



Texas Secretary of State  
ELECTIONS DIVISION



# Law Enforcement and Elections

Oct. 8, 2024



# Helpful Resources

- Our office publishes advisories that can be found at:
  - [sos.state.tx.us/elections/laws/election-division-advisories.shtml](https://sos.state.tx.us/elections/laws/election-division-advisories.shtml)
- Additionally, we record webinars that can be found at:
  - [sos.state.tx.us/elections/laws/education-resources.shtml](https://sos.state.tx.us/elections/laws/education-resources.shtml)
- Law Enforcement Handbook
- Law Enforcement Handout
- Your Local Elections Office



# Who Can You Contact if You Have Questions?



# Texas Secretary of State

- By Telephone
  - 800-252-VOTE
  - 512-463-5650
    - Option 3 for receptionist
  - 800-252-2216
    - Option 2 for legal
- By Email
  - [elections@sos.texas.gov](mailto:elections@sos.texas.gov)



# Local County Elections Office

- (Insert preferred contact information here)
- (SOS recommends including your physical address)



# Who Are the Relevant Election Personnel?



## Election Personnel

- **County Election Official**
  - By default, the County Election Official (CEO) in a county is the County Clerk. However, Chapter 31 of the Texas Election Code authorizes a county to create the position of an Election Administrator. Each county is different.
- **Early Voting Clerk**
  - The early voting clerk for a county election is the county clerk (or elections administrator); for city elections, it is the city secretary; and for other political subdivisions, it is a person appointed by the governing body of the political subdivision.
- **Presiding Judge**
  - In charge of and responsible for the management and conduct of the election at the polling place of the election precinct that the judge serves. A presiding judge has the same power and authority of a district judge, including the power to issue an arrest warrant.
- **Election Clerk**
  - Individuals appointed by the presiding judge to assist in running the election.
- **State Inspector**
  - An individual appointed and trained by the Secretary of State to observe election activities.



# Key Election Periods

- Pre-Election Period
- Voting Period
- Post-Voting Period





# Pre-Election Period

- The period before Early Voting.
- During this period, our office recommends reaching out to your county election officer to establish a line of communication.
- Create plans on how to deal with specific situations. Examples include:
  - Active Shooter
  - Natural Disasters
  - Doxing
- Be familiar with polling location layouts.
- Can determine new patrol routes that may be helpful.
- Establish an office liaison that can be a point of contact.



# Doxing and Swatting

- **Doxing**
  - When a person searches for and publishes private or identifying information (about a particular individual) on the internet, typically with malicious intent.
- **Swatting**
  - The action or practice of making a prank call to emergency services in an attempt to bring about the dispatch of a large number of armed police officers to a particular address.
- Can occur during any period of the election.
- Important to establish a plan on how to handle the situation ahead of time.
- Establish a line of communication with your CEO and staff to ensure everyone can be reached, if needed.



# Voting Period

- From Early Voting until Election Day.
  - Discuss voting hours with your CEO as they may vary depending on the election.
- If your office is called out to a polling location, we recommend that the complaining party's information be retained in the event that the incident leads to an investigation.
- When you arrive at a polling location, identify the presiding judge as they are charged with keeping the peace.
- Calls you receive during the voting period can range from voters upset about an occurrence that took place to a more violent altercation.
- A person who is arrested at a polling place while voting or waiting to vote shall be permitted to vote, if entitled to do so, before being removed from the polling place. (Tex. Elec. Code Sec. 32.075(d))



## Post Voting Period

- Polls close at 7 p.m. on election day.
- The custodian of the key to the second lock of the double-locked early voting ballot box delivers his or her key to the presiding judge of the early voting ballot board on request of the presiding judge. (Tex. Elec. Code Secs. 85.032(d), 87.025)
  - For county elections, elections ordered by the governor, and primary elections, the custodian is the sheriff, or in a year when the office of sheriff is on the ballot, the county judge.
- May be asked to escort office personnel to their cars or other location.
  - Discuss this during the Pre-Election Period.
- Our office recommends scheduling a meeting with the county election officer to go over the events of the election.



# Relevant Election Laws for the Voting Procedure



# Firearms in Polling Location

- Section 46.03(a) of the Texas Penal Code generally prohibits a person from bringing a firearm onto the premises of a polling place.
- This prohibition does not apply to a peace officer, regardless of whether the police officer is on or off duty.
- A presiding judge that possesses a handgun license is permitted to carry a handgun while serving as an election judge on Election Day in limited circumstances.



# Electioneering

- Each early voting and election day polling place must be organized with 100-foot distance markers posted at surrounding outside entrances to the building.
  - A violation is a Class C misdemeanor. (Tex. Elec. Code Secs. 61.003, 85.036)
- The early voting clerk and the presiding judge of each polling place, as appropriate, have the authority of a district judge while serving in that capacity.
- While an election judge or early voting clerk has the authority to ensure that electioneering is not occurring within the distance set by the 100-foot marker, Section 32.075(e) of the Election Code specifically states that a presiding judge may not enforce electioneering provisions outside of the 100-foot distance markers.



# Electioneering

- Your office may get calls from concerned voters or your county election officials informing you that voters are being intimidated or harassed outside the 100-foot area.
- If your office determines there is a legitimate concern for a voter's safety or right to vote, an action must be taken to preserve the peace at that particular location.





# Curbside Voting

- A voter is able to vote curbside if a voter is physically unable to enter the polling place without personal assistance or likelihood of injuring the voter's health.
- Nothing in the Election Code permits someone to question a voter's health if they are voting curbside.
- When individuals vote curbside, their car becomes their voting station.
  - Entitled to vote without the interference of campaigns or bystanders.



# Devices Not Permitted in a Polling Location

- Persons are not allowed to use wireless communications devices within 100 feet of the voting stations.
- Additionally, persons are not allowed to use mechanical or electronic devices to record sound or images within 100 feet of the voting stations.
- This prohibition of certain devices also extends to poll watchers.



# Sound Amplification Devices

- Prohibited to use a sound amplification device to electioneer within 1,000 feet of the early voting or election day polling place, per Section 61.004 of the Election Code.
  - A violation of this provision is a Class C misdemeanor.
- The focus of the election judge and early voting clerk will be on the polling area and surrounding 100-foot area.
- For these reasons, our office recommends that the judge may contact law enforcement to enforce the sound amplification device rule.



# Arrests

- A person who is arrested at a polling place while voting or waiting to vote shall be permitted to vote, if entitled to do so, before being removed from the polling place. (Tex. Elec. Code Sec. 32.075(d))
- A voter may not be arrested during the voter's attendance at an election and while going to and returning from a polling place except for treason, a felony, or a breach of peace. (Tex. Elec. Code 276.005)



# Post Voting Period



## Posting of a Licensed Peace Officer Required at Central Counting Station (if applicable)

- A central counting station (CCS) is the place on election night where ballots are counted, vote totals are accumulated, and the unofficial elections results are generated.
- The general custodian of election records must post a licensed peace officer at the central counting station to ensure the security of ballot boxes containing voted ballots throughout the period of tabulation at the central counting station. (Tex. Elec. Code Sec. 127.1232)
- Discuss with your CEO if a central counting station will be established for the upcoming election.



# Persons Allowed in the Central Counting Station

- Section 127.008 of the Texas Election Code provides a list of individuals who may be present in the central counting station.
- No unauthorized persons may be present in the central counting station.

# Persons Allowed in the Central Counting Station

- A counting station manager
- A tabulation supervisor
- An assistant to the tabulation supervisor
- A presiding judge or clerk
- A watcher
- A state inspector
- A voting system technician, as authorized by Tex. Elec. Code Sec. 125.010
- The county election officer, as defined by Tex. Elec. Code Sec. 31.091, as necessary to perform tasks related to the administration of the election
- A person whose presence has been authorized by the counting station manager in accordance with the Election Code





# Custodian of Ballot Box Keys

- The custodian of the Ballot Box Keys procedure is outlined under Texas Election Code Sec. 66.060 (Delivery and Preservation of Key to Ballot Box No. 3).
  - **The Chief of Police or City Marshal** – In an election ordered by a city authority.
  - **The Sheriff** – In an election ordered by the governor or a county authority or for a primary election, except that in a year in which the office of sheriff is regularly on the ballot, the presiding judge shall deliver the key to the county judge, and if both those offices are on the same ballot because of the filling of an unexpired term, the key shall be delivered to the county auditor or to a designated member of the commissioners court who is not on the ballot and who is appointed by the court if the county does not have a county auditor.
  - **The Constable of the Justice of the Peace Precinct in which the office of the political subdivision's governing body is located** – In an election ordered by an authority of a political subdivision other than a county or a city. If the office of constable is vacant, the sheriff of the county in which the governing body's office is located, for an election ordered by an authority of a political subdivision other than a county or city.



# Frequently Asked Questions



## Is it electioneering if law enforcement officers wear their uniforms to the polling location while they vote?

- No, there is nothing in the Election Code that would prohibit law enforcement officers from voting in their uniforms as long as the uniform does not advocate for or against any item on the ballot.



## Is there authority for someone to enter into a state or county building and declare that they are a constitutional auditor?

- No, there is no authority for someone to claim they are a constitutional auditor. If a person wishes to review records from a state or county agency, they must submit a public information request. Refusal to leave the building may lead to a trespass charge.



**Is there a provision in the Election Code that makes it a crime for a candidate to leave their signs out too long or set them up too early?**

- There is no provision in the Election Code related to this hypothetical. However, your office may review county or city ordinances that criminalize this behavior.



## How does residency work as it relates to elections?

- Because the description of residence is a statement based on the voter's life experience and intent (both questions of fact known to the voter), we cannot tell you what to call home.
- With that in mind, here is some guidance about Texas residence law. The voter makes the judgment call about their voting residence, based on the facts known to him or her, and decides which location is the one that can most accurately be described as the home to which the voter intends to return (for example, a family home you routinely go to during the holidays). (Tex. Elec. Code Sec. 1.015).
- For voters who move around a lot, the voter is essentially describing what they consider "home base." Though the voter has broad latitude to make this factual statement, under our state law, you cannot designate a location you have never personally been to. However, if a voter has a family home which they have actually been to, and which they feel they can accurately describe as their home in Texas, a court likely would presume in the voter's favor.



**When do we call the Secretary of State?**

**When do we contact the Texas Ethics Commission?**

- The Secretary of State's office should be contacted if there is a Texas Election Code question that is not related to campaign matters. The Texas Ethics Commission is the agency responsible for reviewing all campaign finance and political advertising issues and filings. They also address ethics violations. Therefore, questions regarding campaigning or fundraising would need to be directed to the Texas Ethics Commission by phone at 512-463-5800 and email at [reception@ethics.state.tx.us](mailto:reception@ethics.state.tx.us).



## Does the Secretary of State prosecute election crimes?

- Our office does not prosecute or investigate election crimes. In order to initiate the complaint process, a written and signed complaint must be filed with the Secretary of State. The complaint must allege the violation with particularity, identify the person(s) or entity responsible for the alleged violation, and contain a reference to the section of the Code alleged to have been criminally violated, if known.
- Pursuant to Section 31.006 of the Texas Election Code, the Office of the Secretary of State has the ability to refer elections complaints to the Office of the Attorney General. If, after receiving a complaint alleging criminal conduct in connection with an election, the Secretary of State determines that there is reasonable cause to suspect that the alleged criminal conduct occurred, the Secretary of State shall promptly refer the complaint to the Attorney General. The Secretary of State shall deliver to the Attorney General all pertinent documents in the Secretary of State's possession.





## What is the best way to contact the Secretary of State?

- Our office can be reached by phone at 800-252-VOTE and email at [elections@sos.texas.gov](mailto:elections@sos.texas.gov). If our office misses your call, you can leave a voicemail and someone who can help you will call you back as soon as we can. Additionally, our office is staffed from 7 a.m. through 7 p.m. on election day.



## Should I contact my county or the Secretary of State first in an emergency situation?

- Your office should be in close contact with your local county election office first because they may have a plan in place depending on the situation.



## Available Support



**WEBINARS**



**TRAINING**



**RESOURCES**

[elections@sos.texas.gov](mailto:elections@sos.texas.gov)

800-252-8683

[sos.texas.gov](http://sos.texas.gov)