

TEXAS

PROGRAM

The Texas Election Protection program spanned the early voting period and Election Day, covering Harris Galveston, Dallas, and Collin counties.

Voters faced numerous challenges leading up to the election including a new restrictive law requiring voters to show government issued photo identification, widespread voter registration problems and a significant number of late-opening polling locations. Finally, voters were fearful of intimidation from ballot box bullies at the polling place, which had been a major problem facing Texans in 2010.

BEFORE ELECTION DAY

Voter Registration Problems

In early September, voters were surprised to receive letters telling them that they were dead and that they were being removed from the voter list. Over 80,000 voters were identified in this faulty purge, which the state based on the Social Security Administration's death list. Social Security warned Texas that the list should not be relied on, but to no avail. After Harris County received hundreds of calls from voters who received the notice, the county refused to purge these voters. The state threatened the county with the loss of state funding, yet the county refused to back down and the state finally relented. Additionally, four living voters who received the letter filed a lawsuit that challenged the law allowing for this purge. The case settled with the state agreeing that counties will now have to verify a voter is dead before they can cancel a voter registration.

On the first day of early voting, voters who registered close to the registration deadline found themselves either not on the registration list or listed with a note that said their registration was not active until Election Day (and thus could not participate in early voting), even though they were properly registered. Election Protection had repeated discussions with the county attorney's office as well as the county clerk and discovered that the poll books had not been updated to reflect the new registrations. One voter called the Election Protection hotline worried that she would not be able to vote because she was leaving the

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country the next day. An Election Protection volunteer convinced the county clerk to enter her into the poll book so that she could cast a regular ballot before her trip. The poll books were updated for the remaining days of early voting.

Texas' New Photo Identification Law

In 2011, Texas passed SB 14, one of the most restrictive photo identification laws in the country, which would have required voters to present, without exception, a government issued photo ID. While the law allowed voters to identify themselves at the polls using a concealed carry permit, the state legislature had rejected amendments that would have allowed the use of other forms of identification, such as a photo student ID.

Texas is a covered jurisdiction under Section 5 of the Voting Rights Act because of the state's history of racial discrimination in applying election law. As such, Texas is required to submit any changes to its election laws to the Attorney General or a Federal Court in Washington, D.C. for preclearance. To obtain preclearance, Texas must demonstrate that the new law neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race, color or membership in a language minority group. In July 2011, the State submitted its photo identification law to the Attorney General for preclearance. After numerous requests for more information, the preclearance was denied in March of 2012 after the Department of Justice determined that the number of registered voters who lack a driver's license or a personal identification card could range from 603,892 to 795,955, and Hispanics were 46.6 to 120 percent more likely than non-Hispanics to lack these forms of ID. The state provided no data on whether African American or Asian American registered voters would also be disproportionately affected. The state also failed to provide data on the number of registered voters who had other forms of acceptable identification, including a United States Passport or concealed carry permit. Also, 81 of the state's 254 counties do not have driver's license offices and that those that do have such offices are open for limited hours, making it difficult for voters to obtain identification. Given the above reasons, the Department of Justice denied preclearance for the photo identification law.

The State then sought preclearance in Federal Court in Washington, D.C. In August, the court denied preclearance of the law. The three-judge court found that the law would almost certainly have a retrogressive effect because it imposes “strict, unforgiving burdens on the poor, and racial minorities in Texas are disproportionately likely to live in poverty.” The court considered the same findings listed above, the failure of the Texas Legislature to accept the many amendments offered to blunt the effect of the law, including allowing any state-issued or tribal identification with a photo, extending driver’s license office hours, reimbursing impoverished voters for travel costs to get qualifying identification and waiving the fees for indigent persons who need the underlying documents. Therefore, the court denied preclearance, and the law was not in effect for the November election.

Voter Intimidation

In 2010, an initiative called “True the Vote” sprung from the King Street Patriots in Houston. That year, in Houston, voters complained that True the Vote poll watchers sought to deter targeted groups of voters from voting, disrupted voting when voting began, and confronted them about their eligibility to vote. Because of this history and the True the Vote’s announcement that they planned to recruit one million poll monitors for the 2012 election, the Election Protection Coalition wrote to Harris County seeking assurance that no True the Vote activity would disrupt voters, as it had in 2010. Additionally, Election Protection worked to educate and empower voters so they knew their rights and were properly prepared to vote in case their right to vote was questioned.

ELECTION DAY

Voter Identification Confusion

Despite the court striking down the photo identification law, confusion followed on Election Day. Voters and poll workers were confused over what identification they still needed to present – Texas voters are required to show their voter registration certificate. If they don’t have their certificate, they can show a number of different identifications that include non-photo identification such as a utility bill. Election Protection received reports of voters confused about what identification they needed to show and others who were told they needed to present photo identification. In San Antonio, two voters called to report that poll workers were making voters who presented unsigned voter registration certificates to sign them at the polling location, and then present a form of identification to compare the signatures. Another voter in San Antonio was told that she needed to present a driver’s license. The voter asked to speak to an election judge, who told her the same incorrect information and that if she didn’t have a driver’s license she could vote a provisional ballot.

The voter protested, but eventually showed her license and voted a regular ballot. Election Protection called the county clerk to request that the clerk inform the poll workers of the law. In Houston, meanwhile, a voter was initially told that her passport was not an appropriate form of identification. She protested and another poll worker finally stepped in and allowed her to vote.

Late-Opening Polling Places

On Election Day, voters in Galveston County arrived at polling locations only to find that many of the locations were not yet open. A reported 38 voting centers did not open on time, because poll workers did not start the computer systems early enough. This setback prompted a judge to extend voting hours on Election Day.