Democratic majority distributed county growth by combining a large swath of unincorporated Harris County into a single precinct, partisan debates and criticism for dividing one community and placing two geographically distant communities in separate parts of the large county under one commissioner emerged (Schneider, 2021). Democratic members argued that the new map represented a course correction from prior boundaries that favored Republicans, while Republican members criticized the move as partisan gerrymandering (Grieder, 2022).

Justice of the Peace and Constable Precincts

How Texas counties approach JP and constable precincts varies. In some counties, like Fort Bend and Galveston, JP and constable precincts must follow the county commissioner precincts. Therefore, in these counties, when commissioner precincts undergo a substantial shift prompted by the release of decennial Census data, this also changes precinct boundaries for justice of the peace (JP) courts and constables, which are dictated by the JP boundaries. This can cause challenges for elected officials required by state law to reside in the precinct they represent.

Illustrating this, recent local precinct changes in Fort Bend and Galveston led to conflict between parties and elected officials. For example, when Fort Bend approved a new precinct map along party lines in 2021 (DeGrood, 2021), one constable initially declined to take the oath of office under the new precinct designation (Kumar, 2022a). Another expressed concerns about having to campaign in unfamiliar territory.

In other counties, like Harris, JP and constable precincts do not need to match county commissioner precincts. Further, as 'one person, one vote' has not been determined specifically to apply to JP and constable precincts, Texas counties are not obligated to consistently revisit these precincts, unless they create their own county policies requiring decennial review.

Harris County does not require JP boundaries to follow the commissioner precincts (NAACP Legal Defense et al., 2010). While other large Texas counties (i.e., Dallas and Travis) redraw JP boundaries every decade, Harris does not require JP boundary review to take place with any frequency. In fact, Harris County has not redrawn these boundaries in 50 years. This is despite a more than doubling of the county's population over this time, along with the shifting of the center of the county's population to the west, resulting in major caseload differentials (e.g., 11 times as many eviction cases in Precinct 5 than in Precinct 6; 27 times as many Class C misdemeanors in Precinct 4 than in Precinct 6) (McClendon, 2022).

ENGAGING COMMUNITIES DURING THE REDISTRICTING PROCESS

State Policies

The Texas Legislative Council encourages members of the public to submit redistricting proposals for state Senate, state House, Congressional, and State Board of Education (SBOE) districts. Texas state law does not appear to address specific public engagement processes for local redistricting or public submission of proposals for city and county districts, outside of its regular open meeting laws.

In Greater Houston

During redistricting, local community engagement approaches vary widely in Greater Houston. Public meetings are a common mechanism for gathering community feedback, and, in some cases, members of the public are encouraged to submit alternative map proposals. Further, advocacy groups may partner with communities and with local governments to try to challenge patterns of discrimination and advance transparency and equity in redistricting processes.

Each local jurisdiction adopts their own guidelines for public participation in redistricting processes. Some Greater Houston counties appear to follow a well-defined process and timeline for engaging with community members after Census figures are released, while others do not appear to have clear timelines or participation protocols publicly available. Across the nine-county region, Brazoria, Harris, and Fort Bend (from 2011, not 2021) stand out as having outlined a set of county activities, triggered by the release of decennial Census data, that include specific protocols for public participation. If such protocols exist in the other counties, they do not appear to be publicly shared on information channels easily accessible by the public.

Counties may publicly share proposed redistricting maps and may encourage residents and advocates to submit their own. Such preliminary plans are often made available on the county's website and at public hearings or regularly scheduled Commissioners Court meetings. While we cannot determine what counties made available on their websites at the time when redistricting occurred in late 2021, as of November 2023, Brazoria, Fort Bend, Galveston, and Harris each have website pages where draft redistricting maps are still publicly available. Brazoria and Galveston's websites each host two draft map options from the 2021 redistricting cycle. Fort Bend has an extensive redistricting page, with multiple draft options posted;

however, all materials on this site appear to be from the 2011 redistricting cycle, with no parallel information posted for the post-2020 redistricting process. Unlike these other counties, Harris posted extensive information about potential redistricting maps. Not only are draft commissioners court redistricting maps hosted on the county's website, maps submitted by individual commissioners and other county stakeholders were also posted. In addition, Harris provided a portal for community members to submit their own map ideas, and then posted these to its website.

When a local jurisdiction is ready to move forward with redistricting, a notice for a public hearing is posted. At this public hearing, county commissioners receive public comment on local redistricting processes and proposals. After the public hearing, commissioners courts consider and take possible action regarding one or more redistricting plans. Table 9.2 outlines the public meetings and comment opportunities each county offered during county redistricting following the 2020 census. All nine Greater Houston counties discussed redistricting in at least one public meeting, with seven Greater Houston counties holding multiple public comment opportunities. Only one county, Harris, held either an evening or a virtual meeting; Harris County's single virtual evening meeting to receive public comment on its redistricting plan began at 6 p.m.

TABLE 9.2: PUBLIC COMMENT OPPORTUNITIES FOR COUNTY-LEVEL REDISTRICTING

COUNTY	DAYTIME PUBLIC MEETING (IN PERSON)	MULTIPLE DAYTIME PUBLIC MEETINGS (IN PERSON)	EVENING MEETING (VIRTUAL)
Austin	X		
Brazoria	X	X	
Chambers	X	X	
Fort Bend	X	X	
Galveston	X	X	
Harris	X	X	X
Liberty	X	X	
Montgomery	X		
Waller	X	X	

In the region, Harris County stands out as an example of engagement with local community leaders around the 2021 local redistricting cycle. Houston in Action and its member organizations worked together to create a Comm(Unity) Map in response to concerns about the redistricting process. They engaged with the commissioners court and the County Attorney's Office to incorporate community involvement in the redistricting process. The final map approved by Harris County was similar to the Unity Map, after a series of public engagement events and meetings between the advocacy organizations and commissioners court offices.

The COVID-19 pandemic delayed the start to the 2021 redistricting cycle. In at least some Greater Houston counties, this appeared to reduce the timeframe for general public participation in the redistricting process. In Austin County, for example, commissioners discussed posting a meeting notice in the newspaper on a Thursday for a public meeting the following day, on Friday, to review a new redistricting map (Austin County, Texas, n.d.). Ultimately, Austin County commissioners decided against changes to the county's precincts, which showed an average 9.3 percent population variance between precincts, less than the 10 percent threshold. This decision was made after this single

redistricting workshop took place, attended by no members of the public.

In contrast, in Fort Bend, the county received community feedback from local activists, including the Texas Organizing Project, requesting more time. This extension was supported by members of Fort Bend's Asian American community, who believed this extension would help generate maps that more fairly represented the county's population (Vasquez, 2021). As a result of this feedback, Fort Bend extended its deadline for public input. Ultimately, the court considered three maps created by the court, along with proposed maps from community members.

As with Fort Bend, specific concerns in Waller County emerged relating to opportunities for public participation in redistricting. NAACP LDF sent letters to the county specifically expressing concerns about opportunities for public participation. These letters requested that the county hold public hearings outside of workday hours, robust remote participation opportunities, opportunities to respond to proposed maps before they are approved, and an extended timeline to allow for more community engagement (NAACP LDF, 2021a; 2021b). The county's timeline does not appear to have been extended following these letters.

SUMMARY AND RECOMMENDATIONS

As Greater Houston becomes increasingly diverse and its suburbs become political battlegrounds, concerns about achieving equal voting power, facilitating community involvement in the redistricting process, and adapting to new boundaries and changes to representation have surfaced in multiple counties across the region. Although commissioners court redistricting must adhere to the one person, one vote guiding principle, county redistricting processes are much less prescribed than state processes, leaving counties latitude to interpret redistricting criteria and operationalize public engagement.

While the outcome of new local government district boundaries can have lasting effects on elections, criminal justice, local budgets, and other aspects of county policy, the processes and levels of public engagement vary across the nine-county region. Some counties appear to approach the redrawing of maps in relative secrecy, with workshop discussions attended by few, if any, members of the public. Other counties appear to place more value on public participation with extended windows to receive public comment, and by empowering members of the public to create and submit their own maps.

Recommendation 1: Create and Maintain Open and Accessible Local Government Redistricting Processes

More consistency is needed across local jurisdictions in Greater Houston to create and maintain open and accessible redistricting processes that offer opportunities for all residents, especially communities of color and language minority communities, to express their voices in drawing district maps. Creating intentional opportunities to hear directly from impacted communities helps surface the nuances needed to create fair maps that meet the representational needs of diverse communities (Southern Coalition for Social Justice, 2023). Public engagement is critical to ensuring that the voices and needs of communities, particularly communities of color, are heard in drawing representational boundaries that will affect their day-to-day lives (Asian Americans Advancing Justice, 2021).

Recommendation 2: Support Local Governments with Guidelines and Tools to Facilitate Public Input

Texas provides no specific guidelines on how local governments should structure and incorporate public input in local redistricting processes (NAACP LDF et al., 2021). Given the inconsistencies across counties in public input in Greater Houston, along with the very limited opportunities for evening and virtual participation in the redistricting process, minimum guidelines for public input would help provide a baseline expectation for public involvement across the region.

Similar to guidelines like those proposed by the League of Women Voters-Texas (2021) at the state level, these could include expectations around holding public input hearings after Census data is released, timeframes for making redistricting maps public prior to any public redistricting hearings, and public review periods for subsequent revisions. These could also include minimum numbers of public hearings relative to a jurisdiction's size and requirements for posting proposed map options on a jurisdiction's website, as well as expectations related to when and in what format public comment periods are offered..

Recommendation 3: Increase Alignment of Redistricting for Justice of the Peace/ Constable Boundaries with Commissioners Court Redistricting Cycles

While it is common for Texas counties to require JP boundaries to follow commissioners precincts, this is not the case in some urban Texas counties in Greater Houston, like Fort Bend and Harris. Currently, such counties are not required by the state to redraw JP boundaries after each Census. While Fort Bend redrew its boundaries after the 2020 Census, adding a new JP court (Kumar, 2022b), Harris County has not redrawn its boundaries in 50 years, despite major shifts in the county's population over that time. As a result, Harris County's JP and constable precinct boundaries are inconsistent with the 'one person, one vote' principle followed for other elected officials' districts.

In order to provide fair maps at all levels of representation in the state, Texas should consider requiring JP and constable boundaries to be reviewed after each Census. If state law does not change prior to the next Census, local counties can consider revisiting their policies to require decennial review of these precinct boundaries.

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