

Law Enforcement Election Quick Guide

Who Are the Relevant Election Personnel?

- **County Election Officer** – Depending on your county it may be your County Clerk or an Elections Administrator.
- **Presiding Judge** – Charged with preserving order and preventing breaches of peace. A presiding judge has the same authority as a district judge. (Elec. Code 32.075)
- **Election Clerks** – Appointed by a presiding judge to assist the judge in the conduct of an election.
- **Poll Watcher** – A person appointed by a candidate or political action committee to observe the conduct of an election on behalf of a candidate, a political party, or the proponents or opponents of a measure.

Who Is the Custodian of the Keys?

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. (Elec. Code 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.**

How to Refer a Complaint that Is Not a Crime?

A voter may call your office with an expectation that they are reporting a crime that may lead to an arrest. However, if you determine that the infraction is an election irregularity and not a crime, you may refer them to the Secretary of State so they can have the opportunity to file an election complaint. Additionally, our office recommends contacting your local election office to determine if they have any additional procedures depending on the type of election irregularity.

Common Calls You May Receive

- **Firearms in a Polling Location** – Firearms are prohibited to be in a polling location except for a presiding judge and peace officers regardless of if they are on duty. A violation ranges from a Class C to Class A misdemeanor. (Penal Code 46.03)
- **Electioneering Inside the 100 ft Zone** – During the voting period and inside this protected area, it is prohibited to electioneer, including expressing preference for or against any candidate, measure, or political party, regardless of whether they are or are not on the ballot, or relating to the conduct of an election. A violation is a Class C misdemeanor. (Elec. Code 61.003, 85.036)
- **Electioneering Outside the 100 ft Zone** – 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. However, if the conduct outside the 100-foot zone reaches the levels of intimidation your office may need to act.
- **Sound Amplification Devices** – It is prohibited to use a sound amplification device to electioneer within 1,000 feet of the early voting or election day polling place. A violation of this provision is a Class C misdemeanor. (Elec. Code 61.004)
- **Signage** – Voters may call to report that campaign signs are posted too early or remain too long. Our office recommends referring to any city or county ordinance that may provide guidance on what, if any, crime would be considered.
- **Constitutional Auditor** – There is no authority in Texas law for an individual to walk into a county or state office and declare that they are going to audit the office. This may be considered a trespass under Penal Code 30.05. The severity of the violation ranges based on the facts.
- **Loitering** – A presiding judge has the discretion to determine whether a person is loitering. A violation is a class C misdemeanor. (Elec. Code 61.003)

