

Problems with Partial Hand Count Chart from SOS Phase 1 Audit Report

The first chart shown below comes from the Texas SOS Phase 1 Audit that can be found here:
<https://www.sos.texas.gov/elections/forms/phase1-progress-report.pdf>

Collin County Partial Manual Count November 2020

| Precinct | Mail Ballot Electronic Count | Mail Ballot Hand Count | Early Voting In Person Electronic Count | Early Voting In Person Hand Count | Election Day Electronic Count | Election Day Hand Count | Count Discrepancy |
|----------|------------------------------|------------------------|---|-----------------------------------|-------------------------------|---------------------------|-------------------|
| 126 | 198 | 197 | 2,906 | 2,899 | 175 | 175 | 8 |
| 209 | 32 | 32 | 611 | 609 | 308 | 308 | 2 |
| 66 | 141 | 137 | 1,266 | 1,263 | 127 | 127 | 7 |
| | | | | | | Total Discrepancy: | 17 |

The chart shows the three precincts that were used in the Partial Hand Count that is conducted by law after each election. (Texas Election Code 127.201(a))

<https://statutes.capitol.texas.gov/Docs/EL/htm/EL.127.htm>

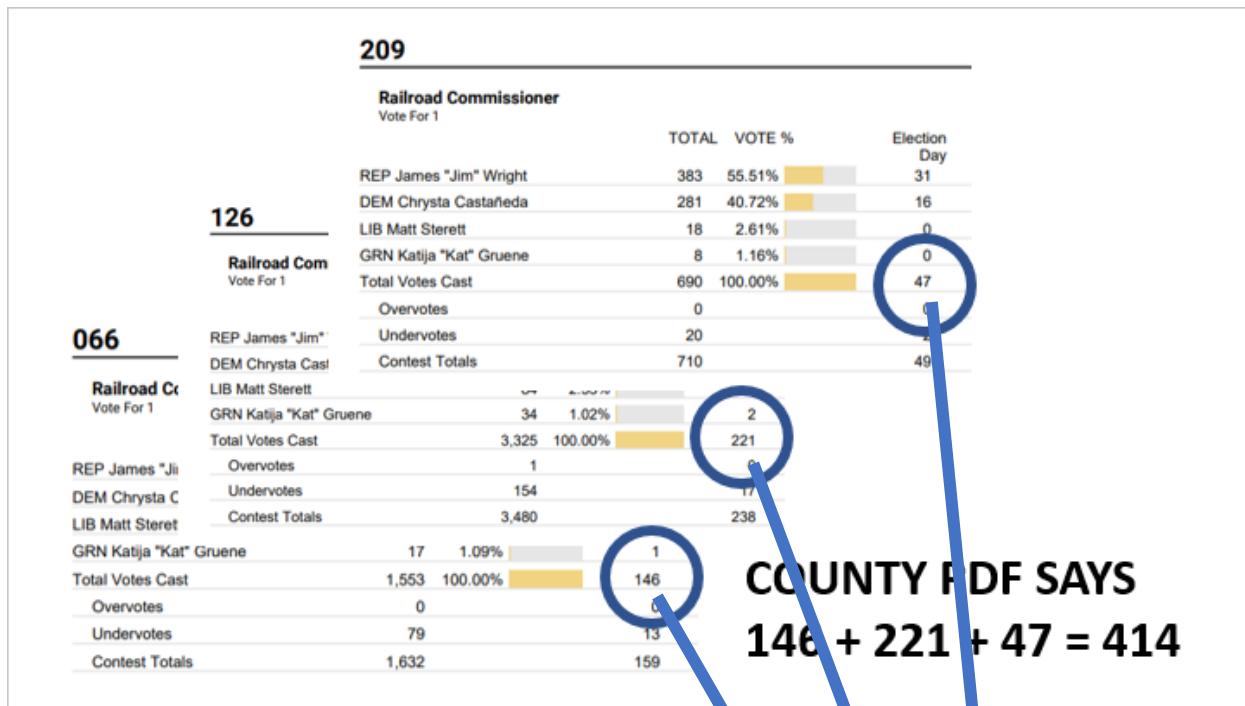
These precincts are randomly chosen by the SOS, and the race that was counted was the Railroad Commissioner race in 2020

This chart is misleading because it hints that everything was done by precinct, but the numbers do not match for election day for the precincts listed.

For example, for Collin County Precinct 209, there were only 74 voters on Election Day according to the Collin pdf report. That report can be found here:

https://www.collincountytx.gov/elections/election_results/Archive/2020/11032020/November%202020%20Combined%20Statement%20of%20Votes%20Cast.pdf

Below is a condensed version of the Collin County Precinct PDF report compared to the SOS Audit Phase 1 chart.



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Notice that none of the Election Day numbers match between the County Report and the Audit chart above.

There was such a large discrepancy between the Audit and the county report that we asked the elections office, and they said they did the partial hand count by polling location on Election Day, not by precinct.

The report has a description in a paragraph above the chart that says they did provide an alternate method for Election Day, but it doesn't say what that alternate method was OR if they had the legal right to perform this alternate method. Here is the wording from the Phase 1 audit.

Under [TEC Section 127.201](#), counties are required to conduct a manual count in at least one percent of the election precincts or in three precincts, whichever is greater, in which an electronic voting system was used in a general election. The SOS is responsible for choosing the race(s) and precinct(s) used to conduct the partial manual count in a general election. For the November 2020 Election, the office of Texas Railroad Commissioner was chosen as the race for which counties conducted their respective partial manual counts. In order to protect the security and integrity of the voted ballots, the SOS has provided alternate Election Day locations for the partial manual count for counties that are part of the [Countywide Polling Place Program \(CWPP\)](#). This is done to ensure that the accuracy of the voting system equipment is thoroughly audited in a specific location while also ensuring that fewer election office personnel are handling voted ballots from across the county. None of the four counties reported any discrepancies in Election Day ballots counted electronically versus those counted by hand.

According to the Collin Elections office, here are the polling places that were used and what we believe the chart should have looked like.

| Precinct | Mail Ballot Electronic Count | Mail Ballot Hand Count | Early Voting In Person Electronic Count | Early Voting In Person Hand Count |
|----------|------------------------------|------------------------|---|-----------------------------------|
| 126 | 198 | 197 | 2,906 | 2,899 |
| 209 | 32 | 32 | 611 | 609 |
| 66 | 141 | 137 | 1,266 | 1,263 |
| | | | | |

JOSEPHINE CITY HALL
RICHARDSON OFFICE COMPLEX
MELISSA FIRST

| Early Voting In Person Hand Count | Election Day Electronic Count | Election Day Hand Count | Count Discrepancy |
|-----------------------------------|-------------------------------|---------------------------|-------------------|
| 2,899 | 175 | 175 | 8 |
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| 1,263 | 127 | 127 | 7 |
| | | Total Discrepancy: | 17 |

The SOS also corrected the chart in the Phase 2 full audit report on p 331 of the Full Audit report. The report can be found here: <https://www.sos.state.tx.us/elections/fad/2020-Audit-Full.pdf>

BUT, the issue is that there is nothing in the law that says that the SOS or county is authorized to do a hybrid partial hand count method.

TEC 127.201a says that the partial hand count shall be by precinct.

Sec. 127.201. PARTIAL COUNT OF ELECTRONIC VOTING SYSTEM BALLOTS BY GENERAL CUSTODIAN. (a) To ensure the accuracy of the tabulation of electronic voting system results, the general custodian of election records shall conduct a manual count of all the races in at least one percent of the election precincts or in three precincts, whichever is greater, in which the electronic voting system was used. The custodian shall select the precincts at random and shall begin the count not later than 72 hours after the polls close. The count shall be completed not later than the 21st day after election day. Subsection (b) supersedes this subsection to the extent of a conflict.

There is another law TEC 43.007c that says for those using Countywide Polling Centers the SOS shall provide for an audit.

(C)In conducting the program, the secretary of state shall provide for an audit of the voting system equipment before and after the election, and during the election to the extent such an audit is practicable.

There is one more document that applies. The SOS issued Advisory 2022-30 says that the partial hand count can be by precinct OR by polling place.

Procedures for the Partial Manual Count for Counties participating in the Countywide Polling Place Program:

1. For those counties that are participating in the Countywide Polling Place program, they have the option of completing the partial manual count in the traditional way by counting applicable ballots for a specific precinct **or** they may opt to conduct the partial manual count by polling place.

BUT there is nothing that says that some votes can be partially hand counted by precinct and other votes by polling location.

And this is what the SOS authorized the four counties in the audit to do.

TEC 276.019 is a great law, but it needs a penalty to prevent these unlawful changing of laws by any officials.

Sec. 276.019. UNLAWFUL ALTERING OF ELECTION PROCEDURES. A public official or election official may not create, alter, modify, waive, or suspend any election standard, practice, or procedure mandated by law or rule in a manner not expressly authorized by this code.

If you would like more info about this issue, here is a related video: <https://rumble.com/v24qoke-lost-votes-audit-the-audit-phase-1.html>

CALL to ACTION:

Ask your Texas Representative and Senator to add a penalty to TX Election Code 276.019 for anyone who unlawfully alters election procedures.