

Restrictive Mail Voting Rules Burden Minority Voters: Evidence from Texas

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Abstract

In the wake of the 2020 election, Texas placed new identification and signature requirements on voters who wish to cast mail ballots. Prior to the 2022 primary, many observers believed these regulations would lead to more administrative denials of mail ballots. Using data on application and ballot rejections in tandem with a state voter file, we find that Texas' new restrictions led to increased rates of mail ballot rejection. We also find that non-white voters were substantially more likely to experience a rejection of either their application for a mail ballot or the ballot itself. Approximately 85% of these voters ultimately did not cast a ballot via another mode of voting, and were therefore disenfranchised—although white voters were substantially more likely than non-white voters to vote by another method. Our analysis yields evidence that non-white voters bore a disproportionate burden of enhanced mail ballot regulation in Texas.

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Introduction

In *Shelby County v. Holder* (570 U.S. 529 (2013)), the United States Supreme Court invalidated Section 4(b) of the Voting Rights Act, which had designated certain jurisdictions for mandatory election “pre-clearance.” Since 1965, these jurisdictions—which had previously been found to be administering their elections in a racially discriminatory manner—had been required to gain federal approval in advance of implementing changes to their election laws. After *Shelby County*, jurisdictions formerly subject to pre-clearance were free to make changes to their election procedures without federal oversight.

In the wake of the Court’s ruling in *Shelby County*, formerly covered jurisdictions adopted a number of controversial changes to their election practices. Indeed, of the nine “fully covered” states where election changes in all jurisdictions were subject to pre-clearance, all but Alaska and Louisiana had enacted more restrictive election policies by the 2020 election.¹ These alterations included implementing voter ID laws, shortening the period for early voting, and changing registration requirements, among others. Formerly covered jurisdictions also increased the rate at which voters were removed from their rolls significantly more than non-covered jurisdictions (Feder and Miller 2020; Morris et al. 2018).

A new flood of regressive legislation was enacted in the aftermath of the 2020 presidential campaign, when President Donald Trump falsely claimed that insecure systems and voter fraud allowed Democrats to steal the election. Twenty-one states enacted restrictive voting legislation between the 2020 and 2022 elections.² The rhetoric used to justify the passage of these laws was often racialized (Fischer 2022). Moreover, the cities characterized as hotbeds of fraud were usually plurality-Black (Badger 2020). These racialized undertones imply that the new election laws might create burdens that fall especially hard on voters of color.

The U.S. Department of Justice made allegations to this effect in a complaint against Georgia’s SB 202, which passed in 2021 and made several changes to that state’s election laws.³ The complaint argues that the Georgia legislature restricted absentee voting after a “dramatic increase

¹Brennan Center for Justice. 2019. “New Voting Restrictions in America.”

²Brennan Center for Justice. 2022. “Voting Laws Roundup: October 2022.”

³<https://www.justice.gov/opa/press-release/file/1406456/download>

in Black Georgians’ use of” that method, and that the law was enacted “with knowledge of the disproportionate effect that these provisions would have on Black voters’ ability to participate in the political process on an equal basis with white voters.”

Thus, there is reason to scrutinize restrictive voting laws, especially in jurisdictions that were formerly covered by the Voting Rights Act. This note marks one of the first attempts to that end. We examine the effect of Texas’ Senate Bill 1 (SB 1) on voters in that state’s 2022 primary, which occurred in March of that year. As we discuss at length below, SB 1—like Georgia’s SB 202—imposed new constraints on mail voting. We show that these new impositions led to widespread ballot application and ballot rejections for *all* racial groups, but that they fell disproportionately on voters of color. Our results raise important questions about the effects of the recent wave of restrictive voting legislation in the United States.

Theoretical Background

Texas epitomizes both the post-*Shelby County* and post-2020 landscape. All jurisdictions in Texas had been subject to election preclearance since 1972. Mere hours after the *Shelby County* opinion was handed down in 2013, the state enacted a strict voter ID law that the federal government had previously thwarted on the basis that its effect would likely be racially discriminatory. Once passed, the voter ID law was challenged in federal court on these same grounds, and the 5th Circuit Court of Appeals held that the law did indeed violate the Voting Rights Act due to discriminatory effects.⁴ Subsequent research has aligned with this conclusion, finding that the population of voters who lacked required identification under Texas’ law was disproportionately Black and/or Latino ([Fraga and Miller 2022](#)).

In 2021, the state passed another major elections bill: Senate Bill 1 (SB 1), which was enacted after Democrats fled the state in an ultimately unsuccessful effort to break legislative quorum. The law reduced local election officials’ ability to make decisions in response to emergencies and criminalized official obstruction of partisan poll watchers. It also banned 24-hour and drive-thru voting and restricted the allowable hours for in-person early voting.

⁴*Veasey v. Perry*, (71 F. Supp. 3d 627, S.D. Tex. 2014).

A final area that SB 1 affected—of particular importance for this paper—was the distribution and submission of mail (“absentee”) ballots. Texas did not have permissive policies with respect to mail ballots, even prior to SB 1. For instance, while people 65 or older were allowed to cast mail ballots with no documented hardship, in order to receive a mail ballot, all other voters had to demonstrate absence from the jurisdiction or a documented illness or disability that would have made in-person voting difficult. SB 1 kept these rules in place, but added new restrictions on mail ballots. One change was that election officials were no longer allowed to encourage voting by mail, or to automatically send ballots to voters who had cast mail ballots in the past. SB 1 also added identification requirements for voters who chose to cast a ballot by mail in 2022 and beyond. Beginning in 2022 elections, voters were required to submit either their state identification number or a partial social security number on their application for mailed ballots, and then again on the underside of the ballot envelope flap upon submitting it.

This identification requirement drew the attention of journalists and others both before the election and in the early period of mail ballot processing; these observers were concerned that the enhanced ID requirements would lead to unusually high rejection rates for at least two reasons. First, SB 1 required voters to write the number from the same identification they included with their initial voter registration application, which in many cases had been completed years prior. If voters had registered with say, a driver’s license number but submitted a partial social security number instead, election officials were required to reject their mailed ballots. [Huseman \(2021\)](#) noted the potential for this requirement to lead to high rejection rates more than six months prior to the primary election.

The second issue was the location of the field soliciting identification numbers on the ballot submission envelope. The identification requirement was prominently featured on the ballot application, immediately to the right of the fields requesting voters’ name, address, and date of birth. If their application was approved—that is, they met the requirements for casting a mail ballot *and* correctly completed the application—voters would receive a ballot via the mail, which they would complete and return. The identification field was less prominent when it came time to return mail ballots, however. Voters were required to write the correct identification number on

the underside of the return envelope flap, a location that may have been easy to miss altogether. During the mail ballot period in advance of the primary, election officials noted high rates of ballots submitted without identification numbers, which were rejected pending efforts to notify voters that they needed to “cure” those ballots by submitting complete information (Ura 2022). Following the election, the Secretary of State’s office acknowledged that “it would [not] be too much of a stretch to think that some people thought it was just an optional section,” (quoted in Lopez 2022), and good-government groups like the Center for Civic Design pushed the state to make changes to the envelope’s design for precisely this reason (Lopez 2022).

A growing body of work examines whose mail ballots are more likely to be rejected, and finds disproportionate subgroup effects across a range of geographies. Specifically, these studies point to young and/or inexperienced voters, non-English speakers, minority voters, and those affiliated with the military as being more likely to have their mail ballots rejected (Alvarez, Hall and Sinclair 2008; Baringer, Herron and Smith 2020; Cottrell, Herron and Smith 2021; Shino, Suttman-Lea and Smith 2022). Considering that the voting methods that SB 1 targeted had been heavily utilized in counties with larger Democratic and/or minority populations in 2020, it is therefore reasonable to expect that SB 1 more heavily impacted minority voters in Texas. As of early 2022, a spate of federal lawsuits have alleged a disparate racial effect stemming from nearly all of SB 1’s provisions. In this note, we examine only one of SB 1’s changes: the identification requirement in mail ballots. Using data on mail ballot rejections in the 2022 Texas Primary Election—the first election since the passage of SB 1—we consider whether voters who had their ballot rejected were disproportionately Black and/or Latino.

Data and Methods

We obtained individual-level data on mail ballot application forms and mail ballots in the 2022 Texas Primary from a public records request to the Texas Secretary of State. These records include all voters who submitted a mail ballot application. They also note whether the application was successful and if not, the reason for the rejection. The same is true of the ballot records, which contain a list of voters who submitted mail ballots, the status of those ballots, and the reason for

rejection (if applicable).⁵

We joined these records to a snapshot of the Texas registered voter file dated May 5th, 2022, obtained from the data provider L2—shortly after the March 1st primary. The voter file indicates whether and how each voter participated in the primary, and geocodes each voter to their home census tract. We employ fully Bayesian Improved Surname Geocoding (fBISG) via the `wru` package in R (Imai and Khanna 2016) to predict each voter’s race using their surname and location. Throughout our analyses, we maintain the posterior probabilities of this algorithm rather than assign each voter to a single, discrete racial category. This approach allows us to compare the estimated racial composition of voters whose application and/or ballot were and were not rejected.⁶

Results

We begin by surveying outcomes for the 215,480 voters who submitted a mail ballot application for the 2022 primary election and could be matched to the registered voter file. These outcomes are depicted in Figure 1. Nearly 95% of initial mail ballot applications were accepted, allowing authorities to send mail ballots to voters who submitted them. Of these voters, about 79% ultimately returned a mail ballot, and about 88% of those submitted ballots were accepted. However, of the 18,759 voters whose mail ballot was rejected, the rejection proved to be a significant hurdle to ultimately having their vote counted: More than 98% of voters whose mail ballot was not accepted ultimately did not vote, amounting to roughly 18,400 voters.

A rejected mail ballot *application* also proved to be a substantial obstacle to voting, though not as severe of one: almost 28% of these voters were ultimately able to vote using a method other than a mailed ballot, but more than 8,600 voters whose application was rejected did not ultimately cast a vote. Though Figure 1 serves as a reminder that not all of the voters in the rejected application

⁵A number of counties did not report their application rejections to the state and did not make them available in a county-specific records request; these counties are thus excluded in the results that follow. See the Supplementary Materials for further discussion and robustness checks indicating that it is highly unlikely these missing data impact our conclusions. We also exclude the 2–3% of rejections that we cannot match to the registered voter file.

⁶We also stress that our approach is likely to uncover the lower bound of the problems that SB 1 created, since voters who initially had an application or ballot rejected but “cured” it are not denoted in the rejection file and are thus indistinguishable from individuals whose materials were not initially rejected. While these voters overcame the hurdles that SB 1 created, they still incurred costs associated with curing their ballot or application—meaning SB 1 negatively affected their experience in ways we cannot measure.

pool would have ultimately voted, the patterns in Figure 1 suggest that conservatively, mail ballot rejections thwarted at least 20,000 would-be voters in the 2022 primary.

Figure 1: Distribution of Mail Application and Ballot Outcomes

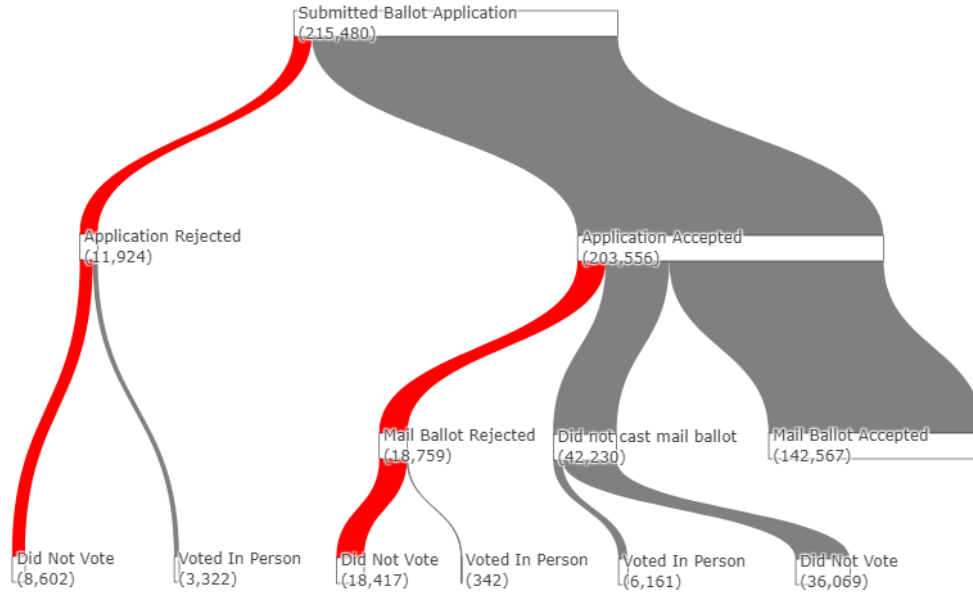
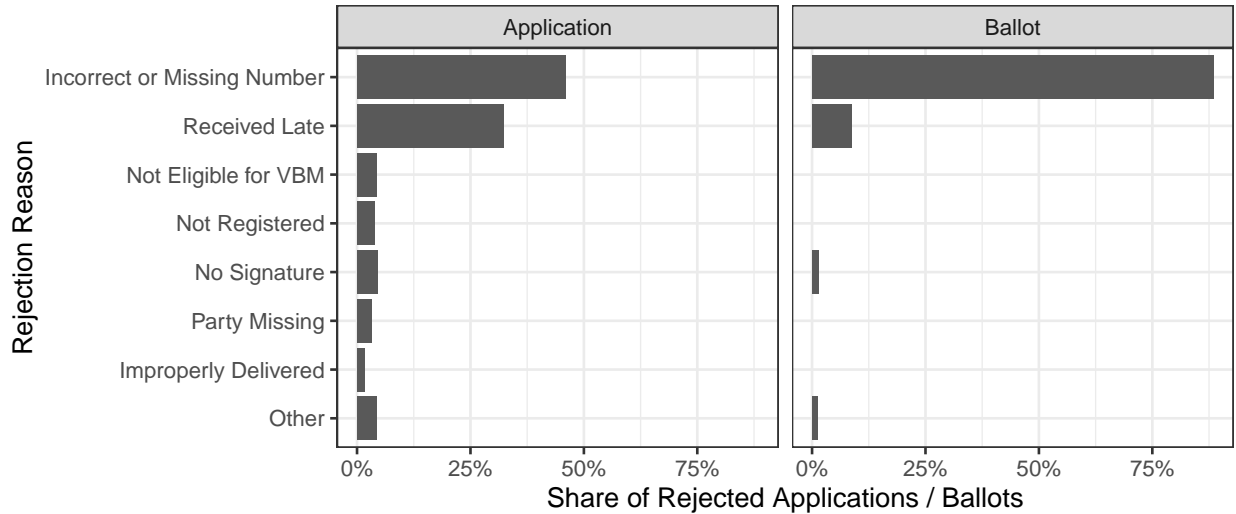


Figure 2 presents the breakdown of reasons election authorities cited for these rejections. We first examine reasons for the approximately 11,900 rejected ballot *applications*. By a substantial margin, a missing or incorrect Social Security or state ID number required by SB 1 was the leading reason for a rejected mail ballot application. About 5,500 rejected applications—roughly 46% of the overall total—were rejected due to missing or incorrect identification numbers. About 32% of rejected applications (3,856) were rejected because they arrived after the deadline. All other reasons for rejection combined amount to about 22% rejected ballots. Of these, no other single category of reasons that jurisdictions reported for rejected ballots exceeds 5% of the total.

Figure 2: Application and Ballot Rejection Reasons



As noted above, roughly twice as many mail ballots were rejected than mail ballot applications. Nearly 90% of rejected ballots (approximately 16,600) were not accepted due to incorrect or missing identification numbers as required by SB 1. About 9% of rejected ballots were received past the deadline. No other stated reason for rejecting a primary ballot amounts to more than 1.5% of the rejected ballot total. In total then, there are at least two preliminary conclusions from an examination of the number of rejections and stated reasons for those rejections: First, the rate of *ballot* rejection was approximately double that of *application* rejection. From this—coupled with the high proportion of ballots rejected due to missing or incomplete ID numbers—we might conclude that pre-election concerns that voters would overlook the identification field on the ballot envelope flap were well-placed. Second, missing or incorrect identification information required by SB 1 was clearly the primary reason for rejecting both applications and ballots, underscoring the role that SB 1 likely had in the number of votes that were ultimately not counted in the 2022 primary.

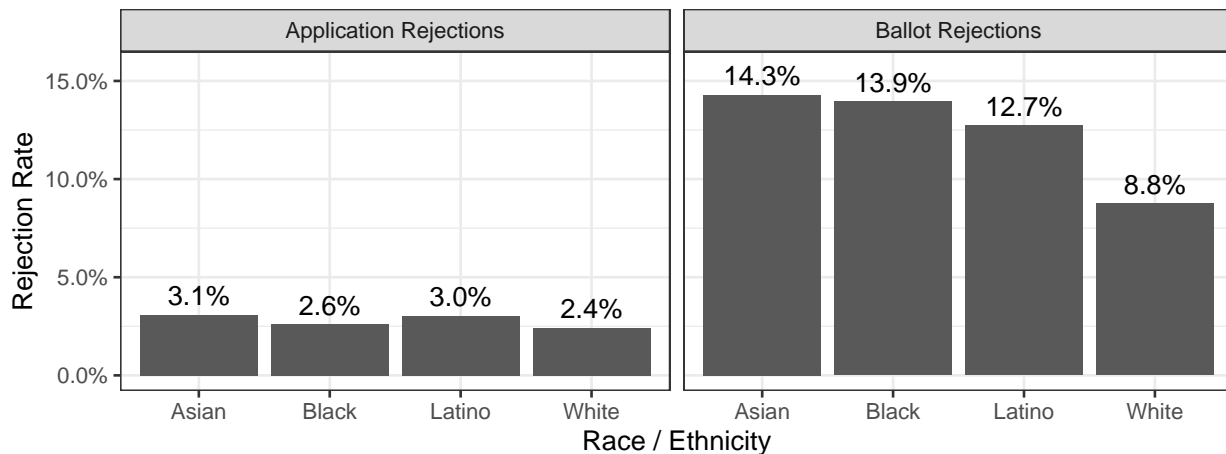
Racial Disparities in SB 1 Related Application and Ballot Rejections

We next consider how SB 1-related application and ballot rejection rates vary across different racial and ethnic groups. In Figure 3 we plot the rejection rates for both applications and ballots by race/ethnicity. We calculate the numerator of these rates by summing the fBISG-predicted

probability that a voter is Asian, Black, Latino, or white column-wise among all voters whose mail ballot application (left panel of Figure 3) or mail ballot (right panel) were rejected due to SB 1.⁷ The denominator is the summed race and ethnicity probability for all voters who *submitted* an application or ballot.

The left panel of Figure 3 shows that white Texans (who made up 60% of applicants) were the least likely group to have their ballot application rejected. Black Texans were marginally more likely to have their applications rejected than white Texans, while Latinos and Asians had considerably higher rejection rates than whites. Thus, the pattern for mail ballot applications is consistent with non-white voters experiencing a higher probability of rejection, though we note that the differences in rejection rates are not substantively large between white and non-white voters.

Figure 3: Application and Ballot Rejection Rates



Notes: Large counties with zero application rejections excluded. See the Supplementary Materials section for more information.

Racial disparities are clearer—and larger—when we consider the rate of rejected *ballots*, plotted in the right panel of Figure 3. While fewer than 10% of ballots cast by white voters were rejected, rejection rates were *at least 44% higher* for each of the other racial and ethnic groups we examine. Asian voters had the highest rejection rate, with 14.3% of mail ballots being rejected; the

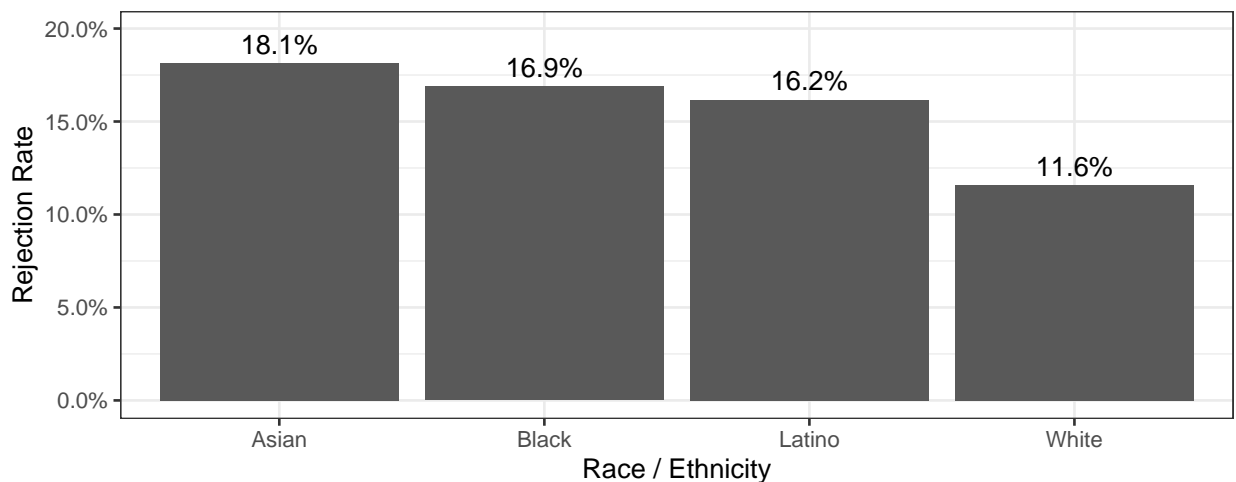
⁷To be clear, we do not include voters in the numerator if their ballot or application was rejected for an SB 1 *and* non-SB 1 related reason (i.e., it was missing the ID number *and* a signature), because it would have been rejected even in the absence of SB 1.

rejection rates for Black and Latino voters were 13.9% and 12.7%, respectively. As we show in the Supplementary Materials, application and ballot rejection rate differentials between white and all non-white voters easily reach standard levels of statistical significance when we examine these differences in a regression framework.

In Figure 4 we pool all rejection data to ask a slightly different question: What is the rate of experiencing *any* rejection—at either the application or ballot submission stage? Here, the denominator of our rate is the same as in the left panel of Figure 3 above, summing the probabilities for each of the four categories for all voters who requested a mail ballot *application*. However, we switch the denominator to the column-wise sum of probabilities for all voters who experienced a rejection at either the application or ballot submission stage. The result is the percentage of voters in each group who initialized the mail voting process, but were denied.

Figure 4 lays bare the extent to which rejections impacted Texans of color. Recall that non-white voters were less likely to successfully request a ballot, leaving the pool of voters who cast mail ballots disproportionately white. And yet—even within this disproportionately white group—voters of color were still more likely to have their ballot rejected. The problem is most acute for Asian voters, of whom nearly one in five had a ballot or application rejected.

Figure 4: Overall Rejection Rates



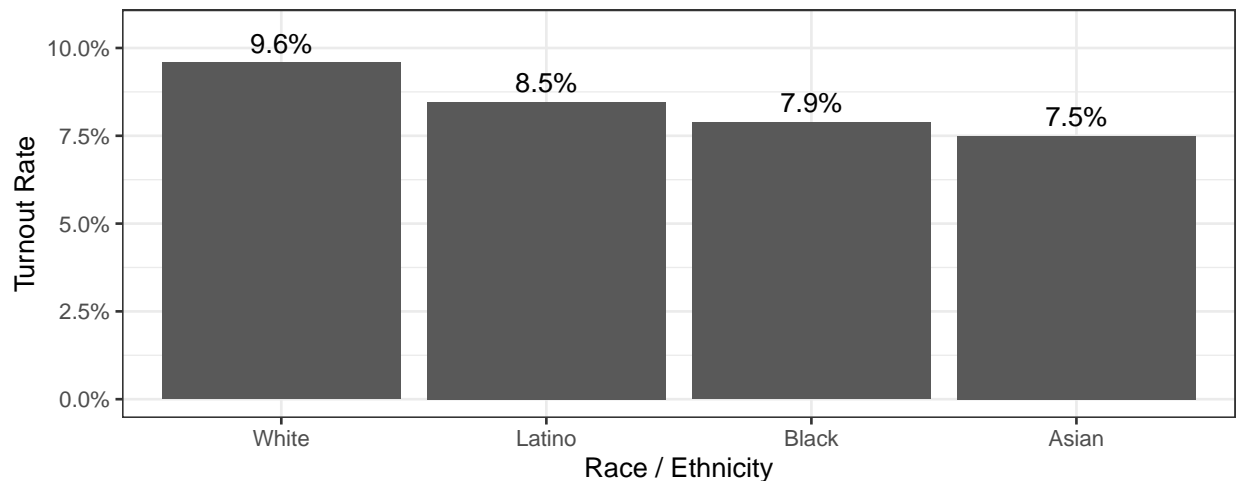
Notes: Large counties with missing application rejections excluded. See the Supplementary Materials for more information.

Disenfranchisement of Rejected Voters, by Race

Despite the availability of the curing process, we demonstrated above that large numbers of applications (2.6%) and ballots (10.3%) were rejected due to SB 1. Figure 1 provides compelling evidence that most would-be mail voters who experienced a rejection at either stage ultimately did not vote by another method. Indeed, only 9% of voters who experienced a rejection “turned out” by finding another way to cast a ballot. We close by assessing whether non-white voters were more likely to be disenfranchised after experiencing a rejection, relative to white voters.

Figure 5 yields a clear answer, depicting the turnout percentage for voters predicted to be Asian, Latino, Black, or white after experiencing a rejection. Once again, we observe large racial differences. Above, we showed that white voters were the least likely to have either their application or ballot rejected. However, the white voters who *did* experience a rejection were more likely to find another way to participate, relative to the three other groups, turning out at about 9.6%. This is considerably higher than any other group, each of whom turned out at rates below 9%. In total then, our analysis suggests not only that white voters were less likely to experience rejections due to SB 1, but that those who did were more likely to overcome them and ultimately cast a ballot.

Figure 5: Turnout Rate among Rejected Voters



Notes: Large counties with missing application rejections excluded. See the Supplementary Materials for more information.

Conclusion

While Texas law has always been relatively strict when it comes to mail ballots, SB 1 placed new burdens on voters who wish to cast mail ballots. In advance of the 2022 primary, many observers believed SB 1 was likely to increase the probability that voters would be denied the opportunity to vote by mail. Using data on application and ballot rejections in tandem with a state voter file, we found that SB 1 did lead to increased rates of mail ballot rejection. We also found that non-white voters were substantially more likely to experience a rejection of either their application for a mail ballot or the ballot itself. Approximately 85% of these voters ultimately did not cast a ballot via another mode of voting, and were therefore disenfranchised. We found a racial disparity here as well, as white voters were substantially more likely than non-white voters to vote by another method. In tandem, our analysis yields substantial evidence that non-white voters bore a disproportionate burden of enhanced mail ballot regulation in Texas.

These findings suggest that further work is needed to assess the implications of voting restrictions beyond both Texas and mail voting. In the wake of the 2020 election, a number of other states have created new administrative procedures that are likely to be similarly burdensome. Considering that several of these jurisdictions were formerly covered by preclearance provisions of the Voting Rights Act due to prior race-based disenfranchisement, future research should fully examine the effects of any new voting restrictions. This work should not only consider the capacity of these laws to deter eligible voters from casting a ballot, but also the extent to which they impose disproportionate costs on minority voters.

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Supplementary Materials

Missing Data

As discussed in the body of this manuscript, many counties did not report rejected ballot applications to the state. Across all of Texas' 254 counties, 88 reported zero application rejections to the state; another (Travis) reported an improbably low number given its size. Further corroborating our assumption that many of the large counties are missing data is the example of Bexar County. Although Bexar County reported no application rejections to the state, a county administrator said under oath in a deposition that some applications were rejected. The transcript of the deposition is available from the authors upon request.

Unfortunately, it is impossible to distinguish counties that *rejected applications but did not report them* from counties that *rejected zero applications*. While we can be sure that some large counties with zero reported application rejections like Hidalgo—home to more than 860,000 residents—are probably missing data, it is more difficult to know whether small counties with zero rejections like Loving (population 117) are missing rejections.

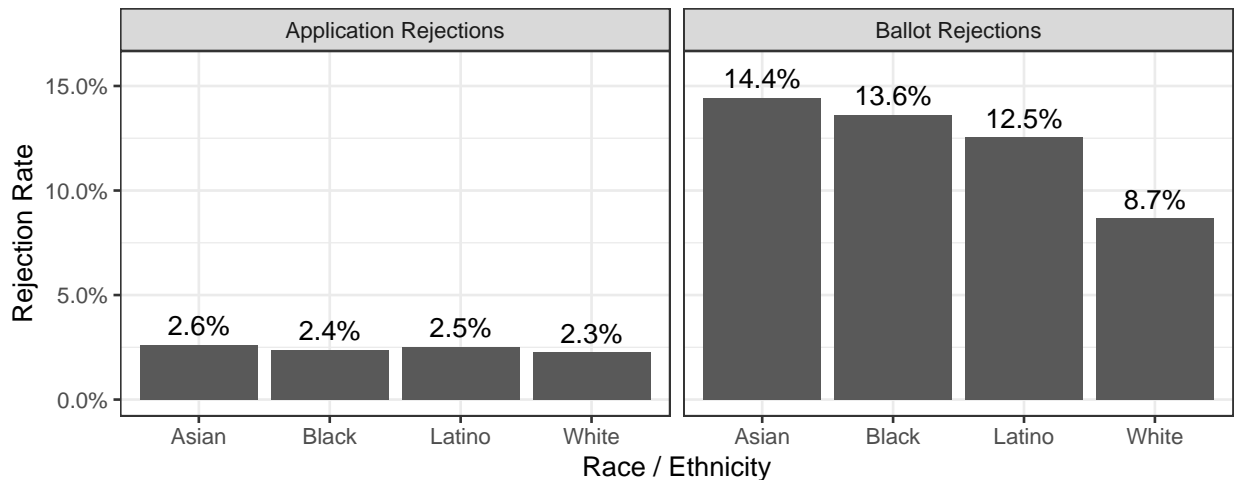
To rectify these data issues, we sent public records requests to each of the 11 counties with populations over 50,000 with no rejected applications (Bell, Bexar, Ector, El Paso, Fort Bend, Hays, Hidalgo, Nueces, Potter, Waller, and Webb), as well as Travis County. Despite multiple attempts to receive the data, just three (El Paso, Travis, and Webb) gave us responsive documents.

In the body of the manuscript, we exclude the nine remaining large counties from our analyses under the assumption that they are missing data. If we were to include them, we

would implicitly be assuming a 0% rejection rate, which would likely throw off our results far more than simply excluding them. Nevertheless, we show here that different assumptions about the missing data probably do not impact our analyses in substantive ways.

We begin by presenting our primary results, but here assume that the data was *not* missing for any county aside from Bexar; that is, we adopt the highly unlikely stance that these other large counties really had a 0% rejection rate. We continue to exclude Bexar given the administrator’s attestation in their deposition. As Figure A1 demonstrates, we continue to see racial disparities in rejections even once we assume 100% acceptance rates among these largely minority counties. White voters remain the least likely to have an application or ballot rejected.

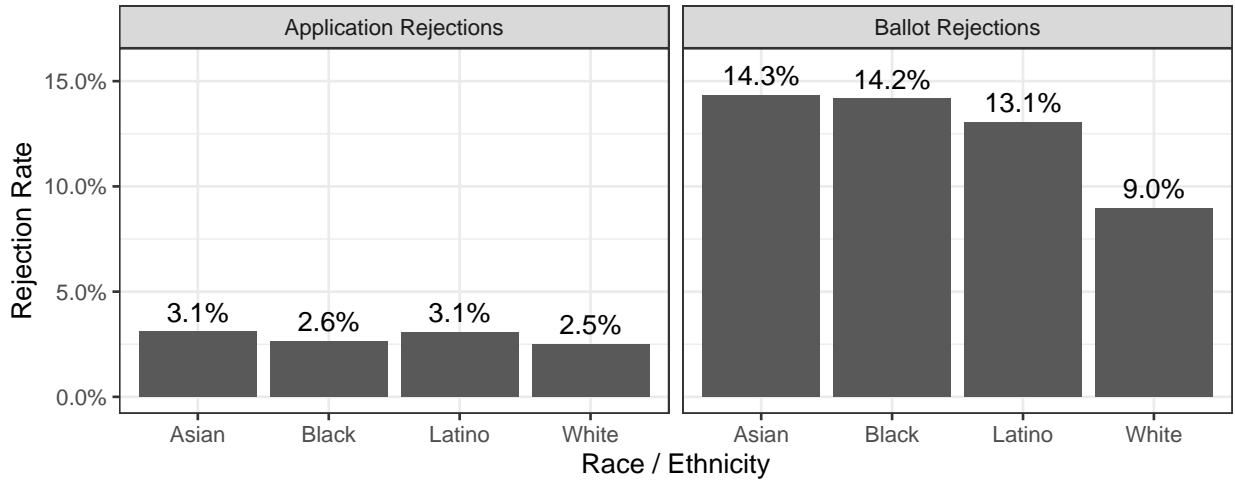
Figure A1: Application and Ballot Rejection Rates



Notes: Bexar County excluded.

The same is true if we make the opposite assumption. Figure A2 shows that our results hold if we exclude all counties with zero reported rejections under the assumption that they are missing data. Given that our results are impervious to the assumptions we make surrounding zero reported application rejections, we thus conclude that our findings of racially disparate effects are not driven by this feature of the data.

Figure A2: Application and Ballot Rejection Rates



Notes: All counties with zero reported application rejections excluded.

In fact, if anything, our results are probably conservative. The population living in counties with zero reported application rejections is far less white than the rest of the state (41% and 27%, respectively). If these counties rejected ballots in line with the rest of the state, our results understate the racial disparities in rejections.

Regression Framework

In the body of our manuscript, we sum the predicted racial probabilities to calculate the number of applications and ballots submitted and rejected. Here, we show that our results hold if we instead run regressions at the individual level, where the dependent variable measures whether an individual's application or ballot was rejected, and our independent variables measure the predicted racial probabilities. Because we are interested in whether each group's rejection rate exceeded that of white voters, $P(\text{white})$ is excluded as the reference category. The intercept of the model captures the rejection rate for white voters, while the coefficient for each of the other groups measures whether and by how much the rejection rate differed from that of white voters. With the exception of $P(\text{Other})$, each coefficient is statistically significant at the 95% confidence level or higher.

Table A1: Application and Ballot Rejections

	Applications	Applications	Ballots	Ballots
P(Latinx)	0.009*** (0.001)		0.060*** (0.003)	
P(Black)	0.003* (0.001)		0.088*** (0.003)	
P(Asian)	0.012*** (0.003)		0.107*** (0.008)	
P(Other)	0.003 (0.005)		0.015 (0.010)	
P(Nonwhite)		0.007*** (0.001)		0.073*** (0.002)
Intercept	0.023*** (0.001)	0.023*** (0.000)	0.078*** (0.001)	0.076*** (0.001)
Num.Obs.	215480	215480	161326	161326
R2	0.000	0.000	0.008	0.008
R2 Adj.	0.000	0.000	0.008	0.008
F	17.323	51.740	336.623	1238.427
RMSE	0.16	0.16	0.30	0.30

Reference category: P(White)

Large counties with missing
application rejections excluded.

* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$