COLLIN COUNTY

★ CITIZENS DEFENDING FREEDOM

<mark>**Supplement**</mark>

Collin County Logic and Accuracy Report

April 12, 2024

DS200®

DS850

April 14, 2024

Contents

TEXAS LAW GOVERNING THE LOGIC AND ACCURACY TESTING

Sec. 129.023. PUBLIC TEST OF LOGIC AND ACCURACY.

a. The general custodian of election records shall create a testing board consisting of at least two persons. The general custodian of election records shall make every reasonable effort to ensure that the testing board consists of at least one person from each political party that holds a primary election.

b. Not later than 48 hours before voting begins on a voting system, the general custodian of election records shall conduct a logic and accuracy test. Public notice of the test must be published on the county's Internet website, if the county maintains an Internet website, or on the bulletin board used for posting notice of meetings of the commissioners court if the county does not maintain an Internet website, at least 48 hours before the test begins, and the test must be open to the public.

   1. If the test is being conducted for a primary election, the general custodian of election records shall notify the county chair of the test at least 48 hours before the date of the test. The county chair shall confirm receipt of the notice.

   2. If the test is being conducted for an election in which a county election board has been established under Section 51.002, the general custodian of election records shall notify each member of the board of the test at least 48 hours before the date of the test. If the county election board chooses to witness the test, each member shall sign the statement required by Subsection (e)(1).

c. The general custodian of election records shall adopt procedures for testing that:

   1. direct the testing board to cast votes;

   2. verify that each contest position, as well as each precinct and ballot style, on the ballot can be voted and is accurately counted;

   3. include overvotes and undervotes for each race, if applicable to the system being tested;

   4. include write-in votes, when applicable to the election;

   5. include provisional votes, if applicable to the system being tested;

   6. calculate the expected results from the test ballots;

   7. ensure that each voting machine has any public counter reset to zero and presented to the testing board for verification before testing;

   8. require that, for each feature of the system that allows disabled voters to cast a ballot, at least one vote be cast and verified by a two-person testing board team using that feature; and

9. require that, when all votes are cast, the general custodian of election records and the testing board observe the tabulation of all ballots and compare the actual results to the expected results.

c-1. A test conducted under this section must also require the general custodian of election records to **demonstrate**, using a representative sample of voting system equipment, that the source code of the equipment has not been altered.

d. A test is successful if the actual results are identical to the expected results.

e. To provide a full and accurate account of the condition of a given voting machine, the testing board and the general custodian of election records shall:
   1. sign a written statement attesting to:
      i. the qualification of each direct recording electronic voting machine that was successfully tested;
      ii. any problems discovered; and
      iii. the cause of any problem if it can be identified; and
   2. provide any other documentation as necessary.

f. On completing the testing:
   1. the testing board shall witness and document all steps taken to reset, seal, and secure any equipment or test materials, as appropriate; and
   2. the general custodian for election records shall preserve a copy of the system's software at a secure location that is outside the administrator's and programming entity's control until at least 22 months after election day.

In addition, the Texas Secretary of State has issued the following guidelines for the Logic and Accuracy Testing:

1. https://www.sos.texas.gov/elections/laws/advisory2022-30.shtml
2. https://www.sos.state.tx.us/elections/forms/seminar/2023/41st/logic-and-accuracy-testing.pdf

COMPLIANCE ON APRIL 12, 2024

On April 12, 2024, Collin County Elections conducted the mandated public Logic and Accuracy Test (LAT).

Below is a list of requirements by law and our observation on whether the LAT tested was conducted properly.

Compliance	Law	CDF Comment (if needed)
✔	The general custodian of election records shall create a testing board consisting of at least two persons.	The testing board consisted of one person from the City of McKinney. This person was a secretary to a City Secretary. This is a technical test. CDF believes that whoever is appointed to this board should have technical expertise, be trained on the law regarding this test, and understand the processes that they will be observing. The other members of the board were Elections office personnel. CDF suggests that there should always be at least two persons on the board outside of election office staff.
✖	The general custodian of election records shall make every reasonable effort to ensure that the testing board consists of at least one person from each political party that holds a primary election.	Note: This LAT was for the Municipal Race. The law does not seem to give any guidance that is different for municipal races.
✔	Not later than 48 hours before voting begins on a voting system, the general custodian of election records shall conduct a logic and accuracy test. Public notice of the test must be published on the county's Internet website…	
✖	The general custodian shall adopt procedures to direct the testing board to cast votes;	At one point in the testing, Bruce was asked if the testing board would be casting ballots. His response was that they were too busy. CDF indicated that this was a legal requirement and that there was a board member that was not busy who could have participated. This step was never done.
✔	verify that each contest position, as well as each precinct and ballot style, on the ballot can be voted and is accurately counted;\n\nverify that each contest position, as well as each precinct and ballot style, on the ballot can be voted and is accurately counted;	The Election office uses a test deck provided by ES&S. CDF assumes that this step was properly completed.

✓	A test conducted under this section must also require the general custodian of election records to **demonstrate**, using a representative sample of voting system equipment, that the source code of the equipment has not been altered.	The Election office is compliant with the advice and guidance of the Secretary of State. HOWEVER, CDF does not consider ONE of each TYPE of election machine to be a representative sample and will work to get better legislation for any future use of machines.
✓	A test is successful if the actual results are identical to the expected results.	There were no obvious issues here.
✓	To provide a full and accurate account of the condition of a given voting machine, the testing board and the general custodian of election records shall: 1. sign a written statement attesting to the qualification of EACH direct recording electronic voting machine that was successfully tested, any problems discovered, and the cause of any problem if it can be identified. 2. Provide any other documentation as necessary. On completing the testing: The testing board shall witness and document all steps taken to reset, seal, and secure any equipment or test materials, as appropriate;	CDF did not stay for the final securing of the materials, but CDF did see the testing board sign off on the documentation.
✓	The general custodian for election records shall preserve a copy of the system's software at a secure location that is outside the administrator's and programming entity's control until at least 22 months after election day.	

Unlike the previous LAT, the overall environment this time was positive and professional.
The office changed the procedure from last time and had the workers sit in chairs so that the view was unobstructed and citizens could see more clearly.
Expected Results matched the Test Results on the first time through.

ISSUE	FEBRUARY Observations and Comments	APRIL COMMENT
Password Issue	The importance of this issue cannot be emphasized enough. This is a CODE RED security failure by the Election Office and by the County INFOSEC team and is not excusable. The passwords need to be changed after every election at a minimum, and it would be even better if each polling place had a different password that is distributed only on a need-to-know basis. ==THE PASSWORDS need to change before tomorrow for the March Primary.== This issue was originally brought up at the August 28, 2023 Commissioners Court on Election Integrity and later revisited at a meeting on Oct 6 with Judge Hill.	Bruce approached us during this testing and said that the password will be changing and that it was a good suggestion. BUT they will not be changing it until the summer. There are THREE elections (municipal, Primary Runoff and Municipal Runoff) before the summer. CDF recognizes that there are logistics that make this task difficult, but still think that the security of the election should take precedence.
Contingency Plan	One citizen asked about the contingency/emergency plan in the event that the system went down and was told that there is a plan, but that it was not practiced or known by the judges. While it is commendable that a disaster plan is created, a plan is only as good as its implementation and roll-out. A contingency plan, if it unknown to the judges, is unhelpful in the event of an emergency. Our suggestion is to publicize to the staff and election judges the procedure and have it at every polling location so that they can respond to emergencies instead of reacting to them.	A citizen has requested this report via public information request (PIR) and has not received it in a timely manner. Is there such a report?

| Testing Board did not cast votes | Texas Election Code 129.023 c1 calls for the Election Administrator to instruct the Testing Board to cast ballots.

None of the citizen observers noticed any of the members of the testing board casting any ballots. That was only reserved to the contracted workers.

BIG DISCLAIMER – None of the public observers saw any evidence of the testing board casting ballots.

So, if the testing board did not participate in casting ballots, then this is a clear violation of state law.

The election administrator does not have the authority to waive duly written laws from the legislature. In fact, it is even more serious than simply breaking the law.

In Re Coy, 127 US 731 (1888) which is established federal law, it states:

It is the affirmative duty of our election officials to comply with all Federal and State laws governing administration and procedure of our elections, thereby guaranteeing our elections are accurate and free from distortion or manipulation. … The evil intent consists in disobedience to the law.

This federal law assigns evil intent to disobedience to the law.

If proven true, this omission is considered neglect and the election board, which we have asked to meet regularly to observe and monitor the elections office, should investigate this and every other violation of the law.

An election office cannot pick and choose which laws they would like to follow. The Coy case law does not give an excuse for ignorance of the law. | As stated above, CDF specifically asked Bruce if he intended to follow this statute. He said that the testing board was too busy to cast ballots. There was a member of the board from the City of McKinney who was in the corner of the room by herself on her phone who did not appear to be busy. She was never asked to cast a ballot – even though this was pointed out to Bruce as a legal requirement. |

NEW AND CONCERNING PROBLEM

At the February 15, 2024, Logic and Accuracy Test, CDF asked if the same machines were used in every logic and accuracy test or if the machines were chosen at random. We were told that the machines were pulled at random, tested, then put back into storage after the test and that they were not used in any polling location. The fact that the machines are never put in the field is concerning in itself.

But then we found out that the machines tested were the exact same machines In February, we jotted down the asset tags for the machines being tested and compared them to the tags on April 12th . The BMD, DS200 and DRE inside of the tabulation room were different from the last test: these were the machines that were used to test the hash. HOWEVER, all the DS200s and the DRE in the larger room that were used to cast ballots had the same asset tag numbers as last month.

> What is the point of testing the SAME machines each time, putting them back into storage and then pulling them out again for the next test?

It is unfair to the public to use the same machines over and over again for testing. This gives the impression that this is a show and that there is not a serious effort to protect our elections.

The bottom line is that even if everything was done correctly to the letter of the law, this test is wholly inadequate to detect problems.

You may remember the Volkswagen emissions scandal from 2015 where Volkswagen was able to cheat the test by having two modes: test mode and road mode. When the cars were tested in test mode, they passed; however, when the cars were on the road they would fail.

Things like the following make the public feel that the election office is only interested in doing the bare minimum (which is what they told us) and is not taking a proactive stance on securing our elections:

1. Only testing a handful of the <u>SAME exact</u> machines for every election.
2. Having lax security protocols (EX: unsecured USBs)
3. Creating a testing board with members who are not technically inclined to notice potential issues
4. Office personnel comprising the majority of the testing board
5. Not changing passwords
6. Avoiding any extra security measure that is not listed in the code, etc.

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FINAL THOUGHTS

CDF wants to recognize that running elections in a large county is not an easy task. We also understand that it is not comfortable to have a watchdog group that is watching what you are doing and making suggestions for improvement and pointing out code violations. But that is the way our republic was set up with government accountable to the people.

We as citizens have been lax in our duties for too long.   CDF is here to watch for and with the citizens of Collin County, and our hope is that we can work together to continue to improve Collin County Elections.

CDF also wants the election office to know that we do appreciate the changes that have been made over the last couple of years based on our suggestions. Thank you!