

## COLUMNS

# Grumet: Paxton adds a worrisome page to election disruptors' playbook



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Most elections administrators could go their entire career and field only a handful of these requests. After Aug. 17, though, they started pouring in.

Eight in Travis County. About 10 in Brazos County. An additional 18 in Bexar County. Nearly 40 in Harris County.

“I’ve received at least three dozen (requests) since last Wednesday,” Chris Davis, the elections administrator in Williamson County, told me. “I may receive another via email or walk-in while we’re talking. They’re all asking for a very specific thing: the Cast Vote Record from the 2020 general election.”

It’s basically an electronic record of each voter’s selections, without any information that would identify the voter. Election skeptics have been eager to inspect this data ever since Donald Trump uttered his first unfounded claims of fraud in the 2020 presidential election (never mind the fact that Trump won Texas).

As Votebeat recently reported, Texas Attorney General Ken Paxton issued a startling opinion on Aug. 17 saying members of the public no longer have to wait 22 months to review electronic ballot records or personally inspect the paper ballots from an election.

No, he said, the public can see those things pretty much *anytime*.

“The way I read this opinion, a member of the public could have access to the ballots from an election *the day after that election*, and before all timely mail-in ballots have arrived or before the provisional ballots have been accepted, before the results are official and canvassed,” Davis said. “It’s a very, very confusing decision without a whole lot of parameters to follow. It makes me wonder if the authors of the opinion really understand how elections are run at the county level.”

Still, within hours of Paxton's advisory opinion being published, the election skeptics pounced. A post by an anonymous user on the right-wing-friendly social media platform Telegram urged Texans to start requesting the November 2020 election data. The Telegram post has been viewed more than 105,000 times and reposted in numerous places, including on the website of a GOP group in Ohio. Like clockwork, the information requests started popping into elections officials' inboxes.

Sure, at this point, providing the November 2020 ballot data raises little concern. The 22-month waiting period ends Sept. 5. Any recounts or lawsuits have long passed.

What worries me is that we're seeing a dress rehearsal for the efforts to disrupt the *next* election and the ones after that.

Paxton has opened up a worrisome new avenue for election deniers to overwhelm local elections officials with unreasonable requests to scrutinize data and rifle through ballots before the counts are finalized or any challenges have run their course.

Maybe these requesters are allowed in and someone alters or steals some ballots, creating more controversy around the outcome. Or maybe they're turned away, in which case they'll surely scream "cover-up!"

"Paxton's opinion serves no one but the disruptors," former Travis County Clerk Dana DeBeauvoir told me.

Accommodating citizens' brigades of ballot inspectors would require nonstop supervision by election staff and security personnel, for days if not weeks, to try to ensure ballots are not mishandled. Tarrant County got a taste of that over the summer, when a group of activists spent three weeks scrutinizing the ballots from the March 2020 primary, a process that required a dedicated room with videotaped surveillance and a staffer's supervision.

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The burden could fall hardest on rural counties — three-quarters of the Texas counties — which have small elections offices that could quickly become overwhelmed.

"To expect my staff and me to be able to close out the November election *and* be preparing for another (runoff) election within 45 days *and* facilitate an inspection of all the ballots is very unrealistic," said Trudy Hancock, the Brazos County elections administrator, who has a staff of 10. "There are only so many hours in the day."

Officials in Harris County have already indicated they don't plan to follow the attorney general's opinion. In Williamson County, Davis said he'll "fight tooth and nail to protect the security of those ballots" while the election procedures are playing out. Travis County Attorney Delia Garza told me she's also prepared to fight in court, if need be.

"This latest opinion is a blatant disregard for well-established law, and we disagree," Garza said, alluding to state and federal laws requiring ballots to be securely stored for 22 months. "Our office is prepared to defend well-established Texas law and protect the integrity of the election process."

Even in situations where the information could be provided without compromising ballot security — for instance, releasing those electronic Cast Vote Records — Hancock is worried about members of the public examining unfamiliar documents and jumping to erroneous conclusions.

"We've seen that already," noted Hancock, who also serves as president of the Texas Association of Elections Administrators.

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She pointed to a recent change in state law requiring elections officials to post a "reconciliation" on their websites of the number of participating voters and the number of ballots cast on Election Day, and then another "reconciliation" of those figures about a week later, after all ballots have been tallied.

The numbers change after Election Day for several reasons. Ballots arrive from members of the military serving overseas. Voters who sent a mail-in ballot without their ID number on the envelope have six days to correct that. People who cast a provisional ballot, perhaps because they didn't bring a proper ID to the polls, have six days to show their ballot should be counted.

"Some people don't understand that a lot goes on after election night," Hancock said.

Transparency of process is essential to maintaining (or in some cases, restoring) the public's confidence in our elections. People have ample opportunities to observe the process, including helping as a county-hired poll worker or keeping an eye on things as a campaign poll watcher.

But we have nothing like what Paxton is looking to unleash: teams of amateur auditors undermining the work of the trained professionals who administer elections.

No doubt this opinion will get tested in court. Hopefully sanity will prevail.

*Grumet is the Statesman's Metro columnist. Her column, ATX in Context, contains her opinions. Share yours via email at [bgrumet@statesman.com](mailto:bgrumet@statesman.com) or via Twitter at [@bgrumet](https://twitter.com/bgrumet). Find her previous work at [statesman.com/news/columns](https://statesman.com/news/columns).*