

4.3 Dallas, Texas: April, 1985

In the election for Mayor of Dallas, held April 6, 1985, the incumbent Starke Taylor avoided a runoff by obtaining slightly more than the required 50% of the vote. There were three opponents to Taylor: Morehead, Goldblatt, and Daniel. Max Goldblatt, the leading opponent, requested a recount. A machine recount (including absentee ballots that were mixed in) was undertaken on April 11, 1985, by order of the District Court. The original results and the recount results are summarized below: [49]

	Morehead	Taylor	Goldblatt	Daniel	Write-In
Original	2,318	38,998	35,081	621	10
Recount	2,318	38,973	35,082	619	10

The machine recount showed that, overall, Taylor's votes decreased by 25, while Goldblatt's votes increased by just one, an insufficient change to cause a runoff election. Mr. Goldblatt did not raise a challenge to the accuracy of the recount at that time, and Mr. Taylor was confirmed as Mayor for the two-year term.

Taken as a whole, the recount results would appear to confirm the vote totals produced in the original count, but a precinct-by-precinct review [50] raises technical questions about the accuracy of the combined human and computer system that produced them. There were 250 precincts in this election, but only 89 precincts showed no change in votes for any of the four candidates in the contest for mayor. Taylor's votes changed in 100 of the 250 precincts, while Goldblatt's votes changed in 113 precincts.

In the recount, Taylor lost one vote in 45 precincts, two votes in each of ten precincts, three votes in each of four precincts, and five votes in each of two precincts. Taylor gained one vote in 25 precincts, two votes in each of nine precincts, three votes in each of three precincts, and five votes in each of two precincts. These changes sum to a loss of 25 votes.

Goldblatt lost one vote in 47 precincts, two votes in each of five precincts, three votes in each of two precincts, four votes in each of two precincts, and five votes in each of two precincts. Goldblatt gained one vote in 41 precincts, two votes in each of ten precincts, three votes in each of three precincts, and twelve votes in one precinct. These changes result in an overall gain of one vote.

In addition, the number of ballots counted changed in 109 of the 250 precincts, for a total loss of 27 ballots [51]. Fewer ballots were tallied in 59 precincts, while more ballots were tallied in 50 precincts. In precincts that lost ballots, one fewer was counted in 37 precincts, two fewer in each of eleven precincts, three fewer in each of seven precincts, four fewer in each of two precincts, five fewer in one precinct, and seven fewer in one precinct. In precincts that gained ballots counted, one more was counted in 33 precincts, two more in each of 13 precincts, three more in each of two precincts, and four more in each of two precincts.

For the recount, data on changes in precinct vote totals for the candidates were made available to the public. However, the number of ballots counted in the recount in each precinct was not included in the data released. The changes in ballots counted that are presented above are based on data collected by Ms. Terry Elkins, campaign manager for Max Goldblatt. Ms. Elkins was present at the recount, and copied down the number of ballots tallied for each precinct.

The causes of the changes in ballots and votes counted are not clear. However, changes occurred in such a manner as to yield both positive and negative values in approximately equal amounts, and the number of precincts in which changes occurred tended to decrease as the value of the change became more severe. This situation suggests a problem of system inaccuracy, rather than of deliberate bias. This inaccuracy could be of either human or mechanical origin, or both.

When numbers of votes change in a system using pre-scored punch cards, the problem is often ascribed to hanging chad, although failure of the card readers to read the cards accurately is a reasonable possibility. If the problem is said to be due to chad, the

explanation is that a hanging chad may fall out, creating either a vote or an overvote; or, a hanging chad may be pressed back into place, usually eliminating a vote.

The cause of changes in ballots counted is more perplexing. In the system used in Dallas, ballots were hand-fed into the card readers one at a time, by both the voters and the recounters. Consequently, it is unlikely that, on several occasions, two cards were fed at one time and counted as one. However, the system used at the precincts by voters required each voter to handle his or her ballot twice. First, the voter fed the ballot into the precinct ballot computer. Assuming that the computer accepted the ballot, the voter was then supposed to retrieve the ballot from the output of the computer and drop it into a ballot box. In some cases, a voter may have put the ballot into the ballot box without first having fed the ballot through the computer, or conversely, the voter may have fed the ballot through the computer more than once. On the other hand, inaccurate card counting by the machines, due to card jams, is a possibility. Only a thorough audit of voter sign-in lists, compared with an accurate count of numbers of ballot cards delivered from the precincts to the election headquarters could provide a more confident basis for a statement of the cause of the identified ballot count discrepancies.

In September, 1986, Ms. Elkins concerns about the election were publicized. These concerns included matters other than the differences between the original count and the recount, as discussed above. Instead, a major aspect of the information provided by Ms. Elkins at that time concerned the total number of ballots cast for Mayor. She noted that the "Combined Canvass Report" produced by the Dallas County Election Department on the evening of April 6 stated on page 14 that there were 78,398 ballots cast, while the same document stated on page 27 that there were 80,208 ballots cast. Furthermore, the "Official Cumulative Report" (which serves as an overvote-undervote report), produced by the Election Administration on April 8, stated that there were 79,783 ballots cast. Ms. Elkins contended that documentation that she had gathered supported none of these numbers of total ballots cast.

Ms. Elkins also noted another apparent discrepancy in the results reported for a City Council seat. In that situation (District 7), the number of votes tallied was reported to be 10,365. This value exceeded the number of ballots reported to be cast, 9,679. In addition, in one precinct, the initial number of ballots cast, 263, was replaced later with another value, 515. These technical concerns of Ms. Elkins were supplemented by concerns that the results presented on the computer printouts were created independently of the actual totals of the voted ballots through a deliberate attempt to subvert the outcome. [52]

As a result of Ms. Elkins' complaints, it was reported that Attorney General Jim Mattox and Secretary of State Myra McDaniel began investigations into voting discrepancies. According to the Dallas Morning News of Sept. 23, 1986, "the probe centers on allegations that computerized voting equipment and computer programs used to tabulate state and local elections may have been tampered with to bring about 'preprogrammed' results." [53]

In that same newspaper article, Ms. Elkins was quoted as saying that "the allegation is that the computer used to count the votes was given new instructions after it calculated that Max Goldblatt was leading Starke Taylor by 400 votes." Ms. Elkins has noted that the Dallas County computer had encountered difficulties shortly after 8 p.m. on election night, and that the candidate who was leading at 8 p.m., prior to the computer difficulties, was not leading when the computer reported again.

Ms. Conny McCormack, Dallas County Elections Administrator, admitted that the documentation for the April 6, 1985 election could appear contradictory. Her explanation was that the difficulty concerned the treatment of "split precincts," that is, those precincts bisected by the Dallas city boundary. There were 11 such split precincts. The value of 78,398 for ballots cast was produced by assuming zero ballots cast from these split precincts. The value of 80,208 for ballots cast was produced by adding the total ballots from the split precincts, including ballots cast outside of the city. The final value of 79,783 for ballots cast included only those ballots cast within the city of Dallas. Ms. McCormack contended that the recount generally confirmed the correctness of the

originally reported outcome. [54]

Ms. McCormack's explanation of the problem of reporting split precincts was supported by the vendor of the vote-tallying system. In a memorandum on the subject, a vendor representative stated that there was a difference between the type of reports requested by Dallas County Elections Department for the PBCs (precinct ballot counters) and for the central computer. The central computer was used to accumulate totals reported by the PBCs. The coding for the central computer included provision for split precinct specification of ballots cast, but the coding for the PBCs did not allow for this. According to the vendor, "this extra statistical option was not requested by Dallas for that election." [55]

The vendor representative further stated, in the same memo, that:

"Since the [data] packs did not have this [split precinct] information to transmit, all of the precincts which were transmitted had a "zero ballots cast" for the districts. Again, total ballots cast and all candidate votes were present and correct.

"On the cumulative report, then, the votes received by the district candidates were much greater than the ballots cast figures for those districts. Although the explanation for this apparent anomaly is now clear, it clearly was a suspicious looking situation."

With regard to the change in ballot totals reported for one precinct, Ms. McCormack stated that this was due to a failure of a PBC data pack. This occurs about 2% to 4% of the time, she stated. The procedure when this happens is as follows:

"When [a failure of a PBC data pack] occurs, the actual ballot cards are counted at the central counting station. Such discrepancies from PBC tape to actual ballots cast is determined by examination of the specific Ballot and Seal Certificates. When there is a discrepancy between number of persons signing the signature roster at the precinct and the

number of ballots cast according to the PBC tape, then the ballots from that precinct are counted centrally." [54]

A summary of the ballots cast in this election, as officially reported, is shown below, by district. It can be seen from the table that the largest component of ballots from split precincts occurs in District 7, where the increase from Column A to Column B is 1,661. However, 422 of these ballots were from outside the city, so that the total number of ballots cast in District 7 inside the city is 10,918. The latter number is shown in Column C, and it is appropriately higher than the total votes for candidates in District 7, which was 10,365. [56]

District	(A) Excluding Split Precincts	(B) Including All Ballots From Split Precincts	(C) Only Ballots Cast in City
1	9371	9395	9392
2	6314	6314	6314
3	16351	16382	16382
4	14529	14529	14529
5	13088	13088	13088
6	4118	4118	4118
7	9679	11340	10918
8	4948	5042	5042
Total	78398	80208	79783

Certain technical problems raised by Ms. Elkins seem to have been given a credible explanation, on the basis of information made publicly available in late 1986. However, as Warner Croft stated in his testimony to the Texas House of Representatives Committee on Elections:

"There is an audit trail but there are holes in it. The audit trail should consist of everything from the ballots themselves to the console log being printed by the computer on election night. The present laws don't identify what the minimum requirements are, so that, with the absence of a minimum definition, it just does not exist. You go after these things, and the laws don't require that they be kept on file now, so they have been destroyed months ago. So you really couldn't tell if there was fact to these allegations are not. That has been one of our problems. Records aren't available; there are no auditable results." [22]

Ms. Elkins' charges that the results were "preprogrammed" independently of the actual votes cast were not put to rest in 1986. In March, 1987, the Texas Attorney-General's office asked the District Attorney of Dallas County to assist in reviewing the election complaints. The review concerned "the reliability of Dallas County's computerized election system and whether the equipment is vulnerable to fraud through subtle changes in computer programs." [57]

On October 14, 1987, the office of the District Attorney of Dallas County replied to the Texas Attorney General's Office with a letter [58] including the following:

"We have carefully considered each of the thirteen (13) "discrepancies" discussed in the report [submitted by your office], and ... each of the "discrepancies" has been explained to our satisfaction; and although we verified that a few coding errors were in fact made, we have concluded that they were the result of unintentional "human error." We find no evidence whatsoever to indicate any deliberate fraud in the 1985 election, nor do we find any credible evidence to indicate an attempt to manipulate the election or its outcome by anyone, be it candidate, election official, or vendor."

Some knowledgeable persons have found this statement puzzling, in view of Warner Croft's testimony that necessary documents constituting the audit trail had been previously destroyed.

In the April, 1987, mayoralty election, split precincts were eliminated by the Dallas County Election Administration. Precincts that had been bisected by the Dallas city boundary or City Council district boundary were divided into two or more separate precincts. Letters A and B, added to the precinct identifier, were used to distinguish the formerly combined precincts, as in 1193A and 1193B.