Exhibit 1
INVESTIGATIONS/PROSECUTIONS OF TEXAS ELECTION CODE VIOLATIONS
POLICY STATEMENT AND GUIDELINES

ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

MARCH 2007
SECTION ONE
PURPOSE OF POLICY STATEMENT AND GUIDELINES

This document is designed as a quick and ready reference for the attorneys and peace officers/investigators within the Office of the Attorney General ("OAG") who are responsible within the agency for the investigation and potential prosecution of criminal offenses under the Texas Election Code. These written guidelines serve to memorialize many practices that have been put in place and have been followed with respect to such investigations and prosecutions, and the OAG's method of applying the office's resources to such investigations and prosecutions.

This document provides internal OAG guidance. It is not intended to create, does not create, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter, whether the matter is civil or criminal. This document does not place any limitations on otherwise lawful litigative prerogatives of the OAG or any other law enforcement agency.
SECTION TWO
POLICY STATEMENT

"My office takes seriously the one-person, one-vote philosophy that has been the backbone of this country throughout its history."

- Attorney General Greg Abbott, June 3, 2005

- Introduction
  - The citizen's right to participate in the open election process is a foundational building block of a free and democratic society. The Texas Legislature first passed the Election Code in 1986. The code has since been amended several times, in an effort to promote a standard and secure electoral process in which all eligible voters are permitted to exercise this fundamental right, and to have their votes counted, in an environment that is free from fraud, intimidation, and misconduct.

- The Office of the Attorney General
  - The OAG is focused on the investigation and enforcement of the Election Code. As defined by the Election Code, the OAG has the statutory mandate to investigate and prosecute offenses found therein. The OAG has dedicated both investigative and prosecution resources to this effort.

- Special Investigations Unit
  - The Special Investigations Unit ("SIU") is an investigative unit, within the Criminal Investigations Division, that was created in December 2004 and expanded in June 2005 through a grant from Governor Rick Perry to expand the enforcement capability of the OAG. One of the core functions of the unit is having a dedicated force with the ability to investigate Election Code violations.

- Need for Uniform Enforcement of Election Code
  - The OAG will vigorously enforce the law protecting the integrity of the voting process. The integrity of the one person, one vote foundation must be protected at all cost, regardless of the background or political affiliation of any individual or groups of individuals whose conduct may violate the Election Code.
SECTION THREE
REFERRALS AND INTAKE

• Sources of Referrals

○ The Election Code lays out a framework for the reporting of suspected violations of the Election Code.

(1) The Texas Secretary of State ("SOS"), as the chief election officer in the State, maintains a "voting rights hotline" and an email address through which individuals can report potential abuses. TEX. ELEC. CODE ANN. § 31.0055. The SOS refers potential violations of the Election Code to the OAG, upon a determination by the SOS "that there is reasonable cause to suspect that the alleged criminal conduct occurred." TEX. ELEC. CODE ANN. § 31.006.

(2) The Election Code also provides for direct referral of alleged violations of the Election Code to the OAG by voter affidavits, and from local elections officials, regarding multi-county elections. TEX. ELEC. CODE ANN. §§ 15.028, 273.001.

(3) In addition, the OAG has a long-standing policy of assisting whenever possible with legitimate law enforcement requests and requests for assistance of district and county attorneys and local law enforcement officials (e.g., sheriff's offices and police departments).

The OAG will open Election Code investigations only with respect to referrals from these sources.

○ Should requests for investigation be made by individuals not covered by the categories listed above, the OAG communicates with the requestor and may coordinate with the SOS so that the information can be forwarded to the SOS for its statutory review.

• Case Intake

○ An Election Code violation referral from the SOS is typically routed to the Special Assistant Attorney General for Criminal Justice, who reviews the referral and forwards it to the SIU Supervisor, with a copy to the CID Division Chief.

The SIU Supervisor or other designee will generate a Call for Service in CID's Crimestar report system as a record of the complaint. The Supervisor subsequently submits a case open memorandum for those that meet the criteria set forth below and merit investigation. The Supervisor also notifies the Criminal Law
Enforcement Division ('CLED') of the disposition of each referral. Each referral that merits a case open memorandum is assigned an Assistant Attorney General by the Division Chief of CLED.

The SIU Supervisor and the assigned AAG will then coordinate to prioritize the case, based on the criteria set forth below. The SIU Supervisor then assigns the matter to an appropriate investigator in the unit. Upon request from the SIU Supervisor, the CID Division Chief may appoint other investigators from other units to assist as needed. Once a case is assigned, the assigned investigator will consult and coordinate with the case attorney in developing investigative strategy, including coordination on gathering of relevant documents and witness interviews.

**Prosecution Decisions**

- When an investigation has advanced sufficiently to allow the SIU Supervisor, the CID Division Chief, and the assigned AAG to determine that criminal charges are warranted, the assigned AAG shall prepare a prosecution approval memorandum and present that for review by the CLED Division Chief and the Special Assistant Attorney General for Criminal Justice.

**Declination Decisions**

- If a matter is declined for prosecution, the OAG shall notify the referring agency that the matter has been investigated and that no further action is planned with respect to that referral. A form of such letter is attached as Appendix 3. In addition, where evidence of a violation exists, but a decision is made not to seek criminal charges based on consideration of the criteria listed below, the CLED Division Chief and the Special Assistant Attorney General for Criminal Justice shall determine whether, under the facts and circumstances of the case, it is appropriate to send the subject(s) of the investigation a letter explaining the nature of the Election Code investigation at issue. A form of such letter is attached as Appendix 4.
SECTION FOUR
INVESTIGATIVE PRIORITIES AND PROSECUTION CRITERIA

As is the case with any law enforcement agency, the OAG’s resources are not limitless. To ensure that these limited resources are used wisely, the following criteria are to be considered in determining which referred matters receive investigative priority. The criteria are not listed in order of importance, and all of the criteria are to be taken into consideration given the facts of a particular investigation. The following criteria are also to be considered when an investigation has proceeded to the point at which an investigative matter is presented as a case merits potential prosecution. These criteria are guidelines only, and as every matter is unique in at least some respects, investigators and prosecutors are expected to exercise good judgment in applying these criteria to each matter.

The criteria to be considered are:

- Seriousness of offense according to statute.
- Effect of conduct on election outcome.
- Number of subjects involved in the alleged illegal activity and the scope of the activity.
- Number of voters affected by conduct.
- History of the subject as it relates to prior election-related activity.
- The subject’s criminal history generally.
- Role of the subject in the overall activity.
- If the case involves “ballot harvesting,” the mental and physical condition of the voter(s).
- Whether as a result of alleged illegal activity, an eligible voter was prevented from voting or having his or her vote counted.
- Evidence of knowing and intentional violations of the Election Code.
- Whether the subject was a public official, or a candidate for public office, when the alleged criminal activity occurred.
APPENDIX 1
CRIMINAL PROVISIONS OF ELECTION CODE

The following are descriptions of provisions of the Election Code that provide for criminal penalties. The language of the Code must be consulted with respect to investigative and prosecution decisions.

- TEX. ELEC. CODE ANN. § 13.006 - Purportedly Acting as Agent. It is a third degree felony to act as an agent for an applicant without permission.

- TEX. ELEC. CODE ANN. § 61.006 - Unlawfully Divulging Vote. It is a third degree felony to reveal how another voter has voted from information that a person has obtained from being in a polling place for a purpose other than voting.

- TEX. ELEC. CODE ANN. § 64.012 - Illegal Voting. It is a third degree felony to vote in an election where the person knows he is ineligible to vote, knowingly votes more than once in an election, or knowingly impersonates another and votes as the impersonated person.

- TEX. ELEC. CODE ANN. § 276.001 - Retaliation Against Voter. It is a third degree felony to harm or threaten a voter by an unlawful act, or for a retaliator who has authority over the voter to threaten the voter regarding his employment or wages, for the choices the voter has made or for refusing to reveal his choices.

- TEX. ELEC. CODE ANN. § 276.003 - Unlawful Removal From Ballot Box. It is a third degree felony to knowingly or intentionally remove voted ballots from a ballot box in a manner not authorized by law. An attempt to remove voted ballots from a ballot box in a manner not authorized by law is a Class A misdemeanor.

- TEX. ELEC. CODE ANN. § 86.006 - Method of Returning Marked Ballot. It is a state jail felony if a person knowingly possesses 20 or more official ballots or official carrier envelopes unless the envelopes are possessed without the consent of the voter, in which case it is a second degree felony. It is a Class A misdemeanor for a person to knowingly possesses at least 10 but fewer than 20 official ballots or carrier envelopes unless possessed without the consent of the voter, in which case it is a third degree felony. It is a Class B misdemeanor for a person to knowingly possesses at least one but fewer than 10 official ballots or carrier envelopes unless possessed without the consent of the voter, in which case it is a state jail felony.

- TEX. ELEC. CODE ANN. § 84.0041 - Providing False Information on Early Voting by Mail Application. It is a state jail felony for a person, other than the applicant or his relative (in which case it is a Class A misdemeanor), to knowingly provide false information on an application.
TEX. ELEC. CODE ANN. § 86.0051 - Carrier Envelope Action by Person other than Voter. It is a state jail felony for a person, other than the voter, to knowingly fail to provide the person's signature, printed name, and residence address on the reverse side of a carrier envelope AND provides unlawful assistance, under TEX. ELEC. CODE ANN. § 64.036, in connection with the same ballot.

TEX. ELEC. CODE ANN. § 276.010 - Unlawful Buying or Selling of Balloting Material. It is a state jail felony for a person other than the voter to buy, sell, or offer to sell balloting material as defined by this section. If the voter commits the offense with a ballot, carrier envelope, or ballot envelope provided to the voter by the government, it is a Class B Misdemeanor.

TEX. ELEC. CODE ANN. § 2.054 - Coercion Against Candidacy Prohibited. It is a Class A misdemeanor to intimidate or attempt to influence a person against filing an application for a place on the ballot or declaration of write-in candidacy. The offense is a third degree felony if the intimidation or coercion is a threat to commit a felony.

TEX. ELEC. CODE ANN. § 13.043 - Failure to Deliver Application. It is a Class C misdemeanor for a volunteer deputy registrar to fail to deliver applications to the county voter registrar within the time period set out in Section 13.042 of the Code. The offense is a Class A misdemeanor if the deputy registrar's failure to deliver the applications is intentional.

TEX. ELEC. CODE ANN. § 18.009. Unlawful Use of Information on Registration List. It is a Class A misdemeanor for a person to use in connection with advertising or promoting commercial products or services information that was obtained from a copy of the voter registration list furnished by the county voter registrar under Section 18.008 of the Code.

TEX. ELEC. CODE ANN. § 33.061. Unlawfully Obstructing Watcher. It is a Class A misdemeanor for an election official to knowingly prevent a poll watcher whose presence is authorized from observing an activity the watcher is entitled to observe.

TEX. ELEC. CODE ANN. § 52.004. Failure to Place Candidate's Name on Ballot. It is a Class A misdemeanor for the authority responsible for preparing the ballot for an election to knowingly fail to place on the ballot the name of a candidate who is entitled to have his or her name on the ballot.

TEX. ELEC. CODE ANN. § 52.0063. Unlawful Preparation of Ballots. It is a Class A misdemeanor for a person to prepare new ballots to make a correction on the ballot while failing to comply with the requirements of Sections 52.0061 and 52.0062 of the Code.
TEX. ELEC. CODE ANN. § 61.005. Security of Ballots, Ballot Boxes, and Envelopes. It is a Class A misdemeanor for a presiding election judge to fail to prevent another person from handling a ballot box containing voters' marked ballots or an envelope containing a marked provisional ballot, or from making an unauthorized entry into the ballot box or envelope.

TEX. ELEC. CODE ANN. § 61.007 – Unlawfully Revealing Information Before Polls Close. It is a Class A misdemeanor for an election officer or watcher serving at a polling place to reveal the number of votes for or against a candidate or measure, a candidate's position relative to other candidates in the tabulation, whether a measure is passing or failing, and the names of persons who have or have not voted in the election.

TEX. ELEC. CODE ANN. § 64.011 – Unlawfully Depositing Ballot. It is a Class A misdemeanor for a person to deposit into the ballot box a ballot that was not provided to the person who is depositing the ballot or for whom the deposit is made. An attempt to unlawfully deposit a ballot is a Class B misdemeanor.

TEX. ELEC. CODE ANN. § 64.036 – Unlawful Assistance. It is a Class A misdemeanor for a person to knowingly provide assistance to a voter who is not eligible for assistance, while assisting a voter, prepare the ballot in a way other than how the voter directs or without direction from the voter, suggest by word, gesture, or sign how the voter should vote while assisting, provide assistance to a voter who has not requested the assistance or selected the person to do the assisting. A voter's employer, the agent of a voter's employer, or an officer or agent of a labor union to which the voter belongs, commits a Class A misdemeanor if they assist the voter. An election officer commits a Class A misdemeanor if he or she knowingly permits a person to provide assistance to a voter who is not eligible to receive assistance. An election officer also commits a Class A misdemeanor if he or she allows a voter to be assisted by the voter's employer, the agent of a voter's employer, or an officer or agent of a labor union to which the voter belongs.

TEX. ELEC. CODE ANN. § 66.058 – Preservation of Precinct Election Records. It is a Class A misdemeanor for the custodian of a ballot box to make an unauthorized entry into the box or fail to prevent another person from handling the ballot box in an unauthorized manner or making an unauthorized entry into the box.

TEX. ELEC. CODE ANN. § 66.060 – Delivery and Preservation of Key to Ballot Box No. 3. It is a Class A misdemeanor for the custodian of the key to a ballot box containing voted ballots to relinquish custody of the key except as permitted by law during the period for preserving the precinct election records.
TEX. ELEC. CODE ANN. § 84.003 – Signing Application by Witness; Assisting Applicant. It is a Class A misdemeanor for a person acting as a witness on an application for ballot by mail to fail to include the witness information required under Section 1.011 of the Code. It is a Class A misdemeanor for a person who, while in the presence of the applicant, assists a person in completing the application for ballot by mail to fail to include the information required by Section 1.011(d) in the same manner as a witness.

TEX. ELEC. CODE ANN. § 86.010 – Assisting Voter. It is a Class A misdemeanor for an assistant to knowingly fail to provide the information required by Section 86.010(e)—the assistant’s signature, printed name, and residence address—on the carrier envelope. If the person is convicted of an offense under Section 64.036, the offense is a state jail felony.

TEX. ELEC. CODE ANN. § 122.031 – Approval of System and Voting Equipment Required. It is a Class A misdemeanor for a person to execute a contract to sell, lease, or otherwise provide a voting system or voting system equipment that the person knows has not been approved by the Secretary of State.

TEX. ELEC. CODE ANN. § 13.007 – False Statement on a Voter Registration Application. It is a Class B misdemeanor if a person commits an offense where the person knowingly makes a false statement or requests, commands, or attempts to induce another person to make a false statement on a registration application.

TEX. ELEC. CODE ANN. § 61.008 – Unlawfully Influencing Voter. It is a Class B misdemeanor for an election official to indicate to a voter by word, sign, or gesture how the person desires the voter to vote or not vote.

TEX. ELEC. CODE ANN. § 63.012 – Unlawfully Accepting or Refusing to Accept Voter. It is a Class B misdemeanor for an election official to permit an ineligible voter to vote except through the provisional voting process or refuse to accept a voter for voting whose acceptance is required by the Code.

TEX. ELEC. CODE ANN. § 64.010 – Unlawfully Permitting or Preventing Deposit of Ballot. It is a Class B misdemeanor for an election official to permit a person to deposit a ballot in the ballot box that the election official knows was not provided at the polling place or to prevent the deposit of a marked and folded ballot by a voter or on behalf of the voter that was provided to the voter at the polling place.

TEX. ELEC. CODE ANN. § 65.014 – Preparing the Precinct Returns. It is a Class B misdemeanor for a presiding election judge to knowingly fail to include all the information required by the election code in the precinct returns or to complete the returns in time for delivery by the deadline prescribed by Section 66.053(c) for
delivery of the precinct election records.

○ TEX. ELEC. CODE ANN. § 66.054 – Failure to Deliver Election Returns and Voted Ballots. It is a Class B misdemeanor for an election officer (1) to fail to deliver the election returns and voted ballots to the appropriate authority or (2) to fail to make the delivery by the deadline prescribed by Section 66.053(c) for the delivery of precinct election records or (3) to fail to prevent another person from handling the returns or voted ballots in an unauthorized manner while they are in the delivering officer's custody.

○ TEX. ELEC. CODE ANN. § 84.004 – Unlawfully Witnessing Application for More Than One Applicant. It is a Class B misdemeanor for a person to sign an application for ballot by mail as a witness for more than one applicant.

○ TEX. ELEC. CODE ANN. § 122.035 – Voting System Equipment Contract. It is a Class B misdemeanor to execute a voting system equipment contract that is not submitted to and approved by the Secretary of State.

○ TEX. ELEC. CODE ANN. § 51.011. Obstructing Distribution of Supplies. It is a Class C misdemeanor to intentionally obstruct the distribution of supplies for an election.

○ TEX. ELEC. CODE ANN. § 61.001. Bystanders Excluded; Unlawful Presence of Candidate. It is a Class C misdemeanor for a candidate to be present in a polling place from the time after the presiding judge arrives to the completion of the precinct returns if the candidate is not voting or engaged in official business in the building in which the polling place is located.

○ TEX. ELEC. CODE ANN. § 61.003. Electioneering and Loitering Near Polling Place Prohibited. It is a Class C misdemeanor to loiter or electioneer for any candidate, measure, or political party within 100 feet of an outside door through which a voter may enter the building in which a polling place is located.

○ TEX. ELEC. CODE ANN. § 61.004. Unlawful Operation of a Sound Amplification Device or Sound Truck. It is a Class C misdemeanor to operate a sound amplification device or a vehicle with a loudspeaker while the device or loudspeaker is being used for the purpose of making a political speech or electioneer for or against any candidate, measure, or political party.

○ TEX. ELEC. CODE ANN. § 61.010 – Wearing Name Tag or Badge in Polling Place. It is a Class C misdemeanor for a person to wear a badge, insignia, emblem, or other similar communicative device relating to a candidate, measure, or political party appearing on the ballot, or to the conduct of the election, in the polling place or within
100 feet of any outside door through which a voter may enter the building in which the polling place is located.

TEX. ELEC. CODE ANN. § 62.013 – Unauthorized Posting of Signs Prohibited. It is a Class C misdemeanor for an election officer to knowingly post a card, sign, poster, or similar material that is not authorized or required by law or is in a form or contains information that is not authorized or required by law at a polling place or within 100 feet of entrance to the building in which the polling place is located. A person other than an election official commits an offense if he or she posts a card, sign, poster, or similar material within the polling place or 100 feet from the outside door through which a person enters the building in which the polling place is located.

TEX. ELEC. CODE ANN. § 85.036 – Electioneering Prohibited. It is a Class C misdemeanor to electioneer for any candidate, measure, or political party within 100 feet of an outside door through which a voter may enter the building in which the early voting polling place is located.

TEX. ELEC. CODE ANN. § 85.037 – Bystanders Excluded; Unlawful Presence of Candidate. Section 61.001 applies to an early voting polling place during the time the polling place is open for the conduct of voting. Under Section 61.001, it is a Class C misdemeanor for a candidate to be present in a polling place from the time after the presiding judge arrives to the completion of the precinct returns if the candidate is not voting or engaged in official business in the building in which the polling place is located.

TEX. ELEC. CODE ANN. § 161.007 – Unlawfully Prohibiting Employee From Attending Political Convention. It is a Class C misdemeanor for a person to knowingly refuse to allow a person to be absent from work to attend a precinct convention in which the person eligible to participate or a state or district convention to which the person is a delegate.

TEX. ELEC. CODE ANN. § 162.014 – Unlawful Participation in Party Affairs. It is a Class C misdemeanor for a person to knowingly vote or attempt to vote in a primary election or participate or attempt to participate in a convention of a party after having voted in a primary election or participated in a convention of another party during the same voting year.

TEX. ELEC. CODE ANN. § 276.004 – Unlawfully Prohibiting Employee From Voting. It is a Class C misdemeanor for a person to refuse to permit another person over whom he or she has authority in the scope of employment to be absent from work on election day to vote or threatens the other person with a penalty for attending the polls on election day.
Related Texas Penal Code Provisions:

○ **TEX. PEN. CODE ANN. § 33.05 — Tampering With Direct Recording Electronic Voting Machine.** It is a first degree felony to knowingly access a computer, computer network, computer program, computer software, or computer system that is a part of a voting system that uses direct recording electronic voting machines and by means of that access: (1) prevents a person from lawfully casting a vote; (2) changes a lawfully cast vote; (3) prevents a lawfully cast vote from being counted; or (4) causes a vote that was not lawfully cast to be counted.

○ **TEX. PEN. CODE ANN. § 36.02 — Bribery.** It is a second degree felony to offer or accept any benefit in exchange for the recipient’s decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter; to offer or accept any benefit as consideration for a violation of a duty imposed by law on a public servant or party official; or to offer or accept any benefit that is a political contribution as defined by Title 15, Election Code, or that is an expenditure made and reported in accordance with Chapter 305, Government Code, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the benefit.

○ **TEX. PEN. CODE ANN. § 46.03 — Places Weapons Prohibited.** It is a third degree felony for a person to possess a firearm in a polling place on the day of an election or while early voting is in progress, if the person is not excepted from prosecution as provided in this section.

○ **TEX. PEN. CODE ANN. § 31.03 — Theft.** It is a state jail felony to steal official ballots or official carrier envelopes for an election.

○ **TEX. PEN. CODE ANN. § 37.10 — Tampering With Governmental Record.** It is a state jail felony to knowingly make a false entry in an official ballot or other election record or to make, present, or use such a record with knowledge of its falsity.
APPENDIX 2

AUTHORITY OF THE ATTORNEY GENERAL TO INVESTIGATE AND PROSECUTE ELECTION CODE VIOLATIONS

- TEX. ELEC. CODE ANN. § 273.001. Investigation of Criminal Conduct

  (a) If two or more registered voters of the territory covered by an election present affidavits alleging criminal conduct in connection with the election to the county or district attorney having jurisdiction in that territory, the county or district attorney shall investigate the allegations. If the election covers territory in more than one county, the voters may present the affidavits to the attorney general, and the attorney general shall investigate the allegations.

  (b) A district or county attorney having jurisdiction or the attorney general may conduct an investigation on the officer's own initiative to determine if criminal conduct occurred in connection with an election.

  (c) On receipt of an affidavit under Section 15.028, the county or district attorney having jurisdiction and, if applicable, the attorney general shall investigate the matter.

  (d) On referral of a complaint from the secretary of state under Section 31.006, the attorney general may investigate the allegations.

  (e) Not later than the 30th day after the date on which a county or district attorney begins an investigation under this section, the county or district attorney shall deliver notice of the investigation to the secretary of state. The notice must include a statement that a criminal investigation is being conducted and the date on which the election that is the subject of the investigation was held. The secretary of state may disclose information relating to a criminal investigation received under this subsection only if the county or district attorney has disclosed the information or would be required by law to disclose the information.

- TEX. ELEC. CODE ANN. § 273.002. Local Assistance to Attorney General

  For an election in which the attorney general is conducting an investigation, the attorney general may:

  (1) direct the county or district attorney serving a county in the territory covered by the election to conduct or assist the attorney general in conducting the investigation; or

  (2) direct the Department of Public Safety to assist in conducting the investigation.
TEX. ELEC. CODE ANN. § 273.021. Prosecution by Attorney General Authorized

(a) The attorney general may prosecute a criminal offense prescribed by the election laws of this state.

(b) The attorney general may appear before a grand jury in connection with an offense the attorney general is authorized to prosecute under Subsection (a).

(c) The authority to prosecute prescribed by this subchapter does not affect the authority derived from other law to prosecute the same offenses.

TEX. ELEC. CODE ANN. § 273.022. Cooperation With Local Prosecutor

The attorney general may direct the county or district attorney serving the county in which the offense is to be prosecuted to prosecute an offense that the attorney general is authorized to prosecute under Section 273.021 or to assist the attorney general in the prosecution.

TEX. ELEC. CODE ANN. § 273.023. Subpoena

(a) A subpoena or subpoena duces tecum issued in connection with a prosecution under this subchapter is effective if served anywhere in this state.

(b) A witness may not be punished for failure to comply with a subpoena issued under this subchapter unless the proper fees are tendered to the witness as required by statute or court rule.

(c) The attorney general may direct the Department of Public Safety to serve a subpoena under this subchapter.

TEX. ELEC. CODE ANN. § 273.024. Venue

An offense under this subchapter may be prosecuted in the county in which the offense was committed or an adjoining county. If the offense is committed in connection with a statewide election, the offense may be prosecuted in the county in which the offense was committed, an adjoining county, or Travis County.
APPENDIX 3
SAMPLE DECLINATION LETTER
Criminal Law Enforcement
Office: (512) [number]
Fax: (512) [number]

[Date]

Ms. Ann McGeehan
Director of Elections
Secretary of State
208 East 10th Street
Rusk Building, Third Floor
Austin, Texas 78701

Dear Ms. McGeehan:

This letter is in reference to the referral by the Secretary of State, under Texas Election Code section 31.006, concerning [brief description of subject matter]. The Office of the Attorney General has completed its review [and investigation] of the matter, and is declining to take any further action with respect to this matter at this time.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

[Name]
Assistant Attorney General
Criminal Law Enforcement Division
Office of the Attorney General
APPENDIX 4
SAMPLE SUBJECT LETTER
[Date]

Mr/Mrs. John Doe
1234 Texas St.
Texas, TX 12345

Dear Sir/Madam,

The Office of the Attorney General has received and reviewed [received and investigated] allegations of possible Election Code violations relating to [brief description of matter].

The review [and investigation] has concerned the following provisions of the Texas Election Code:

[list statutes]

In this instance, the investigation concerns allegations that you [and others] [describe conduct generally].

The Office of the Attorney General has the jurisdiction to investigate and, where prosecution is warranted, to prosecute criminal violations of the Election Code. In the event that the Office of the Attorney General declines to pursue criminal charges with respect to an Election Code matter referred to it for its review, such a declination should not be taken as any indication that the alleged conduct is not serious. Likewise, a decision not to pursue criminal charges does not necessarily represent any final determination of whether an Election Code violation has occurred.

This letter is to provide you with additional information concerning the referral and the provisions of the Election Code at issue. We encourage you to review these provisions closely, so that you can ensure that you conduct yourself in accordance with the requirements of state law. Should you have any questions regarding Texas election laws, we would recommend that you contact the Texas Secretary of State at (800) 252-VOTE(8683) or elections@sos.state.tx.us for further information.
Sincerely,

[name]
Assistant Attorney General
Criminal Law Enforcement Division
ROLE OF THE SECRETARY OF STATE

DEAD PEOPLE VOTING

VOTER FRAUD IN TEXAS?

CODE VIOLATIONS

INVESTIGATING ELECTION

FRUGAL INDICTMENTS IN TWO COUNTIES

ATTORNEY GENERAL ABBOTT OBTAINS VOTER

June 2, 2005: MEXICAN AMERICAN

Illegal Ballot Handling in Robstown

The Sixth Sense

"I see dead people..."

"They're dead... They just know they're dead..."

1-800-252-VOTE (8683)

General Info and

complaints

PROVIDES OVERSIGHT FOR THE ELECTIONS

SECRETARY OF STATE

Robert Williams
Chapter 84
Application for Mail in Ballot – E.C.

EARLY VOTING BY MAIL

1. Mail or fax
2. In person by voter
3. Mailer delivery of application for continued
   voter
4. Off the SOS website

E.C. Title 5, 101.1, 16
E.C. Title 6.7
E.C. Title 7
2. Early Voting - Voting in Person
3. Poll Place - General Violations
4. Miscellaneous Election Fraud Statutes

EARLY VOTING MAIL

E.C. Title 9, 10, 15.16
Chapter 273 Elections
Code
Office
or local prosecutors
Upon referral from SOS
Violations
Investigates allegations

General
Role of the Attorney

Subject to Abuse
(misdeemnor)
- Containment in Prison
- Age 65 +
- Disability
- From county
- Expected to be absent
- Eligible voters

Mail in Ballots

Texas Election Code

http://ww.capitol.state.tx.us/statutes
Application for mail-in ballot (front)

Early Voting by Mail

Application Violations

- Class B Misdemeanor
- Does not affect validity of application extending right of applicant
- Excludes relatives
- Excludes early voting clerk or deputy applicant
- A person commits an offense if, in the same election, signs as a witness for more than one applicant
- A person commits an offense if, in the same election, signs as a witness for more than one applicant

EC 84.004 Unlawfully Witnessing

Application Violations

- Registered to vote at same address of applicant
- Relative of applicant
- Applicant
- Class A Misdemeanor if person is
- State jail felony
- A person shall not knowingly provide false information on an application

EC 84.0041 Providing False Information

Application

Application Phase

Early Voting by Mail
Application Summary

You must sign as a witness.

You may be in as many applications as you wish without being in violation.

Witness must witness applications as you sign with an "X" you pre-filled or not if they want.

Applications are not filled in filling phase.

Witnesses, assisting Applicant by signing Application by EC 84.003.

A person who acts as a witness (signs for an applicant who commits an offense if he/she knowingly fails to sign as a witness) is guilty of a misdemeanor.

Excludes relatives.

Excludes early voting clerk or deputy.

EC 84.004.

Application for mail-in ballot (back).
MAIL-IN BALLOTS

SALARY

MAIL IN BALLOT PHASE EARLY VOTING BY MAIL
Ballot Summary

EC 86.006

MAIL-IN BALLOTS

EC 86.006 Method of Returning Marked

MAIL-IN BALLOTS

EC 86.006 Method of Returning Marked

MAIL-IN BALLOTS
Class C Misdemeanor
Exemptions: campaign signs, buttons, t-shirts
No person shall enter or enter within 100 feet
Near Polling Place Prohibited
EC 61.003 Electioneer and Loting

POLL PLACE VIOLATIONS

Class C Misdemeanor
Appropriate to early voting
Presence of Candidate
EC 85.037 Excluded: Unlawful
- Class C Misdemeanor
Outside door of polling place
Within 100 feet of the
- A person may not enter within 100 feet of the
EC 85.036 Electioneer Prohibited

POLL PLACE VIOLATIONS

Class C Misdemeanor
Building
to vote or conduct official business in the
voting area during election period other than
within plain view of hearing of persons in
- Candidate shall not be inside polling place,
Presence of Candidate
EC 61.001 Excluded: Unlawful

POLL PLACE VIOLATIONS

ALL LAWS APPLY

In Person
EARLY VOTING
Class C Misdemeanor
- From handling ballot box containing marked ballots or provisional ballot envelope
- A presiding election judge commits an offense
- Boxes, and Envelopes

EC 61.005 Security of Ballots, Ballot

Poll Place Violations

Sound Truck

Polling place during voting period
- A person shall not operate a loudspeaker

EC 61.004 Unlawful Operation of a

Poll Place Violations

Poll Place Violations

Poll Place Violations

Poll Place Violations

Prohibited
- Positioning of Signs

EC 62.013 Unauthorized

Poll Place Violations

Poll Place Violations

Poll Place Violations

EC 64.010 Wearing Name Tag

Poll Place Violations

Poll Place Violations

Poll Place Violations
Poll Place Violations

Class A Misdemeanor
is entitled to observe
watcher from observing activity which watcher
he/she knowingly prevents an authorized poll
An election official commits an offense if
watcher

EC 33.064 Unlawfully Obstructing

Poll Place Violations

Class B Misdemeanor
vote
the person desiring the voter to vote or not
the polling place by word, sign, or gesture how
a person shall not indicate to a voter in a

EC 61.008 Unlawfully Influencing Voter

Poll Place Violations

EC 61.007 Unlawfully Revealing Information

Poll Place Violations

EC 61.006 Unlawfully Divulging Vote

Poll Place Violations
Class A: Misdemeanor for Attempt
- Degree Felony
- Another without the other person’s consent
- Knowing mark or attempt to mark that ballot of
  a person
- Impersonate another and vote or attempt to vote
  election
- Vote or attempt to vote more than once in one
  day
- Vote or attempt to vote if they are not eligible:
  a person shall not
  - EC 64.012 Unlawful Voting

Poll Place Violations

Preventing Deposit or Ballot
- Class B: Misdemeanor

- The casting vote at the polling place
  marked, properly folded ballot which was provided to
  an election officer shall allow another person to
  prevent the casting of a ballot
- An election officer shall not allow another person to
  prevent the casting of a ballot
  - EC 64.010 Unlawfully Permitting or

Poll Place Violations

Refusing to Accept Voter
- Class B: Misdemeanor

- Refuses to accept a voter
  - Provisional Ballot
    - An election officer commits a violation of the
      office
    - An election officer commits a violation if the
      office
  - EC 63.012 Unlawfully Accepting or
Polling Place Violations

EC 64.036 Unlawful Assistance (cont'd)

EC 32.075 Law Enforcement Duties

- Peace Officers
- Duty of Peace Officers

Class A Misdemeanor

in violation of Section 64.032(c)

To a voter who is not eligible for assistance:

officer knowingly permits a person to provide assistance:

- An election officer commits an offense if the

knowingly:

- A person commits an offense if the person

EC 276.06 - Voter's Privilege from Arrest
- Polling place

If entitled to do so, before being removed from the
voting or rendering to vote, shall be permitted to vote.

A person who is arrested at a polling place while

and Powers

EC 76.005 - Felony or breach of
Class C misdemeanor
- Open emergency worker outside employee’s work hours
- An employer must allow employee time to vote during election day, unless polls are open minimum of 2 hours outside employee’s workhours

Class B misdemeanor
- Official or election record
- Purchase, offers to buy, sells, or offers to sell

EC 276.010 Unlawful Buying and Selling of Balloting Materials

EC 276.004 - Unlawfully Prohibiting Employee from Voting

Miscellaneous Offenses

Class A misdemeanor
- Attempt
- 3rd degree felony
- Box in unlawful manner
- Internally removes voted ballots from ballot box
- A person commits offense if knowingly or intentionally removes voted ballots from ballot box

EC 276.003 - Unlawful Removal from Ballot Box

Miscellaneous Offenses

EC 276.001 - Retaliation Against Voter

Miscellaneous Offenses

EC 276.001 - Retaliation Against Voter

Miscellaneous Offenses

EC 276.001 - Retaliation Against Voter

Miscellaneous Offenses
PARTY AFFAIRS

• EC 162.014 – Unlawful Participation in Party Affairs
  – offense if person knowingly votes/participates or attempts to vote/participate in more than one primary election or convention
  – Class C Misdemeanor

• EC 162.011 – Presentation of False Evidence of Affiliation Prohibited
  – offense if person presents false voter registration card or party affiliation card for purposes of participating in opposite party’s convention
  – Class C Misdemeanor

PARTY AFFAIRS

• EC 161.007 – Unlawfully Prohibiting Employee from Attending Political Convention
  – Employer must allow an employee who is eligible to participate in precinct convention attend without threat of penalty
  – Class C Misdemeanor

CAMPAIGN FINANCE REPORTING

• EC 253.001 – Contribution or Expenditure in Another’s Name Prohibited
  – A person may not knowingly make or authorize political contribution/expenditure in name of or on behalf of another, unless properly disclosed
  – Class A misdemeanor

CAMPAIGN FINANCE REPORTING

• EC 253.002 – Unlawful Direct Campaign Expenditure
  – A person may not knowingly make a direct campaign expenditure unless the person is:
    • Candidate
    • Political committee
    • Campaign treasurer
    • Making expenditure of $100 or less
  – Class A misdemeanor
Penal Code Violations

1st degree felony -

- Causes an unlawful vote to be counted
- Prevents lawfully cast vote from being counted
- Changes lawfully cast vote
- Prevents person from lawfully casting ballot of a computer voting system to:
- A person may not knowingly access any part

Recording Electronic Voting Machine

TPC 33.05 - Tampering with Direct

Penal Code Violations

- State Jail Felony -
  Election
- Official ballot or official carrier envelope for an

- TPC 31.03 - Theft

Penal Code Violations

- Class A Misdemeanor - Contribution
- EC 253.005 - Expenditure from Unlawful
- Class A Misdemeanor
- EC 253.004 - Unlawfully Making Expenditure
- Class A Misdemeanor or 3rd degree felony
  Contribution
- EC 253.003 - Unlawfully Making or Accepting

Reporting Campaign Finance

Treasureer Prohibited

Expenditure Without Campaign

EC 253.031 - Contribution and

Reporting Campaign Finance

EC 253.004 - Unlawfully Making Expenditure
DOCUMENTS NEEDED

- Preservation documents
- Suspicious
- Witnesses
- Documents

INVESTIGATION

- 3rd degree felony
- Vandalism
- Place of early voting
- A person may not possess a firearm in a prohibited place
- Weapons
- TPC 46.03

PENAL CODE

POLL PLACE VIOLATION

- 2nd degree felony
- Official discretion
- As such, if benefit was offered on condition of a person may not offer or accept any benefit
- For another’s vote or discretion as a voter
- TPC 36.02
- Bribery

PENAL CODE VIOLATIONS
THINGS TO TAKE ALONG

- Color and photocopies of suspect line(s)
- Envelope(s)
- Copies of witness' application(s) & carrier
- Digital recorder
- Laptop, printer, paper, camera

VOTERS INTERVIEWING ELDERLY

- Geographical area
- Documents
- Complaint

BASED ON:

WITNESS LIST

RELIABILITY

- Taking statements
- Language boundaries
- Cultural boundaries
- Memories of election

FRAUD EXAMINE DOCUMENTS FOR

- Unique stamps
- Signature
- Same handwriting on forms/different from
- Obvious signs of tampering
INTERVIEWING SUSPECTS

- Involvement with elections?
- Involvement with campaigns?
- Who helped them and how?
- Are you related to suspect?
- Any other witnesses present?
- What type of car was suspect driving?
- What was suspect campaigning for?
- Did suspect promise or give them something for their vote?

THINGS TO TAKE ALONG

- Laptop, printer, paper, camera
- Digital recorder
- Copies of applications & carrier envelopes for voters who identified suspect
- 3-5 corroborating witnesses per suspect, unless attempting felony charge

THINGS TO ASK

- Take statements
- Be prepared for wide spectrum of responses
- Training?
- Relation to voters?
If you have any questions contact
participation
Thank you for your

- List each ballot for each witness
- Suspects & Witnesses
  - Include applicable statutes
- Conclusion of all allegations

PUTTING IT ALL TOGETHER

PRESEVING DOCUMENTS

Grand Jury Presence
District Court Judge order & Presence
273
Access to sealed ballot boxes: Chapter
Administrator
Preservation letter to elections