



DELBERT HOSEMAN
Secretary of State

2014 REPORT of ELECTION ACTIVITIES

Mississippi U.S. Senatorial and Congressional
1st Primary and 2nd Primary

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JUNE 3, 2014, 1ST PRIMARY ELECTION

OVERVIEW

On June 3, 2014, Mississippians cast ballots to select nominees in either the Democratic or Republican Primary elections. Voters had the opportunity to vote for a nominee for one United States Senate race and for a nominee in each of the four United States Congressional races. According to results certified to the Secretary of State's Office on June 13, 2014 by the respective State Party Executive Committees, 318,895 voters cast ballots in the Republican Primary Election and 85,866 voters cast ballots in the Democratic Primary Election¹. Other races on the Primary Election ballot(s) at the county level included Levee Commissioner and special elections, such as the Madison County Chancery Clerk and Rankin County Constable.

Primary Elections are solely the responsibility of the political parties. County Party Executive Committees and Circuit Clerks each have specific statutory responsibilities with regard to preparing for and conducting the Primary Elections and Primary Runoff Elections. However, pursuant to Miss. Code Ann. Section 23-15-266, a County Party Executive Committee may enter into written agreement(s) with a Circuit Clerk and/or County Election Commission to perform the certain statutory duties: appointment and training of poll workers (Miss. Code Ann. §§ 23-15-239, 23-15-265), delivery of ballots boxes (Miss. Code Ann. § 23-15-267), determination of ballot order, preparation, printing and distribution of ballots (Miss. Code Ann. §§ 23-15-333, 23-15-335), and canvas of election returns and announcement of results (Miss. Code Ann. § 23-15-597). Fifty-eight (58) Republican Executive Committees and fifty-one (51) Democratic Executive Committees entered into such written agreements with the Circuit Clerk and/or County Election Commission².

The Secretary of State's Office provides assistance to these election officials through certification training, which includes various topics related to the Statewide Elections Management System ("SEMS"), election laws and the operation of the voting machines. With the implementation of Mississippi's Voter Photo Identification law ("Voter ID"), the Secretary of State's Office offered to attend poll worker training to offer its assistance with specific regard to Voter ID and was invited to do so by the following counties: Benton, Coahoma, Covington, Kemper, Lee, Marion, Monroe, Newton, Noxubee, Oktibbeha, Pearl River, Perry, Scott, Walthall and Warren.

¹ The Certified Results filed by the Republican and Democratic State Executive Committees are available on-line at <http://www.sos.ms.gov/Elections-Voting/Pages/Election-Results-By-Year.aspx>.

² Exhibit "A" attached hereto lists those county election officials primarily responsible for the conduct of the Primary and Primary Runoff Elections.

SECRETARY OF STATE ACTIVITIES PRIOR TO 1ST PRIMARY ELECTION DAY

VOTER ID

In December, 2013, the Secretary of State's Office installed equipment in every Circuit Clerk's Office in the State, and provided education and training to each on how to issue the Mississippi Voter ID cards. Voter ID cards are provided free-of-charge to registered voters who do not have an acceptable form of photo identification as defined by Mississippi law ³.

The Secretary of State's Office employed twenty (20) regional coordinators to conduct voter outreach and education concerning the implementation of and requirement of Voter ID. Regional coordinators distributed thousands of pieces of information to all county and municipal elected officials, as well as other governmental agencies. The coordinators also targeted churches, schools, food banks and other entities which serve the communities of Mississippi. A Voter ID website was launched on-line and a dedicated Voter ID hotline was staffed full-time to field phone calls concerning the implementation of Voter ID and to coordinate with various transportation providers located throughout the State and voters who required transportation to and from the Circuit Clerks' Offices to obtain the Mississippi Voter ID card. This hotline has received approximately 341 telephone calls to date, with transportation was arranged for and provided to 44 voters from January 7, 2014 through June 24, 2014.

Staff from the Secretary of State's Office spoke at a number of events around the State promoting and explaining the Voter ID requirement and the availability of the free Mississippi Voter ID card. Staff from the Secretary of State's Office were invited and presented to various County Democratic and Republican Executive Committees, Rotary, Kiwanis, and Lions Clubs, and other civic organizations active in community outreach.

³ Exhibit "B" attached hereto provides the county-by-county number of Mississippi Voter ID cards issued by each Circuit Clerk's Office as of September 25, 2014.

MILITARY AND OVERSEAS ABSENTEE VOTING

Pursuant to the Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”), absentee ballots must be provided to military and overseas voters who submit a request therefor more than forty-five (45) days before a federal election no later than forty-five (45) days before the election. Under Mississippi law, a second (or runoff) primary election is held twenty-one (21) days after the date of the first primary election. Thus, insufficient time exists to provide a second (runoff) primary election ballot to UOCAVA voters as required by the federal law.

By reference to federal cases in which the Civil Rights Division of the United States Department of Justice sought enforcement of the 45-day requirement of UOCAVA and to ensure Mississippi’s compliance with federal law, the Secretary of State’s Office drafted a Temporary Administrative Rule, pursuant to which a ranked choice primary runoff absentee ballot was provided to each UOCAVA voter simultaneous with the transmittal of the voter’s first primary election absentee ballot. The ranked choice primary runoff absentee ballot enabled each UOCAVA voter to rank the candidates in the order of his/her preference. In the event a primary runoff election was conducted, the UOCAVA voter’s ranked choice primary runoff absentee ballot was counted in accordance with the order in which the voter ranked the candidates. For example, the candidate ranked as number “1” by the voter was counted if that candidate was included within the primary runoff election. If not, the candidate ranked as number “2” by the voter was counted, and so forth.

UOCAVA voters were given the option of either returning both absentee ballots to their respective Circuit Clerks’ offices at the same time, with each absentee ballot deposited into the respective sealed ballot box, one specifically designated for the first primary election and a second specifically designated for the second (runoff) primary election, or, returning each absentee ballot separately prior to the statutory deadline.

Eighteen (18) counties received UOCAVA requests at least forty-five (45) days prior to the first primary election. All eighteen (18) counties timely transmitted an absentee ballot for the first primary and the second (runoff) primary election to sixty-three (63) military and overseas voters.

VOTER REGISTRATION

Based upon an estimate by the United States Census Bureau of Mississippi residents of the voting age, approximately 360,000 Mississippi residents, eligible to vote, were not registered to vote as of January, 2014. Recognizing the right to vote as the cornerstone of our nation, Governor Phil Bryant proclaimed February as Voter Registration Month.

While data taken from SEMS revealed a slight decrease in the number of registered voters between January 1, 2014 and May 3, 2014, for a total number of 1,864,751 registered voters eligible to cast a ballot in the Primary Election, the 2014 number was much higher than the 1,621,312 registered voters eligible to cast a ballot in the 2010 Primary Election. The decrease in the number of registered voters may be attributable to on-going voter roll maintenance conducted by the County Election Commission, which is tasked with removing the names of voters who are no longer eligible to vote because of a voter's initiated request, adjudication of incompetence, death, conviction of a disenfranchising crime or moving from the county/state.

By statute, Circuit Clerks are responsible for receiving voter registrations. This includes registrations received in person, by mail and from various state agencies, such as the Department of Public Safety, which must offer voter registration in connection with new applications and renewals for drivers' licenses, and the Department of Human Services, which must also offer registration in connection with new applications and renewals for benefits pursuant to the National Voter Registration Act ("NVRA").

TRAINING

In January, 2014, the Elections Division of the Secretary of State's Office took part in the Circuit Clerks Association's Annual Winter Conference in Jackson, training on the technical aspects of the Voter ID card issuance process. In addition, ten (10) in-house training sessions were offered to County Circuit and Deputy Clerks in mid-January by the Secretary of State's Office to provide further education and "hands-on" experience in issuing the Voter ID card.

Also in January, 2014, the Elections Division held statutorily-required certification training for all County Election Commissioners at their annual meeting ("ECAM") in Philadelphia, Mississippi. All 410 County Election Commissioners were certified to conduct their 2014 county general and special elections upon

completion of this 3-day training. In addition, five (5) certification sessions were held across the state to train members of each County's Republican and/or Democratic Executive Committee for the conduct of the June Primary Elections; 265 County Party Executive Committee members were successfully certified to conduct the county primary elections. Certification training programs address substantive legal requirements, as well as procedural aspects of conducting county elections. The Secretary of State's Office successfully implemented an online comprehensive Poll Manager training program, ahead of the federal primaries, to provide county election officials with additional resources in training their poll managers effectively.

Supplemental training was offered to County Party Executive Committee members on how to operate specific voting devices, in the form of our "Train the Trainer" classes. This class is an optional "hands-on" training course based on the set-up, operation, troubleshooting and shut-down of the statewide TSX Voting Machine; fifty-eight (58) County Party Executive Committee members took advantage of this beneficial training. Lastly, technical courses were offered to the counties' election officials, such as SEMS Basic, which focuses on mastering simple skills pertaining to accessing and working within the Statewide Election Management System, and GEMS Election Ops, which concentrates on administering an election, including logic and accuracy testing of the TSX Voting Machine, downloading memory cards, and uploading precinct results on election night through the Global Election Management System ("GEMS").

1st PRIMARY ELECTION DAY JUNE 3, 2014

On Primary Election Day, the Secretary of State's Office executed a support plan consisting of two types of coverage. First, the Elections Division maintained a support hotline in the Jackson Office. Second, personnel from the Secretary of State's Office and the State Auditor's Office were deployed to all eighty-two (82) counties throughout the State to observe first-hand the election process, by visiting polling locations and courthouses where election results were counted, tallied and totaled by the Election Officials.

TELEPHONE CALLS

In addition to the Election Division's personnel, staff from other agency divisions assisted on Primary Election Day. On June 3, 2014, the Elections Division received approximately 687 calls from election officials and the public. The calls concerned the following:

- Voter ID;
- Conduct of primary election;
- Voter registration;
- Polling place locations;
- Technical issues such as problems with the voting machines;
- Representatives of candidates campaigning within 150 feet of an entrance to a polling place;
- Voters required to vote by affidavit ballot by reason of their names not appearing on the poll books; and
- Persons loitering and/or requesting signatures for petitions within 30 feet of a polling place.

POLLING PLACE OBSERVERS

The Secretary of State's Office deployed eighty-one (81) individuals from the Secretary of State's Office and the State Auditor's Office to all eighty-two (82) counties on June 3rd to observe Election Day activities. While observers are usually deployed throughout the state, never before has an observer been present in every county on a single Election Day. Observers were well received by both election officials and the public.

Observers were provided with a list of all polling places within the county and asked to randomly select and map the polling places to visit to ensure a presence in as many polling places within each county as possible. Observers were provided training and information pertaining to Voter ID and the election process. Additionally, they were provided with a checklist as an informal survey and to assist in gathering information from each precinct.

POLLING LOCATIONS

Observers noted the majority of the polling places operated smoothly, with little to no reported issues. However, a few precincts did not open promptly at 7:00 a.m. or did not remain open until 7:00 p.m. Mississippi law requires all voting precincts to be open from 7:00 a.m. to 7:00 p.m.

Observers further reported over half the counties in the State did not post all required signs in every precinct, such as the list of absentee voters and the zero tapes. The Help America Vote Act (“HAVA”) and Mississippi law require the following to be posted within each polling place: (1) a list of voters who have cast an absentee ballot, (2) polling place hours, (3) sample ballot, (4) general information regarding voting rights under federal and state law, (5) information regarding identification required of first-time, unverified voters who registered to vote by mail-in voter registration application, (6) instructions regarding voting by affidavit/provisional ballot, and (7) information regarding prohibited conduct within and near the polling place and additional prohibitions related to fraud and misrepresentation. Further, Section 302(b) of HAVA and Miss. Code Ann. Section 23-15-573, require an informational sheet to be provided to each voter who casts an affidavit ballot with the county election official’s contact information to enable each affidavit voter to determine if his/her ballot was counted, and, if not, the reason(s) the ballot was not counted. By reason of Voter ID, the Secretary of State’s Office provided each county with additional precinct signs and materials to be posted or included in the supply boxes for each precinct. These materials included a list of the acceptable forms of photo ID, a list of all Mississippi accredited colleges, universities, junior and community colleges and a checklist of the steps required to properly process a voter with photo ID.

Observers in Chickasaw, Franklin, and Grenada Counties reported election box/bags were not properly sealed. Warren County’s election officials explained the county uses ballot bags which are not sealed until the end of the day as ballots cannot be deposited into the bags without breaking the seal. State law requires ballot boxes/bags containing voted ballots to be sealed unless voting has ceased and ballots are being counted. Each individual county is responsible for selecting ballot boxes or bags which can be properly sealed and ballots can be deposited in the box/bag with the box/bag remaining sealed.

While the majority of polling locations are compliant with federal laws regarding compliance with the Americans with Disabilities Act (“ADA”), handicap accessibility is an issue with certain polling places located in Attala, Harrison, Humphreys, Quitman, Tate and Washington Counties. The Secretary of State’s Office continues to administer ACCESS funds for ADA improvements through HAVA. Since (year), monies available through HAVA have been offered to the counties on an annual basis to make permanent or temporary improvements to polling places to ensure ADA compliance. To date, \$634,673.78 has been disbursed to counties since 2006, with \$259,352.00 remaining available through 2016.

BILINGUAL POLL WORKERS

Federal law requires bilingual poll workers to serve as translators in certain counties designated as language minority jurisdictions under Section 203 of the Voting Rights Act. Portions of Jones, Kemper, Leake, Neshoba, Newton and Winston Counties are designated as Choctaw language speaking jurisdictions. In these areas, all election information available in English was also made available in Choctaw, the minority language of those counties.

CAMPAIGN ACTIVITIES IN AREA SURROUNDING THE POLLING PLACE

Each voter is entitled to unobstructed access to the polling place. Accordingly, Mississippi law requires the poll manager designated as the bailiff to ensure a space of thirty feet (30') in every direction of the polling place or room in which voting is taking place is kept clear of all persons except election officials, voters waiting to vote or poll watchers, which includes candidates and the authorized representative of each candidate. Political parties are not authorized to have poll watchers for primary elections. The Secretary of State's Office received two (2) calls from voters in Hinds and Washington Counties complaining of individuals soliciting signatures for a petition inside the polling place.

The bailiff is also responsible for enforcement of the 150 foot rule, which precludes campaign literature to be posted, distributed or worn within 150 feet of any entrance of the polling place. Few violations of this rule were noted by observers in Desoto, Quitman and Rankin Counties; and the Secretary of State's Office received five (5) calls from voters in Hinds (2), Jones, Hancock, and Washington Counties complaining of campaigning within 150 feet of polling location.

VOTING MACHINES

Minor issues with voting machines were reported by the observers. Most problems were resolved quickly by county election officials or county technicians.

PRIMARY ELECTION CONFUSION

Mississippi has an open or semi-closed party primary system, meaning voters do not register to vote by party affiliation but choose in which party's primary election the voter will participate by voting on an Election Day. Pursuant to Miss. Code Ann. Section 97-13-35, it is a crime to participate in more than one party's primary election on the same date. The Republican and Democratic Parties conduct entirely separate primary elections.

The Secretary of State's Office received several phone calls from voters upset by and/or confused about the primary election process in Mississippi. Three (3) callers complained about the lack of party registration, while one (1) caller believed he/she was registered by party affiliation by virtue of his/her registration in a previous state of voting residence. One (1) caller was adamant he/she could not vote in both parties' primary elections on the same date, as he always had done so.

Several callers complained of poll workers who specifically directed them to one party's check-in table. Two (2) callers reported being "forced" to vote in the Democratic Primary in Lamar and Warren Counties. Other callers reported a lack of adequate signage to enable voters to distinguish one party's check-in table and primary election from the other party's check-in table and primary election. A few callers, who didn't realize two (2) separate elections took place on the same day, complained of the absence of a specific candidate's name from their ballots.

Observers and voters reported instances in Clarke, Hancock, Jackson, Lee and Walthall Counties of voters who checked-in to vote at one political party's table, signed the receipt book and received a ballot only then to realize they had checked-in to the wrong party's table based upon the absence of specific candidates' names from the ballot. These voters were allowed to cancel their ballots, draw a line through their name in the receipt books and precede the other political party's check-in table to vote their desired ballots. There is no law in Mississippi which precludes the action(s) described above.

MISSISSIPPI VOTER ID IMPLEMENTATION

Very few observations were reported by the Secretary of State's Office arising out of the implementation of Voter ID. Observers noted poll workers in Adams and Lafayette Counties who accepted voter registration cards in satisfaction of the voter ID requirement in lieu of an acceptable form of photo ID. Another observer

reported a voter in Lee County who became outraged when asked to present photo ID. The voter refused to vote by an affidavit ballot and threw a pen at one of the poll workers. We are uncertain whether that voter returned to the polling place and eventually cast a ballot.

Approximately twenty-nine (29) telephone calls were received by the Secretary of State's Office pertaining to Voter ID. Of those twenty-nine (29) telephone calls, seven (7) callers reported poll workers who did not accept any form of photo ID other than a Mississippi driver's license; two (2) callers reported voter registration cards were accepted by poll workers in lieu of photo ID in Adams and Choctaw Counties, even though voter registration cards do not contain a photograph of the voter and are not acceptable forms of photo ID; four (4) voters called to ask, prior to travelling to their precincts, whether their names on their respective photo IDs were substantially similar to their names as the same appeared on the poll books; four (4) callers asked whether poll workers should confirm the addresses on their drivers' licenses matched the addresses associated with their voter registrations; one (1) caller from Harrison County reported poll workers checking photo IDs at the entrance to the polling place but not comparing the voters' names on the IDs to the poll books as is required; and the remaining calls were received from Election Officials who verified the proper process for poll workers to check photo IDs and for voting by affidavit ballot.

Additional calls were received from the Circuit Clerks asking whether they may issue MS Voter ID cards on Election Day, time-permitting. Over one hundred (100) MS Voter ID cards were issued by the Circuit Clerks' Offices on Election Day, a tremendous number given the already-busy nature of their offices during an election. Clerks also accepted acceptable forms of photo ID of voters who cast affidavit ballots earlier in the day because of an inability to present photo ID at the precincts. When presented with photo ID on Election Day, the Circuit Clerks photocopied the presented photo ID to provide later to the Election Officials who would process the affidavit ballots.

Voters unable to present an acceptable form of photo ID were allowed to vote by an affidavit ballot. These affidavit voters had five (5) business days after Election Day to present an acceptable form of photo ID to the Circuit Clerk's Office located in the county of the voter's residence, or obtain a free MS Voter ID card within that period of time. The affidavit ballots of those voters who returned to the Circuit Clerk's Office or obtained a MS Voter ID card within the five (5) business days following Election Day were not rejected by the elections officials by reason of voter ID. Of the 404,768 ballots cast on Election Day, 503 voters - or .1% - cast an affidavit ballots by reason of an inability to present an acceptable photo ID. Of the 503 affidavit ballots cast by reason of voter ID,

185 voters returned to the Circuit Clerk's Office (or obtained a MS Voter ID card) within the five (5) business days following Election Day, while 305 voters did not.

JUNE 24, 2014 - 2nd (RUNOFF) PRIMARY ELECTION DAY OVERVIEW

Mississippi law requires a second or runoff election to be held three (3) weeks after the first primary election. The Primary Runoff Elections are solely the responsibility of the political parties. On June 24, 2014, Mississippians returned to the polls for Second (Runoff) Primary elections for the Republican U.S. Senate nominee and for the Democratic 3rd Congressional District nominee. According to results certified to the Secretary of State's Office on July 7, 2014, by the respective State Party Executive Committees, 382,221 voters cast ballots in the Republican Runoff Primary Election, while 9,387 voters cast ballots in the Democratic Runoff Primary Election.

SECRETARY OF STATE ACTIVITIES PRIOR TO 2ND PRIMARY ELECTION DAY MILITARY AND OVERSEAS ABSENTEE VOTING

Twenty-three (23) counties received UOCAVA requests at least forty-five (45) days prior to the Runoff Primary Election. All twenty-three (23) counties timely transmitted an absentee ballot for the Runoff Primary Election to more than seventy-five (75) military and overseas voters.

VOTER REGISTRATION

To be eligible to vote in an election, one must register at least thirty (30) days prior to the date of the election. Miss. Code Ann. Section 23-15-125. The Mississippi Attorney General's Office has opined "the first and second primaries constitute one election; therefore, if an elector is ineligible to vote in the first primary, he or she cannot subsequently vote in the second primary." Op. MS Att'y Gen. 2011-00061 (Hillman).

2nd (RUNOFF) PRIMARY ELECTION DAY

JUNE 24, 2014

TELEPHONE CALLS

On June 24, 2014, the Elections Division of the Secretary of State's Office received approximately 654 calls from election officials and the public. The calls concerned the following:

- Voter ID;
- Voters casting a ballot in one party's primary election yet casting a ballot in the other party's primary runoff election;
- Voter registration;
- Polling place locations;
- Technical issues such as problems with voting machines;
- Representatives of candidates campaigning within 150 feet of entrances to polling place locations;
- Voters required to vote by affidavit ballot by reason of their names not appearing on the poll books; and
- Persons loitering, conducting exit polls, and/or requesting signatures for petitions within 30 feet of entrances to polling places.

POLLING PLACE OBSERVERS

The Secretary of State's Office deployed twenty-eight (28) individuals from the Secretary of State's Office to twenty-eight (28) counties on June 24th to observe Election Day activities.

POLLING LOCATIONS

Again, most observers reported few, if any, issues during the Runoff Election. The majority of polling places operated smoothly, in compliance with applicable state and federal law(s). The posting of all required signs, such as the list of absentee voters and zero tapes, continued to be an issue, with not all precincts posting all required signs.

The Secretary of State's Office received approximately twenty (20) calls from voters who could not locate their polling places because of changes made in polling locations by reason of county redistricting. An additional ten (10) calls were received from voters in Hinds, Rankin and Scott Counties reporting minor technical issues with certain voting machines. Such technical issues were likewise reported by observers in Lamar, Adams and Copiah Counties.

CAMPAIGN ACTIVITIES

Eleven (11) calls were received by the Secretary of State's Office complaining of illegal campaigning activities within 150 feet of an entrance to a polling place in Rankin, Desoto, Washington, and Marshall Counties, among others.

According to Miss. Code Ann. Section 23-15-899, "it shall be a misdemeanor for any person to mutilate, or remove, previously to the date of the primary, any placard, poster or picture which has been lawfully placed or posted." At least one complaint was received from a candidate's campaign reporting the removal of his/her signs prior to the conclusion of the election allegedly by another candidate's campaign. The complainant was referred to local law enforcement.

Each candidate on the ballot has the right to have one (1) poll watcher present at the polling place to carefully observe the election and challenge the qualifications of voters. To do so, a candidate or his/her poll watcher must be provided a suitable location from which he/she may be able to see and hear the conduct of the election. Poll watchers are not allowed to move about the polling place greeting voters, influence voters, interrupt the election process, or distribute or display campaign material within one hundred fifty (150) feet of any entrance to the polling place.

At least one (1) complaint was received from election officials in Rankin County regarding poll watchers interfering with the election process and potentially intimidating voters while standing "over" the check-in table(s). A complaint was also received from a poll watcher who believed he/she was entitled to review each voter's presented photo ID and to compare the name thereon to the name as it appeared on the poll book. This task is that solely of the poll workers who are charged with processing voters upon check-in and ensuring the voter presents a current and valid, acceptable form of photo ID, with a picture which fairly depicts the voter and with name which is substantially similar to that of the voter's name as it appears on the poll book. The poll

watcher was advised he/she may observe the election process and challenge voters' qualifications, in accordance with Mississippi statute, but he/she was not entitled to be a part of the election process.

PRIMARY RUNOFF ELECTION CONFUSION

Any voter who did not participate in either party's primary election on June 3, 2014 was eligible to vote in either party's primary runoff election on June 24, 2014. Three (3) voters from Lafayette, Leflore and Rankin Counties complained they were not permitted to vote in the primary runoff election even though none voted on June 3rd. Three (3) voters from Madison and Rankin Counties who also did not vote in either party's primary election on June 3rd reported poll workers directing voters to the Democratic Party's check-in table. Of those three (3) votes, one stated she did not know two runoff elections were taking place and was upset she was not properly informed about the primary election process.

Election Officials from Lafayette County reported a voter, who already cast his/her ballot in one party's primary runoff election, returning later in the day to cast his/her ballot in the other party's primary runoff election. When confronted, the voter explained he/she mistakenly voted in the wrong party's primary runoff election earlier that day and now needed to "redo" his ballot. When poll workers explained the voter could not now "redo" his ballot and vote a second time, he/she threatened to return to the polling place with a gun. Election Officials and poll workers defused the situation by allowing the voter to cast an affidavit ballot, which was properly rejected, and reported the incident to the Lafayette County District Attorney's Office. Another instance of "double voting" as described above was reported in Rankin County; however, this double vote was the result of a lack of information and confusion on the part of the election officials. Rankin County Election Officials contacted the Secretary of State's Office and asked whether a voter may cast a ballot if he/she had not voted in the first primary election. The answer to this question is yes. Unbeknownst to the Secretary of State's Office, this voter had already cast a ballot in the Democratic Primary Runoff Election but sought to cast a second ballot in the Republican Primary Runoff Election of the same date. Based upon the answer of the Secretary of State's Office, election officials allowed this voter to cast a second ballot.

Miss. Code Ann. Section 97-13-35 provides, in relevant part, "[a]ny person who shall vote at any election, . . . , or who shall vote or attempt to vote in the primary election of one party when he shall have voted on the same date in the primary election of another party, shall be guilty of a misdemeanor, and, on conviction,

shall be fined not exceeding two hundred dollars, or be imprisoned in the county jail not more than six months, or both.”

Mississippi’s party primary system has been defined as an open primary because Mississippians do not register to vote by party affiliation and do not present any type of party identification at the time of casting a ballot. However, Mississippi’s party primary system also has been defined as a semi-closed primary based upon a statutory limitation upon a voter’s eligibility to participate in a party primary election. Miss. Code Ann. Section 23-15-575 states “[n]o person shall be eligible to participate in any primary election unless he intends to support the nominations made in the primary in which he participates.”

Opinions of the Mississippi Attorney General and Mississippi case law have defined the first and second (runoff) primary as one election process, with the second (runoff) election described as a continuation of the first primary. Based upon this definition and Miss. Code Ann. Section 23-15-575, the Mississippi Attorney General has further opined that crossover voting, defined as a voter’s participation in the first primary election of one political party and then participation in the second (runoff) primary election of another political party, is prohibited under Miss. Code Ann. Section 97-13-35. Brown Op. MS Att’y Gen (1988).

Identical poll books are printed for the Republican Primary Election and the Democratic Primary Election. Each poll book has two (2) columns, one designed for the June 3rd first primary election and one for the June 24th second (runoff) primary. When a voter presents to vote in either first primary election, the poll worker writes the word “voted” in the appropriate column.

In counties in which no Democratic Runoff Election was conducted, the poll workers possessed the poll books from the first primary election from both the Republican Primary and the Democratic Primary, enabling the poll workers to be able to determine in which first primary election a voter cast a ballot when presenting to vote in the Republican Runoff Election by reference to these columns. In counties in which a Democratic Runoff Election was conducted (Congressional District 3), the Republican poll workers possessed the poll books from the Republican Primary Election and a VR-028 report generated from SEMS which listed each voter who cast a ballot in the first Democratic Primary Election, and the Democratic poll workers possessed the poll books from the Democratic Primary Election and the VR-028 report which listed each voter who cast a ballot in the first Republican Primary Election. This information likewise enabled the poll workers from each respective political party to determine in which first primary election a voter cast a ballot when presenting to vote in either runoff election.

Despite the ability to utilize the poll books from the first primary elections and/or the VR-028 report to ensure voters did not “crossover vote,” certain counties, such as Adams and Hinds, swapped the poll books from the first primary elections, meaning the Republican poll workers were provided the poll books from the Democratic first primary election and the Democratic poll workers were provided the poll books from the Republican first primary election. Several calls were received by the Secretary of State’s Office reporting confusion among the poll workers who believed they were mistakenly provided the wrong poll books for the runoff elections and, acting on their own accord, again swapped the poll books back. By doing so, the poll workers had no resource by which to determine if a voter cast a ballot in the other political party’s first primary election.

Throughout the day, observers reported and voters called unaware of their inability to cast a ballot in a one party’s primary second (runoff) election if he/she had previously voted in the other party’s first primary election. In fact, two (2) voters in Adams County refused to cast a ballot in the Democratic Primary Runoff Election even though both had voted in the Democratic Primary Election.

Subsequent to the certification of the second (runoff) primary election results by the State Party Executive Committees, all eighty-two (82) counties were asked to make a list of voters who may have voted in one party’s first primary election and then voted in another party’s second (runoff) primary election . Seventy-six (76) counties reported 495 voters who may have voted in one party’s first primary election and then voted in another party’s second (runoff) primary election. By virtue of the counties’ decision to exchange poll books on Primary Runoff Election Day, neither Adams nor Hinds Counties were able to reasonably ascertain a number of voters who may have voted in one party’s first primary election and then voted in another party’s second (runoff) primary election; however, Hinds County Election Officials estimated between 300 to 350 of such potential voters. Stone, Sunflower, Tunica and Washington Counties also provided estimates of potential voters, with Stone County reporting between zero and one (1) voter; Sunflower County reporting between three (3) to five (5) voters; Tunica County reporting two (2) voters confirmed from a particular precinct and estimating a total of no more than five (5) voters; and Washington County also confirming at least two (2) such voters from two (2) supervisor districts. Copiah County did not provide an actual or estimated number of voters who may have voted in one party’s first primary election and then voted in another party’s second (runoff) primary election.

Based upon Miss. Code Ann. Section 97-13-35, which precludes “double voting” and the opinions of the Attorney General which find crossover voting to likewise violate Miss. Code Ann. Section 97-13-35, the

Secretary of State's Office advised all counties to refer all instances of double voting and crossover voting to the respective District Attorneys' Office.

VOTER ID IMPLEMENTATION

An observer from Adams County reported a poll worker who refused to accept a county sheriff's employee photo ID, even though such photo ID is an acceptable form of photo ID as defined by Mississippi law. The poll worker required the voter to present a photo ID which contained an address for the voter. This voter was able to present a second form of photo ID, which did contain an address, and thus, the voter was able to cast his/her ballot.

CONCLUSIONS

Other than the issues discussed herein and the information as provided to the Secretary of State's Office by County Election Officials and observers, the 2014 first and second Primary Elections were conducted in accordance with State law. Even with two (2) substantial changes to the election process this year, only the problems outlined herein were reported. By deploying observers to all eighty-two (82) counties for the first primary and to twenty-eight (28) counties for the second primary, we were able to determine which election officials were operating in accordance with the training provided by the Elections Division. It is vital to continue this practice in order for the Secretary of State's Office to provide the necessary levels of training and support to local election officials.

⁴ Exhibit "C" attached hereto provides the county-by-county number of voters who potentially voted in one political party's first primary election, then voted in another political party's second (runoff) primary election. These numbers were ascertained or estimated by each County's Election Officials and reported to the Secretary of State's Office.

EXHIBIT “A”

The following fifty-one (51) County Democratic Executive Committees entered into a written agreement with the Circuit Clerk and/or County Election Commission pursuant to Miss. Code Ann. Section 23-15-266 to perform their required statutory duties in the conduct of the Primary and Primary Runoff Elections:

Adams County
Alcorn County
Amite County
Benton County
Bolivar County
Calhoun County
Chickasaw County
Choctaw County
Clarke County
Clay County
Copiah County
DeSoto County
Franklin County
Greene County
Grenada County
Hancock County
Hinds County
Issaquena County
Jackson County
Jasper County
Jefferson Davis County
Lafayette County
Lamar County
Lauderdale County
Lincoln County
Lowndes County
Madison County
Marshall County
Monroe County
Neshoba County
Newton County
Noxubee County
Oktibbeha County
Panola County
Pearl River County
Perry County
Pike County
Pontotoc County
Prentiss County
Scott County
Sharkey County
Stone County
Tate County
Tippah County

Union County
Walthall County
Wayne County
Webster County
Wilkinson County
Winston County
Yazoo County

The following fifty-eight (58) County Republican Executive Committees entered into a written agreement with the Circuit Clerk and/or County Election Commission pursuant to Miss. Code Ann. Section 23-15-266 to perform their required statutory duties in the conduct of the Primary and Primary Runoff Elections:

Adams County
Alcorn County
Amite County
Attala County
Benton County
Bolivar County
Chickasaw County
Choctaw County
Claiborne County
Clay County
Coahoma County
Copiah County
DeSoto County
Greene County
Grenada County
Hancock County
Hinds County
Holmes County
Humphreys County
Issaquena County
Itawamba County
Jackson County
Jasper County
Kemper County
Lafayette County
Lamar County
Lauderdale County
Lincoln County
Lowndes County
Madison County
Marshall County
Monroe County
Montgomery County
Neshoba County
Newton County
Noxubee County
Oktibbeha County
Panola County

Pearl River County
Perry County
Pike County
Pontotoc County
Prentiss County
Quitman County
Scott County
Sharkey County
Stone County
Tate County
Tippah County
Tunica County
Union County
Walthall County
Warren County
Wayne County
Webster County
Wilkinson County
Winston County
Yazoo County

EXHIBIT “B”

County	ID Cards
ADAMS COUNTY	9
ALCORN COUNTY	37
AMITE COUNTY	10
ATTALA COUNTY	4
BENTON COUNTY	38
BOLIVAR COUNTY	35
CALHOUN COUNTY	57
CARROLL COUNTY	14
CHICKASAW COUNTY	88
CHOCTAW COUNTY	25
CLAIBORNE COUNTY	21
CLARKE COUNTY	15
CLAY COUNTY	37
COAHOMA COUNTY	19
COPIAH COUNTY	17
COVINGTON COUNTY	27
DESOTO COUNTY	14
FORREST COUNTY	75
FRANKLIN COUNTY	9
GEORGE COUNTY	15
GREENE COUNTY	19
GRENADA COUNTY	8
HANCOCK COUNTY	9

HARRISON COUNTY	34
HINDS COUNTY	35
HOLMES COUNTY	134
HUMPHREYS COUNTY	46
ISSAQUENA COUNTY	8
ITAWAMBA COUNTY	26
JACKSON COUNTY	23
JASPER COUNTY	32
JEFFERSON COUNTY	15
JEFFERSON DAVIS COUNTY	38
JONES COUNTY	26
KEMPER COUNTY	58
LAFAYETTE COUNTY	12
LAMAR COUNTY	29
LAUDERDALE COUNTY	43
LAWRENCE COUNTY	19
LEAKE COUNTY	14
LEE COUNTY	72
LEFLORE COUNTY	39
LINCOLN COUNTY	21
LOWNDES COUNTY	19
MADISON COUNTY	40
MARION COUNTY	42
MARSHALL COUNTY	59
MONROE COUNTY	40

MONTGOMERY COUNTY	22
NESHOBA COUNTY	10
NEWTON COUNTY	14
NOXUBEE COUNTY	63
OKTIBBEHA COUNTY	26
PANOLA COUNTY	55
PEARL RIVER COUNTY	16
PERRY COUNTY	16
PIKE COUNTY	34
PONTOTOC COUNTY	35
PRENTISS COUNTY	46
QUITMAN COUNTY	97
RANKIN COUNTY	14
SCOTT COUNTY	9
SHARKEY COUNTY	16
SIMPSON COUNTY	6
SMITH COUNTY	16
STONE COUNTY	22
SUNFLOWER COUNTY	24
TALLAHATCHIE COUNTY	28
TATE COUNTY	24
TIPPAH COUNTY	13
TISHOMINGO COUNTY	32
UNION COUNTY	10
WALTHALL COUNTY	14
WARREN COUNTY	13

WASHINGTON COUNTY	24
WAYNE COUNTY	26
WEBSTER COUNTY	24
WILKINSON COUNTY	6
WINSTON COUNTY	9
YALOBUSHA COUNTY	48
YAZOO COUNTY	42
TUNICA COUNTY	0
Grand Total	2380

EXHIBIT “C”

County	
ADAMS COUNTY	Unable to determine
ALCORN COUNTY	0
AMITE COUNTY	6
ATTALA COUNTY	3
BENTON COUNTY	0
BOLIVAR COUNTY	0
CALHOUN COUNTY	2
CARROLL COUNTY	0
CHICKASAW COUNTY	2
CHOCTAW COUNTY	0
CLAIBORNE COUNTY	9
CLARKE COUNTY	6
CLAY COUNTY	3
COAHOMA COUNTY	25
COPIAH COUNTY	Number not provided
COVINGTON COUNTY	1
DESOTO COUNTY	29
FORREST COUNTY	38
FRANKLIN COUNTY	1
GEORGE COUNTY	0

GREENE COUNTY	3
GRENADA COUNTY	10
HANCOCK COUNTY	16
HARRISON COUNTY	50
HINDS COUNTY	Estimated 300-350
HOLMES COUNTY	4
HUMPHREYS COUNTY	6
ISSAQUENA COUNTY	0
ITAWAMBA COUNTY	9
JACKSON COUNTY	24
JASPER COUNTY	6
JEFFERSON COUNTY	0
JEFFERSON DAVIS COUNTY	6
JONES COUNTY	4
KEMPER COUNTY	0
LAFAYETTE COUNTY	6
LAMAR COUNTY	1
LAUDERDALE COUNTY	7
LAWRENCE COUNTY	9
LEAKE COUNTY	5
LEE COUNTY	22
LEFLORE COUNTY	1
LINCOLN COUNTY	9

LOWNDES COUNTY	2
MADISON COUNTY	11
MARION COUNTY	1
MARSHALL COUNTY	9
MONROE COUNTY	0
MONTGOMERY COUNTY	4
NESHOBA COUNTY	1
NEWTON COUNTY	1
NOXUBEE COUNTY	1
OKTIBBEHA COUNTY	1
PANOLA COUNTY	6
PEARL RIVER COUNTY	4
PERRY COUNTY	2
PIKE COUNTY	12
PONTOTOC COUNTY	3
PRENTISS COUNTY	2
QUITMAN COUNTY	1
RANKIN COUNTY	37
SCOTT COUNTY	2
SHARKEY COUNTY	4
SIMPSON COUNTY	5
SMITH COUNTY	4
STONE COUNTY	Estimated 0-1

SUNFLOWER COUNTY	Estimated 3-5
TALLAHATCHIE COUNTY	1
TATE COUNTY	4
TIPPAH COUNTY	9
TISHOMINGO COUNTY	5
TUNICA COUNTY	2 verified; estimated 5 total
UNION COUNTY	4
WALTHALL COUNTY	1
WARREN COUNTY	19
WASHINGTON COUNTY	2 verified from 2 districts only
WAYNE COUNTY	3
WEBSTER COUNTY	2
WILKINSON COUNTY	0
WINSTON COUNTY	5
YALOBUSHA COUNTY	3
YAZOO COUNTY	3
Estimated Total	802-856