



Texas Secretary of State
ELECTIONS DIVISION



Election Day Procedures and Maintaining Chain of Custody

36th Annual Election Law Seminar
for Cities, Schools, and Other Political Subdivisions



Agenda

- To Contract or Not Contract...That is the Question
 - Procedures Vary Based on the Decision to Contract
 - Chain of Custody Execution Varies Based on the Decision to Contract
- If you Run the Election on Your Own, what does preparation and Election Day Look Like?
- If you Contract with the County, what does preparation and Election Day Look Like?
- Chain of Custody



Pre-Election Day Procedures

- Issuing and posting the Notice and Order of Election
- No Countywide voting if running it on your own
 - Is available if contracting with the County
- Contact all counties in which your entity has territory
- Accepting Candidate Filings
- Preparing the Official Ballot
 - Vendor Programming or In-House Programming
 - Proof the programmed ballot for accuracy
 - Logic and Accuracy Testing, Hash Validation, First Test of Automatic Tabulating Equipment
 - Testing is recommended before ballots by mail are sent
 - Ballot Corrections are costly and issues occur throughout the cycle



Logic and Accuracy Testing Materials

- L&A test media and records must be sealed and secured after the conclusion of the public L&A test which includes hash validation, the L&A test, and First Test of Automatic Tabulating Equipment.
- The test materials will be reopened for the Second Test of Automatic Tabulating Equipment that takes place immediately before counting ballots on election night. The test materials will be sealed upon the completion of the second test.
- The test materials will be unsealed immediately after the last ballots have been counted on election night in order to conduct the Third Test of Automatic Tabulating Equipment. Then the test materials will be resealed.



Acting as the Early Voting Clerk

- Ballot by Mail
 - Obtain current applications from the County Election Officer
 - Verify the Personal Identification Numbers
 - Application for Ballot by Mail
 - Carrier Envelopes
 - Corrective Action Process
 - Online Ballot by Mail Tracker – Work with County
 - Notices of Defects in Applications
 - Notices of Defects in Carrier Envelopes



Preparation of Equipment and Supplies

- Ordering or making Election Kits
 - Many forms have changed
 - Forms must be current
- Delivery of Equipment to Voting Sites
 - Voting System
 - Paper Ballots
- Supply Pick-Up
 - Forms and small equipment
 - Document who took possession



Working with the Voter Registrar

- The Official List of Registered Voters
 - ePollbook
 - Paper List
 - Updates after Early Voting
 - Supplemental Lists
- Provisional Affidavit Reviews for Status
 - ID Cures
 - Review for other Provisional Reasons



Provide Voting Site Support

- Ensure polling locations are open on time
- Create a reference guide for poll workers and use it in the office for internal staff
- Consider teaching workers to call your office when the polling site is open
- Track sites that are not open/locked out
- Answering calls from election workers
 - Procedural or site support calls
 - Voter Registration calls
- Voting system support



Provide Voting Site Support

- Call/Visit Voting Sites at Regular Intervals
 - Ask if there are any questions
 - Deliver more ballots, supplies and forms as needed
 - Remind poll workers to complete paperwork/post numbers
- Support shouldn't end at 7:00 p.m.
 - Keep phone bank open until all sites have arrived at election night headquarters to drop off ballots and supplies



Early Voting Ballot Board

- Every Election must have an Early Voting Ballot Board
- Determine when Ballot Board will meet on Election Day
 - Post 24 hour Notice of Delivery of ballots to the board
- All Ballots received by Election Day must be counted on Election Day
 - Accepted Ballots by Mail with write-ins must be adjudicated on EDay
 - Corrective Action Process must be executed



Intake Election Supplies

- Intake Election Supplies and election records
 - Electronic voting system ballot box
 - Two poll workers must deliver the sealed ballot box [127.066(c)]
 - A receipt of ballot box delivery must be given to one of the two delivering officers. [127.068(a)]
 - Form 8-3 Receipt for Transfer Case
 - Verification of Paperwork on Election Night
 - Verify that paperwork is complete
 - Examine colored and numbered envelopes
 - Provisional Envelopes are signed
 - List of Registered Voters/ePollbooks are returned



If Using a Central Counting Station

- Requires a licensed peace officer to be present
- Conduct 2nd test of Automatic Tabulating Equipment
- Early Voting Results
- Releasing Results after 7:00 p.m.
- Required web postings
 - Preliminary Election Reconciliation Form 12-1
 - Posting Election Results – Two-Click Rule [65.016(c)(2)]



Elections Without a Central Counting Station

- Hand-counting hand-marked paper ballots
 - Adjudicate write-ins
 - Look for irregularly marked ballots/Resolve voter intent issues [65.009]
 - Prepare Precinct returns using tally sheets [65.014]
 - Results posted on entity's website
- Print Tapes and add totals
 - Presiding Judges return printed tapes to headquarters
 - Entity Election officials aggregate totals
 - Prepare precinct returns using printed tapes
 - Results are posted on entity's website





Continuous Counting of Votes [65.002(c)]

- All votes received on Election Day must be continuously counted
 - In-Person Votes
 - Ballot by Mail received by 7:00 p.m.
 - Special Forms of Early Voting
 - Provisional Ballots already resolved by Voter Registrar



Late Mail, Provisional Ballots, Corrective Action and ID Cures

- Late Mail
 - Ballots that arrive by 5:00 p.m. the day after Election Day
 - Military and Overseas Ballots arriving by the 5th and 6th day
 - Corrective Action taken by the 6th day
 - Provisional Ballots
 - ID Cures executed by the 6th day



The General Custodian of Election Records

- City Secretary for a City Election
- Secretary of a political subdivision's governing body
 - Custodian of precinct election records, ballots and other records
 - Custodian of the key to ballot boxes
 - Keeps election records for the prescribed records retention period
 - Responsible for completing public information requests to produce records
 - Responsible for providing records for a recount, if requested
 - Responsible for properly destroying election records after the retention period has ended



Working with Law Enforcement and Local Media

- Contact your local law enforcement agency
 - Cities – Local police department
 - School Districts – Campus police and local law enforcement
- SOS Law Enforcement Guides – Help Law Enforcement Understand Elections
<https://www.sos.state.tx.us/elections/laws/education-resources.shtml>
 - Electioneering, curbside voting, exit polling, signature gathering
- Establish a relationship with the local media
 - Television
 - Radio
 - Print Media



Contracting with the County Election Official

- County Election Officer typically performs all duties as it would in an election ordered by Commissioners Court
 - Programming and testing the ballot
 - Acting as the Early Voting Clerk
 - Counting Votes
 - Reporting Results
 - Prepare canvass reports
- Exceptions that can't be contracted away
 - Filing Authority for candidate applications
 - Filing Authority for Title 15 documents
 - Requirement for Entity to Maintain Office Hours [31.122]



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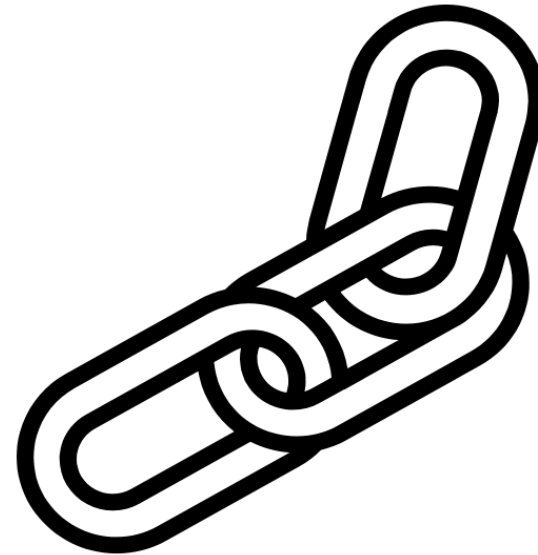


Chain of Custody



Chain of Custody

- The chronological documentation or paper trail that records the sequence of packaging, **custody**, control, transportation, transfer, analysis, storage, and disposition of physical or electronic evidence.





In the elections world,
Chain of Custody





Supply Pick Up

- When election workers pick up supplies, document every piece of equipment taken by the worker.
 - Include asset tag numbers
 - Create a scan out, scan-in system if you have the capability
- Preprint the name of the person designated to pick up supplies on the transfer of custody sheet
 - Ask your judges to call ahead if they intend to designate someone else to pick up supplies
 - It must be an election worker in the polling place
- Require the signature and a printed name of the person picking up
- Chance to do one more quality assurance check to make sure all equipment that is supposed to be deployed is present



Supply Delivery

- When county officials deliver supplies, document every piece of equipment to be delivered.
 - Include asset tag numbers or serial numbers of the devices.
 - Create a scan out, scan-in system if you have the capability.
- If possible, preprint the name of the person designated to deliver supplies on the transfer of custody sheet.
 - Document the name of the person delivering and receiving the supplies on the transfer sheet.
 - If county representatives have keys to the polling places, document where the election supplies are stored.



Ballot Box Keys, Seals, and Locks

- Chain of custody must be established for the following:
 - Keys to the metal ballot box or electronic ballot box.
 - 8-1 Envelope for Delivery of Key to the Polling Place
 - You can make your own form as long as the key holder custody is documented.
 - Locks
 - Issue a lock to a specific ballot box.
 - Numbering the locks is one way to track them.
 - Seals
 - 7-18 Record of Early Voting Ballot Seals – tracks which seals were applied every day at an EV site [85.032(b)]
 - 8-2 List of Serial Numbers of Seals [127.064]



ES&S DS 200-300

Lock #1

Lock #2





Hart – Verity SCAN

Lock #1



Lock #2





Advisory 2022-10 – Ballot Security Requirements

- The two-lock requirement applies to any container that is used to store or transport early voting in person ballots. This would include a **ballot box** used to deposit ballots, a **precinct scanner enclosure** in which ballots are deposited, or a **transfer case** contained within a precinct scanner enclosure that is used to transport voted ballots back to the general custodian of election records.
[85.032]



Pre-Serialized Unvoted Ballots

- Authority responsible for distributing election supplies shall package and seal each set of ballots before their distribution and shall mark the package with the number of ballots enclosed and the range of serial numbers. If the authority conducting the election is the Early Voting Clerk, ballots allocated for Early Voting need not be packaged and sealed. [51.006]
- The authority responsible for distributing supplies shall prepare a record of the number of ballots and the range of serial numbers to be distributed to each presiding judge and the early voting clerk. The record of the serial numbers shall be preserved for the period of preserving election records (22 months). [51.007]



Pre-Serialized Unvoted Ballots

- Unvoted ballots must be examined by the Deputy Early Voting Clerk (EV) or Presiding Judge (EDay).
 - Examining Ballots
 - (a) An election officer shall unseal the ballot package, remove the ballots, and examine them to determine whether they are properly numbered and printed. [62.007]
 - (b) An unnumbered or otherwise defectively printed ballot shall be placed in Ballot Box #4. [62.007(b)]



Un-Serialized Unvoted Ballots

- Blank ballot cardstock should be measured and counted before being distributed to voting sites
- Vendors may offer pre-counted and packaged ballot stock



Un-Serialized Unvoted Ballots

- Document the number of ballots sent to each site on the Register of Official Ballots
 - 7-14 Register of Official Ballots – Main Early Voting Location
 - 7-15 Register of Official Ballots – Branch Early Voting Locations
 - 7-23 Register of Official Ballots (EDay)
 - 7-26 Register of Official Ballots combined with the Ballot and Seal Certificate
 - This form is optional but combines both the Register of Official Ballots for Election Day and the Ballot and Seal Certificate



Tracking the Official Ballot

When to Use	Form Number and Name of Form	Statute	Notes
Programming or printing	25-5 Registration of Printers and Vendors	[51.013]	Only required for Primary and GESCO
Voting site	3-2 Record of Ballot Distribution	[51.007]	
Voting site	3-3 Record of Early Voting Ballot Seals	[51.006]	
Voting site	3-4 Record of Election Day Ballot Seals	[51.006]	
In reserve			
Corrected	3-10 Notice of Ballot Correction	[52.0061]	
Destroyed	3-11 Notice of Destruction of Ballots	[52.0064]	
Destroyed	3-12 Record of Ballot Destruction	[52.0064]	
Redistributed from original location	3-2 Record of Ballot Distribution	[51.007]	
Needed to print more ballots	3-13 Notice of Ballot Reprint Order	[52.0063]	



Seals

- Prevent tampering
- Show evidence of tampering
- Seal numbers should be assigned and tracked
- Require verification from two people
- Signatures of verifiers should be preserved
- Seals must be retained for record keeping
 - Place broken seals in a Seal Assignment Envelope



Ballot Programming

- Limit the number of people who have access to the ballot programming computer and software.
- Secure the ballot programming computer in a locked and secured room that requires a special security code to enter or create a log that tracks who entered and when.
- Whenever the ballot is being programmed, make sure two individuals are present at all times to ensure security.
- Where will the programmed media be stored before being placed in voting equipment or before ballots are sent to the printer.
- The general custodian...shall create a procedure for tracking the custody of voting system equipment once the parameters are loaded. [129.051]



Ballot Programming

- Your vendor's practices are part of the chain of custody even though you don't see them.
- Ask your vendor what security measures are in place to keep the ballot secure.
- Will your programmed ballot information be submitted to you by secure means?
 - Encrypted email
 - Media in a sealed pouch via FedEx or other carrier
 - When signing a contract with your vendor, write policies specific to your county in the contract so that you can control the security measures.



Electronic Media

- Removable Storage Media
 - Tracking electronic storage media at all times. [129.051]
 - Securing the storage media before and after it is installed into the BMD, DRE, or precinct ballot scanner.
 - Removing the storage media after voting has concluded and securing it before and after counting.
 - Procedures for clearing the memory of the storage media.
 - Securing the storage media after the election and while not in use.
 - Whenever a transfer of custody occurs, two or more individuals should perform a check and verification check.



Electronic Media

- Review SOS Advisory 2019-23
 - Provides in-depth guidance about storage media as it moves through the election cycle.



Records Management

- Develop a Records Management Plan
- As you prepare to store your records:
 - Think about a filing or numbering system with not just the election name
 - If you use pallets, record the pallet and box number
 - Label each box with “Number 1 of _____”
 - Label each box with a detailed list of its contents
 - Create a spreadsheet so you know exactly which box has which records
 - This is especially important if you are using a company to store records on your behalf
- **The process takes time, but you will find that it’s worth the effort**



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Chain of Custody



Election Name: _____

Box # _____ of _____

Contents:

Exemplar

Prepared by: _____ Election Date: _____
Printed Name

Prepared by: _____ Destruction Date: _____
Printed Name



Chain of Custody Documents Should Track

- The whereabouts of all things **“Election!”**
 - Test materials
 - Voted ballots
 - Blank ballot stock
 - Voting equipment
 - Removable media—programmed and unprogrammed
 - Completed paperwork and other records in the retention period
 - Equipment returned to the vendor for maintenance (RMA)



Chain of Custody Documents

- Know where the chain of custody forms are at all times.
 - Consider creating a precinct specific chain of custody folder.
- Chain of custody procedures and documents can and should be reviewed and improved at regular intervals.



Remember

- All links in the chain of custody must be documented so we know who “handled our rights.”
- If your current chain of custody documents only ask for initials, consider updating so that full printed names AND signatures are required.
- If only one person has been signing the chain of custody forms, we recommend that two people always perform the check and verification check.
 - Election Security Best Practices Guide (Election Security Toolkit)



What Does Chain of Custody Documentation Really Do?

- Supports the integrity of the voting process
- Safeguards the elections process and voters' rights
- Documents the changes of custody throughout the life of the election
- Tells the story of the election long after its conclusion
- Demonstrates transparency
- Proves that the law was followed
- Leaves a legacy from your tenure



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WEBINARS



TRAINING



RESOURCES

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800-252-VOTE • 512-463-5650

sos.texas.gov